

108th Congress }  
1st Session }

JOINT COMMITTEE PRINT

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108-30 }

# COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2002

VOLUME I

R E P O R T

SUBMITTED TO THE

COMMITTEE ON FOREIGN RELATIONS  
U.S. SENATE

AND THE

COMMITTEE ON INTERNATIONAL  
RELATIONS

U.S. HOUSE OF REPRESENTATIVES

BY THE

DEPARTMENT OF STATE

IN ACCORDANCE WITH SECTIONS 116(d) AND 502B(b) OF THE  
FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED



JULY 2003

Printed for the use of the Committees on Foreign Relations of the U.S.  
Senate and International Relations of the U.S. House of Representatives  
respectively



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PRACTICES FOR 2002—VOLUME I**



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## FOREWORD

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The country reports on human rights practices contained herein were prepared by the Department of State in accordance with sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961, as amended. They also fulfill the legislative requirements of section 505(c) of the Trade Act of 1974, as amended.

The reports cover the human rights practices of all nations that are members of the United Nations and a few that are not. They are printed to assist Members of Congress in the consideration of legislation, particularly foreign assistance legislation.

RICHARD G. LUGAR,  
*Chairman, Committee on Foreign Relations.*

HENRY J. HYDE,  
*Chairman, Committee on International Relations.*



## LETTER OF TRANSMITTAL

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DEPARTMENT OF STATE,  
*Washington, DC, March 31, 2003.*

Hon. RICHARD LUGAR,  
*Chairman, Committee on Foreign Relations.*

DEAR MR. CHAIRMAN: On behalf of the Secretary of State, I am transmitting to you the *Country Reports on Human Rights Practices for 2002*, prepared in compliance with sections 116(d)(1) and 502B(b) of the Foreign Assistance Act of 1961, as amended, and section 505(c) of the Trade Act of 1974, as amended.

We hope this report is helpful. Please let us know if we can provide any further information.

Sincerely,

PAUL V. KELLY,  
*Assistant Secretary, Legislative Affairs.*

Enclosure.



## PREFACE

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### HUMAN RIGHTS REPORTS

The year 2002 offered a stern test for the advancement of human rights by the United States of America. This is not necessarily because human rights violations grew in number or severity—although there is no lack of challenge in that area—but because we have been given greater opportunity to make good on our commitment to uphold standards of human dignity and liberty.

The year began with American forces in combat in Afghanistan, and we continue to act there—with military, political and economic resources—to reverse the ill effects of the Taliban regime and the conditions that left unchecked its cruel disregard for human rights. Elsewhere in the world, we set our sights on further extending the blessings of liberty and security, and demonstrating not only that they are compatible, but also interdependent. We advanced these goals not as exclusively American aspirations, but rather as the birthright of all persons.

The Country Reports on Human Rights Practices for 2002 are grounded in the conviction that we must recognize the problem and describe it with full objectivity if we are to proceed to solving it. We gain little by ignoring human rights abuses or flinching from reporting them. This year's report covers 196 countries, ranging from defenders of human rights and democracy to the worst violators of human dignity. But in truth, no country is exempt from scrutiny, and all countries benefit from constant striving to identify their weaknesses and improve their performance in this less-than-perfect world. Furthermore, the Reports serve as a gauge for our international human rights efforts, pointing to areas of progress and drawing our attention to new and continuing challenges.

In a world marching toward democracy and respect for human rights; the United States is a leader, a partner and a contributor. We have taken this responsibility with a deep and abiding belief that human rights are universal. They are not grounded exclusively in American or Western values. But their protection worldwide serves a core U.S. national interest. It is with this responsibility firmly in mind that we have prepared, and now transmit, the Department of State's Country Reports on Human Rights Practices for 2002 to the U.S. Congress.

COLIN L. POWELL, *Secretary of State*.





## **OVERVIEW AND ACKNOWLEDGMENTS**

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### **HUMAN RIGHTS REPORTS**

#### **WHY THE REPORTS ARE PREPARED**

This report is submitted to the Congress by the Department of State in compliance with Sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (FAA), as amended, and Section 504 of the Trade Assistance Act of 1974, as amended. The law provides that the Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, by February 25 “a full and complete report regarding the status of internationally recognized human rights, within the meaning of subsection (A) in countries that receive assistance under this part, and (B) in all other foreign countries which are members of the United Nations and which are not otherwise the subject of a human rights report under this Act.” We have also included reports on several countries that do not fall into the categories established by these statutes and that thus are not covered by the congressional requirement.

The responsibility of the United States to speak out on behalf of international human rights standards was formalized in the early 1970s. In 1976 Congress enacted legislation creating a Coordinator of Human Rights in the Department of State, a position later upgraded to Assistant Secretary. In 1994 the Congress created a position of Senior Advisor for Women’s Rights. Congress has also written into law formal requirements that U.S. foreign and trade policy take into account countries’ human rights and worker rights performance and that country reports be submitted to the Congress on an annual basis. The first reports, in 1977, covered only the 82 countries receiving U.S. aid; this year 196 reports are submitted.

#### **HOW THE REPORTS ARE PREPARED**

In August 1993, the Secretary of State moved to strengthen further the human rights efforts of our embassies. All sections in each embassy were asked to contribute information and to corroborate reports of human rights violations, and new efforts were made to link mission programming to the advancement of human rights and democracy. In 1994 the Bureau of Human Rights and Humanitarian Affairs was reorganized and renamed as the Bureau of Democracy, Human Rights and Labor, reflecting both a broader sweep and a more focused approach to the interlocking issues of human rights, worker rights and democracy. The 2002 human rights reports reflect a year of dedicated effort by hundreds of State Department, Foreign Service and other U.S. Government employees.

Our embassies, which prepared the initial drafts of the reports, gathered information throughout the year from a variety of sources across the political spectrum, including government officials, jurists, armed forces sources, journalists, human rights monitors, academics, and labor activists. This information-gathering can be hazardous, and U.S. Foreign Service Officers regularly go to great lengths, under trying and sometimes dangerous conditions, to investigate reports of human rights abuse, monitor elections and come to the aid of individuals at risk, such as political dissidents and human rights defenders whose rights are threatened by their governments.

After the embassies completed their drafts, the texts were sent to Washington for careful review by the Bureau of Democracy, Human Rights and Labor, in cooperation with other State Department offices. As they worked to corroborate, analyze and edit the reports, the Department officers drew on their own sources of information. These included reports provided by U.S. and other human rights groups, foreign government officials, representatives from the United Nations and other international and regional organizations and institutions, experts from academia, and the media. Officers also consulted with experts on worker rights issues, refugee issues, military and police topics, women's issues and legal matters. The guiding principle was to ensure that all relevant information was assessed as objectively, thoroughly and fairly as possible.

The reports in this volume will be used as a resource for shaping policy, conducting diplomacy and making assistance, training and other resource allocations. They also will serve as a basis for the U.S. Government's cooperation with private groups to promote the observance of internationally recognized human rights.

The Country Reports on Human Rights Practices cover internationally recognized individual, civil, political and worker rights, as set forth in the Universal Declaration of Human Rights. There rights include freedom from torture or other cruel, inhuman or degrading treatment or punishment; from prolonged detention without charges; from disappearance or clandestine detention; and from other flagrant violations of the right to life, liberty and the security of the person.

Universal human rights seek to incorporate respect for human dignity into the processes of government and law. All persons have the inalienable right to change their government by peaceful means and to enjoy basic freedoms, such as freedom of expression, association, assembly, movement and religion, without discrimination on the basis of race, religion, national origin or sex. The right to join a free trade union is a necessary condition of a free society and economy. Thus the reports assess key internationally recognized worker rights, including the right of association; the right to organize and bargain collectively; prohibition of forced or compulsory labor; the status of child labor practices and the minimum age for employment of children; and acceptable work conditions.

Within the Bureau of Democracy, Human Rights and Labor, the editorial staff of the Country Reports Team consists of: *Editor in Chief*: Cynthia R. Bunton; *Senior Advisors*: E. Michael Southwick, Michael E. Parmly, J. Scott Carpenter, Monica Vegas Kladakis, Elizabeth Dugan; *Senior Editors*: Dan Dolan, Stan Ifshin, Jennifer

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## INTRODUCTION TO THE COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR THE YEAR 2002

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Spreading democratic values and respect for human rights around the world is one of the primary ways we have of advancing the national security interests of the United States. The defense of liberty is both an expression of our ideals and a source of strength that we have drawn on throughout our history. Democratic values have also been at the heart of America's most enduring and effective alliances, partnerships which continue to help us meet the challenges of tyranny and deprivation.

The U.S. Constitution aims to "secure the blessings of liberty to ourselves and our posterity." We realize that liberty is not a finished product, and that the course set out for us by our Constitution requires vigilance. Our history is a narrative of a nation confronting and overcoming obstacles to freedom, and generations to come will also undoubtedly face the question of how to fulfill the promise of our founding documents.

The Country Reports on Human Rights Practices reflect America's diligence in the struggle to expand freedom abroad. Together with past reports, and reports to come, this compendium is a snapshot of the global state of human rights that depicts work in progress and points the way to future tasks. It is a statement of our fundamental belief that human rights are universal; they are indigenous to every corner of the world, in every culture and in every religious tradition.

### HUMAN RIGHTS AND NATIONAL SECURITY

Governments that rule by force and use violence against their own people often threaten and intimidate their neighbors. Driven by shaky legitimacy, these regimes rule by iron fist, putting their people and neighbors at the mercy of the cruel logic of repression. In an age when the destructive capacities of brutal regimes exceed national and even regional boundaries, addressing human rights violations—whether episodic or systemic—becomes imperative to the assurance of security throughout the international community. On a smaller scale, governments that breach their constitutional obligations and the rule of law place their societies' well-being at risk in their pursuit of stability.

The Country Reports on Human Rights Practices call attention to patterns and instances of violations of basic human rights as recognized in such fundamental documents as the Universal Declaration of Human Rights, adopted by the United Nations in 1948. They serve as the starting point—not the end—of U.S. policy to ad-

vance human rights around the world. The Reports are one of the most significant tools available to the U.S. Government to help determine foreign policy strategies that promote the development of democratic systems and principles, and remedy abuse and disregard for human rights. As President Bush declared in his January 2003 State of the Union address, “We will not permit the triumph of violence in the affairs of men—free people will set the course of history.”

Governments can violate rights and punish people for exercising freedoms, but they cannot extinguish the inherent rights of all human beings. People who dare to dream of freedom are setting the course of history not only in democratic societies, but also in the repressive regimes under which many live.

- Cuba is a place where human rights are violated every day, but the Varela Project, organized by Oswaldo Paya, has proven a powerful tool for Cubans to express their yearning for fundamental freedoms. Marta Beatriz Roque’s Assembly to Promote Civil Society is providing another avenue for Cubans to express their desires for change. These and other efforts by the opposition movement are incrementally eroding the Cuban regime’s grip on power and oppression.
- In Burma, even after years of on-and-off political arrest, harassment and constant surveillance, Aung San Suu Kyi is still wholly committed to bringing democracy and a humane rule of law to the Burmese people. Her tremendous strength of character stands boldly in the face of the military regime’s disregard for human rights and democracy, a disregard that extends to abuses such as extrajudicial killings, rapes, disappearances, forced labor and forced relocations.

Their courage points the way to improving human rights—on paths that are as diverse as the countries where they live. U.S. policy is based on supporting individuals and groups committed to following universally accepted paths to freedom, equal protection, due process and the rule of law.

Promoting democratic governance is and will remain the best way to ensure protection of human rights. The United States recognizes that a world composed of democracies will better protect our long-term national security than a world of authoritarian or chaotic regimes. A democratic form of government fosters the rule of law, open markets, more prosperous economies and better-educated citizens and ultimately a more humane, peaceful and predictable world.

#### THE YEAR IN REVIEW: HUMAN RIGHTS, DEMOCRACY AND LABOR

*Institutional changes:* In Asia, democratic politics continued to develop in East Timor, with the ratification of a constitution, election of a president, and efforts to establish governance based on the rule of law and human rights protections. Taiwan’s strides were also notable, with consolidation and improvement of civil liberties catching up to its free and open electoral system.

The push to meet European Union entry requirements resulted in positive human rights developments in aspirant countries. Turkey passed extensive human rights reform packages that covered

a broadening of laws on freedom of speech, political activity and association, and fair trial. At the same time torture, although illegal, was still a serious problem and restrictions on freedom of the press remained.

Other positive developments in Europe included the first general elections in Bosnia and Herzegovina to be conducted by local (not international) authorities since the Dayton Peace Accords. Macedonia also reaffirmed the strength of its democracy through peaceful elections while its parliament laid the legal groundwork for improving civil and minority rights by completing nearly all of the constitutional and legislative actions related to the Framework Agreement.

In the Middle East, several positive steps were taken. In May, the first open municipal council elections were held in Bahrain, and in October women joined men in exercising their right to vote for the first time in nearly 30 years to elect a national parliament. Morocco saw its first open elections in September, and in Qatar, a new constitution has been drafted and municipal elections are scheduled for April 2003. Female candidates will participate for the second time.

In Russia, a new Criminal Procedure Code that took effect in July permitted for the first time the application of existing Constitutional provisions that only upon a judicial decision could individuals be arrested, taken into custody or detained. The changes appeared to be having an effect on police, prosecutorial behavior and the judicial system, although there were reports of non-compliance in some regions.

The Chinese also continued to carry out some structural reforms in the areas of the rule of law and democracy. Direct elections at the village level took place in several provinces and pressure to move them to higher levels grew. Economic reform has led to legal reform, and legislatures continued experimenting with public hearings to incorporate public opinion into policy.

*Political rights:* In 2002 six nations in the western hemisphere—The Bahamas, Bolivia, Brazil, Colombia, Costa Rica and Jamaica—held elections for their chief of state or government. The Organization of American States, which adopted a democracy charter in 2001, put its collective commitment into action in 2002 with vigorous efforts to resolve the political crisis in Venezuela.

In Africa, Kenya's free election and peaceful transfer of power in December signaled hope for the consolidation of democratic politics there. A political crisis during the first half of 2002 in Madagascar was eventually resolved, and legislative elections were held. In Swaziland, respect for rights and rule of law took steps backward with a government declaration that it would not abide by court decisions.

In 2002 China continued to commit serious human rights abuses in violation of international human rights instruments and at year's end, a spate of arrests of political dissidents and the imposition of the death sentence on two Tibetans, the continued detentions of Rebiya Kadeer, Wang Youcai, Qin Yongmin and others, and restrictions on religious freedom and repression of some ethnic minorities were particularly troubling.

Zimbabwe's government has used a systematic campaign of violence and intimidation against stated and perceived supporters of the opposition, even to the extent of routinely and publicly denying food to these individuals. The Government manipulated the composition of the courts and repeatedly refused to abide by judicial decisions, which undermined the judiciary.

In Eurasia, several republics of the former Soviet Union resisted positive change. In Turkmenistan the human rights situation deteriorated markedly after an attack on President Niyazov's motorcade in November, leading to serious violations of due process under the law including widespread arrests and forced evictions of suspects' families, use of torture, threats of rape and summary trials. In Kazakhstan the government's poor human rights record worsened, including selective prosecution of opposition leaders and a pattern of media harassment suggesting an attempt to silence media critics. While there were positive steps in the first half of 2002, such as registration of the first human rights NGO and abolition of prior censorship of the media in Uzbekistan, there were also setbacks that are a cause of concern, including at least four deaths in detention due to torture. The Kyrgyz Republic held a regional by-election in October, judged by independent monitoring groups to be marred by irregularities such as multiple voting and lax standards of voting eligibility. Harassment of media and civil society continued and police killed six unarmed protesters.

Pakistan's military regime began the process of restoring elected civilian governance at the national and provincial level in October. Observers deemed the elections to be flawed, but the new government seems reasonably representative.

*Internal and other conflicts:* Throughout 2002, Sri Lanka made progress in implementing a cease-fire agreement between the government and the Liberation Tigers of Tamil-Eelam (LTTE). Prisoners have been exchanged, roadblocks reduced, internally displaced persons returned, and investigations into abuses by security forces have increased. There were unconfirmed reports that LTTE continued to commit extrajudicial killings, but observers believe the number decreased in 2002. There were also reports that LTTE continued to conscript children.

In Nepal, the Maoist campaign included killings, bombing, torture, forced conscription of children and other violent tactics. Government forces were accused of killing civilians and abusing others suspected of Maoist sympathies.

The war in Sierra Leone was officially declared over in January, and the Revolutionary United Front was disarmed. Remarkably peaceful presidential elections were held in May although there were reports of election irregularities.

Elsewhere in Africa, conflicts continued to fuel human rights abuses. In Cote d'Ivoire, a coup attempt and ensuing civil unrest sparked violations by government and rebel forces. In the Democratic Republic of the Congo, major abuses continued. Rwanda withdrew its troops by October, and Uganda only had 1,000 troops left in the country at year's end.

After 27 years, peace came to Angola in February. The former UNITA rebel movement has disarmed and is transitioning into an unarmed political party, and the government—working with the



opposition—is beginning to move the country toward new elections. The massive human rights violations of the civil war have come to an end, although an increase of abuses in Cabinda Province is worrisome. The primary focus will now be on the civil and political rights necessary for the conduct of free and fair elections as well as the establishment of the rule of law throughout the country.

Eritrea's record worsened through 2002. However, all recorded Ethiopian prisoners of war (POWs) from the former conflict were released. Ethiopia also released the last of the Eritrean POWs during 2002.

In the Chechnya conflict, Russian forces and Chechen rebels continued to commit serious human rights violations. Government forces committed extrajudicial killings and at times used indiscriminate force, which resulted in civilian casualties. A number of government "cleansing" operations involved extensive abuses of civilians. Chechen rebels increased their killings of civilian officials and militia associated with the Russian-appointed Chechen administration. On October 23, approximately 41 members of Chechen terrorist groups took more than 750 persons hostage in a Moscow theater. The terrorists killed one hostage; another 128 hostages died in the rescue effort.

*Integrity of the person:* Colombia showed signs of progress, with generally good elections and a declaration by paramilitary forces that they would negotiate peace in 2003. But problems remain serious, particularly extrajudicial killings. The Dominican Republic made strides in reducing the number of extrajudicial killings. The police chief was replaced and prosecutions—in civilian courts—of human rights offenders increased.

Not surprisingly, many human rights abuses occurred in nations that have non-democratic forms of government. Testimony to the U.S. Congress in mid-2002 revealed systematic and egregious violations of human rights in North Korea, including torture, summary executions and the use of prison labor under incredibly inhumane conditions.

Iraq's Republican Guard and other members of the security apparatus committed widespread and systematic human rights abuses including killings, torture, disappearances, rapes and imprisonment of Iraqi political opposition and ethnic and religious minorities.

In Cambodia, incidents of extrajudicial killings began to increase as the country prepares for 2003 elections amidst a culture of impunity and with serious shortcomings in the government's investigations.

*Freedom of the press:* Harassment and vandalism were common tools used to threaten press freedom in 2002. Legal harassment was also common: In the Kyrgyz Republic, opposition newspapers were periodically refused printing services by the government-owned press and journalists faced libel suits filed by government officials. Similar bureaucratic tactics were used to pressure NGOs and opposition political organizations. On the other hand, the Kyrgyz government registered the Media Support Center, which is intended to provide an independent printing facility and training for journalists. In Kazakhstan, violence and harassment of journal-

ists continued, and selective prosecutions of opposition figures chilled the climate of free speech. In Russia, direct and indirect government actions further weakened the autonomy of the electronic media, which is the public's primary source of information. Controls on reporting of the conflict in Chechnya and terrorist incidents elsewhere in Russia raised concerns about the ability of the press and public to have adequate access to information about government actions. In Ukraine, the killing of prominent journalist Heorhiy Gongadze remained unsolved. Although an investigation officially continued, there was a lack of transparency and the authorities refused to cooperate with foreign investigators whom they had invited to assist with the investigation.

The closing down of pro-reform publications and jailing of journalists, editors and publishers in Iran continued. A dissident academic was sentenced to death for questioning the Islamic system, a decision that sparked widespread student demonstrations and finally resulted in the government granting a retrial. When a poll found that the overwhelming majority of Iranians supported dialogue with the United States and almost half agreed with U.S. policy vis-a-vis Iran, the regime closed the polling institutes and arrested the pollsters.

*Religious freedom:* These issues are discussed in depth in the annual Report on International Religious Freedom, published in October 2002, but the Country Reports also highlight important developments.

In Afghanistan there was dramatic improvement over the past year, but respect for human rights varied widely in different parts of the country. The reappearance of the Taliban's Department of Vice and Virtue, in the form of the new authority's Department of Accountability and Religious Affairs, bears monitoring. Likewise, reprisals against ethnic Pashtuns—albeit with a limited religious dimension—occurred in areas controlled by some local Northern Alliance commanders.

Other internal conflicts have a more pronounced religious dimension. Saudi Arabia continued to deny religious freedom to non-Muslims by prohibiting them from engaging in public worship. In some cases, non-Muslim individuals and private gatherings of worshippers were subject to harassment, leading to arrest, detainment, torture and deportation. Shi'a Muslims faced widespread discrimination, including imprisonment and torture.

Sectarian violence erupted in India's Gujarat Province in February, where as many as 2,000 people—mostly Muslims—died. Elections in Jammu and Kashmir, and in Gujarat, were held successfully despite widespread terrorist violence and the new state government has proposed steps to ease repression and reduce alienation. Throughout India however, light punishment for instigators of violence and perpetrators of abuse remained a stumbling block to further improvement.

In Vietnam, religious (primarily Protestant) and ethnic minorities in the Central Highlands and northwest provinces, which have often been brought to heel by government authorities in Hanoi, reportedly faced intensified repression, including closing of churches and forced renunciations of faith.

*Women/Children:* In Afghanistan, human rights improvements included women and ethnic minorities serving in the government and an estimated one million girls back in school. In Burma on the other hand, the State Department documented stories of rape of ethnic minority women by the Burmese military that were similar to NGO reports on the issue suggesting that rape continued to be a widespread practice. Also, the conscription of child soldiers in Burma remained a serious problem.

Child labor in the informal sector, especially children forced into the commercial sex industry, continued to be a serious problem in Cambodia, along with trafficking in women and children. In Cote d'Ivoire, child labor remained an issue of concern, and the recruitment of child soldiers in the armed civil conflict was cause for concern. Rebel groups in particular used child soldiers.

Child soldiers were used in other conflicts, including in Colombia, where both paramilitaries and guerrillas recruited children, and there is evidence that guerrillas forcibly pressed children into their forces. In Burundi, the government stated that it would not recruit child soldiers in its war against rebel forces. However, there are unconfirmed reports that children continue to serve in armed forces performing occasional tasks such as carrying weapons and supplies.

*Trafficking:* In the Middle East, the United Arab Emirates, Bahrain, Saudi Arabia and Lebanon acknowledged trafficking in persons as problems in their countries and are taking steps to address it by curbing abuses of foreign workers, regulating camel jockeys as applicable, and combating commercial sexual exploitation.

Awareness about trafficking in persons throughout Africa grew. More African countries participated in time-bound programs designed to eliminate the worst forms of child labor. In addition, many of these cash-strapped governments are increasingly working on creative programs to prevent trafficking and protect trafficking victims. Public awareness was raised at local government levels in many African countries, particularly in West Africa, about traditional practices that are being exploited by traffickers. In Tanzania, children were mobilized to help identify traffickers and other children particularly vulnerable to being trafficked. In Southern Africa, some governments began devoting more attention to the differences between trafficking, smuggling and seasonal labor migration.

In East Asia and Pacific countries, governments in general paid more attention to the problem of trafficking in persons. Indonesia passed two national plans aimed at reducing trafficking in women and children, and police action against traffickers increased. Thailand increased its cooperation with neighboring countries in addressing cross-border trafficking in persons.

In South Asia, governments continued to demonstrate serious collaboration with NGOs to provide protection, legal and medical services, and skills training to trafficking victims. This cooperative effort also extends to law enforcement, with police jointly conducting raids with NGOs.

The push for stronger anti-Trafficking in Persons (TIP) legislation was enhanced in the past year in many European countries. For example, the governments of Turkey, Greece and Bulgaria all passed specific articles on trafficking in their criminal codes. Rus-

sia, the Kyrgyz Republic and Kazakhstan continued work on comprehensive drafts that should be finalized and forwarded to their respective parliaments soon. Localized referral systems between NGOs and police and other officials were improved and strengthened in Ukraine and UN-administered Kosovo. Serbia and Montenegro, in addition to their multi-agency national anti-trafficking teams, provided a mobile trafficking unit that brought assistance to victims throughout the country. Croatia began implementation of their National Action Plan, establishing shelters and a hotline, and drafting a law making trafficking in persons a crime.

International cooperation on investigations occurred only sporadically, with Italy and Albania showing concrete results in their joint operations.

Ratification of the UN Protocol on Trafficking was also a focus throughout the world, with several countries depositing their ratification and preparing domestic implementation.

Corruption continued to be a major impediment to successful anti-trafficking efforts. Open police corruption, harassment of returning victims and inertia on reported cases showed the public and civil society that many governments still are not serious about combating trafficking.

*Worker rights:* In Venezuela, the conflict between the government and labor unions intensified throughout the year. The International Labor Organization censured the government's refusal to recognize the election of Carlos Ortega as the president of the Confederation of Venezuelan Workers, citing government interference in independent trade union elections.

Progress was made in Bahrain, where legal protections for the right to organize and collectively bargain were established in new legislation. The government resolved the problem of more than 1,000 "bidoon," long-term residents of the country who were formerly stateless, by issuing them appropriate documents.

*Corporate social responsibility:* Partnerships among governments, business, labor unions and civil society to promote human rights and sustainable development flourished. The UN Global Compact and the Organization for Economic Cooperation and Development (OECD) worked to promote voluntary principles and guidelines that advance corporate responsibility. During the year, positive examples of partnerships and dialogues between the public and private sectors emerged.

Responding to conditions in the agricultural sector, an innovative framework agreement was drafted between a multinational corporation and regional labor unions to address worker rights and corporate responsibility. A June 2002 Roundtable dialogue on the management of supply chains was featured in a report on the annual meeting of National Contact Points for the OECD Guidelines for Multinational Enterprises. The Voluntary Principles on Security and Human Rights gained new participants. ExxonMobil, Occidental Petroleum and the Government of Norway joined the multi-stakeholder dialogue.

Secretary of State Colin Powell presented the Secretary of State's 2002 annual Award for Corporate Excellence at a ceremony that recognized two U.S. firms for their outstanding corporate citizen-

ship and exemplary international business practices by promoting healthcare in China and poverty alleviation programs in Egypt.

**NOTE:** In many cases, the Country Reports on Human Rights Practices state that a country “generally respects” the rights of its citizens. The phrase “generally respects” is used because the protection and promotion of human rights is a dynamic endeavor; it cannot accurately be stated that any government fully respects these rights all the time without qualification, in even the best of circumstances. Accordingly, “generally respects” is the standard phrase used to describe all countries that attempt to protect human rights in the fullest sense, and is thus the highest level of respect for human rights assigned by this report.

In some instances, this year’s Country Reports use the word “Islamist,” which should be interpreted by readers as a Muslim who supports Islamic values and beliefs as the basis for political and social life.



## AFRICA

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### ANGOLA

The Popular Movement for the Liberation of Angola (MPLA) has ruled the country since its independence from Portugal in 1975, and the country has experienced several periods of civil war since then. The present government was formed in 1997 after the National Union for the Total Independence of Angola (UNITA) and 10 smaller opposition parties joined the ruling MPLA in a government of national unity and reconciliation.

The most recent period of civil war began in 1998 and continued until February when UNITA leader Jonas Savimbi was killed in an Armed Forces of Angola (FAA) attack in Moxico Province. On April 4, the Government and UNITA signed the Luena agreement, which called for disarming and disbanding all UNITA military forces by the end of July and the implementation of the remaining provisions of the 1994 Lusaka Protocol under U.N. supervision. On August 2, UNITA's military force officially was disbanded and all ex-UNITA personnel were incorporated into the FAA. The National Assembly served as a rubber stamp for the Council of Ministers, and while opposition deputies held about 43 percent of National Assembly seats, few mechanisms existed to check the power of the MPLA majority or defeat legislation supported by the executive branch. The judiciary was subject to executive influence, functioned only in parts of the country, and did not ensure due process.

The Ministry of Interior was responsible for internal security, a function that it traditionally exercised through the Angolan National Police (ANP) and other organs of state security; however, as part of a July organizational reshuffling, the internal intelligence service became directly answerable to the Office of the Presidency. The FAA were responsible for protecting the country against external threats and has intervened in a number of regional conflicts in recent years. The FAA continued counterinsurgency operations against the Front for the Liberation of the Enclave of Cabinda-Armed Forces of Cabinda (FLEC-FAC), which increased in intensity with the launching of a major offensive in October. The Government's security forces remained under civilian leadership; unlike in the previous year, there were no reports that security forces acted independently of the Government. Security forces committed serious human rights abuses.

Government policy continued to inhibit economic reform. At least 20 percent of the national budget or 11 percent of gross domestic product (GDP) was dedicated to defense during the year, while an estimated 50 percent of state expenditures were not reflected in the official budget. The economy continued to perform poorly, and despite abundant natural resources, output per capita remained extremely low. In October the Government announced the creation of a customs warehouse system that established a fixed import regime for basic food items, slowing the trend toward import and regulatory liberalization. The population is estimated at 13 million, and annual per capita GDP was approximately \$600. The country's wealth continued to be concentrated in the hands of a small elite who often used government positions for massive personal enrichment, and corruption continued to be a common practice at all levels. The average monthly salary of urban wage earners (approximately 20 percent of the labor force) was far below what is required for basic subsistence. Rural wages were even lower as the majority of the rural economy was dependent on subsistence agriculture, which was affected seriously by the civil unrest. In May the already large-scale international humanitarian feeding operation was expanded further to prevent widespread rural famine caused mainly by the forced displacement of rural populations during the Government's aggressive counterinsurgency offensive during the last months of the war against UNITA and greatly expanded access to former UNITA areas after the April ceasefire.

The Government's human rights record remained poor, and it continued to commit serious abuses. Citizens have no effective means to change their government.

Members of the security forces committed extrajudicial killings, were responsible for disappearances, and tortured, beat, raped and otherwise abused persons. The FAA employed scorched earth tactics and forced movements of rural populations as part of its counterinsurgency operations against UNITA and FLEC. After the April 4 Luena agreement ended the conflict between the Government and UNITA, the army ceased to be the major human rights offender outside of Cabinda province, and the poor discipline of the police force made it the worst offender. The Government often did not prosecute or punish those in the security services responsible for abuses. Prison conditions were harsh and life threatening. The Government routinely used arbitrary arrest and detention, and lengthy pretrial detention was a problem. Where it did function, the judiciary was subject to the influence of the President, the ruling MPLA party, or anyone able to offer bribes in exchange for favorable rulings. The Government infringed on citizens' privacy rights and forcibly recruited military-age males. The Government at times restricted freedom of speech and of the press, and intimidated journalists into practicing self-censorship. During the year, the Government passed the Law on State Secrecy that gave the executive branch even greater control over public information and imposed criminal penalties on individuals who publicize information that the Government considered damaging. The Government restricted the freedoms of assembly, association, and movement; however, it allowed peaceful public protest and opposition party meetings. Unlike in the previous year, the Government did not restrict the freedom of movement of journalists. The Government continued to limit independent investigations of human rights abuses, although it permitted international human rights organizations to conduct research in partnership with local civil society groups in the country. The number of persons internally displaced by the conflict increased, largely as a result of forcible resettlements. Violence and discrimination against women were common; adult and child prostitution were prevalent; and children and persons with disabilities continued to suffer as a result of the civil conflict and poor economic conditions. The Government continued to dominate the labor movement and restricted workers' rights. Forced labor, including forced child labor, was a problem in UNITA areas until the end of the war. There were reports of trafficking in persons.

The armed UNITA forces, under the control of Jonas Savimbi, were responsible for killings, disappearances, torture, rape, and other abuses until the effective cessation of hostilities in February; the two Luanda-based factions of UNITA were not responsible for abuses. UNITA prevented freedom of speech, the press, assembly, association, and movement in areas it held until April. UNITA continued forced military recruitment, including of underage males, and used forced labor for a large part of its local-level logistical support until the end of the war. The sexual abuse of women conscripted to work as porters was common.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Prior to the conclusion of the April ceasefire between the Government and UNITA, the FAA, the National Police, and UNITA troops reportedly committed human rights violations and participated in extrajudicial killings. Verification of reports of abuses committed by both the Government and UNITA was extremely difficult. After the April ceasefire, reports of killings and human rights violations by the FAA ceased, except in the diamond-mining areas and Cabinda. Police participated in extortion, robbery, and carjackings and were cited as the primary human rights abusers by local human rights organizations by year's end (*see* Section 1.c.). It is believed widely that police resorted regularly to extrajudicial killings, especially of known criminal gang members, as an alternative to the country's ineffective judicial system. Other than those personnel assigned to elite units, the Government gave tacit permission for security personnel to supplement their income through the extortion of the civilian population. For example, independent media sources accused police in Lunda Norte of terrorizing and extorting money from citizens in the municipality of Nzagi during the year. Police commanders were accused of permitting such activity and killing market vendors who complained about the abuses. Impunity remained a serious problem.

In November 17 persons were robbed and killed in Malange. There were allegations of police involvement, and an investigation was ongoing at year's end.

There were no developments in the June 2001 police killing of two residents of Boa Vista (*see* Section 1.f.).

Prison conditions were life threatening due to inadequate food, medicine, and sanitation, and many prisoners died in official custody (*see* Section 1.c.).



Unlike in the previous year, there were no reports of localities changing hands before the war ended that resulted in the extrajudicial killing of government administrators or persons accused of collaboration with UNITA.

The army engaged in a scorched earth policy during the closing stages of the war, burning villages and killing civilians (*see* Sections 1.f., 1.g., and 2.d.). The failure of the Government to provide adequate protection for civilians contributed to the number of civilian casualties prior to the end of the war. After the April ceasefire, there were no reports that soldiers summarily executed civilians suspected of supporting UNITA.

As the Government intensified its counterinsurgency campaign up until the death in combat of Jonas Savimbi, large numbers of persons were uprooted by the Government's scorched earth policy, which destroyed thousands of acres and resulted in extrajudicial killings. Internally displaced persons (IDPs) and refugees fled the fighting and triggered a large-scale humanitarian crisis as rural food stocks were destroyed and subsistence agriculture was hampered severely in many areas. According to official estimates, up to four million persons were displaced due to war and resulting famine. Access by nongovernmental organization (NGO) and other aid workers to previously denied areas revealed many pockets of extreme deprivation, which significantly increased the need for humanitarian relief.

Undocumented workers in the diamond fields, including ex-UNITA soldiers and Congolese workers, were targeted in government efforts to retain control of alluvial diamond mining operations. In September in the Government-owned newspaper *Jornal de Angola*, a FAA general threatened action against ex-UNITA forces that left quartering areas and reportedly were engaged in illegal mining in Lunda Sul. Subsequently local NGOs reported that government forces attacked and killed undocumented diamond miners in Uige.

Unconfirmed but credible reports suggested that both sides summarily executed prisoners of war (POWs) until the end of the war. In Cabinda province, reports of civilians killed in fighting were increasing at year's end (*see* Section 1.g.). In December the Ad-Hoc Commission for Human Rights in Cabinda released its first report that contained a detailed list of nine alleged arbitrary killings by government forces. The Government had not responded to the report by year's end.

Unlike in the previous year, there were no reports that government soldiers killed civilians in Namibia or that individual members of the FAA summarily executed citizens of the Democratic Republic of the Congo (DRC).

No action was taken, nor was any likely to be taken, into the alleged November 2001 killing of seven Zambian civilians by government forces.

Since the April ceasefire provided for the amnesty of FAA and UNITA forces, there was unlikely to be any further investigation or action taken against the FAA member responsible for the killing of Thaddeus Vili at Bagani or against those responsible for the 2000 killing of more than 100 persons in Bie province and the discovery of a mass grave.

No action was taken, nor was any likely to be taken, into the following reported killings by FAA members in 2000: The July execution of two Namibian civilians, and the January killing of Thadeus Mubili in Mushangara in western Caprivi.

Both government and UNITA forces continued to use antipersonnel landmines in the country and in Namibia until the end of the war, which resulted in dozens of deaths and numerous injuries during the year (*see* Section 1.g.).

UNITA military units reportedly pillaged rural areas, depopulated parts of the country, killed or abducted traditional leaders, and eliminated all opposition, real or potential until the end of the war. UNITA troops also committed extrajudicial killings during attacks on villages. Interviews with many refugees indicated that UNITA committed abuses, including public extrajudicial killings, as a deliberate policy. UNITA killed numerous civilians during attacks on civilian traffic in the interior of the country. Such attacks were designed to halt transportation, disrupt commerce, isolate populations, and maintain a climate of insecurity. UNITA abducted numerous persons during the year; many, including children, died or were killed while in captivity (*see* Section 1.b.). There were reports that UNITA used forced conscription until the end of the war and killed persons who attempted to desert (*see* Sections 1.b. and 1.f.). Unlike in the previous year, there were no reports that UNITA forces killed Namibian citizens. Following the April 4 ceasefire, the movement of UNITA forces to the quartering areas, and the August 2 abolition of UNITA's military forces, killings attributed to UNITA ceased.

NGO workers were killed during UNITA attacks. It was unknown in most cases whether they were targeted because of their work.

UNITA never accounted for the deaths of numerous senior party officials. A number of high-ranking UNITA officials who had defected revealed the extent of killings in UNITA-held areas. UNITA did not allow the U.N. to investigate claims of human

rights abuses in the limited areas (less than 5 percent of the country's territory) that it controlled until April. With the demobilization of UNITA, investigators were able to enter areas formally under UNITA control.

There were no reports of any action taken, nor was any likely, against the UNITA rebels responsible for the following killings in 2000: The January killing of 2 civilians outside of Rundu; the February killing of 3 civilians in Shinyungwe village; the February attack on Santa Clara in Cunene Province in which at least 26 civilians were killed; the March stoning and crucifixion of 6 children for allegedly giving information to the Government; the May attack on a hospital in Camacupa; the June unconfirmed discovery of 17 mass graves in Bie Province, each containing more than 100 bodies; the July attack on a residential school and training center in Huambo Province in which one boy was killed; the July attack on an orphanage in Huambo Province in which a teenager was killed; and the August killing of four civilians during an attack on the town of Catete.

There were no developments in the November 2001 case in which armed persons killed five civilians and abducted two children outside Luanda.

FLEC-FAC forces also reportedly tortured and killed civilians in Cabinda. According to the Ad-Hoc Commission on Human Rights in Cabinda, in August FLEC guerrillas decapitated a woman accused of collaborating with the Government.

There were no developments in the April 2000 case in which FLEC-FAC killed a foreign national during an ambush north of Dingo.

*b. Disappearance.*—Persons taken into police custody disappeared without a trace, particularly in rural areas. In March three teenagers were handed over to police officials after an altercation in the municipality of Cazenga outside of Luanda. Family members discovered their bodies 4 days later. Investigation of the case was ongoing at the year's end. Suspects accused of illegal weapons ownership or collaboration with UNITA or FLEC-FAC disappeared. The Ad-Hoc Commission on Human Rights in Cabinda reported several disappearances of persons detained by government forces during the year for alleged ties to FLEC insurgents (*see* Section 1.g.).

There were no new developments in the 2001 disappearance of civilians abducted from Zambian territory. Unlike in the previous year, there were no reports that government forces or UNITA rebels abducted persons from Zambia; however, in December government forces detained eight Zambians who crossed the border into the country. A detained woman was released quickly; however, there was no further information on the whereabouts of the seven detained men at year's end.

On September 2, unidentified armed men abducted a traditional chief in Huambo Province. It was the first incident involving the kidnaping of a traditional leader since the signing of the April 4 Luena Accord. There were no developments in the case at year's end.

Prior to the April 4 ceasefire, civilians abducted by UNITA generally either were recruited forcibly as soldiers or support personnel, or were considered government collaborators. The frequent discovery of bodies in the aftermath of attacks suggested that suspected collaborators were executed summarily. Those who escaped UNITA custody and were able to return to government-held areas reported that they were subjected to torture, beatings, and sexual abuse (*see* Section 1.c.). Some of the women kidnaped by UNITA soldiers did not know their origins or families because they were abducted at a very young age. Several eventually were forced into marriage. There were no reports that UNITA abducted persons after the April ceasefire.

There were no developments in the February 2001 case in which suspected UNITA rebels kidnaped a traditional chief in Huambo or the April 2001 kidnaping of 50 persons in Benguela Province.

There were no developments in the cases from 2000 in which UNITA rebels kidnaped persons: The January abduction of 2 teenage girls from a village near the border by 6 armed men suspected to be UNITA rebels; the July kidnaping of 21 children in Huambo Province; and the July kidnaping of 100 children from Quela.

In previous years, the FLEC-FAC separatist group kidnaped civilians and foreign national employees of companies operating in Cabinda. In August FLEC-FAC announced that it no longer would perpetrate kidnaping. Unlike in previous years, there were no reports that the Front for the Liberation of the Enclave of Cabinda-Renewed (FLEC-Renovada) abducted persons.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution and the Penal Code explicitly prohibit all forms of mistreatment of suspects, detainees, or prisoners; however, security forces tortured, beat, raped, and otherwise abused persons. Local and international human rights organizations reported that there was widespread government abuse of suspects.

Security service personnel frequently employed torture and other forms of cruel and degrading treatment, including rape. Until the April ceasefire, those suspected

of ties to UNITA regularly were detained under inhuman conditions and were subjected to primitive and brutal forms of interrogation. Police frequently used torture and coerced confessions during investigations and rarely, if ever, were punished for such abuses. Nonpolitical criminal suspects also were subjected to abuse, although to a lesser extent. Police often beat and released suspects in lieu of trials (*see* Section 1.d.). For example, in August police detained and tortured two young men for illegal possession of a firearm in the municipality of Kilamba Kiayi, according to independent media reports.

After the April ceasefire, there were few reports of human rights abuses by the FAA, with the exception of operations in Cabinda and against illegal diamond miners (*see* Sections 1.a. and 1.b.). From April until the end of the year, the National Police and prison officials were the principal human rights abusers. Reports of police abuses collected by local human rights organizations detailed specific violations and generalized behavior during the year.

Police frequently participated in acts of intimidation, robbery, carjacking, and killing (*see* Section 1.a.). For example, in June the local human rights organization Maos Livres reported that police raided the Sumbe market in Kwanza Sul and beat bystanders. Police also reportedly stole and destroyed vendors' merchandise.

Police also extorted money from travelers and harassed refugees at checkpoints (*see* Section 2.d.). Police officers and soldiers reportedly harassed IDPs and denied them humanitarian supplies (*see* Section 2.d.). Police injured persons while forcibly dispersing demonstrations on at least one occasion (*see* Section 2.b.). Impunity was a serious problem.

There continued to be reports that government forces raped women (*see* Sections 2.d. and 5).

Unlike in the previous year, there were no reports that government forces harassed NGO workers.

No action reportedly was taken in the following 2001 cases: The reported January beating and torture of several Namibians in Caprivi by a group of men in FAA uniforms; against the FAA soldiers who reportedly raped a woman in Zambia; the reported raping and looting while stationed in the DRC by some individual members of the FAA; the June injuring by police of an undetermined number of Boa Vista residents who were protesting their eviction and relocation.

No action reportedly was taken, nor was any likely to be taken, in the following 2000 cases: The February beating by police of protesters during demonstrations, and the alleged July execution of two Namibian civilians and the injury of another by members of the FAA.

Landmines laid by both sides during the conflict resulted in a continued high number of fatalities and injuries (*see* Sectiona. and 1.g.).

The U.N. and human rights organizations reported that abuse of suspects was common in areas that remained under UNITA control until April. Interviews with persons who fled UNITA-held areas revealed that UNITA used cruel and inhuman practices, including public torture, to punish dissent and deter further acts of disloyalty. Torture was used at all levels by UNITA forces during the war. There were repeated credible allegations that, prior to his death, UNITA leader Jonas Savimbi ordered suspects tortured and executed in his presence. There were reports that until the ceasefire UNITA engaged in reprisal attacks on civilians.

Unlike in the previous year, there were no reports that UNITA forces abused Namibian citizens in border areas.

No action was taken against UNITA members who attacked a commercial convoy in May 2001 or tortured and mutilated a truck owner in June 2001.

No action was taken against the approximately 100 members of UNITA who attacked a residential school and training center in Huambo Province in July 2000; the UNITA troops kidnaped 21 children and injured at least 4 others.

There were government press reports that UNITA members harassed National Union for the Total Independence of Angola-Renewed (UNITA-Renovada) members in Lunda Sul, Benguela, and Luanda.

FLEC-FAC forces tortured and killed civilians in the Cabinda region.

Prison conditions were harsh and life threatening. Cells were overcrowded and lack basic sanitary facilities. The prison system held approximately five times the number of prisoners that it was built to hold. Warehouses in Bengo, Malange, and Lunda Norte provinces were used as prison facilities during the year. Many prisons, lacking financial support from the Government, were unable to supply prisoners with adequate food and health care. There were credible reports from local NGOs that prisoners died of malnutrition and disease. For example, at the Viana Prison, malnutrition and disease were pervasive problems. Local human rights organizations reported that conditions were considerably worse outside the Luanda prison system. Many rural prisons, such as Chitato in Lunda Norte, were cited by local

human rights organizations for not having toilets, beds, mattresses, water, or medicines. One prisoner reportedly died of malnutrition in Dundo Prison during the year.

Prison officials routinely beat detainees. During the year, local human rights organizations reported that an inmate in Bengo Prison was held inside a water tank for 2 days without food or water as punishment for making an escape attempt. There also were independent media reports of a prison director in Huambo using prisoners as laborers in his house.

Prisoners depended on families, friends, or international relief organizations for basic support, including food. Prison officials, who chronically were unpaid, supported themselves by stealing from their prisoners and extorting money from family members. For example, prison guards continued to demand that prisoners pay for weekend passes that they were entitled to receive.

Juveniles, often incarcerated for petty theft, were housed with adults and suffered abuse by guards and inmates. Female prisoners were held separately from male prisoners; however, there were reports that prison guards sexually abused female prisoners. Detained individuals awaiting trial frequently were housed directly with sentenced inmates, and prisoners serving short-term sentences often were held with inmates serving long-term and life sentences for violent crimes.

The Government permitted foreign diplomatic personnel and local and international human rights observers to visit prisons during the year. Local human rights monitors were permitted to visit some individual prisoners; however, in July deputies from the National Assembly Committee on Human Rights attempted to visit prisons in Malange and Lunda Sul provinces to verify conditions but were blocked from entering the institutions by prison officials.

*d. Arbitrary Arrest, Detention, or Exile.*—Under the law, a person caught in the act of committing a crime may be arrested and detained immediately. Otherwise, the law requires that a judge or a provincial magistrate issue an arrest warrant. Arrest warrants also could be signed by members of the judicial police and confirmed within 5 days by a magistrate; however, arbitrary arrest and detention were serious ongoing problems, and security forces used arbitrary arrest and detention during the year (*see* Section 1.c.). Persons were denied due process. With the end of active FAA counterinsurgency operations against UNITA in April, the National Police became the primary source of abuses during the year; however, from September to December reports of arbitrary detentions increased markedly in Cabinda with the launching of a large government offensive against FLEC guerrillas (*see* Section 1.g.).

The Constitution provides for the right to prompt judicial determination of the legality of the detention. Under the law, the prosecution and defense have 90 days before a trial to prepare their case, although both sides generally have the right to request an extension of this deadline under extenuating circumstances. The Constitution also provides prisoners with the right to receive visits by family members; however, such rights frequently were ignored in practice. There was a scarcity of personnel and resources and a lack of official determination to ensure these rights. Although the Ministry of Justice was nominally in charge of the prison system, the Ministry of the Interior continued to arrest and detain persons systematically, arbitrarily, and secretly for all categories of crimes and for indefinite periods, often with no apparent intent to bring the detainees to trial.

Under the criminal law, a person may not be held for more than 135 days without trial. The National Security Law provides for a maximum of 180 days of preventive detention; however, in practice, laws regarding preventive detention frequently were ignored. Preventive detention is allowed when an individual is caught in the act of committing a crime punishable by a prison sentence.

An insufficient number of judges and poor communications between various authorities led to prolonged detention. More than 60 percent of inmates were awaiting trial. Inmates who had been awaiting trial for 2 or 3 years were common. In one case, an inmate detained in Uige province was transported to Luanda and held for 2 years waiting to be returned to Uige to stand trial. Local human rights groups cited at least seven cases of inmates who had been detained between 2 and 5 years still awaiting hearings at year's end. In many cases, police beat and then released detainees rather than make any effort to prepare a formal court case (*see* Section 1.e.). Local human rights organizations, such as Maos Livres and Association for Justice, Peace, and Democracy were successful in securing the release of some detainees during the year.

Unlike in the previous year, there were no reports that the Government detained opposition supporters.

Police arrested persons holding demonstrations (*see* Section 2.b.).

Unlike in the previous year, there were no reports that local police detained UNITA-Renovada supporters.

There were reports that UNITA kidnaped and detained persons primarily from rural areas against their will until the end of the war. The number of such affected persons was unknown.

Unlike in previous years, the Government did not hold political detainees. As part of the April ceasefire, 84,000 UNITA troops were quartered in 35 gathering areas. In August FAA and UNITA military commanders selected 5,007 UNITA troops for integration into active-duty FAA units. On October 20, the remaining ex-UNITA forces began returning to their areas of origin in a government-organized resettlement program (*see* Section 1.g.). Unlike in previous years, there were no reports of POWs being held by either the Government or UNITA.

The Government did not use forced exile as a form of punishment. Some UNITA members previously claimed that they went into self-imposed exile because the Government threatened their lives. Several prominent UNITA members returned to the country following the Luena Accord and the transition of UNITA to solely a political party.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary, where it functioned, was not independent of the President and the MPLA, and political pressure from the presidency affected the outcome of cases. In practice the court system lacked the means, experience, training, and political backing to assert its independence from the President and the ruling MPLA party. The President has strong appointive powers, including the power to appoint Supreme Court justices without confirmation by the National Assembly. The judicial system largely was destroyed during the civil war and did not function in large areas of the country. During the first half of the year, the Government rebuilt courts in Cabinda, Benguela, and Kwanza Sul; however, where provincial courts existed there was often only one judge to cover all cases, civil and criminal, in the province. In many cases, police beat and then released detainees rather than make any effort to prepare a formal court case.

The court system consists of the Supreme Court at the appellate level plus municipal and provincial courts of original jurisdiction under the nominal authority of the Supreme Court. The Supreme Court serves as the appellate division for questions of law and fact. A Constitutional Court provided for in the 1991 Constitution had not been established by year's end; the Constitution provides for judicial review of constitutional issues by the Supreme Court until the Constitutional Court is established. There were long delays for trials at the Supreme Court level. Trials for political and security crimes are supposed to be handled exclusively by the Supreme Court; however, there were no known cases of such trials. The criminal courts, in particular, have a large backlog of cases that caused major delays in scheduling hearings. The legal code and rules of procedure remained outdated, although some steps toward modernization had begun.

The Constitution provides defendants with the presumption of innocence, the right to a defense, and the right to appeal. Legal reform in 1991 established the right to public trials, a system of bail, and recognized the accused's right to counsel; however, the Government did not always respect these rights in practice. Trials are open to the public; however, each court had the discretion to close proceedings arbitrarily. Defendants do not have the right to confront their accusers. Judges were usually not licensed lawyers. The judge and two lay persons elected by the full court act as the jury.

During the year, human rights training was provided to lawyers with support from the Human Rights Division of the U.N. Mission in Angola (UNMA). The lawyers were trained to work in municipal police stations and intervene to protect the rights of individuals in police custody.

Government corruption was pervasive, and accountability was limited. The Tribunal de Contas (Anticorruption Tribunal) was created in April 2001. The Tribunal was headed by a judge who also was a deputy in the National Assembly. It had a generous budget and reportedly is autonomous, with powers to investigate and prosecute corruption at all levels. While it had not tried any cases yet, the Tribunal claimed to be investigating senior members of the Government, including governors and ministers.

Unlike in the previous year, no one was released under the Amnesty Law; however, a general amnesty for all acts committed by government and UNITA soldiers during the war was included in the April ceasefire.

In the past, UNITA established a nominal military and civilian court system in territories under its control and claimed that its Civil Code was equivalent to the Portuguese Civil Code used by the Government; however, there was no indication that UNITA maintained this system in the isolated pockets of territory it controlled at the end of the war, and reports indicated that strict martial law applied in those areas.

Unlike in previous years, there were no reports that the Government held political prisoners.

After the signing of the April ceasefire, there were no reports that UNITA held political detainees or prisoners.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The Constitution provides for privacy of home, correspondence, and business information; however, the Government infringed on citizens' privacy rights. The Government maintained a sophisticated security apparatus dedicated to the surveillance, monitoring, and wiretapping of certain groups, including opposition party leaders, journalists, members of the National Assembly, and foreign diplomats. Legal requirements for search warrants routinely were disregarded.

Until the April ceasefire, there were reports that army units engaged in a scorched earth policy in the central and eastern parts of the country, burning villages, destroying crops, and terrorizing civilians (*see* Sections 1.a. and 1.g.). There were reports of similar tactics used against separatists in Cabinda. Government and UNITA forces reportedly attacked women in their homes, while they were working in the fields, near military camps, and during searches of homes (*see* Sections 1.g. and 5). There were no developments in the May 2001 case of four soldiers arrested in Namibia for threatening a woman.

During the final stages of the war, the IDP situation deteriorated as the Government forcibly moved large numbers of persons as part of its counterinsurgency operations against UNITA. With the end of hostilities and the high number of IDPs straining humanitarian relief efforts, there were reports that the Government forced IDPs out of camps and back to their places of origin before resettlement areas were declared free of mines and accessible to continued food deliveries or otherwise met standards adopted by the Government as preconditions to return (*see* Section 2.d.).

In June 2001, the Government evicted 5,500 families from their homes in the Boa Vista neighborhood in Luanda as a part of an urban renewal project; a number of persons were killed, injured, or arrested during the confrontation between police and residents. The forced relocation effectively denied them access to employment and services, including public transportation, in the capital (*see* Section 2.d.). At year's end, the Government had built only a fraction of the houses it promised, and the residents still were living in temporary shelters at an isolated camp outside of Luanda. Journalists were able to report on the camp.

To enforce laws on mandatory military service, the armed forces and police conducted forced conscription drives, particularly in rural areas, in which some minors may have been recruited. Under the law, military service is obligatory, but the pattern of the forced recruitment targeted poor communities and unemployed young men. Persons who could prove that they had jobs usually were released, and those with financial means could purchase an exemption from the armed forces. Unlike in the previous year, there were no reports that NGO workers were targeted for forced recruitment. The Government denied that forced recruiting took place.

Until the April ceasefire, UNITA looted and destroyed property to replenish their supplies of food and medicine and continued to conscript forcibly civilians, including children, for military duty (*see* Section 1.g.).

*g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—The country's competing independence movements began a civil war immediately after independence in 1975, which lasted until the signing of the Bicesse Accords in 1991. In 1992 UNITA, under the leadership of Jonas Savimbi, rejected the results of the presidential election and resumed the civil war. In an effort to end the civil war, the Government and UNITA signed the Lusaka Protocol in 1994. The agreement called for the demilitarization of UNITA, the creation of a national army, the seating of a government of national unity and reconciliation, and the extension of state administration to areas formerly under UNITA control. The Government generally complied with its obligations under the protocol; however, UNITA failed to comply with several fundamental aspects of the protocol. It maintained a significant military capability, and it refused to surrender the territory it held to state administration.

In 1998 fighting resumed between the Government and Jonas Savimbi's armed faction of UNITA. A splinter group called UNITA-Renovada and another, larger, peaceful faction of UNITA rejected war and pursued their respective agendas through peaceful political activity, including as members of the National Assembly. In 1999 the FAA destroyed the conventional military capacity of UNITA and consolidated its military control of most of the nation's territory; however, UNITA reorganized itself as a guerrilla force and continued to carry out deadly attacks on lightly defended targets until the February 22 death of Savimbi in a FAA attack in Moxico Province.

Within weeks of Savimbi's death, the remaining UNITA leadership began ceasefire negotiations in the eastern city of Luena with the Government. On April 4, the Government and UNITA signed the Luena agreement, which set a timeline for disarming and disbanding all UNITA military forces by the end of July. On August 2, UNITA's military force officially was disbanded, and all ex-UNITA personnel were incorporated into the FAA.

Military operations by both the Government and UNITA resulted in numerous human rights violations until the end of hostilities. The Government and UNITA used antipersonnel landmines to strengthen defensive positions and, in the case of UNITA, reportedly to prevent residents within its own areas from fleeing to government-held areas (see Section 2.d.). Large areas were remined after the resumption of fighting in 1999, mostly by UNITA. Military attacks resulted in indiscriminate and summary killings, abductions, torture, destruction of property, and theft (see Sections 1.a., 1.b., and 1.c.). The provinces most affected were Lunda Norte, Lunda Sul, Malange, Bie, and Moxico, although UNITA also mounted raids near the coast during the last months of the war. The Government's failure to pay, feed, and equip many of its army and police personnel resulted in frequent extortion and theft. Government personnel confiscated food, including donated relief supplies, livestock, and personal property. The Government continued to use forced conscription until the ceasefire with UNITA (see Section 1.f.).

In the closing stages of the war, both the Government and UNITA used the control of civilian populations as part of their tactics. Government units engaged in a scorched earth policy, burning villages and killing civilians (see Section 1.a.). In part due to this policy, a large number of persons in rural areas were displaced, and agricultural production was diminished. UNITA tried to prevent the same populations from fleeing in order to retain authority over them. As a result, many civilians were trapped in extremely remote areas, inaccessible to humanitarian relief agencies and unable to grow their own food. After the end of the conflict, the U.N. conducted surveys of 28 previously inaccessible areas and found serious to severe malnutrition and high morbidity and mortality rates in most of them. Large-scale international humanitarian assistance was necessary to avert widespread famine.

The Luena Accord provided for the quartering and demobilization of UNITA's 84,000 soldiers and officers. Of that total, FAA and UNITA military commanders selected 5,007 for integration into active-duty FAA units in August. On October 20, the remaining ex-UNITA forces began returning to their areas of origin after the Government began closing the 35 quartering camps. Although the Government initially announced it would close the camps by October 15, it reversed that decision and allowed the camps to remain open until at least the end of the year. There were credible reports that one camp in Kwanza Sul province was burned and emptied by the FAA in late October. Conditions in many of the resettlement areas did not meet the Government's own standards for being clear of landmines, accessible to government services, and near potable water. There were no confirmed reports of human rights violations against ex-UNITA troops in the 35 quartering areas.

Unlike in the previous year, there were no reports of FAA and police harassment and attacks on humanitarian workers.

While estimates varied widely and there was a growing consensus that the exact number was lower than previously thought, at least 500,000 landmines were estimated in the country. The United Nations Development Program (UNDP) also estimated that there were 2 million unexploded munitions in the country. According to the Angolan National Institute for the Removal of Explosive Obstacles and Devices (INARÓEE), at least 42 persons were killed and 124 injured by landmines during the year. With large numbers of persons returning following the April ceasefire and mass migrations due to food insecurity, the number of affected persons was believed to be higher than the previous year. The Government and various international NGOs had ongoing landmine clearance operations.

The number of IDPs increased significantly over the previous year as the counterinsurgency campaign against UNITA intensified in the last months of the war, and military forces forcibly displaced citizens (see Section 2.d.).

There continued to be reports that government forces raped women (see Section 5).

With the cessation of hostilities with UNITA in April, the Government reportedly intensified its military operations against separatists in Cabinda. While reports of generalized human rights abuses by the FAA almost ceased in other parts of the country after the signing of the Luena Accord, reports of civilians killed in the fighting in Cabinda were increasing at year's end. There were reports that government forces shelled civilian villages during the year, and there were reports that government forces were employing similar counterinsurgency tactics against FLEC-FAC as they used against UNITA. A detailed report by the Ad-Hoc Commission on Human

Rights in Cabinda released in December listed several dozen cases of human rights violations by government forces and a smaller number by separatist guerillas (see Sections 1.a., 1.b., 1.c., and 1.d.).

UNITA forces routinely violated citizen's rights in pursuit of military objectives. There were continued reports of deaths resulting from UNITA attacks on villages throughout the country and executions of suspected government supporters by UNITA forces until the April ceasefire (see Section 1.a.). UNITA carried out forced recruiting, including of children, in territories under its control until the end of the war. Recruits were taken to isolated military camps and subjected to psychological stress and extreme hardships; those who attempted to desert were executed. Women, many as young as 13 years of age, were recruited forcibly to serve as porters and camp followers, and reports of sexual assault were widespread and credible (see Sections 5 and 6.c.). Unlike in the previous year, there were no reports that UNITA rebels targeted for killings and other abuses citizen NGO employees in the country. Unlike in previous years, after the April ceasefire there were no reports that UNITA rebels raided villages or kidnaped civilians. Reports of abuses by UNITA ceased after the April ceasefire.

The separatist group FLEC-FAC killed foreign nationals and tortured and killed civilians in the Cabinda region.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of expression and of the press and specifically provides that the media cannot be subject to ideological, political, or artistic censorship; however, the Government at times restricted this right in practice. The Government continued to intimidate journalists into practicing self-censorship. There were reports that the Government paid journalists to publish progovernment stories. In previous years, the Government detained for up to several months or placed under investigation journalists who reported on sensitive issues, including military operations, government corruption, and UNITA, especially Jonas Savimbi. However, during the year, there was increasing private media attention to corruption, economic mismanagement, and opposition politics, and there were no reports that journalists were placed under investigation for such reporting. Nevertheless, there were reports that the Government limited access by independent journalists to certain events and interviews, and journalists acknowledged that they exercised self-censorship when reporting on highly sensitive matters.

Defamation against the President or his representatives is a criminal offense, punishable with imprisonment or fines. Truth was not a defense to defamation charges; the only allowable defense was to show that the accused did not produce the actual write the allegedly defamatory material. Criminal defamation charges were dropped against journalist Gilberto Neto, and he was free to travel outside the country.

In July the National Assembly passed the Law on State Secrecy, which provides the executive branch broad authority to classify public information and impose criminal penalties on individuals who publicize information that the Government views as damaging. The new law gave the Government authority to censor reports from international financial institutions or international press stories that criticized the Government or exposed official corruption. The Government also can prosecute international oil companies under the law for releasing data on their transactions with the parastatal oil company; however, the new law had not been used by year's end.

The majority of the media was state-run and carried very little criticism of the Government; however, the Government tolerated increasing criticism of its policies and actions in the independent media. Specific harassment of independent media diminished during the year in most of the country. There were seven private weekly publications with circulation in the low thousands. A committee composed of the Minister of Social Communication, the spokesman of the Presidency, and the directors of state-run media organizations controlled policy and censorship authority. The MPLA's Secretary General also influenced the content and tone of state-run media reporting. The Government used its control of the media to influence local and international public opinion, particularly about UNITA.

The state press often criticized independent journalists and opposition leaders, but limited access for these journalists to respond. During the year, UNITA leadership and opposition party leaders complained they were denied the opportunity to respond to criticism and negative innuendo against them in the official media. In August the Government announced the formation of a committee consisting of both government and nongovernment representatives to revise the media law. The committee appointed by the President was expected to release a draft law for public



comment in January 2003. In 2000 the Government suspended the earlier drafting process and withdrew a draft law submitted for public comment after widespread criticism of the text for not allowing expansion of political dialogue and for increasing the criminal penalties for defamation.

Provincial governments, particularly in Malange and Kwanza Norte, limited press freedom and harassed independent journalists during the year. Unlike in the previous year, local authorities did not prohibit independent journalists from traveling to the provinces.

The news ban on war coverage that was instituted in 1999 ended with the April ceasefire.

Unlike in the previous year, there were no reports that the Government discouraged potential advertisers from buying advertising space in independent newspapers. Unlike in the previous year, there were no reports that the Government harassed, arrested, or detained journalists on charges of slander, and crimes against the security of the State. Unlike in the previous year, there were no reports that government authorities threatened journalists or that police confiscated material from journalists.

There were no developments in the July 2001 case in which police confiscated Folha 8 journalist Gilberto Neto's reports without a warrant, or the July and November 2001 cases in which government authorities threatened journalists.

There were also five commercial radio stations including the Catholic Radio Ecclesia, and Radio Lac Luanda, which openly criticized aspects of government policies and highlighted poor socioeconomic conditions. Unlike in the previous year, there were no reports that radio stations suspended their programming reportedly because of government pressure. Also unlike in the previous year, there were no reports that journalists working for radio stations were attacked or kidnaped.

There were no developments in the February 2001 case in which VOA and Radio Ecclesia correspondent Isaias Soares was attacked by armed men, or the July 2000 case in which Radio Ecclesia director Paulo was kidnaped by individuals claiming to represent the Government.

The Government generally did not restrict the activities of foreign media, including the British Broadcasting Corporation (BBC) and Voice of America (VOA). Unlike in the previous year, there were no reports that the Government refused to allow direct retransmissions of their broadcasts. Foreign journalists must obtain authorization from the Ministry of the Interior to obtain access to government officials or to travel within the country. With the end of the war in April, media requests to travel to areas previously not controlled by the Government were no longer denied. The Government placed no abnormal visa restrictions on foreign journalists and allowed them freedom to report on all aspects of society. Unlike in the previous year, there were no reports that the Government authorities prevented foreign correspondents from reporting in any area of the country.

UNITA did not permit freedom of expression in the areas under its control until the end of the war.

The Government did not restrict academic freedom, and academics did not practice self-censorship. Academics frequently served as commentators for independent media and spoke at public forums in Luanda. Students were permitted to speak and read freely; however, the Government tightly controlled student and other protests or demonstrations (*see* Section 2.b.).

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of assembly; however, the Government restricted this right in practice. The law requires a minimum of 3 days' prior notice before public or private assemblies are to be held, and makes participants liable for "offenses against the honor and consideration due to persons and to organs of sovereignty" (*see* Section 2.d.). Applications for progovernment assemblies were granted routinely without delay; however, applications for protest assemblies rarely were granted.

In August local human rights organizations reported the illegal detention of three refugees from the DRC in the municipality of Ingombotas. According to independent media reports, the three refugees were held illegally for 1 week after they attempted to hold a public demonstration in front of the local U.N. High Commissioner for Refugees (UNHCR) office to protest their conditions.

On October 8, police forcibly dispersed students who were demonstrating in support of a strike by their professors at Agostino Neto University (*see* Section 6.b.), and arrested at least five students. On October 18, the strike was resolved, and no charges were brought against the five arrested students. The Government-run daily, *Jornal de Angola*, criticized the police for their handling of the demonstration.

On November 28, police moved 30 Congolese refugees who had maintained a vigil outside the UNHCR's Luanda office for 5 months to a nearby refugee camp (*see* Section 2.d.).

Unlike in the previous year, there were no reports that opposition supporters were detained after holding demonstrations.

No action was taken, nor is any likely to be, against members of the police who in February 2000 beat protesters and used excessive force to disperse several demonstrations, including a demonstration in front of a church in Luanda.

The Constitution provides for the right of association; however, the Government restricted this right in practice. Legislation permits the Government to deny registration to private associations on security grounds. Although the Government approved most applications, including those for political parties, the Ministry of Justice continued to block the registration of the local human rights group Association of Justice, Peace, and Democracy (AJPD) by not taking action on its application originally filed in 2000. At year's end, AJPD was awaiting a Supreme Court decision on its suit against the Ministry of Justice for not processing the registration application. AJPD continued to function during the year (*see* Section 4). Independent labor activists reportedly also encountered difficulty with provincial government authorities in registering branch associations; however, vigils and demonstrations did take place (*see* Section 6.b.). The Government also arbitrarily restricted associations that it considered antigovernment, by refusing to grant licenses for organized activities and through other means, such as police or other official harassment. Opposition parties were permitted to organize and hold meetings during the year.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

In January the Government confirmed that religious groups must register with the Ministry of Justice and the Ministry of Education and Culture. Colonial-era statutes banned all non-Christian religious groups from the country; while those statutes still exist, they no longer were enforced. Early in the year, the colonial-era law granting civil registration authority to the churches was reinstated. In October the provincial government in Cabinda banned 17 religious sects for not being registered, for endangering lives with the unauthorized practice of medicine on sect members, and for illegally setting up churches in residences. No additional information was available at year's end.

Members of the clergy regularly used their pulpits to criticize government policies. Church-based organizations, in particular the ecumenical Inter-Church Committee for Peace in Angola (COIEPA), were vocal in calling for peace and dialog between the Government and UNITA until the April ceasefire. Members of the Catholic clergy also were active in trying to facilitate talks between the Government and FLEC-FAC in Cabinda.

While in general UNITA permitted freedom of religion in the areas it controlled until the end of the war, persons who left UNITA-controlled areas prior to the ceasefire revealed that the clergy did not enjoy the right to criticize UNITA policies.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for freedom of movement and residence, and freedom of exit from and entry into the country; however, the Government did not respect these rights in practice. A network of government security checkpoints throughout the country interfered with the right to travel, and such checkpoints also served as a principal source of income for many of the country's security service personnel. Police routinely harassed refugees at checkpoints. The Government routinely restricted access to areas of the country that were deemed insecure or beyond the administrative authority of the Government. Lack of security prevented persons from transporting goods until the April 4 ceasefire. Since April increasing stretches of previously inaccessible areas have been opened to transit. Poor infrastructure and landmines were the principal obstacles to free movement of persons throughout the country.

Extortion at checkpoints was routine in Luanda and pervasive on major commercial routes. In July the Bishop of Uige spoke out against ANP officers who systematically extorted residents at checkpoints on roads linking surrounding municipalities with the provincial capital.

Police forcibly moved poor residents from central neighborhoods in Luanda to outlying areas as part of urban revitalization programs (*see* Section 1.f.).

Unlike in the previous year, there were no reports that the MPLA attempted to restrict the ability of opposition deputies to travel within the country.

Unlike in the previous year, there were no reports that police or army members obstructed the movements of NGOs in the country.

Landmines were a major impediment to the freedom of movement. UNITA used landmines primarily on roads and trails to disrupt transportation and to control vil-

lage populations. Government mining generally was confined to strategic positions around towns for defensive purposes. Estimates of the total number of landmines deployed throughout the country ranged into the millions. Fear of injury and death from landmines effectively imprisoned and impoverished entire communities. There were 42 recorded deaths due to landmine explosions during the year, and there were more than 80,000 persons who survived landmine explosions (*see* Sections 1.g. and 5).

Unlike in previous years, the Government did not prohibit journalists who were convicted of defamation from traveling outside of the country (*see* Section 2.a.). Foreign journalists must obtain authorization from the Ministry of the Interior to obtain access to government officials or to travel within the country. After the April ceasefire, media requests to travel to areas previously not controlled by the Government were no longer denied.

The Government did not place restrictions on emigration and repatriation; however, there were reports that immigration officials harassed and extorted money from foreign businessmen.

The number of persons internally displaced by the conflict increased during the year, largely as a result of forcible resettlements. Family separations also increased markedly due to the sudden and disorganized displacements. These population movements combined with the disruption of agricultural work led to widespread food shortages in rural areas. The ceasefire allowed access to previously isolated areas suffering from famine. International humanitarian agencies significantly boosted emergency feeding operations to respond to the crisis.

The Ministry of Assistance and Social Re-Insertion (MINARS) reported that there were more than 4 million IDPs in the country at the peak of the humanitarian crisis, and in September the U.N. reported that there were 1,269,303 confirmed IDPs and 4,440,056 reported IDPs in the country. By year's end, the Government reported that at least 2.8 million people still were displaced. Many IDPs were returned refugees from neighboring countries who were reintegrated into the country from 1994 to 1998. The majority of registered IDPs were located in Bie, Huambo, and Malange provinces in the interior of the country. IDPs who arrived from UNITA-controlled areas displayed signs of abuse and severe malnutrition. MINARS has primary responsibility for IDPs and implemented housing and resettlement programs; however, these efforts remained inadequate. Conditions for IDPs continued to be difficult throughout the year. In August the U.N. Office for the Coordination of Humanitarian Affairs (OCHA) estimated that between 2 and 6 persons per 10,000 IDPs perished every day.

There were 120 IDP camps in the country, all of which were accessible to humanitarian agencies at year's end, although some were inaccessible prior to the April ceasefire with UNITA. International humanitarian agencies confirmed 1.5 million IDPs in need of humanitarian assistance and projected that the caseload would increase to 1.9 million by the end of the year. A total of 314,494 UNITA family members were included in the total that were registered for humanitarian assistance in the family reception areas established under the April 4 Luena Accord. IDPs continued to be harassed in camps; however, unlike in previous years, there were no reports that IDPs contributed labor or paid for building materials or water. There continued to be reports that police officers and soldiers harassed IDPs and denied them humanitarian assistance due to misappropriation by the authorities who were stealing supplies. IDPs were conscripted forcibly in both government- and UNITA-controlled areas until the end of the war (*see* Section 1.f.).

Unlike in the previous year, there were no reports that local leaders displaced populations suspected of UNITA sympathies into villages that were located in the path of oncoming attacks.

Following the April ceasefire, provincial governments began the relocation of IDPs. According to OCHA, as of December, approximately 1.1 million had returned home and approximately 10,000 persons left the IDP camps every day. In 2001 MINARS gave provincial governments primary responsibility for IDP resettlement and set forth guidelines to ensure the safe, voluntary resettlement of IDPs to areas cleared of mines and with access to water, arable land, markets, and state administration; however, by year's end, there were reports of forced relocations of IDPs to resettlement sites that did not meet the published standards. There also were credible reports of government efforts to force IDPs to leave camps and return home without respect to conditions at their places of origin or even to MINARS' own standards. In one case in October, the Government forcibly moved 18 families by FAA helicopter in Moxico and confiscated their possessions.

As of June, the U.N. estimated that there were 435,000 Angolan refugees in neighboring countries as a result of the conflict. The largest number of them sought refuge in the DRC, with smaller numbers fleeing to Namibia and Zambia. At year's

end, Namibia's border was open, and goods and people moved freely. According to the UNHCR, more than 190,000 Angolan refugees were living in the DRC, some of whom began returning to the country during the year. Spontaneous returns began after the April ceasefire. The UNHCR estimated that more than 86,000 Angolan refugees returned spontaneously to the country by year's end.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the UNHCR, and provided first asylum to refugees. An eligibility committee to evaluate asylum claims met regularly to evaluate asylum requests. According to UNHCR, the country had approximately 14,000 refugees, most of whom were from the DRC.

In June a group of refugees in the country began petitioning for better living conditions and more legal protections. The refugees complained that they were not given appropriate identity documentation. They also accused the Government of not keeping its promise to provide land and building materials after the refugees were moved by the Government in 2001. After they had camped in front of the UNHCR's Luanda office for 5 months, the police moved them to a nearby refugee camp in November.

There were reports of the illegal detention of refugees after they attempted to hold a demonstration (*see* Section 2.b.).

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides all adult citizens with the right to choose the President of the Republic and deputies in the 220-seat National Assembly by secret ballot in direct multiparty elections; however, in practice citizens have no effective means to change their government. The Constitutional Committee of the National Assembly continued to work on a new constitution and a new electoral law. After a 5-month suspension of debate, the Government and UNITA concluded an agreement in December resolving the impasse over what system of government would be adopted. Opposition political parties criticized the deal for not including their input. Despite its previously stated intentions to schedule elections during the year, the Government postponed elections until at least 2004 and some government officials have suggested 2005. Opposition parties complained of harassment and intimidation by the Government.

Under the April 4 Luena Accord, UNITA began the transition to a demilitarized opposition political party; however, it struggled to unify members who stayed in Luanda after the resumption of war in 1998 and UNITA-Renovada faction leaders with those leaders who fought with Savimbi until his death in February. The Government complicated reunification by continuing to recognize the tiny Renovada faction as the official UNITA party and providing it with material support, even though it represented only a small number of UNITA supporters. The Luena Accord provided for the conclusion of the final political tasks of the Lusaka Protocol, including the naming of UNITA officials to government ministries, provincial governorships, and ambassadorial posts.

The President is elected by an absolute majority. If no candidate wins such a majority, a runoff must take place between the two candidates with the most votes. Of the 220 deputies in the National Assembly, 130 are elected on a national ballot, and 90 are elected to represent the provinces. The Electoral Law also calls for the election of three additional deputies to represent citizens living abroad; however, those positions were not filled in the 1992 elections.

Ruling power was concentrated in the President and other members of the Council of Ministers, through which the President exercised executive power. The Council can enact decree-laws, decrees, and resolutions, thereby controlling most functions normally associated with the legislative branch. Although the Constitution establishes the position of Prime Minister, the President dismissed the Prime Minister during the MPLA Party Congress in 1998, assumed the position himself by decree, and held it for 4 years. In December the President named Interior Minister Fernando Dias dos Santos "Nando" the Prime Minister. Since its inception, the National Assembly has served as a rubber stamp for the Council of Ministers. While opposition deputies held approximately 43 percent of National Assembly seats and substantive debates sometimes took place, few mechanisms existed to check the power of the MPLA majority or defeat legislation supported by the executive branch. Laws passed during the year, such as the Law on State Secrecy and the Law on National Security, further strengthened executive authority and limited legislative oversight (*see* Section 2.a.).

Immediately after independence, the country's competing independence movements began a civil war, which lasted until the signing of the Bicesse Accords in 1991 that legalized opposition parties. The 1992 elections were the first multiparty democratic elections in the country's history; they were conducted with U.N. supervision and financial support. MPLA president Jose Eduardo Dos Santos won a plurality of votes cast (49 percent), and UNITA leader Jonas Savimbi finished second (40 percent). Although local and international observers declared the election to be generally free and fair and called on UNITA to accept the results, UNITA claimed that the elections were fraudulent, rejected the results, and returned the country to civil war. The runoff election between Dos Santos and Savimbi never was held. The Lusaka Protocol stated that it would take place following a U.N. determination that requisite conditions exist.

The present government was formed in 1997 after UNITA and 10 smaller opposition parties joined the ruling MPLA in a government of national unity and reconciliation. In 1998 UNITA officials assumed 4 ministerial and 7 vice-ministerial positions, and 70 UNITA deputies took their seats. UNITA governors, vice governors, and local administrators were nominated, but the remaining positions were filled by members of a splinter UNITA group, UNITA-Renovada, which was recognized and assisted by the Government. The National Assembly promulgated a special status for Savimbi, declaring him to be the leader of the largest opposition party and providing him with 5 official residences and a bodyguard contingent of 400 personnel. The National Assembly revoked Savimbi's status in 1998 for abrogating his duties under the Lusaka Protocol. In 1999 the Government declared Savimbi a war criminal and issued a warrant for his arrest. After almost 3 years of intense counterinsurgency operations by government forces, on February 22, Savimbi was killed in battle with FAA troops in Moxico. On April 4, the remaining UNITA forces in the field signed the Luena Accord with the Government, which provides for the demilitarization of UNITA and the resumption of the Lusaka peace process. Under the ceasefire agreement, the Joint Commission, composed of the Government and UNITA, with oversight provided by the U.N. and Troika nations (United States, Russia, and Portugal), was to resolve the remaining tasks outlined in the Lusaka Protocol, including a final determination to cancel the runoff presidential election. Between September and November the Joint Commission met several times and agreed on the completion of the Lusaka and Luena provisions.

Opposition parties complained of harassment and intimidation by the Government. There were reports of localized harassment of individuals who were not members of the ruling party, particularly after increased UNITA military activity; these reports ceased after April. Unlike in previous years, there were no reports that members of the MPLA beat or detained UNITA-Renovada members. In the transition of official recognition from UNITA-Renovada to UNITA after the April ceasefire, there were reports that UNITA-Renovada offices were vandalized by UNITA supporters as part of intra-UNITA factional strife.

There were no legal barriers to the participation of women in the political process; however, women were underrepresented in government and politics (*see* Section 5). There were 35 women in the 220-seat National Assembly, and there were 10 women in the 83-member Cabinet, including 3 ministers.

#### *Section 4. Governmental Attitudes Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

The Government does not prohibit independent investigations of its human rights abuses; however, it failed to cooperate and often used security conditions as an excuse to deny access to affected areas.

There were more than 100 international and approximately 34 domestic NGOs operating in the country. Local NGOs actively promoted human rights during the year by documenting and exposing prison conditions and providing free legal counsel. In December a new organization called the Ad-Hoc Commission on Human Rights in Cabinda, which emerged from the civil society umbrella organization Coalition for Reconciliation, Transparency and Citizenship (RTC), released its first report detailing human rights violations in Cabinda (*see* Section 1.g.). While some expanded political freedom enabled some local NGOs to investigate previously sensitive issues, the Government continued to be suspicious of local NGOs receiving international support. During the year, the Ministry of Justice blocked the registration of the AJPD by continuing not to respond to its application (*see* Section 2.b.). The AJPD continued to await responses from the Supreme Court and the Ministry of Interior's Director of Prison Services on longstanding requests for the list of active judges and the number of prisoners in the justice system, respectively.

Several international organizations have a permanent presence in the country, including the International Committee of the Red Cross (ICRC) and the U.N. Human

Rights Division. Human Rights Watch (HRW) visited the country during the year and joined with AJPD to release a report on the protection of human rights of the country's IDPs. The Government consistently criticized HRW's statements about the country.

Unlike in the previous year, there were no reports that FAA, police, or UNITA forces harassed NGO workers during the year.

Human rights organizations had increased access to the country following the April ceasefire. During the year, U.N. humanitarian activities increased operations significantly in response to an acute food security and IDP crisis (*see* Sections 1.g. and 2.d.). Also, a new UNMA was established to oversee the peace process and the final implementation of the Lusaka Protocol as set forth in the April 4 Luena Accord (*see* Section 3).

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

Under the Constitution, all citizens are equal before the law and enjoy the same rights and responsibilities regardless of color, race, ethnicity, sex, place of birth, ideology, degree of education, or economic or social condition. The Government did not have the ability to enforce these provisions effectively.

*Women.*—Violence against women was widespread. Credible evidence indicated that a significant proportion of homicides were perpetrated against women, usually by spouses. The Ministry of Women and Family dealt, in part, with violence against women. The Government continued its project to reduce violence against women and improve the status of women. Domestic violence was prosecuted under rape and assault and battery laws. Rape is defined as a forced sexual encounter and is punishable by up to 8 years in prison; the law treats sex with a minor under the age of 12 as nonconsensual. However, an inadequate judicial system obstructed investigation and prosecution of such cases.

In July HRW and AJPD accused government forces of raping women and practicing sexual slavery in areas of counterinsurgency operations. The December report by the Ad-Hoc Commission on Human Rights in Cabinda alleged that government forces raped several women and girls. UNITA also was accused of rape and abducting women as porters and sexual slaves; however, there were no such reports after the April ceasefire (*see* Sections 1.g. and 6.c.).

Sexual harassment was a problem, which was publicized in the official media. There is no specific legal provision regarding sexual harassment; however, such cases could be prosecuted under assault and battery and defamation statutes.

The Constitution and Family Code provide for equal rights without regard to gender; however, societal discrimination against women remained a problem, particularly in rural areas. In addition, a portion of the Civil Code dated to colonial times and included discriminatory provisions against women in the areas of inheritance, property sales, and participation in commercial activities. There were no effective mechanisms to enforce child support laws, and women carried the majority of responsibilities for raising children. Due to poor economic conditions, an increasing number of women engaged in prostitution. The law provides for equal pay for equal work; however, in practice women rarely were compensated equally with men. Some women held senior positions in the armed forces (primarily in the medical field) and civil service, but women mostly were relegated to low-level positions in state-run industries and in the small private sector. In much of the country, women constituted a growing percentage of persons with disabilities, as they were most likely to become victims of landmines while foraging for food and firewood in agricultural areas. Under the law, adult women may open bank accounts, accept employment, and own property without interference from their spouses. Upon the death of a male head of household, the widow automatically was entitled to 50 percent of the estate with the remainder divided equally among legitimate children.

A series of national conferences on women's rights continued during the year, partially funded by foreign donors, and produced calls for the Government to amend the Civil Code to end women's legal inequality, create a social welfare program, and strengthen enforcement mechanisms for existing legislation.

*Children.*—Approximately 50 percent of the population was believed to be under the age of 15; however, the Government continued to give little attention to children's rights and welfare. The Ministry of Education barely functioned due to a lack of resources and corrupt administration. Private religious, community, or corporate groups have been unable to fill this vacuum.

Although primary and secondary education was free and compulsory until the sixth grade, students often had to pay significant additional expenses. Although primary education was compulsory, there were not enough schools, and many children had to work to support their families. Teachers were chronically unpaid and often demanded unofficial payment or bribes from students. During the year, teachers en-

gaged in strikes in Benguela, Huila, and Namibe provinces. The enrollment rate of school-age children was 40 percent; however, while 55 percent of children 5 to 14 years of age were in school, only 30 percent of children remained in school after grade 5. There was a significant gender gap in the enrollment rate, favoring boys over girls. More than 1 million children were estimated to be out of school, with no prospect of integrating them into the education system. Most of the educational infrastructure was damaged and lacked basic equipment and teaching materials. Only 42 percent of the population was literate, and the illiteracy rate for women was almost twice that of men.

The Government has not brought any significant numbers of children into the armed forces since the 1996–97 demobilization campaign; however, some children reportedly continued to be recruited as a result of the absence of civil registration and the inability to prove dates of birth. There continued to be reports of forced recruitment of children in the provinces until the April ceasefire. There were credible reports that UNITA often forcibly recruited children as young as 10 years of age into its armed forces.

Children often were victims in the civil war. Local NGOs estimate that 100,000 children were abandoned or orphaned as a result of the war, and malnutrition was a problem. During the year, MINARS trained 1,070 child protection monitors who assisted 43,000 children that were separated from their families. Government and UNITA forces killed, kidnaped, and injured children during attacks until the end of the war (*see* Sections 1.a., 1.b., and 1.c.). Landmine explosions killed and injured children at an increasing rate. According to INAROE, out of a total of 660 landmine accidents in 2001, 105 involved children under the age of 18.

There were approximately 5,000 street children in Luanda; some were orphans or abandoned, while others ran away from their families or from government facilities that were unable to support them. Living conditions in government youth hostels were so poor that the majority of homeless children preferred to sleep on city streets. Street children shined shoes, washed cars, and carried water, but many resorted to petty crime, begging, and prostitution in order to survive. The Government-sponsored National Institute for Children was established to enforce child protection, but it lacked the capacity to work effectively with international NGOs. The Institute reported that in a sample from Catchiungo, the number of street children assisted by the Institute doubled from 7,890 in 2000 to 14,000 in 2001 and that more than 90 percent of these children suffered from malnutrition. The Government publicized the problems of street and homeless children during the year.

There were reports of trafficking in children and child prostitution (*see* Section 6.f.).

There were no active domestic private children's rights advocacy groups; however, several international organizations promoted children's rights in the country.

*Persons with Disabilities.*—The number of persons with physical disabilities included more than 80,000 disabled landmine survivors. While there was no institutional discrimination against persons with disabilities, the Government did little to improve their physical, financial, or social conditions. There is no legislation mandating accessibility for persons with disabilities in public or private facilities, and, in view of the degradation of the country's infrastructure and high unemployment rate, it was difficult for persons with disabilities to find employment or participate in the education system.

*Indigenous People.*—The population included 1 to 2 percent of Khoisan and other linguistically distinct hunter-gatherer tribes scattered through the provinces of Namibe, Cunene, and Cuando Cubango. There was no evidence that they suffer from official discrimination or harassment, but they did not participate actively in the political or economic life of the country, and they had no ability to influence government decisions concerning their interests.

There continued to be lack of adequate protections of the property rights of traditional pastoral indigenous communities. In July the Government published a draft land tenure law for public comment that it claimed would increase protection of indigenous community land ownership. In response to requests from civil society groups for more time to review the legislation, the Government extended the public comment period until November. The legislation was pending at year's end. During the year, as part of a government project, with assistance from the U.N. Food and Agriculture Organization, 10 leases of 45-year duration were given to pastoral communities in Bengo and Huila provinces.

*National/Racial/Ethnic Minorities.*—Years of war and internal dislocation have produced substantial integration of ethnic and linguistic groups, particularly in the coastal areas, where as much as half of the population resided. The largest ethnolinguistic group, approximately 40 percent of the country's population, is

Ovimbundu, whose traditional region includes much of the south-central part of the country. Although the Ovimbundu formed the base for UNITA, there was little evidence of systematic discrimination against them by the Government or other groups. Other important ethno-linguistic groups include the Bakongo in the north; Kimbundu in the north-central area; and Chokwe in the extreme eastern part of the country. The coastal population centered in Luanda and, to a lesser extent, Benguela-Lobito, predominantly speaks Portuguese as a first language. The Portuguese-speaking group included a large minority of “Mesticos” of mixed European and African ancestry and a small, white, predominantly Portuguese-descended population. In addition, approximately 30,000 Portuguese citizens lived in the country, forming the bulk of the nonrefugee expatriate community.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right to form and join trade unions, engage in union activities, and strike; however, the Government did not respect these rights consistently in practice. The Government dominated the National Union of Angolan Workers (UNTA), which was the labor movement affiliated with the ruling MPLA party; however, there were two independent unions, the General Center of Independent and Free Labor Unions of Angola (CGSILA) and the small Independent Union of Maritime and Related Workers (SIMA). There continued to be division and legal suits between member unions of CGSILA over accusations of administrative malfeasance. There was no further information regarding members of CGSILA being fired for recruiting members of UNTA to join the union. CGSILA had a membership of approximately 50,000 members, and UNTA claimed to have more than 400,000 members. The law requires that the Government recognize labor unions. Nevertheless, SIMA encountered difficulty with provincial government authorities in registering branch associations and organizing dock and rig workers (*see* Section 2.b.). Restrictions on civil liberties potentially prevent any labor activities not approved by the Government; however, the major impediment to labor’s ability to advocate on behalf of workers was the 60 percent formal sector unemployment rate.

Legislation prohibits discrimination against union members and calls for worker complaints to be adjudicated in regular civil courts. Under the law, employers found guilty of antiunion discrimination were required to reinstate workers who have been fired for union activities. In practice the judicial system was not capable of defending or prepared to enforce these rights.

Unions have the right to affiliate internationally. CGSILA cooperated with the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO) and participated in the International Labor Organization (ILO). Individual trade unions maintained relations with counterpart unions in other countries.

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides for the right to organize and for collective bargaining; however, the Government did not respect those rights in practice. The Government did not facilitate a positive environment for constructive labor management negotiations. The Government dominated the economy through state-run enterprises. The Ministry of Public Administration, Employment, and Social Security set wages and benefits on a semi-annual basis (*see* Section 6.e.).

The Constitution provides for the right to strike. Legislation passed in 1991 provides the legal framework for strikes, and strictly regulates them. The law prohibits lockouts and worker occupation of places of employment and provides protection for nonstriking workers. It prohibits strikes by armed forces personnel, police, prison workers, and fire fighters. The law does not prohibit effectively employer retribution against strikers. The law permits the Government to force workers back to work for breaches of worker discipline and participation in strikes. Small strikes over wages took place, mainly in the construction sector, during the year. Teachers also engaged in strikes during the year (*see* Section 5).

In July 2001, 190 employees of the oil services company WAPO-Angola went on strike demanding better wages. Management refused to negotiate and fired the workers. In September 2001, the workers sued the company, and in July a judgement in favor of the workers was announced. The court instructed WAPO to reinstate the workers and pay all salaries in arrears for the period of time the case was in court. WAPO claimed that it would face financial ruin and refused to pay or reinstate the workers. After 30 days, the workers asked the court to liquidate the company if they were not reinstated. In September WAPO agreed to pay and reinstate the striking workers, and the workers were paid and reinstated in October.

SIMA continued an organized protest that began in October 2000. The employing company, Angonave, subsequently was declared bankrupt and put in receivership under court supervision. SIMA members continued to maintain a vigil at the facility



to demand severance compensation. No such compensation was provided by year's end. Participants in the vigil reportedly were subject to government harassment.

In October the university professors' union, a member union of CGSILA, staged a strike at Agostino Neto University over salaries. The Ministry of Education and university administration reached agreement with the professors' union after 2 weeks (*see* Section 2.b.).

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children; however, the Government was unable to enforce these provisions effectively. In addition, the law permits the Government to force workers back to work for breaches of worker discipline and participation in strikes, and it has been cited by the ILO as an example of forced labor in violation of ILO conventions. There were reports that the FAA forcibly conscripted persons until the end of the civil war with UNITA in April. There also were independent media reports of a prison director in Huambo using prisoners as laborers in his house.

UNITA forces regularly abducted children for military service and other forms of forced labor (*see* Sections 1.b., 1.f., and 5). UNITA depended on forced labor for much of its logistical support. Refugees and IDPs reported that rural women frequently were forced to work as porters for UNITA military units and kept in life-threatening conditions of servitude. There were reports that UNITA troops sexually assaulted these women; however, there were no such reports after the April ceasefire.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The legal minimum age for employment is 14 years. Children between the ages of 14 and 18 may not work at night, in dangerous conditions, or in occupations requiring great physical effort, and children under 16 years of age are prohibited from factory work; however, these provisions generally were not enforced. The Inspector General of the Ministry of Public Administration, Employment, and Social Security was responsible for enforcing labor laws. Although child labor law enforcement was under the jurisdiction of the courts, in practice, the court system did not provide adequate protection for children. Child labor violations were punishable with fines and restitution. There was no formal procedure for inspections and investigations into child labor abuses outside of the family law system, although private persons could file claims for violations of child labor laws. The Ministry maintained employment centers where prospective employees registered, and the center screened out applicants under the age of 14; however, many younger children worked on family farms, as domestic servants, and in the informal sector as street vendors. Family-based child labor in subsistence agriculture was common. Children under 12 years of age worked for no reimbursement for their families and in apprenticeships. Poverty and social upheavals brought large numbers of orphaned and abandoned children, as well as runaways, into unregulated urban employment in the informal sector.

Children were abducted by UNITA forces for forced labor during the war (*see* Section 6.c.).

*e. Acceptable Conditions of Work.*—In December the minimum wage was set by the Ministry of Public Administration, Employment, and Social Security at the equivalent of \$50 (3,000 Kwanza) per month to be adjusted for inflation every 6 months. This standard existed previously; however, the Government did not enforce it. Many urban workers earned less than \$20 (1,200 Kwanza) per month. Neither the minimum wage nor the average monthly salary, which was estimated at \$40 to \$150 (2400 to 9000 Kwanza) per month, were sufficient to provide a decent standard of living for a worker and family. As a result, most wage earners held second jobs or depended on the informal sector, subsistence agriculture, corruption, or support from abroad to augment their incomes. The Government reformed the national system of setting the minimum wage by pegging it to inflation and adjusted the rate quarterly during the year. Employees receiving less than the legal minimum wage have the right to seek legal recourse; however, it was uncommon for workers to do so.

A 1994 government decree established a 37-hour workweek; however, the Ministry of Public Administration was unable to enforce this standard, just as it was unable to enforce existing occupational safety and health standards. Workers cannot remove themselves from dangerous work situations without jeopardizing their continued employment.

Foreign workers (legal or illegal) were not protected under the labor law. They received legal protection if they worked under contract, otherwise they received protection only against criminal acts.

*f. Trafficking in Persons.*—The Constitution prohibits human bondage; however, no laws exist to combat trafficking in persons, and there were reports of trafficking.

An international NGO that worked with street children estimated in 2001 that there were 500 to 1,000 underage prostitutes in Luanda. There are no laws that specifically prohibit child prostitution; however, child prostitution is prohibited by a general criminal statute. The age of sexual consent is 12 years, and sexual relations with a child under 12 years of age is considered rape. Sexual relations with a child between the ages of 12 and 17 can be considered sexual abuse. All pornography is prohibited statutorily. The Ministry of Family and Women's Affairs enforced and oversaw special family courts, and the National Institute for Assistance to Children had daily responsibility for children's affairs. The Ministry of Justice continued its campaign to register children and provide them with identity papers and protect them against potential trafficking. In November the Ministry of Justice announced that more than 1.5 million children had been registered since August 2001—one half of the initial goal. In December there were international reports that Angolan children residing in Portugal were trafficked to the United Kingdom for exploitation. There were unconfirmed local reports that some of the children involved actually were trafficked from Angola.

Until the end of hostilities in April, there continued to be allegations that UNITA abducted persons, including children, for forced labor, and abducted women for use as sex slaves. There were reports that the Government forcibly recruited persons for military service (*see* Section 1.f.). There also were credible reports that UNITA forcibly recruited children into its military (*see* Section 5).

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## BENIN

The Republic of Benin is a constitutional democracy headed by President Mathieu Kerekou, who was inaugurated in April 2001, after elections that observers generally viewed as free but not entirely fair. There were 19 political parties represented in the unicameral, 83-member National Assembly. The March 1999 parliamentary elections, which were free, fair, and transparent, resulted in significant gains by the opposition, notably the party of former President Nicephore Soglo, which gained 27 seats in Parliament. Although a loose alliance of progovernment deputies holds a 42 to 41 seat majority, some progovernment deputies side with the opposition, depending on the issue. The Government generally respected the constitutional provision for an independent judiciary; however, the executive has important powers in regard to the judiciary, and the judiciary was inefficient and susceptible to corruption at all levels.

The civilian-controlled security forces consisted of the armed forces, headed by the State Minister in charge of Defense Matters, and the police force under the Ministry of Interior, Security, and Decentralization. The Ministry of Defense supervised the Gendarmerie, which exercised police functions in rural areas, while the Ministry of Interior supervised other police forces. The armed forces continued to play an apolitical role in government affairs despite concerns about lack of morale within its ranks and an ethnic imbalance within the forces. Members of the police committed some human rights abuses.

The country was extremely poor with average yearly per capita income below \$400; its population was approximately 6.5 million. The economy was based largely on subsistence agriculture, cotton production, regional trade (including transshipment of goods to neighboring countries), and small-scale offshore oil production. The Government has maintained the austerity program; continued to privatize state-owned enterprises; reduced fiscal expenditures; and deregulated trade. The Government estimated the growth rate at 5 percent for the year; however, approximately 2 percent of this growth can be credited to major infrastructure projects, such as road construction, that were funded by foreign aid.

The Government generally respected the human rights of its citizens; however, there were problems in several areas. There were credible reports that police sometimes tortured and beat suspects, and at times the authorities arbitrarily arrested and detained persons. During the year, some local authorities at times restricted freedom of assembly and police forcibly dispersed demonstrations. The most serious human rights problems continued to be the failure of police forces to curtail acts of vigilantism and mob justice; harsh and unhealthy prison conditions; serious administrative delays in processing ordinary criminal cases with attendant denial of timely, fair trials; judicial corruption; violence and societal discrimination against women; and trafficking and abuse of children. The practice of female genital mutilation (FGM) and, to a lesser extent, infanticide also remained problems. Child labor, including forced and bonded child labor, continued to be a problem. Trafficking in persons was a problem. Benin was invited by the Community of Democracies' (CD)

Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

There was no action taken against the persons responsible for the deaths of three prisoners during the May 2000 riot at the Lokossa prison (Mono department).

In March and June, there were reports that unidentified persons attacked and killed Fulani in the Zou (west) and Alibori (north) regions.

During the year, incidents of mob justice continued to occur nationwide. Most often these were cases of mobs killing or severely injuring suspected criminals, particularly thieves caught in the act. For example, in October a mob set fire to a man who allegedly attacked a motorbike taxi driver in Calavi. In the same month in a Cotonou suburb, a mob beat to death two men who allegedly stole a woman's purse (firefighters prevented the mob from burning the two bodies). Although a number of these incidents occurred in urban areas and were publicized in the press, the Government apparently made no concerted attempt to investigate or prosecute anyone involved, and police most often ignored vigilante attacks. However, in January vigilante leader "Colonel Devi" was arrested in the southwest (Couffo) region following the November 2001 killing of two persons at his home. He was taken to a prison in the northeastern region, where he remained confined awaiting trial at year's end.

There was no known action taken against the persons responsible for the following 2001 mob killings: The April burning to death in Bante sub-prefecture of a suspected sorcerer and an accused thug, and the 10 reported incidents in November in which mobs in several sections of Cotonou attacked persons, killing at least 5, who allegedly had committed ritualistic "thefts" of children and of body parts.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there were credible reports that police sometimes beat and tortured criminal suspects. In February the nongovernmental organization (NGO), Human Rights League (HRL), claimed that police or military agents had beaten and tortured taxi driver Togbe Kuassi Mensah and businessman Patrice Doko for their expressions of political opinion. HRL insisted that a National Hospital physician had signed a medical certificate attesting to Mensah's injuries. After an investigation, the Ministry of Justice concluded the allegations were baseless, and no further action was taken by year's end.

There were no further developments in the case of the March 2001 police attack on National Assembly Deputy Valentin Somasse.

Although the Government continued to make payments to victims of torture under the military regime that ruled from 1972 to 1989, not all victims were paid by year's end. In 2001 a commission within the Justice Ministry was assigned to look into nonpayment; however, no further action was taken by year's end.

Mob justice resulted in serious injuries to a number of persons (*see* Section 1.a.).

Prison conditions continued to be extremely harsh. Extensive overcrowding and lack of proper sanitation and medical facilities posed a risk to prisoners' health. The prison diet was seriously inadequate; malnutrition and disease were common. Family members were expected to provide food for inmates to supplement prison rations.

Women were housed separately from men; however, juveniles at times were housed with adults. Pretrial detainees were held with convicted prisoners; however, they were not held with the most violent convicts or those subject to the death penalty. Prisoners were allowed to meet with visitors such as family members, lawyers, and others.

According to the Justice Ministry, the country's 8 civil prisons have a collective capacity of approximately 5,000 persons; however, the prisons at times were filled to more than 3 times their capacity. The prison in Natitingou (in Atacora province) was the only one of eight prisons nationwide below full capacity. While delayed due to funding problems, a new 1,000-person prison still was under construction in Akpro-Misserete (Oueme department) at year's end. On the eve of the August 1 Independence Day holiday, the Government granted partial amnesty or modified the sentences of some prisoners convicted of minor crimes, such as petty theft.

The Government permitted prison visits by human rights monitors, and NGOs continued their prison visits. In December the Benin Commission for Human Rights (CBDH) made unannounced visits to several prisons.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, at times the authorities arbitrarily arrested and detained persons. The Constitution prohibits detention for more than 48 hours without a hearing by a magistrate whose order is required for continued detention. However, there were credible reports that authorities exceeded this 48-hour limit in many cases, sometimes by as much as a week, using the common practice of holding a person indefinitely “at the disposition of” the public prosecutor’s office before presenting their case to a magistrate. Approximately 75 percent of persons in prison were pretrial detainees.

The Constitution prohibits forced exile of citizens, and it was not practiced.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, the executive branch has important powers in regard to the judiciary, and the judiciary remained inefficient in some respects and was susceptible to corruption at all levels.

The President appoints career magistrates as judges in civil courts, and the Constitution gives the Ministry of Justice administrative authority over judges, including the power to transfer them. Inadequate facilities, poorly trained staff, and overcrowded dockets resulted in a slow administration of justice. The low salaries of magistrates and clerks had a demoralizing effect on their commitment to efficient and timely justice and made them susceptible to corruption.

A civilian court system operated on the national and provincial levels. There was only one court of appeals. The Supreme Court was the court of last resort in all administrative and judicial matters. The Constitutional Court was charged with deciding on the constitutionality of laws, disputes between the President and the National Assembly, and disputes regarding presidential and legislative elections. Its rulings in past years against both the executive and legislative branches, which were respected by both branches, demonstrated its independence from both these branches of government; however, it was accused of bias in favor of the President during the 2001 presidential elections (*see* Section 3).

The Constitution also provides for a High Court of Justice to convene in the event of crimes committed by the President or government ministers against the state. Under the Constitution, the High Court is to consist of members of the Constitutional Court (except for its president), six deputies elected by the National Assembly and the Supreme Court, and the Chairman of the Supreme Court. The first members of the High Court of Justice were sworn in and began serving their terms in 2001. Inefficiency and corruption particularly affected the judiciary at the trial court and investigating magistrate levels. Military disciplinary councils deal with minor offenses by members of the military services, but they have no jurisdiction over civilians.

The legal system is based on French civil law and local customary law. The Constitution provides for the right to a fair public trial. A defendant enjoys the presumption of innocence and has the right to be present at trial and to representation by an attorney, at public expense if necessary. In practice the court provided indigent defendants with court-appointed counsel upon request. A defendant also has the right to confront witnesses and to have access to government-held evidence. Trials were open to the public, but in exceptional circumstances the president of the court may decide to restrict access to preserve public order or to protect the parties. Defendants who were awaiting a verdict may request release on bail; however, the courts granted such requests only on the advice of the Attorney General’s office.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice. Police were required to obtain a judicial warrant before entering a private home, and they usually observed this requirement in practice. In 2000 the Government, namely the former Managing Director of the Office of Post and Telecommunication, denied charges of wiretapping involving former President Soglo. The National Assembly began an investigation in 2001; however, no results were released publicly by year’s end.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. The Government entity with oversight responsibility for media operations was the High Authority for Audio-Visual Media and Communications (HAAC), which required broadcasters to submit weekly lists of planned programs and required pub-

lishers to deposit copies of all publications with it; however, the media did not comply with these requirements in practice.

The law provides for sentences of imprisonment involving compulsory labor for certain acts or activities related to the exercise of the right of free expression; however, there were no reports that journalists or others have been imprisoned.

There was a large and active privately owned press composed of more than a dozen daily newspapers. These publications criticized the Government freely and frequently, but the effect on public opinion was limited because of their urban concentration. A nongovernmental media ethics commission (ODEM) continued to censure some journalists for unethical conduct during the year, as well as commending some journalists for adherence to the standards of their profession.

Privately owned radio and television stations have become increasingly popular sources of information. Programs critical of the Government were broadcast without interference during the year, and "call-in" and other talk shows often were used for public discussion of topics related to the December municipal election campaign. On November 19, the HAAC published the media regulations for the municipal election campaigns. It designated which radio and television outlets were allowed to cover the elections and indicated the geographical locations in which they will be permitted to operate. The HAAC also set the official radio advertising fees for the campaign.

The Government continued to own and operate the media that were most influential in reaching the public because of broadcast range and infrastructure. The majority of citizens were illiterate and live in rural areas; they largely received their news via radio. The Benin Office of Radio and Television (ORTB) transmitted on the FM and AM frequencies and by short wave in French and local languages. Radio France International also transmitted on a local FM frequency under an agreement with the Government. The British Broadcasting Corporation broadcast in Cotonou in French and English. Fifteen rural radio stations governed by local committees broadcast several hours a day exclusively in local languages. These stations received support from the ORTB.

A similar arrangement existed for television transmissions; the ORTB broadcast more than 12 hours per day on a signal that was easily received in urban areas. Approximately 80 percent of the ORTB's television programming was in French.

TV5, a commercial venture with investments by television broadcasting organizations in France, Canada, Belgium, and Switzerland, broadcasts locally 24 hours per day entirely in French under an agreement with the Government. A privately owned television station, LC-2, broadcast in Cotonou. LC-2 was owned by several private businesspersons and featured light entertainment and news; however, news coverage generally required payment. Although neither television station broadcast partisan programs in support of, or unduly critical of, the Government, the vast majority of news programming centered on government officials' activities, government-sponsored conferences, and international stories provided by French television or other foreign sources.

HAAC regulations govern satellite reception equipment and movie and video clubs. Regulations govern private video clubs, which typically met at members' homes and required a payment of \$.07 (50 CFA francs) per viewer per film. These regulations, issued by the Ministries of Culture and Interior, imposed an initial registration fee of approximately \$137 (100,000 CFA francs) per club and annual fees of approximately \$14 (10,000 CFA francs) thereafter. Given the Government's limited law enforcement resources, enforcement of the regulations was problematic.

Internet service was available in cities; there were no governmental restrictions on its use.

The Government did not restrict academic freedom. University professors were permitted to lecture freely, conduct research, and publish their work.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice; however, during the year, local government officials at times restricted this right. The Government requires permits for use of public places for demonstrations and generally granted such permits; however, during the year, the new mayor of Cotonou, Jerome Dandjinou, refused to allow demonstrations and marches by students, the opposition political party Renaissance du Benin (RB), and labor unions. In April and May, the RB party attempted protest marches; however, the police forcibly dispersed them with tear gas. The Mayor claimed he only was trying to "discourage civil unrest." In August he refused to permit a demonstration by HRL members protesting a new tax on motorbike taxis. Nevertheless, the HRL attempted to march, and the police forcibly dispersed them.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. The Government requires associations to register and routinely granted registrations.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

Persons who wish to form a religious group must register with the Ministry of the Interior. Registration requirements were identical for all religious groups. There were no reports that any group was refused permission to register or was subjected to unusual delays or obstacles in the registration process. Religious groups were free from taxation.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice; however, the presence of police, gendarmes, and illegal roadblocks impeded domestic movement. Although ostensibly meant to enforce automotive safety and customs regulations, many of these checkpoints served as a means for officials to exact bribes from travelers. The Government maintained previously implemented measures to combat such corruption at roadblocks; however, they were not always effective and extortion occurred.

The Government did not restrict international travel for political reasons, and those who travel abroad may return without hindrance. However, during the year, the Government imposed documentary requirements for minors travelling abroad as part of its continuing campaign against trafficking in persons (see Section 6.f.).

The Government's policy toward the seasonal movement of livestock allowed migratory Fulani herdsman from other countries to enter freely; the Government did not enforce designated entry points. Disputes arose between the herdsman and local landowners over grazing rights.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated closely with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees, including those in need of first asylum. During the year, a number of citizens of Togo continued to enter the country and were granted refugee status or given first asylum; however, many returned to Togo. As of December 2001, there were 1,182 Togolese refugees in the country and a total of 1,921 Togolese living in the country under UNHCR auspices. Despite severe economic pressures that limited its ability to provide education for children, the Government allowed these Togolese to enroll their children in local schools and permitted their participation in some economic activities. As of December 2001, the Government had accepted 1,186 refugees and asylees from the Democratic Republic of the Congo (DRC) and 486 others were destined for eventual resettlement in another country.

In contrast the UNHCR estimated that 250 Ogoni refugees from Nigeria were at a disadvantage because they did not speak French and could not work nor could their children attend schools. UNHCR officials directed them to remain within the confines of the Kpomasse refugee camp to avoid potential confrontations with local inhabitants and maintained administrative control over their activities.

In addition, there were fewer refugees from Algeria, Burundi, Cameroon, the Central African Republic, Chad, the Republic of Congo, the DRC, Ethiopia, Liberia, Niger, Nigeria, Rwanda, Sudan, and Sierra Leone. The UNHCR estimated that, as of December 2001, there were 5,021 refugees of various nationalities in the country and that approximately 2,300 persons residing in the country were requesting asylum.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and generally fair elections held on the basis of universal suffrage. Citizens exercised this right in the 2001 presidential elections; however, observers generally viewed the presidential elections as free but not entirely fair. The Constitution provides for a 5-year term of office for the President (who is limited to two terms) and 4-year terms for National Assembly members (who may serve an unlimited number of terms).

President Kerekou was inaugurated in April 2001. Observers viewed the reelection of Kerekou as free but not entirely fair because of the apparent judicial manip-

ulation of the presidential electoral counts, the intimidation of opposition deputies, and the unprecedented scope of the campaign expenditures made by the President's coalition. When opposition candidates challenged the preliminary, first-round presidential vote tallies, the Court initially affirmed those results despite the electoral commission's concession that computer failures and other irregularities made those tallies unreliable. Following extensive public criticism, the Court reviewed the evidence in more detail, modified the tallies, and gave some of the numerous opposition candidates marginally higher total votes. President Kerekou, who ruled the country as a Socialist military dictator from 1972 to 1989, succeeded his democratically elected predecessor in 1996 and continued the civilian, democratic rule begun in the 1990–91 constitutional process that ended his previous reign. There were 19 political parties represented in the unicameral, 83-member National Assembly. The 1999 parliamentary elections, which were free, fair, and transparent, resulted in significant gains by the opposition, notably the party of former President Soglo, which gained 27 seats in Parliament. Although a loose alliance of progovernment deputies holds a 42 to 41 seat majority, some progovernment deputies side with the opposition, depending on the issue. Consequently, legislative power shifts between opposition and progovernment forces. For example, the President of the National Assembly was from an opposition party. The campaign for the country's first ever municipal elections in December was marred by charges by the opposition parties that the pro-Kerekou coalition engaged in the same vote-buying and other improper election tactics, which it also was alleged to have done in the 2001 presidential elections. The opposition parties alleged fraud and forged voter cards during the December 15 municipal elections and criticized the National Election Commission's handling of the election; however, the opposition won the majority of seats on the municipal councils in the large cities.

Women participated actively in political parties. Following a Cabinet reshuffle in 2001, there were 2 women in the 22-member Cabinet. There were 6 women in the 83-member, unicameral National Assembly, including the leader of the largest opposition party. The President of the Constitutional Court was a woman.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination based on race, and sex, but societal discrimination against women continued. Persons with disabilities were disadvantaged.

*Women.*—Domestic violence against women, including wife beating, was common. According to incomplete court statistics for Cotonou in 1999, only 35 criminal proceedings based on reports of violence against women were ongoing at the end of 1999. The maximum penalty ranges from 6 to 36 months' imprisonment. NGO observers believe that women remained reluctant to report cases. Judges and police also were reluctant to intervene in domestic disputes; society and law enforcement considered such cases to be an internal family matter.

The Government generally was unsuccessful in preventing FGM, which was legal. FGM was practiced on females ranging from infancy through 30 years of age and generally took the form of excision. Surveys, including one conducted by the World Health Organization in 1999, reliably estimated that the number of women who had undergone FGM at approximately 50 percent. A prominent NGO, the Benin chapter of the Inter-African Committee, made progress in raising awareness of the dangers of the practice, and the Government cooperated with its efforts. According to recent research, there was a strong profit motive in the continued practice of FGM by those who performed the procedure, usually older women. The efforts of NGOs and others to educate rural communities about the dangers of FGM and to retrain FGM practitioners in other activities continued during the year. The press reported that the number of girls and women undergoing FGM decreased significantly each year since 1996. The NGO APEM believed that if the trend continued, the practice could be eradicated by 2005.

Although the Constitution provides for equality for women in the political, economic, and social spheres, women experienced extensive societal discrimination, especially in rural areas where they occupied a subordinate role and were responsible for much of the hard labor on subsistence farms. In urban areas, women dominated the trading sector in the open-air markets. By law women have equal inheritance

and property rights, but local custom in some areas prevented them from inheriting real property.

The long-debated Family Code finally was approved by the National Assembly in June. It was being reviewed by the Constitutional Court at year's end. Critics called it a women's code and charged that it would give women unfair advantages. The code strengthened the inheritance and property rights for women, among other things; however, both opponents and supporters considered that the legislation was only a first step and that the code likely will be amended.

*Children.*—The Ministry of Labor and Social Affairs was responsible for the protection of children's rights, primarily in the areas of education and health. The National Commission for Children's Rights and the Ministry of Family, Social Protection, and Solidarity had oversight roles in the promotion of human rights issues with regard to children and their welfare.

Education was free but not compulsory. In some parts of the country, girls received no formal education. The Government was trying to boost primary school enrollment, which was approximately 95 percent of boys and approximately 66 percent of girls nationwide; only 26 percent of boys and only 12 percent of girls were enrolled in secondary school. Girls did not enjoy the same educational opportunities as boys, and female literacy was approximately 18 percent (compared with 50 percent for men). However, elementary school pass rates in recent years highlighted significant progress by girls in literacy and scholastic achievement.

There was a tradition in which a groom abducts and rapes his prospective child bride (under 14 years of age). Criminal courts meted out stiff sentences to criminals convicted of crimes against children, but many such crimes never reached the courts due to lack of education and access to the courts or fear of police involvement in the problem.

The Government, in concert with NGOs, made serious efforts to combat child abuse and trafficking in children, including media campaigns, programs to assist street children, greater border surveillance, and a conference on trafficking (*see* Section 6.f.). Following the April 2001 arrival of the *Etireno*, a ship reportedly transporting trafficked children, the National Commission on Children's Rights prepared an action plan to counter child trafficking. The plan was presented to the Government and financing for it still was pending at year's end. Despite such efforts, the abuse of children remained a serious problem.

Some traditional practices inflicted hardship and violence on children, including most prominently the custom of "vidomegon," whereby poor, often rural, families place a child, primarily a daughter, in the home of a more wealthy family to avoid the burden the child represents to the parental family. The children work, but the arrangement was voluntary between the two families. There was a considerable amount of abuse in the practice, and there were instances of sexual exploitation. Approximately 90 to 95 percent of the children in vidomegon were young girls. Children were sent from poorer families to Cotonou and then some of the children were sent to Gabon, Cote d'Ivoire, and Central African Republic to help in markets and around the home. The child received living accommodation, while income generated from the child's activities was split between the child's parents in the rural area and the urban family that raised the child. Following the *Etireno* incident, the Government renewed its analysis of the impact of vidomegon (*see* Sections 6.c. and 6.f.). In March a 12-year-old child living in vidomegon reportedly committed suicide because of ill treatment. In June a woman reportedly beat to death a 6-year-old child living in her household, then she returned the body to the child's parents for burial.

FGM was performed commonly on young girls (*see* Section 5, Women).

Trafficking in children for purposes of forced labor or prostitution in other countries, remained problems (*see* Section 6.f.).

Other traditional practices include the killing of deformed babies, breech babies, and one of two newborn twins (all of whom were thought to be sorcerers in some rural areas). There were numerous press reports of infanticide during the year, and some NGOs were combining their anti-infanticide efforts with programs to counter FGM.

*Persons with Disabilities.*—The Constitution provides that the State should care for persons with disabilities; however, the Government did not mandate accessibility for them. There were no legal requirements for the construction or alteration of buildings to permit handicapped access.

The Government operated a number of social centers for persons with disabilities to assist their social integration. Nonetheless, many were unable to find employment and resorted to begging to support themselves.

The Labor Code includes provisions to protect the rights of workers with disabilities, which was enforced with modest effectiveness during the year.



*National/Racial/Ethnic Minorities.*—There was a long history of regional rivalries. Although southerners were preeminent in the Government's senior ranks, many prominent military officers came from the north. During the year, new appointments reduced the imbalance. The south has enjoyed more advanced economic development and traditionally has held politically favored status.

During the 2001 presidential campaign, ethnic rivalries were evident. Candidate Sacca Lafia, first vice-president of the National Assembly, gave speeches urging his fellow northerners and members of his own Bariba group to prepare to seize power from other groups. President Kerekou, also a northerner, is a member of the Somba group (see Section 3).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides workers with the freedom to organize, join unions, meet, and strike, and the Government usually respected these rights in practice. The labor force of approximately 2 million was engaged primarily in subsistence agriculture and other primary sector activities, with less than 2 percent of the population engaged in the modern (wage) sector.

Although approximately 75 percent of the wage earners belonged to labor unions, a much smaller percentage of workers in the private sector were union members. There were several union confederations, and unions generally were independent of government and political parties. The Economic and Social Council, a constitutionally mandated body established in 1994, included four union representatives.

The Labor Code prohibits employers from taking union membership or activity into account regarding hiring, work distribution, professional or vocational training, or dismissal; however there were reports of individuals being dismissed for union activity. In 2001 the Brasseries du Benin reportedly fired union leaders Rufin Domingo, Roger Loko, and Jean Ahossi, and alleged their involvement in theft and distribution of confidential accounting documents. There was no warning that they were suspected of any such offense. The three were the General Secretary and first and second Assistant Secretaries of the Syndicat National des Ouvriers et Cadres, and they were dismissed on the day of union elections at the company. The Government levies substantial penalties against employers who refuse to rehire workers dismissed for lawful union activities. Union leader Rufin Domingo brought his case before the Labor Tribunal. His case was pending at year's end.

There were no known instances of efforts by the Government to retaliate against union activity; however, the International Confederation of Free Trade Unions alleged that hostility to trade unions persisted and that union members were intimidated. A company may withhold part of a worker's pay following a strike. Laws prohibit employer retaliation against strikers, and the Government enforced them effectively.

During the year, the mayor of Cotonou prohibited demonstrations by labor unions (see Section 2.b.).

Unions may form freely or join federations or confederations and affiliate with international bodies. The two major labor confederations were affiliated with the Brussels-based Confederation Internationale de Syndicats Libres. In October 2001, union members voted in "professional elections" for the federation or confederation that each member would like as his or her labor representative. In March the Government finally released the election results; many unions criticized the unexplained delay. The Confederation Syndicale des Travailleurs du Benin (CSTB), and Confédération des Syndicats Autonomes du Benin (CSA-Benin) were declared the winners. The Government's decision to certify CSTB and CSA-Benin as cownersers for the public and the private sector contests drew heavy criticism.

*b. The Right to Organize and Bargain Collectively.*—The Labor Code generally allows workers the freedom to organize and administer their own unions. The Labor Code provides for collective bargaining, and workers freely exercised these rights. Wages in the private sector were set in negotiations between unions and employers. The Labor Code also includes a section on the rights of workers with disabilities (see Section 5). The Government sets wages in the public sector by law and regulation.

Strikes were permitted; however, and the authorities can declare strikes illegal for stated causes, such as threatening to disrupt social peace and order, and can requisition striking workers to maintain minimum services. Unlike in the previous year, there were no reports that strikes were declared illegal. There were a number of teachers' strikes during the year, which disrupted schools from the primary through university levels.

Under the strike law of 2001, the Government can no longer prohibit any strike on the grounds that it threatens the economy or the national interest. The law also reduced the advance warning required before a strike from 5 to 3 days.

Labor unions continued to oppose the Government's merit-based promotion scheme. Unions also opposed a 1969 decree (which was still in effect) permitting the Government to dock the wages of striking public sector employees.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Labor Code prohibits forced or bonded labor, including by children; however, the law provides for sentences of imprisonment involving compulsory labor for certain acts or activities related to the exercise of the right of free expression. No such sentences were imposed during the year.

In addition, forced child labor was a problem (*see* Sections 5 and 6.f.). Some financially desperate parents indentured their children to “agents” recruiting farm hands or domestic workers, often on the understanding that wages for the children would be sent to the parents. According to press reports, in some cases, these agents took the children to neighboring countries for labor (*see* Sections 5 and 6.f.). The Government took steps to educate parents and to prevent such placing of children in bonded labor. Also, many rural children were sent to cities to live with relatives or family friends, often on the understanding that in return for performing domestic chores, they would receive an education (*see* Section 5). Host families did not always honor their part of the bargain, and the abuse of child domestic servants occurred. The Government has taken some steps to curb abuses, including media campaigns, regional workshops, and public pronouncements on child labor problems. In March government officials from Benin and five other West African countries met with trade unionists to discuss how they will work together to combat widespread child labor and child trafficking in the region.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Code prohibits the employment or apprenticeship of children under 14 years of age in any enterprise; however, child labor remained a problem. The Ministry of Labor enforced the Labor Code in only a limited manner (and then only in the modern sector) due to the lack of inspectors. To help support their families, children of both sexes—including those as young as 7 years old—continued to work on rural family farms, in small businesses, on construction sites in urban areas, in public markets, and as domestic servants under the practice of *vidomegon* (*see* Section 5). A 2000 report estimated that 75 percent of apprentices working as seamstresses, hairdressers, carpenters, and mechanics were younger than 15-years of age. A majority of these apprentices were under the legal age of 14 for apprenticeship. Children also commonly worked as street vendors.

Forced child labor was a problem (*see* Sections 6.c. and 6.f.).

*e. Acceptable Conditions of Work.*—The Government administratively sets minimum wage scales for a number of occupations. In 2000 the Government raised the minimum wage to approximately \$34 (25,000 CFA francs) per month. However, the minimum wage did not provide a decent standard of living for a worker and family. Many workers must supplement their wages by subsistence farming or informal sector trade. Most workers in the wage sector earned more than the minimum wage, although many domestics and other laborers in the informal sector earned less.

The Labor Code establishes a workweek of between 40 and 46 hours, depending on the type of work, and provides for at least one 24-hour rest period per week. Domestic and agricultural workers frequently worked 70 hours or more per week. The authorities generally enforced legal limits on workweeks in the modern sector. The code establishes health and safety standards, but the Ministry of Public Service, Labor, and Administrative Reform did not enforce them effectively. The law does not provide workers with the right to remove themselves from dangerous work situations without jeopardy to continued employment. The Ministry has the authority to require employers to remedy dangerous work conditions but did not enforce this authority effectively.

*f. Trafficking in Persons.*—Although no law specifically prohibits trafficking in persons, the Government interprets its laws as prohibiting trafficking in persons in general and in underage girls in particular; however, there were reports of trafficking in children, which continued to be the subject of considerable media coverage. Longstanding provisions of the criminal code prohibit kidnaping. The country was a source, transit, and destination for trafficked persons, primarily children.

The Constitution and the law prohibit child prostitution; however enforcement was not effective and frequently lax. Child prostitution mainly involved young girls. They were from poor families who urged them to become prostitutes to provide income for the family. They were abused sexually by teachers who sought sex for better grades. They were lured to exchange sex for money by older men who acted as their “protectors.” There were street children who became prostitutes to support themselves. There were reports of sexual tourism and reports that adult males pre-

ferred young girls because they were viewed as less demanding and less likely to have HIV/AIDS. The Government organized assistance to child prostitution victims and worked jointly with NGOs and international organizations on prevention programs.

The Government publicized various arrests of potential traffickers; however, there were no reports of subsequent legal action against the alleged traffickers.

Internal trafficking of children within the country took place in connection with the forced servitude practice called "vidomegon," whereby poor, often rural, families place a child, primarily a daughter, in the home of a more affluent family to avoid the burden the child represents to the parental family. The children worked, but the arrangement was voluntary between the two families (*see* Section 5).

Children were trafficked to Ghana, Nigeria, and Gabon for indentured or domestic servitude, farm labor, and prostitution. In addition, hundreds of children were taken across the border to Togo and Cote d'Ivoire to work on plantations. Children from Niger, Togo, and Burkina Faso have been trafficked to the country for indentured or domestic servitude. Most victims leave home with traffickers who promise educational opportunities or other incentives. Following a child labor conference in 2000, it was reported in an ILO-IPEC report "Combatting Trafficking in Children for Labor Exploitation in West and Central Africa" that 3,061 children were known to have been trafficked in the country between 1995 and 1999. The ILO and UNICEF reported that trafficking originated mainly in the depressed rural areas. UNICEF also reported that trafficked persons originated primarily from the country's southernmost provinces, those with the easiest access to the paved coastal highway that links Cote d'Ivoire, Togo, Benin, and Nigeria. UNICEF also indicated that girls were far more likely to be trafficked than boys.

According to UNICEF, four distinct forms of trafficking occur in the country. "Trafic-don" was the term given to a practice whereby children were given to a migrant family member or stranger, who turned them over to another stranger for vocational training or education. "Trafic-gage" was a form of indentured servitude, in which a debt was incurred to transport the child, who was not allowed to return home until the debt was repaid. "Trafic-ouvrier" was the most common variant, and it was estimated at to be 75 percent of the total traffic of the three provinces UNICEF surveyed in 2000. This practice generally involved children aged 6 years to 12 years, and they worked as artisans, construction laborers, or agricultural or domestic workers. Lastly, "trafic-vente" was simply the outright sale of children.

According to a survey of child labor conducted in 1999 by the Government, the World Bank, and National Institute of Statistics and Economics, 49,000 rural children, constituting 8 percent of the rural child population between the ages of 6 and 16, work abroad, primarily as agricultural workers on plantations in Cote d'Ivoire and as domestic workers in Gabon. Only children who had been trafficked explicitly for labor purposes were counted among the 49,000 children that were estimated to be victims of trafficking. However, the children who left "for other reasons" may conceal an additional number of trafficked children and bring the number close to 80,000. Of the trafficked children, 61 percent were boys and 39 percent were girls. Organized child traffickers particularly have victimized certain villages, and there were villages where up to 51 percent of children were trafficked (*see* Section 6.c.).

At year's end, none of the persons arrested in connection with the MV Etireno, a ship suspected of carrying trafficked children in March 2001, had been brought to trial.

Following the arrival of the Etireno, the Government undertook a formal investigation and produced a final report, cosigned by UNICEF and Terre des Hommes, an NGO. The final report stressed the regional nature of the trafficking problem, asked for international assistance to help the Government improve its antitrafficking measures, and criticized the tone of international media's coverage of the event. No further action was taken by year's end.

The Government was limited severely by a lack of resources, but did recognize that trafficking was a problem. To prevent trafficking, the Government worked with international organizations to increase literacy rates, diversify the economy, and improve health care. The Brigade for the Protection of Minors, under the jurisdiction of the Interior Ministry, fought crimes against children. The Brigade estimated that between 1998 and the beginning of 2001, the various border control agencies, including gendarmes and police, intercepted 2,053 children at borders other than the port of Cotonou. The Government also worked with NGOs to combat trafficking in children, taking measures that included media campaigns and greater border surveillance (*see* Section 5); however, police complained that they lacked equipment to monitor trafficking adequately.

The Government participated in a two-part ILO trafficking project with seven other countries (Burkina Faso, Cameroon, Cote d'Ivoire, Ghana, Nigeria, Senegal,

and Togo). The Government also has bilateral agreements with Togo, Gabon, and Nigeria, which focus on border control and repatriation of trafficking victims. During the year, the Government concluded a formal agreement with government of Gabon for the repatriation and reintegration of trafficked children.

In August 2001 in Abomey-Calvi, a group of magistrates held a conference to discuss better ways to enforce the country's existing laws against trafficking and displacement of persons. In August 2001, the city of Cotonou hosted a subregional conference of West African police chiefs to discuss their broad array of trafficking cases, including women and children, and to explore more effective ways to integrate their enforcement and interdiction efforts. Although there was no evidence of concrete results, the subregion's police chiefs adopted resolutions pledging increased information sharing on border control issues; the magistrates created a compilation of existing laws and regulations related to trafficking and discussed methods of improving enforcement efforts.

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## BOTSWANA

Botswana is a longstanding, multiparty democracy. Constitutional power is shared between the President and a popularly elected National Assembly. The House of Chiefs, representing all of the country's major tribes and some smaller ones, has no legislative power but may offer its views to both the President and National Assembly on legislation. Festus Mogae became President in 1998 and continued to lead the Botswana Democratic Party (BDP), which has held a majority of seats in the National Assembly continuously since independence. The 1999 elections generally were regarded as free and fair, despite initial restrictions on opposition access to radio and press reports of ruling party campaign finance improprieties. In that election, the BDP increased its majority in the National Assembly and President Mogae was elected to his first full term. The Government generally respected the constitutional provisions for an independent judiciary in practice.

The civilian government maintained effective control of the security forces. The military, the Botswana Defense Force (BDF), primarily was responsible for external security, although it did assist with domestic law enforcement on a case by case basis. The Botswana National Police (BNP) primarily were responsible for internal security. Some members of the security forces, in particular the police, occasionally committed human rights abuses.

The economy was market oriented with strong encouragement for private enterprise and has achieved rapid sustained real per capita economic growth. Nearly 50 percent of the population of approximately 1.7 million was employed in the informal sector, largely subsistence farming and animal husbandry. Rural poverty remained a serious problem, as did a widely skewed income distribution. Per capita gross domestic product increased to \$3,956 from \$3,486 in 2000, according to 2001 Bank of Botswana figures. Diamond exports provided more than two-thirds of the country's export income and much of the revenue of the Government, which owned half of a company engaged in the production of diamonds from existing mines.

The Government generally respected the human rights of its citizens; however, there were problems in several areas. There were reports that the police sometimes beat or otherwise mistreated criminal suspects in order to obtain evidence or coerce confessions. The authorities took action in some cases against officials responsible for such abuses. Prison conditions were poor and overcrowded, although the Government made efforts to address the problem by constructing new detention facilities. In many instances, the judicial system did not provide timely fair trials due to a serious and increasing backlog of cases. The Government coerced Basarwa to relocate outside of the Central Kalahari Game Reserve (CKGR) during the year. The Government continued to dominate domestic broadcasting and limited freedom of the press. Some citizens, including groups not numbered among the eight "principal tribes" of the Tswana nation, the majority ethnic group, remained marginalized in the political process. Violence and discrimination against women remained serious problems. Trade unions continued to face some legal restrictions, including those against the right to strike, and the Government did not always ensure that labor laws were observed in practice. Botswana was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution explicitly prohibits such practices, and the Government generally respected this prohibition in practice; however, instances of abuse occurred. There were reports that police sometimes used beatings and other forms of intimidation in order to obtain evidence or elicit confessions. However, in general beatings and other forms of extreme physical abuse were rare. In some cases, the authorities took disciplinary or judicial action against persons responsible for abuses. Although coerced confessions were inadmissible in court, evidence gathered through coercion or abuse may be used in prosecution.

In previous years, there were reports that BDF soldiers at the Dukwe refugee camp beat and abused Dukwe residents. In 2000 one refugee applicant claimed that BDF soldiers beat him for allegedly stealing a bag of sugar. A formal investigation was conducted and the soldiers were issued a warning. Following the incident, all BDF soldiers were removed from Dukwe.

During the year, there were allegations that police used excessive force in repatriating Zimbabweans who fled across the border into the country; however, local nongovernmental organizations (NGOs) were not able to confirm reports of mistreatment (*see* Section 2.d.).

Unlike in the previous year, there were no reports that government game wardens abused the Basarwa (Bushmen) in the CKGR.

Customary courts continued to impose corporal punishment sentences in the form of lashings on the buttocks, generally against young offenders in villages for crimes such as vandalism, theft, and delinquency.

Prison conditions remained poor, and conditions largely remained unchanged during the year. Conditions in all prisons generally were poor, although women's prisons were less crowded than men's prisons. A 2000 report by the Botswana Prisons Service to the Commissioner reportedly denied government responsibility for the conditions of prisons; however, the report was not released publicly. With the country's high incidence of HIV/AIDS and tuberculosis, prison overcrowding was a serious health threat. The Government and prison authorities were aware of the problem, and cooperated fully with the Center for Disease Control in a study on the prevalence of tuberculosis in the prisons. HIV/AIDS testing and U.N. Development Program (UNDP) peer counseling was available to all prisoners. There were reports that some prisoners died in custody from HIV/AIDS related illnesses.

The 23 prisons across the country had a capacity of approximately 3,300 inmates but held 5,829 at year's end. Construction of a new prison for male juvenile offenders was delayed due to lack of funds, and it was scheduled to open in August 2003. The Prison Commissioner has the authority to release terminally ill prisoners who were in the last 12 months of their sentences and allow citizen prisoners with sentences of 12 months or less to perform "extramural" labor. By year's end, the Government had released more than 1,000 prisoners under the program. Foreign prisoners were required to serve out their entire sentences.

The Prisons Act makes it illegal for prison officials to mistreat prisoners. When there is an allegation or suspicion of mishandling of prisoners by prison officials, the Department of Prisons is required to forward the case to the police for investigation. In 2000 the Minister of Presidential Affairs and Public Administration stated that stiff penalties would be imposed on prison officials who treat inmates improperly.

Men were held separately from women, and juveniles were held separately from adults; however, pretrial detainees were held in the same facilities as convicted prisoners.

The Prisons Act provides for a governmental visiting committee for each prison, the members of which are appointed by the Minister of Labor and Home Affairs. Members of these committees serve 1-year terms, must visit their prison four times within their first term, and issue a report both to the Commissioner of Prisons and the Minister of Labor and Home Affairs. These reports normally were not released to the public. During the year, the committees visited each prison quarterly. The committees issued another report during the year to the Minister of Labor and Home Affairs; however, the report was not released to the public.

While the Prisons Act grants relatives, lawyers, magistrates, and church organizations the right to visit prisoners for "rehabilitative purposes," the Commissioner of

Prisons has the authority to decide whether domestic and international human rights organizations may visit. Independent monitoring of prison conditions by human rights groups, the media, or the International Committee of the Red Cross (ICRC) was allowed if these organizations sought permission from the Commissioner of Prisons; however, none of these groups sought permission during the year. In the past, some local human rights organizations were granted access to visit specific prisoners.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

Suspects must be informed of their legal rights upon arrest, including the right to remain silent. Detainees must be charged before a magistrate within 48 hours. A magistrate may order a suspect held for 14 days through a writ of detention, which may be renewed every 14 days. Detainees had the right to contact a family member and to hire attorneys of their choice, but in practice most were unable to afford legal counsel. Poor police training and poor communications in rural villages made it difficult for detainees to obtain legal assistance, and authorities did not always follow judicial safeguards. The Government did not provide counsel for the indigent, except in capital cases. Most citizens charged with noncapital offenses were released on their own recognizance; some were released with minimal bail. Detention without bail was highly unusual, except in murder cases, where it was mandatory. Constitutional protections were not applied to illegal immigrants, although the constitutionality of denying them due process has not been tested in court.

Pretrial detention was prolonged in a large number of cases. In Gaborone Central Prison, the average wait in prison before trial was 1 year. The Government attempted to alleviate the backlog of cases by temporarily hiring more judges and held a referendum in 2001 in which voters authorized amending the Constitution to raise the retirement age of judges from 65 to 70; however, several magistrates resigned during the year, and the backlog of cases increased.

The Government sometimes held newly arrived refugees and asylum seekers in local jails until they could be interviewed by the Botswana Council for Refugees (BCR) or the U.N. High Commissioner for Refugees (UNHCR) (*see* Section 2.d.). During the year, the Government completed construction of the Francistown Holding Center with a capacity of 504 illegal immigrants awaiting repatriation. There were 257 illegal immigrants in the holding center at year's end. BCR or the UNHCR interviewed immigrants claiming refugee status, and once persons were granted refugee status, the Government transferred them to the Dukwe Refugee Camp (*see* Section 2.d.). The five refugees from Namibia's Caprivi Strip who committed criminal offenses while at the Dukwe refugee camp remained in protective custody at Mahalapye Prison, despite a request from the Namibian government that they be repatriated.

The law prohibits forced exile, and the Government did not use it in practice.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judiciary consists of both a civil court (including magistrates' courts, a High Court, and a Court of Appeal) and a customary (traditional) court system.

The law provides for the right to a fair trial; however, the civil courts remained unable to provide for timely, fair trials in many cases due to severe staffing shortages and a backlog of pending cases. Most trials in the regular courts were public, although trials under the National Security Act (NSA) may be held in secret. Those charged with noncapital crimes were tried without legal representation if they could not afford an attorney. As a result, many defendants may not be informed of their rights in pretrial or trial proceedings. The BCHR provided free legal services, but its capacity was limited. Another NGO, the University of Botswana Legal Assistance Center, provided free legal services in civil, but not criminal, matters.

In 1999 a High Court judge declared a mistrial in the case of two Basarwa (Bushmen) men who had been convicted in 1995 of murder and who were awaiting execution. Ruling that the two had been deprived of their constitutional rights, the judge ordered a new trial, which was scheduled for March 2003.

Most civil cases were tried in customary courts, under the authority of a traditional leader. These courts handled minor offenses involving land, marital, and property disputes. In customary courts, the defendant does not have legal counsel, and there were no precise rules of evidence. Tribal judges, appointed by the tribal leader or elected by the community, determine sentences, which may be appealed through the civil court system. The quality of decisions reached in the traditional courts varied considerably. In communities where chiefs and their decisions were respected, plaintiffs tended to take their cases to the customary court; otherwise, persons sought justice in the civil courts.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice, with the exception of the resettlement of the Basarwa out of the CKGR.

During the year, the Government coerced ethnic Basarwa (also known as the San or Bushmen) into abandoning their ancestral communities within the CKGR, and moved them to resettlement camps located outside the reserve (*see* Section 5). Government officials maintained that the resettlement program was voluntary and necessary in order to reduce the cost of providing public services and to minimize human impact on wildlife. The Government “assisted” the inhabitants to relocate and provided compensation for abandoned property. In some cases, the Government used intimidation and coercion to force families to leave the reserve. Government officials dismantled local houses and made it difficult to bring water into the reserve.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and the Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, the Government attempted to limit freedom of the press and continued to dominate domestic broadcasting. The Government occasionally censored stories or news sources that it deemed undesirable.

The Government’s Botswana Press Agency (BOPA) provided most of the information found in the media owned and operated by the Government: The free Daily News newspaper, Botswana Television (BTV), and two FM radio stations, Radio Botswana (RB1) and Radio Botswana 2 (RB2). RB1 operated from 5 a.m. to 12 a.m. daily, and RB2 operated 24 hours per day. News coverage in the state-owned media focused on the activities of government officials and supported government policies and actions. The Daily News also published general coverage of current events and issues and included a second front page in Setswana, the most commonly spoken language.

The independent press was small but vigorous and has a long tradition of candid discourse. It actively covered the political arena and frequently was critical of the Government and the President. The circulation of privately owned print media continued to be limited mostly to the main cities and towns. By year’s end, seven privately owned weekly newspapers were published in Gaborone and distributed to the country’s main cities and towns. One privately owned weekly newspaper was published in Francistown, the country’s second-largest city. A total of nine privately owned monthly magazines were published nationally. These publications reported and editorialized without fear of closure.

Government officials sometimes complained of bias in the private press. However, government officials and other public figures have recourse to the courts if they believe that they have been libeled. Libel was a civil law matter; there were no criminal libel laws. In 2000 the Vice President filed a libel suit against the Botswana Guardian and the Midweek Sun newspaper, which was pending at year’s end.

In April 2001, after a series of negative press stories about government officials, the Government directed all government agencies and parastatals to refrain from advertising in the Botswana Guardian and its sister newspaper, the Midweek Sun. While officials initially claimed that the decision was solely a financial one, officials admitted in court that the decision to ban advertising was meant to have a punitive nature during a lawsuit brought by the newspapers. In September 2001, the High Court overruled the decision to ban advertising and ordered the Government to pay the newspapers’ legal fees; however, the Court’s decision on whether depriving the newspapers of advertising revenue was an unconstitutional suppression of speech and of the press was pending at year’s end.

Radio remained the most important medium of public communication; the circulation of privately owned print media continued to be limited mostly to the main cities and towns. In past years, the Government monopolized domestic radio broadcasting; however, two private radio stations, Yarona FM and Gabz FM, also broadcast. Both broadcast in 5 of the country’s 10 largest towns; state-owned radio continued to be the only domestic radio service broadcasting to the rest of the country. Both private radio stations have a news component to their programming, with no discernible policy of supporting a particular political party. The law provides for the issuance of broadcast licenses to private companies and provides copyright protection of broadcast material; it also mandates the establishment of a National Broadcast Board, which grants broadcast licenses. In 2000 the Board held its first meeting at the Botswana Telecommunication Authority (BTA) offices in Gaborone; during the year, it issued its first broadcast lease.

In 2000 the Government opened BTV amid skepticism from the public and some parliamentarians over delays and overspending. BTV began broadcasting with technical and programming assistance from the British Broadcasting Corporation, and an emphasis on the Setswana language service. Transmission extended south from Gaborone to Lobatse, north to Serowe and Francistown, and was scheduled to be available throughout the country within a few years.

The debut of BTV generated considerable discussion among members of the public, parliamentarians, and government officials about whether its status as a government-owned station would interfere with its ability to function independently, especially with respect to reporting the news. In April Presidential Affairs and Public Administration Minister Daniel Kwelagobe criticized the Government media for irresponsible reporting following stories about a kgotla (community) meeting in Molepolole, in which Bakwena tribesmen suggested that President Mogae's origins could be traced to Zimbabwe. The Minister, whose responsibility then included media matters, declared that stories for the Daily News, Radio Botswana, and Botswana Television would be censored in order to sanitize them. Other than these remarks, no real action was taken, and there were no instances of censorship reported during the year.

The opposition Botswana Congress Party (BCP) criticized government control over BTV, Radio Botswana, the Daily News, and BOPA and urged that they be privatized or turned into parastatals.

The privately owned Gaborone Broadcasting Company (GBC) broadcast mostly foreign made programming and was the only other television station operating in the country. GBC broadcasts reached viewers only in the capital area.

Independent radio and television broadcasts from neighboring South Africa were received easily in border areas. Satellite television from a South African-based company was available readily, although its cost prevented many persons from subscribing to the service.

Internet access continued to spread quickly. The Government did not restrict e-mail or Internet usage. Thirteen Internet service providers (ISPs) were available to the domestic market, up from four in the previous year. Botsnet is the commercial arm of the parastatal Botswana Telecommunications Corporation (BTC). While private ISPs were allowed to operate, they did so at a competitive disadvantage due to the larger bandwidths dedicated to Botsnet.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice. There were no governmental barriers to domestic and international travel or emigration.

In January the Government required the Basarwa to relocate from the CKGR to one of three designated settlements outside of the reserve. The Government did not allow Basarwa who relocated to enter the CKGR without a permit, which was required of all visitors to enter the reserve; however, in November roadblocks around the CKGR became ineffective and several Basarwa reoccupied the territory (see Sections 1.f. and 5).

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the office of the UNHCR and other humanitarian organizations in assisting refugees. The Government strictly applied a policy of first asylum. Refugee applicants who were unsuccessful in obtaining asylum were allowed to remain at Dukwe until the Government referred their cases to the UNHCR for resettlement; however, in some sensitive cases, the Government has used deportation. There were no such cases this year. The Government maintained a policy of considering asylum requests only from refugees from bordering countries; however, in practice the Government often considered refugee applications from Angolans. The BCR or the UNHCR interviewed immigrants claiming refugee status. Although the Government sometimes held newly arrived refugees in local jails until they could be interviewed by BCR or UNHCR officials, once persons were granted refugee status, the Government transferred them to the Dukwe Refugee Camp until their resettlement or voluntary repatriation (see Section 1.d.). There were 4,300 ref-



ugees at Dukwe by year's end; they were primarily from Namibia, Angola, and Somalia. At year's end, five refugees were being held in "protective custody" in Mahalapye Prison (*see* Section 1.d.).

Unlike the previous year, there were no reports that BDF soldiers beat or abused residents of the Dukwe refugee camp (*see* Section 1.c.).

During the year, there were allegations that police used excessive force in repatriating Zimbabweans who fled across the border into the country. The Deputy Commander of the Botswana Police Service and the Zimbabwean High Commissioner said that there was no truth to the allegations. Ditshwanelo, the Botswana Center for Human Rights, was not able to confirm reports of mistreatment.

More than 2,500 refugees from the Caprivi Strip in neighboring Namibia have fled to the country since 1998. Many were armed and linked to the ethnically based opposition groups based in the Caprivi Strip. Male refugees linked to such groups requested asylum based on their claim that they were being forced into the Namibian army to fight in the Democratic Republic of the Congo. The Government provided first asylum to all such persons. No refugee repatriation took place in 2001; however, between August 12 and October 17, approximately 1,000 Namibian refugees were voluntarily repatriated at the Ngoma border. This repatriation took place after a tripartite agreement between the Government, Namibia, and the UNHCR. The UNHCR head of liaison was satisfied with the dignified and orderly manner being accorded Namibian refugees by all parties to the tripartite agreement. There were approximately 1,300 Namibian refugees at the Dukwe refugee camp by year's end, and arrangements were being made for their repatriation in March 2003.

In December the High Court rejected Namibia's request to have 13 alleged Caprivi secessionists extradited to face charges of murder and high treason on the grounds that they would not receive a fair trial in Namibia. Human rights groups have applauded this decision. There was no further action taken by year's end.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal adult (18 years of age) suffrage. The President is elected by the National Assembly and is limited to two 5-year terms in office. Members of the BDP have held a majority of seats in the National Assembly and have controlled the presidency continuously since independence.

The House of Chiefs, an advisory body with limited powers, was restricted constitutionally to the eight "principal tribes" of the majority Tswana ethnic group and four elected chiefs representing smaller tribes, including the Bakalanga, Balozi, Humbukushu, and Bakgalagadi. Consequently other groups such as the Basarwa, Ovaherero, or Bayei were not represented there. Given the limited authority of the House of Chiefs, the impact of excluding other groups of citizens largely was symbolic, but some non-ethnic Tswana viewed it as important in principle. Following a study by the Balopi Commission, in December 2001, the Government released a policy paper recommending constitutional amendments to make the House of Chiefs more inclusive and ethnically neutral. Parliament adopted its recommendations; however, no date was set for implementation. Members of the National Assembly were required to speak English.

Elections for the National Assembly were held in 1999 and generally were regarded as largely free and fair by domestic and international observers, despite preferential access for BDP candidates during much of the campaign to state-owned media including state-owned radio, the sole domestic source of news for most of the rural population (*see* Section 2.a.), and despite press reports of large anonymous campaign contributions to the ruling party, reportedly by international diamond interests. The BDP increased its majority in the National Assembly from 31 to 37 of 44 seats, thereby ensuring the election of its presidential candidate, incumbent President Mogae. Of the seven seats won by opposition parties in 1999, the Botswana National Front won six, and the BCP won one seat.

There were 406 district governments with elected councilors, but they had no fiscal autonomy and relied on the central government for revenue.

The 1999 elections doubled the number of women serving in the National Assembly, from 4 to 8 of 44 members. The number of women serving in the cabinet also increased from 4 to 6 of 20 members. Of the 13 High Court justices, 1 was a woman.

During the year, one of the eight paramount Tswana-speaking tribes selected Mosadi Seboko to be the first female chief in tribal history.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups, including the BCHR, generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials usually were cooperative and responsive to their views; however, some groups complained that the Government's cooperation was designed mainly to mute criticism and did not result in improved human rights conditions. Emang Basadi Women's Association and Women Against Rape were active on issues concerning women's rights, particularly rape and domestic violence (see Section 5). Survival International, the NGO that took up the cause of the Basarwa and protested their removal from the CKGR, was not obstructed in carrying out its situation assessments.

The Government cooperated with the UNHCR and UNICEF, as well as other international organizations.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution forbids governmental discrimination on the basis of ethnicity, race, nationality, creed, sex, or social status, and the Government generally respected these provisions in practice. However, neither the Constitution nor the law prohibits discrimination by private persons or entities.

*Women.*—Domestic violence against women remained a serious problem. Under customary law and in common rural practice, men have the right to "chastise" their wives. Police rarely were called to intervene in cases of domestic violence. Reports of sexual exploitation, abuse, and assault increased an estimated 18.4 percent during the year, in part due to public awareness of the problem and a willingness of victims to come forward. The national police force began training officers in handling domestic violence problems to make them more responsive in such cases. Although the Government has become far tougher in dealing with sexual assault, societal attitudes toward other forms of domestic violence remained lenient. Half of the murders of women were linked to histories of domestic violence. Human rights activists estimated that 6 women in 10 were victims of domestic violence at some time in their lives.

Rape was another serious problem, and given the high incidence of HIV/AIDS, sexual assault became an even more serious offense. By law the minimum sentence for rape was 10 years, with the minimum increasing to 15 years with corporal punishment if the offender was HIV-positive, and to 20 years with corporal punishment if the offender knew of his or her HIV status. The law does not address the issue of marital rape. Women's groups acknowledged an improvement in the treatment of alleged victims by police officials during rape investigations; however, they noted that police still lacked basic investigative knowledge of rape cases.

Sexual exploitation and harassment continued to be problems with men in positions of authority, including teachers, supervisors, and older male relatives who pressured women and girls to provide sexual favors. In 2000 the Government amended the Public Service Act to recognize sexual harassment as misconduct carrying penalties under the law. Greater public awareness and improved legal protection have led more victims of domestic violence and sexual assault to report incidents to the authorities. In May 2001, the Women's Affairs Department held a national workshop on violence toward women and issued a report that promoted the use of an integrated approach among all interested parties to gender based violence.

Women legally enjoyed the same civil rights as men; however, in practice societal discrimination persisted. A number of traditional laws enforced by tribal structures and customary courts restricted women's property rights and economic opportunities. A woman married under traditional law or in "common property" was held to be a legal minor and required her husband's consent to buy or sell property, apply for credit, and enter into legally binding contracts. Under the law, women married under an intermediate system, referred to as "in community of property," were permitted to own immovable property in their own names; however, their husbands still retained considerable control over jointly held assets of the marriage. Moreover, the law also stipulates that neither spouse can dispose of joint property without the written consent of the other party.

Women increasingly exercised the right to marriage "out of common property," in which case they retained their full legal rights as adults. Polygyny still was legal under traditional law with the consent of the first wife, but it rarely was practiced. The Government and local NGOs focused on constructive methods to address discrimination against women in the areas of marital power, legal disabilities, and proprietary consequences of marriage under common law, customary law, and the Married Persons Property Act. In 2001 the Government amended the marriage laws. Prior to the amendment, girls could be married with parental consent at age 14,

and boys with parental consent at age 16. The new law sets the age of marriage with parental consent at 18 for both sexes, and at age 21 if parental consent is not given. All marriages must be registered, regardless of customary law or religious belief.

Well trained urban women enjoyed growing entry level access to the white collar job market, but the number of opportunities decreased sharply as they rose in seniority. Discrimination against women was most acute in rural areas where women engaged primarily in subsistence agriculture had few property rights.

Young women did not have access to military or national service training. Military service was voluntary for men only. The Government abolished its national service program in 2000, a program that previously allowed male and female high school graduates to serve in government departments, mostly in rural areas. In 2000 Parliament passed a resolution calling for young women to be allowed to serve in the BDF "as soon as practicable."

The Government and interested NGOs met regularly to implement the long term plan of action described in the National Policy on Women. The Women's Affairs Department of the Ministry of Labor and Home Affairs, in conjunction with the U.N. Development Program, developed the Program Support Document (PSD) in 1997, which provides a framework for implementation of the national policy on women until the end of the year. The Women's Affairs Department had not released a report on progress in the target areas at year's end.

A number of women's organizations emerged to promote the status of women, and the Government entered into a dialog with many of these groups. While some women's rights groups reportedly felt that the Government was slow to respond concretely to their concerns, women's NGOs stated that they were encouraged by the direction of change and by the increasingly collaborative relationship with government authorities. Major women's NGOs included the Emang Basadi Women's Association, which promoted the social, economic, and legal status of women and the Botswana Council of Women.

*Children.*—The rights of children are addressed in the Constitution and the Children's Act. Under the law, the country has a court system and social service apparatus designed solely for juveniles. The Government started a 10-year program of action for children in 1997, incorporating the seven major global goals identified at the 1990 U.N. World Summit for Children. Laws pertaining to children continued to be under review to align them with the U.N. Convention on the Rights of the Child. The Adoption Act also continued to be reviewed to ensure that adopted children were provided for and not exploited as labor.

The Government provided 7 years of free primary education for children, although attendance was not compulsory. Government estimates of the proportion of children who never attended school ranged from 10 to 17 percent, and fewer than 20 percent of children completed secondary school; school attendance and completion rates were highest in urban areas, and lowest in remote rural areas, especially those inhabited chiefly by Basarwa. In some cases, girls were denied schooling because of religious or customary beliefs. The Government continued to allocate the largest portion of its operating expenditures to the Ministry of Education, and the second largest portion to the Ministry of Local government, which administered primary education. It also continued to allocate a large part of its investment expenditures to construct primary and secondary schools, so children have ready access to education. The literacy rate is 69 percent: 70 percent for females and 67 percent for males.

UNAIDS estimated that 38.8 percent of persons between the ages of 15 and 49 were infected with HIV/AIDS, and due largely to deaths from HIV/AIDS, 78,000 orphans were reported by UNICEF. However, 28 percent of babies born from HIV positive mothers were protected from the virus. Increasing numbers of children, mostly believed to be orphans, became beggars or prostitutes in urban areas. Relatives denied inheritance rights to orphans who were infected with HIV/AIDS.

There was no societal pattern of abuse against children, although incest and other forms of child abuse have received increased attention from the media and from local human rights groups.

Sexual harassment of students by teachers was a problem. Reports of rape and sexual assault of young women, and cases of incest and "defilement" of young girls appeared with greater frequency in the news. The age of sexual consent was 16. Child prostitution and pornography were criminal offenses, and the law stipulates a 10-year minimum sentence for "defilement" of persons under 16 years of age. In view of the belief held by some in southern Africa that intercourse with a virgin is a cure for HIV/AIDS, intergenerational sex (sexual relations between older men and girls) and the problems of teenage pregnancy caused by older men received extensive media attention during the year.

*Persons with Disabilities.*—Employment opportunities for persons with disabilities remained limited. The Government did not require accessibility for public buildings and public conveyances for persons with disabilities, and the NGO community began to address the needs of persons with disabilities only during the last decade. The Government had a national policy that provides for integrating the needs of persons with disabilities into all aspects of government policymaking. The Government funded NGOs that provide rehabilitation services and supported small scale work projects by workers with disabilities.

*Indigenous People.*—The Basarwa (also known as Bushmen or San), who now chiefly inhabit the Kalahari Desert, are the earliest known inhabitants of the country and were the only inhabitants until Bantu speaking groups arrived during the 16th century. They were linguistically, culturally, and often morphologically distinct from the rest of the population; however, they themselves were not a homogenous group. They remained economically and politically marginalized; they have lost access to their traditional land in fertile regions of the country and were vulnerable to exploitation by their non-Basarwa neighbors. Their isolation, ignorance of civil rights, and lack of political representation have stymied their progress. The estimated 52,000 to 65,000 Basarwa represented approximately 3 percent of the country's population. Although the Basarwa traditionally were hunter-gatherers, most employed Basarwa worked as agricultural laborers on cattle ranches that belonged to other ethnic groups. During the year, a substantial proportion of the Basarwa resided in government-created Remote Area Dweller settlements and subsisted on government social welfare benefits.

The colonial government established the 20,000 square mile CKGR in 1961 to protect the food supply of some Basarwa groups still pursuing a subsistence hunter-gatherer livelihood. Starting in 1995 the Government made a concerted effort to remove Basarwa from the CKGR and relocated the population to two newly created settlements just outside the reserve. Between 2000 and the end of 2001, the remaining CKGR communities and the Government negotiated to reach an accommodation for the population remaining in the reserve. This process culminated in several draft "CKGR Management Plans." The plans envisaged the formation of community use zones for the remaining communities and assumed the continued level of public service provided by the Government (water provision, healthcare services, and the distribution of old age, orphan, and destitute benefits). In August 2001, the Government delivered an ultimatum declaring that all current residents of the CKGR would be removed and relocated. The Government continued to accommodate the CKGR population until January, at which time all public services were terminated and subsistence hunting licenses were revoked. In April the Government required all Basarwa to leave the CKGR and resettle in the townships of Kaudwane New Xade, and Xere, where the facilities had to cope with a doubling of population without an increase in resources (see Section 1.f.).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right of workers' association. In practice all workers except public employees were free to join or organize unions of their own choosing. Government employees were not permitted to organize their own unions. The industrial or wage economy is small, and unions were concentrated largely in mineral extraction and to a lesser extent in the railway and banking sectors. There was only one major confederation, the Botswana Federation of Trade Unions (BFTU), but there were no obstacles to the formation of other labor federations. During the year, the BFTU and the Manual Workers' Union completed its merger into one union. In 2001 the Government authorized the Civil Service to organize its own union; however, the union was not established by year's end. Labor laws were not yet compliant with the International Labor Organization (ILO), but draft laws were scheduled to be presented to Parliament in 2003.

Unions were independent of the Government and were not closely allied with any political party or movement. Unions may employ full-time administrative staff, but the law requires elected union officials to work full time in the industry that the union represents. This rule severely limited union leaders' professionalism and effectiveness, and was criticized by the International Confederation of Free Trade Unions (ICFTU).

Workers may not be fired for union-related activities. Dismissals on other grounds may be appealed to labor officers or civil courts, but labor offices rarely ordered more than 2 months' severance pay.

Unions may join international organizations, and the BFTU was affiliated with the ICFTU. The Minister of Labor must approve any affiliation with an outside labor movement, but unions may appeal to the courts if an application for affiliation is refused.

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides for collective bargaining for unions that have enrolled 25 percent of a labor force. In reality only the mineworker and diamond sorter unions may have the organizational strength to engage in collective bargaining.

The law severely restricted the right to strike. Legal strikes theoretically were possible only after an exhaustive arbitration process. Sympathy strikes were prohibited. In August 2001, a consultancy appointed by the Government recommended that a separate pay structure from the rest of the public service be created for teachers. Teachers expected the separate pay structure to be implemented in April, the beginning of the Government fiscal year. On September 25, after the Government failed to take any action, the teachers of the Botswana Federation of Secondary School Teachers (BOFESETE) went on a 3-day strike. Teachers struck again during exam time, from October 14 through October 21. The President stated he would appoint a new commission to hear the teachers' grievances and to consider the awarding of retroactive pay. The teachers did not strike again during the year.

In November the Botswana Unified Local government Service Association (BULGSA) held a 2-week strike action protesting discrepancies between the salaries of local government employees and their central government civil service counterparts. The President again intervened and promised to appoint a new commission. In late November, University of Botswana academic and non-academic staff went out on strike over salaries, and quickly were joined by students protesting chaotic exam schedules. After demonstrations became disruptive, the university was shut down on December 6, 2 weeks earlier than it was scheduled to close. There were no legal strikes during the year.

The country has only one export processing zone (EPZ), located in the town of Selebi-Phikwe, and it was subject to the same labor laws as the rest of the country.

*c. Prohibition of Forced or Bonded Labor.*—The Government does not prohibit forced and bonded labor, including by children; however, there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment of Children.*—Only an immediate family member may employ a child age 13 or younger, and no juvenile under age 15 may be employed in any industry. Only persons over age 16 may be hired to perform night work, and no person under age 16 was allowed to perform hazardous labor, including mining. District and municipal councils had child welfare divisions, which were responsible for enforcing child labor laws. Because research on child labor was limited, it was difficult to state whether child labor laws were enforced effectively. However, the Labor Commissioner, officials of the Ministry of Local government, Lands, and Housing, and UNICEF generally agreed that the child labor problem was limited to young children in remote areas who worked as cattle tenders, domestic laborers, and child care providers.

The law provides that adopted children may not be exploited for labor and protects orphans from exploitation as labor or coercion into prostitution.

The Government launched a 10-year program of action for children in 1997 (see Section 5); however, implementation has proceeded slowly.

*e. Acceptable Conditions of Work.*—The minimum daily wage for most full time labor in the private sector was \$3.15 (17 pula), which remained less than 50 percent of what the Government calculated as necessary to provide a decent standard of living for a family. The Cabinet determined wage policy and decided based on recommendations made by the National Economic, Manpower and Incomes Committee (NEMIC), which consists of government, BFTU, and private sector representatives. The Ministry of Labor was responsible for enforcing the minimum wage, and each of the country's districts had at least one labor inspector. Civil service disputes were referred to an ombudsman for resolution. Private labor disputes were mediated by labor commissioners; however, an insufficient number of commissioners resulted in 1 to 2 year backlogs in resolving such disputes. The Industrial Court registered 288 cases during the year, and 205 were outstanding at year's end.

Formal sector jobs almost always paid well above minimum wage levels. Informal sector employment, particularly in the agricultural and domestic service sectors, where housing and food were included, frequently paid below the minimum wage. There was no mandatory minimum wage for domestic workers, and the Ministry of Labor did not recommend a minimum wage for them.

The law permits a maximum 48-hour workweek, exclusive of overtime, that is payable at time and a half for each additional hour. Most modern private sector jobs had a 40-hour workweek; however, the public sector changed to a 48-hour workweek.

The law provides that workers who complain about hazardous conditions may not be fired. However, the Government's ability to enforce its workplace safety legisla-

tion remained limited by inadequate staffing and unclear jurisdictions among different ministries. Nevertheless, employers generally provided for worker safety, with an occasional exception in the construction industry.

Illegal immigrants from poorer neighboring countries, primarily Zambians and Zimbabweans, were exploited easily in labor matters, since they would be subject to deportation if they filed grievances against their employers.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons, although penal code provisions cover such related offenses as abduction and kidnaping, slave trafficking, compulsory labor, and procuring women and girls for the purpose of prostitution; however, there were reports of trafficking. Although the law criminalizes child prostitution, there were reports that children who were orphaned by HIV/AIDS became prostitutes in urban areas (*see* Section 5).

## BURKINA FASO

President Blaise Compaore continued to dominate the Government of the Fourth Republic, assisted by members of his party, the Congress for Democracy and Progress (CDP), despite gains made by the opposition in the May 5 legislative elections. The Government included a strong presidency, a prime minister, a cabinet, a one-chamber National Assembly, and the judiciary. In 1998 President Compaore was reelected to a second 7-year term with 88 percent of the vote; 56 percent of the electorate voted; however, some serious political figures boycotted the election. The two candidates who opposed the President provided only token opposition and reportedly were persuaded by the Government to run for the presidency to help create the appearance of a contested election. International observers considered the May 5 legislative elections to have been substantially free and fair, although a collective of 14 local nongovernmental organizations (NGOs) cited voter list irregularities and cases of fraud. The judiciary was subject to executive influence.

The security apparatus consisted of the armed forces and the gendarmerie, which were controlled by the Ministry of Defense; the national police, controlled by the Ministry of Security; and the municipal police, controlled by the Ministry of Territorial Administration. The Presidential Guard was an autonomous security force, although it technically was subject to the jurisdiction of the armed forces and part of the army. Civilian authorities, under the direct control of the President, effectively controlled the military. Members of the security forces committed serious human rights abuses.

An estimated 80 percent of the population of approximately 12.6 million engaged in subsistence agriculture. Frequent drought and limited communication and transportation infrastructures, in addition to a 77 percent illiteracy rate, were longstanding problems. In 2000 the Government adopted an antipoverty strategy to open the economy to market forces, while shifting resources to the education and health sectors. Gross national product per capita was \$230.

The Government's human rights record remained poor, and it continued to commit abuses. The continued dominance of President Compaore and his ruling party limited citizens' right to change their government, although the gains made by the opposition in the May 5 legislative elections represented another step toward democratic government. The security forces were responsible for numerous extrajudicial killings and continued to abuse detainees. During the year, there were credible reports that security forces summarily executed suspected criminals. Prison conditions remained harsh. Arbitrary arrest and detention were problems, and authorities did not provide detainees with due process. Although the Government continued attempts to improve its human rights performance, a general climate of impunity for members of the security forces and members of the President's family, along with slow progress in identifying or punishing those responsible for abuses, continued to be problems. Courts were subject to executive influence, and authorities did not ensure fair trials. At times authorities restricted media activity, and the media practiced self-censorship. The deaths of internationally respected journalist Norbert Zongo, his brother, and two other men in a suspicious car fire in December 1998 remained a focus of public concern during the year. The Government at times restricted freedom of assembly. Violence and discrimination against women, including female genital mutilation (FGM), were problems. Violence against children, child labor, and child trafficking continued to be problems. The Government took steps to combat FGM and trafficking in persons. Social discrimination against persons with disabilities was widespread. Killing or severe beating of criminal suspects by vigilante mobs remained common. Burkina Faso was invited by the Community of

Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as an observer.

RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The security forces were responsible for numerous extrajudicial killings during the year. The Burkinabe Movement for Human Rights (MBDHP), the country's largest human rights organization and a vocal critic of the Government, alleged that security forces committed numerous extrajudicial killings during the year. Although the numbers and names of victims could not be verified independently, there were credible reports that security forces summarily executed suspected criminals during the year in response to public concerns about rising crime. The Security Minister denied allegations of extrajudicial killings but admitted that security forces had killed an unspecified number of persons in gun battles with "armed bands."

On March 14, the press reported that the bodies of four persons were discovered on the road to the western city of Niangoloko. These persons reportedly were known criminals in Banfora, Comoe Province. It was believed that security forces might have killed them as part of the Government's anticrime campaign. No known official action was taken by year's end.

On June 17, the MBDHP reported the death of Mahamadi Bonkougou, who died under mysterious circumstances on May 5 while in police custody. Bonkougou was arrested for theft on February 4 and was detained until May 5, which exceeds the legal time of detention without charge (*see* Section 1.d.). The MBDHP alleged that this death likely was connected with the Government's anticrime campaign, initiated in 2001. No official action was taken on this case by year's end.

On August 1, unknown persons killed former Cote d'Ivoire Minister of Higher Education and opposition leader Balla Keita in his home in Ouagadougou. Keita, an Ivorian citizen, had arrived in the country in March 2001 as a political refugee. According to Prosecutor General Abdoulaye Barry, the killing could be a political killing perpetrated by agents of the Government of the Cote d'Ivoire. There were no developments in the case by year's end.

There was no action in the following 2001 cases: The February killing of Jean Roger Sanou in Bobo-Dioulasso by security forces; the May killing of Issa Diallo by gendarmes in the small city of Pouytenga, Kouritenga Province; the September killing of Daouda Ouedraogo in Ouagadougou by Presidential Guard Sergeant Momouni Koueba.

In March 2001, retainers of the King of Po beat to death petty theft suspect Jules Nankouly after gendarmes turned over Nankouly to the King. The King was an activist in the ruling CDP party and also the mayor of Po, a city in Nahouri Province. On July 15, the King was arrested, indicted, and jailed at Ouagadougou Main Prison. In August he was released on bail. On September 6, the Ministry of Territorial Administration ordered him suspended from office; however, there still was no action taken against his retainers by year's end.

There were no developments in the 2000 shooting and killing by gendarmes of 12-year-old Flavien Nebie.

In 2001 the Government filed murder and arson charges against former Presidential Guard Marcel Kafando, a key suspect in the 1998 murder of respected journalist Norbert Zongo and his companions. Kafando and two other former Presidential Guards were convicted and sentenced to prison in 2000 for killing the chauffeur of President Compaore's brother Francois; Norbert Zongo's newspaper had been leading investigations into the death of the chauffeur. Two of the convicted Presidential Guards died under suspicious circumstances in 2001. Kafando remained jailed in poor health, and there were no further developments reported in the investigation of the Zongo case by year's end.

A 2001 MBDHP report stated that a grave containing the remains of approximately five persons had been found in Wayen, Ganzourgou Province. The dates of death, causes of death, and identities of the bodies have not been determined; however, the MBDHP alleged that the deceased were victims of political violence. There were no further developments by year's end.

The June 2000 killing of Mamadou Kere by self-styled militiamen who claimed allegiance to the Naba Tigre was resolved during the year. On May 24, 11 perpetrators of the Kere killing were charged with "not helping a person in danger, unlawful arrest and sequestration, and fatal blows." Five of the defendants received 1 to 3 years' imprisonment, and six of them were acquitted.

Killings by vigilante mobs and self-styled militias remained a problem nationwide. The vast majority of such killings targeted suspected thieves and other alleged

criminals, who typically were burned or beaten to death. On several occasions in 2001, vigilantes destroyed the property of persons accused of sorcery or witchcraft and expelled them from their communities; however, there were no reports of such activity during the year.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, members of the security forces continued to abuse persons, and suspects often were subject to beatings, rough handling, and threats, frequently to extract confessions. There were credible reports that officials at the Ouagadougou House of Arrest and Correction (MACO) prison continued to employ degrading treatment subjecting prisoners to overcrowding, unsanitary conditions, and inadequate food. The Government was not known to have taken any disciplinary action against those responsible for abuses, and the climate of impunity created by the Government's failure to prosecute abusers remained the largest obstacle to ending abuses.

Security forces commonly beat suspected criminals.

In October and November, gendarmes forcibly dispersed student protests in and around the University of Ouagadougou (see Section 2.b.).

Citizens of the town of Kaya alleged that on December 18, soldiers from a nearby military barracks raided the police station of the city and beat up police officers as well as a number of civilians, including women, children, and old men. The MBDHP reported that the soldiers were protesting police treatment of one of their military colleagues, who was stopped in civilian dress by police earlier in the week and beaten after refusing to show his identification card. A citizens' group was formed to protest the treatment of civilians, and an investigation was ongoing at year's end.

There was no action taken against the responsible members of the security forces who arrested, stripped naked, and shaved the heads of numerous elderly male residents of Bobo-Dioulasso in February 2001; beat, illegally detained, and humiliated dozens of local residents including women, the elderly, and children in the city of Mani, Gnagna Province in April 2001; or beat a suspected thief in Mouhoun Province, in the western part of the country also in April.

There was no known action taken against the members of the security forces responsible for beating or otherwise abusing the persons in the following cases in 2000: The April case in which police used tear gas to disperse a march; the April cases in which police shaved the heads of several demonstrators; the August case in which police used tear gas to disperse a refugee demonstration; the November beating of approximately 15 students; and the December case in which police used tear gas to disperse a student demonstration.

Progovernment vigilantes in several locations have used violence and threats of violence against persons and properties to harass and intimidate opponents; however, unlike in the previous year, there were no confirmed reports of such activity.

There was no action taken, nor was any likely to be, against progovernment vigilantes who detained, tied up, and threatened human rights activists, cut with a machete an activist who tried to negotiate their release, and forced a high school teacher and student to flee Fada N'Gourma in December 2000.

Prison conditions were harsh, overcrowded, and could be life threatening. The federal prison in Bobo-Dioulasso, built in 1947, housed approximately 1,000 prisoners, although it was designed to hold less than half that number. The prison diet was poor, and inmates often relied on supplemental food from relatives. There were separate facilities for men, women, children, and high-profile persons; however, these facilities typically were crowded, common rooms rather than individual cells. Pretrial detainees usually were not held separately from convicted prisoners.

According to human rights monitors, prison visits were granted at the discretion of prison authorities. Permission generally was granted routinely, and advance permission was not required. Prison monitors visited prisons during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution provides for the right to expeditious arraignment and access to legal counsel; however arbitrary arrest and detention were problems, and authorities did not ensure due process. The law limits detention for investigative purposes without charge to a maximum of 72 hours, renewable for a single 48-hour period; however, in practice police rarely observed these provisions. The average time of detention without charge was 1 week, and the law allows judges to impose an unlimited number of 6-month preventive detention periods. It was not unusual for defendants without access to legal counsel to be detained for weeks or months before appearing before a magistrate. In some cases, prisoners were held without charge or trial for a longer period than the maximum sentence that they would have received if convicted of the alleged offense. There was a pretrial release system; however, it was unknown how often it was used.



Gendarmes arrested journalists during the year (*see* Section 2.a.). Gendarmes also arrested several student activists following protests in and around the University of Ouagadougou; the students were held for several days without being charged (*see* Section 2.b.).

The law prohibits forced exile, and the Government did not use it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice the judiciary was subject to executive influence. The President has extensive appointment and other judicial powers. The Constitution stipulates that the Head of State also was the President of the Superior Council of the Magistrature, which can nominate and remove high-ranked magistrates and can examine the performance of individual magistrates.

The Zongo killing (*see* Section 1.a.) and its aftermath focused attention on the systemic weaknesses in the justice system, including removability of judges, outdated legal codes, an insufficient number of courts, a lack of financial and human resources, and excessive legal costs.

The 2000 amended Constitution replaced the Supreme Court with four higher courts: The Supreme Court of Appeal, the Council of State, the Audit Court and Office, and the Constitutional Council. All of the higher courts were operational by year's end. Beneath these higher courts were 2 Courts of Appeal and 10 provincial courts. There also was a High Court of Justice, with jurisdiction to try the president and senior government officials for treason and other serious crimes. The ostensibly independent military court system, which tried only military cases, was subject to executive influence. In June 2001, the Supreme Court ruled that civil courts lacked jurisdiction in a wrongful death case brought by the widow of murdered former Chief Executive Captain Thomas Sankara. The Court ruled that jurisdiction was vested in the military court system. No further action was taken by year's end.

In addition to the formal judiciary, customary or traditional courts presided over by village chiefs, handled many neighborhood and village problems, such as divorce and inheritance disputes. Citizens generally respected these decisions, but they also may take a case to a formal court.

The Constitution provides for the right to public trial, access to counsel, a presumption of innocence, and has provisions for bail and appeal. While these rights generally were respected, the ability of citizens to obtain a fair trial remained restricted by their ignorance of the law and by a continuing shortage of magistrates. There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice. However, in national security cases a law permits surveillance, searches, and monitoring of telephones and private correspondence without a warrant. By law and under normal circumstances, homes may be searched only with the authority of a warrant issued by the Attorney General.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution and the law provide for freedom of speech and of the press; however, the Government at times restricted these rights and intimidated journalists into practicing self-censorship. The President and his government remained sensitive to criticism. Journalists charged with libel may defend themselves in court by presenting evidence in support of their allegations. The independent press, particularly the written press, continued to exercise greater freedom of expression. However, the suspicious death in 1998 of internationally respected journalist and newspaper editor Norbert Zongo, who was well known for his investigative reports on government scandals, raised serious questions on the limits to the exercise of this freedom (*see* Section 1.a.).

All media were under the administrative and technical supervision of the Ministry of Communication and Culture. The audiovisual media were regulated further by the Superior Council of Information (CSI).

The official media, including the daily newspaper Sidwaya, and the national radio and television, displayed progovernment bias. The independent press included five daily and approximately a dozen weekly newspapers; some newspapers appeared only occasionally. There were numerous independent radio stations and a religious television station. The Government licensed several private radio stations during the year. These media outlets included stations that were critical of the Government, Voice of America, Radio France International, Africa Number 1, and the British Broadcasting Corporation broadcast without government interference.

Despite self-censorship, independent newspapers and radio stations often criticized the Government, reporting allegations of corruption and mismanagement by authorities and accusing the Government of human rights violations. The inde-

pendent media also reported the opposition's and human rights associations' criticism of the Government's failure to investigate and prosecute human rights violations.

On August 7, gendarmes arrested, detained, and interrogated for 2 days Christophe Koffi, an Ivorian citizen and correspondent of both Agence France Presse and Reporters without Borders (RSF). He was suspected of spying for Ivorian authorities who were suspected to be behind the killing of Balla Keita (*see* Section 1.a.). Police released Koffi after questioning; there were no further developments by year's end.

On August 8, gendarmes arrested and interrogated for several hours Newton Ahmed Barry, editor of the monthly independent paper L'Evenement. He was accused of providing information to the Ivorian press in connection with the killing of Balla Keita (*see* Section 1.a.) and spying for a foreign power. Police released Barry after questioning; there were no further developments by year's end.

There were regulations for private and independent radio and television. The regulations allowed reinstatement of call-in shows, which were suspended in 1997. However, radio stations were held responsible if their call-in programs threatened the public order or the rights of any third party.

During the May 5 legislative elections, the CSI fulfilled its responsibility under the electoral code to ensure equal media treatment of the candidates prior to the elections. Despite some minor criticisms from the opposition, the general belief was that press reporting on candidates' campaigns was more balanced than the previous legislative elections.

The Government did not restrict access to the Internet.

The Government usually respected academic freedom. In previous years, the Government generally tolerated peaceful student strikes to protest government education policy or demand better school conditions; however, on a number of occasions, security forces used the threat of violence to disrupt meetings of striking students, and student leaders and protesters have been arrested, detained, and abused (*see* Section 2.b.).

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, at times the Government restricted this right in practice. Demonstrations generally were tolerated following the rescission in March 2001 of a 2000 decree that banned all public demonstrations or gatherings except for weddings, funerals, or religious ceremonies.

After the March 2001 rescission, political parties and labor unions were allowed to hold meetings and rallies without requesting government permission. However, the law also requires that authorities be notified in advance of planned demonstrations and allows the authorities to invoke the need to preserve public order to forbid demonstrations. Penalties for violation of the advanced notification requirement include 2 to 5 years' imprisonment. Permits must be obtained from municipal authorities for political marches. Applicants must indicate the date, time, duration, and itinerary of the march or rally, and authorities may alter or deny requests on grounds of public safety. Denials or modifications may be appealed before the courts.

Police forcibly dispersed a student demonstration on the campus of the University of Ouagadougou in October; students were protesting a doubling of registration fees. On November 21, police raided a meeting of a student union that had previously organized protests against the fee increase, forcing the student activists out of the classroom where the meeting was being held. Once out in the streets, some of the protesters damaged cars and burned one government vehicle. On November 21, six student leaders were arrested after the protests and were held in Ouagadougou's main prison without formal charges for 10 days. On December 17, the students were put on trial for vehicle destruction, assault of a police officer, and illegal assembly. The alleged ringleader, the president of one of the student unions, received a sentence of 1 month in jail and a fine of approximately \$23,000 (15,600,000 CFA). Two other students also received a month's sentence and lighter fines; the other three students were released for lack of evidence. Lawyers for the sentenced students said they intended to appeal. The University continued to experience student unrest throughout December. On December 3 and 4, secondary school students in Ouagadougou and Bobo Dioulasso also called a strike. Security forces in Bobo Dioulasso used tear gas to disperse forcibly the students; however, there were no reported deaths or injuries.

No action was taken against members of the security force who used excessive force to disperse the 2001 demonstration by those who opposed the inauguration of the mayor of Bobo-Dioulasso, the country's second largest city.

No action was taken against members of the security forces who used excessive force to disperse demonstrations on the following months in 2000: April; August; and December.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Political parties and labor unions usually were permitted to organize without seeking government permission.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Government required that religious groups register with the Ministry of Territorial Administration. Registration established a group's legal presence in the country but entailed no specific controls or benefits. Religious groups only were taxed if they carried on lucrative activities, such as farming. There were no penalties for failure to register. All groups were given equal access to licenses, and the Government approved registrations in a routine fashion.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice. Gendarmes routinely stopped travelers for identity and customs checks and the levying of road taxes at police and military checkpoints. There were no restrictions on foreign travel; however, in 2000 some foreign journalists were not permitted to enter the country.

Following the Government's ban on demonstrations in 2000 (see Section 2.b.), progovernment vigilantes intimidated human rights activists and forced some to flee from cities such as Koudougou. Activists in Bobo-Dioulasso, Kaya, and Fada N'Gourma also complained of similar harassment in 2001. However, unlike in previous years, there were no reports that progovernment vigilantes harassed human rights activists.

The law provides for the granting of asylum and refugee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. Refugees were accepted freely. The Government provided first asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. Approximately 450 persons with refugee status and an estimated 300 persons who had requested refugee status reside in the country. Most were nationals of Rwanda, Burundi, the Democratic Republic of the Congo, and the Republic of the Congo; others were from Chad, Liberia, and Sierra Leone. Almost all the refugees and applicants live in Ouagadougou.

During the year, the UNHCR continued its efforts to respond to the needs of the refugees, notably during visits in the spring and in fall. The refugees continued to receive some assistance for school and medical fees; however, their monthly financial assistance from the UNHCR was terminated during the year. Some of the refugees asked the UNHCR to send them to third countries; these requests were being evaluated at year's end.

There was a surge in voluntary repatriation of Burkinabe nationals from Cote d'Ivoire late in the year, as a result of the ongoing crisis in Cote d'Ivoire. Burkinabe returnees reported harassment from Ivoirian police officials, usually in the form of demands for money but also in the form of physical abuse.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully through multiparty elections; however, in practice citizens were unable to exercise this right fully due to the continued dominance of the President and his ruling party. In the 1998 presidential election, President Compaore won 88 percent of the vote; 56 percent of the eligible voters went to the polls. The irregularities cited by observers in the actual voting process were limited in number and scope and did not appear to affect the ultimate outcome of the election. However, the national observers identified a number of systemic weaknesses in the electoral code that precluded a totally regular and transparent vote, and a coalition representing a number of opposition parties boycotted the election. Nevertheless, neither of the two candidates opposing President Compaore contested the results.

The Compaore government included a strong presidency, a Prime Minister, a cabinet presided over by the President, a one-chamber (formerly two-chamber) National Assembly, and the judiciary. The legislature was independent, but it remained susceptible to influence from the executive branch.

In 1999 President Compaore instructed the Prime Minister to reshuffle and broaden the Government. The new cabinet included four members from small opposition parties; however, the major opposition bloc, the Group of 14 February (G-14),

refused to participate. In 1999 the Council of Ministers passed decrees creating a Commission for Political Party Consultations, a Commission of National Reconciliation, and a Commission on Political Reforms.

Pursuant to the Commissions' recommendation in 1999, Article 37 of the Constitution was amended in April 2001 to provide that the presidential term of office be 5 years, renewable once, starting in 2005. The provision was not retroactive, and the National Assembly has determined that this provision will not be applied retroactively to President Compaore. Previously the Constitution allowed the President to run for an unlimited number of terms.

In 2000 the Government promulgated a new electoral code that gave more independence to the Government-funded Independent National Electoral Commission (CENI). Under the revised code, the CENI has full responsibility for managing its budget and was the only organization responsible for monitoring elections and referendums. However, during the 2000 municipal elections, the CENI was criticized for deferring to the Government on important questions such as postponing the elections and candidate eligibility. In 2001 a new CENI, composed of 15 members, was sworn in. Five representatives of opposition parties, including the G-14 coalition, agreed to serve on the CENI in addition to five representatives of progovernment parties (including the CDP) and five representatives of civil society.

On May 5, the Government held parliamentary elections. For the first time in the country's history, multiple (13) political parties, including the opposition, participated in the elections. The ruling CDP won 57 out of the 111 parliamentary seats. The opposition parties unified to compete in the elections and won 54 seats. Domestic observers characterized the elections as generally free and fair.

Following the May 5 legislative elections, the Government was reorganized, and the November 2000 protocol, which ceded one-third of cabinet posts to the opposition and which the Prime Minister and opposition had signed, was voided. Of the 30 cabinet members, there were six ministers from parties other than the ruling CDP.

There were no restrictions in law or practice on the participation of women or minority group members in politics. There were 12 women in the 111-seat National Assembly, and there were 3 female ministers in the 30-member Cabinet. The President of the Social and Economic Council was a woman. In part because of the important role that women played in reelecting President Compaore in 1998, the CDP increased the number of women on its National Executive Council from two to six in 1999.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of human rights groups, including the MBDHP, the Association of Christians for the Group for Study and Research on Democracy and Economic and Social Development in Burkina Faso (GERDES), and Abolition of Torture (ACAT), generally operated without government restriction; however, government-paid informers reportedly infiltrated groups that were critical of the Government.

Following the Government's 2000 ban on demonstrations, progovernment vigilantes intimidated human rights activists and forced some to flee from cities such as Koudougou (*see* Section 2.d.). Unlike in the previous year, there were no reports that progovernment vigilantes intimidated human rights activists and forced some to flee from cities.

The Government permitted international human rights groups to visit and operate in the country. The MBDHP was affiliated with the Inter-African Human Rights Union (UIDH).

The Government failed to honor repeated requests for information from the OAU about alleged human rights abuses that occurred between 1983 and 1997. In 2001 the OAU's Human Rights Commission issued a report that criticized the Government for failing to investigate human rights violations that occurred between 1983 and 1997, criticized the Government for not responding adequately to the OAU's requests for information, and called on the Government to prosecute the perpetrators of these offenses and to compensate the victims. The Government had not responded by year's end.

In 2001 the Government, at the initiative of the Junior Minister for Human Rights, established a National Commission on Human Rights to serve as a permanent framework for dialog on human rights concerns. Commission members included representatives of human rights NGOs, union representatives, government officials, and representatives from professional associations. In December 2001, the commission adopted a plan of action to promote human rights; however, it took no specific action by year's end.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination on the basis of race or ethnic origin. Minority ethnic groups, like the majority Mossi, were represented in the inner circles of the Government, and government decisions did not favor one group over another.

*Women.*—Domestic violence against women, especially wife beating, occurred frequently. Cases of wife beating usually were handled through customary law and practice. There were no statistics on rape, although it was recognized as a crime. Spousal rape was not discussed. There were organizations that counselled rape victims, including Catholic and Protestant missions, the Association of Women Jurists in Burkina, the Burkinabe Movement for Human Rights, the Association of Women, and Promofemmes—a regional network that works to combat violence against women. The Government has attempted to change attitudes toward women, using education through the media. The Penal Code explicitly prohibits sexual harassment; however, there are no special laws protecting women against violence other than general laws dealing with violence.

The law prohibits forced marriage, with specific penalties under the Penal Code for violators. Polygyny was permitted, but both parties must agree to it prior to a marriage, and the woman maintained the power to oppose further marriages by her husband if she could provide evidence that he abandoned her and her children. Either spouse could petition for divorce; custody of children was granted to either parent based on the children's best interests.

FGM was practiced widely, especially in many rural areas, and usually was performed at an early age. The percentage of girls and women who have undergone this procedure may be as high as 70 percent. The Government has made a strong commitment to eradicate FGM through educational efforts, and the National Committee for the Fight Against Excision campaigns against the practice. FGM is a crime, with strict punishments for those involved in its practice. Perpetrators were subject to 6-months' to 3-years' imprisonment and a significant fine. The Government continued its sensitization campaign regarding the deleterious effects of this practice. There were no reports of FGM-related arrests or prosecutions during the year. Another form of mutilation, scarification of the faces of both boys and girls of certain ethnic groups, gradually was disappearing.

There were occasional reports of trafficking in women (*see* Section 6.f.).

Although the law provides equal property rights to women and some inheritance benefits depending on other family relationships, in practice customary law prohibits women from the right to own property, particularly real estate. In rural areas, land belonged to the family of the man whom a woman marries even though women represented 45 percent of the workforce. Women still did much of the subsistence farming work. Customary law does not recognize inheritance rights for women and regards the woman as property that can be inherited upon her husband's death.

There were no specific constitutional provisions or laws protecting women, who faced extensive discrimination. In general women continued to occupy a subordinate position and experienced discrimination in such areas as education, jobs, property, and family rights. Overall, women represented 45 percent of the workforce. In the modern sector women make up one-fourth of the Government workforce, although they usually were found in lower paying positions. The Ministry of Women's Affairs actively promoted women's rights during the year; the Minister was a woman.

*Children.*—The Constitution nominally protects children's rights. The Government demonstrated its commitment to improving the condition of children by continuing efforts, in cooperation with donors, to revitalize primary health care by focusing on care for nursing mothers and infants; vaccination campaigns for measles, meningitis, and other illnesses; and health education.

Although the Government dedicated approximately 25 percent of the national budget to education and the law provides for free compulsory education, the Government lacked the means to provide universal, free primary education. If a child qualified on the basis of grades and social condition (that is, the family was "poor"), free education could continue through junior high and high school. In practice the family condition requirement often was ignored, giving many children a free education through high school. Many children, especially girls, did not attend school; girls represented only 38 percent of school enrollment. The Government has taken steps to promote primary education for girls. Girls made up approximately one-third of the total student population in the primary school system and were represented in the secondary and higher educational systems, although the percentage decreased significantly beyond the primary level. Schools in rural areas had even lower percentages of female students than schools in urban areas, and illiteracy for girls in the rural areas ran as high as 95 percent. The Government set up a scholarship pro-

gram for female secondary students to encourage them to stay in school. The estimated adult literacy rate was 23 percent. The rate of male literacy was approximately 30 percent and female literacy was 9 percent.

FGM was performed commonly on young girls (*see* Section 5, Women).

There were reports of trafficking in children (*see* Section 6.f.).

*Persons with Disabilities.*—There was no legislation to protect persons with disabilities from discrimination. While there were modest government subsidies for workshops for persons with disabilities, there was no government mandate or legislation concerning accessibility for persons with disabilities. Programs to aid persons with disabilities were limited, and their advocates reported that such persons often faced social and economical discrimination. Persons with disabilities who were willing and able to work frequently found it difficult to find employment, including in government service, because of deeply entrenched societal attitudes which held that persons with disabilities should be under the care of their family and should not enter the workforce.

#### Section 6. Worker Rights

*a. The Right of Association.*—The Labor Code was amended several times during the past decade. Under the Labor Code, workers, including civil servants, enjoyed a legal right of association, which was recognized under the Constitution. There were 4 major labor confederations and 12 autonomous trade unions linked by a national confederate committee. They represented a wide ideological spectrum; the largest and most vocal member espoused a socialist doctrine. Approximately 85 percent of the workforce was engaged in subsistence agriculture. Of the remainder, approximately 50 percent of private sector employees and 60 percent of public sector employees were union members. Essential workers, such as police, could not join unions.

The Labor Code prohibits antiunion discrimination. The Labor Ministry handled complaints about such discrimination, which the plaintiff may appeal to a labor tribunal. If the tribunal sustains the appeal, the employer must reinstate the worker. Union officials believed that this system functions adequately.

Labor unions may affiliate freely with international trade unions. Both the National Confederation of Burkinabe Workers (CSB) and the National Organization of Free Trade Unions (ONSL) were affiliated with the International Confederation of Free Trade Unions (ICFTU).

*b. The Right to Organize and Bargain Collectively.*—Unions have the right to bargain for wages and other benefits, both directly with employers and with industry associations. These negotiations were governed by minimums on wages and other benefits contained in the Inter-professional Collective Convention and the Commercial Sector Collective Convention, which were established with government participation. If no agreement was reached, employees could exercise their right to strike. Either labor or management could refer an impasse in negotiations to labor tribunals. Appeals could be pursued through the Court of Appeal to the Supreme Court, whose decision was binding on both parties. Collective bargaining was extensive in the modern wage sector, but it encompassed only a small percentage of workers.

The Constitution provides for the right to strike, and workers used strike actions to achieve labor goals. Labor organizations called many strikes during the year to advance worker objectives, such as opposing the privatization of state-owned enterprises and demanding salary and pension increases. The Collective of Mass Organizations and Political Parties called strikes to press for justice in the aftermath of the 1998 Zongo killings. There was no governmental interference in these demonstrations and strikes.

On April 23 and 24, a strike, which was organized by all the major trade union federations and autonomous unions, shutdown public institutions and private enterprises throughout the country. There also were strikes by bus drivers and insurance employees during the year.

The International Labor Organization (ILO) Committee of Experts has expressed concern about the right to strike of public servants, particularly the law that allows the authorities to requisition striking civil servants and state officials. The ILO has been critical of the law for years for defining essential services too broadly and opening the door for abuse by the authorities.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children; however, there were reports of household employment of children outside their own families without any status or formal remuneration as well as the procurement and exploitation of young immigrant girls (*see* Section 6.f.). In cooperation with donors, the Government has undertaken many sensitiza-

tion programs to inform children and parents of the dangers of sending children away from home to work.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Code sets the minimum age for employment at 14 years; however, child labor was a problem. In the domestic and agricultural sectors, the law permits children under the age of 14 to perform limited activities for up to 4.5 hours per day; however, many children under the age of 14 years worked longer hours. According to a pamphlet published by the Ministry of Labor in 2000, more than 50 percent of children worked, largely as domestic servants or in the agricultural or mining sectors. Children commonly worked with their parents in rural areas or in family-owned small businesses in villages and cities. Most children actually began working at an earlier age on small, family subsistence farms, in the traditional apprenticeship system, and in the informal sector. According to a recent study by the ILO, 70 percent of child workers were in the informal sector. There were no reports of children under the age of 14 employed in either state or large private companies.

The Ministry of Employment, Labor, and Social Security, which oversees labor standards, lacked the means to enforce this provision adequately, even in the small business sector. In cooperation with UNICEF, the ILO, and local NGOs in 1997, the Government developed a national plan of action on child labor. During the year, the Government worked to update this plan of action; the updated plan was pending the National Assembly's approval at year's end. The International Program to Eliminate Child Labor (IPEC) has been working with the Government since 1999 to fund child labor projects. The Government also has organized workshops and produced films and a television series on the problem of child labor.

*e. Acceptable Conditions of Work.*—The Labor Code mandates a minimum monthly wage, which was approximately \$40 (28,811 CFA francs) in the formal sector; it did not apply to subsistence agriculture. The Government last set a minimum wage in 1996; it did not provide a decent standard of living for an urban worker and family. Wage earners usually supplemented their income through reliance on the extended family, subsistence agriculture, or trading in the informal sector. The Labor Code also mandates a standard workweek of 40 hours with at least one 24-hour rest period for nondomestic workers and a 60-hour workweek for household workers, and establishes safety and health provisions.

A system of government inspections under the Ministry of Employment, Labor, and Social Security and the labor tribunals was responsible for overseeing occupational health and safety standards in the small industrial and commercial sectors, but these standards did not apply in the subsistence agricultural sector. The Government paid social security benefits on a sliding scale according to an employee's length of service and pay, up to a ceiling of \$308 (approximately 221,000 CFA francs) per month, and payments were timely. However, the Government's Labor Inspector Corps did not have sufficient resources to fulfill its duties adequately. Every company was required to have a work safety committee. If a workplace was declared unsafe by the Government's Labor Inspection Office for any reason, workers had the right to remove themselves from the dangerous work without jeopardy to continued employment. In practice there were indications that this right was respected, but such declarations by the Labor Inspection Office were relatively rare.

Foreign workers, both legal and illegal, were protected by the law governing working conditions in the formal sector.

*f. Trafficking in Persons.*—There was no law that specifically criminalizes the act of trafficking; however, a range of other relevant laws may be used to prosecute traffickers. The Constitution specifically prohibits slavery, inhumane treatment, and mistreatment of children and adults, and the Penal Code prohibits kidnaping, violence, and mistreatment of children; however, trafficking of children and women was a problem.

In April 2001, for the first time a court tried an accused child trafficker, and he was sentenced to 3-months' suspended prison time. The Government provided initial shelter to the child victims and helped return them to their homes. Some children asserted that they were going voluntarily to Cote d'Ivoire in search of work.

The Ministry of Social Affairs and the Directorate of Labor Health and Security, Child Labor, and Trafficking Division of the Ministry of Labor implement and enforce child labor laws and regulations. Despite good intentions, the Government only has limited resources to combat trafficking in women and children.

The country was a source, transit, and destination country for internationally trafficked persons, including children. It was an occasional source country for women who traveled to Europe to work as domestics but upon their arrival were exploited sexually. The country was a transit point for trafficked children, notably from Mali. Children from Mali often were trafficked to Cote d'Ivoire. Malian chil-

dren also were trafficked into the country. Destinations for trafficked Burkinabe children included Cote d'Ivoire, Ghana, and Nigeria.

In many instances, children voluntarily traveled to Cote d'Ivoire to work as agricultural laborers to escape poverty at home; however, in other cases, children were lured to plantation work in Cote d'Ivoire by false promises of generous remuneration, only to be forced to work under very harsh conditions for little or no payment. Some children were forced to work long hours without pay, allegedly to repay costs of their transport to Cote d'Ivoire and the costs of food and housing on the plantation.

The Government worked with international donors and the ILO to address child trafficking. The Government also organized seminars against child trafficking for customs officers. During the year, similar workshops and seminars were organized for gendarmes and the civil society.

During the year, in coordination with donors, the Government started a program to establish watch committees in certain provinces in which child trafficking and labor were problems. The watch committees included representatives of industries usually implicated in child labor (cotton growers, for example), the police, NGOs, and social welfare agencies.

Since August 2001, the Coalition in Burkina Faso for Children's Rights (COBUFADE) conducted, in conjunction with IPEC, a sensitizing campaign on child labor to develop and strengthen children's rights. The campaign targeted at least 30,000 working children in various sectors, 3,000 employers, 5,000 business and social leaders, and 250 associations. In addition, in June IPEC initiated a program of action to prevent child trafficking for work purposes on cotton plantations, and the program was expected to run from October through September 2003.

## BURUNDI

Prior to the inauguration of a transitional government in November 2001, Burundi was ruled by an authoritarian military regime led by self-proclaimed interim President Pierre Buyoya, a former army Major who was brought to power in a bloodless coup by the largely ethnic Tutsi armed forces in 1996 and who abrogated the Constitution. President Buyoya held power in conjunction with a political power structure dominated by members of the Tutsi ethnic group. Since 1993 the civil war has caused thousands of civilian deaths and mass internal displacement. In July 2001, President Buyoya and the regional leaders signed an agreement to begin the 3-year transition period agreed to in peace negotiations on November 1, 2001. The two major armed rebel groups declined to join the peace process. A Transition Constitution was adopted in October 2001, and on November 1, 2001, Buyoya was sworn in as president; Domitien Ndayizeye, the secretary general of the predominantly ethnic Hutu opposition party FRODEBU, was sworn in as vice president. Under the agreement, Buyoya will serve as transition president for 18 months and then be succeeded by Ndayizeye, who will serve 18 months as transition president. Continued efforts to negotiate a cease-fire with the two largest rebel groups were unsuccessful. Political parties operated under significant restraints. The judiciary was controlled by the ethnic Tutsi minority and was not impartial or efficient.

The security forces were controlled by the Tutsi minority and consisted of the army and the gendarmerie under the Ministry of Defense, the judicial police under the Ministry of Justice, and the intelligence service under the presidency. The Government created the Guardians of the Peace, armed paramilitary civil defense units, to serve in Bujumbura, the suburbs of Bujumbura, and Bujumbura Rural, Ruyigi, Rutana, and Bururi Provinces. The civilian authorities did not maintain effective control of the security forces. Members of the security forces continued to commit numerous serious human rights abuses.

The country, which has a population of 6.4 million, was poor, and approximately 90 percent of the population was dependent on subsistence agriculture. Many internally displaced persons (IDPs) were unable to grow food and depended largely on international humanitarian assistance. The civil war has caused severe economic disruption, especially to the small modern sector of the economy, which was based mainly on the export of coffee, tea, and cotton. The country's GDP dropped from \$4.1 billion in 1998 to \$662.4 million in 2001, and wages have not kept pace with inflation. The Government continued its plans to privatize publicly-owned enterprises, but made little progress during the year.

The Government's human rights record remained poor, and it continued to commit numerous serious abuses. Citizens did not have the right to change their government. Security forces continued to commit numerous arbitrary and unlawful killings with impunity. The armed forces killed armed rebels and unarmed civilians,



including women, children, and the elderly. Rebel attacks on the military often were followed by army reprisals against civilians suspected of cooperating with the insurgents. Impunity for those who committed serious human rights violations, and the continuing lack of accountability for those who committed past abuses, remained key factors in the country's continuing instability. There were credible reports of disappearances, and the security forces continued to torture, beat, rape, and otherwise abuse persons. Despite some improvements, prison conditions remained very poor in general and sometimes life threatening. Arbitrary arrest and detention, and lengthy pretrial detention were problems, and there were reports of incommunicado detention. The court system did not ensure due process or provide citizens with fair trials. The Government infringed on citizens' privacy rights. The Government controlled the media and restricted freedom of speech and of the press. It also restricted freedom of assembly, association, and movement. Since 1993 the civil war has caused thousands of civilian deaths and massive internal population displacement. The armed forces sometimes limited access to certain areas by human rights observers, citing security conditions. Violence and discrimination against women continued. The Government did not protect the rights of children, and child prostitution was a problem. Discrimination against persons with disabilities, indigenous Twa (Pygmies), and state discrimination against Hutus remained serious problems. Societal discrimination between the Hutus and Tutsis continued. Incidents of ethnically motivated property destruction and killing occurred throughout the country. Soldiers required persons, including children, mostly Hutus, to perform forced labor. Child labor, including forced labor, was a problem.

Hutu rebels also continued to commit numerous serious abuses against civilians, including killings, rapes, theft, forced labor, and the abduction of children to serve as soldiers in the ongoing conflict between rebel and government forces.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Security forces committed numerous unlawful killings of Hutu and Tutsi civilians following fighting with rebels, in reprisal for rebel attacks, and for suspected collaboration with rebels. Civilians also were killed during fighting between government and rebel forces (*see* Section 1.g.). There were reports of deaths and injuries caused by the explosion of landmines laid by both government and rebel forces. Government troops rarely were disciplined for killing civilians.

There were no developments in the July 2001 killings in the Kiriri section of Bujumbura Rural Province, where government soldiers killed 11 civilians in retaliation for the July 9 killing of a soldier who had threatened to rape a woman and who had attempted to extort money and beer.

Security forces violently dispersed demonstrations, resulting in numerous deaths and injuries (*see* Section 2.b.).

The Government's widespread use of torture continued; however, unlike in the previous year, there were no reports of deaths as a result of torture in custody (*see* Section 1.c.).

On July 18, the army arrested and killed one of its soldiers; subsequent media photos indicated that the soldier had been tortured, according to League Iteka, a local human rights nongovernmental organization (NGO). No action had been taken against those responsible by year's end.

Harsh prison conditions contributed to the deaths of prisoners from disease and malnutrition.

The reopening of the investigation into the 1993 assassination of President Melchior Ndadaye, which was scheduled to occur in January 2001, did not take place, and the Government was unlikely to take any further action in the case.

Comprehensive and accurate information about landmines was hard to obtain; however, there were credible reports of deaths and injuries during the year when landmines laid by government or rebel forces exploded (*see* Section 1.g.).

There were several high-profile killings by unknown actors during the year. For example, on January 4, the body of Elvis Makhado, a civilian member of the South African Protection Force, was discovered in the Kinama suburb of Bujumbura; the motive for the killing was believed to be robbery. On September 7, two unidentified gunmen killed Samuel Nimubona, leader of World Outreach Initiatives (WOI), which funded the private radio station Radio Ivyizigiro, in Bujumbura. There were no arrests in connection with the killings by year's end.

In November 2001, Kassi Manlan, the local representative of the World Health Organization (WHO), was killed in an apparent robbery attempt. On December 21,

Manlan's assistant and four guards were arrested and charged with the killing; they remained in custody at year's end with no trial date scheduled.

Rebels killed numerous persons during the year and committed serious abuses against the civilian population (*see* Section 1.g.). There were no reports that rebel forces prosecuted or punished members of their groups who were responsible for the abuses.

In May members of the opposition party FRODEBU, which was mostly ethnic Hutu, attempted to kill Agathon Rwasa, the leader of the rebel National Liberation Forces (FNL); two FNL bodyguards were killed during the attempt. There were unconfirmed reports that FNL spokesman "Anicet" subsequently was accused of complicity in the attack and starved to death on Rwasa's orders.

Media and NGO reports indicated that more than 200,000 persons, mostly civilians, have been killed in ethnic violence since October 1993. One international NGO estimated the number to be between 100,000 and 120,000. No credible countrywide casualty figures were available. The Government and security forces frequently prevented journalists and human rights observers from going to areas where casualties occurred, making it difficult to gather information about the perpetrators or the victims. Much of the unlawful killing and property destruction during the year was concentrated in the province around the capital and in the southern and eastern provinces of Bururi, Makamba, Rutana, and Ruyigi, as well as in the central and western Provinces of Muramvya, Mwaro, and Cibitoke.

On June 14, in Cibitoke Province, FNL rebels reportedly killed 13 civilians in a roadside ambush.

There were reports of mob violence and lynchings. For example, on May 9, in Kunama, Bubanza Province, residents reportedly lynched two people accused of practicing witchcraft and sorcery. On May 19, residents of Muramba, Bubanza Province, reportedly bludgeoned to death two bandits they accused of being affiliated with FNL rebels.

There were a number of urban bombings during the year. For example, on April 10, in the village of Murama, Muyinga Province, a grenade explosion reportedly killed 4 civilians and injured 13 at an outdoor café. On August 23, a grenade exploded in a crowded market in Bujumbura and killed 3 persons and injured 20 others. No group claimed responsibility for either incident, and no arrests were made by year's end.

In 2001 the Chief Prosecutor stated that the Government would create special ad hoc committees to investigate several urban bombing incidents in 2000 and 2001; however, no action had been taken by year's end, and no suspects had been identified.

*b. Disappearance.*—Human rights groups reported that abductions and disappearances occurred during the year. Rebels were responsible for many of the disappearances; rebels kidnaped and raped women.

On January 18, Rwandan-backed rebels from the Congolese Rally for Democracy based in Goma (RCD/G) and agents of the Rwandan government reportedly deported members of the Banyamulenge refugee community. The Banyamulenge claimed the deportations were in retaliation for their support of dissident former RCD/G Commander Patrick Masunzu; the Government claimed the deportations were a result of Banyamulenge involvement in arms trafficking. According to the UNHCR, the Banyamulenge were deported safely from the country.

On May 18, rebels from the the Forces for the Defense of Democracy (FDD) killed two gendarmes and kidnaped Evariste Nduryibua, the Catholic Bishop of Ruyigi, near the Kiriba forest; the Bishop was released unharmed on May 23.

On May 27, in the town of Buhonga, Bujumbura Rural Province, two persons disappeared during an ambush perpetrated by rebels of unknown affiliation, according to League Iteka. No action had been taken against the responsible rebels by year's end, and the whereabouts of the victims remained unknown.

On August 29, in Makamba Province, armed intruders kidnaped a university student from his parents' house. The victim was later released after a ransom was paid. No action had been taken against the responsible kidnapers by year's end.

In November Human Rights Watch (HRW) interviewed a child soldier who had been kidnaped in November 2001 when he was 11 years old by FDD; he claimed to have been forced to work as a porter and to perform other general tasks for the FDD. The youth, who said he had tried to escape 4 times and repeatedly was beaten, reported that numerous other child soldiers between 14 and 16 years of age had been kidnaped and were working with the FDD.

There were no further developments in the August 2001 case in which rebels abducted four persons in Rumonge commune. Two of the four remained missing at year's end, and no action had been taken against the responsible rebels.

In November 2001, FDD rebels kidnaped approximately 250 Musema high school students; the remaining captive students were released in January.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Transition Constitution prohibits such practices; however, members of the security forces continued to torture and otherwise abuse persons. Persons died from torture during the year (*see* Section 1.a.).

On March 1, League Iteka released its annual report, which charged that torture remained widespread in the country. In June Human Rights Minister Alphonse Barabcirca reportedly said that torture remained a daily occurrence for citizens of the country.

In September Amnesty International (AI) released a report indicating that the torture of children in prisons was widespread. Based upon interviews that were conducted in March, the report detailed beatings using electric flexes, sticks and other weapons, beatings on the soles of feet and joints, and being tied in excruciating positions for long periods of time. The report noted that the children interviewed displayed scars consistent with their stories and that the practice of incarcerating children with adults exposed the children to sexual abuse while in detention.

In October 2001, the Burundian Association for the Defense of the Rights of Prisoners (ABDP), a local NGO, conducted a survey on the use of torture in Mpimba prison in Bujumbura and in the provincial prisons and detention centers in Rumonge, Gitega, Rutana, Muramvya, Ruyigi, Bubanza, Bururi, and Ngozi Provinces. The ABDP estimated that prison officials and security forces had tortured up to 45 percent of the prison population.

On June 4, in the town of Buhiga, Karuzi Province, soldiers tortured two persons, according to League Iteka. No action had been taken against those responsible by year's end.

No action reportedly was taken in the March 2001 case in which police in Gitega tortured Methode Nkurunziza, who later died; and in the May 2001 case in which a district administrator and three merchants in Bweru commune, Ruyigi Province, beat to death Emmanuel Ntikarahera.

Security forces beat at least one journalist during the year (*see* Section 2.a.).

Unlike in the previous year, there were no specific reports that members of the security forces raped women.

No action had been taken by year's end against the responsible parties in the following 2001 rape cases: the rapes by soldiers of numerous women following fighting in February and March between security forces and rebels; the April rape of an 80-year-old woman in Kinama by 3 soldiers and a civilian; and the July rape by soldiers of a 12-year-old girl.

Security forces used excessive force to disperse demonstrations, resulting in deaths and injuries during the year (*see* Section 2.b.) No action had been taken by year's end against the gendarmes who beat representatives of the G-8 Tutsi parties after preventing them from holding a press conference in May 2001 in Bujumbura.

Government troops used excessive force in areas where there were civilians and sometimes targeted Tutsi civilians (*see* Section 1.g.).

No action was taken against members of the security forces responsible in the following 2000 cases: The February beatings by police of several demonstrators; the February torturing to death of a domestic servant by a police officer; the May torture and decapitation of a man in the Kavumu regroupment camp; the November case in which government troops injured civilians after forcing them to remove foliage near a battleground; the December case in which security forces forcibly dispersed a group of students; and the numerous rapes of women in regroupment camps by government soldiers.

Impunity for those who committed serious human rights violations, and the continuing lack of accountability for those who committed past abuses, remained key factors in the country's continuing instability. The security forces did not cooperate with civilian prosecutors or magistrates, especially in investigations involving members of the security forces.

Several persons were killed or injured during the year when landmines laid by government and rebel forces exploded (*see* Section 1.g.).

Members of the Guardians of the Peace were unpaid and poorly trained; some were conscripted. There were credible reports that the Guardians of the Peace also recruited children to provide a quasi-police presence in public places such as markets; some of these children reportedly were sent to the front lines. Members of the Guardians of the Peace were required to turn in their weapons and ammunition at the end of their shifts and to account for any missing ammunition; it was unknown if this occurred in practice. There were credible reports that members of the Guardians of the Peace beat, raped, harassed, extorted money from and in some instances killed civilians.

Rebels killed, beat, and stole from civilians, and kidnaped and raped women (*see* Sections 1.b. and 1.g.).

On February 14, a 12-member commission released a report to the Minister of Justice, which noted severe overcrowding, dangerous conditions for both guards and inmates, deficiencies in both food and hygiene, and prolonged pretrial detention; however, a UNICEF report released in May indicated that progress had been made in terms of prison sanitary conditions, food and education programs.

Prison conditions remained harsh and sometimes life threatening. Conditions in prisons run by the Ministry of Justice continued to improve, largely due to efforts by the ICRC and a local NGO to improve sanitation, hygiene, medical care, food, and water. Prisoners still relied on family members to provide an adequate diet, and some prisoners died from disease and malnutrition. According to government officials, prisoners suffered from digestive illnesses, dysentery, and malaria. Severe overcrowding persisted. According to the Government, 9,013 inmates were held in facilities built to accommodate a maximum of 3,650 persons during the year. A local NGO estimated that the prison population was more than 12,000.

Women were detained separately from men. There were approximately 160 children in prisons during the year; juvenile prisoners were held with and often treated as adults. Children sometimes were subjected to torture or sexual exploitation. Political prisoners often were not held separately from convicted prisoners. Pretrial detainees generally were held in detention camps; however, some also were incarcerated with convicted prisoners.

International and local human rights monitors were permitted to visit most prisons and to speak with inmates; however, they were denied access in some cases (*see* Section 4). The ICRC reached a formal agreement in 2001 with the Interior Ministry regarding access to prisoners and detained persons, including persons detained for "reasons relating to the conflict." Similar agreements between the ICRC and the Ministries of Justice and Defense already were in place. The Ministries cooperated with the ICRC.

*d. Arbitrary Arrest, Detention, or Exile.*—The criminal code prohibits arbitrary arrest, detention, and exile; however, the code was not respected, and security forces arbitrarily arrested and detained persons. The law requires arrest warrants, and presiding magistrates were authorized to issue arrest warrants. Police and gendarmes could make arrests without a warrant but were required to submit a written report to a magistrate within 48 hours. The criminal code requires that suspects appear in court within 7 days; however, not all aspects of the code were respected, particularly the section that requires that detainees be charged and appear in court within 7 days of their arrest. The U.N. reported some improvement in this area during the year. A magistrate could order the release of suspects or confirm charges and continue detention, initially for 15 days, then subsequently for periods of 30 days, as necessary to prepare the case for trial. The police were required to follow the same procedures as magistrates; however, the police have detained suspects for extended periods without announcing charges, certifying the cases, or forwarding them to the Ministry of Justice as required. Human rights organizations and the U.N. reported that incommunicado detention existed, although the law prohibits it. Bail was permitted in some cases. Limits on the length of pretrial detention were not respected.

The disruption of the political process and the generally poor security conditions severely impeded the judicial process. The majority of persons arrested on criminal charges since October 1993 remained in pretrial custody. The ICRC estimated that 2,000 to 3,000 persons were held in pretrial detention in the approximately 60 temporary detention camps run by the ICRC. Family members were expected to provide all food for detainees, although in some instances family members were not notified of the detention of their relatives. There were credible reports that some detainees were kept in these camps, which were designed for temporary use, for extended periods of time.

There were numerous instances of arbitrary arrest, including an arrest of a journalist and arrests of demonstrators during the year (*see* Sections 2.a. and 2.b.). Police also arrested a union member during the year (*see* Section 6.a.).

Opposition politicians also were arrested arbitrarily. For example, on October 6, the presidential police arrested Charles Mukasi, head of the opposition political party UPRONA, in advance of his party's national congress; he was released on November 29. On November 2, the Government placed under house arrest former President and PARENA party leader Jean-Baptiste Bagaza, who on June 29 had returned from self-imposed exile. Bagaza remained under house arrest at year's end.

The law does not provide for forced exile, and the Government did not use forced exile as a means of political control; however, many persons remained in voluntary exile in Belgium, Kenya, Tanzania, the Democratic Republic of the Congo (DRC),

and elsewhere. Some senior authorities kept members of their families outside the country. Pancrace Cimpaye, the publisher of the FRODEBU opposition newspaper *La Lumiere*, remained outside the country at year's end. A significant number of self-exiled Hutu politicians moved back to Burundi during 2001; however, 31 reportedly returned only with the understanding that South African forces would protect them.

*e. Denial of Fair Public Trial.*—The Transition Constitution provides for an independent judiciary; however, in practice the judiciary was not independent of the executive and was dominated by ethnic Tutsis. Many citizens have lost confidence in the system's ability to provide even basic protection. Reform of the judicial system was a priority of the 2000 peace accord, which has not yet been fully implemented. An international human rights organization estimated that ethnic Hutus accounted for only 10 percent of the country's lawyers and 5 percent of High Court judges; in lower courts, 10 percent of the judges were Hutu, although Hutus constituted an estimated 85 percent of the population. This discrepancy in part was due to unequal access to education, and in part to the conflict because a number of Hutu judges and lawyers were killed or fled the country. Most citizens assumed that the courts promoted the interests of the dominant Tutsi minority; members of the Hutu majority believed that the judicial system was biased against them. The Chief Prosecutor, who was Hutu, continued to lead the Government's effort to recruit Hutu attorneys living abroad to return to the country; during the year, 10 of those who returned were hired to serve as magistrates.

The judicial system was divided into civil and criminal courts with the Supreme Court at the apex. The armed forces had a separate judicial system, and there was a labor court.

The law provides for an independent military court system, which in practice was influenced by the executive and higher ranking military forces. Courts of original jurisdiction for lower ranking military offenders were called "War Councils," and one existed in each of the five military districts. A court martial tribunal of appeals heard appeals of war council decisions and also had trial jurisdiction for mid-ranked military offenders up to the rank of Colonel. Military courts had jurisdiction over military offenders and civilians accused of offenses implicating members of the military. Defendants were not provided attorneys to assist in their defense, although NGOs have provided some defendants with attorneys in cases involving serious charges. Trials generally were open to the public; however, they could be closed for compelling reasons, such as national security or "scandalous accusations against prominent people."

In all cases, the Constitutional Court has the ultimate appellate authority; however, in practice few cases of lower ranking offenders reached this level. Procedures for civilian and military courts were similar; however, military courts reached decisions more quickly, and trials generally failed to meet internationally accepted standards for fair trials.

Citizens generally did not have regular access to civilian and military court proceedings. Defendants in theory were presumed innocent and had the right to appeal; however, in practice the structure of the court system inappropriately limited the possibility of appeals of defendants accused of the most serious crimes, according to legal observers. While defendants had a right to counsel and to defend themselves, in practice few had legal representation. The civil court system functioned, but the lack of a well-trained and adequately funded judiciary limited expeditious proceedings.

The criminal code provides for suspects' rights to a lawyer before official charges were filed and during pretrial investigations. Authorities sometimes were unable to carry out their investigations or transport suspects and witnesses to the appropriate court because of lack of resources and poor security conditions. The Government postponed fewer trials than in previous years.

According to the law, persons had the right to appeal to the military's court of appeal, then to the Supreme Court, and then to the President for clemency; however, this did not occur in practice.

The traditional Burundian court system, the "Bashingantahe," stressed settlement and reconciliation of disputes and was recognized officially by the Government. A Bashingantahe opinion often was necessary before access was granted to the formal civil court system. The Bashingantahe was limited to civil and minor criminal matters and had no jurisdiction over serious criminal matters.

The Government held political prisoners. An international organization estimated that up to 2,000 of all convicted inmates were being held for political crimes; however, no reliable figures were available. Charges against defendants convicted for nonpolitical crimes sometimes were politically motivated. In December 2001, a commission of international legal experts arrived in the country to examine the judicial

system and to identify political prisoners. An ad hoc committee has been formed but has yet to make any recommendations concerning the release of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Transition Constitution provides for the right to privacy; however, the authorities did not respect the law requiring search warrants. Security forces widely were believed to monitor telephones regularly.

There were numerous reports during the year that the army looted and destroyed houses whose occupants were accused of harboring rebels (*see* Section 1.g.).

During April and May, in Ruyigi Province, the army forced more than 30,000 civilians from their homes into “protection camps.” Soldiers reportedly forced people to walk to the camps by firing rifles into the air. The army denied NGOs access to the camps to aid those suffering from malnutrition and disease. Camp residents, who were denied adequate food, sanitation facilities, and water, were allowed to cultivate their fields only 2 days a week. Soldiers reportedly stole livestock from the local population and cooked it with firewood obtained by chopping up desks stolen from a local school.

A National Assembly committee on human rights launched an investigation into the May 2000 arrest of seven residents of the Kavumu regroupment camp, one of whom was found decapitated; however, no findings were made public by year’s end.

There were numerous reports of rebel forces imposing taxes on the civilian populace and confiscating property such as chickens, cattle, and other items of value (*see* Section 1.g.).

*g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—The ongoing conflict resulted in numerous serious abuses against the civilian population by government and rebel forces during the year; generally no action was taken against the perpetrators. Government forces killed numerous Hutu and Tutsi civilians following fighting with rebels, in reprisal for rebel attacks, and for suspected collaboration with rebels. Abuses included civilian massacres, the looting and burning of houses, armed attacks on noncombatants, the conscription of children into the military, the displacement of sizable numbers of persons, and the rape of women. Security forces prevented international humanitarian aid agencies from reaching some areas of the country (*see* Section 2.d.).

On August 22, army spokesman Colonel Augustin Nzabampema warned that civilians who did not disassociate themselves from rebel forces would be considered enemies. On August 26, the Minister of the Interior and Public Security issued a statement in support of the warning and reiterated that civilians complicit with the rebels would be considered rebels themselves.

In February armed forces in Bubanza Province killed 30 Hutu civilians, many of whom were burned to death or killed with bayonets.

In May 12, in Giharo commune, Rutana Province, members of the army and Guardians of the Peace reportedly killed several civilians and looted and burned houses. HRW reported that on July 19, in Kiganda commune in Muramvya Province, the army killed approximately 30 civilians.

During an August 4 shootout with alleged FNL rebels in the town of Migera, Bujumbura Province, government soldiers reportedly killed 18 civilians who had just left a church mass.

HRW reported that on August 25, in Rutegama commune, Muramvya Province, the army killed more than 50 civilians.

In the largest reported massacre of civilians during the year, on September 9, army soldiers reportedly killed more than 500 civilians in Itaba commune, Gitega Province. On October 3, the Government arrested three army officers, who remained in prison at year’s end, in connection with the massacre.

No action reportedly was taken against members of the security forces responsible for the following killings in 2001: The February killings in Kinama of more than 200 civilians accused of collaboration with the rebels; the February killings in Gishubi commune, Gitega Province, of more than 50 civilians by government forces; the March killings in Kanyosha commune of 2 women following a battle with rebel forces; the April killings in Ruburizi section of Bujumbura Rural Province of approximately 30 civilians; the June killing of 9 civilians in Bujumbura who were mistaken for rebels; the October 25 killings in Bubanza Province of at least 6 women and 2 children; the October killings in Muzinda, where government forces killed 11 civilians, including 2 students; and the November killings in Maramya, Bujumbura Rural Province, of 42 civilians.

The soldier arrested for the April 2000 killing of a local Bujumbura government official and four members of the official’s family allegedly in retaliation for the killing of four soldiers by rebels remained in detention pending trial at year’s end.

No action was taken, nor is any likely to be taken, against members of the security forces responsible for the following killings in 2000: The June killings of 69 persons in Taba commune, Gitega Province; the July killings of 53 persons by soldiers in Butaganzwa commune, and the August killings of 35 civilians by soldiers in Nyambuye zone, Bujumbura Rural Province.

In many cases, it was unknown whether government or rebel forces were responsible for the killings of civilians during the course of fighting. For example, on April 6, in the town of Gihanga, Bubanza Province, more than 20 civilians were killed during a conflict between government and rebel troops. On August 26, in the towns of Muyira and Nyambuye, Bujumbura Rural Province, 30 civilians, including 17 women and 7 children, were killed. On September 21, in Kabezi commune, Bujumbura Rural Province, 1 child was killed and 40 civilians were injured during an army attack against FNL rebels.

Landmines placed by government or rebel troops continued to result in civilian deaths and injuries. There were reports that the Government continued to lay landmines during the year. According to League Iteka, on June 22 in Rusengo, Ruyigi Province, one person was killed and two were injured when their bus struck a landmine. In a similar incident on July 16, one person was killed and two were injured when their van struck a landmine.

Rebels killed, beat, and stole from civilians, and kidnapped and raped women (*see* Section 1.b.).

Rebel forces killed numerous civilians during the year and committed serious abuses against the civilian population. Hutu rebels killed Hutu and Tutsi civilians; Hutu rebels sometimes deliberately targeted and killed Tutsis. There are no definitive statistics available on how many persons were killed by Hutu rebels. The Government stated that rebels were responsible for the majority of civilian casualties. There were no reports that rebel forces prosecuted or punished any members of their groups who were responsible for the abuses.

Rebels also killed a priest, administrative leaders, a journalist, and civilians suspected of collaborating with the Government (*see* Sections 1.a. and 2.c.). For example, on May 7, in the town of Kazirame, Bujumbura Rural Province, FNL rebels reportedly killed 10 civilians for allegedly collaborating with the national army. On June 14, in Cibitoke Province, FNL rebels reportedly killed 13 civilians in a roadside ambush. On August 7, rebels attacked the Kabezi commune and killed 20 persons. On October 8, in the town of Ruyigi in Ruyigi Province, FDD rebels killed 2 administrative leaders; and on October 10, in the town of Ngeru, they killed another administrative leader. No action had been taken against any of the perpetrators by year's end.

Rebel forces reportedly often killed persons for their refusal to pay "taxes" to rebels. There were numerous reports during the year that Hutu rebels ambushed minibuses carrying persons on national highways, and robbed and killed the occupants. U.N. security forces reported numerous ambushes during the year; however, no exact figure was available.

In 2001 there also were numerous cases in which rebel forces ambushed vehicles.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Transition Constitution does not impose restrictions on the media; however, the Government restricted freedom of speech and of the press. A press law requires that newspaper articles undergo review by a government censor 4 days before publication. The Government controlled the media and harassed and detained journalists. Journalists practiced self-censorship.

The Government restricted freedom of speech during the year; however, unlike in the previous year, there were no reports that security forces arrested persons for making false statements.

Unlike in the previous year, the Government did not interrogate NGO employees.

The Government controlled much of the news, since it owned the only regularly published newspaper and the major radio and television stations. The Government-owned newspaper *Le Renouveau* was published three times a week. The one opposition newspaper, *La Lumière*, ceased publication in March 2001 after it published lists of colonels, their hometowns, and their ownership shares in parastatal companies; the owner received threats from unknown persons and as a result decided to cease publishing (*see* Section 1.d.). Political tracts circulated, and two private faxed newsheets, *Azania* and *NetPress*, were published almost daily and represented mainly Tutsi political viewpoints. In February the Government banned *Netpress*, claiming that it imposed the ban to defend professional journalistic standards; other reports charged that the Government disagreed with the content of the publication. The ban was lifted on February 22.

On March 16, the Government suspended Azania for 1 month, and accused it of plagiarizing stories.

On July 31, the Government banned the newspaper PanAfrika for publishing “extremist and subversive” material regarding the dismissal of Mathias Hitimana, the former Minister of Energy and Mines.

The Government and its security forces harassed journalists, questioned and detained them, and searched and seized their property. On March 7, the Government arrested journalist Aloys Niyoyita, who was beaten before being released without charge after 4 hours in custody.

The Government-owned radio broadcast in the Kirundi language, French, and Swahili, and offered limited English programming. The independent radio station, Radio Bonesha, formerly Umwizero, continued its broadcasts in French, Kirundi, and Swahili, and the independent station Radio Public Africa (APR) broadcast in French, Kirundi, and Swahili; both stations received funding from international donors. Listeners could receive transmissions of the British Broadcasting Corporation (BBC), the Voice of America, and Radio France Internationale. Citizens were allowed to work as local stringers for foreign news organizations and filed reports regularly. Due to widespread poverty and limited literacy, radio remained the most important medium of public information.

The Government remained very sensitive to reporting on the country’s internal conflict, and continued to threaten independent radio stations with shutdown if they disseminated reports that contradicted the official line.

On May 15, APR broadcast journalist Alexis Sinduhije was summoned to appear before a committee composed of the chief of intelligence and the Ministers of Defense, Interior, and Communications. Sinduhije was accused of compromising a defense secret by broadcasting a story about a national defense operation under preparation. The National Communications Council subsequently warned journalists to respect defense secrets, broadcast only truthful information, and respect the private lives of citizens.

On May 16, the National Communications Commission issued an order prohibiting APR from broadcasting interviews with rebel leaders or reporting further on the November 2001 murder of Dr. Manlan, the country director for WHO (see Section 1.a.). On June 1, five APR journalists were summoned to appear before the Prosecutor General and admonished for reporting on Manlan’s murder; however, no further action was taken against the journalists.

On July 8, the National Radio and Television station (RTNB) banned the airing of a report on the return of former President Bagaza.

In July the Government threatened the manager of Radio Bonesha after it broadcast a story concerning cease-fire talks between the Government and rebels. He increased his self-censorship after the incident.

On August 28, APR ceased broadcasting after the Government Communication Control and Regulation Agency on August 23 began jamming its broadcasts due to unpaid fees; APR resumed broadcasting on September 3.

On August 28, RTNB reported that the National Communications Council issued an order prohibiting websites from containing propaganda against the Government or information against the cause of peace and reconciliation.

No laws or regulations limit academic freedom, and no action was taken against persons at the University of Burundi for what they published or said. Staff and students at the university remained primarily ethnic Tutsi, and tensions have flared occasionally between Hutu and Tutsi students on campus, where politically and ethnically motivated killings occurred in 1995 and 1996.

Authorities used excessive force to disperse student demonstrations, resulting in deaths and injuries (see Section 2.b.).

On August 5, journalist Amissi Bizimana was killed in crossfire between government forces and FNL rebels.

*b. Freedom of Peaceful Assembly and Association.*—The Transition Constitution permits political demonstrations; however, the Government restricted freedom of assembly. Government permits were required for public meetings and demonstrations, and applications routinely were routinely denied to groups that criticized or opposed the Government.

On March 4, gendarmes reportedly beat a member of the Banyamulenge tribe during a protest march outside the offices of the U.N. High Commissioner for Refugees (UNHCR).

On May 2, Diomede Rutamucero, leader of the pro-Tutsi PA-Amasekanya party, and six other persons were arrested outside of the National Assembly, where they were protesting proposed legislation that would give provisional immunity to politicians accused of committing genocide. The six demonstrators were released shortly thereafter; Rutamucero was held for 5 weeks before being released. On May 16, out-



side the office of the Prosecutor-General, security forces forcibly dispersed demonstrators protesting Rutamucero's detention. On September 1, Rutamucero was re-arrested while jogging with four PARENA members, who also were arrested. All were fined and released after 4 days in custody.

Unlike in the previous year, there were no arrests of individuals for organizing unauthorized demonstrations.

Security forces used excessive force to disperse demonstrations during the year, which resulted in deaths and injuries; no action was taken against the responsible parties. For example, on May 23, in Bujumbura, Gitega, and Matana, gendarmes opened fire on students demonstrating in support of a countrywide teachers union strike; two students were killed and several were injured. On April 28, police reportedly shot and killed one student during a demonstration of the Youth Association for Rebuilding a Destroyed World.

No action was taken against security forces responsible for the violent dispersal of demonstrations in 2001, including the May beating of representatives of the G-8 Tutsi parties.

Unlike in the previous year, the Government did not ban meetings by mainly Tutsi groups critical of government policy and the peace process.

The Government restricted freedom of association and arrested members of organizations and political parties (*see* Section 1.d.). Private organizations were required to present their articles of association to the Ministry of Interior for approval, a process that could take years if the Government disliked the organization. The Transition Constitution permits political parties to operate; however, the Government placed restrictions on groups that criticized its policies.

Following the November 2 house arrest of PARENA party leader Bagaza, the Interior Minister on November 7 suspended the PARENA party for 6 months.

*c. Freedom of Religion.*—The Transition Constitution provides for freedom of religion, and the Government generally respected this right in practice. There was no state religion; however, the Catholic Church, which represented approximately 60 percent of the population, was predominant.

The Government required religious groups to register with the Ministry of Internal Affairs, which kept track of their leadership and activities. The Government required that religious groups have a headquarters in the country.

On August 5, FDD rebels in Kigihu, Rutana Province, reportedly killed parish priest Peter Tondo.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Immigration, and Repatriation.*—The Transition Constitution provides for these rights; however, the Government restricted them in practice. There was a government-imposed curfew in parts of the country; in Bujumbura the curfew began at 11 p.m. and ended at 5 a.m.

During April and May, in Ruyigi Province, the Government forcibly regrouped more than 30,000 civilians into camps. Humanitarian groups were denied access, and the movement of camp residents was restricted (*see* Section 1.f.).

The Government cited insecurity in rural areas in denying access to some areas of the country to human rights observers (*see* Section 4).

The majority of citizens could travel legally in and out of the country. Travel within the country was possible but could be hazardous in areas of rebel activity, particularly in parts of Bujumbura Rural, Bururi, Rutana, Ruyigi, and Makamba Provinces. Rebel attacks on buses and minibuses throughout the year resulted in numerous deaths and injuries.

According to UNHCR, more than 387,000 IDPs lived in 212 sites at year's end, which represented approximately 5 percent of the total population. Many were Tutsis who fled to other parts of the country in 1993 because of ethnic violence and never returned home. Soldiers generally did not restrict the movement of residents of IDP camps and provided a measure of protection to camp inhabitants; however, security forces prevented access by international humanitarian aid agencies to some of the IDPs in remote sections of Bujumbura Rural and Ruyigi Provinces. There were no reports of abuses committed against IDPs during the year. Camp inhabitants often were required to perform labor for the soldiers without compensation (*see* Section 6.c.).

Approximately 200,000 IDPs lived outside displacement sites and stayed with friends, families, or on their own, beyond the reach of aid programs. Some persons who remained outside the sites reportedly were killed by the armed forces on suspicion of collaborating with the rebels and by Hutu rebels allegedly for collaborating with authorities (*see* Section 1.a.).

The law does not provide for the granting of asylum or refugee status in accordance with the provisions of the 1951 U.N. Convention on the Status of Refugees and its 1967 Protocol; however, there was a special ad hoc administrative body in the Government that coordinated refugees, and the Government cooperated with the UNHCR and other humanitarian organizations assisting refugees. The Government has granted first asylum in recent years. Approximately 27,000 citizens of the DRC lived in the country; 3,800 were registered with the UNHCR. Approximately 1,000 Rwandan refugees remained in the country during the year.

According to the U.N., more than 370,000 Burundian refugees, most of them Hutus, remained in Tanzania. Estimates of "old caseload" refugees—many of whom fled as early as 1972 or following the October 1993 assassination of former president Ndadaye—ranged from 200,000 to 400,000. Such refugees were not assisted by UNHCR and therefore not encamped under UNHCR auspices in the system of camps in Western Tanzania. Estimates of the total number of Burundians living in Tanzania at year's end ranged from 570,000 to nearly 800,000. More than 23,000 additional refugees, most of them Hutu, were in Angola, Cameroon, the DRC, the Republic of the Congo, Kenya, Malawi, Rwanda, and Zambia.

By year's end, approximately 115,000 Burundian refugees had registered to repatriate from Tanzania; UNHCR had facilitated approximately 31,100 voluntary repatriations. However, this was offset by the arrival of 30,000 new refugees and the birth of 10,000 to 20,000 children in the camps. During the last 6 months of the year, repatriation slowed due to an increase in fighting. Many of the 30,000 new Burundian refugees had voluntarily repatriated earlier in the year to areas that later became unstable again.

On January 18, members of the Banyamulenge tribe were deported to Rwanda.

There were no other reports of the forced return of persons to a country where they feared persecution.

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

Citizens do not have the right to change their government. The Transition Constitution makes no specific provision for elections. The 1992 Constitution and 1994 Convention of government were suspended by the Buyoya military regime that assumed power in July 1996, in a bloodless coup. On that date, the regime dissolved the National Assembly and banned political parties. Approximately 3 weeks later, President Buyoya announced the restoration of the National Assembly and political parties with certain restrictions. The opposition party, FRODEBU, which was mostly ethnic Hutu, holds just over half of the National Assembly seats. On November 1, 2001, President Buyoya was sworn in as president for the first 18 months of the 3-year transitional period.

In April 1998, multiparty peace talks began in Arusha, Tanzania, and the Government subsequently launched an internal peace process. In June 1998, Buyoya's regime and the National Assembly entered into a partnership agreement. The National Assembly adopted the Transition Constitution and a transition political platform. The Transition Constitution changed the structure of government by eliminating the post of prime minister, creating one vice president, removing the National Assembly Speaker from the line of presidential succession, and enlarging the National Assembly. The Transition Constitution placed no time limits on the President's or the National Assembly's term of office.

In August 2000, the Buyoya regime and other negotiating parties present at the peace talks signed a peace agreement, which was ratified by the National Assembly in November 2000. The peace agreement instructs the country's next transitional government to hold local, national, and presidential elections within a 3-year period, and to oversee elections for a newly formed Senate; however, this agreement was not implemented fully by year's end. Representation of both Hutus and Tutsis in institutions, including the army, the National Assembly, and the Senate, was a key component of the agreement.

In July 2001, President Buyoya and the regional leaders signed an agreement to begin the 3-year transition period on November 1, 2001. On November 1, 2001, Buyoya was sworn in as President and Domitieh Ndayizeye, the secretary general of FRODEBU, was sworn in as vice president. Under the agreement, they will each serve for 18 months; the G-7 Hutu parties will then select a president, and the G-10 Tutsi parties will select a vice president. All future presidents will be elected by universal suffrage. The Vice President and 14 of the 26 cabinet ministers were members of the G-7 Hutu-based political parties. The cabinet also included 12 Tutsis. Progovernment ethnic Tutsis served as Ministers of Defense and Foreign Affairs.

The transitional political platform endorsed in general terms the restoration of democracy and correction of the ethnic imbalance within the army and the judicial system. It called for the creation of an international tribunal to try crimes of genocide. Although the peace accord also provides for a commission of inquiry on genocide as well as a National Truth and Reconciliation Commission to investigate other crimes, the agreement was not implemented fully, and no commissions were created by year's end.

Under the 1992 Constitution, deposed President Ntibantunganya would have remained in office until 1998. The last elections to fill the National Assembly took place in June 1993. The Transition Constitution stipulates that the National Assembly shall consist of 121 parliamentarians: Those elected in 1993 who sat in the previous National Assembly, plus 40 new members, 28 members of civil society appointed by the President, and 1 representative each (selected by their respective parties) from all 12 officially recognized political parties not previously represented. Not all of those elected in 1993 were alive or in the country, and the vacant seats were filled by substitutes from the same political party as the original parliamentarian. Tutsi supporters of the Government filled 22 of the 40 new seats.

The National Assembly has nominal budgetary oversight, but the Council of Ministers legally can enact a budget if the National Assembly fails to do so. The Transition Constitution gives the President the authority to declare a state of emergency by decree after consulting with the National Assembly Speaker, the Constitutional Court, and the National Security Council, which has not been convened since 1996.

Political parties operated under significant constraints; however, unlike in the previous year, the Government did not ban meetings of groups critical of government policy and the peace process. Police often prevented or disrupted political demonstrations and arrested opposition politicians (*see* Sections 1.d. and 2.b.).

There were no laws that restricted the participation of women in the political process. There were 17 women in the 185-seat National Assembly and 10 women in the 53-seat Senate. Of the 26 cabinet seats, women filled 4: The Minister of Social Affairs; the Minister of Reintegration of Refugees; the Minister of Development, Planning and Reconstruction, and the Minister at the Presidency for HIV/AIDS. Two of the nine members of the Supreme Court were women, as were three of the seven Constitutional Court members, including its president.

There were no laws that restricted the participation of minorities in the political process. Approximately 1 percent of the population was Twa (Pygmies), but there were no Twa in the Cabinet. One Twa was an appointed member of the National Assembly, and two were members of the Senate.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Domestic human rights groups received varying degrees of cooperation from government ministries. The local human rights group, League Iteka, continued to operate and publish a newsletter. Human Rights Watch maintained an office in the country. The U.N. Special Rapporteur for Human Rights visited twice during the year. The office of the UNHCR maintained a three-person observer team in the country.

The Government cited insecurity in rural areas in denying access to journalists, international relief workers, and human rights observers to some areas of the country (*see* Section 2.d.). Army elements in the field frequently denied access to human rights observers to areas where the army was accused of human rights violations. Human rights NGOs frequently were unable to investigate reports of killings because of these restrictions. Many areas of the country, particularly near Bujumbura, near the border with the DRC, and near the border with Tanzania, remained off limits for normal operations.

Unlike in the previous year, there were no reports that the army interrogated NGO employees.

#### *Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Transition Constitution provides equal status and protection for all citizens, without distinction based on sex, origin, ethnicity, or opinion; however, the Government failed to implement effectively the Transition Constitution's provisions, and discrimination persisted. The Tutsi-dominated government and army discriminated against the Hutus. Discrimination against persons with disabilities was a problem.

*Women.*—Domestic violence against women was pervasive; however, inadequate data made it impossible to quantify. Wives had the right to charge their husbands with physical abuse, but they rarely did so. Police normally did not intervene in domestic disputes, and the media rarely reported incidents of violence against women. The law does not specifically prohibit domestic violence; however, persons accused

of domestic violence could be tried under assault provisions of the law. No known court cases have dealt with the abuse of women. The Government rarely investigated such cases, and prosecutions were rarer still. According to League Iteka, women were beaten by their husbands, forced out of their homes, denied basic food necessities, and denied freedom of movement.

The law prohibits rape, which is punishable for up to 20 years' imprisonment. Rebel forces raped women during the year (*see* Section 1.g.).

Prostitution was a problem. According to the Women's Commission for Refugee Women and Children, the ongoing conflict has forced many women into prostitution to feed their children. Increased prostitution has contributed to the growing incidence of HIV/AIDS.

Women faced legal and societal discrimination. Discriminatory inheritance laws and credit practices continued. By law women must receive the same pay as men for the same work, but in practice they did not. Women were far less likely to hold mid-level or high-level positions. In rural areas, women traditionally performed arduous farm work, married and had children at an early age, and had fewer opportunities for education than men.

Several local groups work in support of women's rights, including the Collective of Women's Organizations and NGOs of Burundi and Women United for Development.

*Children.*—The law provides for children's health and welfare, but the Government could not satisfy adequately the needs of children and, in particular, of the large population of children orphaned by the violence since 1993 and by HIV/AIDS. Many of the victims in the civil war were children, and many children have lost family members and witnessed violence.

More than a quarter of the primary schools have been destroyed in the war, and many teachers have been killed. Teacher training has been interrupted, and it was difficult to find qualified teachers to work in the provinces most affected by fighting. The Government provided elementary education at nominal cost through grade six; however, inequitable distribution of educational resources favored those children in southern and central areas of the country, according to International Alert, an international NGO. Education was not compulsory. Approximately one-third of primary school-aged children attended school in 1999; less than 9 percent of children aged 13 to 19 years attended school.

According to the Women's Commission for Refugee Women and Children, school attendance rates for girls were well below school attendance rates for boys, and girls comprised only 44 percent of primary school students and 30 percent of secondary school students. Female illiteracy was a problem. Only 22 percent of women were literate compared to 46 percent of men. Only 25 percent of university students were women.

Unlike in the previous year, there were no reports that rebels abducted children and teachers during the year; however, on July 8, an FDD rebel bombardment of Ruyigi destroyed a school.

The ongoing conflict and increasing prevalence of HIV/AIDS has increased the number of orphans, which has resulted in an increase in the number of street children. Child prostitution was a problem (*see* Section 6.f.).

The minimum age for military service was 18, but observers believed that there were some children below that age in the military. Children continued to serve in the armed forces, and the U.N. Special Representative reported in December that both the Government and rebel groups continued to recruit child soldiers. There also were credible reports that the Guardians of the Peace recruited children to provide a quasi-police presence in public places such as markets; some of these children reportedly were sent to the front lines. In 2001 the National Assembly voted in favor of the ratification of the Additional Protocol Against Child Soldiers. The President has the authority, with the approval of the National Assembly, to issue a decree ratifying the Protocol and to transmit an instrument of ratification; however, there was no information on whether the decree had been issued or whether the Government deposited its instrument of ratification of the Protocol.

*Persons with Disabilities.*—The Government has not enacted legislation or otherwise mandated access to buildings or government services for persons with disabilities. Discrimination against persons with disabilities was a problem. There were few job opportunities for persons with physical disabilities in the country because most jobs involved significant manual labor.

*Indigenous People.*—The Twa (Pygmies), who were believed to be the country's earliest inhabitants, comprised approximately 1 percent of the population and generally remained marginalized economically, socially, and politically (*see* Section 3).

Most Twa lived in isolation, without formal education, and without access to government services including health care.

*National/Racial/Ethnic Minorities.*—The principal national problems continued to be ethnic conflict between the majority Hutus and the minority Tutsis and the regional inequities between southern Bururi Province and much of the rest of the country. Almost 4 decades of violence and systematic societal discrimination have exacerbated the genocide and exclusion fears of both Tutsis and Hutus. Tutsis claimed to have been the targets of genocide carried out in 1993 by Hutus angered by the assassination of democratically-elected Hutu president Ndadaye. The Tutsis, particularly southern Tutsis, historically have held power, and they dominated educated society and controlled the security forces. In 1996 Major Pierre Buyoya, a southern Tutsi, deposed President Ntibantunganya, a central Hutu, in a coup.

State discrimination against Hutus, who constitute an estimated 85 percent of the population, affected every facet of society, but most strikingly in higher education and certain branches of the Government, such as the armed services and the judicial system. The President and the Tutsi-dominated army retained their dominance in decision-making and did not share power equally with Hutu members of the Government. Northern and eastern Tutsis also had a more difficult time acceding to positions of power.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Labor Code protects the rights of workers to form unions; however, the army, gendarmerie, and foreigners working in the public sector were prohibited from union participation. All employees in the public sector, except those prohibited by law, were unionized, and most union workers were urban civil servants. Tutsis dominated the formal sector of the economy and the unions. According to the Confederation of Free Unions of Burundi (CSB), an umbrella trade union, 60 percent of the 80,000 formal private sector employees were unionized.

The CSB was dependent financially on a system of checkoffs, or voluntary contributions, as was a rival trade union, COSYBU. The Government has interfered in the COSYBU's selection process by refusing to recognize union leaders selected by members in union congresses. However, unlike in the previous year, the Government recognized Pierre-Claver Hajayandi as COSYBU President, although it prevented him from giving the traditional Labor Day address. On May 1, the Government also excluded other labor union representatives from participation in official ceremonies because of ongoing wage disputes.

The Labor Code permits the formation of additional unions or confederations outside the CSB. When settling disputes in which more than one labor union was represented, the law stipulates that the Minister of Labor must choose the union representing the greatest number of workers to participate in the negotiations; however, according to the national union of secondary school teachers (SNES-FSU), the Government did not always respect this provision.

Unlike in the previous year, there were no arrests of individuals for organizing unauthorized demonstrations.

On May 24, police arrested a member of the CONAPES labor union during a demonstration; no further information was available.

The International Labor Organization (ILO) has cited the Government for several violations of ILO Convention 87 on freedom of association. The Committee of Experts expressed specific concern about the denial of trade union rights for public servants and juveniles; the election of trade union leaders; and the rights of unions to organize, administer activities, and defend the interests of their members.

The Labor Code prohibits employers from firing or otherwise discriminating against a worker because of union affiliation or activity, and this right was upheld in practice.

Unions were able to affiliate with international organizations.

*b. The Right to Organize and Bargain Collectively.*—The Labor Code recognizes the right to collective bargaining, formerly acknowledged only by ordinance. Since most workers were civil servants, government entities were involved in almost every phase of labor negotiations. Both COSYBU and the CSB represented labor in collective bargaining negotiations in cooperation with individual labor unions during the year.

Public sector wages were set in fixed scales in individual contracts and were not affected by collective bargaining (*see* Section 6.e.). In the private sector, wage scales also existed, but individual contract negotiation was possible.

The Labor Code provides for Labor Court jurisdiction over all labor dispute cases, including those involving public employees. Negotiations were conducted largely under the supervision of the tripartite National Labor Council, the Government's

highest consultative authority on labor issues. The Council represented government, labor, and management, and was presided over and regulated by the Minister of Labor.

The Labor Code provides workers with a restricted right to strike. The restrictions on the right to strike and to lock out included that all other peaceful means of resolution must be exhausted prior to the strike action; negotiations must continue during the action, mediated by a mutually agreed upon party or by the Government; and 6 days' notice must be given. The Ministry of Labor determines if strike criteria have been met. The law prohibits retribution against workers participating in a legal strike; however, in January 2001, the Government declared illegal the strike of 21 trade unions protesting a rise in the price of staple commodities and threatened the strikers with dismissal.

In April members of IGEBU, the union representing government mapmakers and meteorologists, went on strike for a week. Approximately 20 other unions issued a statement in support of STUB; the strike subsequently ended when the Government agreed to an increase in wages and benefits.

On May 13, members of the teachers union began a nationwide strike. Gendarmes shot and killed at least two protesting students and injured several others during demonstrations (see Section 2.b.). On July 8, the strike ended when the Government agreed to a wage increase.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children; however, soldiers guarding IDP sites and soldiers at military posts often required persons to cook, fetch water, chop wood, work in the fields of military leaders, and perform other chores without compensation. The military also required persons to perform regular night watches.

Children continued to serve in the armed forces, and both the Government and rebel groups continued to recruit child soldiers (see Section 5).

Child prostitution was a problem (see Section 6.f.)

Rebel groups forced the rural population to perform uncompensated labor, including the transport of rebel supplies and weapons. Rebels also recruited and used children for labor. Unlike in the previous year, there were no reports that FDD rebel forces abducted primary school students to serve as soldiers. There were no statistics on the number of child soldiers in the country.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Code states that children cannot be employed by “an enterprise” even as apprentices, although it also states that they may undertake occasional work that does not damage their health or interfere with their schooling. In practice children under the age of 16 in rural areas performed heavy manual labor in the daytime during the school year. The World Bank reported that approximately 48 percent of children between the ages of 10 and 14 years worked in 1999. The Government made no effort during the year to enforce child labor laws.

Children were prohibited legally from working at night, although many did so in the informal sector. Most of the population lived by subsistence agriculture, and children were obliged by custom and economic necessity to participate in subsistence agriculture, family-based enterprises, and the informal sector.

The law prohibits forced and bonded labor by children; however, there were reports that it occurred (see Section 6.c.).

The country has not ratified ILO Convention 182 on the worst forms of child labor.

*e. Acceptable Conditions of Work.*—The formal minimum wage for unskilled workers was \$0.21 (160 francs) per day in the cities of Bujumbura and Gitega, and \$0.14 (105 francs) in the rest of the country, with a graduated scale for greater skill levels. This amount did not provide a decent standard of living for a worker and family, and most families relied on second incomes and subsistence agriculture to supplement their earnings. Unionized employees, particularly in urban areas, generally earned significantly more than the minimum wage. Public sector wage scales were set by agreement between the Government and either the CSB or COSYBU; however, an individual employee's position on the wage scale was determined by individual negotiation between the employer and the employee. The Government wage scale has remained unchanged since 1992, but allowances, such as the one for housing, have risen.

The Labor Code stipulates an 8-hour workday and a 40-hour workweek, except in cases where workers were involved in activities related to national security. Supplements must be paid for overtime.

The Labor Code establishes health and safety standards that require an employer to provide a safe workplace and assigns enforcement responsibility to the Minister

of Labor; however, the Ministry did not enforce the code effectively. Health and safety articles in the Labor Code did not address directly workers' rights to remove themselves from dangerous tasks.

Foreign workers are protected by law and were not subject to discrimination; however, they were prohibited from union participation.

*f. Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons, and there were reports of trafficking. The trafficking of women and children for prostitution was a serious problem.

The Government continued a campaign to reduce underage prostitution. Legislation prohibiting the facilitation of prostitution could be used to prosecute such offenses. On March 27, according to the International Organization for Migration (IOM), during a layover in Addis Ababa, Ethiopia, while traveling to Lebanon, two female Congolese refugees who had been living in Burundi declared themselves to be victims of a trafficker. According to the IOM, the women asked to be returned to the DRC. No further information was available.

Children continued to serve in the armed forces, and both the Government and rebel groups continued to recruit child soldiers (*see* Section 5).

## CAMEROON

Cameroon is a republic dominated by a strong presidency. Since the early years of independence, the Cameroon People's Democratic Movement (CPDM) has remained in power. In 1997 CPDM leader Paul Biya won re-election as President in a vote boycotted by the three main opposition parties. Marred by a wide range of procedural flaws, the election generally was considered by observers not to be free and fair. Legislative and municipal elections held during the year were dominated by the CPDM and flawed with irregularities; however, most local and international observers considered them to be transparent. The President retains the power to control legislation or to rule by decree, and has used his control of the legislature to change the Constitution. The Government remained highly centralized and dominated by the presidency. The judiciary was subject to political influence and suffered from corruption and inefficiency.

Internal security responsibilities, also dominated by the Presidency, were shared by the national police (DGSN), the National Intelligence Service (DGRE), the Gendarmerie, the Ministry of Territorial Administration, military intelligence, the army, and to a lesser extent, the Presidential Guard. The police and the Gendarmerie have dominant roles in enforcing internal security laws. The civilian Minister of Defense and the civilian head of police also were responsible for internal security. Security forces continued to commit numerous serious human rights abuses.

The majority of the population of 15.2 million was rural; agriculture accounted for 28.8 percent of gross domestic product (GDP). Economic growth has continued over the past 5 years, despite decreases in world prices for the country's major primary exports, and gross national product growth has averaged 4 to 5 percent annually. However, economic recovery continued to be inhibited by a large inefficient parastatal sector, excessive public sector employment, and the Government's inability to deregulate the economy to attract more investment. Widespread corruption in government and business also impeded growth. Members of the Beti and Bulu ethnic groups dominated government, civil service, and the management of state-owned businesses.

The Government's human rights record remained poor, and it continued to commit numerous serious abuses. Citizens' ability to change their government remained limited. Security forces committed numerous unlawful killings and were responsible for disappearances. They also tortured, beat, and otherwise abused detainees and prisoners, generally with impunity. However, the Government prosecuted a few offenders. Prison conditions remained harsh and life threatening. Security forces continued to arrest and detain arbitrarily various opposition politicians, local human rights monitors, and other citizens, often holding them for prolonged periods, often without charges or a chance for trial and, at times, incommunicado. The judiciary remained corrupt, inefficient, and subject to political influence. The Government infringed on citizens' privacy, and monitored and harassed some opposition activists. The Government continued to impose limits on freedom of speech and press and harassed journalists. The Government restricted freedom of assembly and association. Security forces limited freedom of movement. Violence and discrimination against women and child abuse remained serious problems. Discrimination against indigenous Pygmies continued. Societal discrimination based on religion persisted in some areas; societal discrimination against ethnic minorities continued. The Govern-

ment continued to infringe on worker rights and restricted the activities of independent labor organizations. Child labor remained a serious problem. Slavery reportedly persisted in northern parts of the country. Forced labor, including forced child labor, was a problem. There were reports of trafficking in persons, primarily children, for purposes of forced labor. Mob violence continued to result in some deaths.

RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no confirmed reports of politically motivated killings; however, the security forces continued to use excessive, lethal force against private citizens and committed numerous unlawful killings. During 2001 Douala's military anticrime unit, the Operational Command, reportedly was suspended amid increasing reports of human rights abuses; the status of the Command was unknown at year's end. There were reports that prior to suspension, Command leaders ordered the execution of the 81 detainees who remained in the special Command prison facility, Kosovo.

The Operational Command operated above the authority of other security forces and killed some suspects in shootouts and high-speed car chases. It also reportedly used a network of informants, including a large number of convicted criminals and prison officials, to obtain the names of suspected bandits who the Command then arrested and summarily executed (*see* Section 1.b.). Conservative estimates placed the number killed in the hundreds, but Cardinal Tumi, the Archbishop of Douala, believes the number may range as high as 1,000. The Operational Command also used neighborhood sweeps to search for criminals, occasionally executing suspects for minor offenses such as smoking marijuana. Press and other reports alleged that the Operational Command has several mass graves, including one in the "Forest of Monkeys" (Bois des Singes) and another off the "Old Road" between Douala and Edea, where bodies were abandoned in pits or buried.

Security authorities in the remote North and Far North Provinces also were accused of unlawful killings; however, there were fewer reported incidents than during the previous year. During the year, the security situation in the northern provinces appeared to have improved, but there still were occasional accusations of summary executions following acts of banditry. Local human rights groups noted that local authorities, even the special anti-gang units, paid more attention to due process than in previous years; they believed that the paramilitary forces received strict instructions to restrain their activities in an attempt to avoid another scandal that would embarrass the Government. However, authorities in the region maintained that the anti-gang units largely have completed their mission and that the remaining bandits were living in fear, thus eliminating the necessity for excessive use of force. They also noted a significant drop in crime in the region.

An elite crime-fighting unit, the Light Intervention Battalion (BLI), which received extensive training from Israeli military consultants, became operational in 2001 and reported directly to the Presidency. BLI members have been accused of conducting summary judgements against suspected criminals. Preliminary reports indicated that this group has benefited from improved training and intelligence gathering methods; however, no further information was available at year's end.

On January 25, army sergeant Nje stabbed to death 22-year-old Isidore Usabo Lappe, in Douala's popular "CCC" quarter. The killing followed a private dispute between Usabo Lappe and the sergeant's girlfriend. Nje was arrested and remained in police custody on murder charges at year's end.

On February 23, a gendarme killed 26-year-old Pierre Kewe in the Yaounde neighborhood of Elig-Edzoa. Kewe's older brother summoned a team of gendarmes to help resolve a dispute, and Kewe refused their order that he remain inside the house. During his attempt to leave, a gendarme shot him. The authorities arrested the gendarme, who was in detention awaiting trial at year's end.

During the year, the Government investigated a few cases of security personnel accused of violating the law. For example, on January 29, the Douala Military Tribunal began trying Operational Command Sergeant Jean Claude Mbita on charges of assault occasioning death in the 2000 shooting of Luc-Benoit Bassilekin. After several postponements, the trial started on November 26.

On April 23, a military trial began for Colonel Bobbo Ousmanou and seven other army officers charged with the execution of nine youths in Bepanda in January 2001. On July 9, the military tribunal sentenced two of the higher ranking officials for disobeying orders; six others were acquitted (*see* Section 1.b.).

In April the Douala High Instance Court began hearings on the case of the 2000 torture death of Emmanuel Ebanda. The prosecutor requested life-imprisonment for



police officers Biyick Mang, Peter Enonguene, and Elouga. The trial was ongoing at year's end.

There were no further developments in the following 2001 cases: The torture death of a 23-year-old man named Apah in Njikwa, Momo Division, Northwest Province; the reported arrest and execution of Hamadou Kadri by the BLI based in Maroua; the killing of Eloi Sanda Abba by a gendarme at the students residential quarters of Bonamoussadi, in Yaounde; and the shooting death of Aliou Oumarou by police.

There were no further developments in the following 2000 cases: the January shooting death of Alhadji Bapetel at the Douala port; the May detention, torture, and killing of Edouard Leuat; the May killing of Laurent Abbe; the May killings of two women in Yaounde; the June killing of two bandits; the September torture death of Mathew Titiahonjo; and the October killing of Paul Petchucke.

Numerous prisoners died in custody due to abuse inflicted by security forces and harsh prison conditions and inadequate medical treatment (*see* Section 1.c.).

Mob violence and summary justice directed against suspected thieves and those suspected of practicing witchcraft and other crimes reportedly continued to result in an increased number of deaths and serious injuries. For example, in early March, an angry mob in the Oyom Aban neighborhood of Yaounde beat to death Emile Eyenga, a 34-year-old bandit who previously had been arrested and released on several occasions. Aban was caught burglarizing a private residence.

In early August, the gendarmerie company commander for Ngoketunjia Division, North West Province, stated that angry mobs lynched three persons caught stealing. The commander severely criticized the "jungle justice" and asked the citizens of Ngoketunjia to inform security forces of the presence of any suspected criminal in their respective areas.

On August 27, inhabitants of the Douala neighborhood of Bepanda beat to death a 26-year-old thief for stealing a goat. No investigation has been reported.

There were no further developments in the 2001 beating death cases of Joseph Nzelanmyuy or Abdulai Fonyuy.

*b. Disappearance.*—There were reports of disappearances of persons in the custody of security forces. Some disappearances may be attributed to summary executions by security forces in Douala or the northern regions (*see* Section 1.a.); in these instances, bodies rarely were found although the suspects were presumed dead.

On March 13, Dieudonne Atsako, Steve Kehebe, Etienne Kuete, Talla, Blaise Nokam, Victory Tegou, Jules Nouma, Jean Alain Kenfack, and Croisil Moutsoul were arrested and detained in the Bafoussam gendarmerie brigade. Following widespread rumors of their deaths at the hands of gendarmes, the National Commission on Human Rights and Freedoms (NCHRF) and the West Gendarmerie Legion conducted an investigation. On April 18, the Minister of Communication, Jacques Fame Ndong, stated that the nine were alive and confirmed that the Gendarmerie Legion and the NCHRF were conducting an investigation into the case. Later in April, the NCHRF issued a press release denying allegations that the nine had disappeared. At year's end, the Government had not produced proof that the nine were alive.

In January 2001, the Douala Operational Command arrested Marc Etah, Frederic Nguffo, Chatry Kuete, Jean Roger Tchiwan, Eric Chia, Charles Kouatou, Effician Chia, Elysee Kouatou, and Fabrice Kouate, who were suspected of stealing a gas canister in the Bepanda District of Douala. Initially the families of the detained "Bepanda 9" were accorded visiting rights; however, these rights were abrogated as of January 27, 2001. The case drew both national and international attention, and many observers believed the Douala Operational Command summarily executed the nine youths. Douala authorities attested to the youths' arrests but denied any executions and refused to produce verification of the youths' continued wellbeing. The victims' families formed another group, the Committee for the Defense of the Nine (or C9 as they were known domestically) and held weekly protests, which police often forcibly dispersed, demanding the location of the nine youths. In March 2001, President Biya ordered an investigation into the disappearance of the Bepanda 9 and transferred or replaced several members of the Operational Command. In April 2001, authorities arrested Colonel Ousmanou and seven other officers of the Operational Command. In November 2001, the military trial of the eight officers was referred to the High Court of Yaounde after the Court of First Instance dismissed the case due to a technicality. The trial was closed to the public, and the Government refused to release the court's findings or to consider a civilian trial for the officers. After several postponements, on July 9, the High Court of Yaounde finally ruled on the case. Although the eight officers initially were prosecuted on charges of murder, torture, corruption, and violation of instructions, the High Court convicted two of the eight officers on charges of disobeying orders and sentenced Colonel Ousmanou to 3 years probation and Captain Jean Jacques Abah Ndzenge to 16 months in jail,

respectively. Samuel Houag, Nicolas Eyong Taku, and Luc Evoundou were found not guilty for lack of evidence. Major Pascal Yeremou Nyamsi, Captain Onana Ambassa, and adjunct chief Adrumpai were found not guilty by benefit of doubt. The C9 have appealed the ruling.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, there were numerous credible reports that security forces, including the Operational Command, continued to torture, beat, and otherwise abuse prisoners and detainees. There were reports that security forces, including the Operational Command, detained persons at specific sites where they tortured and beat detainees. The Operational Command reportedly tortured some persons before summarily executing them (*see* Section 1.a.). Security forces also reportedly subjected women, children, and elderly persons to abuse. Most cases apparently were not reported to the relevant authorities because of ignorance, lack of confidence, or fear of reprisal.

In New Bell and other non-maximum security penal detention centers, prison guards inflicted beatings, and prisoners reportedly were chained or at times flogged in their cells. Authorities often administered beatings in temporary holding cells within a police or gendarme facility. Two forms of physical abuse commonly reported by detainees were the “bastinade” in which the victim was beaten on the soles of the feet and the “balancoire” where the victim was hung from a rod and beaten (often on the genitals) with his hands tied behind his back. Many nonviolent political activists have experienced this abuse during brief detentions that followed participation in antigovernment demonstrations or opposition party political rallies.

Security forces continued to subject prisoners and detainees to degrading treatment including stripping, confinement in severely overcrowded cells, and denial of access to toilets or other sanitation facilities. Police and gendarmes often beat detainees to extract confessions as well as the names and whereabouts of alleged criminals. Pretrial detainees sometimes were required, under threat of abuse, to pay “cell fees,” which essentially was a bribe paid to prison guards to prevent further abuse.

Security forces beat persons while arresting them, particularly under Operation Harmattan, an anti-crime operation in Douala. For example, on April 4, soldiers and gendarmes cordoned off Koupa Kagnam and Koumenke, two villages of the Noun Division, West Province, and raided houses, beating and arresting scores of men and women. According to official statements, Gabriel Esoa Eloi, Koutaba’s Sous-prefet, ordered the operation when unidentified individuals allegedly tried to break into his office and steal election-related documents. Esoa Eloi “was told” that the perpetrators were from the two villages. CDU Chairman, Dr. Adamou Ndam Njoya, criticized the operation, claiming it was aimed at intimidating members of his party 2 months before national elections. On April 8, authorities released all those arrested.

Security forces harassed and threatened journalists (*see* Section 2.a.). Security forces also frequently used roadblocks to exact bribes or disrupt opposition political activities and injured persons they believed tried to evade checkpoints (*see* Section 2.d.).

On March 10, soldiers of the Edea Military Regiment in the Sanaga Maritime Division of Littoral Province arrested, beat, and severely injured Samuel Mben Mben, publisher of Habeas Corpus after a woman accused him of helping men rob her. The gendarmes then took Mben Mben to the gendarmerie brigade where they released him after the intervention of his lawyer, family, and the Sanaga Maritime Senior Divisional Officer (who also was the Prefet). Mben Mben later said that he was missing \$155 (104,000 CFA francs).

On March 14, police officers beat and injured Narcisse Kouokam, a nationally known comedian, in Yaounde. In a statement to the press, Kouokam said that the officers recognized him and sought to “punish him” for his performances criticizing the country’s malfeasance. Narcisse Kouokam filed a complaint against his attackers, which was pending at year’s end.

On June 28, Douala police officers arrested Jean René Ndouma on allegations of theft complicity. On July 18, Ndouma was transferred to the Douala New Bell Prison where his family learned he had been tortured seriously, particularly by police officer Daouda Mama. Ndouma had been handcuffed and hung by the hands, which resulted in severe gashes on his wrists. It was unknown if there was any action taken in this case.

There were no new developments in the following 2001 cases: The January kidnaping of Hortense Toukam; the March beating and attempted strangling by gendarmes of Pierre Nyemeck Ntamack; the May arrest and torture by police of Jacques Zoua, a member of a Maroua-based human rights NGO; and the June arrest and torture by security forces of many persons during neighborhood sweeps in Kodogo and Garoua.

There were no developments in the following 2000 cases: The death of Magloire Evoutain; the January torturing of customs inspector Vincent Nkengfue; the January injuring and beating of several students when a demonstration was dispersed forcibly; the March torturing of Jean Paul Kentsa and two others; the April beating and torturing of a foreign volunteer teacher; the April injuring of Cecile Ngono; the April beating of Nicole Ajong; the April beating of parishioners at Notre Dame De Sept Douleurs; the May torturing of Achille Tehoumba Heubo; the May beating of Madeleine Ngo Songane; the May torturing to death of Mathew Titiahonjo; the May beating of several student demonstrators; the June beating of Amelie, a female soccer player; the June injuring of several persons in a bar; the June beating of Beatrice Elouga; the June assault of numerous citizens; the September rape of two girls; and the November beating of a journalist.

A minor number of security force officers have received jail sentences and/or severe sanctions for the misconduct. For example, on February 27, the Bafang, Upper Nkam Division, West Province High Instance Court sentenced Police Commissioner Simon Menzouo and policeman Jules Oscar Soboa to 5 years in jail and damages of \$10,000 (6.5 million CFA francs) after finding the two guilty of torturing a police detainee to death in 1999. The Court awarded the damages to the victim's family.

On September 16, Pierre Minlo Medjo, Delegate General for National Security (DGSN), issued a press release stating that three police officers serving at the Mbalmayo Nyong So'o Division in Center Province's Public Security Police Station were arrested and arraigned by a Mbalmayo prosecutor who ordered their detention. On September 7, the officers, Jean Christophe Avom, Appolinaire Eva Ntyam, and François Jiande, had shot and killed Thomas Alima during an arrest. According to Minlo's press release, the police officers misused their arms in an illegal manner.

The Government has made some efforts to minimize security forces' abuse. For example, in a January 25 speech to newly trained gendarmes of an elite unit, Remy Ze Meka, the Secretary of State for Defense in Charge of the National Gendarmerie, reinforced that security forces must respect citizens' rights. There was no evidence during the year that the January 25 speech affected a significant change in security force behavior, and in the vast majority of cases of torture or abuse, the Government rarely investigated or punished any of the officials involved.

Mob violence, including beating and torture, directed against suspected thieves continued to result in a number of deaths (*see* Section 1.a.).

Prison conditions remained harsh and life threatening. Prisons were seriously overcrowded, unsanitary, and inadequate, especially outside major urban areas. Due to a lack of funds, serious deficiencies in food, health care, and sanitation were common in almost all prisons, including "private prisons" in the north operated by traditional rulers. Prisoners were kept in dilapidated colonial-era prisons, where the number of detainees was four to five times the original capacity. Health and medical care were almost nonexistent, and prisoners' families were expected to provide food for their relatives in prison. Douala's New Bell Prison contained 7 water taps for a reported 3,500 prisoners, contributing to poor hygiene, illness, and death. Prison officials tortured, beat, and otherwise abused prisoners. Prisoners routinely died due to harsh prison conditions and inadequate medical treatment.

On January 14, the Douala branch of the Action of Christians for the Abolition of Torture (ACAT) issued a document, which stated that 17 detainees died in November 2001 and 21 died in December 2001 at the Douala New Bell prison due to a lack of adequate medical care.

On March 25, 38-year-old Barthélemy Kengne, a businessman in Bafoussam, the West Province capital, was found dead in his cell at the Bafoussaman Gendarmerie Brigade. Gendarmes had detained Kengne for 10 days on accessory after the fact charges and during his detention chained his feet and hands and shot him in the foot, allegedly because of an escape attempt. Kengue's family was convinced his death resulted from torture. On April 23, the Government denied the allegations, stating that Kengne's cellmate had strangled Kengne to death following a dispute. The Minister stated that an investigation was ongoing.

On July 7, 19-year-old convicted thief Aime Martial Mbong died in his cell at the Douala Judicial police precinct, allegedly because of torture inflicted in custody. Due to inaccurate information, his parents initially were unable to locate him and on July 9, found his body in the morgue of Douala's Laquintinie Hospital. Both the provincial security office and the judicial police have accused the other of causing Mbong's death. An investigation was ongoing at year's end.

In an April report presented to the U.N. Human Rights Commission in Geneva, the Cameroonian League for Human Rights provided figures for the country's principal prison facilities. Yaounde-Kondengui prison contained 9,530 detainees for 2,500 places; Douala New Bell prison—7,000 detainees for 1,500 places; Bamenda prison—4,855 detainees for 330 places; Bafoussam prison—5,225 detainees for 850

places; Edea prison—4,255 detainees for 750 places; Dschang prison—6,845 detainees for 715 places; Garoua prison—4,636 detainees for 280 places; and Nkongsamba prison—8,753 detainees for 620 places. The figures were not corroborated independently. Overcrowding was exacerbated by the large number of long pretrial detentions and the practice of “Friday arrests” (*see* Section 1.d.). According to credible press reports, more than 1,400 of the inmates of the Douala prison were pretrial detainees.

From September 1 to 14, Dr. Vera Mlangazuwa Chirwa, Special Rapporteur on Prisons and the Conditions of Detention in Africa, working with the African Commission for Human and People’s Rights, visited seven prisons (Yaounde, Bafoussam, Douala, Bamenda, Garoua, Maroua, and Bafang), five gendarmerie detention cells, and five police station detention cells. In addition to those officially selected prisons and detention cells, Dr. Mlangazuwa made surprise visits to other prisons. Her team addressed approximately 6,000 prisoners (roughly 28 percent of the prison population) and personally interviewed 150 detainees. In her September 13 assessment of the visit, Mlangazuwa said that congestion, poor nutrition, and lack of adequate health care were principal problems in the prisons; however, she noted that there was a productive prisoner work program.

Corruption among prison personnel was widespread. Prisoners sometimes could “buy” special favors or treatment, including temporary freedom. Credible reports from Bafoussam Central prison indicated that freedom between 6 a.m. and 6 p.m. was available daily to any prisoner who could afford the superintendent’s weekly fee of \$20 (15,000 CFA francs). Prisoners in Bafoussam reportedly used their purchased freedom to steal the following week’s extortionate fees.

The law specifies that children should not be detained without trial beyond 3 months after an investigation; however, the Government detained children for longer periods of time. Juvenile prisoners often were incarcerated with adults, occasionally in the same cells or wards. There were credible reports that adult inmates sexually abused juvenile prisoners. Persons awaiting trial routinely were held in cells with convicted criminals. There were few detention centers for women, who routinely were held in prison complexes with men, occasionally in the same cells. Mothers often were incarcerated with their children or babies. Some high-profile prisoners were able to avoid some of the abuse that security forces routinely inflicted on other criminals. High-profile prisoners often were kept in more privileged wings of certain prisons where they enjoyed relatively lenient treatment.

The NCHRF stated in a February 2001 media interview that “some people are just forgotten in prison.” For example, in September the Government daily newspaper, Cameroon Tribune, reported that 58-year-old prisoner Pierre Owono Mvondo was forgotten in prison. Between 1969 and 1972, Owono Mvondo received two prison sentences amounting to 20 years in jail. After serving the 20 years, he was unable to afford a lawyer. Apparently his case was forgotten or misplaced, and his release request was denied. In 2001 Owono Mvondo had his case referred to Monsignor André Wouking, the Archbishop of Yaounde, who visited the Yaounde-Kondengui central prison. As a result of the Archbishop’s intervention, an August 23 court ruling freed Owono Mvondo and on August 29, after having served 13 extra years in jail, he was set free. Owono Mvondo was not awarded compensating damages.

In 2001 the Cameroon Organization for Citizens’ Rights and Freedoms disclosed the results of an investigation that it conducted in the Yaounde Central Prison. According to those results, several persons who had completed their prison terms or had been released by a court ruling still were in detention, including prisoners whose files had been lost and were subsequently not given a court date. One detainee had been in jail for 6 years without a trial. The organization worked with the prosecutor’s office to secure the release of approximately 100 of the most egregious cases.

On January 29, the prisoners of the Yaounde Kondengui prison addressed a letter to the Minister of Justice and various newspapers in which they complained about their conditions. The letter indicated that of the 3,600 persons held in the prison, approximately 3,000 still were awaiting trial. The prisoners threatened to riot and go on hunger strikes; however, there were no reports that this occurred.

The Government continued two programs for the renovation and humanization of prisons, and feasibility studies were in progress for the construction of new prisons in Yaounde, Douala, and other cities at year’s end.

In the north, the Government permitted traditional Lamibe (chiefs) to detain persons outside the Government penitentiary system, in effect creating “private prisons.” Private prisons within the palaces of traditional chiefs Rey Bouba, Gashiga, Bibemi, and Tcheboa had a reputation of serious mistreatment. Members of the National Union for Democracy and Progress (UNDP) party have alleged that other

UNDP members have been detained in these private prisons and that some have died from mistreatment.

The Government has granted international humanitarian organizations access to prisoners. Both the Cameroonian Red Cross and the NCHRF infrequently visited prisons during the year. The International Committee of the Red Cross (ICRC) continued to visit prisons. Although the ICRC does not release its findings publicly, the Government generally complied with its agreement with the ICRC.

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest and detention and requires an arrest warrant except when the criminal is caught in the act; however, security forces continued to arrest and detain citizens arbitrarily. The law also stipulates that detainees must be brought promptly before a magistrate; however, arbitrary prolonged detention remained a serious problem and sometimes persons were held incommunicado for months or even years. For example, Souley Bobo, who was arrested in 1992 on murder charges, never appeared before the prosecutor, and Michel Sighanou, a juvenile who was transferred from the Yabassi prison in 1996, has been awaiting trial for more than 5 years. Some persons were detained for several months simply because they were unable to present identification to authorities.

Police legally may detain a person in connection with a common crime for up to 24 hours, renewable three times, before bringing charges. The law provides for the right to judicial review of the legality of detention only in the two Anglophone provinces. Otherwise, the French legal tradition applies, precluding judicial authorities from acting on a case until the administrative authority that ordered the detention turns the case over to the prosecutor. After a magistrate has issued a warrant to bring the case to trial, he may hold the detainee in administrative or “pretrial detention” indefinitely, pending court action. Such detention often was prolonged, due to the understaffed and mismanaged court system. The law permits detention without charge by administrative authorities for renewable periods of 15 days, ostensibly to combat banditry and maintain public order. Persons taken into detention frequently were denied access to both legal counsel and family members. The law permits release on bail only in the Anglophone provinces, where the legal system includes features of British common law; however, in practice bail was granted infrequently.

Police and gendarmes often arrested persons on spurious charges on Fridays at mid-day or in the afternoon. While the law provides for a judicial review of an arrest within 24 hours, the courts did not convene sessions on the weekend, so the detainee remains in detention until at least Monday. Police and gendarmes commonly accepted bribes to make such “Friday arrests” from persons who had private grievances against the person arrested. There were no known cases of policemen or gendarmes that were sanctioned or punished for this practice.

There were reports that security forces, including the Operational Command, detained persons at specific sites where they tortured and beat detainees (*see* Section 1.a.).

Security forces also continued to arrest and arbitrarily detain various opposition politicians, local human rights monitors, journalists, and other critics of the Government, often holding them for prolonged periods, without charges or a chance for trial and, at times, incommunicado (*see* Sections 2.a. and 4). For example, on January 17, police officers in Douala arrested and detained Mboua Massok, an opposition political activist, for approximately 5 hours for distributing pamphlets at the entrance of the Akwa technical school, in support of salary increases for secondary education teachers. He later was charged with disturbance of public order and released.

On February 13, Dominique Djeukam Tchameni, an opposition leader and human rights activist, was held for approximately 10 hours at the Douala premises of the Littoral Provincial Delegation for National Security. Djeukam Tchameni had gone to the police headquarters to request that his previously confiscated passport be returned to him. Police officers continuously threatened Djeukam Tchameni during his 10-hour detention, and his passport was not returned upon his release.

In March the police began Operation Harmattan in an effort to rid Yaounde and Douala of crime. Police used Operation Harmattan as a pretext for committing numerous abuses, including roadblocks, identity checks, house searches, and raids of nightclubs (*see* Section 1.f.). Gendarmes of the Operation detained for questioning 2,792 persons in March and April; it was not known if any had been charged at year’s end.

On April 18, gendarme officers arrested a local embassy guard after his employers accused him of distributing leaflets calling for a guard strike, even though striking is not illegal. The guard was detained for 72 hours and released without charges. Authorities arrested at least one other guard at an embassy residence who also was released.

In late July, the State Prosecutor interrogated Former Minister of Posts and Telecommunications Mounchipou Seidou, and in November he ordered that the former minister be brought to trial.

On September 27, the police arrested human rights activist Albert Mukong and 19 other Southern Cameroons National Council (SCNC) activists in Mamfe to prevent them from taking any action on October 1, the date associated with the Anglophone Cameroon independence movement. They were released on October 22, pending trial on sedition charges (*see* Section 3).

There were no developments in the 2001 arrest of 50 demonstrators and three men from Jakiri following the October SCNC demonstrations.

There were no developments in the following arrests in 2000: The March arrests of Catherine Yami and Roger Tankeu, respectively the Social Democratic Front (SDF) president for the Bassamba electoral district and the SDF West provincial coordinator; the April arrests of several parishioners at Notre Dame de Sept Douleurs; and the June arrest of Beatrice Elouga.

The Government did not use forced exile; however, some human rights monitors or political opponents who considered themselves threatened by the Government left the country voluntarily and declared themselves to be in political exile.

There were no further developments in the 2001 alleged bewitching case against Iyassa Anou, Joseph Regeant, Johnson Mambo Naseri, Mathew Ajong Awor, Christian Buma, Francisca Nyando, and James Okenye.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary remained highly subject to political influence. Corruption and inefficiency remained serious problems. The court system remained technically part of the executive branch, subordinate to the Ministry of Justice. The Constitution specifies that the President is the guarantor of the legal system's independence. He also appoints judges with the advice of the Supreme Council of the Magistrature. Some politically sensitive cases never were heard by the courts. However, the judiciary has shown some modest signs of growing independence. For example, the courts repeatedly ordered the Ministry of Territorial Administration to desist from seizing print runs of newspapers critical of the Government.

The court system includes the Supreme Court, a Court of Appeals in each of the 10 provinces, and courts of first instance in each of the country's 58 divisions.

Military tribunals may exercise jurisdiction over civilians not only when the President declares martial law, but also in cases involving civil unrest or organized armed violence. Military tribunals also have jurisdiction over gang crimes, banditry, and highway robbery. The Government interpreted these guidelines quite broadly and sometimes used military courts to try matters concerning dissident groups and political opponents. Military trials often were subject to irregularities and political influence.

The legal system includes both national law and customary law, and many cases can be tried using either. Customary law was based upon the traditions of the ethnic group predominant in the region and was adjudicated by traditional authorities of that group. In some areas, traditional courts reportedly have tried persons accused of such offenses as practicing witchcraft by subjecting them to various ordeals, such as drinking poison. There were no known incidents during the year.

Customary courts may exercise jurisdiction only with the consent of both parties to a case. Either party has the right to have the case heard by a national rather than a customary court; customary law is deemed valid only when it is not "repugnant to natural justice, equity, and good conscience." However, many citizens in rural areas remained unaware of their rights under civil law and were taught that customary laws form the rules by which they must abide. Consequently, traditional courts remained important in rural areas and served as a primary means for settling disputes. Most traditional courts permitted appeal of their decisions to traditional authorities of higher rank.

The legal structure is influenced strongly by the French legal system, although in the two Anglophone provinces certain aspects of the Anglo-Saxon tradition apply. The Constitution provides for a fair public hearing in which the defendant is presumed innocent. Because appointed attorneys received little compensation, the quality of legal representation for indigent clients often was poor. The Bar Association and some voluntary organizations, such as the Cameroonian Association of Female Jurists, offered free assistance in some cases. Trials normally were public, except in cases with political overtones and judged disruptive of social peace.

Political bias often brought trials to a halt or resulted in an extremely long process, with extended court recesses. Powerful political or business interests appeared to enjoy virtual immunity from prosecution; some politically sensitive cases were settled with a payoff. Private journalists, political opponents, and critics of the Gov-

ernment often were charged or held and sometimes jailed under libel statutes considered by many observers as unduly restrictive of press freedom (*see* Section 2.a.).

On February 4, Amadou Ali, the Minister of State for Justice and Keeper of the Seals, severely criticized the “evils of the judiciary” in his opening remarks during a meeting with head justices of the different courts of appeal. He criticized violations of procedure, delayed judgements, and illegal detention, which he believed caused some observers to refer to court decisions as “judicial robbery” and gave the judiciary a bad image and weakened its powers. The Minister of State called on his collaborators to take a firm stance in fighting crime throughout the country.

The Government held a number of political prisoners, including Anglophones; however, there were no reliable estimates of numbers held at year’s end.

Titus Edzoa, former Minister of Health and long-time presidential aide who had declared himself a candidate to oppose President Biya in the 1997 election, and Michel Thierry Atangana, his campaign manager, remained incarcerated at the maximum security gendarmerie headquarters with very limited access to visitors at year’s end.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, these rights were subject to the “higher interests of the State,” and there were numerous, credible reports that police and gendarmes harassed citizens, conducted searches without warrants, and opened or seized mail. The Government continued to keep some opposition activists and dissidents under surveillance. Police sometimes punished family members and neighbors of criminal suspects.

The law permits a police officer to enter a private home during daylight hours without a warrant if he is pursuing an inquiry and has reason to suspect that a crime has been committed. The officer must have a warrant to make such a search after dark; however, a police officer may enter a private home at any time in pursuit of a criminal observed committing a crime.

An administrative authority may authorize police to conduct neighborhood sweeps in search of suspected criminals or stolen or illegal goods without individual warrants. Such sweeps were conducted frequently. Sweeps involving forced entry into homes continued to occur in Yaounde and Douala, especially as part of Operation Harmattan (*see* Section 1.c.). An increase in crime over the years has led to a dramatic increase in the number of such sweeps, called “kali-kali” or “raffles” in Douala and Yaounde, respectively. Typically, security forces seal off a neighborhood, systematically search homes, arrest persons arbitrarily, and seize suspicious or illegal articles. There were credible reports that security forces used these sweeps as a pretext to loot homes and arbitrarily arrest persons for minor offenses, such as not possessing identity cards (*see* Section 2.d.). For example, a police patrol raided the American Bar, a gambling and drinking establishment in Douala’s Bepanda neighborhood. Under the guise of a drug search, the patrol stripped naked the bar’s patrons and confiscated money and cell phones. The patrol repeated the same operation 2 days later at Moulin Rouge, an inexpensive popular Douala hotel.

In efforts to combat highwaymen, Colonel Pom and his special antigang gendarmerie unit used informants to identify and accuse persons of taking part in highway robbery (*see* Section 1.a.). Standards of proof for such accusations were nonexistent. Accusations occasionally have been used to pursue private grievances, and informants repeatedly have extorted money from innocent persons by threatening to accuse them of being bandits. The Douala Operational Command reportedly used informants in a similar fashion. These informants often were former criminals or prison guards, and were used to target criminals who then were summarily executed (*see* Section 1.a.).

At year’s end, no compensation had been provided for houses that the Government destroyed along several of Yaounde’s main roads in anticipation of the France-Africa Summit in January 2001. The Government also reportedly relocated Yaounde squatters, many of whom had mental disabilities, to the neighboring town of Mbalmayo for the duration of the summit. The squatters returned to Yaounde following the summit but were not allowed to reoccupy the site from which they were removed.

There have been accusations, particularly in the North and Far North Provinces, of traditional chiefs arbitrarily evicting persons from their land. There also were credible reports that security forces forced Baka out of their homes (*see* Section 5). No further information was available on the May 2001 forcible eviction of Feu Bouba Toumba in Maroua at year’s end.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government continued to impose limits on these rights. The Penal Code’s libel laws specify that defamation, abuse, contempt, and

dissemination of false news are offenses punishable by prison terms and heavy fines. The Government sometimes invoked these statutes to silence criticism of the Government and officials.

Unlike in the previous year, no one was tried for defamation.

The Government publishes an official newspaper, the Cameroon Tribune. This paper occasionally implies criticism of the Government; however, its reporters did not report extensively on activities or political parties critical of the Government, overtly criticize the ruling party, or portray government programs in an unfavorable light.

While approximately 60 private newspapers were published, only an estimated 20 were published on a regular basis. Most continued to be highly critical of the Government and reported on controversial issues including corruption, human rights abuses, and economic policies. Journalists continued to be critical of the Government; however, some journalists practiced self-censorship.

Despite the large number of newspapers in the country, the influence of print media on the average person was minimal. Circulation was low, distribution was problematic outside of Yaounde and Douala, and prices were high. Consequently, print media reached only a tiny percentage of the population, most notably the urban elite.

The Government frequently prosecuted its critics in the print media through criminal libel laws. These laws authorized the Government, at its discretion and request of the plaintiff, to criminalize a civil libel suit or to initiate a criminal libel suit in cases of alleged libel against the President and other high government officials. There were no new cases of libel during the year; however, the Government continued to pursue libel cases from previous years.

The Government largely ceased to interfere with private newspaper distribution or seize print runs of private newspapers; however, security forces continued to restrict press freedom by harassing or abusing private print media journalists. The Douala-based French-language publication *Le Front Independent* and the Littoral Province Office of Taxation reportedly negotiated an undisclosed deal during the year, and the newspaper remained open at year's end.

There were fewer cases of harassment, abuse, and arrests of journalists reported than during the previous year.

On March 1, the Littoral Province police chief in Douala arrested Peter William Mandio, publisher of the newspaper *Le Front Independent*, and transferred him to the General Security office in Yaounde. Although the police did not charge Mandio formally, press reports suggested he was arrested because of a story published disclosing a love affair between a senior official at the Presidency and a senior female civil servant. It also was alleged the arrest was due to his membership in the National Collective against Impunity (CNI), a civil association started in connection with the Bepanda 9 case. During Mandio's arrest, the police searched his office and seized certain documents. The Ministry of Communication, the Ministry of Justice, and the Union of Central African Newspaper Publishers (UEPAC) criticized the arrest and requested Mandio's immediate release. He subsequently was released.

On April 14, Yaounde police stormed the Abbia Movie Theater and seized the movie *Braquages*. The police claimed to be acting on instructions from the DGSN. The theater owner said the seizure was illegal because the movie had been sanctioned by the National Censorship Commission. According to press reports, the DGSN seized the movie because it inappropriately corresponded with the launching of Operation Harmattan. Abbia management's attempts to retrieve the film had not been successful by year's end.

There were no further developments on the following 2001 cases: the July arrest and detention of journalists Robert Harris, Mindja Meka, and Samuel Zang Des Joies; the July reported threat, harassment, arrest, and detention of Florent Ndjiki, Pierre Clement Tjomb, and Francois Bikoro; the August arrest and detention of journalist George Baongla; the August assault on journalist Remy Ngomo; and the October summoning and detention of Jean Marc Soboth, editor of *La Nouvelle Expression*.

There were no known developments in the 2000 case of Severin Tchounkeu, publisher of the Douala-based French-language tri-weekly, *La Nouvelle Expression*.

Radio remained the most important medium for reaching most citizens. There were approximately 2 million radios in the country. Television was less pervasive but still more influential than print media.

Rural radio stations must submit an application to broadcast but were exempt from paying fees. Potential commercial radio and television broadcasters must submit a licensing application and pay a fee when the application is approved. The annual licensing fees potentially were prohibitive: \$15,600 (10 million CFA francs) for radio broadcasters; \$73,000 (50 million CFA francs) for local television stations; and



\$146,000 (100 million CFA francs) for national television stations. The Ministry of Communication has received more than 100 applications from potential broadcasters. Five Yaounde-based private radio stations that previously had been broadcasting illegally and submitted applications to be licensed still had not received licenses at year's end. A small number of radio stations previously broadcasting illegally, including Radio Soleil, which broadcast from the Muslim quarter of Yaounde, did not apply for licenses, claiming the fees were exorbitant. The Government continued to allow these stations to broadcast. Although it has not obtained a license, Magic FM broadcast daily and had a wide audience. Radio Star and Radio Ventas still were not broadcasting at year's end.

There were several low-power, rural community radio stations funded primarily by foreign countries with extremely limited broadcast range. These stations, which broadcast educational programs to small audiences, were not allowed to discuss politics. The law permits broadcasting of foreign news services but requires the foreigners to partner with a national station. The British Broadcasting Company (BBC) and Radio France International (RFI) broadcast in partnership with state-owned CRTV. During the year, the Government continued to allow the reception of international cable and satellite television broadcasts.

The state-owned CRTV broadcast on both television and radio and was the only officially recognized and fully licensed broadcaster in the country. The Government levied taxes on all registered taxpaying citizens in order to finance CRTV programming, which allowed CRTV a distinct advantage over new independent broadcasters.

Like the Cameroon Tribune, CRTV provided broad reporting of CPDM activities, while giving relatively little attention to the political opposition. CRTV management, which repeatedly has instructed CRTV staff to ensure that government views prevailed at all times, in the past punished CRTV journalists who criticized government policy.

CRTV television and radio programming included a weekly program, Direct Expression, which ostensibly fulfilled the Government's legal obligation to provide an opportunity for all political parties represented in the National Assembly to present their views. However, during the program, CRTV continued to restrict the freedom of speech of the SDF by occasionally censoring and significantly shortening proposed SDF programming.

In January Francis Wete, Deputy General Manager of CRTV, informed the leaders of opposition parties represented in the National Assembly that the program Political Space would be suspended during the African Nations Soccer Cup Finals and would resume on February 12. The suspension resulted in strong protest from the SDF insisting that soccer should not be given precedence over the country's politics.

High-tech communications, including the Internet, e-mail, and satellite phones were not widely available or heavily utilized; however, a few cybercafes provided occasional Internet or e-mail access in some urban areas. There were at least six domestic Internet service providers, some of which were privately owned. The Government has not attempted to restrict or monitor these forms of communication.

Although there were no legal restrictions on academic freedom, state security informants operated on university campuses. Many professors believed that participation in opposition political parties could affect adversely their professional opportunities and advancement. Free political discussion at the University of Yaounde was hindered by the presence of armed government security forces, and some university students were harassed. On May 27, gendarmes stormed a Yaounde II University dormitory located in the Yaounde suburb of Soa and arrested five students (Jean Bruno Tagne, Alain Tayo, Vincent Chatue, Theodore Datchoua, and Josiane Fotsing) who were members of a student group that had voiced grievances against the administration. The University failed to validate some of the students' previous courses, which barred them from registering for the third year curriculum. The students passed out anti-University literature and subsequently became suspects in March and June arson incidents that destroyed University property. The students were held in police custody for 2 days and released pending further interrogation by the prosecutor. There were no new developments at year's end.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly; however, the Government restricted this right in practice. The law requires organizers of public meetings, demonstrations, or processions to notify officials in advance but does not require prior government approval of public assemblies and does not authorize the Government to suppress public assemblies that it has not approved in advance. However, officials routinely have asserted that this provision of the Penal Code implicitly authorized the Government to grant or deny permission for public assembly. Consequently, the Government often has not granted permits for assemblies organized by persons or groups critical of the Government

and repeatedly used force to suppress public assemblies for which it has not issued permits.

There was a ban on SCNC activities from September 28 to October 10 in the Northwest and Southwest Provinces. There were no other bans on public rallies or marches during the year.

Security forces disrupted attempts by the SCNC to hold demonstrations on October 1 in Bamenda and Mamfe. There were no other reports that security forces forcibly disrupted demonstrations during the year.

On January 17, Oliver Nyuki, one of the demonstrators who was shot during the October 2001 SCNC demonstration in Kumbo, North West Province, died of his wounds.

No action reportedly was taken against the members of the security forces who forcibly dispersed demonstrations in 2001 and in 2000.

The law provides for freedom of association, and the Government generally respected this right in practice; however, there were some exceptions. The conditions for government recognition of a political party, a prerequisite for many political activities, were not onerous. More than 150 political parties operated legally, together with a large and growing number of civic associations.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, there were some exceptions.

In general the Law on Religious Congregations governs relations between the Government and religious groups. Religious groups must be approved and registered with the Ministry of Territorial Administration to function legally; there were no reports that the Government refused to register any group. It was illegal for a religious group to operate without official recognition, but the law prescribes no specific penalties for doing so. The approval process usually takes several years, due primarily to administrative delays. The only religious groups known to be registered were Christian and Muslim groups and the Baha'i Faith; additional groups may be registered. The Ministry stated that the number of registered religious denominations was 38. The Government did not register traditional religious groups on the grounds that the practice of traditional religion was a private concern observed by members of a particular ethnic or kinship group or the residents of a particular locality.

Government officials disapproved of and questioned criticism of the Government by religious institutions and leaders; however, there were no reports that officials used force to suppress such criticism.

The sites and personnel of religious institutions were not exempt from the human rights abuses committed by government security forces; however, there were fewer reports of such abuse than in previous years.

The practice of witchcraft is a criminal offense under the law; however, individuals generally were prosecuted for this offense only in conjunction with another offense, such as murder. Witchcraft traditionally has been a common explanation for diseases of unknown cause.

On March 25, 6-year-old Manuella Cynthia Selam Tiave allegedly was tortured and killed by her mother and two other members of the Malla'a sect. The alleged purpose of the "session" was to follow the prescription of the sect's goddess and rid the girl of a demon that possessed her soul. In early April, the Prefet of Wouri Division banned the Malla'a sect because of the alleged murder.

On July 26, the GSO, a special Yaounde police unit, arrested 21-year-old Robert Ndoumbe Elimbi for the April 2001 murder of Appolinaire Ndi, a parish priest in the Yaounde diocese. Elimbi remained in detention at year's end.

There were no developments in the May 2001 case of the shooting death of Father Henri Djjeneka.

In the northern provinces, especially in rural areas, societal discrimination by Muslims against persons who practiced traditional indigenous religions was strong and widespread. Some Christians in rural areas of the north complained of discrimination by Muslims; however, no specific incidents or violence stemming from religious discrimination were reported, and the reported discrimination may reflect ethnic as much as religious differences.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights; however, in practice security forces routinely impeded domestic travel.

Roadblocks and checkpoints manned by security forces have proliferated in cities and most highways making road travel both time-consuming and costly, since extor-

tion of small bribes was commonplace at these checkpoints. Police frequently stopped travelers to check identification documents, vehicle registrations, and tax receipts as security and immigration control measures. During the year, security forces injured persons they thought were evading checkpoints. For example, on April 10, a gendarme shot 32-year-old Francis Akondi Ndanle, a Bamenda, North West Province, taxi driver that he thought was trying to evade a checkpoint. Although the gendarme was not arrested, the North West Gendarmerie Legion conducted an investigation, the results of which were unknown at year's end.

There were credible reports that police arrested and beat individuals who failed to carry their identification cards (*see* Section.f.).

During the year, authorities confiscated the passports of several human rights activists (*see* Section 4). For example, on June 16, Douala airport police confiscated the passport, national identification card, and driving license of human rights activist and publisher of *Le Messenger* newspaper, Pius Njawe, when he returned from a trip to England. No justification was given. On June 19, Njawe's papers were returned to him.

There were no curfews imposed during the year.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government provided first asylum to persons who arrived at the border without documentation but who could show a valid claim to refugee status. In February approximately 21,000 Fulanis fleeing Nigeria entered the country. Approximately 5,000 to 6,000 Chadians were repatriated during the year. In November the UNHCR reported a total of 56,000 refugees, including 39,000 Chadians and 15,000 Nigerians. Other refugees mainly were from Rwanda, Burundi, and the Democratic Republic of the Congo, with small numbers from Liberia, Sudan, and Ethiopia. The Government accepted refugees for resettlement who were granted refugee status by the UNHCR.

The UNHCR office in Gabon was responsible for refugees. However, in early May, UNHCR West and Central Africa Bureau Chief Bah Thierno Oumar stated that the UNHCR intended to reopen its office in the country following the flow of more than 21,000 refugees fleeing ethnic unrest in Nigeria's Taraba State. The office was expected to reopen in early 2003 (*see* Section 4).

Some illegal immigrants were subjected to harsh treatment and imprisonment. Communities of Nigerians and Chadians often were the targets of police and gendarme harassment. During raids members of the security forces often extorted money from those who did not have regular residence permits or those who did not have valid receipts for store merchandise.

There were no confirmed reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides that citizens have the right to change their government; however, dominance of the political process by the President and his party severely limited the ability of citizens to exercise this right. President Paul Biya has controlled the Government since 1982 and led the ruling CPDM party since 1985. Both international and domestic observers widely criticized and viewed as fraudulent the 1997 presidential and legislative elections. In these elections, administered by the Ministry of Territorial Administration, members of largely pro-opposition ethnic groups and inhabitants of largely pro-opposition localities effectively were prevented from registering and voting, registration and vote counting procedures were not transparent, a public announcement of results was delayed, and the number of votes cast in some pro-government areas exceeded the adult population.

The 1996 amendments to the 1972 Constitution retained a strongly centralized system of power based on presidential authority; however, the amendments imposed a limit of two 7-year terms on the President. They provided for the creation of a partially elected (70 percent) and partially appointed (30 percent) Senate along with the creation of a similarly constituted set of provincial assemblies with limited power over local affairs. The Senate and regional council amendments were not yet implemented by year's end. In the National Assembly, no bills other than government bills have been enacted since 1991, although the Assembly sometimes has not enacted legislation proposed by the Government.

Elections were held by balloting that officially was described as secret but permitted voters to leave the polling place with evidence of how they voted. At polling places on election day, registered citizens received a package containing one card for

each candidate. While alone inside a closed booth, citizens chose a ballot and sealed it into an envelope. Citizens then deposited the sealed envelope into a ballot box outside the booth. In previous elections, citizens could not dispose of their ballots privately; however, during the legislative and municipal elections, polling officials provided trash bags so that voters could dispose of unused ballots privately before exiting the closed booth.

President Biya's October 1997 reelection was marred by serious procedural flaws as well as a boycott by the three major opposition parties. While the boycott made the outcome a foregone conclusion, most observers nonetheless considered the election to be neither free nor fair. Election irregularities especially were egregious in opposition strongholds where boycotting opposition activists were not present to monitor voting procedures. The Supreme Court declared President Biya the winner with 92.57 percent of the vote, and the UNDP, which previously had been an opposition party, joined the CPDM in a coalition government that included a faction of the UPC party.

The President's control over the country's administrative apparatus was extensive. The President appoints all Ministers including the Prime Minister. On August 24, President Biya reshuffled his cabinet to bring in 18 new ministers, 16 of whom were CPDM members. The President also directly appoints the governors of each of the 10 provinces. The governors in turn wield considerable power in the electoral process, interpreting and implementing the laws. The President also has the power to appoint important lower level members of the 58 provincial administrative structures, including the senior divisional officers, the divisional officers, and the district chiefs. The governors and senior divisional officers wield considerable authority within the areas under their jurisdiction, including the authority to ban political meetings that they deem likely to threaten public order (*see* Section 2.b.). They also may detain persons for renewable periods of 15 days to combat banditry and other security threats (*see* Section 1.d.).

The right of citizens to choose their local governments remained circumscribed. The Government has increased greatly the number of municipalities run by presidentially appointed delegates, who have authority over elected mayors. Delegate-run cities included most of the provincial capitals and some division capitals in pro-opposition provinces; however, this practice was nonexistent in the southern provinces, which tended to support the CPDM. However, in municipalities with elected mayors, local autonomy was limited since elected local governments relied on the central government for most of their revenue and administrative personnel.

In 2001 the President signed a law that provides for the creation of the National Election Observatory (NEO) to supervise electoral procedure from the registration of voters to the collection of reports after the polls; all polling stations were expected to have a representative from the NEO. The law also provides that the NEO should have a presidentially appointed national office to appoint local offices at the levels of provinces, divisions, subdivisions, and districts. A presidential decree appointed the NEO's members in October 2001. The President postponed scheduled January municipal elections to June, ostensibly to give the NEO time to ensure free and fair elections. The NEO demonstrated a high level of political independence, facilitated voter registration, and encouraged free media access for opposition candidates. The President postponed the elections for another week after the opening of polls on June 23 since the administration failed to distribute electoral materials.

Legislative and municipal elections were held on June 30. The postponement of the elections contributed to low voter turnout. The ruling CPDM gained seats in municipal councils and in the National Assembly, it won 150 of 180 seats. The election results largely reflected the will of the people; however, there was much disorganization and some fraud. The Catholic Church, which observed the elections along with NEO, reported several election irregularities, including corruption, ghost polling stations, and discriminatory voter registration. NEO also admitted to administrative deficiencies in voter registration. Following the election, six opposition parties reported massive fraud and boycotted the municipal councils and the National Assembly. On July 18, the Supreme Court annulled legislative election results in nine divisions, in which the CPDM had won eight seats. The Court rescheduled elections in these divisions to occur within 60 days; they took place on September 15. On September 7, the Court also annulled the results for municipal elections in 17 districts due to violence, consisting mostly of fighting between political party members and polling station or ruling party officials, looting, and intimidation in those elections that largely were won by the CPDM.

There were no laws that specifically prohibit women or members of minorities from participating in government, the political process, or other areas of public life. Women held 16 of 180 seats in the National Assembly, 3 of 50 cabinet posts, and a few of the higher offices within the major political parties, including the CPDM.

Many of the key members of the Government were drawn from the President's own Bulu/Beti ethnic group, as were disproportionately large numbers of military officers and CPDM officials. Members of some of the other 200 ethnic groups held 39 cabinet seats, compared with 16 cabinet positions held by members of the President's ethnic group. The Biya government has proven particularly intolerant of opposition from within its Beti/Bulu ethnic-regional base in the Center Province.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing findings on human rights cases; however, government officials repeatedly impeded the effectiveness of human rights NGOs during the year by limiting access to prisoners, refusing to share information, and increasingly threatening and using violence against personnel of human rights NGOs (*see* Section 1.d.). The activities of virtually all of these groups were limited by a shortage of funds and trained personnel. Observers have criticized the country's NGO laws for giving the Government loopholes with which it could deny authorization to operate or eliminate NGOs by decree.

Domestic human rights NGOs included the National League for Human Rights, the Organization for Human Rights and Freedoms, the Association of Women Against Violence, the Cameroonian Association of Female Jurists, the Cameroonian Association for Children's Rights, Conscience Africaine (Nouveaux Droits de l'Homme), the Movement for the Difference of Human Rights and Liberties, the Human Rights Defense Group (HRDG), the National Association of Nontribalists and Nonracists, the Committee of Action for Women's and Children's Rights, the Human Rights Clinic and Education Center, the Association of Women against Violence (ALVF), the Cameroon National Association for Family Welfare, Tribes Without Frontiers, the Association for the Promotion of Communal Initiatives, and the League for Rights and Freedoms. Many of these groups held seminars and workshops on various aspects of human rights.

On January 16, security forces from the National Center for External Research arrested Abdoulaye Math, President of the Movement for the Defense of Freedom and Human Rights, in Yaounde. Math was arrested on his way to Ireland, where he was scheduled to deliver a speech on human rights in Cameroon. He was detained for 5 hours and his passport was confiscated. On September 28, members of the gendarmerie arrested Albert Mukong, former executive director of the HRDG in Ayukaba, Southwest Province (*see* Section 1.d.).

In late January, six international NGOs, Lawyers without Borders, the International Federation of Human Rights Leagues, the International Federation of the Action of Christians for the Abolition of Torture, Agir Ensemble, Reporters without Borders, and the World Organization Against Torture traveled to the country to investigate reported egregious acts perpetrated by the Operational Command. While they were able to meet with local NGOs and a representative of the Government's NCHRF, the group had no other contacts with government officials.

In June Mary Robinson, the U.N. High Commissioner for Human Rights visited the country. Robinson held meetings with Prime Minister Peter Mafany Musonge and other government officials. She also inaugurated the Central African Sub-regional Center for Human Rights in Yaounde.

The Government-established NCHRF, although hampered by a shortage of funds, conducted a number of investigations into human rights abuses, visited prisons, and organized several human rights seminars aimed at judicial officials, security personnel, and other government officers. Although the Commission infrequently criticized the Government's human rights abuses publicly, its staff intervened with government officials in specific cases of human rights harassment by security forces, attempted to stop Friday arrests (*see* Section 1.d.), and attempted to obtain medical attention for jailed suspects in specific cases. The law prohibits the NCHRF from publishing information on specific human rights cases; however, it may and does submit reports on specific alleged abuses to the authorities directly involved, along with recommendations for improving conditions or punishing violators. In April the NCHRF sent a team to Bafoussam to investigate the alleged disappearance of nine bandits who were detained in gendarmerie cells (*see* Section 1.b.).

The UNHCR, which ceased operations in the country in December 2001, was scheduled to reopen an office in early 2003 (*see* Section 2.d.).

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution does not explicitly forbid discrimination based on race, language, or social status. The Constitution prohibits discrimination based on sex and man-

dates that “everyone has equal rights and obligations”; however, the Government did not enforce these provisions effectively.

*Women.*—Domestic violence against women was common. Women’s rights’ advocates reported that the law does not impose effective penalties against men who commit acts of domestic violence. There were no gender-specific assault laws, despite the fact that women were the predominant victims of domestic violence. Spousal abuse was not a legal ground for divorce. In cases of sexual assault, a victim’s family or village often imposed direct, summary punishment on the suspected perpetrator through extralegal means, ranging from destruction of property to beating. While there were no reliable statistics on violence against women, a large number of newspaper reports indicated that the phenomenon was widespread.

Female genital mutilation (FGM) was not practiced widely. However, it continued to be practiced in 3 of the 10 provinces, including some areas of Far North, Eastern, and Southwest Provinces. Internal migration contributed to the spread of FGM to different parts of the country. The majority of FGM procedures were clitorectomies; however, the severest form of FGM, infibulation, was performed in the Kajifu region of the Southwest Province. FGM usually was practiced on infants and preadolescent girls. The Government has criticized the practice; however, no law prohibits FGM. The ALVF conducted a program in Maroua to assist female victims of FGM and their families and to educate local populations.

Despite constitutional provisions recognizing women’s rights, women did not enjoy the same rights and privileges as men. Civil law theoretically provides equal status and rights for men and women; however, no legal definition of discrimination exists, and some points of civil law were prejudicial to women. The law allows a husband to oppose his wife’s right to work in a separate profession if the protest is made in the interest of the household and the family. While the law gives a woman the freedom to organize her own business, the law allows a husband to end his wife’s commercial activity by notifying the clerk of commerce tribunal of his opposition based upon the family’s interest. Partly for this reason, some employers required a husband’s permission before hiring female employees.

Civil law offered a more equal standard than customary law, which was far more discriminatory against women, since in many regions a woman customarily was regarded as the property of her husband. Because of the importance attached to customs and traditions, laws protecting women often were not respected. Despite the law that fixes a minimum age of 15 years for a bride, many families married young girls by the age of 12 years. In the customary law of some ethnic groups, husbands not only maintained complete control over family property, but also could divorce their wives in a traditional court without being required to provide either verifiable justification or alimony. Polygyny was permitted by law and tradition, but polyandry was not. In cases of divorce, the husband’s wishes determined the custody of children over the age of 6. While a man may be convicted of adultery only if the sexual act takes place in his home, a female may be convicted without respect to venue.

Traditional law normally governed the extent to which a woman may inherit from her husband in the absence of a will, and traditions varied from group to group. In many traditional societies, custom grants greater authority and benefit to male heirs than to female heirs. Women also faced the issue of forced marriage; in some regions, girls’ parents could and did give girls away in marriage without the bride’s consent. Often the husband, who could be many years older than his bride, paid his wife’s parents a “bride price.” Since a price had been paid, the girl was considered the property of the husband. When a married man died, his widow often was unable to collect any inheritance, since she herself was considered part of the man’s property. Often the widow was forced to marry one of the deceased’s brothers. Refusal meant that she had to repay the bride price in full and leave the family compound. In the northern provinces, some Lamibe (traditional rulers) reportedly prevented their wives and concubines from leaving the palace. The lack of a national legal code covering such family issues often left women defenseless against these male-oriented customs.

*Children.*—The Constitution provides for a child’s right to education, and schooling was mandatory through the age of 14 years. The Government took measures during the year to improve access to schools. Since parents had to pay uniform and book fees for primary school, and because tuition and other fees for secondary education remained costly despite the elimination of tuition fees for public elementary schools, education largely was unaffordable for many children. According to statistics published in September in the Cameroon Tribune, approximately 4.5 million children, or 85 percent of all children, were enrolled in school; however, school enrollment varied widely by region. In the Far North Province, it was reported that

well below 50 percent of children attended school; the majority of attendees were boys.

Though illegal, in practice girls continued to suffer from discrimination and access to education throughout the country. The gap in school attendance was 14 percent nationally and 34 percent in the two most northern provinces. This problem, which especially was acute in rural areas, resulted in higher levels of illiteracy among women than men.

The exact degree of familial child abuse was not known; however, the problem was one of several issues targeted by children's rights organizations. During a crime wave in the country's largest cities of Yaounde and Douala, newspaper reports often cited children as victims of kidnaping, mutilation, and even infanticide. There were several credible stories of mothers (usually young, unemployed, and unmarried) abandoning their newborns in streets, garbage cans, and pit toilets. In 2001 the Yaounde-based Center for Helpless Children harbored 24 abandoned or abused children, a small fraction of the suspected cases of abused, abandoned, or neglected children.

Early marriage was prevalent in the northern provinces of Adamawa and North, but especially characteristic of the remote Far North Province where many young women faced severe health risks from pregnancies as early as 13. Authorities were becoming increasingly concerned about this situation. In March the Governor of Adamawa Province called on parents to stop giving young girls in marriage to men old enough to be their grandparents.

FGM was performed primarily on young girls (*see* Section 5, Women).

There were reports of child prostitution and trafficking in children during the year (*see* Section 6.f.).

*Persons with Disabilities.*—The law provides certain rights to persons with disabilities, including access to public institutions, medical treatment, and education. The Government was obliged to bear part of the educational expense of persons with disabilities, to employ them where possible, and to provide them with public assistance when necessary; however, the Government rarely respected these rights. There were few facilities for persons with disabilities and little public assistance of any kind. Lack of facilities and care for persons with mental disabilities particularly was acute. In recent years, the Government reportedly has reduced the share of its expenditures benefiting persons with disabilities and has terminated subsidies to NGOs that helped them. Society largely tended to treat those with disabilities as misfits, and many felt that providing assistance was the responsibility of churches or foreign NGOs. The law does not mandate special access provisions to private buildings and facilities for persons with disabilities.

In August 2001, the Littoral National Education provincial officials threatened to expel members of the Cooperative of the Handicapped Persons of Cameroon from a building in which they were believed to be squatting. The Cooperative claimed the structure officially was given to them by the Provincial Delegation of the Ministry of Social Affairs. The National Education officials ultimately ceased the threats.

In September 2001, several blind persons blocked the road junction in Yaounde between the Ministry of Education and the Prime Minister's office asking to speak to the Prime Minister about the eviction of several blind persons from a building in which they were living illegally. The Prime Minister refused to meet with the group, and the group was expelled from the building early in the year.

*Indigenous Persons.*—A population of approximately 50,000 to 100,000 Baka (Pygmies), a term that encompasses several different ethnic groups, primarily resided (and were the earliest known inhabitants) in the forested areas of the South and East provinces. While no legal discrimination exists, other groups often treated the Baka as inferior and sometimes subjected them to unfair and exploitative labor practices. There were credible reports that logging companies and security forces forced Baka out of their homes. Baka reportedly continued to complain that the forests they inhabit were being logged without fair compensation. Some observers believe that sustained logging was destroying the Baka's unique, forest-oriented belief system, forcing them to adapt their traditional social and economic systems to a more rigid modern society similar to their Bantu neighbors. Local Baka along the proposed path of the Chad-Cameroon pipeline continued to complain that they were not compensated fairly for their land. Others alleged that they have been cheated of their compensation by persons posing as Baka representatives.

An estimated 95 percent of Baka did not have national identity cards; most Baka could not afford to provide the necessary documentation in order to obtain national identity cards, which were required to vote in national elections.

The Government made some efforts toward improving the condition of Baka and making them full citizens. In January the Ministry of Social Affairs, the ILO, and

a group of NGOs met in Abong-Mbang, Upper Nyong Division, East Province, to put in place strategies for the socio-economic advancement of the Baka. A second conference was held in November, but no concrete results were reported by year's end.

*National/Racial/Ethnic Minorities.*—The population was divided into more than 200 ethnic groups, among which there were frequent and credible allegations of discrimination. Ethnic groups commonly gave preferential treatment to fellow ethnic group members both in business and social practices.

Members of President Biya's Bulu ethnic group and of the closely related Beti groups of southern parts of the country held key positions and disproportionately were represented in government, civil service, state-owned businesses, the security forces, the military, and the ruling CPDM party. The large size and centralized character of the public sector long has been perceived widely to favor these two groups. Prospective economic and political liberalization was perceived as potentially harmful to these groups and potentially favorable to other groups such as the large Bamileke and Anglophone ethnic-cultural groups of the west whose members tended to be more active in private commerce and industry.

Northern areas of the country suffered from ethnic tensions between the Fulani (or Peuhl) and the Kirdi. The Kirdi remained socially, educationally, and economically disadvantaged relative to the Fulani in the three northern provinces. Traditional Fulani rulers, called Lamibe, continued to wield great power over their subjects, often including Kirdi, sometimes subjecting them to tithing and forced labor. Slavery still practiced in northern parts of the country was reported largely to be Fulani enslavement of Kirdi. Although the UNDP party was based largely in the Fulani community, the ruling CPDM party has a history representing Fulani as well as Beti-Bulu interests.

Since 1990 natives of the two Anglophone provinces, the Northwest and Southwest Provinces, have tended to support opposition party SDF and have suffered disproportionately from human rights violations committed by the Government and its security forces. The Anglophone community largely was underrepresented in the public sector. Anglophones generally believed that they had not received a fair share of public sector goods and services within their two provinces. Many residents of the Anglophone region sought greater freedom, equality of opportunity, and better government by regaining regional autonomy rather than through national political reform and have formed several quasi-political organizations in pursuit of their goals.

At least one Anglophone group, the SCNC, advocates secession from the country. Subsequent to strident secessionist activity in 1999, the SCNC has calmed considerably; however, the Government continued to hold some SCNC activists or suspected SCNC supporters in detention without trial. The opposition SDF party, whose base of support resides in the Anglophone provinces, reiterated its commitment to pursue a nonviolent political struggle toward the restoration of a federal republic.

Members of the country's large community of Nigerian immigrants often complained of discrimination and abuse by government officials (*see* Section 2.d.). Government officials repeatedly have announced crackdowns on undocumented Nigerian immigrants.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law allows workers both to form and join trade unions; however, it imposes numerous restrictions. The law requires that unions register with the Government, permitting groups of at least 20 workers to organize a union by submitting a constitution, internal regulations, and non-conviction certifications for each founding member. For unions in the private sector, the Government requires registration with the Ministry of Labor, Employment and Social Insurance. Unions for public sector workers must register with the Ministry of Territorial Administration. The law does not permit the creation of a union that includes both public and private sector workers.

The Government indicated that it remits certification within 1 month of union application; however, in practice independent unions, especially in the public sector, have found it difficult to obtain registration. In addition, the requirement for union registration apparently contradicts the International Labor Organization (ILO) Convention 87, which the country signed in 1960. The Convention states that unions have the right to exist through declaration not through government recognition or registration. Registered unions were subject to government interference. The Government chose the unions with which it would bargain; some independent unions accused the Government of creating small non-representative unions amenable to government positions and with which it could negotiate more easily. Some sections of labor law have not taken effect because the presidency had not issued implementing decrees.



There were two trade union confederations: The Confederation of Cameroonian Trade Unions (CCTU) and the Union of Free Trade Unions of Cameroon (USLC). In 2000 the Ministry of Labor, Employment and Social Insurance publicly began to support a faction of the CCTU; however, a court declared illegal an August 2001 “unity” conference attended by 400 members of the faction. The court stated that only the nationally (and legally) recognized body of CCTU had the power to convoke CCTU conferences.

The law prohibits antiunion discrimination, and employers guilty of such discrimination were subject to fines up to approximately \$1,600 (1 million CFA francs). However, employers found guilty were not required to compensate the workers against whom they discriminated or to reinstate fired workers. The Ministry of Labor has not reported any complaints of such discrimination during recent years; however, one organizer of the Union for Telecommunications Workers has claimed that his state-owned company demoted him due to union activism. The Confederation of Independent Trade Unions of Cameroon at SONEL complained to the ILO in 1998, on behalf of staff delegate Olongo, that he was dismissed in 1988 because of his union activity, that the Court of Appeals’ ruling in favor of his reinstatement was suspended by the Supreme Court, and that he had been unable to obtain a final judgment. During the year, the ILO Committee of Experts noted that 14 years after the dismissal, Mr. Olongo still was waiting for some form of compensation and urged the Government to take all necessary measures to ensure that he receive full compensation for his wrongful dismissal.

The CCTU was a member of the Organization of African Trade Unions and the International Confederation of Free Trade Unions. The USLC was a member of the Organization of African Trade Unions.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining between workers and management as well as between labor federations and business associations in each sector of the economy; however, no formal collective bargaining negotiations have taken place since 1996. When labor disputes arose, the Government chose the labor union with which it would negotiate, selectively excluding some labor representatives. Once agreements were negotiated, there was no mechanism to enforce implementation; some agreements between the Government and labor unions were ignored by the Government subsequent to negotiation.

The Labor Code explicitly recognizes workers’ right to strike but only after mandatory arbitration. Arbitration decisions legally were not enforceable and could be overturned or simply ignored by the Government. On March 26, the Minister of Labor held a meeting with the Labor National Consultative Committee in an attempt to streamline the proceedings for convoking a strike, which requires amending Articles 157 through 165 of the Labor Code. Meeting results were not made public at year’s end.

The law provides for the protection of workers engaged in legal strikes and prohibits retribution against them; however, these provisions of the law do not apply to civil servants, employees of the penitentiary system, or workers responsible for national security. Instead of strikes, civil servants were required to negotiate grievances directly with the minister of the appropriate department in addition to the Minister of Labor.

Labor unrest continued during the year. There were strikes by workers in various state-owned companies as well as the public service sector. Secondary teachers observed sporadic strikes throughout the 2001–2002 academic year. For several years, teachers demanded promised salary bonuses, and typically the Government agreed that the bonuses will come at the end of the year, then did not follow through on the promise.

From December 2001 to March, Cameroonian workers of Doba Logistics, a company involved in the construction of the Chad-Cameroon pipeline, staged a strike demanding better pay. The workers complained of discrimination because they believed that their expatriate counterparts received higher salaries. On March 10, management agreed to a salary increase.

On August 19, police officers in Douala’s Bonamoussadi neighborhood arrested two taxi drivers, 30-year-old Jacques Ngagnang and 27-year-old Clement Casimir Ewondo, on charges of attempting to provoke a strike. On the morning of August 19, Ngagnang, Ewondo, and other taxi drivers started a strike in protest of the new Ministry of Transportation requirement that all taxi drivers must carry a badge in their vehicles in order to be easily identified by their clients and to increase taxi security. The taxi drivers thought the cost of the badge, \$8 (5,000 CFA francs) was too high. On August 21, a Douala prosecutor interrogated the striking taxi driver group and subsequently ordered their detention and transfer to the New Bell Central prison where they awaited trial at year’s end. Various press reports have stated

that Douala's Wouri Division Prefet (Senior Divisional Officer) ordered the driver's detention.

On August 19, in Garoua, North Province, bus and bush-taxi owners observed a 24-hour strike to protest police harassment.

There was an industrial free trade zone, but the Government has not granted approval to any firms to take part in the zone. Free trade zone employers were exempt from some provisions of the Labor Code but must respect all internationally recognized worker rights.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor; however, it occurred in practice. The authorities continued to allow prison inmates to be contracted out to private employers or used as communal labor for municipal public works.

There were credible reports that slavery continued to be practiced in northern parts of the country, including in the Lamidat of Rey Bouba, a traditional kingdom in the North Province (see Section 5). In the South and East Provinces, some Baka (Pygmies), including children, continued to be subjected to unfair and exploitative labor practices by landowners, working on the landowners' farms during harvest seasons without payment (see Section 5).

The Government does not expressly prohibit forced and bonded labor by children; there were reports that these practices occurred (see Section 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law generally protects children in the field of labor and education and specifies penalties ranging from fines to imprisonment for infringement. In April 2001, President Biya ratified ILO Convention 138 that sets a minimum age of 14 for child employment. The law also bans night work and enumerates tasks that cannot be performed legally by children between the ages of 14 and 18 years. These tasks included moving heavy weights, dangerous and unhealthy tasks, working in confined areas, and prostitution. The law also states that a child's workday cannot exceed 8 hours. Employers were required to train children between the ages of 14 and 18, and work contracts must contain a training provision for minors. The law prohibits children from working before 6 a.m. or after midnight, though this prohibition was not enforced effectively.

According to a 2000 ILO study conducted in conjunction with local NGOs and the Ministry of Labor, child labor remained a serious problem, although the Government has made some progress toward its amelioration. In February the Government, along with the African Soccer Confederation (CAF), promoted the radio-televized "red-card" campaign against child labor. In the nation's major cities of Yaounde, Douala, and Bamenda the ILO estimated in 2000 that 40 percent of employed children were girls, 7 percent were less than 12 years of age, and 60 percent had dropped out of primary school.

The Ministry of Social Affairs and the Ministry of Labor were responsible for enforcing existing child labor laws through site inspections of registered businesses; however, lack of resources inhibited an effective inspection program. Moreover, the legal prohibitions do not include family chores, which in many instances were beyond a child's capacity. According to the ILO study, child labor existed chiefly in urban areas and in the informal sector such as street vending, car washing, agricultural work, and domestic service. An increasing number of children worked as household help and some children were involved in prostitution. In the north of the country, there were credible reports that children from needy homes were placed with other families to do household work for pay.

In rural areas, many children began work at an early age on family farms. Parents viewed child labor as both a tradition and a rite of passage. Often, relatives employed rural youth, especially girls, as domestic helpers. Many urban street vendors were less than 14 years of age.

On May 27, President Biya ratified ILO Convention 182 on the worst forms of child labor.

The Government does not prohibit forced and bonded labor by children, and there were reports that it occurred in practice (see Section 6.f.).

*e. Acceptable Conditions of Work.*—Under the law, the Ministry of Labor was responsible for setting a single minimum wage nationally applicable in all sectors. The minimum wage was approximately \$40 (23,514 CFA francs) per month. The wage did not provide for a decent standard of living for an average worker and family.

The law establishes a standard workweek of 40 hours in public and private non-agricultural firms and 48 hours in agricultural and related activities. The law mandates at least 24 consecutive hours of weekly rest.

The Government sets health and safety standards. Ministry of Labor inspectors and occupational health physicians were responsible for monitoring these standards;

however, they lacked the resources for a comprehensive inspection program. There was no specific legislation permitting workers to extricate themselves from dangerous work situations without jeopardizing continued employment. Illegal foreign workers were not able to claim legal protections.

*f. Trafficking in Persons.*—The law provides that any person who engages in any form of trafficking in persons shall be punished by 10 to 20 years of imprisonment; however, trafficking was a problem. The court also may impose a forfeiture penalty on any person who engages in trafficking. The country was a source, transit, and destination point for internationally trafficked persons; trafficking also occurred within the country. In 2000 the Government signed, but has not yet ratified, a U.N.-sponsored protocol on trafficking in persons.

The Government has criticized the practice of trafficking in persons, and the Ministry of Labor, Employment, and Social Insurance was primarily responsible for fighting trafficking. However, that Ministry severely was underfunded. There were no known cases of prosecution of traffickers or protection of victims by year's end. The Government established an interagency committee to combat trafficking and has developed a program to find and return trafficked children. The budget for the launching of the Government's interagency action plan to fight trafficking was scheduled for a vote during the June 2001 budget session in the National Assembly; however, that chapter was omitted in the draft budget. Unless the President is able to appropriate funding, implementation will continue to be delayed.

During the year, in collaboration with the ILO, the Government hired a consultant to conduct a new investigation assessing the level of national trafficking. In September the ILO launched a study assessing forced labor.

An ILO study conducted in 2000 in Yaounde, Douala, and Bamenda, revealed that trafficking accounted for 84 percent of child laborers (*see* Section 6.d.). In most cases, intermediaries presented themselves as businessmen, approaching parents with large families or custodians of orphans and promising to assist the child with education or professional training. The intermediary paid parents an average of \$8 (6,000 CFA francs) before taking the child and then transporting him or her to a city where the intermediary would subject the child to forced labor for little remuneration. In 4 out of 10 cases, the child was a foreigner transported to the country for labor. The report also indicated that Cameroon was a transit country for regional traffickers as well, transporting children between Nigeria, Benin, Niger, Chad, Togo, the Republic of the Congo, and the Central African Republic for indentured or domestic servitude, farm labor, and sexual exploitation. Citizens also were trafficked to South Africa. Children also were trafficked within the country. Parents sometimes offered their young daughters to the Lamido (chief) of the North Province of the Rey Bouba as gifts.

While there has been no published extensive study on trafficking in adult persons, anecdotal evidence from the NCHRF and others indicates that trafficking primarily in women also may exist. Women were "hired" into hubs of prostitution, often in Europe. The method for trafficking women usually involved a marriage proposition by a foreign businessman. The woman was inducted into servitude upon arrival at a foreign destination.

The Government was working with local and international NGOs to provide temporary shelter and assistance to victims of trafficking. In August the Catholic Relief Service designed the project "Nkeng-Shalom" to combat corruption in local schools that led to child prostitution.

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## CAPE VERDE

Cape Verde is a multiparty parliamentary democracy in which constitutional powers were shared among the elected Head of State, President Pedro Verona Rodrigues Pires, former president of the African Party for the Independence of Cape Verde (PAICV); the head of government, Prime Minister Jose Maria Neves; and Neves' party, the PAICV. In January 2001, Pires was elected by a slim margin of 12 votes over the country's former prime minister and Movement for Democracy (MPD) president, Carlos Veiga, in what the National Electoral Commission and international media judged to be free and fair elections. The judiciary generally was independent.

The Government controlled the police, which had primary responsibility for maintenance of law and order. Some members of the police and prison guards committed human rights abuses.

The country had a market-based economy but little industry and few exploitable natural resources. In 2000 per capita income was \$1,330. The country had a long history of economically driven emigration, primarily to Western Europe and the

United States, and remittances from citizens abroad remained an important source of income. The country produced food for only 15 percent of its population of 468,200, which resulted in heavy reliance on international food aid.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Despite government efforts to control beatings by police officers, there continued to be credible reports of police abuse. Prison conditions were poor. The judicial system was overburdened, and lengthy delays in trials were common. There were some limitations on press freedom, and there continued to be allegations of media self-censorship. Violence and discrimination against women and mistreatment of children continued to be serious problems. Although the Government supported legislation to correct these problems, it failed to adopt, implement, and enforce policies designed to address the most critical challenges. There were reports of trafficking in persons. Cape Verde was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there were credible reports that police continued to beat persons in custody and in detention, despite government efforts to stop such practices. While there were mechanisms for investigating citizen complaints of police brutality, in practice these mechanisms neither ensured the punishment of those responsible nor prevented future violations. In addition, in some instances of violence against women, the police did not protect the victims effectively (*see* Section 5). Unlike in the previous year, there were no reports that immigration authorities harassed Nigerian citizens (*see* Section 2.d.). Following its January 2001 election, the Government began investigating allegations of human rights abuses by police; however, no effective action was taken.

No action was taken, nor was any likely, against police officers responsible for beating a detainee on Sal Island in 2000.

Prisons conditions were poor and suffered from severe overcrowding. Sanitation and medical assistance was poor; however, a doctor and a nurse were available and prisoners were taken to the public hospitals for serious problems. Psychological problems among prisoners were common. Although women and men are held separately, juveniles are not held separate from adults, and pretrial detainees are not held separate from convicted prisoners.

The Government permitted both formal visits by human rights monitors to prisons and routine visits to individual prisoners; however, there were no such visits during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. The law stipulates that a suspect must be charged before a judge within 48 hours of arrest. Police may not make arrests without a court order unless a person is caught in the act of committing a felony. The courts had jurisdiction over state security cases, and there was a functioning system of bail.

The Government did not use forced exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. The Constitution provides for the right to a fair trial and due process, and an independent judiciary generally enforces this right. Cases involving former public office holders continued under investigation. For example, the investigation continued in the case of the former Prime Minister accused of embezzling approximately \$16,250 (2 million Cape Verdean escudos) in the privatization of ENACOL (a parastatal oil supply firm). The case has been transferred to the Attorney General's office because the former Prime Minister failed to appear at the first hearing.

The judicial system was composed of the Supreme Court and the regional courts. Of the five Supreme Court judges, one was appointed by the President, one by the National Assembly, and three by the Superior Judiciary Council. This council consisted of the President of the Supreme Court, the Attorney General, eight private citizens, two judges, two prosecutors, the senior legal inspector of the Attorney General's office, and a representative of the Ministry of Justice. Judges were independent and could not belong to a political party.

The Constitution provides for the right to a fair trial. Defendants are presumed to be innocent; they have the right to a public, nonjury trial; to counsel; to present witnesses; and to appeal verdicts. Free counsel was provided for the indigent. Regional courts adjudicated minor disputes on the local level in rural areas. The Ministry of Justice did not have judicial powers; such powers were with the courts. Defendants could appeal regional court decisions to the Supreme Court.

The judiciary generally provides due process rights; however, the right to an expeditious trial was constrained by a seriously overburdened and understaffed judicial system. A backlog of cases routinely led to trial delays of 6 months or more; more than 10,500 cases were pending at the end of 2001.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. There were some reports of restrictions on freedom of the press. There is a substantial and growing independent press; however, there continued to be criticism by many prominent government and opposition figures of state-controlled television for its failure to exercise properly its role of informing the public regarding political and economic issues. There continued to be reports of media self-censorship.

A 1999 constitutional amendment excludes using freedom of expression as a defense in cases involving defamation or offense to personal honor. This amendment was criticized strongly by then-opposition PAICV politicians and some journalists as potentially limiting freedom of expression; however, the PAICV government did not seek to change the provision by year's end.

There were three independent newspapers and one state-owned newspaper. There were six independent radio stations and one state-owned radio station. One television station was state owned, and two others were foreign owned. Foreign broadcasts were permitted. Journalists were independent of government control and were not required to reveal their sources; however, there were credible reports that journalists within the Government-controlled media still practiced self-censorship.

Government authorization was not needed to publish newspapers or other printed material. Despite the broadly interpreted criminal libel laws, no independent media outlets reported direct pressure in their daily operations or business activities. The national radio station provided live broadcasts of National Assembly sessions.

The law requires a formal licensing mechanism for mass media, including government authorization to broadcast; however, there were no reports that licenses were denied or revoked or that the Government refused to authorize broadcasts during the year.

The Government did not restrict Internet access. There was a private Internet service provider. There were technical limitations on Internet use related to bandwidth and the unavailability or inefficiency of electricity and telephone service in some parts of the country.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedoms of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Catholic majority enjoyed a privileged status in national life. For example, the Government provided the Catholic Church with free television broadcast time for religious services and observed its holy days as official holidays.

To be recognized as legal entities by the Government, religious groups must register with the Ministry of Justice; however, failure to do so did not result in any restriction on religious belief or practice.

The trial of four individuals of the "Sao Domingos Group," who were accused of desecrating a Catholic Church in 1996 began in November 2001; however, a decision still was pending at year's end.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution and the law provide for these rights, and the Government generally respected them in practice.

The Constitution and the law provide for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. During the year, there were media reports that Senegalese citizens residing in the country believed that they were subject to discriminatory treatment. Other observers reported no evidence of a government policy of discrimination against Senegalese. Three or four Basque separatists have been provided first asylum status. The Government cooperates with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. In January 2001, Pedro Verona Rodrigues Pires, former president of the PAICV, was elected by a slim margin of 12 votes over the country's former Prime Minister and MPD president, Carlos Veiga. The principal opposition party, the MPD, held power from January 1991 until January 2001, after defeating the PAICV, which held power in a one-party state from independence in 1975 until 1991. The PAICV won the legislative elections in January 2000 and has an absolute majority in the National Assembly. The National Electoral Commission and the international media judged the January presidential elections, as well as legislative and municipal elections in 2000, to be free and fair.

The Constitution provides for the separation of powers. Constitutional powers were shared among President Pires, Prime Minister Jose Maria Neves, and the PAICV party. Cabinet ministers were subject to confirmation by the President. Collectively they must retain the support of a parliamentary majority. The President could dismiss the Government with the approval of the political parties represented in the National Assembly and the Council of the Republic. This council consisted of the President of the National Assembly, the Prime Minister, the President of the Constitutional Court, the Attorney General, the Ombudsman, the President of the Economic and Social Council, the former presidents, and five private citizens appointed by the President. The MPD and the Democratic Renovation Party were the main opposition parties.

There were 8 women among the elected "active" deputies in the 72-seat National Assembly, and there were 3 women among the 7 elected "reserve" deputies that fill any eventual vacancies during the legislative term. There were 4 women in the 17-member Cabinet.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

There are three private human rights groups, the National Commission of the Rights of Man, the Ze Moniz Association, and the Alcides Barros Association.

The independent Ombudsman's powers remained undefined at year's end, and no Ombudsman was elected by year's end.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination based on race, sex, religion, disability, language, or social status. However, despite the Government's increased efforts to enforce all relevant constitutional provisions, it still did not do so effectively, and not all elements of society, particularly women and children, enjoyed full protection against discrimination.

*Women.*—Domestic violence against women, including wife beating, was common. The Government and civil society encouraged women to report criminal offenses such as rape and spousal abuse to the police; however, according to the media and a July report by the Women Jurists' Association, longstanding social and cultural values inhibited victims from doing so, and victims rarely reported these offenses to the police. Nevertheless, reporting of such crimes to police continued to increase during the year, and the media continued to report their occurrence. Violence against women was the subject of extensive public service media coverage in both government- and opposition-controlled media.

While there were mechanisms to deal with spousal abuse, in practice these mechanisms neither ensured the punishment of all those responsible nor effectively prevented future violence. Women's organizations, like the Women Jurists' Association,

continued to seek legislation to establish a special family court to address crimes of domestic violence and abuse; however, they made no progress in achieving such legislation during the year. The revised Penal Code protects certain rights of the victims of sexual abuse; however, it did not ensure compensation.

Despite constitutional prohibitions against sex discrimination and provisions for full equality, including equal pay for equal work, discrimination against women continued. Although they often were paid less than men for comparable work, women were making modest inroads in various professions, especially in the private sector.

The Constitution prohibits discrimination against women in inheritance, family, and custody matters; however, largely because of illiteracy, most women were unaware of their rights. Women often were reluctant to seek redress of domestic disputes in the courts. The Organization of Cape Verdean Women alleged that there was discriminatory treatment in inheritance matters, despite laws that called for equal rights. For example, some women were pressured to sign judicial agreements detrimental to their statutory inheritance rights.

In 2000 a group of female attorneys formed the Women Jurists Association, an association to provide free legal assistance to women throughout the country suffering from social abuse (both violence and discrimination) and spousal abuse.

*Children.*—In 2000 the Government updated its studies of social policy priorities and legal rights for children and adolescents and restructured the Cape Verdean Institute for Children in accordance with norms in the Convention on the Rights of the Child. The Government provided free, mandatory education for 6 years of primary school for all children. Normally this benefit covered children from age 6 to age 12. Education was compulsory until age 16; however, secondary education was free only for children whose families had an annual income below approximately \$1,700 (160,000 Cape Verdean escudos). According to 2001 Ministry of Education statistics, primary school attendance was approximately 98 percent. Attendance rates by boys and girls differ by less than 1 percent. The Government also sought to reduce infant mortality and disease, combat drug and alcohol abuse, and discourage teenage pregnancy; however, progress continued to be slow.

In September 2001, the Education Minister announced that pregnant students would be suspended from classes during pregnancy or nursing. Individual schools were responsible for enforcing the rule; however, no such suspensions have occurred.

Child abuse and mistreatment, sexual violence against children, and juvenile prostitution were problems, exacerbated by chronic poverty, large unplanned families, and traditionally high levels of emigration of adult men. The media reported cases of sexual abuse against children and adolescents. The inefficiencies of the judicial system made it difficult for government institutions to address the problem.

*Persons with Disabilities.*—There was no discrimination against persons with disabilities in employment and education; however, although the Constitution mandates “special protection” for the aged and persons with disabilities, the Government did not require access to public buildings or services for persons with disabilities. There were no official schools or trained teachers for persons with disabilities, which disadvantaged children with disabilities. Several NGO’s, including an association for the blind, were active.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides that workers legally are free to form and join unions without government authorization or restriction. There were two umbrella union associations: The Council of Free Labor Unions, comprised of 14 unions with approximately 18,000 members; and the National Union of Cape Verde Workers, formed by the former ruling party but operated independently, which included 14 unions with approximately 20,000 members. The Government did not interfere with the activities of these organizations; however, the National Union of Cape Verde Workers claimed that it received less than its share of funds for unions. Both unions suffered from a shortage of funds. There were no prohibitions against forming or joining unions.

The law provides that if an employer fires a worker without a “just cause,” as defined by the law, such as for union activity, the employer either must reinstate the worker or provide financial compensation to the worker. The law bans antiunion discrimination by employers with fines for offenders. No cases were brought to court during the year.

Unions were free to affiliate internationally and had ties with African and international trade union organizations.

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides for the right to organize, to operate without hindrance, and to sign collective work contracts; however, there has been very little collective bargaining. There were no

signed collective bargaining agreements. The ILO has cited the Government for its inability to provide examples of signed collective bargaining agreements.

Workers and management in the small private sector, as well as in the public sector, normally reached agreement through negotiations. Although there were no collective labor contracts, workers succeeded in negotiating important issues such as salary increases; however, as the country's largest employer, the Government continued to play the dominant role in setting wages. It did not fix wages for the private sector, but salary levels for civil servants provided the basis for wage negotiations in the private sector.

The Constitution provides union members with the right to strike, and the Government generally respected this right. However, in 1999 when the workers of the shipping company Arc Verde made two attempts to strike, the Government invoked a "civil request" under which it had the power, in an emergency or if a strike threatened coverage of basic needs, to name a list of minimum services that a union must continue to provide during any strike. Because of the Government's civil request, the crew and workers of four of the five ships in the fleet were required to continue working. According to the National Union of Cape Verde Workers, the Government's decision violated the law, since there was no emergency. The union claimed that, under such circumstances, the "minimum services list" that it presented to the Government would have ensured the continuation of essential services. The union presented the case to the International Confederation of Free Trade Unions, which in 1999 filed a complaint against the Government with the International Labor Organization (ILO). Despite numerous ILO requests, the Government continued to requisition workers to curtail strikes and to interpret essential services in the broadest terms. The ILO complaint remained unresolved at year's end.

In its 2000 report, the ILO Committee on Freedom of Association (CFA) noted that the Government amended legislation in 1999 so that organizations of workers may enjoy the right to peaceful demonstration without unreasonable restrictions, particularly the time limit on demonstrations. The CFA also reported that the Government began to take measures to amend its legislation so that in the event of disagreement between the parties on the minimum services to be provided during strikes, this difference of opinion would be resolved by an independent body. However, at year's end, the Government had not created an independent body to resolve such differences.

There were no legal or illegal strikes during the year. During the year, anti-erosion employees of the Ministry of Agriculture and Fish threatened to strike several times and held peaceful demonstrations. These workers have been negotiating with the Ministry of Finance for unpaid wages for work completed in 1997 and 1999.

Praia has a 30-acre export processing zone (EPZ), which housed two Portuguese companies and a Cape Verdean-Sengalese joint venture. There were no special laws or exemptions from regular labor laws for EPZ's.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The legal minimum age for employment was 14 years. The law prohibits children under the age of 16 from working at night, more than 7 hours per day, or in establishments where toxic products were produced; however, the Government rarely enforced the law, and child labor occurred. The Government was working with the ILO and the International Program for the Elimination of Child Labor. In practice the Ministry of Justice and Labor enforced minimum age laws with limited success, and then only in the urban, formal sectors of the economy.

*e. Acceptable Conditions of Work.*—There were no established minimum wage rates in the private sector. Large urban private employers linked their minimum wages to those paid to civil servants. For an entry-level worker, this wage is approximately \$120 (11,583 Cape Verdean escudos) per month. The majority of jobs paid wages insufficient to provide a worker and family with a decent standard of living; most workers relied on second jobs, extended family help, and subsistence agriculture.

The maximum legal workweek for adults was 44 hours. While large employers generally respected these regulations, many domestic servants and agricultural laborers worked longer hours.

The Director General of Labor conducted sporadic inspections to enforce the labor code and imposed fines on private enterprises that were not in conformity with the law. However, the Government did not enforce labor laws systematically, and much of the labor force did not enjoy their protection. Few industries employed heavy or dangerous equipment, and work-related accidents were rare.



There is no legal provision for workers to remove themselves from unsafe working conditions without jeopardizing their continued employment.

Foreign workers required both a work permit (granted by immigration authorities) and a work contract (approved by the Ministry of Labor). If in compliance with these requirements, foreign workers were protected fully by the law; however, there were no provisions to protect illegal foreign workers.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons, and illegal smuggling of economic emigrants to various points in Europe was believed to be a thriving business. This smuggling involved visa and related fraud; however, there were no reports that these persons were transported into forced labor or debt bondage. The country was a transit point for smugglers, and smuggling had become a concern for local authorities. Several press reports noted that the police had arrested some persons, smugglers as well as victims. In 2001 such cases involved fewer than 30 persons. The Government cooperated with European authorities, neighboring governments, and foreign embassies to deal with the problem.

## CENTRAL AFRICAN REPUBLIC

The Central African Republic (CAR) is a constitutional democracy with a multiparty legislature. Ange-Felix Patasse, leader of the Movement for the Liberation of the Central African People (MLPC), was re-elected with a narrow majority to another 6-year term in September 1999. The presidential election, like the legislative elections held in late 1998, was generally free, but marred by irregularities that tended to favor the ruling party candidate. The Government was headed by a Prime Minister and Cabinet appointed by the President. Although the Constitution provides for separation of powers, the legislature was vulnerable to manipulation by the President, who dominated the Government. On October 25, forces loyal to General Francois Bozize, the former Chief of Staff of the Armed Forces who directed the coup from abroad, entered the country from Chad and led a coup attempt in Bangui. President Patasse retained power with the assistance of troops from Libya and Movement for the Liberation of the Congo (MLC) soldiers from the Democratic Republic of the Congo (DRC) led by Jean-Pierre Bemba. The coup attempt resulted in numerous deaths and abuses, 10,000 internally displaced persons (IDPs), and significant numbers of refugees in neighboring countries. On December 29, the Libyan troops withdrew from the country; however, approximately 1,000 of Bozize's rebels retained control of much of the north-central region at year's end. The Constitution provides for an independent judiciary; however, it was subject to executive influence.

The National Police were under the direction of the Ministry of Interior and Public Security, while the military forces, the National Gendarmerie, and the Presidential Security Unit (USP) were under the jurisdiction of the Ministry of Defense; all shared responsibility for internal security. Civilian authorities did not maintain effective control of the security forces. Apart from the USP, the military, much of which mutinied in 1996 and 1997, widely was perceived to be of doubtful loyalty to the Government, which owes approximately 21 months of salary arrears to the military. Former members of the security forces were involved in the October 25 and May 2001 coup attempts. Members of the security forces committed serious human rights abuses.

The economy of the country, which has a population of approximately 3.5 million, was dominated by subsistence agriculture. Foreign assistance was an important source of national income. Salary arrears owed to civilian employees and the military continued to impair the functioning of the Government and the ability of the state to enforce the rule of law. The misappropriation of public funds and corruption in the Government remained widespread. The large displacement of persons during and following the October 25 coup attempt adversely affected economic productivity during the year.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. Citizens generally were able to choose their national government; however, the Government controlled the electoral process. Security forces continued to commit arbitrary and unlawful killings, including government-tolerated executions of suspected bandits. The October 25 coup attempt resulted in numerous killings of civilians in Bangui and the northern part of the country. Police continued to torture, beat, and otherwise abuse suspects and prisoners. The Government did not take effective action to punish abusers, and impunity remained a problem. Other human rights abuses included harsh prison conditions, arbitrary arrest, prolonged detention without trial, limits on judicial independence, and infringements on privacy. The Government restricted

freedom of the press, assembly, and association. There were some limits on movement. Violence and discrimination against women, female genital mutilation (FGM), child prostitution, discrimination against indigenous people (Pygmies), trafficking in persons, and child labor, including instances of forced child labor, continued to be problems.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Security forces continued to commit extrajudicial killings; however, unlike in the previous year, there were no reports that security forces engaged in military reprisals, open executions, or the elimination of suspected rebel sympathizers, particularly members of the Yakoma ethnic group. The special police Squad for the Repression of Banditry (OCRB) continued to operate and was responsible for killing and torturing individuals. The October 25 coup attempt resulted in numerous killings of civilians in Bangui and the northern part of the country. Border clashes between government and rebel soldiers also resulted in civilian killings. Police and security forces seldom were prosecuted for unlawful killings, and impunity remained a problem.

There reportedly were fewer incidents of OCRB killing and torture than in previous years. The OCRB's actions had tacit government support and popular approval and were seen as an effective means of reducing crime and increasing public security. No OCRB member has been prosecuted for extrajudicial killings or other abuses committed while on duty, and officials justified the unit's actions as a consequence of nonexistent prison facilities in Bangui. Unlike in the previous year, there were no reports that police officials publicized on radio and television the crimes of criminals apprehended by the OCRB, which executed the individuals the following day without a trial.

On January 19, soldiers from the military garrison at Bossangoa killed two civilians in response to protests by civilians over the murder of a civilian by a soldier 3 days before.

On December 17, in Bangui, a government soldier on night patrol shot and killed magistrate Jean Didier Mbainai. The soldier, who claimed it was an accident, was arrested and remained in prison at year's end.

There was no further information on the December 2001 police killing of Paul Medard Yamboka.

The October 25 coup attempt resulted in 105 civilian deaths in Bangui and an undetermined number in the north of the country. However, unlike in the aftermath of the May 2001 coup attempt, there were no reports that government forces deliberately targeted members of the Yakoma ethnic group for reprisal killings or that USP troops killed Rwandan refugees and nationals on suspicion that they assisted in the attempted coup. In October in Bangui, and in December in Damara and Sibut, small Libyan planes dropped bombs in support of government forces, resulting in an undetermined number of civilian deaths.

No action was taken against security forces responsible for killings following the May 2001 coup.

On October 31, Chadian rebel leader Abdoulaye Miskine, who President Patasse had asked to root out banditry in the north of the country, led government forces in an attack on Chadian cattle dealers at a meat market outside of Bangui; reportedly as many as 100 Chadians were killed. The motive of the attack was unknown; however, some Chadians had fought with Bozize's rebels, and government forces suspected Chadians of complicity in the October 25 coup. The Government denied that any killings occurred.

Numerous civilians were killed in the crossfire between government and rebel forces during the year. For example, on February 16, in Pospel, a border clash between government soldiers and MLC rebels resulted in the deaths of 11 civilians.

Clashes between government soldiers, rebel groups, and bandits along the border with Chad resulted in numerous deaths on both sides of the border. The presence of Miskine in the country and the exiled Bozize in Chad during part of the year intensified border unrest. For example, government forces under Miskine summarily executed Chadian civilians in Bavara and Bouassi during the year. On September 19, Chadian rebels based in the country attacked the Chadian town of Tizi. The Chadian government accused the Government of supporting the attack, and the Government blamed the attack on Sudanese poachers; however, the National Resistance Alliance, a Chadian rebel group, ultimately claimed responsibility. On October 2, the Central African Economic and Monetary Community (CEMAC) agreed to dispatch a contingent of 300 to 350 troops to the country to provide security for President Patasse and to secure the border with Chad.

During and following the October 25 coup attempt, rebel soldiers loyal to General Bozize killed numerous civilians in areas under their control; however, no numbers were available because those areas remained inaccessible to nongovernmental organizations (NGOs) and humanitarian groups. There were unconfirmed reports that in Pende, Bozize's rebels set fire to the brush where a group of students were hiding, resulting in the deaths of more than 10 students and the injuring of many others. During the year, there also were reports of rebel killings of civilians in Kaga-Bandoro and in Ouham.

During and following the October 25 coup attempt, MLC rebels under Bemba's command reportedly killed and raped numerous persons in Bangui and in the northern part of the country.

No action was taken against members of Kolingba's rebel forces responsible for numerous killings during the May 2001 coup attempt.

There were no developments in the U.N. investigation into the July 2001 killing of Colonel L'Hommee, the Field Security Officer for the U.N. Development Program.

There also were reports of societal violence along the country's porous border with Sudan. On May 17, tribal clashes resulted in the deaths of 63 Sudanese herders in Birao. The Governments and the Government of Sudan established a commission of inquiry to investigate the causes of the incident; however, no information had been released by year's end. On September 21, Sudanese raiders burned houses and killed numerous villagers in the towns of Oulou, Kore, and Otomassa. The attack reportedly was in retaliation for the May 17 incident.

Popular "justice" was an ongoing problem. There were several anecdotal reports that bandits were caught and killed by neighbors of robbery victims. For example, on October 5, a group of bandits robbed a neighborhood, attacking a policeman and killing one person. An angry mob caught two of the bandits and killed them in the street.

Mobs reportedly injured and killed suspected sorcerers or witches during the year. On January 31, night watchman Wambele Thomas was accused of sorcery and attacked by a mob; gendarmes intervened for his protection. On February 3, two elderly women accused of witchcraft were tortured, one to death. In early May, in Possel in the under-prefecture of Njoukou, Martin Ngouakouzou was accused of sorcery and tortured to death by villagers.

There were no reports of any action taken against members of mobs who killed suspected sorcerers or witches in 2001 and 2000.

*b. Disappearance.*—There were no confirmed reports of politically motivated disappearances by the Government during the year; however, on October 25, Bozize's rebels kidnaped the President's spokesman Prosper Ndouba, who was released on December 2.

After the May 2001 coup attempt, thousands of persons went into hiding, making it difficult to determine whether security forces were responsible for any disappearances during that time. Many of these people since have returned to their homes.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Penal Code prohibits torture and specifies sanctions for those found guilty of physical abuse; however, police continued to torture, beat, and otherwise abuse criminal suspects, detainees, and prisoners. Family members and human rights groups, including the Human Rights League (HRL) Executive Committee, pursued court complaints filed in previous years with the prosecutor, Joseph Bindoumi, regarding the deaths of several prisoners due to police abuse; however, authorities continued not to take action on any of the cases. The HRL did not file any court complaints of police abuse during the year.

On May 19, soldiers beat Abdul Razak Wallot, a mini-bus driver, for passing the vehicle of the Major General of the Army.

On June 27, soldiers with the Central African Naval Force arrested and beat Mondayen Chrysostome, a trader engaged in commerce between Bangui and Zongo, after he refused to turn over his merchandise to them.

No action was taken against those responsible for torturing Abdoulaye Aboukary Tembeley in February 2001, the torturing of Sergeant Emery Konguende in May 2001, and the September 2001 beating by gendarmes of Assingambi Zarambaud.

The USP frequently used excessive force in its operations; it reportedly also was responsible for other serious human rights abuses; however, unlike in the previous year, there were no reports that USP forces harassed, beat, and tortured Rwandan refugees and nationals. There were numerous cases during the year in which the USP physically abused detainees.

No action reportedly was taken against USP forces responsible for the following abuses during and after the May 2001 coup attempt: The killing of gendarmes, teachers, students, soldiers, opposition politicians, and civil servants, most of whom

were Yakomas; and the harassing, beating, and torture of Rwandan refugees and nationals on suspicion that they assisted in the coup attempt.

Police beat persons while forcibly dispersing demonstrators (*see* Section 2.b.).

Members of the armed forces often committed abuses against civilians, including armed robbery and racketeering. No action generally was taken against soldiers involved in such abuses; however, on July 10, the Deputy Minister of Defense for Military Restructuring expelled from service more than 40 soldiers charged with various felonies, including rape, robbery, extortion, insubordination, and erecting illegal barriers on roads. The former soldiers were arrested and jailed.

Trafficking in persons was a problem (*see* Section 6.f.); however, unlike in the previous year, there were no reports of possible government involvement.

No investigation was conducted into the September 2001 beating by gendarmes of Assingambi Zarambaud, who had published a series of articles critical of the Government.

Government forces launched rockets and mortar rounds indiscriminately into neighborhoods suspected of harboring rebels. In October in Bangui, and in December in Damara and Sibut, small Libyan planes dropped bombs in support of government forces, resulting in an undetermined number of civilian deaths.

Rebel forces loyal to the Government committed numerous abuses. During and following the October 25 coup attempt, MLC troops raped 94 women in Bangui and an undetermined number of women in the north. In October in Bangui, MLC rebels fighting for the Government assaulted two foreign missionaries in their home. The rebels looted the house and struck the head of one of the missionaries, who subsequently reported the loss of hearing in one ear.

Rebel troops loyal to Bozize were responsible for numerous rapes of women during November and December. There also were reports that Chadian fighters in the north loyal to Bozize abused and harassed civilians.

Mob violence against suspected sorcerers or witches continued to be a problem (*see* Section 1.a.).

Prison conditions were extremely harsh. In June before renovations were complete, the Government formally inaugurated Ngaragba Prison, Bangui's main prison that was destroyed during the 1996 mutinies. Prisoners were transferred to Ngaragba starting in early October, despite the lack of a budget for food and medical care for the detainees. Many detainees still were kept in 10 police stations around Bangui; however, the number remaining in detention at year's end was unknown. Police station cells were overcrowded, and basic necessities, including food, clothing, and medicine, were in short supply and often were confiscated by prison officials for their personal use. Prisoners frequently were forced to perform uncompensated labor at the residences of government officials and magistrates. Prison conditions outside of Bangui were generally worse, with the exceptions of Bouar and Bangassou, where religious organizations helped provide for the prisoners.

Male and female prisoners were held in separate facilities in Bangui but housed together elsewhere. There were no separate detention facilities for juvenile prisoners, who routinely were housed with adults and often subjected to physical abuse. Pretrial detainees were not held separately from convicted prisoners.

The Government permitted prison visits by human rights observers. The International Committee for the Red Cross (ICRC) and religious groups routinely provided supplies, food, and clothes to prisoners. The ICRC had unrestricted access to prisoners.

*d. Arbitrary Arrest, Detention, or Exile.*—The law provides protection against arbitrary arrest and detention and accords the right to a judicial determination of the legality of detention; however, the security forces frequently ignored such provisions. Judicial warrants were not required for arrest. The law stipulates that persons detained in cases other than those involving national security must be brought before a magistrate within 96 hours. In practice authorities often did not respect this deadline, in part due to inefficient judicial procedures. By law national security detainees are defined as “those held for crimes against the security of the state” and may be held without charge for up to 2 months. The law allows detainees to have access to their family and to legal counsel; however, in cases involving state security, the Government prohibited detainees from consulting legal counsel pending an investigation. Indigent detainees may request a lawyer provided by the Government. Detainees were allowed to post bail or have family members post bail for them. Prolonged pretrial detention was a serious problem; however, the number of pretrial detainees was unknown at year's end.

Government authorities arbitrarily arrested numerous persons, although fewer than in the previous year, when members of the Yakoma ethnic group were targeted as a result of suspected complicity in the May 2001 coup attempt.

On May 8, in Bangui, gendarmes arrested 15 Chadians and 14 citizens of the DRC on suspicion of plotting a coup with General Bozize. No further information was available.

Police arrested demonstrators during the year (*see* Section 2.b.).

Unlike in the previous year, there were no arrests of journalists or labor leaders. The Mixed Commission of Judicial Inquiry, which the Government established in June 2001 to investigate the causes of the attempted coup and to bring those responsible to justice, had not issued a final report by year's end.

The law does not permit the use of exile, and the Government did not employ it in practice. The Government has stated repeatedly that any person in exile for strictly political, rather than criminal, reasons may return without fear of persecution. Thousands of persons fled their homes or went into hiding following the attempted coup in May 2001, including many Yakomas and Rwandan refugees (*see* Section 2.d.). Most of the IDPs have returned home; however, some remained abroad, primarily in the DRC, the Republic of the Congo, and Chad (*see* Section 2.d.). Approximately 600 military personnel involved in the 2001 coup attempt returned to the country during the year; there were no reports that they experienced government harassment. Jean-Paul Ngoupande, the opposition leader who fled the country after gendarmes invaded his house in January 2001, remained in self-imposed exile abroad.

On February 5, David Yakata, deputy of the opposition party Central African Democratic Rally (RDC), also returned to the country from self-imposed exile in the DRC.

*e. Denial of a Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary was subject to executive interference. The judiciary consists of regular and military courts. The highest court is the Constitutional Court, which determines whether laws passed by the National Assembly conform to the Constitution. The Constitutional Court also receives appeals challenging the constitutionality of a law. Lower courts hear criminal and civil cases and send appeals to the Court of Appeals. The Criminal Court held two sessions during the year, trying persons implicated in the May 2001 coup attempt. The court tried only one criminal case before it reopened in August. As a result, there was a large backlog of criminal cases. The courts of justice and the juvenile court barely functioned due to inefficient administration, shortage of trained personnel, salary arrears, and a lack of resources.

In general trial procedures, an officer of the judicial police writes a report of the investigation and sends it to the public prosecutor's office. If the prosecutor believes there is sufficient evidence that an offense has occurred and that the accused committed it, he places the accused under an arrest warrant. If there is insufficient evidence, the case is dropped. Trials were held publicly, and defendants had the right to be present and to consult a public defender. Defendants also had the right to question witnesses, to present witnesses and evidence on their own behalf, and to have access to government-held evidence relevant to their case. There was the presumption of innocence until proven guilty, and if convicted, defendants had the right to appeal. No groups were barred from testifying; relatives of the accused could testify. The Government generally complied with these legal requirements; however, the judiciary did not enforce consistently the right to a fair trial, and there were many credible reports of corruption within the court system. A number of persons were subjected to prolonged detention without trial or were killed summarily and extrajudicially by the OCB (*see* Section 1.a.).

During the year, Criminal Court proceedings were largely concerned with attributing responsibility to and punishing the perpetrators of the May 2001 coup attempt. Court proceedings, which began in February, were delayed when the Court barred Attorney Assingambi Zarambaud from representing clients charged with involvement in the May 2001 coup attempt, after the Prosecutor General claimed that Zarambaud was implicated in the coup attempt. The other lawyers went on strike, bringing the session to a standstill. The trial was held under heavy military guard, with most of the proceedings broadcast live on radio. Defense counsel challenged some procedural elements of the trial. Many cases brought against suspected coup plotters were based solely upon unsubstantiated "fiches," anonymous memoranda alleging a connection with the coup attempt or coup plotters. When court proceedings resumed in August, the Court acquitted more than half of the accused for insufficient evidence. The Court determined that those found guilty would forfeit their civil rights and ordered the confiscation of their property.

During August and September, 90 defendants were brought before the Criminal Court on charges of suspected complicity in the May 2001 coup attempt, or desertion; an additional 23 were tried in absentia. On August 26, former President Kolingba and 22 others were sentenced to death in absentia, including Charles

Massi, an opposition parliamentarian residing in France since early 2001. On October 7, former Defense Minister Demafouth, who had been held in custody since his August 2001 arrest, was released along with 48 other suspects for insufficient evidence; General Ndjengbot, who was in jail at the time of the coup attempt and subsequently freed by those attempting the coup, was sentenced to 20 years' hard labor. Of the remaining suspects, 10 were sentenced to 20 years' labor, while 30 were sentenced from 1 to 10 years' hard labor.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits invasion of homes without a warrant in civil and criminal cases; however, on occasion police used provisions of the Penal Code governing certain political and security cases that allow them to search private property without a warrant. Security forces continued to carry out warrantless searches for guns and ammunition in private homes. The increase of banditry in Bangui has become a pretext for the police to carry out warrantless house searches. The Government continued to engage in wiretapping without judicial authority.

Security forces, particularly the USP, continued to carry out warrantless searches of entire neighborhoods and seized vehicles, electronic goods, appliances, and other items for which residents could not produce sales receipts, alleging that the property was stolen. Few of these items were returned to the owners.

On April 19, in Bangui, police and gendarmes surrounded several neighborhoods and searched houses for arms as part of a mandatory disarmament program.

On August 1, a group of former soldiers, expelled from the military for extortion and establishing illegal checkpoints, violently burglarized the house of Jean-Serge Wafio, former First Vice-President of the National Assembly (*see* Section 1.c.).

During and after the October 25 coup attempt, MLC rebels fighting for the Government engaged in widespread home invasions and looting in Bangui and in the northern cities where they were deployed.

The Government interfered with private communication during the year. In July the Ministry of Defense promulgated an administrative order prohibiting the use of all nongovernment two-way radios. Several two-way radios were confiscated from missionaries in the western part of the country; however, on request, the Ministry granted exceptions for embassies, missionaries, NGOs, and international organizations.

During the October 25 coup attempt, and from November 9 to 10, the Government briefly interrupted both cellular and landline telephone service; however, unlike in the previous year, government authorities did not broadcast cell phone conversations over national radio.

Unlike in the previous year, there were no reports that the Government detained family members in an effort to compel suspects to turn themselves in.

Bozize's rebels looted homes, businesses, and church and NGO properties, according to missionary groups, the Central African (Catholic) Episcopal Conference (CAEC), and residents who fled to Bangui (*see* Section 1.c.).

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government continued to restrict the freedom of the print media to criticize the Government. The law prohibits the Government from censoring the press and defines the rights and responsibilities of private media. The Government continued to dominate domestic broadcast media. Libel cases were addressed in civil rather than criminal courts.

Opposition leaders in particular used press statements, manifestos, and copies of open correspondence to the Government to circulate their views; however, citizens continued to criticize the Government and political parties at some risk to themselves. Most journalists who fled the country after the May 2001 attempted coup had returned to the country by year's end.

The Government owned and controlled three newspapers, the Centrafrique Presse, the Agence Centrafricaine de Presse (ACAP) bulletin, which appeared sporadically, and Forum de l'Unite. Echo de Centrafrique, a private daily newspaper, was close to the ruling party. More than a dozen private newspapers were published at varying intervals; eight were published on a regular basis during the year. These newspapers often criticized the President, the Government's economic policies, and official corruption. Le Citoyen and Le Confident were the most widely read private newspapers. In 2000 both the President and Prime Minister threatened local journalists with sanctions if any newspaper transgressed the media code and went beyond journalistic propriety; however, there were no reports that these threats were carried out.

On November 17, border police expelled Thierry Oberle, special correspondent for the French newspaper *Le Figaro*; no reason was given for the expulsion.

There were credible reports that the editor of *Le Citoyen*, a newspaper noted for its critical coverage of the Government, received threatening telephone calls during the year. In 2001 the Government accused the editor of “fueling hatred among the population,” and USP forces threatened him with death.

Unlike in the previous year, there were no reports that security forces arrested and tortured journalists or seized printing equipment.

Radio was the most important medium of mass communication because literacy was not universal, and newspapers and television were relatively expensive and rarely found outside urban areas. The Government owned and operated a radio station and a television station. The activities of the President and other senior government officials dominated programming. Political observers complained that the ruling MLPC received more coverage of its activities or meetings than did opposition parties. The directors of the national television and radio stations were members of the ruling MLPC party; broadcasts by both stations favored the ruling party.

In November Radio France International (RFI) and Radio Africa Number 1 briefly went off the air following negative statements by President Patasse about RFI’s coverage of events in the country. The USP, which took control of the national radio station during the May 2001 coup, remained in control of the station at year’s end.

A private radio station, Africa Number One, part of a French-owned network based in Libreville, Gabon, broadcast in Bangui. Its programming included national news coverage by a correspondent based in the country. Radio Notre Dame, which was owned and operated by the Catholic Church, also broadcast; its programming included national news, debates, legal counseling, and human rights education. RFI also broadcast domestically; its programming included some national news coverage by a correspondent based in the country. The private radio station N’Deke Luka broadcast from Bangui on FM with assistance from foreign governments and development organizations. One of N’deke Luka’s objectives was to promote peace and development by publicizing programs of the U.N. agencies and NGOs working in the region. There were no privately owned stations that broadcast domestically produced national news or political commentary.

On December 9, in Bossangoa, Bozize’s rebels killed Father Jean Claude Kilamong as well as a local radio announcer and two watchmen. No further information was available.

The Government continued to monopolize domestic television broadcasting. Private television broadcasting is allowed by law. The High Council of Communication was responsible for authorizing private television as well as radio stations, but received no applications to establish a private television station. The Government did not restrict domestic receipt or distribution of satellite or cable television, but few citizens could afford it, and it was not widespread, even in the capital.

Government television and radio broadcasts included weekly programs intended to provide an opportunity for political parties to present their views and discuss their programs; however, in practice such access was not available.

A private telecommunications company operated a domestic Internet and e-mail service provider as well as one cyber-cafe called Bangui 2000. Few citizens could afford home access to the Internet, but many urban residents rented brief access at Bangui 2000. The Government did not limit Internet access.

The Government did not restrict academic freedom. University faculty and students belonged to many political parties and generally expressed their views without fear of reprisal. There were student demonstrations during the year (*see* Section 2.b.).

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of assembly; however, the Government at times restricted this right. In addition, there were some legal restrictions on freedom of assembly. Organizers of demonstrations and public meetings were required to register with the Government 48 hours in advance, and political meetings in schools or churches were prohibited. There were several incidents of government interference with opposition meetings during the year. The Government widely was perceived as using the May 2001 attempted coup as a pretext for restricting political activity.

On February 9, the Democratic Movement for the Renaissance and Evolution of the Central African Republic attempted to hold a political rally in Bangui; however, police intimidation of party members prevented the meeting.

In February the Ministry of the Interior prevented the Social Democratic Party from holding a meeting of its Consultative Council. According to the Ministry, “the time is not right for organizing meetings and other political activities.”

Police forcibly dispersed several demonstrations during the year by university students protesting the non-payment of scholarships by the Government. On October 12, police used tear gas to break up one such demonstration.

On December 28, police and soldiers arrested 15 opposition demonstrators who were protesting government use of foreign troops; some of those arrested were beaten. Most of those detained were released within a few days, and all had been released by year's end.

No action was taken against responsible members of the security force for the use of excessive force to disperse demonstrations in 2000.

The Constitution provides for freedom of association; however, the Government restricted this right in practice. All associations including political parties must register with the Ministry of Interior in order to enjoy legal status. The Government usually granted registration expeditiously. A variety of associations have registered with the Government following a 3-month background investigation; there were more than 35 registered political parties and a variety of nonpolitical associations. The Government normally allowed them to hold congresses, elect officials, and publicly debate policy issues without interference, except when they advocated sectarianism or tribalism.

In June 2001, the Government issued an administrative decree suspending the activities of former President Andre Kolingba's RDC political party for 3 months. The decree forbade the RDC from holding public meetings or advertising on the radio. Several RDC deputies continued to sit in the National Assembly during the suspension, and the party resumed limited activities in late September 2001. In December the Minister of the Interior issued a letter lifting the suspension; on December 28, the executive committee of the party met and elected new party leadership.

The law prohibiting nonpolitical organizations from coalescing for political purposes remained in place; there were no reports of enforcement of this law.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion but establishes fixed legal conditions and prohibits what the Government considers religious fundamentalism or intolerance. The constitutional provision prohibiting religious fundamentalism was understood widely to be aimed at Muslims. In practice the Government permitted adherents of all religions to worship without interference.

Religious groups (except for traditional indigenous religious groups) were required by law to register with the Ministry of Interior. This registration was free and conferred official recognition and certain limited benefits, such as customs duty exemption for the importation of vehicles or equipment, but did not confer a general tax exemption. The Ministry's administrative police kept track of groups that failed to register; however, the police have not attempted to impose any penalty on such groups. Any religious or nonreligious group that the Government considered subversive was subject to sanctions. The Ministry could decline to register, suspend the operations of, or ban any organization that it deemed offensive to public morals or likely to disturb the peace. The Ministry of Interior also could intervene to resolve internal conflicts about property, finances, or leadership within religious groups. However, the Government imposed no new sanctions on any religious group during the year.

General Bozize's church remained closed at year's end.

Although in general there is religious tolerance among members of different religious groups, there have been occasional reports that some villagers who were believed to be witches were harassed, beaten, or sometimes killed by neighbors (see Section 1.a.).

Unlike in the previous year, there were no reports of societal violence against Muslim Chadian commercial traders.

Bandits and rebels attacked, robbed, and injured missionaries during the year (see Sections 1.c. and 2.a.).

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for the right to move freely throughout the country; however, police, security forces, customs officers, and other officials harassed travelers unwilling or unable to pay bribes or "taxes" at checkpoints along major intercity roads and at major intersections in Bangui (see Section 1.c.). Attacks by bandits on major routes to the north and east sometimes occurred. In 2001 the Government established military bases in Zemio, Bambari, Bria, Kaga-Bandoro, and Bossangoa in an effort to curb highway banditry.

USP forces continued to be stationed at the airport to control travelers. The Government generally allowed opposition leaders to travel abroad or inside the country



without restrictions; however, on September 12, the public prosecutor issued an order barring opposition National Assembly Deputy Jean-Serges Wafio from leaving Bangui, charging that Wafio was subject to a lawsuit. In a letter published in local newspapers, Wafio claimed that there was no record of any lawsuit filed against him and that the National Assembly had not lifted his immunity to permit any lawsuit.

During and immediately following the October 25 coup attempt, the Government closed M'Poko Airport and all borders in the country. Private planes were not allowed to fly without permission from the military. On May 9, the nightly curfew imposed after the May 2001 coup was lifted; no curfew was imposed during the October 25 coup attempt.

In November Bozize's rebels briefly blocked the main road from the country to Cameroon. Road travel from Bangui to the regions north of Damara was nearly impossible as a result of interference by both the MLC and Bozize's troops. In November truck drivers from Cameroon and the country went on strike to protest harassment and extortion by MLC soldiers. The ICRC protested restrictions on access imposed by both rebel groups.

With the exception of diplomats, the Government required that all foreigners obtain an exit visa from the headquarters of the National Police. Travelers could be required to obtain affidavits that they owed no money to the Government or to parastatal companies.

Immediately following the October 25 coup attempt, approximately 20,000 persons fled their homes for the areas around Bangui. Congolese residents of Bangui also fled to take refuge in the DRC Embassy after citizens angered by MLC looting and violence attacked Congolese; the UNHCR assisted 1,177 Congolese to go to Zongo, DRC. Thousands of persons fled the country during the year, primarily following the October coup attempt and the fighting in Bangui; most left for the DRC. There were reports that government authorities harassed and tried to prevent persons from leaving the country to seek asylum in the DRC. The World Food Program (WFP) estimated that as a result of the coup attempt, there were approximately 10,000 IDPs in the Lobaye region; as a result of the violence along the border with Chad, an additional 6,000 IDPs remained in the region around Sido and Kabo. The UNHCR reported a total of 36,000 IDPs in the country as a whole, with approximately 6,000 in the north and 30,000 in Bangui. As of December, approximately 2,850 refugees from the country remained in the DRC, 2,000 in the Republic of the Congo, and 1,300 in Chad.

During and following the May 2001 coup attempt, approximately 80,000 citizens, including half of the country's ethnic Yakoma population, fled their homes, mostly to the forests and small village areas southwest of Bangui. Approximately 50,000 were displaced internally; an estimated 24,000 fled to the DRC border town of Zongo, and approximately 2,000 fled to the Republic of Congo. Approximately two-thirds of these refugees were thought to have returned to the country by year's end. According to UNHCR, an additional 14,000 citizens fled to other countries, including Cameroon, Cote D'Ivoire, Senegal, and France. Many refugees who did return home lost their jobs, particularly those who had been in government service. The Government began cutting refugees from their employment rolls after 6 months' absence. Some also returned to find their homes pillaged or destroyed. Early in the year, the MLC moved former combatants in the DRC to a separate camp in Bokilio; the UNHCR moved civilian refugees to a camp in Mole.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government respected these provisions in practice. The Government continued to work with the U.N. High Commissioner for Refugees (UNHCR) and provided first asylum to Chadian, Sudanese, Rwandan, and Congolese refugees. Applicants for asylum often were accepted. Almost all refugees were registered with the National Commission for Refugees. According to the UNHCR, there were 50,740 refugees in the country at year's end, including 35,000 from Sudan, 10,000 from the DRC, and 2,000 from Chad. Of these, 10,081 were located in Bangui. Other significant concentrations included 36,403 Sudanese refugees in Mboki and 2,929 Congolese refugees in Molangue.

Unlike in the previous year, there were no reports that that armed elements attacked refugee camps.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government. Citizens exercised this right in legislative and presidential elections in 1998 and

1999, respectively. The Government strongly influenced the electoral process. Patasse's MLPC won both the Presidency and half of the seats in the National Assembly. International observers deemed both elections generally free; however, the presidential elections were marred by irregularities in voter registration and distribution of electoral materials. Some of the registration irregularities tended to favor the ruling party.

On October 25, forces loyal to General Bozize entered the country from Chad and led a coup attempt in Bangui. The rebels secured entrances to the city, seized the road to M'Poko Airport, and fired at the residence of President Patasse, who retained power with the assistance of troops from Libya and Congolese MLC troops led by Jean-Pierre Bemba. After 5 days of fighting, Bozize's rebels withdrew from the capital but retained control of much of the north-central region of the country at year's end. The coup attempt resulted in hundreds of deaths, 10,000 IDPs, and significant numbers of refugees in neighboring countries (*see* Sections 1.a. and 2.d.).

In May 2001, former President Andre Kolingba led a faction of the armed forces in a coup attempt, which resulted in hundreds of deaths and injuries, numerous arrests, and the displacement of significant numbers of persons. President Patasse retained power with the assistance of troops from Libya and rebel MLC soldiers from the DRC led by Jean-Pierre Bemba. In August 2001, the President named a new Cabinet, most of whom were members of his MLPC party. In October 2001, President Patasse removed General Bozize as Chief of Staff of the Armed Forces after accusing him of complicity in the May 2001 coup attempt.

The Constitution provides for multiple political parties. The President can veto legislation, although two-thirds of the unicameral legislature can override his veto, and he can rule by decree under special conditions. The state was highly centralized. The central government appointed all subnational government officials, and subnational government entities had no significant fiscal autonomy. The Government had appointed four successive mayors in Bangui, the capital, and a southern city well outside the ruling party's main political base in the north (*see* Section 5).

Municipal elections, which were scheduled for December, were postponed until 2003.

In the November 1998 National Assembly elections, opposition parties won 55 seats, while the ruling MLPC party of President Patasse and its allies won 54 seats. However, the defection of one opposition National Assembly member in December 1998 gave the ruling party and its coalition a one-seat majority.

President Patasse's first term of office expired in 1999, but he constitutionally was eligible to seek a second consecutive term. In 1999 the Government established the Mixed Independent Electoral Commission (CEMI) to supervise the presidential election. Although the CEMI included representatives from many political parties on its board, persons loyal to the President controlled it. However, several opposition parties suspended participation in CEMI after the Minister of Interior ignored their consensus candidate for the post of second Vice President of CEMI. Instead he named the representative of the Movement for the Democracy and Development (MDD), an opposition party that the other opposition parties charged was allied with the MLPC. The Government explicitly rejected suggestions by elements of the international community, which provided material and financial support for the election, that the executive branch of the Government not involve itself in the management of the electoral process. In August 1999, President Patasse promulgated a decree that subordinated CEMI to the Organ of Control (OCASPA), a state organization that he had created by decree to oversee the election process.

Before the presidential election, there were credible reports of attempts to inflate sharply the number of registered voters in pro-MLPC northern areas, although this was corrected before the polling. The Government postponed the first round of the presidential election three times after serious problems in ballot distribution became evident; however, the Government denied requests from opposition leaders for further delays to permit more complete resolution of the problems with the electoral process. Some provisions of the electoral code, requiring publication of voter lists at least 15 days before the election and distribution of voter identification cards at least 8 days before the election, were not respected. On election day, a shortage of ballots was reported in some largely pro-opposition districts. Opposition party poll-watchers reported the use of some falsified voter identification documents by voters, and there were several reports of ballot boxes being delivered to the CEMI without certified tally sheets, or from unofficial polling places.

There was occasional violence during the presidential election campaign, including fighting in Bangui between supporters of President Patasse and former President Kolingba, and attacks by some opposition supporters on foreign diplomats whose governments were perceived to have supported Patasse.

Approximately 2 weeks after the voting, the Constitutional Court announced the official results of the election and declared President Patasse reelected with 51.6 percent of the votes cast. Nine other candidates certified by the Constitutional Court had competed in the election. The Constitution required a second-round runoff election if no candidate received 50 percent of votes cast in the first round election. Only one of the unsuccessful candidates filed a complaint with the Constitutional Court.

In December 2001, President Patasse announced that local elections would be held in 2002; in July, a CEMI was formed to prepare for the elections. Several opposition parties suspended participation in the CEMI after the Interior Minister ignored their consensus candidate for the post of second Vice President of CEMI, a position that was reserved for an opposition candidate. Instead the Minister named a representative of the MDD, which the other opposition parties charged was allied with the MLPC. The CEMI made few election preparations, and after the October 25 coup attempt, the Government postponed local elections until 2003.

There were no laws that restricted the participation of women in the political process. Only 8 of the 109 members of the National Assembly were women, and only 2 of the 24 cabinet members were women.

There were no laws that restricted the participation of minorities in the political process.

President Patasse was a member of the Sara-Kaba ethnic group. Members of northern ethnic groups, including the Sara and Baya, continued to predominate among the President's advisors, in the leadership of the ruling party, and among ruling party members of the National Assembly. There were no Muslims in the Cabinet, but there were at least five Muslims in the National Assembly.

Pygmies (Ba'Aka), the indigenous inhabitants of the southern part of the country, who represented from 1 to 2 percent of the population, were not represented in the Government and have little political power or influence (see Section 5).

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Several domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat responsive to their views. The Association of Central African Women Lawyers advised women of their legal rights. Several other NGOs, including the Movement for the Defense of Human Rights and Humanitarian Action, the Human Rights Observatory, and some religious groups actively monitored human rights problems. The Central African Human Rights League (LCDH) publicized human rights violations and pleaded individual cases of human rights abuses before the courts. In February 2001, the LCDH published a report that criticized the Government for numerous violations of the freedoms of assembly, movement, and expression. The LCDH and several other NGOs also criticized USP forces for human rights abuses during and following the May 2001 coup attempt; LCDH also criticized those responsible for the coup attempt.

On June 12, Amnesty International (AI) released its report on the May 2001 coup attempt and charged that security forces conducted targeted killings of members of the Yakoma ethnic group with impunity. In a June 27 press conference in Paris, the Government called AI's charges "insubstantial, erroneous, and totally lacking in foundation." The Government denied any ethnic violence by its forces during the coup attempt and denied any ethnic discrimination by the Government.

In November a delegation of the International Federation of Human Rights Leagues (FIDH) visited Bangui to assess human rights violations during and after the coup attempt; however, no report of the visit had been released by year's end. In the February report of its July 2001 visit, the FIDH criticized the security forces for numerous human rights violations during and after the coup attempt and charged that the Mixed Commission of Judicial Inquiry was an "instrument of political policing."

The U.N. office in the country (BONUCA) held several 2-week human rights sensitization programs for security forces in cooperation with the Ministries of Defense and Interior. The seminars, which were held in Bambari, Bouar, Bossangoa, Lola, Bangassou, Bangui, and Berberati for police, gendarmes, and provincial administrators, covered human rights standards, international humanitarian law, gender awareness, criminal justice procedure, and protection of minorities, refugees and displaced persons. In June members of the armed forces and USP units participated in the training for the first time.

*Section 5. Discrimination based on Race, Sex, Disability, Language, or Social Status*

The Constitution stipulates that all persons are equal before the law without regard to wealth, race, or sex, but the Government did not enforce these provisions effectively, and significant discrimination existed.

*Women.*—Domestic violence against women, including wife beating, reportedly was common; however, inadequate data made it impossible to quantify. Spousal abuse was considered a civil matter unless the injury was severe. Victims seldom reported incidents. The courts tried very few cases of spousal abuse, although litigants cited these abuses during divorce trials and civil suits. Some women reportedly tolerated abuse to retain a measure of financial security for themselves and their children. The Government did not address this problem during the year.

Rape is a crime, but spousal rape was not specified in the legislation. Men sometimes were arrested for rape, but the social stigma induced many families to avoid formal court action. There were numerous credible reports that government soldiers and rebels raped women during and following the October coup attempt (*see* Section 1.c.).

The law prohibits FGM; however, girls continued to be subjected to this traditional practice in certain rural areas, and to a lesser degree in Bangui. According to a study published in April 2001 jointly by UNICEF and the statistics office of the Ministry of Economy, Planning, and International Cooperation, approximately 36 percent of adult females had undergone FGM. In 2000 the International Committee of African Women for Development (CIFAD), a central African-based women's rights organization, began a national campaign against FGM with financial assistance from a foreign donor.

Trafficking was a problem (*see* Section 6.f.).

Women were treated as inferior to men both economically and socially. Single, divorced, or widowed women, even with children, were not considered socially to be heads of households. Only men were entitled to family subsidies from the Government. Women in rural areas generally suffered more discrimination than did women in urban areas. There were no accurate statistics on the percentage of female wage earners. Women's access to educational opportunities and to jobs, particularly at upper levels in the professions or in government service, was limited.

Polygyny is legal, although this practice faced growing resistance among educated women. The law authorizes a man to take up to four wives, but a prospective husband must indicate at the time of the first marriage contract whether he intends to take additional wives. In practice many couples never married formally because men could not afford the traditional bride payment. Women who were educated and financially independent tended to seek monogamous marriages. Divorce was legal and could be initiated by either partner.

The law does not discriminate against women in inheritance and property rights, but a number of conflicting customary laws often prevailed. A family code strengthened women's rights, particularly in the courts. The Association of Central African Women Lawyers advised women of their legal rights. The organization also published pamphlets in conjunction with the Ministry of Social Affairs on the dangers of FGM. Several active women's groups organized workshops and seminars to promote women's and children's rights and to participate fully in the political process.

*Children.*—Although there was no official discrimination against children, the Government spent little money on programs for them. Churches and NGOs had relatively few programs for youths. The failure of the education system, caused by a meager budget and salary arrears, resulted in a shortage of teachers and an increase in the number of street children. Education was compulsory from ages 6 to 14; however, parents rarely were prosecuted for their children's nonattendance. In practice the age that a child started school often varied by 2 to 3 years in rural areas. At the primary level, girls and boys enjoyed equal access to education, but the majority of young women dropped out at age 14 or 15 due to societal pressure to marry and bear children. According to the Ministry of Economy and Planning/UNICEF statistical abstract, only 42.9 percent of students of primary school age were enrolled in school, with 46.5 percent of boys and 39.1 percent of girls enrolled. Among those of age for secondary school, only 11.4 percent were enrolled, with 11.5 percent of boys and 11.4 percent of girls enrolled. School enrollment in urban areas generally was significantly higher than in rural areas.

The Government did not provide medical coverage for uninsured children.

There were more than 3,000 street children between the ages of 5 and 18 in Bangui. Many children begged and stole; several charitable organizations provided them with humanitarian assistance.

According to numerous credible reports, male teachers in primary and secondary schools as well as at the University level routinely pressed their female students

into having a sexual relationship in exchange for passing grades; the spread of HIV/AIDS was extremely prevalent between teachers and their female students.

The Penal Code forbids parental abuse of children under the age of 15 years. The Family Code was designed to strengthen children's rights. Illegitimate children had the same rights as those born in wedlock. A juvenile court tried cases involving children and provided counseling services to parents and juveniles during the year.

FGM was performed primarily on young girls (*see* Section 5, Women).

Trafficking and child prostitution was a problem (*see* Section 6.f.).

On September 16, the Government, in cooperation with the U.N. Development Program (UNDP), launched a nationwide HIV/AIDS awareness campaign.

There were several NGOs specifically promoting children's rights, including some which dealt with street children. In July the Government ratified the African Union Charter on the Rights and Welfare of the Child. On September 19, the Government, in cooperation with UNICEF, launched a nationwide implementation campaign to establish local committees to monitor and enforce children's rights in every district of Bangui.

*Persons with Disabilities.*—There was no codified or societal discrimination against persons with disabilities; however, there were no legislated or mandated accessibility provisions for persons with disabilities. There were several government and NGO-initiated programs designed to assist persons with disabilities, including handicraft training for the blind and the distribution of wheelchairs and carts by the Ministry of Social Services.

*Indigenous Persons.*—Despite constitutional protection, there was societal discrimination against Pygmies (Ba'Aka), the earliest known inhabitants of the rain forest in the southern part of the country, who comprised approximately 1 to 2 percent of the country's population. In general Pygmies had little input in decisions affecting their lands, culture, traditions, and the allocation of natural resources. Indigenous forest-dwelling Pygmies, in particular, were subject to social and economic discrimination and exploitation, which the Government has done little to prevent. Pygmies often worked for villagers at wages lower than those paid to members of other groups.

*National/Racial/Ethnic Minorities.*—The population included approximately 80 ethnic groups; many of these groups spoke distinct primary languages and were concentrated regionally outside urban areas. The largest ethnic groups were the Baya (33 percent), the Banda (27 percent), the Mandja (13 percent), the Sara (10 percent), the Yakoma (4 percent), and the M'baka (4 percent). The Mbororo comprised approximately 7 percent of the population but played a preponderant role in the economy; they were involved in mining development and remained the most important cattle breeders in the country.

During the year, the Government accelerated efforts to reform the Central African Armed Forces (FACA), a priority given its poor performance during the May 2001 coup attempt and history of repeated mutinies. There were reports that the Government had been primarily recruiting either from the President's home region or from among supporters of the MLPC. Those with the strongest connections and loyalties to the President entered the USP. Approximately 80 percent of USP members were native to the President's northern region; many belonged to the President's Kaba ethnic group or closely related groups.

Major political parties tended to have readily identifiable ethnic or ethnic-regional bases. The results of the 1998 legislative elections and the 1999 presidential election confirmed that the MLPC Party of President Patasse had strong support in the north, especially among the Sara and Baya ethnic groups, but that it also had strengthened its support in the capital (*see* Section 3). The MDD party of former President David Dacko was strong in the southwestern part of the country; the opposition RDC was popular in the southeast, in the Oubangui River basin, especially among the Yakoma.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Under the Labor Code, all workers are free to form or join unions without prior authorization. A relatively small part of the workforce, primarily wage earners such as civil servants, has exercised this right. There were five recognized labor federations, and the two most important were the Organization of Free Public Sector Unions and the Labor Union of Central African Workers (USTC), which were independent of the Government.

The law expressly forbids discrimination against employees on the basis of union membership or union activity. Employees can have their cases heard in the Labor Court. The Labor Code does not state whether employers found guilty of anti-union

discrimination were required to reinstate workers fired for union activities; however, employers legally were required to pay damages, including back pay and lost wages.

Unlike in the previous year, labor leaders were not arrested or prevented from leaving the country.

Labor federations were free to affiliate internationally, and the USTC was affiliated with the ICFTU.

*b. The Right to Organize and Bargain Collectively.*—The Labor Code grants trade unions full legal status, including the right to sue in court. It requires that union officials be full-time wage-earning employees in their occupation, but they may conduct union business during working hours. The Code does not provide specifically that unions may bargain collectively; however, the law protects workers from employer interference in their right to organize and administer their unions. The Government usually was involved in the collective bargaining process. While collective bargaining has taken place in some instances, no collective bargaining occurred during the year.

The Ministry of Labor and Civil Service set wage scales. Collective bargaining played a role in setting wages in private industry. Salary arrears continued during the year for both civilian (23 months) and military (21 months) personnel; the arrears continued to be a major complaint of the unions, but with minimal results.

Unions had the right to strike in both the public and private sectors. To be legal, strikes had to be preceded by the union's presentation of demands, the employer's response to these demands, a conciliation meeting between labor and management, and a finding by an arbitration council that union and employer failed to reach agreement on valid demands. The union also was required to provide 8 days' advance written notification of a planned strike. The Labor Code states that if employers initiate a lockout that is not in accordance with the Code, the employer is required to pay workers for all days of the lockout. However, the Government has the authority to end strikes because of public interest. The Code makes no other provisions regarding sanctions on employers for acting against strikers. There were no reports of employer actions against strikers.

In February the entire bar went on strike after the Criminal Court barred attorney Assingambi Zarambaud from representing clients charged with involvement in the May 2001 coup attempt (*see* Section 1.e.).

On July 1, medical staff from major Bangui hospitals went on strike to protest salary arrears following failed negotiations with Prime Minister Ziguéle. The strikers demanded payment of 6 months of salary arrears; however, they returned to work after the Government paid them for 1 month.

On October 1, more than 7,000 teachers staged a nationwide strike for 8 days, protesting the non-payment of salary arrears. The teachers demanded 9 months of their salary arrears of 23 months. The Government offered 1 month's salary; the teachers refused and extended their strike, which was ongoing at year's end.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Labor Code specifically prohibits forced or bonded labor; however, prisoners were forced to work without compensation for government officials or magistrates. The Ba'Aka often were coerced into agricultural, domestic, and other types of labor for different ethnic groups.

The Labor Code prohibition of forced or bonded labor applies to children, although they are not mentioned specifically; however, forced child labor occurred (*see* Section 6.d.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Code forbids the employment of children under 14 years of age; however, the Ministry of Labor and Civil Service enforced the provision only loosely. The Labor Code defined the worst forms of child labor as dangerous work or tasks involving serious risks to the child's health, security, or morality. The Labor Code generally covered all labor sectors, although specific regulations covered specific sectors. In some cases, the Labor Code provides that the minimum age for employment could be reduced to 12 years for some types of light work in traditional agricultural activities or home services. Children frequently worked on farms at rural schools.

The Government did not have sufficient resources to enforce the prohibition against forced labor effectively, and child labor was common in many sectors of the economy, especially in rural areas. In some rural areas, teachers or principals used school children as labor on farms, ostensibly to teach them how to work the land since many students did not further their education beyond secondary school (*see* Section 5). The schools used the proceeds from the sale of the farm produce to purchase school supplies and equipment and to fund school-related activities. An international agency reported that children worked in the diamond fields alongside adult relatives.

*e. Acceptable Conditions of Work.*—The Labor Code states that the Minister of Labor must set minimum wages by decree. The minimum wage varies by sector and by kind of work. For example, the monthly minimum wage was equivalent to approximately \$12 (7,800 CFA francs) for agricultural workers but approximately \$28 (18,000 CFA francs) for office workers. The minimum wage did not provide a worker and family a decent standard of living. Most labor was performed outside the wage and social security system, especially by farmers in the large subsistence agricultural sector.

The law sets a standard workweek of 40 hours for government employees and most private sector employees. Household employees may work up to 55 hours per week. The law also requires a minimum rest period of 48 hours per week.

There also were general laws on health and safety standards in the workplace, but the Ministry of Labor and Civil Service neither precisely defined nor actively enforced them, a matter about which the ILO has expressed concern to the Government for many years. The Labor Code states that a labor inspector may force an employer to correct unsafe or unhealthy work conditions, but it does not provide the right for workers to remove themselves from such conditions without risk of loss of employment.

The Labor Code protects both legal and illegal foreign workers.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons, and there were reports that persons, particularly children, were trafficked. Child prostitution remained a problem. The Government has recognized that trafficking in persons occurs; however, statistics and specific examples of trafficking were not available.

Traffickers can be prosecuted under laws against slavery, Labor Code violations, mandatory school age laws, and laws against the exploitation of prostitution by means of coercion or fraud. Specific laws address the crime of prostitution and punish those who traffic women for the purposes of prostitution.

The Government did not investigate actively cases of trafficking, nor did it use or have access to special investigative techniques in trafficking investigations. In 2000 the Government established a commission to study the extent of the trafficking problem, to identify those responsible, and to devise a plan to combat the problem; however, few resources have been devoted to the problem. The Ministries of Social Affairs, Interior, Labor, Rural Development, Justice, and Defense were involved in anti-trafficking efforts and were part of the commission. There were no known NGOs specifically working on the issue.

Trafficking was confined primarily to children who were brought in by the foreign Muslim community from Nigeria, Sudan, and Chad to be used as domestic servants, shop helpers, and agricultural workers (*see* Section 5). Merchants, herders, and other foreigners doing business in and transiting the country also brought girls and boys into the country. Such children, who may or may not be related to their caretakers, were not afforded the benefit of a formal education, despite the mandatory school age, and worked without remuneration for their labor. There were a few anecdotal reports of children being trafficked to Nigeria and several other nearby countries for use as agricultural workers. There was no evidence of sexual exploitation, but there were reports that children were beaten publicly.

Some girls entered prostitution to earn money for their families.

The indigenous Ba'Aka often were coerced into agricultural, domestic, and other types of labor within the country. The Ba'Aka often were considered to be the slaves of other local ethnic groups, and subjected to wages far below those prescribed by the labor code. There were credible reports in 2001 of three cases in which persons obtained a Ba'Aka child by deception and subsequently sent the child to Europe for adoption. One of the cases reportedly involved the implicit cooperation of government authorities.

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## CHAD

Chad is a centralized republic dominated by a strong presidency. President Idriss Deby, leader of the Patriotic Salvation Movement (MPS), has ruled since taking power in a 1990 rebellion. He was reelected President in May 2001; however, fraud, widespread vote rigging, and local irregularities marred the 2001 presidential election and the April legislative elections in which the MPS won 110 out of 155 seats in the National Assembly. The Government signed a formal peace treaty in January with the rebel Movement for Democracy and Justice in Chad (MDJT), led by former Defense Minister Youssouf Togoimi; however it still did not control some parts of northwestern Chad. In May 2000, the President and the National Assembly ap-

pointed 15 members of the High Court of Justice, despite a law providing for their election. The Constitution mandates an independent judiciary; however, the judiciary was ineffective, underfunded, overburdened, and subject to executive interference.

The army (ANT), Gendarmerie (State Police Force), police, National and Nomadic Guard (GNNT), Rapid Intervention Force (FIR), Republican Guard, Presidential Security Force, and the counterintelligence service (ANS) were responsible for internal security. Officers from President Deby's ethnic group dominated the FIR and the ANS. The National Army, Gendarmerie, the GNNT, and the Republican Guard (the Presidential Security Force) were deployed to fight the rebels. The various military and security forces generally were responsive to the civilian control of the Ministry of Defense (ANS and FIR), Ministry of the Interior (Gendarmerie and GNNT), and the Presidency (Republican Guard and the Presidential Security Force). The security forces committed serious human rights abuses.

The economy was based on subsistence agriculture, herding, and fishing, and more than 80 percent of the workforce was involved in these activities. The country's population was approximately 8.4 million. Impediments to sustainable economic growth were corruption and a thriving informal sector outside of government taxation policies. The Government remained heavily dependent on assistance from external donors and international financial institutions.

The Government's human rights record remained poor, and it committed serious human rights abuses. The Government limited citizens' right to change their government. Security forces committed extrajudicial killings, abductions, and continued to torture, beat, rape, and abuse persons. Prison conditions remained harsh and life threatening. Security forces continued to use arbitrary arrest and detention; the authorities arrested opposition leaders. The Government rarely prosecuted or punished members of the security forces who committed human rights abuses. Lengthy pre-trial detention remained a problem. The Government held political detainees. The judiciary remained subject to executive interference and was unable to provide citizens with prompt trials. Security forces used illegal searches and wiretaps and monitored the contents of private mail. The Government at times limited freedom of the press. The Government took judicial action against independent newspapers for publishing material that it deemed prejudicial to the Government. The Government limited freedom of assembly. At times the Government limited freedom of religion and movement. Violence and societal discrimination against women were common. Female genital mutilation (FGM) was widespread. Both official and societal ethnic and regional discrimination remained widespread; northerners, in particular members of President Deby's Bideyat and the allied Zaghawa ethnic minorities, continued to dominate key positions in the public sector. Intermittent armed conflict between the Government and rebels in the Tibesti continued. There also were reports of forced labor, including forced child labor. Child labor was a problem. Trafficking in persons was a problem.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Officially sanctioned extrajudicial killings of suspected criminals by police, the military, and gendarmes continued. Units of the armed forces were responsible for the extrajudicial killings of suspected members of the northwestern rebellion in the Tibesti. The extrajudicial killings rarely were directed centrally; they usually occurred outside the capital, where there was less control over security forces. The Government rarely prosecuted or punished members of the security forces who committed extrajudicial killings. During the year, extrajudicial killings continued unabated, usually with impunity. This led to a generalized sense of insecurity among the population, particularly in N'Djamena.

On January 3, a Kelo man died as a result of injuries sustained when gendarmes tortured him (*see* Section 1.c.).

In April a member of the Presidential Security Guard killed 20-year-old Epe Madi along the banks of the Chari River. No legal action was taken by year's end.

On April 26, Luc Ndonnena of Bodo died in detention, after being tortured (*see* Section 1.c.).

No action was taken on the preceding cases by year's end.

On May 7, the body of 20-year-old student Desire Betoudji was found in N'Djamena. His assailant or assailants had tied his hands behind his back, beaten and stabbed him, then slit his throat.

On June 4, two armed men in uniform and driving an unregistered vehicle broke into the N'Djamena home of jeweler Kabirou Inoua, robbing and fatally wounding him. There was no report of an investigation or other action by year's end.



On December 12, approximately 20 high school students and their friends from the Lycee Bilingue du Centre in N'Djamena stabbed 4 of their teachers, killing Goloum Tando. A policeman who tried to intervene also was attacked and injured. The killing followed a November 30 attack on a teacher who told his students during a class that members of a certain ethnic group had once been slaves; this assertion resulted in the teacher being assaulted by his pupils' parents. The December 12 fatal attack and an unsuccessful attempt to burn down the school on December 10 were reprisals for this assertion. Police arrested the suspected perpetrators of the December 12 attacks; however it was unknown if they had been charged by year's end.

Landmines laid by government, foreign, and rebel forces in previous years caused numerous deaths during the year (*see* Section 5).

On April 21, Dr. Mahamat Guetti, president of the African Democratic Party (PDA) and parliamentary hopeful, died after his car hit a landmine outside of Faya, the evening after the elections. Five other passengers were wounded. The Government initially placed responsibility on the MDJT, but police later arrested three young men whom they accused of having laid the mine; these men were still being detained at year's end. Opposition parties and human rights groups pointed out that Dr. Guetti was contesting the ruling MPS party for the legislative seat and accused the Government of having laid the mine.

On August 29, rebel leader Youssouf Togoimi's vehicle ran over a landmine in northern Chad, seriously wounding him; he died on September 24 from these wounds.

There were no developments in the following 2001 cases of killing: Jean Paul Kimtolnan, Brahim Selguet, and the fatal torture case in Abeche.

There were no developments in the following 2000 cases of killing: The May 2000 kidnaping and subsequent death of a civilian in an N'Djamena park or the 2000 extrajudicial killings of members of the MDJT rebel group.

Armed bandits operated on many roads, assaulting, robbing, and killing travelers; some bandits were identified as active duty soldiers or deserters (*see* Section 2.d.).

There were sporadic reports of clashes between rebel and government forces during the year.

There were no further developments in the October 2001 killing of Maxime Mbailaou.

During the year, members of the Tibesti rebellion reported that members of the army committed human rights abuses and killed suspected collaborators among the civilian population.

Clashes along the Chad and Central African Republic (CAR) border continued during the year. On August 6, 22 persons, including two Chadian soldiers, died after a confrontation between the army and troops loyal to Abdoulaye Miskine, a citizen who now supports CAR President Patasse, which had crossed the border into the Chadian town of Sido. Several days later, forces supporting exiled CAR General Francois Bozize—who sought and received political asylum in Chad after his 2001 failed coup attempt—raided the CAR town of Kabo. These skirmishes followed several smaller confrontations throughout the year.

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

There were no developments, nor were any likely, in the May 2000 disappearance of Souleyman Toke.

*c. Torture, and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution specifically prohibits such practices; however, members of the security forces tortured, beat, abused, and raped citizens. Impunity for those who commit human rights abuses remained widespread.

On 26 April, Luc Ndonnena of Bodo died in detention after being tortured. Police had arrested him on April 22 on suspicion of rape.

On May 6, 12 members of the military raped a woman in the capital city of N'Djamena.

On July 23, security service members beat and robbed Mahamat Fadoul Awade, a student home on holiday with his family in N'Djamena. The agents approached him while he was out with his friends, telling him he was needed at the security services' office. There the agents assaulted and robbed him, accusing him of being a highway robber; agents also robbed two of his friends. After Awade surrendered his motorcycle, the agents allowed the young men to leave. The incident was referred to the security services for an internal investigation; however, there was no further action taken by year's end.

On July 25, six armed military members searched the temporary dwelling of several nomadic herders, ostensibly for weapons. Although they found no weapons, the military demanded that the herders pay them a \$1,500 (1 million CFA francs) fine,

which the herders refused to do. The military left, promising to return the next day. When the military located one herder, they tortured him and killed his horse. Upon finding the others, the military opened fire, killing one and injuring two others. The military then tied up, tortured, and detained the eight unwounded herders. When found, the soldiers denied involvement. The detained herders were brought before a military chief in Doba, and three were subsequently arrested and tortured. After the herders' families reported the incident to the authorities in N'Djamena, the military transferred the detainees to the National Gendarmerie headquarters, charging the herders with being rebels. According to *Le Progres* newspaper, the National Gendarmerie sent a committee to investigate the incident; however, there were no further developments by year's end.

After a series of rebel attacks in northern and eastern Chad in October, government troops carried out acts of reprisal against the local population, including burning villages and killing livestock. Local residents accused the troops of oppressing the civilian population and targeting them for robbery.

During the year, police raped women in custody. For example, on October 11, a young woman in Bebedjia was taken into the gendarmerie custody after she witnessed her cousin being stabbed. While in custody, the brigade commander raped her. A month later, he repeatedly raped another woman also in his custody. On November 11, the officer was charged in court, and the trial was ongoing at year's end.

In most cases of torture, and other cruel, inhuman, or degrading treatment or punishment reportedly done by security forces during the year no action was taken.

There were no further developments in the January 2001 attack on Juliette Denemadji Abdelkader, the May 2001 police shooting in Sarh, the 2001 physical abuse of opposition politicians, the June 2001 beating in Abeche, the July 2001 torture cases in Abeche and Barh Koh, the September 2001 assault on human rights activist Dobian Assingar's family, or the security services' support of interethnic clashes in Bongor in 2001.

From February 26 to March 7, a judicial mission from Belgium visited the country, investigating crimes against humanity committed by former dictator Hisssein Habre, who ruled from 1981 to 1990. In a letter dated October 7, Justice Minister Djimnain Koudji-Gaou informed the Belgian prosecutor that the Government had lifted Habre's diplomatic immunity and would not obstruct his prosecution. On October 8, Senegal's High Commissioner for Human Rights indicated that if the Belgian courts sought extradition of Habre, Senegal would permit it. The matter remained unresolved at year's end.

There were no reports of any investigation or action taken against the members of the security forces responsible for the following incidents in 2000: The October reported beating and abuse of a Zaghawa tribesman who was acting erratically near an embassy and died 3 days after his release from the National Security prison; the June severe beating, torturing, raping, and robbing with impunity of the residents of several villages in the south—Bessokoyan, Bekolo, Bembaitada, and Bamadja—whom the army accused of supporting the rebel chief Kette Nodji Moise; the May beating of Armel Ramadji, a high school student; the May severe beating of a civilian, Abdoulaye Absakine.

Landmines laid by government, foreign, and rebel forces in previous years caused numerous injuries during the year (*see* Section 5).

Prison conditions were harsh and life threatening. Prisons were characterized by serious overcrowding, poor sanitation, as well as inadequate food, shelter, and medical facilities. After visiting a prison in Abeche, a local human rights group reported that prisoners were malnourished, with only approximately 33 pounds of flour per day allotted to feed 145 people. Prisoners received either salt or a sauce made of okra as a condiment; they had meat once a year.

The law provides that a doctor must visit each prison 3 times a week; however, there were credible reports that this was not done. Prisoners in the Abeche facility also indicated that only those with access to money could receive hospital care.

The Government reported that there were more than 2,000 prisoners in 46 prisons throughout the country with nearly 700 in N'Djamena's Central Prison. The ongoing construction of a new prison was not completed by year's end. The law authorizes forced labor in prison.

Female prisoners usually were separated from males; however juvenile males were held with adult male prisoners. Pretrial detainees and political prisoners were held with the general prison population.

The Government permitted the International Committee of the Red Cross (ICRC) to visit all prisons, including some military prisons, although the Government insisted on advance notice. The ICRC conducted such visits during the year. Domestic NGOs, including human rights groups, may visit a prison only with authorization from a court or from the Director of Prisons. These groups reportedly were not al-

lowed access to military prisons, and their access to civilian prisons depended greatly on the personal inclinations of judges and prison administrators. There were no publicized visits by domestic nongovernmental organizations (NGOs) during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution and the Penal Code prohibit arbitrary arrest; however, security forces used arbitrary arrest and detention. A judicial official must sign arrest warrants; however, the Government often did not respect this requirement.

On January 11, authorities freed the president of a youth association from prison; he had been detained without charge for 1 month.

On March 23, gendarmes and the national police conducted sweeps throughout N'Djamena in an attempt to crack down on criminal activity. They moved 118 people to the town of Massakory (approximately 95 miles north of N'Djamena) and 70 more to Tourba, approximately 45 miles west of Massakory. A judge in Massakory ruled the detention irregular and deemed those held as not guilty of vagrancy, as accused by the gendarmes. Of all those arrested and moved, 90 percent were found to be in "regular administrative status," i.e., not wanted for criminal behavior, and were released several weeks after the initial detention.

On May 16, police used tear gas to evict a group of around 100 refugees from the N'Djamena cathedral, and took them to a holding facility at the national police academy. On April 7, the group occupied the cathedral to protest the abduction of another refugee during police sweeps in March and to publicize the plight of refugees in the country (*see* Section 2.d.).

In October following a number of rebel attacks in the north, security forces conducted sweeps of N'Djamena, forcibly conscripting civilian men and sending them to military zones in the north and east.

There were no new developments in the following cases from 2001: The May beating and arrest of election monitors; the May arrest of opposition politicians contesting for the presidency; the May and July arrest and detention of officers accused of fomenting rebellion; and the September arrest of World Vision's head of donor relations.

There were no new developments, nor were any likely, in the 2000 detention and torture case in Pala or the reported 2000 killing of 25 alleged rebels.

Members of the CARP were responsible for numerous cases of arbitrary arrest and detention; they beat, tortured, and raped detainees with impunity.

Lengthy pretrial detention was a problem. Persons accused of crimes could endure up to several years of incarceration before being charged or tried, especially those arrested for felonies in the provinces, who then were transferred to the overcrowded prison in N'Djamena (*see* Section 1.c.). For example, on March 27, the state prosecutor and his assistants made an unannounced visit to two police stations in N'Djamena, where they found people being detained illegally for long periods of preventative detention; they also found evidence of torture. The prosecutor ordered the detainees released.

On October 16, Mahamat Tabako, who was arrested in 1994 for the 1991 murder of Allafouza Barkai, was finally given a court hearing. Tabako was a major in the GSP at the time of his arrest, and was accused of shooting Barkai after a fight. However, because the civil party to the case and the witness were not present, the case has been postponed indefinitely.

The Government continued to hold political detainees.

The Government did not practice forced exile; however, some family members of persons who had joined the northern rebellion chose to leave the country for safety reasons.

*e. Denial of a Fair Public Trial.*—The Constitution mandates an independent judiciary; however, the judiciary was ineffective, underfunded, overburdened, and subject to executive interference. In practice government officials and other influential persons often enjoyed immunity from judicial sanction.

In 1999 President Deby swore in 16 members of the Supreme Court as well as 9 members of the Constitutional Court. In May 2000, the National Assembly enacted legislation calling for the election of 15 members of the High Court of Justice; however, the 15 members were appointed by President Deby and the president of the National Assembly. Although the establishment of these bodies fulfilled the Constitution's mandate for a judicial branch, some members of the Supreme Court and the Constitutional Court were appointed by the Government and not elected by citizens as required by the law, which weakened the independence of the courts.

The Constitution mandates a Superior Council of Magistrates to act as a guarantor of judicial independence, and in 2001, the Council sanctioned several judges for malfeasance. On June 20, President Deby signed a decree authorizing the cre-

ation of a 5-judge judicial oversight commission. The commission was empowered to conduct investigations of judicial decisions and correct judicial infractions. Parties to judicial cases who felt wronged by the judiciary or the Minister of Justice could appeal to the commission. There was no action by the commission during the year. President Deby appointed the members of the commission, which gave the executive branch further control over the judicial branch.

The national judicial system operated with courts located in provincial capitals. The N'Djamena Court of Appeals was supposed to conduct regular sessions in the provinces, but funding limitations did not permit the court to make circuit visits.

Applicable law can be confusing, as courts often tended to blend the formal French-derived legal code with traditional practices. Residents of rural areas often lacked effective access to formal judicial institutions, and legal reference texts were not available outside the capital. In most civil cases, they relied on traditional courts presided over by village chiefs, canton chiefs, or sultans. Decisions could be appealed to a formal court.

Official inaction and executive interference continued to plague the judiciary. In several well-publicized incidents, members of the executive branch and the security services intimidated members of the judiciary. In Goz Beida, the subprefect threatened and then arrested a justice of the peace, while in Faya Largeau, another judge was killed. On July 30, the judges' union held a press conference to denounce the "barbaric behavior, laxity, and complicity" of some administrative and military authorities. The union demanded that the Government intercede to protect the judiciary's independence and also to end the state of insecurity under which judges lived.

The salaries of judicial officials often were low. Although the Government stated that the strengthening and reform of the judiciary were priorities, it made little progress in these areas by year's end.

No further action was taken, and none was likely, against five soldiers who attacked and stoned a defendant at a session of N'Djamena's criminal court in August 2000.

There were no reliable figures concerning the number of political prisoners. During the year, the Government reported that there were no political prisoners. In June 2000, detainees implicated in Kette Moise's rebellion—Charles Mbairam, Padjar Ortingar, Mbairassem Elysee, Djikossem Nidja, Todjimbaye, and Michel Mbailemel—received public trials. However, other individuals arrested for suspicion of subversive activities against the Government in the Tibesti region simply were released or their whereabouts was unknown.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, authorities used illegal searches and wiretaps and monitored the contents of private mail. The Penal Code requires authorities to conduct searches of homes only during daylight hours and with a legal warrant; however, in practice security forces ignored these provisions and conducted unlawful searches at any time. Security forces also stopped private vehicles, motorcycles, bicyclists and pedestrians on a daily basis, extorting money or confiscating belongings.

On June 27, armed men in uniform forcibly entered the residence of a judge in Ati to take back a vehicle that the court had seized (*see* Section 1.e.). Under threat of death, he returned the car's papers to the intruders.

On October 31, seven men in uniform broke into the N'Djamena home of a local NGO coordinator, claiming to have been sent by the Government on an inspection. Once inside, they beat the coordinator's wife and stole about \$1,500 (1 million CFA francs) and some gold. That same night, another group of armed men broke into a home in N'Djamena, where they beat the resident and stole approximately \$9,000 (6 million CFA francs), jewelry, and other belongings. No action was taken by year's end.

There were no new developments in the September 2001 raid on human rights activist Dobian Assingar's home.

The Government engaged in wiretapping without judicial authorization, monitored the contents of private mail through the postal service, and monitored private e-mail through the main post office server. There were no reports of government wire tapping during the year.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected freedom of speech; however, the Government limited freedom of the press in practice. The Government controlled the newspapers Info Tchad and Victoire and influenced Le Progres; however, it did not dominate the press. A number of private newspapers were published in

the capital; most were extremely critical of government policies and leaders. Unlike in previous years, the Government did not detain journalists. However, the Government continued to threaten journalists with legal retaliation for publishing material on the rebellion in the northern part of the country or about senior government officials accused of corruption or responsibility for attacks on Chadian citizens in Libya.

On August 28, the courts rejected a lawsuit filed by Mandigui Yokabdjim, now Minister of Education and former rector of the University of N'Djamena, against the independent weekly paper, *Notre Temps*. The paper had published an article denouncing Yokabdjim's leadership at the University and catalogued alleged misdeeds that occurred during his tenure. The court dismissed the approximately \$150,000 (100 million CFA francs) suit on a technicality—the press law stipulates that in cases of defamation, only the person defamed may pursue the suit. In this case, the University, not Yokabdjim, signed the complaint. The University was appealing the decision.

In November the Government filed a complaint against the private media with the High Council on Communication (HCC). The Government accused the media of “biased treatment of information in times of war” and deplored the “taking of partisan positions” in media coverage of rebel attacks in the north and the failed coup attempt in the CAR, in which the Government was implicated. On November 12, the HCC convoked media representatives to reprimand them and agreed with the Government that the media had demonstrated a “lack of patriotism” in its coverage. On November 20, to protest proposed revisions of the press law that they deemed harmful to freedom of the press, three private radio stations launched a strike; during the first week of December, private newspapers also went out on strike.

Due to widespread illiteracy and the relatively high cost of newspapers and television, radio was the most important medium of mass communication and information. The Catholic Church-owned *La Voix du Paysan* broadcast locally produced programming including news coverage and political commentary in French and indigenous languages from Doba over a 140-mile range. The HCC has set the licensing fee for a commercial radio station at a prohibitively high level: Approximately \$9,000 (6 million CFA francs) per year, 10 times the fee for radio stations owned by nonprofit NGOs such as *La Voix du Paysan*. However, the number of private FM stations has increased, including station FM *Liberte*, owned by a group of human rights organizations.

The Government placed limits on radio broadcasting. On February 11, the HCC banned FM *Liberte* for 3 weeks, accusing the station of inciting hatred. The HCC imposed the ban after FM *Liberte* broadcast erroneous reports concerning a student strike in Ngaoundere, Cameroon, that incited violent anti-Cameroonian riots.

During the year, local authorities in Moissala, including the mayor, subprefect, and the military, infringed on Radio Brakos' right to broadcast. The station appealed to the HCC to intervene on the station's behalf. After the president of the HCC and a delegation from the Ministry of Communications traveled to the region to investigate Radio Brakos' charges, the HCC sent a letter to the Minister of the Interior, objecting to the local authorities' interference in the journalists' work and to the confiscation of Radio Brakos' tapes and equipment.

The Government owned and operated the only domestic television station. On January 16, the Ministry of Communications suspended Hassan Boukar, editor in chief, and Ahmat Yacoub Adam, journalist, at the state-run television station, *Tele-Tchad*. After the Government signed a peace accord with the main rebel group, the MDJT, the international media covered the agreement widely. Ahmat Yacoub wrote and broadcast a piece criticizing local authorities for giving preferential treatment to foreign journalists over local ones. On January 22, in response to the suspensions, *Tele-Tchad* employees went on strike for several hours, until the Minister of Communications issued two decrees canceling the two suspensions.

On August 8, *Tele-Tchad* management censored a tape recorded by its own employees of a fight between *Tele-Tchad* employees and customs officers. The employees became involved in the melee when they witnessed and tried to stop customs officers beating a child in front of the *Tele-Tchad* office. A *Tele-Tchad* cameraman filmed the encounter, but the station hierarchy refused to broadcast it.

A new private television station was registered in 2001; however, demand for private television was limited by economic conditions, such as the lack of a sizeable audience with the required purchasing power. There was one privately owned satellite television service that distributed foreign programming in French and Arabic, but relatively few citizens could afford to subscribe to the service. A South African satellite network also sold subscriptions.

The official media, consisting of a national radio network, a press agency, and N'Djamena's only national television station, were subject to both official and informal censorship; however, at times they were critical of the Government. The official

media also gave top priority to government officials and events, while providing less attention to the opposition.

The sole Internet access server was provided by the Government-owned telecommunications monopoly. The Government did not restrict access to the Internet; however, the state-owned firm reportedly set prices and provided a quality of service that discouraged the establishment of private domestic Internet service providers.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government limited this right in practice. The law requires organizers of public demonstrations to notify local authorities 5 days in advance of the demonstration. Authorities banned demonstrations critical of the Government despite being notified in advance as required by law. In contrast, the authorities permitted peaceful demonstrations in support of the Government and its policies.

In February human rights organizations filed suit on behalf of the women that riot police wounded in June 2001 in front of the French embassy, and on behalf of the family of Brahim Selguet, the young man whom Presidential Guardsmen shot and killed in May 2001, following the presidential elections. The suit demanded that those responsible be held accountable and relieved of their duties. Although a judge was assigned, there was no further legal action by year's end.

The Constitution provides for freedom of association, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—The Constitution provides for religious freedom, and the Government generally respected this right in practice; however, at times it limited this right.

The Government required religious groups, including both foreign missionary groups and domestic religious groups, to register with the Ministry of Interior's Department for Religious Affairs. Registration conferred official recognition but not any tax preferences or other benefits. There were no specific legal penalties for failure to register, and there were no reports that any group had failed to apply for registration or that the registration process was unduly burdensome. The Government reportedly has denied official recognition to some groups of Arab Muslims in Ati, near the eastern border with Sudan, on the grounds that they have incorporated elements of traditional African religion, such as dancing and singing, into their worship.

On July 17, the Minister of Territorial Administration formally admonished the Catholic Church to stay out of all political activities. The Minister was reacting specifically to a "train the trainers" program that the Church conducted for election observers in advance of municipal elections, which were scheduled for 2003. A representative from the Ministry attended both the opening and the closing of the workshop, at the Church's invitation. According to the Minister, the Catholic Church was trying to become a political party or a civil society organization, which would intermix illegally religion and politics. However, during the 2001 presidential elections, the head of the Superior Council of Islamic Affairs was allowed to campaign on behalf of a Muslim candidate.

According to a Protestant pastor in N'Djamena, while differing faiths or denominations were treated equally by the Government, Islamic congregations appeared to have an easier time obtaining official permission for their activities. Non-Islamic religious leaders also claimed that Islamic officials and organizations received greater tax exemptions and unofficial financial support from the Government. State lands reportedly were given to Islamic leaders for the purpose of building mosques, while other religious denominations must purchase land at market rates to build churches.

Although the different religious communities generally coexisted without problems, there were reports of occasional tension between Christians and Muslims due to the proselytizing by evangelical Christians.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, there were some limits on them in practice. The Government did not require special permission for travel in areas that it effectively controlled; however, elements of the security forces, rebels, and bandits continued to maintain many roadblocks throughout the country, extorting money from travelers. The Government did not officially condone such behavior on the part of members of security forces, however, it did not discourage it effectively. In addition, armed bandits operated on many roads, assaulting, robbing,

and killing travelers; some bandits were identified as active duty soldiers or deserters (*see* Section 1.a.).

On April 28, members of the military driving an unregistered Toyota robbed and beat merchants in three cars coming home from the weekly market. One passenger was wounded seriously, and approximately \$7,000 (approximately 4.6 million CFA francs) worth of cash and goods was stolen. The robbers were not apprehended.

Chadian refugees were legally free to repatriate. The World Refugee Survey stated that about 35,000 Chadians (about 30,000 in Cameroon, 2,000 in the CAR, and 3,000 in Nigeria) were refugees at the end of 2001.

Figures on the numbers of refugees living in the country varied. According to the World Refugee Survey, Chad hosted 15,000 Sudanese refugees at the end of 2001; however, the U.N. High Commissioner for Refugees (UNHCR) set the total number of refugees in the country at the end of 2001 at 13,000 (mostly Sudanese with approximately 300 refugees from the Democratic Republic of the Congo).

The Government adhered to the principles of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, these principles were not incorporated into the law. An official national structure, the National Committee for Welcoming and Reinsertion (CONAR), handled domestic and foreign refugee affairs. The Government cooperated with the UNHCR and other humanitarian organizations assisting refugees. At the end of 2001, the UNHCR closed its branch office in N'Djamena as part of a worldwide scaling down operation; the UNHCR office in Bangui, Central African Republic, now has jurisdiction over Chad. The Government provided first asylum for refugees. The Government has granted refugee and asylum status informally to persons from Sudan and the Republic of the Congo and has allowed them to remain for resettlement.

On March 26, gendarmes kidnaped refugee Bienvenu Ngala Mambweni, along with more than 100 other persons, and took him to a town approximately 105 miles northeast of N'Djamena. On April 7, around 180 to 250 refugees, mostly Congolese but also Rwandan, Sudanese, Somali, Central African and Sierra Leonean, occupied the national cathedral in protest. One day later, Mambweni was returned to N'Djamena; however, the refugees refused to leave the cathedral and demanded that the UNHCR resettle them in a different third country (many of the occupiers were not officially recognized as refugees by the UNHCR.) On May 7, a UNHCR delegation visited the group and signed up some of the refugees for repatriation to their countries of origin; however, the UNHCR refused to agree to third-country resettlement. Authorities moved those who agreed to resettlement in their countries of origin to resettlement camps and, on August 26, 88 Congolese refugees voluntarily repatriated. Although no date was set, an additional 38 persons (20 Central Africans, 10 Sudanese and 8 Congolese) were to be repatriated in the next tranche.

For those who refused repatriation, the UNHCR delegation offered approximately \$50 (35,000 CFA francs) should they leave the cathedral. Many refused the offer. On May 16, the military forcibly evicted the refugees from the cathedral using tear gas (*see* Section 1.d.). The repatriation of the remaining cathedral refugees was dependent on their home country's willingness to accept them back. At year's end, 20 Sudanese and 9 Central Africans were awaiting repatriation; others decided to emigrate to a third country.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully; however, the Government continued to limit this right in practice. The Government was headed by a prime minister who was nominated by the President and confirmed by the National Assembly. In June President Deby appointed Haroun Kabadi as Prime Minister, replacing Nagoum Yamassoum, who had served for 3 years. The executive branch dominated all other branches.

During April legislative elections, President Deby's MPS party won 110 out of 155 seats in the National Assembly. The election results were largely determined in advance, due in large part to a faulty electoral census that the Government refused to revise, as well as to inaccurate registered voter lists. In addition, the MPS, running allied with another party in some districts, was the only political party to have a candidate in every district. Two of the primary opposition parties chose to boycott because of their concerns with the electoral conditions and urged their supporters to stay away from the polls. Turnout was just over 50 percent nationwide but only 22 percent in the capital. There were reports of irregularities committed on election day.

During the period leading up to and following the May 2001 presidential election, several cases of abuses against opposition supporters and candidates took place.

According to several observers, President Deby's first-round victory in 2001 was marked by irregularities, including voting by minors and unregistered voters, early and repeat voting by nomadic groups, election day campaigning by the ruling party, and the presence of government officials and the military in polling stations during the voting. While monitoring the voting process, unofficial observers from local human rights and civil society groups were assaulted in polling stations.

The Government restricted media coverage of the elections (*see* Section 2.a.).

The State remained highly centralized. The national government appointed all subnational government officials, who must rely on the central government for most of their revenues and their administrative personnel.

Many political parties objected to the Government's proposed decentralization plan and presidentially decreed internal territorial divisions. Opposition political leaders accused the Government of coopting their most popular local politicians to run as MPS members in upcoming local elections and also alleged intimidation by the military against those party members who refused.

The Independent Elections Commission, which is dominated by the MPS party, was ineffective in overseeing the April legislative election and the May 2001 presidential elections.

Few women held senior leadership positions. There were 3 women in the 125-seat National Assembly, and there were 2 women of cabinet rank.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Human rights organizations generally operated with few overt restrictions, investigating and publishing their findings on human rights cases; however, the Government obstructed the work of human rights organizations during the year through arrest, detention, and intimidation (*see* Sections 1.c. and 1.d.). Government officials often were accessible to human rights advocates; however, they generally were unresponsive or hostile to their findings. Areas of particular difficulty between the Government and human rights organizations were the latter's attempts to mediate between the Government and rebel groups and their attempts to monitor the legislative elections (*see* Section 3).

On October 3, Sylahorbe Maningonal and David Mamtadjinan, two members of the Maro branch of the Chadian League of Human Rights (LTDH), were arrested and tortured. Police accused them of possessing illegal weapons and belonging to a rebel group; however, the LTDH believed that their detention and torture was organized by an official in the intelligence service, who the LTDH had accused of carrying out human rights abuses during the regime of former president Hissene Habre.

Human rights groups were outspoken and often partisan in publicizing the abuses through reports, press releases, and the print media; however, they only occasionally were able to intervene successfully with authorities. They often sent statements to diplomatic missions and international NGOs. Most human rights groups were composed of opponents of the Government, which weakened their credibility with the Government and some international organizations.

NGOs gained some recognition under the Deby regime and played a role in political events. Human rights groups assisted the Government in mediation efforts between herders and farmers over land and water rights.

International human rights organizations were restricted. The Government has refused Amnesty International's request to investigate human rights abuses in the country; however, the Government permitted a Belgian judicial delegation and a representative of Human Rights Watch to visit the country and interview victims of and witnesses to human rights abuses committed by deposed dictator Hissene Habre. The delegations indicated that the Government cooperated fully during their mission; however, the delegations did not investigate current human rights concerns.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution provides for equal rights for all citizens, regardless of origin, race, religion, political opinion, or social status. In practice cultural traditions maintained women in a status subordinate to men, and the Government favored its ethnic supporters and allies.

*Women.*—Domestic violence against women was common, although no statistics were available. By tradition wives were subject to the authority of their husbands, and they only had limited legal recourse against abuse. Family or traditional authorities could act in such cases; however, police rarely intervened.



Rape, prostitution, and sexual harassment were all problems. Rape and prostitution were prohibited by law; however, sexual harassment was not.

FGM was widespread and deeply rooted in tradition. A U.N. study estimated that approximately 60 percent of all women in the country had undergone FGM; the practice was especially prevalent among ethnic groups in the east and south, where it was introduced from Sudan. All three types of FGM were practiced; the least common but most dangerous and severe form of FGM, infibulation, was confined largely to the region on the eastern border with Sudan. FGM usually was performed prior to puberty as a rite of passage.

Opposition to the elimination of FGM was strong; however, some progress has been made. On March 28, the Parliament passed a law on reproductive health, which included a section banning violence against women, including FGM. In previous years, both the Government and the NGO community conducted active and sustained public education campaigns against this practice. In April a parliamentary delegation met with local opinion leaders in the eastern town of Am-Timan to discuss FGM and its public health implications. In May the first regional symposium on FGM was held, bringing together around 40 members of civil society associations, traditional leaders, religious authorities and others from the 5 south-eastern and south-central administrative departments. A prominent NGO continued its anti-FGM education campaign during the year. The Ministry of Social Action and the Family was responsible for coordinating activities to combat FGM. The law makes FGM theoretically a prosecutable offense as a form of assault, and charges can be brought against the parents of FGM victims, medical practitioners, or others involved in the action; however, no such suits were brought by year's end.

Discrimination against women remained widespread. In practice women did not have equal opportunities for education and training, making it difficult for them to compete for the few formal sector jobs. Property and inheritance laws based on the French code do not discriminate against women, but most inheritance cases were not adjudicated in the court system. Rather, they were resolved by local leaders, with traditional practice favoring men. A 1999 study found that 21 percent of housewives could not work outside the home because their husbands forbade them to do so. The exploitation of women was pervasive especially in rural areas, where women did most of the agricultural labor and were discouraged from formal schooling. Illiteracy was estimated at 66 percent for women as compared with 41 percent for men. Under the law, polygyny was sanctioned; however, spouses may opt for monogamy. If a monogamous relationship was violated, the wife has the right to request that the marriage be dissolved; however, she must repay the bride price and other expenses related to the marriage.

*Children.*—The Government took some actions to improve children's rights and welfare, but it had few resources for these purposes. Although the Government continued to increase modestly its assistance to the education sector, the Government did not have enough money to provide adequate funding to public education and medical care. Government education policy for children and youth was focused on increasing classroom facilities and infrastructure.

The Government did not enforce compulsory education. The Constitution provides for compulsory education, but it does not specify until which age. The Constitution also provides for free education; however, parents complained that they must pay tuition to public schools. Educational opportunities for girls were limited, mainly because of tradition. Approximately as many girls as boys were enrolled in primary school, but the percentage of girls enrolled in secondary school was extremely low, primarily because of early marriage.

The law considers any citizen under the age of 18 years as a minor. Sexual relations, even with consent, before the age of 13 years were considered to be rape and the prescribed sentence was for hard labor in perpetuity; the age of consent was 14. Child abuse was a problem.

FGM was practiced commonly on young girls (*see* Section 5, Women).

Although the law prohibits sexual relations with a girl under the age of 14, even if married, this law rarely was enforced, and families arrange marriages for girls as young as the age of 12 or 13; the minimum age for engagements was 11 to 12. There were some forced marriages, for the financial gain of a dowry (*see* Section 6.c.). Many young wives then were forced to work long hours of physical labor for their husbands in fields or homes (*see* Section 6.d.).

Several human rights organization reported on the problem of the "mahadjir" children. These children, who attended certain Islamic schools, were forced by their teachers to beg for food and money. There were no real estimates as to the number of mahadjir children; however, UNICEF was conducting a study on children's status that was expected to include figures on mahadjir children.

Although the practice was prohibited by law, UNICEF estimated that there were approximately 600 child soldiers in the country. In addition, UNICEF estimated that there were approximately 10,000 street children. There were credible reports that the military conscripted teenage Zaghawa to fight in the Tibesti region of the country during the year.

In July 40 members of a network of associations and NGOs working for children, met to adopt a plan of action for the protection of children's rights. They decided to publish a bimonthly bulletin called *The Voice of the Children*, create a cultural theater group for education and training on the rights of children, and establish an information center on the rights of children.

During the year, the NGO *Medecins du Monde* (Doctors of the World) and the city of N'Djamena sponsored 84 training sessions on health and hygiene for street children.

*Persons with Disabilities.*—There was no official discrimination against persons with disabilities; however, the Government operated only a few therapy, education, or employment programs for persons with disabilities, and no laws mandate access to buildings for persons with disabilities. Several local NGOs provided skills training to the deaf and blind.

In 2000 the number of citizens with disabilities was estimated at approximately 500,000; most were disabled as a result of polio, blindness, and old age. The majority of them were illiterate and unemployed, and many were beggars.

An ophthalmologist at the National General Hospital estimated that 10 percent of all citizens had some visual dysfunction—approximately 150,000 were blind, and approximately 600,000 were visually impaired. There were only three ophthalmologists in the country.

*National/Racial/Ethnic Minorities.*—There were approximately 200 ethnic groups, many of which were concentrated regionally and speak 128 distinct primary languages. Most ethnic groups were affiliated with one of two regional and cultural traditions: Arab and Saharan/Sahelian zone Muslims in the north, center, and east; and Sudanian zone Christian or animist groups in the south. However, recent migrations in response to urbanization and desertification made a north-south breakdown too simplistic.

Societal discrimination continued to be practiced routinely by members of virtually all ethnic groups and was evident in patterns of buying and employment, in patterns of de facto self-segregation in urban neighborhoods, and in the paucity of interethnic marriages, especially across the north-south divide. The law prohibits state discrimination on the basis of ethnicity; however, in practice ethnicity continued to influence government appointments and political alliances. Northerners, in particular members of President Deby's Bideyat and allied Zaghawa ethnic groups, continued to dominate the public sector and were overrepresented in key institutions of state power, including the military officer corps, elite military units, and the presidential staff. Political parties and groups generally continued to have readily identifiable regional or ethnic bases (see Section 3).

In the army's struggle against the Tibesti rebels, hundreds of soldiers were killed or injured by landmines and unexploded ordinance in 1998 and 1999; numerous deaths and injuries from landmines continued during the year. During the year, the Government exhibited a pattern of discrimination in selectively separating injured northerners, especially Zaghawa, from southerners for treatment, with the Zaghawa given preferential medical treatment, including evacuation abroad. Human rights groups in Faya Largeau charged that many untreated injured southerners were left to die as a result of the selective access to medical treatment based solely on ethnicity.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution recognizes freedom of association and union membership, as well as the right to strike, and the Government generally respected the right to organize in practice. All employees, except members of the armed forces, were free to join or form unions. However, few workers belonged to unions, since most workers were unpaid subsistence cultivators or herders. The main labor organization was the Chadian Syndicates' Union (UST). The Teacher's Union of Chad became independent in 1998. Neither union has ties to the Government. A number of minor federations and unions, including the Free Confederation of Chadian Workers, also operated, some with ties to government officials.

The Labor Code ended long-standing legal restrictions on trade union rights; however, there were reports that a 1962 ordinance requiring prior authorization from the Ministry of the Interior before an association can be formed still was in force. The ordinance also allowed for the immediate administrative dissolution of an asso-

ciation and permitted the authorities to oversee associations' funds. The Government allegedly applied this law to unions on several occasions despite assurances that only the Labor Code would govern the unions; there were no reports of such action during the year. The International Labor Organization (ILO) Committee of Experts has cited the Government for its denial of the right to establish an organization without prior approval. The Committee noted that Ordinance No 27 regulating associations subjects the establishment of associations to the Ministry of the Interior who had extensive power to oversee the management under penalty of dissolution.

The unions were supportive of the opposition and played a limited role in the legislative election campaign. In 2001 they had a much more active role in the presidential election campaign. The Government applied some pressure on the unions after the election, urging them to go back to focusing on labor issues rather than politics.

The Labor Code protects unions against antiunion discrimination, but there was no formal mechanism for resolving such complaints.

Labor unions have the right to affiliate internationally. The UST affiliates with the International Confederation of Free Trade Unions.

*b. The Right to Organize and Bargain Collectively.*—The Constitution contains only general provisions for the rights of the Government to set minimum wage standards and to permit unions to bargain collectively. The Labor Code has specific provisions on collective bargaining and workers' rights. The Labor Code authorizes the Government to intervene in the bargaining process under certain circumstances.

The Constitution recognizes the right to strike, and the Government generally respected this in practice. The law permitted imprisonment with forced labor for participation in strikes; however, there was no such punishment during the year. During the year, there were legal and illegal strikes in various sectors, particularly postal services, petroleum, and education.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution and the Labor Code prohibit forced or bonded labor, including by children; however, there were reports of forced labor practices in the formal economy and isolated instances of forced labor by both children and adults in the rural sector by local authorities as well as in military installations in the north. In 2000 a local newspaper reported that workers in the National Sugar Company of Chad, the sugar parastatal, were forced to work but were not paid. Some young girls were forced into marriages by their families; these girls then were forced to work in their husbands' fields or homes (see Section 5). There were reports that Zaghawas were conscripted forcibly into the armed forces throughout the year. In December 2000, security forces in N'Djamena reportedly rounded up army deserters and other individuals described as bandits, sent them to the northern military front, and forced them to fight alongside government troops. Ordinances of the law permitted forced labor imprisonment for participation in strikes, which the ILO has requested the Government to repeal; however, the ordinances were not repealed by year's end.

Abusive and exploitative child labor existed and affected an estimated 20 percent of children between the ages of 6 and 18 years of age.

In September the quasi-official National Commission on Human Rights wrote a letter of protest to the Prime Minister concerning reports of children being sold and exploited in Koumra and other cities in the Mandoul region. The Commission asked local and national authorities to put an end to this problem and called for the creation of a special team to investigate and fix responsibilities. No action was taken by year's end.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Code stipulates that the minimum age for employment in the formal sector was 14 years; however, the Government did not enforce the law in practice. The labor law provides that anyone under the age of 18 is a child and prohibits children from undertaking "any work which, by its nature or the circumstances in which it was carried out, was likely to harm the health, safety or morals of children." According to a 2000 UNICEF study, 65.5 percent of minors worked, including those performing domestic chores for more than 4 hours per day, those working within the family (herding, microcommerce, etc.), and those who worked for someone outside the family but who were underage. One out of 5 children between 6 and 18 years of age worked in the urban informal sector. Throughout the country, children worked in agriculture and herding during the year. Children were also employed in the commercial sector, particularly in the capital, as street vendors, manual laborers, and helpers in small shops. Young girls worked as domestic servants, again mainly in N'Djamena.

In an investigative piece on child labor, a local semi-weekly newspaper gave several examples of urban child labor. Included among them was the case of an 8-year-old boy, who hauled bricks from a firing oven to a vending site more than half a mile away, earning \$.01 (10 CFA francs) per brick, for a total of between \$0.75 to \$1.40 (500 to 750 CFA francs) per day. In another case, a 13-year-old boy transported sand for \$1.40 to \$1.50 (750 to 900 CFA francs) per day. The article noted that teenagers also employed still younger children to carry out work for them, like hauling sand and brick.

There were reports that in the southern part of the country, families contracted out their children to Arab nomadic herders to help care for their animals, and the children often were abused and returned with little financial compensation for their work. For example, the family of Mbaye Ngabaye, a preteen boy, sold him to a nomadic herder for \$15 (10,000 CFA francs) in 1998. The local official, who witnessed the transaction, received \$7.50 (5,000 CFA francs). The contract was for 3 years, and every 6 months, the boy would be allowed to bring one calf back to the village; in reality, he only received two calves in 3 years. The family then sold one of the calves to feed their 11 remaining children, while the second was sold to pay for the incision (FGM) of his sisters. After a documentary filmmaker intervened, the child was returned home. Some children worked as domestic servants in the households of relatives for little compensation.

The Government worked with UNICEF to increase public awareness of child labor. During the year, the Government cosponsored with UNICEF a number of workshops, seminars, and radio broadcasts to raise awareness of the abuses of child labor and to advocate elimination of the worst forms of child abuse. For example, the Ministry of Communications, in conjunction with UNICEF, held a competition for the best radio broadcast on the issue of child labor.

Forced child labor was a problem (*see* Section 6.c.).

*e. Acceptable Conditions of Work.*—The Labor Code requires the Government to set minimum wages. The minimum wage at year's end was \$35 (25,480 CFA francs) per month. Most wages, including the minimum wage, were insufficient to provide a decent standard of living for a worker and family. Nearly all private sector and state-owned firms paid at least the minimum wage, but the lowest public sector wages remained below the minimum wage. The low wages among customs, police, and military officials contributed to almost daily extortion of the civilian population along all major roads (*see* Section 2.d.).

The Government, which owned businesses that dominate many sectors of the formal economy, remained the largest employer. The Government reduced significantly the large salary arrears owed to civil servants and military personnel, although some arrears remained.

The law limits most agricultural work to 39 hours per week, with overtime paid for supplementary hours. Agricultural work was limited to 2,400 hours per year. All workers were entitled to an unbroken period of 48 hours of rest per week, although in practice these rights rarely were enforced.

The Labor Code mandates occupational health and safety standards and inspectors with the authority to enforce them; however, these standards rarely were respected in practice in the private sector and were nonexistent in the civil service. The UST has claimed before the ILO that the labor inspection service was not allocated the resources necessary to perform its duties. Workers can remove themselves from dangerous working conditions; however, in practice they cannot leave without jeopardizing their employment.

All workers—foreign, citizen, legal, or illegal—are protected under the Labor Code.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports of trafficking. Children were trafficked for forced labor. For example, a 9-year-old girl's family sold her to a former subprefect now living in N'Djamena. She had been forcibly working as a maid for 6 months in the man's home when she fled in June, initially finding refuge at the national radio station. When the radio aired an appeal for her parents to come and pick her up, her employers appeared, carrying a copy of a work contract signed by her parents, two witnesses, and the head of the gendarme brigade in her home department. Gendarmes who were present at the radio station contacted local human rights organizations, and refused to return the child to her employers. The employers were taken to the gendarmes' station, and then summoned to court by the national prosecutor on July 4; they did not show up.

Begging for food or money by "mahadjir" children forced to do so by their teachers was a problem (*see* Section 6.c.).

The Penal Code makes trafficking in persons a crime punishable by 5 to 20 years in prison; however, no governmental organization focused on the problem, and no economic or financial aid was available unless a victim sought damages in court. The Government sponsored educational campaigns through the media to advise parents to instruct children about the danger of trusting strangers.

## COMOROS

The Union of Comoros is an emerging democracy that was ruled by President Azali Assoumani, who took power in a coup in April 1999, and subsequently was elected democratically in April presidential elections described by international observers as free and fair. The country consists of three islands (Grande Comore, Anjouan, and Moheli) and claims a fourth, Mayotte, which is governed by France. Legislative elections were scheduled for March 2003. The Constitution provides for an independent judiciary, and unlike in previous years, there were no reports of efforts to influence the judiciary by the executive or others during the year.

The Comorian Defense Force and the Gendarmerie were responsible for internal security and were under the President's direct control. Some members of the security forces committed human rights abuses.

The economy was dominated by agriculture; the country's population was approximately 590,000. Revenues from the main crops continued to fall while the population has been growing at a rate of 2.7 percent annually. In 2001 per capita income was approximately \$356. The country depended heavily on foreign assistance from the European Union, China, and Arab countries, including Bahrain, Kuwait, Qatar, Saudi Arabia, Libya, and the United Arab Emirates.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Prison conditions remained poor. Security forces and the separatist authorities on Anjouan used arbitrary arrest and detention. The Government limited freedom of religion, and security forces reportedly continued to threaten Christians. Societal discrimination against women and Christians continued to be serious problems. There were some instances of forced child labor.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life by the Government or its agents during the year. However, during a December 2001 unsuccessful coup attempt on Moheli, soldiers killed four invading mercenaries; two other mercenaries were lynched by a mob.

In addition to the police and the military, there were many groups on Anjouan that were armed, including paramilitary forces, militias, and civilians. There were no reported killings by these groups during the year.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that government officials employed them.

In September police forcibly dispersed a student demonstration (*see* Section 2.b.).

Prison conditions remained poor. A lack of proper sanitation, overcrowding, inadequate medical facilities, and poor diet were common problems. The Government has not taken action to remedy these problems. Unlike in previous years, there were no reports of deaths as a result of disease in prisons during the year. Female prisoners were held separately from male prisoners. Juveniles were not imprisoned; they were returned to the custody of their parents. Pretrial detainees were not held separately from convicted prisoners.

The Government permitted prison visits by independent observers, and two such visits by the International Committee of the Red Cross (ICRC) and the Association Comorienne des Droits de l'Homme (ACDH) occurred during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, some people apprehended by the police were brought arbitrarily to military camps instead of jails and in some cases held without charge for over 24 hours, contrary to the law.

After the August 2000 demonstrations against the Fomboni Declaration, separatist authorities on Anjouan arrested and beat numerous opposition supporters (*see* Section 1.c.). In September 2000, a tribunal in Anjouan's capital, Mutsamudu, freed

3 of the approximately 100 persons arrested. After President Bacar of Anjouan Island was elected in April, the remaining 97 supporters were released.

Two of President Azali's opponents who reportedly led a coup attempt in 2000 were released from detention in May (*see* Section 3).

The Constitution prohibits forced exile, and the Government did not use it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in the past, the executive and other elites exercised influence over court cases. The Head of State appoints magistrates by decree.

The High Council, made up of four members appointed by the President, three members elected by the Federal Assembly, and a member of each island council, also served as the High Court of the Republic and ruled on cases of Constitutional law. Trials were open to the public except for limited exceptions defined by law. The legal system incorporates Islamic law as well as French legal codes. There were very few lawyers in the country, making it difficult to obtain legal representation. The military government did not provide legal counsel to the accused. Most disputes were presented to village elders for possible resolution before being taken to court. There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

Bans on alcohol and immodest dress were enforced sporadically, usually during religious months, such as Ramadan.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

There were two independent newspapers that published regularly. These newspapers existed side-by-side with the semiofficial weekly *Al-Watwan*. Some of the independent newspapers criticized the Government freely.

There were two national radio stations: The Government-run radio station, Radio Comoros; and the opposition radio station, Radio Tropicque. In addition there were at least 10 regional and local stations, some of which were openly critical of the Government. Residents also received broadcasts from Mayotte Radio, as well as from French television, without government interference. In January a national television station was completed. There were several private local television stations, and satellite antennas were popular. Amateur radio licenses were issued without restriction.

Foreign newspapers and books were available. Unrestricted Internet service was available.

The Government did not restrict academic freedom. There was no university, but secondary students and teachers continued to speak freely and criticize the Government openly.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the freedom of assembly, and the Government generally respected this right in practice. However, in September police forcibly dispersed students who were demonstrating for greater autonomy for Grande Comore. At least eight of the demonstrators were injured.

The Constitution does not provide specifically for the freedom of association; however, the Government generally respected this right in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion; however, the authorities infringed on this right.

Islam is the official religion. An overwhelming majority of the population was Sunni Muslim, and the Government discouraged the practice of religions other than Islam. The August 2000 Fomboni Declaration included an agreement to make Islam the national religion. Authorities restricted the right of Christians to practice their faith, and police regularly threatened and sometimes detained practicing Christians.

There were two Roman Catholic churches and one Protestant church; however, the Government restricted the use of these Christian churches to noncitizens. The Government permitted Christian missionaries to work in local hospitals and schools but did not permit them to proselytize.

There were no reports of Christians being detained on Anjouan during the year. Some community authorities on Anjouan banned Christians from attending any community events and banned Christian burials in a local cemetery.

There was widespread societal discrimination against Christians. Christians faced insults and threats of violence from members of their communities. Christians have been harassed by mobs in front of mosques and summoned for questioning by religious authorities. In some instances, families forced Christian members out of their

homes or threatened them with a loss of financial support. Some Christians had their Bibles taken by family members. Local government officials, religious authorities, and family members attempted to force Christians to attend services at mosques against their will.

Several times during the year, religious leaders on Anjouan and Grande Comore threatened Christians during radio broadcasts and sermons in mosques. Attempts have been made to isolate Christians from village life.

Islamic fundamentalism grew in popularity as more students returned to the country after studying Islamic subjects in foreign countries.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

During the year, there continued to be reports that persons fled Grande Comore and Anjouan for Mayotte; many of these persons reportedly drowned when they attempted to reach Mayotte on rafts or by swimming.

The Constitution does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has not formulated a policy regarding refugees, asylees, or first asylum; however, the Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations assisting refugees. During the 1990's, refugees from central Africa fled to the country. Some have received asylum in other countries; approximately 10 of these refugees remained in the country, and they were awaiting placement by the UNHCR in other countries at year's end.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides specifically for the right of citizens to change their government in regularly scheduled elections, and in practice they were allowed to do so in the April presidential elections, which were characterized as free and fair by international observers. Under the terms of the Constitution, a president will be elected from a different island every 4 years, based on a rotating schedule. In this year's elections, the primaries were held only on Grande Comore, as the first president under the Constitution must be a Grande Comorian. Three candidates advanced from the primary to the general election in which President Azali was elected with approximately 75 percent of the vote.

The country has been prone to coups and political insurrection since its independence in 1975. In April 1999, army commander Colonel Azali staged a bloodless coup and overthrew President Tadjidine Ben Said Massounde. In May 1999, Azali decreed a constitution that gave him both executive and legislative powers. In December 1999, in response to international criticism, Azali appointed a civilian prime minister, Bianrifi Tarmidi; however, Azali remained the Head of State and army Commander in Chief.

Also in August 2000, Azali and separatist leader Abeid signed the Fomboni Declaration. The declaration called for the creation of a new Comorian entity, in which the islands would share a common policy on religion, nationality, currency, foreign relations, and defense. The opposition parties initially refused to participate, but in December 2000, they met with the Azali government and the African Union (AU) began mediating negotiations.

In response to pressure to restore civilian rule, the Government organized several committees to draft a new constitution, including the August 2000 National Congress and November 2000 Tripartite Commission. The opposition parties initially refused to participate in the Tripartite Commission, but in February 2001, representatives of the Government, the Anjouan separatists, the political opposition, and civil society organizations signed a "Framework Accord for Reconciliation in Comoros," brokered by the AU.

The Accord called for the creation of a new Tripartite Commission for National Reconciliation to develop a "New Comorian Entity" with a new Constitution. In August 2001, representatives from each island debated a draft Constitution. In December 2001, the draft Constitution, which called for the reincorporation of Anjouan, Grande Comoros, and Moheli into a new federation that would grant the islands greater autonomy, was approved overwhelmingly in a referendum described by international observers as free and fair. Under the terms of the Constitution, elections initially were set for March; however, Colonel Azali delayed declaring his can-

didacy and the elections were postponed until April. Each of the three islands that constituted the Union has a separate elected President. An ongoing debate between the President of the Union and the individual island presidents over the division of powers between the competing presidencies was unresolved at year's end.

The Constitution provides that the Legislative Assembly will be composed of 33 members. Of these, citizens will elect directly 18, and the Government will appoint 15 (5 per island). Legislative Assembly elections were scheduled for March 2003.

The Anjouan secession crisis subsided after the August 2000 signing of the "Fomboni Declaration of National Unity" by Azali and separatist leader Lieutenant Colonel Said Abeid. The Fomboni Declaration provides for a loose confederation between the islands, giving each island the ability to maintain an army and conduct its own foreign relations. In August 2001, separatist soldiers, reportedly dissatisfied with pay and promotions, started protests that led to the overthrow of Abeid in Anjouan. A three-man military commission replaced him as leader of Anjouan; Abeid fled to Mayotte. The new military commission pledged to support the reconciliation process begun by the February Accord. In November 2001, Abeid made an unsuccessful attempt to regain control of Anjouan by attacking forces loyal to the new military commission, but he quickly was defeated. The coup attempt did not threaten the Fomboni Agreement.

In December 2001 on Moheli, the army defeated a coup attempt by 13 French mercenaries after several hours of fighting. Colonel Hassan Harouna, a former defense official in the Government of former President Abdoukarim, was arrested in December 2001 and accused of organizing the coup to derail the December 2001 referendum. He was released in May.

In March 2000, dissident political and army elements attempted a coup against Azali. This coup was suppressed, and the leaders of the coup were detained. The two leaders were freed in May (*see* Section 1.d.).

There were no bans in effect on political parties, which continued to criticize the Government openly and without penalty. There were 21 political parties in the country; 5 parties represented the Government, and 16 parties represented the opposition.

Village chiefs and Muslim religious leaders tended to dominate local politics. Traditional social, religious, and economic institutions also affected the country's political life in important ways.

There was one woman in the Cabinet. Two women hold senior government positions: One was the President of the Tribunal of First Instance, and the other was legal counsel to President Azali.

An overwhelming majority of the population was Sunni Muslim, and all citizens, including the small number of Christians in the country, identified themselves as Muslims for safety reasons (*see* Section 2.c.). There were no Christians in the Government.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international nongovernmental organizations (NGOs) generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views. However, the Comoros Human Rights Association, established in 1990, was not active during the year due to a lack of funds. In July the newly formed Haki Association for Human Rights ran a series of human rights seminars open to all persons.

#### *Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination based on these factors; however, there was discrimination against women.

*Women.*—Domestic violence against women occurred, but medical authorities, the police, and women's groups believed that it was rare. In theory a woman could seek protection through the courts in the case of violence, but the problem was addressed most often within the extended family or at the village level.

Prostitution is illegal, and most citizens did not consider it to be a problem.

Men have the dominant role in society. A matriarchal tradition afforded women some rights, especially in terms of landholding. Societal discrimination against women was most apparent in rural areas where women had farming and childrearing duties, with fewer opportunities for education and wage employment. An improvement in the status of women was most evident in the major towns, where growing numbers of women were in the labor force and generally earned wages comparable to those of men engaged in similar work; however, few women held positions of responsibility in business. While legal discrimination existed in



some areas, in general inheritance and property rights do not discriminate against women. For example, the house that the father of the bride traditionally provides to the couple at the time of their marriage remained her property in the event of divorce.

*Children.*—The Government has not taken any specific action to protect or promote children's welfare. Legal provisions that address the rights and welfare of children were not enforced because of a lack of inspectors.

Education was compulsory until the age of 10; however, attendance was not enforced. An estimated 60 percent of children attended primary school, while only 34 percent attended secondary school; 55 percent of boys attended school, and 45 percent of girls attended school.

Child abuse was rare.

Child prostitution and child pornography are illegal. Unmarried children under the age of 13 were considered minors, and they were protected legally from sexual exploitation, prostitution, and pornography.

*Persons with Disabilities.*—There was no discrimination against persons with disabilities in employment, education, or in the provision of other state services; however, there were no laws that mandate access to buildings for persons with disabilities.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right to unionize, and the Government has not prevented industries from unionizing. Farming on small land holdings, subsistence fishing, and petty commerce make up the daily activity of most of the population. The wage labor force was small, and numbered less than 7,000 including government employees and less than 2,000 excluding them. Teachers, civil servants, and dock workers were unionized. Unions were independent of the Government.

The Labor Code, which was enforced rarely, does not include a system for resolving labor disputes, and it does not prohibit antiunion discrimination by employers.

There were no restrictions on unions joining federations or affiliating with international bodies; however, none were known to do so.

*b. The Right to Organize and Bargain Collectively.*—The law protects workers from employer interference in their right to organize and administer their unions. Unions have the right to bargain collectively. Employers set wages in the small private sector, and the Government, especially the Ministries of Finance and Labor, set them in the larger public sector.

The Constitution provides for the right to strike, and the Government generally respected this right in practice. In previous years, government workers, teachers, and hospital workers held strikes primarily because they were not paid for weeks at a time. During the year, there were no reports of strikes on Anjouan or Moheli; however, teachers held strikes on Grande Comore, which resulted in the closure of schools for 1 week. In 2000, despite regulations that forbid the removal of judges, Colonel Azali transferred to other duties nine judges who had initiated a strike that called for judicial reform and regular payment of salaries. There were no laws protecting strikers from retribution, but there were no known instances of retribution.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor by adults; however, the Government does not prohibit forced and bonded labor by children, and there were some instances in which it occurred. Some families placed their children in the homes of others where they worked long hours in exchange for food or shelter. A 2000 UNICEF study found that approximately 15 percent of children worked at jobs for which they were not paid.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Code defines the minimum age for employment as 15 years of age. The Ministry of Labor had few resources to enforce this provision; however, child labor generally was not a problem due to the general lack of wage employment opportunities. Children generally worked for their families in the subsistence farming and fishing sectors.

The Government has not ratified International Labor Organization Convention 182 on the worst forms of child labor; however, the Government adhered to its provisions in practice.

Forced or bonded labor by children occurred (*see* Section 6.c.).

*e. Acceptable Conditions of Work.*—There was no minimum wage. In previous years, the Government paid workers late or failed to pay them at all; however, during the year, government workers were paid more regularly.

The Labor Code specifies a workweek of 37-and-a-half hours with 1 day off per week plus 1 month of paid vacation per year.

There were no safety or health standards for the very small manufacturing sector.

The law protects legal foreign workers; however, there were no such provisions in the law to protect illegal foreign workers.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

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## DEMOCRATIC REPUBLIC OF THE CONGO

The Democratic Republic of the Congo remained divided into territory controlled by the Government and territories controlled by several rebel factions, foreign troops, ethnic militias, and other armed groups. President Joseph Kabila, who came to power in January 2001 after the assassination of his father Laurent Desire Kabila, ruled by decree in the territory under government control. The Government continued to operate without a constitution. The State formally was highly centralized, although in practice the country's dilapidated transportation and communications infrastructure impaired central government control. The Government made progress in conforming to the May 2001 law liberalizing political activity; however, security services continued illegally to detain citizens, particularly members of political groups considered by the Government to be a threat. The judiciary continued to be subject to executive influence and corruption.

The Government, which was supported until October by Zimbabwean (ZDF) and Angolan (FAA) troops, controlled less than half of the country. On December 17, members of the Government, key rebel factions, political opposition, and civil society signed an all-inclusive agreement to form a transitional government leading to elections. At the end of the year, the parties were working under the auspices of U.N. Special Envoy Moustapha Niasse to resolve key questions about implementing this agreement.

On July 30, the Government and the Government of Rwanda signed the Pretoria Accord, which called for withdrawal of Rwandan troops in exchange for the demobilization of the Hutu rebels in the country. On September 17, Rwandan troops began their withdrawal, which was formally completed on October 5. On September 6, the Government and the Government of Uganda signed the Luanda Accord, which called for the withdrawal of Ugandan troops and the establishment of joint security patrols along the country's border with Uganda. Zimbabwe, Burundi, and Angola withdrew their remaining troops from the country by year's end; Uganda had withdrawn all but 1,000 to 1,500 soldiers in the Bunia area.

The Government's security forces consisted of a national police force under the Ministry of Interior, the National Intelligence Agency (ANR), the Rapid Intervention Forces (PIR), the Special Group for Presidential Security (GSSP), and the Congolese Armed Forces (FAC), which included an Office for the Military Detection of Anti-Patriotic Activities (DEMIAP). The immigration service, Direction Generale de Migration (DGM), also functioned as a security force. The National Security Council (CNS) was replaced by the Committee for State Security (CSE), which as of June acted as a coordinating body for national security rather than a security force. The People's Self Defense Forces (FAP) and the People's Power Committees (CPP), created by former President Laurent Kabila, continued to decline in significance. The police force handled basic criminal cases. The ANR had responsibility for internal and external security, including border security matters. The FAC retained some residual police functions. Military police had jurisdiction over armed forces personnel, but also had domestic security responsibilities, including the patrolling of urban areas. Security forces were poorly trained, poorly paid, and often undisciplined. While civilian authorities generally maintained effective control of the security forces, there were frequent instances in which elements of the security forces acted independently of government authority. The security forces committed numerous, serious human rights abuses.

In government-held territory, the economy was dominated by subsistence agriculture, a large informal sector, and widespread barter; most sectors of the economy remained in decline. Production and incomes remained low; however, gross domestic product (GDP) grew by 2.5 percent during the year, ending a decade-long decline. Physical infrastructure was in serious disrepair, financial institutions remained weak, and public education and health deteriorated. Restrictions during most of the year on commercial travel on the Congo River negatively affected the economy; however, in April commercial traffic resumed on the Congo River between territory held

by the Government and territory held by the Ugandan-backed Movement for the Liberation of the Congo (MLC). External economic assistance remained limited. Government revenues from diamond exports, its leading source of foreign exchange, increased slightly. Public sector employees, including most soldiers, received very low salaries and sometimes were not paid for months, which caused widespread hardship and contributed to tensions within the armed forces and corruption in the civil administration.

The Government's human rights record remained poor; although there were improvements in some areas, serious problems remained. Citizens did not have the right to change their government peacefully. The security forces were responsible for unlawful killings, torture, beatings, rape, extortion, and other abuses. In general security forces committed these abuses with impunity. Prison conditions in hundreds of small or regional detention facilities (both legal and illegal) remained harsh and life threatening; however, conditions in some of the larger, centralized prisons improved. Security forces continued to arbitrarily arrest and detain citizens. Prolonged pretrial detention remained a problem. The special military tribunal (COM) tried some civilians for political offenses, although most cases were related to the Kabila assassination or to alleged coup plotting against the Joseph Kabila government. The judiciary continued to be underfunded, inefficient, and corrupt. It largely was ineffective as a deterrent to human rights abuses or as a corrective force. Security forces violated citizens' rights to privacy. Unlike in previous years, there were no reports of the forcible conscription of adults and children in government-controlled territory, and the Government continued to collaborate with the U.N. Children's Fund (UNICEF) to demobilize child soldiers in the military. There were few reports that government forces used excessive force and committed violations of international law in the war; however, the Government continued to supply and coordinate operations with Mai Mai and Hutu militias, who committed numerous, serious abuses.

Harassment of journalists, human rights activists, and opposition politicians continued in government-held territory. Security forces continued to arbitrarily arrest and detain journalists and human rights activists; however, a large number of private newspapers operated freely and published criticism of the Government without interference. The Government continued to restrict freedom of assembly and association for some groups and used excessive force to disperse demonstrations. The Government restricted the activities of some opposition political parties. The Government continued to partially restrict freedom of movement and continued to require exit visas; however, unlike in the last year, the Government did not prevent political opposition figures from traveling. The war continued to cause large numbers of internally displaced persons (IDPs); however, most IDP movements were in areas not under the control of the Government. The Government harassed and imprisoned some members of nongovernmental organizations (NGOs); however, there were fewer cases than in previous years and most groups were allowed to operate freely. Violence against women was a problem and rarely was punished. Female genital mutilation (FGM) persisted among isolated populations in the north. Child prostitution was a problem. Discrimination against indigenous Pygmies and societal violence and discrimination against members of the Tutsi ethnic minority continued; however, the Government continued to protect Tutsis in government-controlled territory who were at risk. The Government restricted worker rights. Child labor remained a problem. Unlike previous years, there were no reports of mob violence in government-controlled territory. Trafficking was a problem.

There were numerous reports that Mai-Mai groups and Hutu militias in the eastern part of the country committed serious abuses, including killings, rapes, torture, and kidnaping of civilians.

Rebel factions backed by the Governments of Rwanda and Uganda, foreign troops, ethnic militias, and other armed groups continued to control more than half of the country during the year. Significant numbers of Rwandan (RDF) and Ugandan (UPDF) troops remained in the country for most of the year. Between September 17 and October 5, RDF troops withdrew completely from the country; however, U.N. Peace Observation Mission in Congo (MONUC) reported that in November some RDF troops returned briefly to Idjwi Island, and there were continued, unconfirmed reports that RDF military advisors remained integrated with RCD/G and Union of Congolese Patriots (UPC) forces. Between 1,000 and 1,500 UPDF troops remained in the northeast part of the country by year's end. The largest rebel groups were the Rwandan-backed Congolese Rally for Democracy based in Goma (RCD/G), the MLC, and the Ugandan-backed Congolese Rally for Democracy based in Bunia (RCD/ML). The RCD/G remained dominated by members of the Tutsi ethnic minority; Adolphe Onusumba, a Kasaian, remained RCD/G president. The MLC remained dominated by former Mobutu supporters from the Equateur Province; Jean-Pierre

Bemba remained MLC president. The RCD/ML commanded fewer troops than either the RCD/G or the MLC; Mbusa Nyamwisi remained RCD/ML president. Two smaller rebel factions emerged this year: The RCD/National (RCD/N), led by Roger Lumbala and backed by Uganda and the MLC; and the RCD/Originale (RCD/O), led by Felix Mumbere and backed by Uganda. In the Ituri region of the northeast, two tribally-based armed groups emerged during the year: The Lendu-dominated Patriotic Army of the Congo (APC), supported by the RCD/ML; and the Hema-dominated UPC, led by Tomas Lubanga and supported by the Governments of Uganda and Rwanda. In the areas under the control of rebel factions, foreign troops, and armed groups, there continued to be no effective rule of law or functional civil administration. The rebel factions and foreign troops severely restricted political freedom and did not tolerate political opposition or civil society activity critical of their rule. The judiciary, though largely nonfunctional, continued to be controlled and manipulated by the ruling authorities and subject to corruption.

In areas under the control of rebel factions and foreign troops, the security services were dominated by the military of each group. Although the RCD/G, MLC, and RCD/ML maintained police forces in name, there was little distinction between the jurisdiction of the police and the military, and in practice the police were subordinate to military command. Security services and soldiers of the rebel factions were poorly trained and generally unpaid, and security services and soldiers routinely extorted money, goods, and services from the local population. In areas controlled by Hutu militias, Mai Mai, ethnically-based militias, or other armed groups, there were no organized security services; those with weapons controlled the population and extorted money, goods, and services. While the civilian authorities in the Governments of Rwanda and Uganda generally maintained effective control over their respective troops, civilian authorities of the rebel factions did not maintain effective control over their troops and security services. Rebel soldiers and security services sometimes obeyed orders from their civilian authorities, sometimes received orders directly from foreign troops or governments, and sometimes acted independently. Foreign troops, rebel troops and their security services, and members of other armed groups committed numerous, serious human rights abuses.

In areas outside of government control, the economy was dominated by subsistence agriculture, a large informal sector, widespread barter, and non-regulated mineral exploitation. Areas controlled by foreign troops and rebel factions continued to be integrated financially and economically with the economies of Rwanda and Uganda. RCD/G soldiers frequently obstructed trade and impeded commercial travel on the Congo River. The largely nonfunctional and insolvent public sector did not provide even basic services, although the rebel factions continued to levy taxes on the local population. Public sector employees and soldiers were generally unpaid, which caused widespread hardship and contributed to extortion of the population by the armed forces. Although most Rwandan and Ugandan troops had left the country by October, the economy had not been integrated with government-controlled areas by year's end.

The human rights record in areas not under government control remained extremely poor, and rebel authorities continued to commit numerous, serious abuses, particularly in the eastern part of the country and in the Ituri area. Rebel forces, foreign troops, Mai-Mai forces, Hutu militias, and other armed groups committed numerous, serious abuses with impunity against civilians, including deliberate, large-scale killings, cannibalism, burning of entire villages, disappearances, torture, rape, dismemberment, mutilation, extortion, robbery, arbitrary arrests and detention, harassment of human rights workers and journalists, and forcible recruitment of child soldiers. Rebel security forces and foreign troops continued to use excessive force, and Rwandan forces bombed civilian populations. Rebel groups and foreign troops severely restricted freedom of speech, assembly, and association in areas under their control, and respect for religious freedom remained poor. There were attacks against local and international NGOs in rebel-held areas, and some NGO personnel were killed. Forcible conscription of adults and children continued in rebel-controlled territories. Violence against women and rape were severe problems and occurred with impunity. Discrimination against women and indigenous Pygmies were problems. Combatants abducted women and children and forced them to perform labor, military services, and sexual services. Ethnically-based mob violence resulted in thousands of deaths. Trafficking, including child prostitution, was a problem.

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—In areas under government control, security forces committed numerous unlawful killings with impunity and in some cases beat or tortured detainees to death. The Government also materially supported Mai Mai and Hutu groups, some of whom were believed to be responsible for killing civilians.

On March 15, the COM began trying Eddy Kapend, FAC General Yav Nawej, and approximately 130 other persons in connection with the January 2001 assassination of former President Laurent Kabila, the executions of 11 Lebanese and other persons following the assassination, and the 2000 coup plot led by Anselme Masasu (see Section 1.e.). The Commission of Inquiry, established by the Government in February 2001 to identify and prosecute those involved in the assassination, did not release its results by year's end. The defendants remained in custody at year's end. There reportedly was no action taken against members of the security forces responsible for numerous other killings in 2001.

There were reports that persons died from torture. For example, on May 15, DEMIAP agents arrested Dominique Weleme Konzo and his brother, Doudou Gbe Gbolo, on charges of counterfeiting foreign currency. The two detainees were taken to military Camp Kokolo, where Weleme was tortured to induce him to pay the wife of an employee of the Congolese Control Office. On June 24, Weleme died from his injuries at the Camp Kokolo hospital; on June 26, his brother was released. No known action was taken against those responsible for the abuse.

On July 24, policemen interrogated and tortured Desire Shungu Lyadunga at his home in connection with a diamond transaction. The police reportedly took this action on behalf of a foreign businessman, whose office was located in police headquarters and who used his police contacts to have Lyadunga arrested. Following Lyadunga's release, neighbors took him to the Bondeko Clinic, where he died a few hours later.

Unlike in the previous year, there were no reports that security forces killed street children.

In October Amnesty International reported that government-hired security guards and Zimbabwean soldiers who guarded parastatal mining concessions in Katanga province shot and killed numerous individuals who entered the mining concession illegally. While some of the intruders were armed, others were not and should have been arrested rather than shot. After the release of the report, the Government permitted the U.N. High Commission for Human Rights office in Kinshasa to conduct human rights training seminars in Katanga for members of the police and ANR.

Unlike in the previous year, there were no reports of summary executions.

Unlike in the previous year, government military tribunals did not sentence to death any civilians or soldiers.

There reportedly was no action taken against the members of the security forces responsible for numerous other killings in 2000.

On February 14, the International Court of Justice in Belgium granted immunity from prosecution to former Foreign Minister Yerodia Abdoulaye, who was accused of inciting the population to kill ethnic Tutsis. Ruling in support of the Government, the Court noted that Yerodia was an acting minister in 1998 and thus had immunity from such warrants.

Harsh prison conditions and abuse, particularly in small, local detention facilities (both legal and illegal), resulted in an undetermined number of deaths in prisons (see Section 1.c.).

Unlike in the previous year, there were no reports of civilian deaths from landmines in government-controlled territory.

There were several reports that unidentified armed men in police or military uniforms robbed, looted, and killed civilians during the year. Those responsible, who were believed to be deserters from the military or the police, generally acted independently; no action was taken against any of the perpetrators by year's end. For example, on March 10, armed men in military uniform shot and killed Tonny Peti-Pani after they attempted to steal his and his wife's identity card. On June 8, a group of armed men in uniform shot M. Mudimuna when he resisted their attempts to steal his cellular phone; on June 24, Mudimuna died from his injuries. On June 12, armed men in FAC uniforms reportedly entered the compound of university professor Fraterne Lokota, questioned him briefly on an unknown subject, and shot him six times; the professor died of his injuries that night.

Mai Mai forces and Hutu militias continued to kill many civilians, sometimes after torturing them, in areas of government-controlled territory where they operated. Some Mai Mai and Hutu groups continued to receive material support from

the Government during most of the year. Due to the number and decentralization of these groups, it was difficult to determine whether the specific groups who received support from the Government were responsible for human rights abuses. However, the Government took no known action to ensure that groups it assisted respected human rights or to criticize or punish those who did not.

In areas not under government control, rebel forces, foreign troops, Mai-Mai forces, Hutu militias, and other armed groups committed numerous abuses, including civilian massacres, acts of cannibalism, looting and burning of houses, attacks and aerial bombings of civilian areas, forcible recruitment of child soldiers, and rape (*see* Section 1.g.).

RCD/G and RDF forces, which remained deeply unpopular throughout the eastern part of the country, also killed numerous community leaders, including traditional chiefs, professors, clergy, NGO leaders, and journalists reportedly to intimidate the population and control local dissent; the RCD/G and RDF also killed, beat, tortured, and arbitrarily arrested numerous persons (*see* Section 1.c.).

For example, on February 21, RCD/G soldiers arrested and severely tortured 60-year-old Mahindule Mirimo Weteshe at the improvised jail of Ndosho in Goma. He was accused of collaborating with the Mai Mai; a local NGO believed he originally may have been mistaken for Mai Mai Commander Akilimali. On April 16, he was released and died from torture wounds the same night.

On May 24, RCD/G and RDF soldiers killed Pierre Ruyange, president of the Hutu Community of North Kivu and influential member of the United Front for Non-Armed Opposition (FRUONAR), and his bodyguards in an ambush at an RCD/RDF road barricade between Goma and Sake. International observers believed Ruyange may have been killed to warn Hutus in North Kivu and to discourage Hutu militias from cooperating with MONUC disarmament efforts.

Elements of RCD/G and RDF militaries killed numerous civilians while robbing, looting, or raping them. For example, on January 27, an RDF soldier in Kindu attempted to rape a woman, whose brother summoned an RCD/G policeman for help. The RDF soldier shot the brother and the policeman, who died of his wounds.

Following an October 25 coup attempt in the Central African Republic (CAR), MLC soldiers sent to the CAR to assist the Government committed extrajudicial killings of civilians, raped women and girls, and looted hundreds of homes and businesses (*see* Section 1.c.).

In the Ituri district of Orientale Province, which was controlled by UPDF troops, RCD/ML rebel forces, and ethnically-based militias, fighting between members of the Lendu and Hema ethnic groups (and other smaller tribes allied with either the Lendu or the Hema) resulted in thousands of civilian deaths and the displacement of more than 500,000 persons. UPDF and rebel factions have armed both groups and manipulated ethnic tensions resulting from long-standing land disputes and colonial favoritism to the Hema. There were no reports of any action taken against the responsible parties.

On August 6, the Hema UPC militia took control of Bunia, which previously had been inhabited by a mixture of Hema, Lendu, and other tribes, and attempted to "ethnically cleanse" the city of its Lendu residents. The UPC separated the city into Hema and Lendu neighborhoods, killed numerous Lendu, broadcast ethnically-charged reports from Radio Cadnip, and chased many Lendu and Ngiti, a Lendu-affiliated group, into the surrounding bush. In reprisal members of Lendu-allied tribes killed 75 Hema women and children.

In early September, numerous civilians were killed during a UPC raid on several villages outside the Ngiti town of Nyakunde. Several days later, the Ngiti tribe, led by Colonel Kandro, carried out a retaliatory massacre in Nyakunde that resulted in the killing of approximately 1,000 civilians. The perpetrators killed Hema, Gegere, and Biri civilians, including patients in hospital beds and women in labor. Kandro's forces also rounded up and stripped approximately 120 men, women, and children, locked them in a large house, and denied them food and water. As the detainees began to die, the captors burned the bodies or threw them into an open latrine.

On October 7, a donor group discovered the mutilated bodies of 1,200 civilians, including babies, in a hospital in Bunia; the killings were believed to be a result of the Hema-Lendu conflict.

In November unknown assailants killed Joseph Eneko, a leading moderate in Ituri, and eight of his bodyguards on the road between Mahagi and Bunia. No investigation or action had been taken by local authorities by year's end.

On December 6, Burundian rebels reportedly cut the throats of approximately 30 civilians in Uvira in response to an RCD/G attack on their forces the previous day.

In August the Ugandan government released the results of its investigation into the April 2001 killings in Ituri district of six employees of the International Committee of the Red Cross (ICRC) (*see* Section 4).

There were no developments in the 2001 and 2000 ethnic massacres and killings. Unlike in the previous year, there were no reports that mobs lynched hundreds of suspected sorcerers, and there were no developments in 2001 and 2000 cases of persons involved in such killings.

*b. Disappearance.*—Unlike in the previous year, there were no reported cases of disappearance in government-controlled territory; however, security forces regularly held alleged suspects in detention for varying periods of time before acknowledging that they were in custody or allowing the detainees to have contact with family or friends.

Mai Mai forces and Hutu militias kidnaped many civilians, many of whom disappeared, in areas in which they operated.

In areas not under government control, there were numerous cases of disappearances and kidnappings. For example, on April 4, RCD/G soldiers in Uvira apprehended Pastors Rusingizwa Bitebetebe and Mugaju Ruterera of the Free Methodist Church of Mushimbake in South Kivu and accused them of being sympathetic to Commander Masunzu, who led a Banyamulenge-backed revolt in January against the RDF in the High Plateau (*see* Section 1.g.). The pastors reportedly were imprisoned and have not been heard from since, despite the efforts of local human rights NGOs to locate them.

There were numerous credible reports that RDF forces seized and transferred to Rwanda numerous Banyamulenge prisoners following the revolt of Banyamulenge Commander Masunzu. Several hundred RCD/G soldiers suspected of sympathizing with the revolt were disarmed and sent to Rwanda in mid-May for forced retraining. There have been no further reports about these soldiers; many presume they were killed or remained in secret detention in Rwandan military camps or prisons.

On April 23 and 24, the RDF arrested nine senior Banyamulenge commanders in the RCD/G who refused to fight against Masunzu and his followers. The RDF flew these commanders from Minembwe, South Kivu, to the Kamembe Military Camp in the Cyangugu prefecture of Rwanda. On May 1, a relative of one of the commanders saw the group at the Kamembe camp and reported that the commanders had been tortured severely and beaten; on May 2, the relative was told that the commanders “were no more,” and they have not been seen since. On May 3, the RDF took 14 other Banyamulenge soldiers to the Kamembe camp; none of the soldiers has been heard from since.

There continued to be reports that RDF troops, RCD/G troops, Mai Mai, and Hutu militias abducted women and children from the villages they raided to perform labor, military services, and sexual services (*see* Section 1.f.). Many of the victims disappeared and have not been heard from since.

There were no developments in any of the numerous cases of disappearance in 2001 and 2000, nor has any action been taken against the responsible rebel perpetrators.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—In territory under government control, the law forbids torture; however, security forces and prison officials used torture and often beat detainees in the process of arresting or interrogating them. The Government has not responded to charges of inmate abuse and repeated beatings by its security forces and prison officials. Some members of the police, military, and security forces also raped, robbed, and extorted money from civilians. The Government prosecuted and disciplined some of the abusers; however, others acted with impunity.

In some cases, members of the security services tortured or abused civilians to settle personal scores for themselves or other members of the Government (*see* Section 1.a.). For example, on May 3, ANR agents under orders from Security Minister Mwenze Kongolo arrested, severely beat, and burned with cigarettes five employees of the National Transportation Office (ONATRA). The employees were accused of attacking the life of Minister of Security Mwenze Kongolo because the speedboat in which they were taking him across the river to the Republic of the Congo ran out of gas.

On May 18, FAC soldiers manning a barricade at the Marble Palace stopped the vehicle of Zico Kikufu on the pretext that he passed a taxi illegally. The soldiers demanded that he give them money and beat him when he refused; the soldiers also stole his cellular phone.

Security forces harassed, beat, and possibly tortured some journalists (*see* Section 2.a.).

Soldiers and police continued to harass street children in Kinshasa (*see* Section 5). There were credible reports that members of the police and military raped homeless girls.

On March 24, unidentified FAC soldiers raped and robbed university student M. Mbemba.

Police and security forces used excessive force to disperse demonstrations (*see* Section 2.b.).

There was no known action taken against the members of the security forces responsible for the other numerous cases of torture or abuse in 2001 and 2000.

There were reports that Mai Mai forces and Hutu militias tortured, raped, and otherwise physically abused persons in areas in which they operated (*see* Section 1.d.).

The Government operated several hundred legal places of detention in the territory under its control. In major cities, the Government typically operated a large central prison facility and numerous, small, local detention facilities in police stations, court buildings, military bases, and neighborhoods of larger cities. Small local prisons were generally intended for short-term pretrial detentions; however, in practice they were used for lengthy detentions without due process.

The conditions in most of the large, central prisons were harsh; however, unlike in the previous year, they no longer were life threatening. The penal system continued to suffer from severe shortages of funds and trained personnel; however, the Government made efforts to improve the management and conditions of prison facilities, particularly at Kinshasa's main central prison, the Makala National Penitentiary and Reeducation Center (CPMK). From August 12 to 13, the Government conducted a workshop to train administrators at Makala prison and Rusuru prison in Bas-Congo. During the year, the ICRC worked with the Government to rehabilitate some showers and toilets in Makala prison, and other NGOs provided prisoners with mattresses and straw mats. Although health care and medical attention remained inadequate, a prison doctor was available and there were fewer reported cases of widespread infectious diseases. The Government continued to provide inadequate food, and prisoners remained dependent on the personal resources of family or friends; however, families were allowed to bring food and other necessities to prisoners during regular visiting hours 3 days a week. Guards demanded bribes and stole food from prisoners; however, there were fewer reports of such incidents than in the previous year. Prisoners continued to bribe guards to receive better treatment or to get out of work details. Makala remained overcrowded; however, unlike in the previous year, there were no reports that prisoners were forced into small cells with room only to stand. There were reports that guards permitted some prisoners to leave the prison temporarily to buy food and toiletries for themselves and other prisoners.

Conditions in the small, local prisons remained harsh and life threatening. There usually were no toilets, mattresses, or medical care; light, air, and water often were insufficient. Authorities often beat or tortured detainees. Such prisons generally operated without a budget and with minimal government regulation or oversight. Local prison authorities or influential individuals frequently barred visitors or severely mistreated particular detainees. Petty corruption was common, and prison guards frequently required bribes from family members or NGOs to visit or provide a detainee with food and other necessities.

Local NGOs reported that 146 persons died at Makala central prison during the year, 24 of whom died after being transferred to the prison from the custody of the Provincial Inspection of Kinshasa (IPK) and the PIR, where they were beaten severely; most of the remaining detainees died from malnourishment and illness.

Women and juveniles generally were detained separately from men. Pretrial detainees were not separated from convicted prisoners. The Government continued to detain soldiers in civilian prisons.

The security services, especially ANR and DEMIAP, continued to operate numerous illegal detention facilities, despite the March 2001 presidential decree to close all such facilities; however, the GLM detention center, where many of the assassination suspects were tortured and abused, remained closed. Prison conditions remained harsh and life threatening. Prisoners systematically were abused, beaten, and tortured. Facilities lacked adequate food and water, toilets, mattresses, and medical care, and authorities routinely denied access to family members, friends, and lawyers.

Unlike in the previous year, the ICRC and many NGOs were permitted access to all official detention facilities. However, the Government did not allow the ICRC or other NGOs to visit the illegal detention facilities maintained by the security services, where many detainees were held, questioned, and frequently subjected to abuse.



The ICRC, as well as local NGOs, were allowed to visit prisoner of war (POWs) held in official detention centers. The ICRC and other international observers regularly visited a facility in Kinshasa where the Government provided shelter to Tutsis for their own protection (*see* Section 5).

In areas not under government control, rebel groups and foreign troops tortured, raped, and otherwise physically abused numerous persons during the year with impunity. RCD/G and RDF forces were responsible for numerous cases of beatings and torture that resulted in death (*see* Sections 1.a. and 1.g.). Rebel and foreign groups beat, tortured, and abused political figures, journalists, and community leaders while arresting or detaining them. Numerous cases of torture and abuse were unreported because these groups, particularly the RCD/G and RDF, denied access to NGOs.

At the military jail at Ndosho, outside Goma, RDF and RCD/G forces reportedly imprisoned individuals during the year in two small metal freight containers that had no openings for air or light. During the week of January 10 to 17, 35 civilians were detained in one of the containers and numerous military personnel were held in the other; several detainees died from injuries inflicted during torture. Following a March grenade attack in Goma by unknown assailants, RCD/G authorities in May and June arrested numerous individuals for political reasons, charged them with the attack, and held them in the containers, where they were beaten and tortured. After the RDF withdrawal in October, the arrestees, who included Zelote Farini Luendo Shandwe, Elias Nguru, Janvier Mugerangabo, Alphonse Munamire, Mathe Sikuli Vasaka, and Simon Salumu were transferred to the DGS detention facility, where they were remained under detention at year's end without charge and with limited access to family members and human rights NGOs.

During the RCD/G response to the May 14 to 15 mutiny attempt in Kisangani (*see* Section 1.g.), RCD/G soldiers reportedly held RCD/G police and alleged Mai Mai at the airport in overcrowded shipping containers; an undetermined number of detainees reportedly died of suffocation, dehydration, or exhaustion after RCD/G troops sealed them inside without ventilation, food, or water.

Rebel and foreign groups, particularly the RCD/G and RDF, kidnaped, raped, and tortured numerous women (*see* Section 1.g.).

RCD/G and RDF military and police violently dispersed demonstrations (*see* Section 2.b.).

Rebel forces and foreign troops, particularly the RCD/G and RDF, were responsible for systematic, non-lethal conflict abuses, including aerial bombardment of civilian populated areas (*see* Section 1.g.).

No known action was taken against responsible members of the RCD/G or RDF in any of the 2001 or 2000 cases of torture, beatings, or rape.

Following an October 25 coup attempt in the CAR, CAR President Ange Felix Patasse asked MLC president Bemba for support against the rebels. Bemba sent approximately 1,500 MLC troops to the CAR, where they committed a number of extrajudicial killings of civilians, raped many women and girls, and looted hundreds of houses and businesses. The MLC troops remained in the CAR at year's end.

Prison conditions in areas outside of government control were extremely harsh and life threatening. Most detention facilities were not designed for the purpose, and detainees often were kept in overcrowded rooms with little or no light or ventilation. Detainees typically slept on cement or dirt floors without bedding and had no access to sanitation, potable water, toilets, or adequate medical care. Tuberculosis, red diarrhea, and other infectious diseases were widespread. Little or no food was provided to detainees, and guards demanded bribes to allow family members or friends to bring food to prisoners. Prisoners frequently were subjected to torture, beatings, and other abuse with no medical attention. There were numerous credible reports that rebel forces and foreign troops beat or tortured prisoners and then released them to their families just in time for them to die (*see* Section 1.a.).

There continued to be reports that RCD/G and RDF forces frequently used the private residences of Rwandan or rebel military commanders for incarcerations. Reports from former detainees indicated a pattern of beatings, undernourishment, and deliberate killings in these houses.

Human rights NGOs, family members, and lawyers were systematically denied access to detention facilities by RCD/G and RDF authorities.

*d. Arbitrary Arrest, Detention, or Exile.*—In government-controlled territory, despite legal provisions governing arrest and detention procedures, the security forces were responsible for numerous cases of arbitrary arrest and detention. Under the law, serious offenses (those punishable by more than 6 months imprisonment) do not require a warrant for a suspect's arrest. Only a law enforcement officer with "judicial police officer" status was empowered to authorize arrest. This status also was vested in senior officers of the security services. The law requires that detainees

be brought within 48 hours before a magistrate, who may authorize provisional detention for varying periods. In practice these provisions were violated systematically. Security forces continued to arbitrarily arrest and detain citizens, including several NGO leaders and journalists (*see* Section 2.a.). Charges rarely were filed in a timely manner, and the legal basis for such detentions often was obscure. When the authorities did press charges, the claims filed often were contrived or overly vague.

Unlike in the previous year, there were no reports of jails run by the Office of the President.

Detention without charge continued to be a problem, and security forces used the pretext of state security to arbitrarily arrest individuals linked to groups considered a threat by the Government. Groups particularly targeted included the opposition political party Union for Democracy and Social Progress (UDPS), which in April formed an alliance with the RCD/G and briefly discussed forming an armed wing; associates of Katebe Katoto, who reportedly attempted to buy the support of government troops and police in Katanga and in April formed an alliance with the RCD/G; individuals allegedly connected to the assassination of former President Laurent Kabila; and some ex-Zairian Armed Forces (FAZ) soldiers and civilians associated with the MLC. Individuals arrested and detained in the name of state security frequently were held without legal charge, presentation of evidence, access to a lawyer, or due process. Security services frequently exhibited an attitude of guilty until proven innocent and showed extreme reluctance to release individuals they had detained illegally, even after protests from NGOs and the international community. In several of the cases in which individuals were arrested or detained for allegedly threatening state security, evidence suggested the arrest was made to settle a personal score for a government official or member of the security services.

On January 11, national police arrested Justin Nindaga and detained him at the jail of Kinshasa's Provincial Inspection. Nindaga was the older brother of Commandant Anselme Masasu Nindaga, who was executed in 2000 after being convicted of coup plotting by an ad hoc military tribunal in Katanga. No charges were filed against Nindaga, who remained in detention at year's end.

On February 23, NGO lawyer Willy Wenga was arrested by COM security forces and interrogated, but not formally charged, in connection with several telephone calls to and from Major Bora, a prime suspect in the Kabila assassination, who fled the country in 2001. Wenga remained in detention at year's end; no trial date had been scheduled.

On April 19, human rights activist N'Sii Luanda was rearrested by COM order as part of an investigation into the activities of Michel Bisimwa, who lived with Luanda and had been charged with having ties to the RCD/G. Luanda was detained for several days at the COM detention facility, then transferred to Makala prison. Despite a doctor's attestation, Luanda was denied appropriate medical attention between June 12 and September 20; on September 24, he was transferred to a clinic for an emergency appendectomy. Luanda remained in detention at the clinic at year's end; no trial date had been scheduled.

On May 12, ANR officers in Katanga arrested UDPS Economic Advisor Jean-Baptiste Mulumba for instigating a briefly discussed UDPS armed wing, planning an attack on Lubumbashi and Mbuji-Mayi, and spying for the RCD and Rwanda. DEMIAP officers also reportedly closed and occupied Mulumba's office, confiscated his wife's car, and detained and sued his secretary. On July 27, Mulumba was released for insufficient evidence; however, on August 14, DEMIAP agents rearrested Mulumba, who remained in detention at year's end.

Police violently dispersed demonstrations and arrested demonstrators (*see* Section 2.b.).

Pretrial detention was prolonged systematically. Human Rights NGOs reported that less than 20 percent of the inmates at Makala prison had been charged or sentenced. On March 12, the Government filed charges against approximately 130 persons, primarily military and police, detained in 2001 in connection with the Kabila assassination and the 2000 coup plot led by Anselme Masasu (*see* Section 1.e.).

President Joseph Kabila issued several decrees during the year to commute sentences and release some military and civilian prisoners, many of whom likely served time without a fair trial or due process. However, NGOs reported that these pardons only were implemented partially and that only 72 of the 220 qualifying prisoners at Makala actually were released.

On January 21, UDPS members Modeste Sadiki Lutombo, J.B. Bomanza, J.S. Mwampata, Roger Kakonge, and Augustin Kadima Tshikala, who were arrested in December 2001, were released.

There were no developments in the cases of arbitrary arrest and detention in 2001 and 2000.

Unlike in the previous year, the Government did not hold any POWs.

The law prohibits forced exile; however, on September 26, the Government declared *persona non grata* 20 leaders of the Democratic Forces for the Liberation of Rwanda (FDLR) and expelled them to the Republic of the Congo, which refused to admit 8 of the 20 and returned them to Kinshasa. On October 30, security forces returned the eight to Rwanda. In October the Government detained in Kinshasa an additional 19 officials from the FDLR and the Army for the Liberation of Rwanda (ALIR); the 19 remained in custody at year's end (*see* Section 2.d.).

In areas not under government control, rebel forces and foreign troops were responsible for a systematic pattern of arbitrary arrests and detentions. RCD/G and RDF forces frequently shuffled prisoners among different cities under their control or transported them to Rwanda, which prevented family members or NGOs from monitoring them. RCD/G and RDF forces frequently detained prisoners under extremely harsh conditions in the private residences of Rwandan or rebel military commanders (*see* Section 1.c.).

RCD/G forces arrested and detained numerous citizens in connection with the May 14 to 15 massacres in Kisangani (*see* Section 1.g.); many of those detained remained imprisoned without charge at year's end.

During the year, RCD/G and RDF soldiers arrested Banyamulenge military and civilians whom they suspected of supporting Banyamulenge Commander Masunzu (*see* Section 1.g.). Seven Banyamulenge, who in January were arrested in Bujumbura, were transferred to Goma and remained in detention at year's end. In July RCD/G Security Chief Bizima Karaha traveled to Uvira to persuade the Banyamulenge community to withdraw its support for Commander Masunzu. Between July 7 and 26, 26 Banyamulenge community leaders and civilians who refused to abandon Commander Masunzu were arrested. Some of those arrested were released within a few days, some remained unaccounted for, and five were transferred to Goma, where they were held at the DGS detention center without medical care or access to families or lawyers. Of the five transferred to Goma, four were released in December; the fifth, Rugeza Ntavumburwa, reportedly was tortured and remained in custody at year's end. On August 24, an additional four Banyamulenge were arrested and subsequently transferred to the DGM, where they remained in detention at year's end.

On September 13, RCD/G soldiers led by Commander Pipo arrested four staff members of the Goma Volcanic Observatory (GVO), an organization that monitors volcanic activity in Mount Nyiragongo, which erupted in Goma in January. Those imprisoned, including volcanologists Kavotha Kalendi Sadaka and Mavonga Tuluka, technical assistant Matthieu Yalire Mapendano, and driver Innocent Zirilane, were accused of distributing anti-RCD/Rwanda leaflets in Goma and were beaten severely; two were transferred to the hospital due to complications resulting from the beating. When it was discovered that the volcanologists had been falsely accused and set up by W. Mifundu, the brother of Commander Pipo and a former GVO employee, RCD/G authorities arrested Commander Pipo on September 26 in Bukavu and brought him to Goma. However, during the week of September 30, Commander Pipo was released, and RCD/G soldiers reportedly beat and fired the commander who had brought Pipo back from Bukavu. After strong international pressure, the RCD/G on October 9 transferred control of the case to Justice Minister Nyarugabo, who released the four GVO employees several days later. The RCD/G had taken no known further action to investigate or punish Commander Pipo or his brother Mifundu by year's end.

On May 30, the RCD/G declared *persona non grata* MONUC's chief human rights officer in Kisangani for "not respecting RCD/G authority." On June 1, the RCD/G took the same action against a senior MONUC political officer and a U.N. security official working in Goma; the two individuals were accused of helping plot a grenade attack and aiding pro-Kinshasa militias. All three officials subsequently left the country. RCD/G president Onusumba also charged Special Representative of the U.N. Secretary General Amos Ngongi with bias and banned him from RCD/G-held territory; however, in September Ngongi was permitted to resume his visits to the area. On December 26, RCD/G security agents arrested Nande community president Pierre Georges Fataki Luhindi, who had written a letter to the governor of North Kivu protesting the creation of primarily Hutu armed local defense forces, who were attacking the Nande community. Luhindi, who has held at the DSG detention facility, was released on December 31.

No reported action was taken against the RCD/G forces responsible for the October 2001 detention and severe beating of Jules Nteba Mbakumba, president of adult education NGO Association Elimu.

There were no reported developments in any of the 2000 cases of arbitrary arrest and detention by RCD forces.

On August 29, outside Bunia, UPC members took hostage government Minister of Human Rights Ntumba Luaba, his assistant, and a local journalist accompanying them. The UPC demanded the release of nine UPC members detained in Kinshasa in exchange for the release of the Minister and his companions. On September 1, the Government flew the 9 UPC members to Bunia; the UPC subsequently released the Minister and his companions.

*e. Denial of Fair Public Trial.*—In government-controlled territory, the law provides for an independent judiciary; however, in practice the judiciary frequently was influenced by the executive branch. The judiciary continued to be ineffective and corrupt; however, on April 20, President Kabila issued an executive order replacing several hundred judges. Although the Government did not cite officially corruption in the reasons for the shuffle, several judges known to be corrupt were removed. In July a system of commercial courts, established to reduce judicial corruption, became operational. On October 12, the Government established the Permanent Commission for Reform of Congolese Law (CPRDC), a technical body under the Justice Ministry mandated to review and propose reform of the law and judicial system. The civil judiciary, including lower courts, appellate courts, the Supreme Court, and the Court of State Security, continued to be largely dysfunctional.

Civil and criminal codes were based on Belgian and customary law. The legal code provides for the right to a speedy public trial, the presumption of innocence, and legal counsel at all stages of proceedings; however, the Government often did not respect these rights in practice. Defendants had the right to appeal in all cases except those involving national security, armed robbery, and smuggling, all of which are adjudicated in theory by the Court of State Security, except those cases adjudicated by the special military tribunals, whose jurisdiction is ill defined. The law provides for court-appointed counsel at state expense in capital cases in all proceedings before the Supreme Court, and in other cases when requested by the court. In practice the Government often did not respect fully these provisions. Corruption remained pervasive, particularly among magistrates, who were paid very poorly and only intermittently. The system remained hobbled by major shortages of personnel, supplies, and infrastructure.

Military courts, which were headed by a military judge and followed the military code inherited from Belgium, tried military and civilian defendants as directed by the Government. Military courts tried most high-profile cases with charges related to state security during the year; the Government claimed that its frequent use of military courts rather than civilian courts was a result of the ongoing war. The courts were required to file charges within 48 hours of the arrest; however, long delays often occurred. The military courts, which were located in all military installations and in most urban areas, had no appeal process. The Government permitted, and in some cases provided, legal counsel; however, lawyers sometimes were not granted free or unmonitored access to defendants. Sentencing guidelines also were inherited from Belgian military law; however, in practice military courts had broad discretion to go outside of those sentencing guidelines. In many cases, trials were open to the public at the discretion of the military judge. In previous years, death sentences or forced labor were typical punishments; however, no death sentences were issued during the year.

On September 26, the Government lifted the moratorium on the death penalty. The official reason given was that criminal activity had risen since the pronouncement of the moratorium; however, it was believed widely that the moratorium was lifted in anticipation of the sentencing of the suspects in the assassination of former President Laurent Kabila.

On March 12, the Government filed charges against Eddy Kapend, FAC General Yav Nawej, and approximately 130 other persons in connection with the January 2001 assassination of Laurent Kabila, the executions of 11 Lebanese and other persons following the assassination, and the 2000 coup plot led by Anselme Masasu. The trial of these suspects opened officially on March 15, but proceedings were postponed until April 3 to provide sufficient time for defense lawyers to prepare their cases, since they had not been granted access to defendants until March 12. According to international observers, the trial, which was conducted by a military tribunal, followed the correct procedures prescribed by the country's military and civil code; however, there were some irregularities, and prosecutors and judges remained subject to executive influence. The beginning and the end of the trial were public and open to the press; however, the trial was closed to the public between April 22 and September 19 for reasons of state security, a decision strongly criticized by NGOs as hampering transparency.

There were no further developments in the September 2001 case in which civilians and ex-FAZ soldiers were convicted of coup plotting by a military tribunal in Likasi. None of the death sentences had been carried out by year's end.

Unlike in the previous year, the Government held no political prisoners. Suspects in the Kabila assassination remained in detention at year's end (*see* Section 1.d.).

In the areas not under government control, the system of justice essentially remained nonfunctional. Judges and other public servants were not paid their salaries, and corruption was rampant. RCD/G officials and others with influence reportedly used the judicial system to arrest individuals on false charges and to extract money and property from these individuals. There also were reports of indiscriminate military justice in which persons suspected of disloyalty were executed without a trial. Persons incarcerated by rebel forces for political reasons generally were detained without being tried formally.

Officially the RCD/G established measures to investigate and punish rebel soldiers guilty of committing atrocities against civilian populations. However, the initiative largely remained ignored and ineffective, and there were no reports that the RCD/G credibly tried, convicted, or punished any of its troops for committing atrocities.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—In government-controlled territory, the law prohibits such actions; however, members of the security forces routinely ignored these provisions in practice. Members of security forces and deserters from the army and police continued to harass and rob citizens. Security forces routinely ignored legal requirements for search warrants and entered and searched homes or vehicles at will. In general those responsible for these acts remained unidentified and unpunished.

There were some reported cases in which security forces raided private businesses and arrested employees accused of collaborating with rebel forces or attacking state security (*see* Section 1.d.); however, there were fewer reported cases than in the previous years.

Police often looted the homes of the persons they arrested and sometimes installed themselves in the homes of detainees; occupants frequently were beaten and abused.

No action was taken against soldiers who in November 2001 forced their way into a foreign couple's home and raped their daughter.

Unlike in the previous year, there were no reports that government security forces maintained surveillance of the headquarters of opposition parties and the movements of leading opposition political figures. There were no reports of government raids on opposition party leaders' residences.

ANR security agents monitored mail passing through private express delivery companies as well as through the very limited state mail service. The Government widely was believed to monitor some telephone communications.

Unlike in the previous year, there were no reports that government forces forcibly conscripted adults and children.

There were credible reports that, when unable to locate a specific individual, authorities sometimes arrested or beat the closest family member.

Mai Mai forces and Hutu militias routinely seized private property and looted homes to supply themselves in areas in which they operated. Mai Mai forces recruited children from the areas in which they operated.

In areas not under government control, rebel forces, foreign troops, and other armed groups routinely subjected civilians to arbitrary interference with privacy, family, home, and correspondence (*see* Sections 1.g. and 4).

From May 14 to 15, in reprisal for the RCD/G mutiny in Kisangani, RCD/G soldiers conducted house-to-house searches, arrested suspected dissidents, and beat those who resisted. Five priests or pastors were arrested and taken to undisclosed locations while their homes and parishes were ransacked. The RCD/G seized cell phones, livestock, and household goods.

RCD/G rebels continued to recruit children from the areas in which they operated despite claims that they had stopped the practice (*see* Section 5).

*g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—Until late in the year, war continued with external intervention on both sides. The war broke out in 1998 between the Government and rebel forces backed by the Governments of Rwanda and Uganda. Following initial gains by the rebels, the Governments of Zimbabwe and Angola sent troops to support the Government, bringing the war to a stalemate. The Lusaka Accords, signed in July 1999, provided for a cease-fire and disengagement of troops, the deployment of a U.N. peace observation mission, the withdrawal of foreign troops, and an internal political dialog leading to the formation of a transitional government. By July 2001, all parties generally complied with the disengagement plan outlined in the Lusaka Accords and withdrew to new defensive positions. In late 2001 and throughout the year, U.N. International Facilitator Ketumile Masire organized the Inter-Congolese Dialogue (ICD), which included representatives of the Government, Congolese armed groups,

political opposition, and civil society. The ICD began in October 2001 in Addis Ababa, Ethiopia, and was convened in several sessions during the year, culminating in a December 17 agreement to form a transitional government. During the year, most foreign troops withdrew from the country, although the Governments of Rwanda and Uganda continued to support armed Congolese groups operating in the country.

Unlike in previous years, there were few reports that the Government used excessive force or violated humanitarian law in the ongoing war in territory controlled by the Government. In general the cease-fire was respected along the disengagement line between government and rebel or foreign-held territory, and the fighting shifted to areas behind rebel lines in the eastern part of the country. However, on November 10, government troops used excessive force during fighting against Mai Mai militias in the town of Ankoro, Katanga Province, which resulted in the deaths of 104 civilians and the displacement of 75,000 local residents; both sides burned and pillaged homes and shops in the area.

Government security forces ceased to recruit child soldiers and continued to cooperate with the U.N. to demobilize child soldiers (*see* Section 5).

There were reports that Mai Mai forces and Hutu militias fighting on the side of the Government frequently killed and tortured noncombatants (*see* Section 1.a.).

In areas not under government control, rebel forces, foreign troops, Mai-Mai forces, Hutu militias, and other armed groups committed numerous abuses, including civilian massacres, the looting and burning of houses, attacks and aerial bombings of civilian areas, the forcible recruitment of child soldiers, and the rape of women. At times, verification of these reports was difficult, due to geographical remoteness, hazardous security conditions, and impediments imposed by authorities (*see* Section 4); however, the presence of MONUC allowed international observers to gather more information than in previous years.

There have been no known credible attempts by any of the combatants in the conflict to investigate incidents in which their troops allegedly committed killings, rapes, pillaging, and other abuses in areas under their control. RCD/G authorities manipulated investigations into the May 14 to 15 reprisal killings of civilians in Kisangani and the March 24 grenade attack on a church in Goma, which killed 3 persons and injured 11; the RCD/G then used these investigations to expel U.N. personnel and to accuse and arrest leaders of human rights NGOs.

RCD/G and RDF forces committed numerous mass killings in areas under their control, usually in reprisal for alleged Mai Mai attacks or mutinies against RCD/G and Rwandan forces. In determining responsibility for abuses, it often remained difficult to distinguish between RCD/G and RDF forces, since RCD/G and RDF troops frequently operated together, RDF commanders trained RCD/G troops, RDF soldiers sometimes operated in RCD/G uniforms, and RCD/G forces received instructions directly from RDF commanders.

There were numerous credible reports that RCD/G and RDF troops burned and destroyed entire villages, frequently killing, torturing, or raping some of the inhabitants, especially in rural areas of North and South Kivu and northern Maniema Province. For example, on January 5, RCD/G troops under Commander Masore attacked and set fire to the villages of Kaboke II, Esunda, and Yonwe in South Kivu in reprisal for the ambushing and killing by Mai Mai forces of an RCD/G commander and his guards in the area; 30 persons were killed, including 18 persons who were burned beyond recognition. RCD/G soldiers, who also attacked and injured two women with machetes, reportedly pushed in the brick walls of the burned houses to hide the evidence.

During February and April, fighting in South Kivu between RCD/G and RDF soldiers and Mai Mai or Hutu militias resulted in repeated raids of more than 40 villages. At least 29 civilians were killed, 118 were raped, and 56 were kidnaped; 75 houses and churches were burned or destroyed, and hundreds of livestock were stolen. Frequently the same village was raided repeatedly, first by one side and then by the other, with each side accusing the villagers of collaborating with their enemies.

Between January and July, RDF forces occupied the High Plateau region to suppress a popular revolt led by former RCD/G Commander Patrick Masunzu, and used excessive, indiscriminate violence against civilians, particularly the ethnic Tutsi Banyamulenge. RDF soldiers burned, destroyed, and pillaged numerous small non-Banyamulenge villages during their 4-day march to the High Plateau. Once on the High Plateau, the RDF forcibly displaced approximately 30,000 Banyamulenge civilians, set fire to more than 90 Banyamulenge villages, and killed, abducted, and raped an undetermined number of Banyamulenge civilians. At various periods, particularly from June 18 until mid July, the RDF repeatedly used helicopters to bomb the High Plateau region, including areas populated by civilians. The RDF repeatedly

denied access to all international humanitarian organizations, which severely impeded efforts to determine the number of civilians killed, injured, raped, tortured, and displaced.

From May 14 to 15, RCD/G troops used excessive, indiscriminate lethal force against civilians in Kisangani in reprisal for an aborted mutiny attempt by RCD/G dissidents. In the original mutiny attempt, members of the population killed seven persons they accused of being Rwandan. RCD/G loyalist troops under the command of Gabriel Amisi (known as Tango Fort), Bernard Biamungu, and Laurent Nkunda put down the mutiny and then killed more than 150 civilians and numerous RCD/G members suspected of being mutineers or sympathizers. On May 14, RCD/G loyalists rounded up and summarily executed dozens of RCD/G police and military, who were hacked to death with machetes, decapitated, tortured, dismembered, or shot to death. RCD/G forces threw many of the corpses into the Tshopo River and buried other victims in mass graves. An unconfirmed number of civilians were abducted or disappeared, including young women taken to the airport and raped by RCD/G troops.

Under intense international pressure, the RCD/G appointed a military-led Commission of Inquiry to look into events at Kisangani. The Commission's report identified a total of 41 fatalities, including 7 persons killed by the population during the mutiny, 11 mutineers who allegedly drowned in the Tshopo River trying to escape, and 21 civilians allegedly killed in cross-fire between mutineers and loyalist forces. From June 16 to 22, Asma Jahangir, the U.N. Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, conducted an investigation into the May 14 to 15 events in Kisangani. The report, which was endorsed and released by the U.N. High Commissioner for Human Rights, concluded that RCD/G authorities were responsible for at least 163 killings, including the massacre of at least 103 civilians, the summary execution of at least 60 members of the military and police, and the deaths of an addition 20 persons, whose corpses were found floating in the river. The report rejected the findings of the RCD/G Commission of Inquiry, accused the RCD/G of protecting the perpetrators and concealing the facts, and criticized RCD/G efforts to portray the events as ethnically motivated and to blame local civil society and NGO leaders for the violence. In August Human Rights Watch (HRW) released its report, which placed responsibility for events on several RCD/G commanders and called for them to be prosecuted for war crimes.

On August 25, Mai Mai forces in Kindu reportedly ambushed and killed 40 RCD/G soldiers. In response, RCD/G troops carried out reprisal attacks on the civilian population from August 26 to 28. At Nyonga Island, RCD/G soldiers assembled the entire village, separated out the men and boys over age 14, marched them into the bush, and summarily executed 56 persons. There were unconfirmed reports that at Kitingui Island, RCD/G troops burned alive up to 80 people who already had surrendered. RCD/G troops repeatedly denied access to international aid organizations.

From October 24 to 29, in Mabasa and Mangina in the Ituri region, RCD/N and MLC troops systematically killed, abducted, raped, tortured, and looted the civilian population, some of whom were forced to commit cannibalistic acts. According to the U.N., 117 persons were killed, 65 adults and children were raped, and 82 persons remained missing at year's end. In some cases, victims were killed in front of their families, who were forced to eat their body parts. Thousands of persons fled, including numerous Pygmies, who the rebels reportedly targeted for cannibalism.

RCD/G rebels and RDF troops continued to target churches and religious leaders in the areas under their control and committed numerous abuses, including arbitrary killings, beatings, and the violent dispersal of religious services (*see* Sections 1.b. and 2.c.).

Rebel and foreign groups, particularly the RCD/G and RDF, raped women with impunity; a June HRW report charged that both groups used rape as a tool of war.

For example, from January to March, RCD/G, RDF, and Burundian soldiers frequently raped young girls in rural schools throughout the territory of Fizi in South Kivu. Local human rights organizations documented 248 cases of rape, 69 unwanted pregnancies, and 418 girls who dropped out of school after they received threats of sexual violence. Most of the girls, who faced societal rejection as rape victims and because of likely exposure to HIV/AIDS, received no medical care or trauma counseling.

RCD/G and RDF, Mai Mai, and Interahamwe forces kidnaped numerous women and girls during raids on rural villages and forced them to provide labor or sexual services. Many of the victims were forced to stay with the troops from several days to several months and subjected to gang rape or acts of sexual torture. Once released, many of the victims were ostracized by family members or their local communities, faced unwanted pregnancies, or had contracted the HIV/AIDS virus from the soldiers who abused them.

In October numerous persons were killed during fighting between RCD/G troops and Mai Mai over the control of Uvira. After October 13, when Mai Mai took control of the city, approximately 5,000 RCD/G troops marched south to retake Uvira and fought with Mai Mai along the way in Luvungi and Sange; more than 120 persons were killed. On October 19, the RCD/G regained control of Uvira and subsequently arrested more than 100 persons; local groups reported that six bodies also were found in the city after the RCD/G returned.

Landmines reportedly laid by Burundian soldiers throughout the territory of Fizi in South Kivu killed six civilians and seriously injured ten during the year. The victims included villagers from Ake, Mboko, Nundu, Kabondozi, Kabumbe, Swima, and Etundu; the ages of the victims ranged from 10 to 51 years old. It was impossible to know whether the mines were laid this year or in previous years.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, the Government restricted this right in practice. Incidents of harassment, intimidation, and detention of journalists continued to occur, but violations of press freedom were less common than in previous years. During the year, security forces arrested or detained illegally 9 journalists compared with 25 journalists in 2001; few of them were tried. One journalist, who was arrested on December 31, remained in detention at year's end. Other journalists reportedly were harassed, and in some cases, beaten or tortured by members of the security services; however, unlike in the previous year, there were no reports that government authorities harassed or expelled foreign journalists.

During the year, the Ministries of Human Rights and of Communication and Press maintained good relations with the private media and in some cases interceded with security services on behalf of journalists subjected to abuse. In an August 9 letter to all public prosecutors, including the COM, Minister of Justice Ngele Audi asked government officials to instruct their personnel to halt arrests of journalists and other members of the media. The Ministry of Justice held a seminar from August 24 to 26 with the goal of improving relations between the security services, the military, and journalists.

According to the Government, 97 newspapers completed the mandatory licensing process and were authorized to publish in the country. Approximately 40 publications appeared regularly in Kinshasa; 9 were dailies and the others were published once or twice a week. There also was an active private press in Lubumbashi, and some private newspapers were published in other provincial cities. Many private news publications relied on external financing, often from political parties and individual politicians. News publications tended to emphasize editorial commentary and analysis rather than factual descriptions of events; many were highly critical of the Government. The Government published *Bulletin Quotidien*, an official daily that covered official and general news. For the duration of the ICD in Sun City, the Government also published the *Congo Libere*, which was distributed in South Africa and the country. The Minister of Communications also published *Le Journal de Vendredi*, a private weekly.

A 1996 Press Law regulates the newspaper industry. Publishers were required to deposit copies of their publications with the Ministry of Communication and Press after publication. Criminal libel laws exist and were used to successfully prosecute journalists at least once during the year; however, it widely was believed that the Minister of Security and Public Order manipulated the court to secure the convictions and sentences in that case. In two other cases, libel charges against journalists were dropped, reportedly after the journalists had been intimidated by their detention.

Authorities generally charged journalists who were arrested by security services with “endangering the State” or “insulting the military” through the publication or broadcast of political news or news of the war. Charges often were brought under the press law, which NGOs have charged needs revision.

On July 11, *Alerte Plus* published an article charging that Minister of Security and Public Order Mwenze Kongolo had been poisoned. On July 19, police arrested Raymond Kabala, the publications director of *Alerte Plus* on charges of libel; on July 22, Delly Bonsange, the newspaper's editor, was arrested on the same charge. Both journalists were beaten and tortured, and the article was retracted the following day. On September 6, the Kinshasa-Ndjili Peace Court found Kabala and Bonsange guilty of “harmful accusations” and “falsification of a public document.” Kabala and Bosange were sentenced to 12 and 6 months in prison, respectively, and received heavy fines; however, the sentences and fines were reduced on appeal. Bosange was released in December; Kabala remained in Makala prison at year's end.



On July 25, opposition politician Joseph Olenghankoy lodged a libel complaint against Pot-Pourri editor Achille Ekele N'Golyma and Gogin Kigwakiou, a journalist for Vision, after both publications accused Olenghankoy of receiving bribes. On July 31, N'Golyma was arrested; however, Kigwakiou evaded arrest. On August 15, N'Golyma was released after Olenghankoy withdrew charges.

On August 2, the newspaper *L'Intermediaire* published an article on the ongoing illegal detention of human rights activists N'Sii Luanda and Willy Wenga; the article referred to the COM as a "dictator's consolidation instrument" (see Section 1.d.). On August 7, national police acting on behalf of COM General Prosecutor General Charles Alamba, detained Eugene Ngimbi, the editor of *L'Intermediaire*, for 2 days on defamation charges; however, the prosecutor did not pursue the charges.

Police in Kinshasa briefly detained newspaper vendors and seized newspapers during the year.

Due to limited literacy and the high costs of newspapers and television, radio remained the most important medium of public information. The number of private radio stations in Kinshasa increased to 18 radio stations compared with 10 in 2001, of which 2 were state-owned and 16 were private or religious. There were 16 television stations compared with 7 in 2001, of which 2 were state-owned and 14 were private or religious. Opposition parties were unable to gain access to state-owned radio, and private radio was markedly less critical of the Government than private newspapers. The Government threatened to shut down radio stations that had not paid their licensing fees, however, some stations did not pay the fee, and the Government took no action against them. During the year, MONUC established a nationwide radio station called Radio Okapi, which broadcast national and local news and provided information on MONUC's mandate and activities, as well as its demobilization and disarmament program.

On April 3, army soldiers arrested and detained journalist Jose Feruzi Samwegele, who intervened with soldiers on behalf of Mayulu Mayung, who had attempted to enter the national radio station RTNC without a valid ID; Mayung also was found to be carrying an opposition UDPS position paper from Sun City. On April 10, Samwegele was released; on April 12, Mayung was released.

At year's end, there were 10 domestic Internet service providers. Because of technical difficulties and high cost, the Internet was not used widely; however, no restrictions were imposed on Internet use.

Academic freedom continued to be restricted, and professors (who were public servants) exercised self-censorship or modified their lectures to suit the views of their patrons in the Government; however, there were no reports of students or professors being overtly censored.

On February 21, the eight students arrested in connection with the December 2001 violent student strikes in Kinshasa were released and expelled from the University of Kinshasa. In October the students published a petition demanding that they be allowed to resume their studies; authorities had made no decision about the petition by year's end.

In areas not under government control, rebel groups continued to severely restrict freedom of speech and of the press; however, some independent media organizations, primarily the Catholic Church-sponsored news agency MISNA and MONUC-operated Radio Okapi, were allowed to operate. Most local radio stations were controlled by rebel authorities and foreign troops. Radio Maendeleo, the only independent Congolese-run radio station in Bukavu, operated most of the year; however, on October 14, RCD/G soldiers occupied the station and blocked its news broadcasting; the action reportedly was taken to prevent coverage of the Mai-Mai forces advancing to Bukavu. The station remained closed at year's end.

In June Banyamulenge civil society representative Enock Sebinezza fled the country in fear for his life after returning to Bukavu from the ICD in Sun City. Sebinezza, who had criticized the RDF military campaign against civilians on the High Plateau and feared reprisal from the RCD/G or RDF, reportedly remained abroad in self-imposed exile at year's end.

Rebel forces continued to harass and arrest journalists. For example, on March 9, in Bunagana (on the DRC-Uganda border), RCD/G forces arrested Raphael Paluku Kyana, director of Radio Rurale de Kanyabayonga, as he was leaving the country to attend a communications seminar being held in Nairobi. He was released on March 14; however, at year's end, RCD/G authorities still were demanding payment from Paluku Kyana to return his personal identification and travel documents, which the RCD/G had confiscated.

On August 28, Rigobert Yuma Nduani and Shabani Sadala, two journalists from Radio Okapi, took refuge at the MONUC mission in Kindu after receiving threats from the RCD.

On September 13, in Gbadolite, MLC troops arrested journalist Franklin Moliba-Sese in connection with a Radio Okapi report on the living conditions of MLC child soldiers; Moliba-Sese was released after 6 days.

During the year, in Kisangani, RCD/G authorities severely criticized journalists and peace activists on the radio and at rallies, calling them traitors and allies of hostile foreigners (see Section 2.c.). After Radio Amani, which was owned by the Catholic Church, broadcast programs that criticized the RCD, the Department of Security and Intelligence abducted and severely beat the clergyman who headed the Catholic Justice and Peace Commission.

*b. Freedom of Peaceful Assembly and Association.*—In areas under government control, there was no legal protection for freedom of assembly, and the Government continued to restrict this right. The Government considered the right to assemble to be subordinate to the maintenance of “public order,” and continued to require all organizers to inform the city government before holding a public event. According to the law, organizers automatically had permission to hold an event unless the city government denied permission in writing within 5 days of receiving the original notification. Some NGOs reported that in practice the city administration sometimes denied permission for the event after the 5-day period by backdating the correspondence. Government security services generally dispersed unregistered protests, marches, or meetings.

During the year, opposition parties held private meetings without government harassment; however, the Government prevented some public political activities such as marches and press conferences.

Security forces forcibly dispersed political party press conferences and rallies on several occasions, usually on the grounds that the party had not registered with the Ministry of the Interior after promulgation of the May 2001 law on political activity or had not notified city authorities of the event. The Government required political parties to apply for permits to hold press conferences; such permits frequently were denied.

On April 14, police dispersed PALU party activists when they tried to hold a rally in the Kimbanseke neighborhood of Kinshasa; 11 party members were detained for several hours.

On September 26, DEMIAP units forcibly dispersed a march organized by members of the UDPS “parlementaires debout,” a movement that conducts street-side debates on current events and political figures, ostensibly because they had not notified the city government of the march as required by law. According to the UDPS, 51 of their members were detained for several hours, and 12 were beaten seriously.

Police also forcibly dispersed labor demonstrations. For example, on June 3, police in Kipushi forcibly dispersed a march organized by workers at Gecamines, a copper and cobalt mining parastatal, and SNCC, a railroad parastatal.

There were fewer government-sponsored demonstrations than in the previous year, and unlike in the previous year, there were no government-sanctioned violent demonstrations against foreign embassies or U.N. offices.

On October 8, in Kisangani, university students erected a barrier on the airport road, stopped a MONUC vehicle from leaving the airport, forced the passengers out, and burned the vehicle. After the students had stopped a second MONUC vehicle, a third MONUC vehicle arrived, and the MONUC soldiers inside fired into the air to disperse the crowd. RCD/G soldiers who had just arrived at the scene also fired into the air. One MONUC soldier and one student were injured.

The law provides no explicit protection for freedom of association, and the Government restricted this right; however, there were fewer instances of such restrictions than in previous years. The May 2001 law on political activity allows anyone to form a political party by registering with the Minister of Interior. NGOs and religious groups also were permitted to form freely, provided that they registered with the Minister of Justice and filed copies of internal regulations and descriptions of their organizational structure. According to the Government, more than 100 political parties have registered under the May 2001 law. Some longstanding parties, notably the UDPS, have refused to register under this law on the grounds that they already registered under the Mobutu government and that the Kabila government was illegitimate. The Government responded to this refusal by treating the UDPS as an illegal organization and arresting or dispersing UDPS members who attempted to hold public functions.

Political parties and civil society groups were highly active during the year in preparation for and participation in the ICD. The Government generally did not harass political parties, with the exception of the UDPS.

In areas not under government control, rebel forces and foreign troops continued to restrict severely freedom of assembly and association. Groups critical of the authorities, especially in RCD/G or RDF controlled territory, were subject to severe re-

pression (*see* Sections 1.a., 1.b., and 1.g.). The only political party allowed to operate openly in RCD/G and RDF territory was the UDPS, which in April joined the Alliance to Save the Dialogue (ASD) with Rwanda and the RCD/G. There were numerous reports that RCD/G and RDF soldiers subsequently forced citizens in Goma, Kisangani, and Uvira to assemble and cheer for UDPS president Etienne Tshisekedi when he toured through the eastern part of the country in June.

Rebels forcibly dispersed religious services (*see* Section 2.c.).

No action was taken against RCD/G troops who fired on demonstrators in Bukavu in September 2001.

*c. Freedom of Religion.*—Although there is no constitution currently in effect, the Government generally respected freedom of religion in practice, provided that worshippers did not disturb public order or contradict commonly held morals; however, government forces committed some abuses.

The establishment and operation of religious institutions was provided for and regulated through a statutory order on the Regulation of Non-profit Associations and Public Utility Institutions. Requirements for the establishment of a religious organization were simple and generally were not subject to abuse. The law grants civil servants the power to establish and dissolve religious groups. There were no reports of the Government suspending or dissolving a religious group; however, during the year, the Government outlawed Bunda Dia Kongo, an ethnically-based spiritual and political movement that called for the violent overthrow of the Government and the establishment of an “ethnically pure” kingdom for the Bakongo tribe. Officially recognized religions were free to establish places of worship and to train clergy. In practice religious groups that are not recognized also worshipped freely.

While the Government generally did not interfere with foreign missionaries, they were not exempt from general restrictions by security forces, such as restrictions on freedom of movement imposed on all persons by security force members who erect and man roadblocks, at which they often solicit bribes.

Some abuses against churches or clergy occurred in government-controlled areas as a result of a lack of discipline of individual government soldiers. These abuses, usually the harassing of priests at checkpoints or the theft of church property, were not linked to any religious or politically motivated policy.

On July 20, Bunda dia Kongo followers reportedly clashed with police in Louzi and Moanda; 10 of the demonstrators in Luozi and 4 in Moanda were killed, and numerous others were injured by gunshot. One policeman reportedly also was killed.

In areas not under government control, respect for religious freedom continued to be poor. RCD/G and RDF soldiers continued to commit significant abuses in these areas and deliberately targeted churches and religious leaders in the towns and villages under their control. These actions were believed to be part of an attempt to intimidate the population and in retaliation for the growing role of churches as one of the few remaining forums for community discussion and peaceful political activism. Abuses took the form of arbitrary killings, arrests, and disappearances of pastors, priests, and laymen; public threats against the lives of religious leaders; pillaging and destruction of church property; and the use of armed soldiers to disperse forcibly religious services (*see* Section 1.b.).

On April 12, in Bukavu, Rwandan and RCD/G soldiers surrounded the congregations of several Catholic churches and forcibly dispersed, beat, and kicked parishioners. Although the Catholic Church had applied for and received permission from the Mayor of Bukavu and the Vice Governor of South Kivu Province to hold a Mass at which Catholics from all parishes in South Kivu Province were to assemble and pray for peace, Rwandan and RCD/G soldiers announced on the radio that the Mass was forbidden. During the broadcast, RCD/G Commander Chuma Balumisa issued threats against the Catholic Church; specific priests, including Monseigneur Maroyi; and anyone who participated in the Mass. The Catholic Church cancelled the Mass and told parishioners to pray instead at their local parishes. On the morning of April 12, Rwandan forces armed with guns and RCD/G soldiers and police armed with batons surrounded the main religious centers in each parish and lined the main roads in Bukavu. In the Cahu Parish, soldiers entered the church, beat parishioners and priests, and destroyed the statue outside the Church. In Nyamwera Parish, Rwandan soldiers used tear gas to disperse a group of young students. In Mater Dei of Muhungu Parish, soldiers chased parishioners from their church, beat them, and fired shots in the air. Soldiers at the same parish violently kicked a group of children between the ages of 8 and 12 who were marching toward the church chanting, “We ask for peace.” Numerous persons were injured, including two priests, a 14-year-old girl, and a 17-year-old boy. No action was taken against those responsible by year’s end.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—In areas under government control, the law allows for freedom of movement; however, the Government increased its restrictions of this right after the war began in 1998. Resolutions adopted as part of the ICD process in 2001 affirmed the right to free movement of persons and goods in the country, and the Government generally honored this stated commitment during the year; however, some travel restrictions continued, such as the need to obtain a routine written document from the Ministry of Interior for travel within government-controlled territory. Movement between government and nongovernment zones continued to be hazardous and sometimes impossible, except by U.N. flights and U.N.-accompanied river convoys. Commercial flights between government-controlled territory and RCD/ML territory resumed during the year; however, the flights were interrupted by new conflict in August.

In Kinshasa the practice of police and soldiers erecting roadblocks for night-time security checks and to protect government installations continued. In general military police manning the roadblocks were better organized and more professional than in previous years, and there were fewer instances in which taxibus drivers and passengers were harassed or forced to pay bribes. However, underpaid traffic police continued to routinely harass citizens and demand bribes in the course of pulling vehicles over for traffic violations.

The significant risk of rape, sometimes perpetrated by uniformed men, restricted freedom of movement at night for women in some neighborhoods. Groups of citizens implemented neighborhood watch programs, but women in some parts of Kinshasa and Lubumbashi did not leave their homes at night due to fear of attack.

On April 29, the Government signed an agreement with the MLC and the RCD/G permitting the resumption of commercial traffic on the Congo River. Since this agreement, commercial barges under MONUC escort successfully have traveled between government and MLC territory; however, RCD/G authorities have not permitted travel to RCD/G territory.

The Government required exit visas for all foreign travel. No data on the refusal rate for exit visa applications was available. Noncitizens reportedly were required to obtain exit permits before leaving the country. The Government allowed opposition members and journalists to leave the country; ICD participants were able to travel freely to meetings in South Africa. Unlike in the previous year, there were no reports that the Government refused to issue passports to opposition leaders.

The law provides for the granting of asylum and refugee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government continued to provide first asylum. Refugees were accepted into the country from the CAR and Angola during the year. According to the U.S. Committee for Refugees, approximately 305,000 refugees from neighboring countries, including 180,000 from Angola, 70,000 from Sudan, 20,000 from the CAR, 20,000 from Burundi, 10,000 from Uganda, and 2,000 from Rwanda lived in the country.

The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other international agencies during the year; the Government generally allowed humanitarian workers free access to affected populations in areas under its control (see Section 4).

On September 26, the Government informed the Third Party Verification Mechanism (TPVM) that it was declaring persona non grata and expelling 20 FDLR leaders from the country; all but one, who was expelled to Kenya, were expelled to the Republic of the Congo, which refused to accept 8 of the 20 and returned them to Kinshasa. On October 30, the Government forcibly returned the eight to Rwanda (see Section 1.d.). On October 24 and 25, the Government detained an additional 19 FDLR/ALIR officials in Kinshasa; all remained in custody at year's end.

According to the U.N., approximately 355,000 Congolese refugees lived in neighboring countries during the year, including approximately 80,000 in the Republic of the Congo and 120,000 in Tanzania. In September the Government agreed to allow the voluntary repatriation of 4,000 former soldiers from the Republic of the Congo. Approximately 10,000 Congolese Tutsis who had been living in refugee camps in Rwanda were repatriated to the DRC during the year.

In areas not under government control, freedom of movement was restricted severely during the year, partially as a result of fighting between the rebels forces, Rwandan and Ugandan troops, Mai Mai, and Hutu militias. Rebel soldiers and foreign troops frequently prevented travel and harassed travelers. Several cities were cut off from the surrounding countryside by soldiers and armed groups, which controlled all road and river access into and out of the cities. For example, Kisangani was controlled by RCD/G soldiers, who restricted entry and exit into the city by land and by river. Soldiers established roadblocks and routinely harassed and extorted

civilians who attempted to enter or exit these cities to buy or sell food or to visit family members. Kindu, which was controlled by RDF and RCD/G soldiers, was surrounded by Mai-Mai, who cut off travel into and out of the city by land and river. Such travel restrictions contributed to widespread hunger and economic hardship.

Rebel forces frequently imposed travel restrictions on NGOs, although in some cases they permitted NGOs and civil society groups to travel to conferences in foreign countries or government-controlled territory (see Section 4).

On March 9, in Goma, RCD-G security services arrested and detained Raphael Paluku Kyana, director of a religious community radio station in Kanyabayonga, as he was attempting to travel to Nairobi to attend a training workshop for media professionals organized by the Inter-African Council of Churches. On March 14, Paluku Kyana was released.

The U.S. Committee for Refugees estimated that there were approximately 2 million IDPs in the country, most of whom were located in the eastern part of the country and the Ituri area. Many of the IDPs received no assistance because of ongoing fighting and the denial of access to NGOs. Many IDPs were forced to relocate numerous times to escape fighting (see Section 1.g.).

In March fighting between the Mai Mai and the RCD/G and RDF around Kitutu, South Kivu, resulted in the displacement from the surrounding villages of thousands of persons in Kamituga and in Kitutu.

There were numerous reports that the RDF forcibly displaced Banyamulenge in the High Plateau region of South Kivu and then bombed areas in which IDPs were gathered (see Section 1.g.). NGOs also estimated that the RDF forcibly displaced approximately 4,100 households (including 14,600 children) in non-Banyamulenge Congolese villages during the conflict between the RDF and the Banyamulenge; many of these IDPs were living in the outskirts of Uvira at year's end. In October 20,000 persons, many of them ethnic Banyamulenge from Uvira, entered Kalemie as IDPs.

In November the RCD/ML captured Bafwasende and Niania in Orientale Province, which resulted in 33,000 IDPs in North Kivu Province.

Throughout the year, in the Ituri district of Orientale Province, an area dominated by Ugandan and Ugandan-supported forces, fighting continued between members of the Lendu and Hema ethnic groups and their respective allied tribes, which reportedly resulted in 500,000 IDPs (see Section 1.a.). In August, when the Hema-dominated UPC militia took control of the city of Bunia, there were numerous reports that they attempted to ethnically cleanse Bunia and chase out all residents from the Lendu tribe. Several thousand Lendu fled Bunia and were IDPs in surrounding villages at year's end.

On several occasions, the RCD/G, RDF, and the UPC militia denied access to humanitarian organizations or obstructed their ability to deliver humanitarian relief supplies. For example, during the RDF military campaign against the Banyamulenge revolt in the High Plateau (see Section 1.g.), RDF authorities repeatedly denied access to humanitarian organizations and to MONUC, claiming that the area was not secure; however, RDF authorities subsequently granted access to a planeload of journalists flown in at the Rwandan government's expense.

On July 18, RCD/G authorities closed and padlocked the office of AirServe, the humanitarian plane service used by international NGOs to deliver relief supplies throughout the eastern part of the country. RCD/G authorities demanded \$23,500 in taxes and other expenses, despite having signed a convention in 1999 with AirServe and other NGOs that exonerated such groups from most taxes. During the same week, RCD/G authorities attempted to collect large sums of money from other international NGOs, including Alisei, MSF Holland, Save the Children, and Concern; authorities also threatened Concern with closure. On July 20, after strong international pressure, RCD/G authorities allowed AirServe to resume delivery of humanitarian goods.

Since the beginning of October, after the Mai-Mai assumed control of RCD/G territory in Shabunda, RCD/G authorities denied permission for humanitarian NGOs to fly from Goma to Shabunda, where NGOs had longstanding health and nutritional programs supplied by AirServe flights. Despite the exhaustion of milk and food supplies at an NGO nutrition center and severe malnutrition among 3,400 IDPs, RCD/G authorities justified the flight denial as concern for security and claimed that NGO flights to Mai-Mai areas would give legitimacy to such groups. When the NGOs promised to take responsibility for their own security, RCD/G authorities granted approval for the flights; however, few flights at only irregular intervals had been approved by year's end.

On October 17, the Hema UPC militia refused landing rights to a UNICEF-chartered cargo flight carrying humanitarian supplies as the plane was circling over Bunia. UPC authorities, who previously had granted permission for the flight, sub-

sequently claimed the refusal was an unfortunate bureaucratic error; however, credible reports indicated that the UPC may have taken the action to force the humanitarian community to charter planes from a private airline connected with the UPC.

The UNHCR continued to work with NGOs and the RCD/G to voluntarily repatriate Rwandan Hutus to Rwanda.

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

Citizens do not have the right to change their government peacefully. Citizens have not been able to change their government through free elections since independence in 1960. The Government continued to operate without a constitution. President Joseph Kabila, who came to power in January 2001 after the assassination of his father Laurent Desire Kabila, ruled by decree in the territory under government control. At year's end, the Government was holding talks with rebel groups, opposition politicians, and civil society to establish a transitional government, which would be responsible for drafting a constitution and organizing elections (*see* Section 1.g.).

In 2000 the Government created the Constituent and Legislative Assembly to draft a new constitution, prepare a national budget, and approve decrees and motions handed down by the President. During the year, the Assembly continued to meet and to approve decrees and motions handed down by the President, but it did not have a significant role in governing the country.

In May 2001, the Government revised the law on political activity to allow legally registered parties to operate freely, which significantly improved political freedom in practice. However, the Government continued to arrest political activists and to block some activities, including marches and press conferences, particularly of parties who had not registered under the terms of the 2001 law (*see* Section 2.b.).

On March 31, supporters of President Kabila established the Peoples Party for Reconstruction and Democracy (PPRD) to legitimize politically President Kabila's regime. In November the President reshuffled his cabinet; the new 34-member cabinet included 17 PPRD members. President Kabila also eliminated three ministerial positions formerly occupied by ministers he suspended for their involvement in resource exploitation.

The State continued to be highly centralized in many ways. The Government in Kinshasa generally appointed governors, but once in the provinces they had considerable autonomy, due in part to poor communications and transportation infrastructure. Territorial administrators also were appointed by the Government. Provincial government resources, both financial and logistical, almost exclusively came from the Government. Unlike in previous years, when a disproportionate number of government positions were held by persons from Katanga Province, President Kabila's government generally was geographically and ethnically diverse.

There are no official restrictions on the participation of women or minorities in politics. Three of 23 cabinet ministers and 1 of 12 vice ministers were women, and women held 18 of the 300 seats in Parliament, including the Speaker's chair. Pygmies were not represented in the political process. There were no Muslims, who constituted only 2.5 percent of the population, represented in senior positions in the Government or in political parties.

In areas not under government control, citizens did not have the right to change their government peacefully. In RCD/G-controlled territory, rebel authorities, often in consultation with the Government of Rwanda, appointed local officials. Rebel groups tended to be dominated by members of one ethnic group, often a minority group in the areas under their control. Rebel forces and foreign troops continued to severely limit political freedom (*see* Section 2.b.). The only political party allowed to operate openly in RCD/G-held territory was the UDPS, which signed a political alliance with Rwanda and the RCD/G.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

In areas under government control, numerous domestic and international human rights NGOs continued to investigate and publish their findings on human rights cases. The Government Human Rights Ministry attempted to stop abuses against NGO workers; however, the security services continued to harass some domestic NGO workers. For example, the security services rearrested N'Sii Luanda, president of the human rights organization Committee for Human Rights (CODHO) (*see* Section 1.d.). In October outside of a military court in Kinshasa unidentified individuals in military uniform beat and abducted Sebastien Kayembe Nkokesha, chairman of the Congolese Human Rights Observatory; Nkokesha was released the same day.

The main domestic human rights organizations operating in the country included Comite Droits de l'Homme Maintenant, a national network of human rights organizations; la Voix des Sans Voix (VSV), an active Kinshasa-based organization; Groupe Jeremie and Groupe Amos, two Christian-inspired groups that focused on human rights and democracy problems; CODHO, a human rights monitoring group; Toges Noires, an association of lawyers and judges involved with human rights; and Association Africaine de Defense des Droits de l'Homme (ASADHO).

International human rights and democracy NGOs operating in Kinshasa included the ICRC, International Human Rights Law Group, the International Foundation for Elections Systems, Search for Common Ground, Avocats Sans Frontiers-Belgium, and the National Democratic Institute. Representatives of other international human rights and democracy NGOs, such as Human Rights Watch Africa and the National Endowment for Democracy, visited the country during the year.

In May the Government invited the International Criminal Tribunal for Rwanda (ICTR) to open an office in Kinshasa. While the ICTR has not established an office, ICTR investigators operated freely in government-held areas of the country, seeking a number of genocide indictees thought to be living in the country. On September 29, the Government arrested genocide suspect Tharcisse Renzaho and delivered him to the ICTR.

In areas not under government control, there were fewer domestic and international human rights NGOs than in government-controlled territory; those that did operate generally were subjected to more harassment and abuse. Domestic human rights organizations operating in areas outside government control included SEDL, a human rights NGO monitoring violations in South Kivu; PAIF, a woman-led NGO monitoring violence against women in the Kivus; RODHECIC, a human rights NGO network active in South Kivu; ARC, a human rights NGO focusing on abuses against religious groups and women; and Groupe Lotus, Amis de Nelson Mandela, and Justice and Liberation, three human rights NGOs monitoring abuses in Kisangani.

Rebel groups, foreign troops, and militias frequently harassed, arrested, and tortured domestic NGO workers in an attempt to obstruct their reporting (*see* Section 1.g.). Rebel forces frequently imposed travel restrictions on human rights NGOs and journalists (*see* Section 2.d.).

For example, on May 26, RCD-G soldiers accompanied by the head of the RCD-G security service forcibly entered the home of Delphine Itongwa, Executive Secretary of the NGO Group for Study and Action of Development. The soldiers interrogated Itongwa and confiscated her work documents, laptop computer, and airplane ticket to Bukavu; Itongwa was warned not to leave the city.

International NGOs active in areas not under government control included the ICRC and the International Human Rights Law Group. Representatives of Human Rights Watch Africa visited RCD/G-controlled territory during the year.

After the May massacres in Kisangani, the RCD/G permitted Asma Jahangir, the U.N. Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, to visit and conduct investigations in Kisangani from June 16 to 22 (*see* Section 1.g.). However, Jahangir reported that the RCD/G attempted to hinder her investigation and intimidated potential witnesses.

In August the Ugandan government released the results of its investigation into the April 2001 killings of six employees of the ICRC in Ituri district. Although the report placed responsibility on uncontrolled elements of the Lendu ethnic group, credible reports indicated that members of the Hema UPC militia killed the ICRC workers and tried to make the Lendu appear responsible. It was unclear whether the UPDF knew of or assisted in the killings. ICRC field operations in the Ituri district remained suspended at year's end.

On November 22, the UPC president declared the Congolese head of the regional U.N. Office for the Coordination of Humanitarian Assistance (OCHA) in Bunia persona non grata and ordered him to leave Ituri within 48 hours for "arrogance" and "verbal disrespect of UPC security personnel." On November 25, the OCHA official left Bunia.

#### *Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

In areas under government control, previous constitutions prohibited discrimination based on ethnicity, sex, or religious affiliation; unlike in previous years, the Government tried to enforce these prohibitions and no longer condoned discrimination against members of the Tutsi ethnic group. Societal discrimination remained an obstacle to the advancement of certain groups, particularly women, Muslims, and the indigenous Pygmy (Batwa) people.

*Women.*—Domestic violence against women, including rape, was common, but there were no known government or NGO statistics on the extent of this violence.

The police rarely intervened in domestic disputes. Rape was a crime, but the press rarely reported incidents of violence against women or children. Press reports of rape generally appeared only if it occurred in conjunction with another crime or if NGOs had reported on the subject. Girls who had been raped often found it difficult to get married; married women who were raped often were rejected by their husbands. It was commonplace for family members to instruct a rape victim to keep quiet about the incident, even to health care professionals, to save the reputation of the victim.

FGM was not widespread, but it was practiced on young girls among isolated groups in the north. On August 20, the Government, which severely criticized the practice, issued a Presidential Decree creating the National Committee to fight Harmful Traditional Practices/Female Genital Mutilation. The Committee, which held a conference in May under the auspices of the Health Ministry, developed a network of community leaders, women representatives, and health professionals dedicated to the prevention and treatment of FGM.

Prostitution, which is not a crime except for children under the age of 14, was a problem, and there was an increase in prostitution due to poor economic conditions. Women sometimes were forced into prostitution by their families out of economic necessity. There was no information available as to the extent of prostitution in the country.

Women were relegated to a secondary role in society. They constituted the majority of primary agricultural laborers and small-scale traders and almost exclusively were responsible for child rearing. In the nontraditional sector, women commonly received less pay for comparable work. Only rarely did they occupy positions of authority or high responsibility. Women also tended to receive less education than men. Women were required by law to obtain their spouse's permission before engaging in routine legal transactions, such as selling or renting real estate, opening a bank account, accepting employment, or applying for a passport. The law permits a widow to inherit her husband's property, to control her own property, and to receive a property settlement in the event of divorce; however, in practice women often were denied these rights, which in some cases was consistent with traditional law. Widows commonly were stripped of all possessions—as well as their dependent children—by the deceased husband's family. Human rights groups and church organizations were working to combat this custom, but there generally was no government intervention or legal recourse available. In addition, women often did not realize that they could improve their legal claims by obtaining official documents that declared them to be married legally to a man. Women also were denied custody of their children in divorce cases, but they retained the right to visit them. Polygyny was practiced, although it was illegal. Father-child relationships resulting from polygynous unions were recognized legally, but only the first wife was recognized legally as a spouse.

There were a number of active and effective women's groups in both the Government-controlled and rebel-controlled areas of the country.

*Children.*—Government spending on children's programs almost was nonexistent. Primary school education was not compulsory, free, or universal. In public schools, parents formally were required to pay a small fee, but parents often informally were expected to pay teachers' salaries. Extremely poor economic circumstances often hampered parents' ability to afford these added expenses and many children were not able to attend school. Most schools functioned only in areas where parents had formed cooperatives. There were reports of economic circumstances forcing children to hunt or fish for their family's livelihood instead of attending school (*see* Section 6.d.). In both the Government-controlled and rebel-controlled areas, poverty brought on by the war led to greatly diminished educational opportunities for girls. Parents under severe economic hardship no longer could afford to educate both their sons and their daughters, resulting in the withdrawal of many girls from school. In addition, in areas under control of RCD/G and RDF soldiers, there were numerous reports that girls dropped out of school due to threats of rape and sexual violence by soldiers targeting the schools (*see* Section 1.g.).

The number of orphans and street children increased during the year. Street children in Kinshasa were subjected to harassment by soldiers and police, including the rape of homeless girls. At several points during the year, government forces rounded up children living on the street and transferred them to group facilities outside the city. In some of these cases, the children were not placed in adequate facilities. However, the Government allowed international NGOs to monitor the facilities and worked with these NGOs to transfer children to adequate facilities. The public generally supported the police, since the Kinshasa population was distrustful of street children, who often committed theft and other crimes.



FGM was not widespread but still was performed on girls among isolated groups (*see* Section 5, Women).

The Juvenile Code included a statute prohibiting prostitution by children under the age of 14; however, child prostitution was a serious problem (*see* Section 6.f.).

Unlike in the previous year, the Government stopped recruiting child soldiers and continued to cooperate with UNICEF in demobilizing child soldiers. However, rebel forces, particularly the RCD/G, continued to recruit child soldiers, sometimes forcibly (*see* Section 6.c.). There were some reports that RCD/G forces arrested boys and young men for being Mai Mai sympathizers and then forced them to train and serve with RCD/G or RDF military. Credible reports indicated that rebel forces forcibly conscripted boys as young as age 10, and that RCD/G forces established recruitment quotas for its field commanders and senior party leadership. The RCD/G claimed it was attempting to demobilize its child soldiers, and RCD/G president Onusumba signed an agreement with UNICEF to this effect, but there were numerous credible reports that the RCD/G continued to recruit and conscript child soldiers and to send them to military training camps. In addition, there were numerous reports that the Hema militia UPC recruited a large number of children to fight in the ethnically-based conflict in the Ituri region. No reliable data was available on the number of children recruited willingly versus forcibly.

*Persons with Disabilities.*—The law does not mandate accessibility to buildings or government services for persons with disabilities. There were some special schools, many staffed with missionaries, that used private funds and limited public support to provide education and vocational training to students who were blind or had physical disabilities.

Persons with disabilities were subjected to discrimination in employment, education, and the provision of other government services. Persons with disabilities were exempt from some civil laws, such as paying some taxes or in some cases paying customs duties.

*Indigenous Persons.*—There was a population of fewer than 10,000 Pygmies (Batwa), who were believed to have been the country's original inhabitants; societal discrimination against them continued. Although they were citizens, most Pygmies continued to live in remote areas and took no part in the political process.

NGOs reported that some tribes in the interior of the country captured and used Pygmies as slaves or occasionally killed a Pygmy as part of the burial ceremony of a tribal chief.

*National/Racial/Ethnic Minorities.*—There were 200 separate ethnic groups, which generally were concentrated regionally and spoke distinct primary languages. There was no majority ethnic group; some of the largest ethnic groups were the Luba, Kongo, and Anamongo. Four indigenous languages, Kiswahili, Lingala, Kikongo, and Tshiluba, had official status. French was the language of government, commerce, and education. Societal discrimination on the basis of ethnicity was practiced widely by members of virtually all ethnic groups and was evident in private hiring and buying patterns and in patterns of de facto ethnic segregation in some cities; however, intermarriage across major ethnic and regional divides was common in large cities. Unlike in the previous year, there was no evidence that violent conflict between the Tutsi and Hutu ethnic groups continued inside the country; at one point the Tutsi Banyamulenge people collaborated with Hutu militias in the country to fight the Rwandan army, which was both Hutu and Tutsi.

Since the start of the war in 1998, ethnic Tutsis have been subjected to serious abuses, both in the capital and elsewhere, by government security forces and by some citizens for perceived or potential disloyalty to the regime; however, these abuses decreased significantly during the year. Human rights groups have complained that discrimination against persons perceived to be of Tutsi ethnicity and their supporters was a problem.

President Kabila's cabinet and office staff were geographically and ethnically diverse. However, a significant amount of political influence remained in the hands of individuals (both inside and outside the Government) from the Luba Katangan ethnic group of Kabila's father, former President Laurent Kabila. Katangans in the FAC substantially were more likely both to be promoted and to be paid than persons from other regions. Since the beginning of the war, Tutsis have been absent from the Government. The leadership and armed forces of the rebel MLC continued to be dominated by members of the Equateur province. The RCD/G leadership continued to be dominated by Tutsis.

Birth on national territory did not necessarily confer citizenship. The Government did not recognize the citizenship claims of longtime residents whose ancestors immigrated to the country, including the Banyamulenge Tutsis from Rwanda. However, in ICD negotiations in Sun City, the Government and most other parties agreed to

grant citizenship to the Banyamulenge. This has not yet been implemented and was on hold until the completion of transitional government talks.

During the year in the Ituri district in Orientale province, fighting between members of the Lendu and Hema ethnic groups (and other smaller tribes allied with either the Lendu or the Hema) resulted in thousands of civilian deaths and the displacement of more than 500,000 persons. UPDF and rebel factions have armed both groups and manipulated ethnic tensions—resulting from long-standing land disputes and colonial favoritism to the Hema—to exploit the region's resources. There have been reports that the Rwandan government supplied and trained Hema militias led by Thomas Lubanga, while the progovernment RCD-ML supported Lendu combatants.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—In areas under government control, the law permitted all workers, except magistrates and military personnel, to form without prior authorization and to join trade unions. The National Union of Congolese Workers (UNTC) remained the largest labor federation. The country's other large confederations were the Democratic Confederation of Labor (CDT) and the Congo Trade Union Confederation (CSC). There also were almost 100 other independent unions, which were registered with the Labor Ministry. Some of the independent unions were affiliated with political parties or associated with a single industry or geographic area; however, they also had ties to larger unions, such as the UNTC, which had more diverse membership. Since the vast majority of the country's economy was in the informal sector, only a small percentage of the country's workers were organized.

The collapse of the formal economy, which was exacerbated by the civil war, resulted in a decline in the influence of trade unions, a tendency of employers to ignore existing labor regulations, and a decrease in wages as jobs increasingly became scarce. The Labor Code prohibited discrimination against unions, although this regulation was not enforced effectively by the Ministry of Labor. The law also required employers to reinstate workers fired for union activities. In the public sector, the Government set wages by decree; public sector unions acted only in an informal advisory capacity.

On October 7, the Government passed a new labor code; however the code has not yet been published.

Police forcibly dispersed labor marches during the year (*see* Section 2.b.).

Unlike in the previous year, there were no reports that security forces arrested or detained labor leaders and activists.

Unions could affiliate with international bodies. The UNTC participated in the Organization of African Trade Union Unity, and the Central Union of Congo was affiliated with the World Confederation of Labor. Both the UNTC and the CDT also were affiliated with the International Confederation of Free Trade Unions.

In areas not under government control, there were no reports of functioning labor unions.

*b. The Right to Organize and Bargain Collectively.*—In areas under government control, the law provides for the right to bargain collectively. The professional unions and the Congolese Business Federation signed a cooperative agreement in 1997; however, while collective bargaining still existed in theory, continuing inflation encouraged a return to the use of pay rates individually arranged between employers and employees.

The law recognizes the right to strike; however, legal strikes rarely occurred because the law requires unions to have prior consent and to adhere to lengthy mandatory arbitration and appeal procedures. Labor unions were not able to defend effectively the rights of workers in the deteriorating economic environment. The law prohibits employers or the Government from retaliating against strikers, but this prohibition was not enforced.

On January 15, doctors held a 48-hour warning strike to protest a bill that would allow health professionals other than doctors to manage a health care center. The Government took no action against the strikers.

In February workers at Starcell, a telecommunications company, went on strike and demanded contract negotiations. ANR detained an expatriate employer and released him only after he agreed to accept union demands.

In January and in June, workers of the Congolese Office of Post and Telecommunications continued a strike to protest 22 months of salary arrears; the Government took no action against the strikers.

During much of the year, some ONATRA workers were on strike to protest salary arrears; the Government took no action against strikers.

There were no export processing zones.

In areas not under government control, there were no regulations in effect that governed employment or union memberships. Rebel authorities held complete control over public and private sector workers. Rebel authorities generally did not pay public sector employees.

*c. Prohibition of Forced or Bonded Labor.*—In areas under government control, the law prohibits forced or bonded labor; however, there were reports that Mai Mai groups and Hutu militias abducted men, women, and children and forced them to work in rural areas (see Section 1.b.).

The law does not prohibit specifically forced and bonded labor by children; however, the general law prohibiting forced or bonded labor applies (see Section 6.f.). Many children were forced by their parents to leave school and beg in the streets or work to earn money for their families. Unlike in the previous year, there were no reports that the Government forcibly conscripted children or adults.

There were NGO reports that some tribes used Pygmies as slaves (see Section 5).

In areas not under government control, there were numerous reports that rebel groups, foreign troops, Mai Mai, and Hutu militias used forced and bonded labor. RCD/G and RDF soldiers routinely forced civilians to carry heavy loads for them for long distances or to transport them without pay on their bicycles, which typically were used as taxis in many eastern cities. Armed combatants on all sides, particularly Hutu militias and Mai Mai groups, abducted women and children and forced them to provide household labor or sexual services, for periods ranging from several days to several months. Rwandan and RCD/G soldiers continued to conscript forcibly adults and children, often forcing those they had arbitrarily arrested to train and serve with RCD/G forces (see Section 5).

There continued to be numerous reports that the Rwandan army forced Rwandan prisoners and Congolese civilians, including children, to mine coltan in the Provinces of South Kivu and Maniema, especially in the areas of Kalemie and Kalima.

On January 17, NGOs reported that Mfaume Ebombo, a civil servant, and Burundian soldiers seized control of palm groves belonging to the villagers in Ake I and II, Iyuwa, and Swima, South Kivu and forced the villagers into slave-like labor, regardless of age or state of health. Burundian soldiers reportedly patrolled the groves with whips. On January 27, a Burundian soldier reportedly slashed M'mabi Birire with a machete because he told the soldier he could not climb a palm tree; soldiers also whipped Mshenji Ishibilebwa for the same reason.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—In areas under government control, the legal minimum age for full-time employment without parental consent is 18 years. Employers legally may hire minors between the ages of 14 and 18 with the consent of a parent or guardian, but those under age 16 may work a maximum of 4 hours per day. The employment of children of all ages was common in the informal sector and in subsistence agriculture, which were the dominant portions of the economy. Such employment often was the only way a child or family could obtain money for food. Larger enterprises generally did not exploit child labor. Neither the Ministry of Labor, which was responsible for enforcement, nor the labor unions effectively enforced child labor laws.

There continued to be reports that forced child labor occurred (see Section 6.c.).

In areas not under government control, there were numerous credible reports that rebel groups, foreign troops, Mai Mai, and Hutu militias used forced child labor (see Section 6.c.).

*e. Acceptable Conditions of Work.*—In areas under government control, most citizens were engaged in subsistence agriculture or commerce outside the formal wage sector. The average wage did not provide a decent standard of living for a worker and family. Most workers relied on extended family and informal economic activity to survive. The low salaries of police, soldiers, and other public officials (and the non-payment of salaries) encouraged many of these officials to extract bribes. The maximum legal workweek (excluding voluntary overtime) was 48 hours. One 24-hour rest period was required every 7 days.

Civil servant salaries remained very low, ranging between \$4 (1,600 Congolese francs) and \$20 (8,000 Congolese francs) per month, and salary arrears continued to be a problem. However, depending on their position, civil servants frequently supplemented their incomes through various practices of corruption. The Congolese Credit for Development fund (CCD), which was announced in July 2001, has not yet been implemented.

On July 3, the Government passed a new minimum wage law, which provided public and private sector workers with a minimum daily wage of \$.86 (335 Congolese francs); however, on October 14, the Government announced that due to fiscal constraints, public salaries would not be raised to comply with the minimum wage.

Some public ministry workers subsequently went on an extended strike (*see* Section 6.b.).

The Labor Code specifies health and safety standards. The Ministry of Labor officially was charged with enforcing these standards, but it did not do so effectively. No provisions in the Labor Code permitted workers to remove themselves from dangerous work situations without jeopardy to their continued employment.

The law provides for the protection of legally documented foreign workers.

In areas not under government control, rebel authorities did not address employment issues or health and safety standards. There were few jobs available in the formal sector. Employees of RCD/G-controlled parastatals remained unpaid. Most citizens in rebel-controlled territory were engaged in subsistence agriculture or commerce outside the formal wage sector. The average wage did not provide a decent standard of living for a worker and family. Due to extended pillaging, extortion by armed groups, and instability forcing families to flee their homes and crops, poverty and economic hardship generally were more severe in areas held by rebels and foreign troops than in areas under government control. Most citizens relied on informal economic activity, humanitarian aid, and scavenging in the forests. Salary arrears for police, soldiers, and other public officials encouraged extortion and theft from the population.

*f. Trafficking in Persons.*—In areas under government control, there were no specific laws that prohibited trafficking in persons, and trafficking occurred; however, there were laws prohibiting the corruption or debauchery of minors under the age of 21. The Government also was a party to the Convention on Repression of Trafficking of Human Beings and Exploitation of Third Party Prostitution; the Additional Convention Relating to Child Rights; and the Optional Protocol on the Sale of Children. Unlike in previous years, there were no reports that women were trafficked for sexual purposes to Europe; however, child prostitution was common in Kinshasa and in other parts of the country. There were reports during the year that girls were forced into prostitution to earn money for their families.

The Government had few programs in place to prevent this practice. The Government coordinates with other countries on trafficking issues and has attended some regional meetings on trafficking in persons; however, government efforts to combat trafficking were limited by a lack of resources and information, and because much of the country's trafficking problem occurred in areas controlled by rebel groups and foreign armies. The Government has not investigated vigorously or prosecuted trafficking cases. The Government has no resources for training; however, it permits training of officials by the Government of France and by NGOs. The Government does not coordinate with other countries on trafficking issues and has no funding for protection services. Victims are not prosecuted.

In areas not under government control, there continued to be reports that the RCD/G, RDF, Mai Mai, Hutu militias, MLC, and other armed groups kidnaped men, women, and children and forced them to provide menial labor or sexual services for members of the armed group. Many of the victims were held for periods of several days to several months. Specific information was difficult to obtain because NGO access was hindered and because victims were reluctant to discuss their experiences because of possible reprisal from the perpetrators and the social stigma attached (*see* Section 5).

The Government repeatedly has criticized severely the abduction of women and children by armed groups in areas of the country not under government control. On May 28, the Government filed a case against Rwanda in the World Court, accusing Rwandan soldiers of killing, raping, and kidnaping civilians in the country.

## REPUBLIC OF CONGO<sup>1</sup>

The Republic of the Congo is ruled by a government in which most of the power was vested directly in the President. Denis Sassou-Nguesso was elected President by a large majority of voters in March, and in May and June legislative elections were held for the Senate and the House of Delegates in most jurisdictions. Both the presidential and legislative elections were determined to be generally free and fair and “not to contradict the will of the people” by independent monitors; however, there were some flaws and irregularities in the administration of the elections, which caused lingering credibility issues for some persons in the international com-

<sup>1</sup>The United States Embassy evacuated its facilities in the country during the 1997 civil war and subsequently operated out of the American Embassy in the Democratic Republic of the Congo; however, in late 2001, operations resumed, and at least one American diplomat usually was present in the country during the year.

munity and certain nongovernmental organizations (NGOs). The Government took office in August, and the legislature began work in October. Because of security problems, elections in some jurisdictions in the Pool region had not yet been held. Antigovernment Nsiloulou Ninja militiamen operated principally in the northern and central Pool regions and the conflict heated up in parts of the Pool. The judiciary was corrupt, overburdened, underfinanced, and subject to political influence.

The security forces included the police, the Gendarmerie, and the armed forces; however, the functional distinction between these forces was not always clear. In theory the police should be the first to respond to security incidents, with gendarmes and army units intervening later if necessary; however, in practice overlapping operations were common. The Government did not have full control over some individual members or units of the security forces. The Angolan armed forces that were in the country under a bilateral agreement to provide security had departed by year's end. During the year, some Angolan units had moved into the Pool to help secure the railroad following the March attacks by an antigovernment militia and provided security on other occasions. Some members of the security forces committed serious human rights abuses.

The economy suffered serious losses from destruction and looting in much of the south during the 1997 civil war and the 1998–99 conflict, particularly in Brazzaville, where an estimated one-third of the country's approximately 3 million population normally resided. Oil and timber exports remained the country's main sources of foreign exchange. Although per capita gross domestic product was estimated in 2001 at approximately \$700, this figure included substantial oil export revenues, which were not distributed widely throughout the population. Approximately 70 percent of the population lived in poverty. Lack of transparency and inefficient government impeded rehabilitation and development.

The Government's human rights record remained poor, and it continued to commit serious abuses. Security forces were responsible for extrajudicial killings, as well as summary executions, rapes, beatings, physical abuse of detainees and citizens, arbitrary arrest and detention, looting, solicitation of bribes and theft. There were credible reports that the Government deployed undisciplined forces during the year in the Pool region. Prison conditions were poor. The judiciary was unable to ensure fair and expeditious trials. The Government and its political allies continued to monopolize domestic broadcast media; however, private newspapers circulated freely and often were critical of the authorities. There were some limits on freedom of movement. Domestic violence and societal discrimination against women were serious problems. Discrimination on the basis of ethnicity remained widespread, including against minority indigenous Pygmies. Child labor was a problem. There were unconfirmed reports of the recruitment of child soldiers. There were reports of trafficking in persons. Citizens sometimes resorted to vigilante justice and killed suspected criminals.

Rebel militias committed serious human rights abuses.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were reports during the year of extrajudicial killings by security forces, particularly in the Pool region where the armed forces were fighting a rebel militia. Unlike in the previous year, there were no reports that police killed persons who fled arrest.

There was one report in that security forces summarily executed several soldiers responsible for killing an entire family. During the year, the Government deployed undisciplined troops on two occasions in Brazzaville and such forces were deployed in the Pool throughout the year (*see* Section 1.c).

No action was taken against members of the security forces responsible for the following killings in 2001: The September killing of a suspected thief and the killing of a person believed to have threatened the security of a government minister.

There were no developments in the July 2001 conviction of five police officers, who had been dismissed for their involvement in the November 2000 overcrowding and suffocation of 12 persons in jail. At year's end, they still were awaiting a decision on their sentencing by a civilian court in Pointe Noire.

No action reportedly was taken against members of the security forces responsible for the following killings or other deaths in custody in 2000: The death in custody of Gabriel Louya; the August killings of two family members of a policeman; and the September killing of a civilian during a dispute between security forces.

From March to year's end, many civilians were killed when rebel militia forces raided villages. In addition, rebel militia members kidnaped and allegedly killed a

French priest (*see* Section 1.b.). Some 9,000 persons who had fled the fighting were in refugee camps outside Brazzaville at year's end.

There continued to be occasional deaths due to mob violence, as civilians took vigilante action against presumed criminals, or as individuals settled private disputes; however, police at times intervened to stop such action. For example, in November in a northern village a Rwandan refugee burned to death a Congolese woman as a result of a dispute. The Rwandan turned himself in to police to avoid mob action. Some villagers attacked and looted a Rwandan neighborhood. No action was taken against most of the persons who participated in mob violence. Some of the villagers were arrested; however, they subsequently were released.

*b. Disappearance.*—In March, following an attack by Nsiloulou Ninja's militia on the railroad, the army began a campaign in the Pool region to suppress the militia. In July there were reports that at least 20 young men suspected of supporting the antigovernment Nsiloulou militia were arrested and taken away (*see* Section 5). Their whereabouts were unknown at year's end.

In August 2001, the Government appointed a special commission of the National Transitional Council (CNT) to investigate allegations that 353 young men who took refuge in the Democratic Republic of the Congo (DRC) in 1999 were separated from their families by security forces upon returning to Brazzaville in May 1999, and subsequently disappeared. The commission's report, which was to include other disappearances due to civil hostilities since 1993, was given to the Ministry of Justice in August shortly before the CNT was dissolved and the newly elected parliament was installed. The report was not made public by year's end. In December 2001, families of the disappeared filed suit in the International Court of Justice (ICJ) in Brussels accusing members of the Government, including President Sassou, of crimes against humanity. During the year, a French court began an investigation into the case. General Norbert Dabira, Inspector General and Logistics Chief of the Army, appeared before the court and denied involvement. In October the French court questioned Gerard Bitsindou, a former minister. The Government objected to his continued involvement in the court proceeding on the grounds that the court lacked jurisdiction. In December the Government filed suit in the ICJ to prevent French courts from exercising jurisdiction over members of President Sassou's government. The ICJ ruled that the court would not have jurisdiction until it received France's consent.

The rebel Nsiloulou militia kidnaped a French priest and an army officer. The priest was later found dead and most observers believed followers of Frederic Bitsangou, also known as Pastor Ntoumi, killed him. On December 4, a group of armed men identified by the Government as Nsiloulou militia members kidnaped two employees of the International Committee of the Red Cross (ICRC). They were released unharmed by year's end.

*c. Torture and other Cruel and Inhuman Treatment or Punishment.*—The Constitution prohibits acts of torture and cruel, inhuman, or degrading treatment; however, in practice security forces sometimes used beatings to coerce confessions or to punish detainees. There were reports that female detainees were raped. Some members of the security forces beat citizens and looted their homes (*see* Section 1.f.), and frequently extorted money and cellphones from travelers at checkpoints (*see* Section 2.d.). No action was taken against responsible personnel by year's end.

There were reports that undisciplined government forces committed abuses such as summary executions, rape, looting, and other violent acts, primarily in the Pool region but also in Brazzaville. In the Pool region, the Government forces reportedly included Angolan soldiers and mercenaries of Rwandan origin who severely mistreated the local population.

During negotiations in April for the surrender of Ninja militia members in Brazzaville, shots were fired in some southern neighborhoods of Brazzaville, which caused the residents of the area to panic and flee. Some army and police forces, who were in the area to ensure security during the surrender negotiations, robbed, beat, and in some cases raped the fleeing citizens. Subsequently, drunken soldiers threatened to kill an international humanitarian worker who refused to surrender her cellphone. After 2 days, during which homes and stores were looted, the soldiers were replaced with more disciplined troops; however, no action was taken against the responsible soldiers by year's end.

In June the Nsiloulou Ninja militia supporters of Pasteur Ntoumi, attacked the Brazzaville airport. Government forces fought the attackers, which caused residents of nearby neighborhoods to flee. Government soldiers again robbed and abused the fleeing citizens. Authorities responded forcefully by identifying and dismissing certain police officers and soldiers and returning stolen goods to the owners.

There were no developments in the August 2001 case in which dissatisfied soldiers threw a grenade at the home of the Defense Minister.

Members of the police received training in human rights from local NGOs in 2001, and on several occasions, high-ranking police officials gave speeches exhorting police officers and officials to respect civilians and their rights. During the year, the U.N. and the ICRC provided additional human rights training.

Prison conditions remained poor due to overcrowded facilities and scarcity of resources to provide food or health care to the inmates. Prisons functioned in Brazzaville and Pointe Noire and to a lesser degree in the smaller, more remote towns of Owando, Ouesso, and Djambala. The Ministry of Justice continued to repair some prisons during the year; however, lack of funds hindered efforts to improve physical facilities and to provide food and medicine.

Detainees held at police stations often were subjected to beatings, overcrowding, extortion, and other cruel, inhuman, or degrading treatment. A group of 17 persons who spent 16 months in prison in Impfondo between 1998–1999 filed a complaint in Pointe Noire in 2000 against the Government alleging cruel and inhuman treatment, including torture, during their incarceration. In August 2001, dissatisfied with the pace of justice, they filed a complaint in a Belgian national court. This court eventually determined it lacked jurisdiction, and the case was dismissed during the year.

Women were incarcerated with men, and juveniles were held with adults. Pretrial detainees were detained with convicted prisoners.

Access to prisons and detention centers by domestic and international human rights groups continued to be granted. Local human rights groups, including the Congolese Observatory for Human Rights (OCDH), the Association for the Human Rights of the Incarcerated (ADHUC), the National Counsel for the Promotion and Protection of the rights of Detained Persons (CNPDH), and a Catholic Church organization visited prisons during the year. The ICRC continued regular visits to prisons and detention centers throughout the country.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, security forces frequently committed such acts. For example, the husband of a journalist was arrested without a warrant and taken from his home following a complaint by a prominent clergyman that the journalist's employer had published a report that the clergyman was involved in the abuse of female refugees. The journalist followed the arresting officers and arranged for her husband's release by appealing to the officers' superiors.

The Code of Penal Procedure, which remained in force, requires that a person be apprehended openly and that a lawyer be present during initial questioning. The Code further stipulates that warrants be issued before arrests are made and that detainees be brought before a judge within 3 days and either charged or released within 4 months. In practice the Government often violated these legal provisions. Detainees usually were informed of the charges levied against them, and lawyers and family members usually were given access to them. There is a system of bail called a "caution"; however, more than 70 percent of the population has an income below poverty level and usually cannot afford to pay bail.

During the year, government forces arrested young "southern" men following militia attacks (see Sections 1.b. and 5).

The Constitution prohibits forced exile; however, in the past, the Government has blocked the return of some citizens. For example, some officials of the previous government, including former President Lissouba and former Prime Minister Kolelas, remained outside the country. Kolelas' attempts to return failed on at least two occasions in 2001 when the Government intervened and airlines refused to transport him. Many other officials of the former government, including cabinet members, have returned to the country and resumed political activity. A few were elected to the new Parliament. During the year, none of the more senior exile leaders attempted to return.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice the judiciary continued to be corrupt, overburdened, underfinanced, and subject to both political influence and bribery. Lack of resources continued to be a severe problem; almost nothing remained of judicial records, case decisions, and law books following the looting during the civil wars of the late 1990s. The Ministry of Justice continued slowly to rehabilitate courthouses during the year.

The judicial system consists of local courts, courts of appeal, the Supreme Court, and traditional courts. In addition, two new judicial bodies were added under the new Constitution: The Constitutional Court (to supervise elections and judge the constitutionality of laws) and the High Court of Justice (whose function is to try a

President accused of treason). In rural areas, traditional courts continued to handle many local disputes, especially property and probate cases, and domestic conflicts that could not be resolved within the family.

In general defendants are tried in a public court of law presided over by a state-appointed magistrate. The defense has access to prosecution evidence and testimony and the right to counter it. In formal courts, defendants are presumed innocent and have the right of appeal; however, the legal caseload far exceeded the capacity of the judiciary to ensure fair and timely trials. Some cases never reached the court system.

The Government established military tribunals to try soldiers for abuses committed during periods of conflict. During the year, the tribunals were active; however, the sessions were not public.

In December 2001, in addition to previous convictions, former President Lissouba was convicted in absentia of high treason and sentenced to 30 years hard labor plus a fine of approximately \$37 million (25 billion FCFA) (*see* Section 3.).

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, in practice security forces at times illegally entered, searched, and looted private homes. During the year, military, gendarmerie, and police forces occasionally beat civilians and looted their homes sometimes in revenge for complaints filed by the civilians against them. During the period following the shootings in April and the June Ninja attack on the Brazzaville airport (*see* Section 1.c.), such incidents briefly became common. More responsible officers attempted to restrain their troops but with varying degrees of success. In the areas of the Pool where government security forces and affiliated forces were fighting the Nsiloulou Ninjas, reports of such behavior by the army were common.

Citizens generally believed that the Government monitored private mail and telephone communications; however, there were no reports that security forces arrested persons due to the content of their private communications.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, although it also criminalizes certain types of speech such as incitement to ethnic hatred, violence, or civil war, and the Government generally respected these rights; however, it continued to monopolize broadcast media. In 2001 the Press Law was modified. While maintaining monetary penalties for defamation and incitement to violence, the law no longer requires prison terms for violators, including cameramen, editors, and other working members of the press. The law also applies to include the Internet and business public relations operations.

There was no state-owned newspaper. There were 15 to 20 private newspapers that appeared weekly in Brazzaville. Some of these newspapers take editorial positions critical of the Government and print articles disparaging authorities. Newspapers continued to publish on occasion open letters written by opponents of the Government who were in prison or lived abroad. The print media did not circulate widely beyond Brazzaville and Pointe Noire; however, it reached approximately two-thirds of the population.

Most citizens obtained their news from the broadcast media, primarily radio, which effectively remained a government monopoly. Government-owned Radio Congo and Radio Brazzaville broadcast approximately 18 hours a day; government-owned Television Congo broadcast for fewer hours. A local FM station rebroadcast Radio France International and Voice of America (VOA), and British Broadcasting Corporation (BBC) retransmissions were available. Radio and television broadcasts from neighboring DRC were received in Brazzaville. The private independent station, Radio Liberte continued to broadcast. Local rebroadcasts of the Gabon-based Africa Number One also continued during the year. A Christian missionary group in Pointe Noire received permission to broadcast during daylight hours; it voluntarily provided its broadcast material to the Government prior to broadcast. The news coverage and the editorial positions of the state-owned media reflected government priorities and views.

Government broadcast media focused its attention on the activities of government officials and their supporters; there was no meaningful airing of alternative political views.

Internet service was available through two private companies in Brazzaville, and two companies based in Kinshasa, DRC. The Government-controlled provider ceased operations in the late fall. Several Internet cafes also provided access, and private persons with sufficient money could access the Internet directly via satellite and service providers in Brazzaville, Pointe Noire, or the DRC.

The Government did not restrict academic freedom.



*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the freedoms of assembly and association, and the Government generally respected these rights in practice. Political parties and civic associations held numerous meetings during the year. Public demonstrations were less common, and there were no known public protests. Groups that wished to hold public assemblies were required to inform the Ministry of Interior, which could withhold authorization for meetings that threatened public order; however, there were no reports that the Government withheld permission during the year.

The law permits associations, political parties, and other groups to form freely, provided that they respect principles of sovereignty, territorial integrity, national unity, and democracy. All groups, political, social, or economic, were generally required to register with the Ministry of Interior, which in August was divided into the Ministry of Security and Police and the Ministry of Territorial Administration. No political parties were banned or suspended. The parties of some prominent leaders of the former government continued to operate.

*c. Freedom of Religion.*—The Fundamental Act provides for freedom of religion, and the Government generally respected this right in practice.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, in practice the Government imposed some limitations. Military and police checkpoints, which at times interfered with the movement of civilians, continued to operate during the year, and soldiers frequently extorted money and cellphones from private persons and commercial traders to permit passage through these checkpoints. Following the March and June Nsiloulou militia attacks on the railroad and Brazzaville's airport (see Section 1.c.), the Government restricted travel in the Pool region. The inhabitants were requested to depart to avoid being injured by government forces in pursuit of the Nsiloulou militia and their supporters. Movements by international organizations and NGOs were restricted due to the security situation. Permission to enter the area of conflict could be obtained only from the Ministry of Security and Police.

Unlike in the previous year, there were no reports that the Government intervened to prevent the return of anyone to the country; however, no senior member of the opposition tried to return during the year.

There were no reports of the prevention of the return of displaced persons; however, train service was disrupted following attacks on it by the Nsiloulou Ninja militia during the year.

During the civil conflicts, tens of thousands of citizens fled into neighboring countries, particularly Gabon and the DRC. Approximately 45,000 persons fled to the Bas-Congo province of the DRC; however, all but approximately 5,000 had been repatriated to the country by year's end. Approximately 15,000 citizens fled to Gabon and, according to U.N. figures, 9,000 persons remained there at year's end. In 2001 the U.N. High Commissioner for Refugees (UNHCR) signed a tripartite accord with the Government and the Government of Gabon for the return of these persons. According to the UNHCR, fewer than 700 such persons had returned to the country by year's end.

The Constitution provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government granted first asylum to refugees from other countries. The country continued to host a small number of Burundians and approximately 7,000 Rwandans, largely members of the Hutu ethnic group, who fled camps in the eastern part of the DRC in 1996 and arrived in the country mainly in 1997. The Government, in collaboration with the UNHCR, integrated approximately 2,000 of these refugees in the north-central regions of the country; however, some remained loosely grouped in an encampment north of Brazzaville, and others have integrated informally into society. Humanitarian NGOs reported that there were 20,800 Angolan refugees in Pointe Noire at the end of 2000. Of these, approximately 3,000 continued to receive some UNHCR assistance in camps during the year; the remaining approximately 16,000 were integrated into the local communities or repatriated.

More than 100,000 refugees and several hundred combatants, including DRC troops, have fled to the northern Cuvette and Likouala regions of the country due to fighting in the DRC's Equateur Province since 1999; some were repatriated to Kinshasa. Lack of roads and airstrips, and insecurity along the Congo and Ubangui rivers, complicated humanitarian access to these refugees. Beginning in September 2001, a series of joint river patrols by government and DRC authorities improved the security situation and permitted relatively safe river travel as far north as

Impfondo. Humanitarian organizations were able to provide materials to the refugees as far north as Betou (*see* Section 4). With the beginning of the intra-Congolese dialog, some refugees from this area were able to cross the river to their former homes; however, few felt safe enough or wished to return permanently. In April authorities arrested and repatriated forcibly to the DRC 19 DRC refugees. Some of these individuals had refugee status applications pending with the UNHCR; however, none had been granted formal refugee status by the UNHCR because of their possible involvement in human rights abuses as former members of the DRC's security and intelligence services. Their families and colleagues, who had received provisional refugee status, remained in the country, and during the year, they were moved within the country for security reasons. In October some refugees from the Central African Republic (CAR) fled to the country following an coup attempt in Bangui; however, most had returned to the CAR by year's end.

There were no reports of the forced return of persons to a country where they feared persecution during the year.

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

With a Constitution and the holding of elections during the year, citizens generally had the right to change their government peacefully. Presidential and legislative elections held over a period of nearly 6 months in two rounds per election were determined "not to contradict the will of the people" by independent observers, despite obvious flaws like insufficient numbers of ballots at certain polling stations and confusion over their locations. In addition, key documents, such as the Constitution, and the elections were viewed by some foreigners as designed to protect the status quo. International observers for the presidential elections in March included the Organization of French-Speaking Countries, the European Union, and the African Union. Local observers included NGOs. There were fewer international observers for the legislative elections. Most foreign observers based in the country concluded that elections were reasonably free and fair and did not thwart the will of the people, although they were flawed and remained incomplete at year's end due to an ongoing armed insurgency in the Pool region. Administrative improvements also were noted in each round.

The Sassou-Nguesso government came to power by force of arms in 1997 with the help of the armed forces of Angola. During the 1998 national reconciliation forum, the Government announced its intention to enact a new constitution and hold elections within 3 years. The draft Constitution was approved by the CNT in November 2001, and approved by a referendum on January 20.

The Constitution gives the President extraordinary power. He presides over the Council of Ministers and proposes legislation. The President also directly appoints three members of the nine-person Constitutional court, appoints from a list four more members, and names its president from among its members. Although the Parliament votes the budget, most of the day-to-day responsibility for government operations was in the hands of the executive branch, and the President can decree a budget that has been rejected twice by the Parliament.

The state remained highly centralized. Since the 1997 civil war, key regional and local leaders have been appointed by the central government. Subnational government entities lacked an independent revenue base and did not represent a significant check on central authority.

Major political parties included the ruling Congolese Workers' Party (CNP), the Panafrican Union for Social Democracy, the Congolese Movement for Democracy and Integrated Development, the Union for Democracy and the Republic, the Rally for Democracy and Social Progress. There were as many as 200 other parties; however, most generally were ineffective. Some party leaders remained in exile while other party officials willing to cooperate with the Government or to oppose it non-violently returned to or remained in the country. Opposition parties were able to campaign openly during the year, hold rallies and press conferences, and place their supporters inside polling places to monitor elections. The opposition was ineffectual and divided. Some parties asked their supporters to boycott the elections and withdrew their candidates. During the election campaign, certain candidates were accused of intimidation, incitement to violence, and cheating; such candidates were disqualified from participation in the election. Nevertheless, opposition parties were publicly encouraged to field candidates, to furnish observers, and to participate in pre-election activities. Television broadcasts provided airtime to opposition politicians; however, government candidates were provided more airtime. Newspapers freely expressed the entire range of opposition opinion. There were a few reports of intimidation of candidates and voters; however, the opposition allegedly was responsible for about 40 percent of the incidents. There was no cohesive opposition, and

many of the political parties were more personality-centered than they were representative of a constituency.

In 1998 the CNT passed a law on genocide, war crimes, and crimes against humanity that permits the exclusion from public office of those found guilty of such crimes. This law could be used to exclude opponents from the political process, and the threat of charges under this law may have dissuaded exiled political figures from returning to the country. In 1999 a court convicted in absentia former President Lissouba of plotting to kill President Sassou-Nguesso, and in 2000 a court convicted in absentia former Prime Minister Kolelas of torture and other crimes during the 1997 civil war. In December 2001, Lissouba was again convicted, this time for high treason, and sentenced to 30 years' hard labor (*see* Section 1.e.). Nevertheless, many senior officials of the former government, including a number of former cabinet ministers, returned to the country and resumed political activities without incident.

There were no legal restrictions on political participation by women or minority populations. There were 9 women in the 60-seat Senate and 12 women in the 137-seat House of Delegates. There were 5 female ministers in the 33-member Cabinet. There was one female candidate in the presidential election.

Pygmies continued to be excluded effectively from social programs and the political process, in part due to their isolation in remote forested areas of the country. The Cabinet included members of many ethnic groups from all areas of the country. Many key posts were held by northerners, including members of the President's Mbochi ethnic group; however, no ethnic or regional group was overly represented. Members of ethnic groups, who did not support the Government during the war, have been permitted to return to their former government jobs.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic human rights groups generally operated with minimal government restriction, investigating and publishing their findings on human rights cases; however, some human rights leaders maintained that at times they were subjected to subtle forms of intimidation, including phone calls of a harassing nature. Nevertheless, they continued to publish reports that were highly critical of the Government with no apparent reprisal. Government officials generally were uncooperative and unresponsive to human rights groups.

In late December, the Council of Ministers approved a draft law for the formation of a national human rights commission and forwarded it to the Parliament for consideration.

The ICRC maintained an office in Brazzaville. During the year, the security situation in large parts of the Pool region deteriorated. Following the Nsiloulou Ninja attacks in March and April, humanitarian and international organizations were required to coordinate in advance with government authorities their movements in the Pool region. On occasion, access was denied on security grounds. On December 4, two staff members of the ICRC, a delegate and a local staff person, were kidnaped in the Pool region; they later were released unharmed (*see* Section 1.b.). The Government and the DRC continued joint border patrols on the Congo and Ubangui rivers, further improving the general security situation and discouraging bandits and undisciplined military units from randomly targeting civilians and refugees (*see* Section 2.d.). Humanitarian organizations were able to provide materials to the refugees as far north as Betou.

#### *Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution specifically prohibits official discrimination; however, societal discrimination persisted in practice, particularly against women and Pygmies. Ethnic and regional differences continued; however, there was no organized societal violence during the year.

*Women.*—Domestic violence against women, including rape and beatings, was widespread but reported rarely. Domestic violence was handled within the extended family and only the more extreme incidents were brought to the police. There were no specific provisions under the law for spousal battery, apart from general statutes prohibiting assault. Rape is illegal, and widespread rape during the 1998–1999 civil conflict raised public awareness of violence against women. NGOs, such as the International Rescue Committee, the ICRC, and Medecins Sans Frontieres, continued to draw attention to the issue and provided counseling and assistance to victims.

Female genital mutilation (FGM) was not practiced indigenously, but may have occurred in some of the small immigrant communities from countries where it was more common.

The Constitution provides for the equality of all citizens, prohibits discrimination based on gender, and stipulates that women have the right to equal pay for equal work; however, in practice women were underrepresented in the formal sector. Most worked in the informal sector and thus had little or no access to employment benefits. Women in rural areas especially were disadvantaged in terms of education and wage employment and were confined largely to family farming, petty commerce, and childrearing responsibilities.

Marriage and family laws overtly discriminate against women. For example, adultery is illegal for women but not for men. Polygyny is legal; polyandry is not. While the Legal Code provides that 30 percent of the husband's estate goes to the wife, in practice the wife often lost all rights of inheritance upon the death of her spouse, especially in the context of traditional or common law marriages. The symbolic nature of the dowry set in the Family Code often was not respected, and men were forced to pay excessive bride prices to the woman's family. As a result, the right to divorce was circumscribed for some women because they lacked the financial means to reimburse the bride price to the husband and his family. This problem was more prevalent in rural areas than in urban centers.

A number of NGOs worked on women's problems; however, their effectiveness varied widely. The new Cabinet included a ministry of Social Solidarity, Humanitarian Affairs, Disabled War Veterans, and Family Affairs, which was headed by a woman. A second ministry, the Ministry of Agriculture, Livestock, Fisheries, and Women's Affairs, also was headed by a woman. This ministry included a Secretary of State delegate to the ministry whose portfolio was for women's affairs and the involvement of women in development.

*Children.*—The Constitution provides children equal protection under the law. Education was compulsory and free until the age of 16 years. Girls and boys attended primary school in equal numbers; however, school attendance by girls declined precipitously at the high school and university levels. In 1997 the literacy rate was 77 percent for the total adult population but only 70 percent for women. Current literacy rates were unknown but were believed to have fallen due to the widespread destruction of schools and displacement of persons by the political instability and physical insecurity during much of the 1990s.

Teenage girls were often pressured to exchange sex for better grades. This practice resulted in both the spread of HIV/AIDS and unwanted, unplanned pregnancies, which were considered social problems.

FGM may be performed on girls in some immigrant communities (*see* Section 5, Women).

There were indigent street children in Brazzaville, and their numbers have grown as a result of civil conflict since 1997. In addition, children from the DRC easily crossed the river by stowing away on the ferry, which crossed several times per day, to seek improved living conditions. UNICEF estimated that at least 20 percent of street children in Brazzaville were from the DRC; however, NGO estimates were as high as 50 percent or more. Children from the DRC also were found in Pointe Noire. The children were not known to suffer from targeted abuse by government authorities or vigilante groups; however, they were vulnerable to sexual exploitation and often fell prey to criminal elements including drug smugglers. Many of the street children beg or sell cheap or stolen goods to support themselves. Some may have turned to prostitution or petty theft.

There were unconfirmed, anecdotal reports that children were recruited as soldiers for service in the Pool region after the April violence in Brazzaville.

*Persons with Disabilities.*—The Constitution prohibits discrimination based on physical condition; however, in practice this prohibition generally was not enforced, because the Ministry responsible for implementation of this provision lacked the necessary funds. There was no overt discrimination against persons with disabilities in employment and education. There were no laws mandating access for persons with disabilities.

*Indigenous Persons.*—The Constitution prohibits discrimination based on ethnicity; however, the indigenous Pygmy ethnic group, who numbered in the tens of thousands and lived primarily in the northern forest regions, did not enjoy equal treatment in the predominantly Bantu society. Pygmies were marginalized severely in the areas of employment, health, and education, in part due to their isolation in remote forested areas of the country and different cultural norms. Pygmies usually were considered socially inferior and had little political voice. Many of them had never heard of the concept of voting and had minimal ability to influence government decisions affecting their interests. Human rights groups were preparing a small, foreign government-funded program of education on their rights for the Pygmies.

There was no credible information on whether the traditional practice of Pygmies working as indentured servants for Bantus continued during the year. Many Pygmies, possibly including children, have been exploited as cheap labor and discriminated against in employment, education, and the health sector by Bantus; however, there was little information regarding the extent of the problems during the year.

*National/Racial/Ethnic Minorities.*—The Constitution prohibits discrimination based on ethnicity; however, the Government did not enforce this prohibition effectively, and in practice ethnic discrimination persisted. Former civilian employees of the Government were encouraged to return to their former jobs even though they are from ethnic groups that opposed the Government during the civil war and the disturbances that followed. There were reports that security forces arrested young “southern” men following the April shootings in Brazzaville and an attack on the airport in June. The “Ninja” militia members were believed to be from southern ethnic groups, and the young men were accused of being supporters of the attacking militia (see Section 1.b.).

Four major ethnic groups made up approximately 95 percent of the country’s population; these groups spoke distinct primary languages and were concentrated regionally outside of urban areas. The largest ethnic group was the Kongo, who constituted the main ethnic/linguistic group in the southern part of the country and approximately half the country’s population. Within the Kongo group were various subgroups, including the Lari and the Vili. Other major ethnic groups included the Teke of the central region, with approximately 13 percent of the population, and the Mbochi of the northern region, with approximately 12 percent of the population. Societal ethnic discrimination was prevalent among virtually all ethnic groups, and was evident in private sector hiring, buying patterns, and de facto segregation of many urban neighborhoods. The relationship between ethnic, regional, and political cleavages was inexact, and supporters of the Government included persons from a broad range of ethnic and regional backgrounds.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides workers with the right to form unions, and the Government respected this right in practice. Any worker, except members of the “Forces Publiques,” which included police, gendarmerie, and Armed Forces, was free to join a union of his choice. There are two recognized trade unions in the country, the Confederation des Syndicates de Travailleurs du Congo, and the Congo Confederation des Syndicats Libres Autonomes du Congo. The Labor Code affirms the right to associate freely and prohibits restrictions on the formation of trade unions. Most workers in the formal wage sector were union members, and unions made efforts to organize informal sectors such as agriculture and retail trade.

Employers were prohibited from discriminating against employees who join a union. There were no reported firings for union activities; however, salaries were withheld from teachers who attempted to strike.

Unions were free to affiliate with international trade unions, and they maintained cooperative accords with foreign trade union organizations, such as the International Labor Organization (ILO) and the International Confederation of Free Trade Unions.

*b. The Right to Organize and Bargain Collectively.*—The Labor Code allows for collective bargaining, and this right was respected and practiced freely. However, collective bargaining was not widespread due to the social and economic disruption and extreme hardship that occurred during much of the 1990s. The Government set industry-specific minimum wage scales; however, unions usually were able to negotiate higher wages for their members.

The Constitution also affirms workers’ right to strike, subject to conditions established by law. Unions were free to strike after filing a letter of intent with the Ministry of Labor, thereby starting a process of non-binding arbitration under the auspices of a regional labor inspector from the Ministry. The letter of intent must include the strike date, at which time the strike legally may begin, even if arbitration is not complete. Employers have the right to fire workers if they do not give advance notice of a strike. No formal strikes occurred during the year; however, some informal work stoppages occurred over wages and ended when an increase was forthcoming.

In 2001 the Government sought organized labor’s agreement to a “social truce” during the period of post-conflict reconstruction, which was opposed by some labor organizations. The Government accepted certain conditions, such as regularization of salaries and rehiring of certain workers in several sectors; these conditions con-

tinued to be observed. Banks and pension funds were stolen before the civil war. Civil service retirees did receive payments, but they were minimal.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, including by children; however, such practices occurred. There was no credible information on whether Pygmies were forced to work as indentured servants for Bantus. Bantus have exploited many Pygmies, possibly including children; however, little information was available regarding the extent of the problem during the year.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Under the Constitution, children under age 16 are not permitted to work; however, in practice this law generally was not enforced, particularly in rural areas and in the informal sector in cities. Children worked with their families on farms or in small businesses in the informal sector without government monitoring or supervision. The Ministry of Labor, which is responsible for enforcing child labor laws, concentrated its efforts only on the formal wage sector. In September 2001, the Government and UNICEF jointly conducted a survey of the extent of child labor and its effects on society; however, the results were not available by year's end. Following the April shootings in Brazzaville, there were unconfirmed reports of street children being recruited for military service in the Pool region. The Government denied that recruitment of child soldiers was authorized and was opposed to child soldiers; however, unofficial sources indicated that the children were not forced, but rather enticed by offers of money and new clothing. According to the draft ILO study on child soldiers, most child soldiers involved in the civil conflicts in 1997 and 1998 were actually volunteers with a variety of motivations, including the participation of family members, the desire for revenge, and the desire to enter the army.

There were unconfirmed reports of forced child labor (*see* Section 6.c.).

*e. Acceptable Conditions of Work.*—The Fundamental Law provides that each citizen has the right to remuneration according to his work and merit. The Labor Code stipulates that overtime must be paid for all work in excess of 40 hours per week and that regular days of leisure must be granted by employers. The minimum wage was approximately \$75 (50,000 CFA francs) per month. It was not sufficient to provide a worker and family with a decent standard of living. High urban prices and dependent extended families obliged many workers, including teachers and health workers, to seek secondary employment beyond their principal employment.

Although health and safety regulations require twice yearly visits by inspectors from the Ministry of Labor, in practice such visits occurred less regularly. While unions generally were vigilant in calling attention to dangerous working conditions, the observance of safety standards often was lax. Workers have no specific right to remove themselves from dangerous working conditions without risking loss of employment. Legal foreign workers were protected by the same law that protected citizen workers; illegal workers were not protected by the law and faced deportation.

*f. Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons, and there were reports that persons were trafficked to, from, or within the country.

An ILO study conducted in 2000 in Yaounde, Douala, and Bamenda, Cameroon, indicated that regional traffickers transported children between the Republic of the Congo, and Nigeria, Benin, Niger, Chad, Togo, and the Central African Republic, through Cameroon.

There were reports of isolated cases of child prostitution, particularly among the growing numbers of street children; however, the prevalence of the problem remained unclear.

The Government stated that it did not believe trafficking was a problem. There were no special programs to address trafficking issues.

## COTE D'IVOIRE

In October 2000, Laurent Gbagbo became the country's third elected president, ending an almost 10-month period of military rule. The election, which excluded two of the major parties, was marred by significant violence and irregularities. The Supreme Court declared Gbagbo the victor with 53 percent of the vote. He remained in power despite a January 2001 coup attempt. In July 2000, citizens overwhelmingly approved a Constitutional referendum implemented in August 2000. The December 2000 elections for the National Assembly also were marred by violence, irregularities, a Republican Rally (RDR) boycott, and a very low participation rate. In implementing resolutions from the December 2001 Forum of National Reconcili-

ation, in August President Gbagbo formed a government of National Unity. While all major political parties were represented in the new government, the leadership of the RDR, the party of rival presidential candidate and former Prime Minister Alassane Ouattara, called for the resignation of its Ministers, citing the harassment and detention of its members and others by security forces. The judiciary lacked transparency and was subject to executive branch and other outside influence.

On September 19, rebellious exiled military members resident in Burkina Faso and co-conspirators in Abidjan attacked the homes of key government ministers as well as government and military/security facilities in Abidjan, Bouake, and Korhogo. In Abidjan government military and security forces stopped the coup attempt within hours, but the attacks, which targeted the elimination of key security leaders, resulted in the deaths of Minister of Interior Boga Dougou and several high-ranking military officers. There was widespread suspicion, fostered by the Government and others, that the RDR party of Alassane Ouattara and/or former-junta leader, General Robert Guei, were instrumental in the attempted coup. General Guei also was killed under unclear circumstances, although it is widely believed that police forces killed him. The failed coup attempt and ongoing rebellion quickly escalated into the country's worst crisis since independence in 1960. Rebel forces retained control in Bouake and Korhogo, and within 2 weeks moved to take the remainder of the northern half of the country. The number of civilian deaths throughout the country remained unknown, but reliable estimates were 1,150 or more. In early October, the Economic Community of West African States (ECOWAS) brokered a ceasefire, with French troops monitoring compliance. ECOWAS peace negotiations were stalled at year's end. ECOWAS continued to prepare for a peace monitoring mission. There were no ECOWAS troops in place by year's end.

Security forces under the Ministries of Defense and Interior included the army, navy, air force, Republican Guard, Presidential security force, and the Gendarmerie, a branch of the armed forces with responsibility for general law enforcement. The police forces were under the jurisdiction of the Ministry of Interior. These forces include paramilitary rapid intervention units such as the Anti-Riot Brigade (BAE) and the Republican Security Company, and the plain-clothes police investigating unit, Directorate for Territorial Security (DST). A central security staff collected and distributed information about crime and coordinated the activities of the security forces. In February 2001, the Government dissolved the Presidential Investigation Cell (CCER), a special police service that had operated out of the Presidency under the regime of General Guei. Members of the military participated in seminars on human rights. The Government did not always maintain effective control of the security forces. There were numerous credible reports of instances in which security forces acted independently of government authority. There were major divisions within the military based on ethnic, religious, and political loyalties. Security and rebel forces committed numerous human rights abuses.

The country, which had a population of 16 million, was generally poor but had a historically thriving modern sector. The largely market-based economy was heavily dependent on the commercial agricultural sector of smallholder cash crop production, especially cocoa and coffee, which with tropical fruits, wood, and petroleum products made up the bulk of exports. After assuming power, the Gbagbo government began repaying international arrears and adhering to a balanced budget, steps that led to the resumption of foreign aid; however, widespread corruption and the lack of an accountable executive and judicial branch deterred investors. The September 19 rebellion impeded commerce and severely affected the economy as the division of the country created uncertainty and rendered commerce difficult.

Although the Government improved in a number of areas before September 19, serious problems continued and some worsened. Since the September 19 rebellion, both the Government and the rebel forces have committed serious human rights abuses. Members of the security forces committed more than 200 extrajudicial killings during the year, and there were several cases of evident disappearances. Local and international human rights groups and the international and some local press reported the existence of death squads close to top government officials that targeted opposition figures; top government officials denied their existence. Several mass graves were discovered following the September 19 rebellion. Security forces frequently resorted to lethal force to combat widespread violent crime and sometimes beat detainees and prisoners. The Government generally failed to bring perpetrators of most abuses to justice. Prison conditions improved but remained harsh and sometimes life threatening. The Government continued arbitrary arrests and detention; numerous persons, including opposition members, journalists, and military officers, were detained for long periods without trial. The judiciary did not ensure due process. Police harassment and abuse of noncitizen African immigrants increased after September 19. Privacy rights were restricted severely after September

19. The Government restricted freedom of speech, assembly, movement, and press, and after September 19 used state-owned media to create an atmosphere of patriotism and nationalism. The Government generally respected freedom of association although some restrictions remained in practice. The Government also generally respected freedom of religion, although Muslims and practitioners of indigenous religions were subject to discrimination. The Government allowed investigations into the human rights situation by Amnesty International (AI), Human Rights Watch (HRW), and reporters from the U.N. Commission for Human Rights (UNCHR). Discrimination and violence against women, abuse of children, and female genital mutilation (FGM) remained serious problems. There were incidents of violent ethnic confrontation; societal discrimination based on ethnicity remained a problem. Child labor as well as some forced child labor and trafficking in children and women also persisted. Cote d'Ivoire was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as an observer.

The Gbagbo government organized a well-attended 10-week Forum of National Reconciliation, which ended in December 2001; the Forum resulted in 14 resolutions to be considered by the President and the legislature. These resolutions covered a broad spectrum of issues, including four primary ones: Resolution 1 that the revised Constitution and presidential elections of 2000 be upheld; Resolution 4 that Alassane Quattara's citizenship should be recognized by judicial action; Resolution 9 that all coup d'etats should be condemned; and Resolution 10 that the Government should issue general amnesty for all those responsible for the violence related to the coup d'etat. Former President Bedie, former Prime Minister Quattara, and former junta leader Guei, who had left Abidjan in self-imposed exile in 2000, all returned to the country to participate in the Forum. On December 18, 2001, President Gbagbo closed the Forum and promised to continue the reconciliation process through ongoing negotiations with the other three recognized political leaders. The Government slowly began to work on implementing the resolutions of the Forum during the year. In August President Gbagbo expanded his cabinet to include ministerial portfolios for all major parties, including the RDR. Members of the military participated in seminars on human rights. The local press remained lively. President Gbagbo spoke with Muslim leaders about their concerns. The Government cooperated with international investigations into child labor on cocoa farms.

The rebels' human rights record also was extremely poor. The rebels in Bouake and elsewhere in the north killed numerous persons, including civilians and executed approximately 100 gendarmes, who were buried in a mass grave. Mass graves of gendarmes and civilians killed by rebels were discovered near the western town of Man. The rebels arbitrarily arrested and detained persons and conducted arbitrary ad hoc justice. In Bouake they took over the national television station and aired mostly their leaders' speeches and deliberations. The rebels severely limited freedom of movement within and from the territory they held and forcibly conscripted persons into their ranks. In late November, rebel groups took key cities in the northwestern region of the country in evident coordination with the rebel group that held the north. There were credible reports of the rebels abusing the local population, including slitting the throats or disemboweling local inhabitants, gang raping women, chopping off limbs, and throwing persons into wells to drown. There were no confirmed figures of the actual number of civilians killed, detained, or harassed in the north or in the west.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Security forces reportedly committed more than 200 extrajudicial killings, some of which were believed to have been politically and ethnically motivated. There were credible but unconfirmed reports that government-linked death squads committed and condoned extrajudicial killings. Security forces frequently resorted to lethal force to combat widespread crime. The September 19 rebellion resulted in the killings of approximately 300 persons, most of whom were government uniformed forces or uniformed forces that sided with the rebels. There also were numerous civilian casualties.

There were numerous political killings by both security forces and rebels during the failed coup attempt of September 19 and subsequent rebellion. The rebels targeted and killed several leading government military officers and the civilian Interior Minister Emile Boga Doudou; they also attempted to kill Moise Lida Kouassi, the civilian Defense Minister. The rebels also killed Colonel Yode, Director of the Army Engineers in Abidjan; Dally Oble, Commander in Korhogo; and Dago Loula, Commander in Bouake.



Under unclear circumstances, former military junta leader General Robert Guei, his wife Rose, a son, his aide-de-camp Captain Fabien Coulibaly, several army guards, and others reportedly were shot to death at Guei's Abidjan residence. AI concluded that the deaths of Guei and his family were extrajudicial killings.

On September 20, members of the security forces reportedly kidnaped, shot, and killed Commander Aboubacar Dosso, aide-de-camp to RDR leader Alassane Ouattara, when he returned to the site of Ouattara's house, which had been burned and looted the previous day. Dosso reportedly was killed because he refused to sign a declaration implicating Ouattara in the rebellion.

On October 11, gendarmes arrested Adama Cisse, the head of the RDR party in the eastern town of M'Bahiakro, who died the following day from injuries he received while in custody. The gendarmes reportedly were searching for Ibrahima Fanny, the RDR mayor of Bouake, and for weapons.

On October 18, members of the security forces reportedly shot and killed Seydou Coulibaly and Zanzeni Coulibaly, both related to RDR Secretary General Amadou Gon Coulibaly, at the Abidjan funeral of another Coulibaly family member.

On November 2, the body of Emile Tehe, president of the independent Popular Movement Party (MPI), was found in Abidjan; the MPI was allied with the RDR.

On November 8, the body of medical doctor Benoit Dakoury-Tabley was found after he had been kidnaped the previous day; Dakoury-Tabley was the brother of Louis Dakoury-Tabley, one of the political leaders of the rebel Patriotic Movement of Cote d'Ivoire (MPCI). Louis Dakoury-Tabley was a ranking official in the ruling Ivoirian Popular Front (FPI) party.

In a televised speech on November 8, Human Rights Minister Victorine Wodie vowed that the Government would investigate the death of Dakoury-Tabley and others. Wodie called for an international study on human rights violations throughout the country since September 19 and was pursuing the case at year's end.

Following the September 19 rebellion, the military and security forces conducted reprisal killings against presumed rebel sympathizers. In October security forces killed more than 100 noncombatants in Daloa in evident reprisal against northerners living in the town, according to numerous credible reports; they also killed persons suspected of assisting the rebels. Uniformed forces took from their homes individuals of northern descent or foreign Africans (generally called Dioulas); their bodies were found in the streets the following day. A Muslim cleric, Gaoussou Sylla, was arrested at home with five other persons, including the Malian honorary consul, Malian merchants, and the Burkinabe owner of a transport company. The bodies of Sylla and the other five subsequently were found along a road out of town; the businesses of the victims were damaged and looted.

On October 28, uniformed forces also killed a number of Guineans in Daloa. Hundreds of Daloa residents took shelter in a mosque while government forces ransacked and burned their homes. The Governments of Mali, Burkina Faso, and Guinea lodged formal protests with the Government over the deaths in Daloa and the harassment and abuse of northerners in Abidjan and other cities.

After the Daloa killings, the military command and the state-owned media warned of men "wearing fatigues" who were extorting, mistreating, and killing persons. The Government criticized such actions as flagrant violations of human rights and denied that government forces were responsible. On October 25, the Government announced an investigation into the killings to discover who was impersonating the country's security forces. AI and the international press reported that security forces were responsible for the killings in Daloa. Multiple eyewitnesses saw the men who carried out the killings arrive in military vehicles, notably of the BAE. AI noted that military authorities stopped the killings after 3 days when pressed by Muslim leaders who underscored the responsibility of government authorities to ensure that security forces protected civilians and prevented harassment, especially of foreigners.

Following the coup attempt, there were numerous reports of militias or death squads with "hit lists" of rebel sympathizers operating within the military or composed of private citizens. On November 25, the Ivoirian Human Rights Movement (MIDH) reported that death squads operating under cover of the curfew had arrested, kidnaped, and killed approximately 50 political party members and citizens. The same day, the Ivoirian Human Rights League (LIDHO) issued a statement that "death squads of unknown persons are sowing terror."

In response to criticism from national and international NGOs, the Government's military spokesman stated that the Government had opened judicial inquiries into the killings.

In Abidjan police and security forces in search of rebel sympathizers, infiltrators, and arms caches used lethal force in neighborhood sweeps against citizens with northern origins and African immigrants. For example, on October 7, gendarmes de-

manded money and identity cards from three Burkinabe citizens and then shot them; two died instantly, and the other died the following day. Also in October, gendarmes killed 10 Liberians applying for work reportedly because they were Anglophone and therefore suspect.

In an October 28 report, AI referred to the October 2000 Yopougon massacre and appealed to the Government and rebels to refrain from attacking persons because of their ethnic origins or presumed political sympathies. In 2001 the Government brought eight gendarmes to trial for the Yopougon massacre, but they were acquitted. Most citizens and international observers did not see this as a just outcome. There were no reported apprehensions of suspects in other cases.

In the months following the coup attempt, mass graves were discovered in the areas controlled by both the Government and the rebels. International human rights groups and the press blamed government forces for the killings and mass graves at Daloa and at the nearby village of Monoko-Zohi. It was unclear who was responsible for the mass grave at Vavoua, given that both government and rebel forces had access to the area. After the outbreak of fighting in the west in late November, numerous credible sources reported the existence of three mass graves of gendarmes and civilians killed by rebels near the western town of Man. Local and international human rights groups and some political parties called for international investigations of these sites. In October authorities in Abidjan buried 72 unidentified bodies that government media stated were unclaimed bodies from the September 19 coup attempt.

In the months prior to September 19, there were credible reports of more than 30 cases in which security forces used excessive force that resulted in death; such cases often occurred when security forces apprehended suspects or tried to extort taxi drivers and merchants. For example, on March 12, police in Abidjan shot and killed Lemorifing Bamba, a taxi driver, for refusing to stop at a checkpoint and refusing to pay bribes; the Government ordered an investigation and compensated Bamba's family. In March police arrested for alleged theft Adama Sylla, who subsequently died from injuries sustained in police custody. On June 7, in the Deux Plateaux neighborhood, police killed seven men suspected of rape, theft, and money laundering.

Several foreigners were victims of police killings in ambiguous cases. In January police killed a Burkinabe, Belam Issiaka, suspected of leading a criminal gang. He reportedly was shot while attempting to flee. On May 4, a 22-year-old Nigerian, Franck Oyeminke, died after the police shot him eight times during a neighborhood search; the case was being investigated at year's end.

In the period prior to the July departmental elections, clashes between RDR supporters and FPI supporter resulted in deaths (*see* Sections 2.c. and 5).

The following cases from 2001 remained outstanding at year's end: The April shooting by a police sergeant of a student traveling in a car; and the December killing of Togolese electrician Dokli Kodjo by two gendarmes.

In 2001 unknown persons attacked and killed the sister of journalist and publisher Tape Koulou and a friend of the family. Police arrested Julien Ileboudo in connection with the investigation. On January 22, police beat and killed Ileboudo, whose body was found at the entrance to the morgue with broken legs, head injuries, and burned genitals.

At the National Reconciliation Forum in 2001, Gbagbo pledged to reopen the investigation into the Yopougon massacre. In August 2001, Justice Minister Siene Oulai appointed a preparatory committee to reinvestigate the events of late 2000, particularly the Yopougon mass grave. The committee included three investigating magistrates along with five gendarmes and five police investigators. By year's end, the Government had taken no further action.

More than 150 complaints against government leaders were filed by the Belgian NGO Genocide Prevention on behalf of victims of the October 2000 Yopougon mass grave and December 2000 violence. In June Brussels Court of Criminal Appeals dismissed the complaints because the persons charged were not on Belgian territory at the time of the alleged crime.

There were no further developments in cases from 2000, including election-related violence.

After the September 19 coup attempt, rebels arrested approximately 100 gendarmes in Bouake and held them for several weeks. On October 8, when government forces entered Bouake, many persons mistakenly thought they had reconquered the town and some inhabitants came out to celebrate. Rebel troops fired into the crowd, killing and injuring an unknown number of persons. According to AI, the rebels reportedly then executed the 100 arrested gendarmes, who were buried in a mass grave. There also were reliable reports that rebels executed a number of the

sons of gendarmes and killed numerous citizens of northern origin who challenged them.

When government troops briefly re-took Bouake on October 8, ethnic Baoules who were usually members of the Democratic Party of Cote d'Ivoire (PDCI) party reportedly captured three northern rebel sympathizers and burned them to death by setting fire to tires placed around their necks. When the rebels were back in control, northern sympathizers with the rebels reportedly killed six loyalists Baoules in the same manner.

In Korhogo and Daloa, rebels also killed a number of gendarmes and civilians thought to be loyal to the Government. AI reported that many of the victims in rebel-held territory were criticized by their neighbors as military officers or government sympathizers. With the emergence of rebel groups in the west in late November, there were numerous credible reports by escaping citizens and international witnesses that rebels slit the throats or disemboweled local inhabitants, gang raped women, chopped off limbs, and threw persons into wells to drown.

Unknown assailants killed persons during the year. For example, on November 6, Philippe Mohamed Rady, a prominent member of the Lebanese business community, died of injuries inflicted by unknown assailants who attacked him for unknown reasons. On November 18, unknown assailants attacked and killed Tchegbe Zoumana Ouattara, a 61-year-old trucking company owner, at his Abidjan home.

There were numerous incidents of ethnic violence that resulted in deaths (*see* Section 5).

*b. Disappearance.*—There were several reports of disappearances. For example, according to press reports, the police detained three gendarme commandos who were suspected of coup-plotting between June and August in Abidjan; however, their whereabouts were unknown at year's end.

Following the September 19 rebellion, MIDH reported that many of the UDPCI and RDR members arrested by security forces had been released; however, the whereabouts of 39 persons remained unknown at year's end.

On November 6, "men in fatigues" arrested prominent businessman Herve Pamah Coulibaly at his home; his whereabouts remained unknown at year's end.

On November 14, in Yamoussoukro, security forces arrested Vakefa Malick Soumahoro, the financial director of a trucking company, who was on his way to be interviewed by Minister Wodie, according to his family. He subsequently disappeared. Soumahoro's wife and family met with the Prime Minister and Minister Wodie, who appealed for information about Soumahoro in the local press; however, Soumahoro remained missing at year's end.

The Victims Committee of Cote d'Ivoire (CVCI) alleged that several of its members disappeared after police dispersed their demonstration in July 2001.

During 2001 at least 30 persons disappeared in ethnic conflicts, particularly in the west and center of the country, and remained missing at year's end.

There were no developments in the disappearances of numerous persons following the 2000 presidential elections or in the disappearance of 10 Malians arrested in late 2000 election-related demonstrations.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, in practice security forces sometimes beat detainees and prisoners to punish them or to extract confessions. Police officers frequently forced detainees to perform degrading tasks while under threat of physical harm; press photographs sometimes showed prisoners with swollen or bruised faces and bodies. There were numerous reports of police and gendarmes entering homes and businesses to extort money (*see* Sections 1.d., 1.f., and 2.d.). Police detained persons overnight in police stations where they often beat detainees and forced them to pay bribes. Police also harassed persons of northern origin or with northern names. Poor training and supervision of security forces, the public's fear of pressing charges, and the impunity of those responsible for committing abuses contributed to the problem.

In February the CCER was dissolved by presidential decree. In previous years, there were credible reports that the CCER, a special police service that had its headquarters at the Presidency in central Abidjan, had become a center of judicial investigation, beatings, and torture (*see* Section 4).

On June 12, approximately 20 gendarmes beat and robbed merchants near the mosques in the Adjame section of Abidjan. In protest against gendarme and police treatment, merchants and transporters went on a 48-hour strike.

Members of the security forces continued to beat and harass journalists regularly; however, there were fewer reports of beatings than in the previous year (*see* Section 2.a.).

During the year, police beat persons who criticized or angered the Government. For example, on March 11, 12 unknown persons severely beat Pasteur Faustin Leka, the president of the Ivoirian Party For Democracy (PID). Leka, who was hospitalized for 1 month, had written articles critical of President Gbagbo and the governing FPI party. He stated that his attackers accused him of being a traitor to his Christian and Bete background. It was unclear whether uniformed forces or party militants beat Leka.

On April 18, six gendarmes reportedly arrested and beat Alexis Gouanou, the Secretary General of the Youth of the Grand West for having released medical information about Commander Bekpan, one of the gendarmes tried and acquitted for the Yopougon mass grave.

On July 2, near a police precinct in Abidjan, unknown assailants beat Francois Kouadio of the Presidency's Office of the Inspector General, despite his having a government protective detail. Kouadio had completed a report on cocoa marketing that accused some government officials, as well as private operators and organizations, of corruption.

After the September 19 rebellion, security forces on heightened alert for potential rebel infiltrators or active sympathizers erected numerous roadblocks and searched Abidjan neighborhoods, frequently during nightly curfew. There were numerous reports that police and gendarmes continued to harass, beat, extort, and commit other abuses with impunity.

Also after September 19, there were credible reports of special militias comprised of uniformed forces operating outside the normal chain of command of the Ministries of Defense (gendarmes) and Interior (police) and involving members or units of the President's security force. There also were reports of civilian militia that reportedly operated with political and judicial impunity and were responsible for extortion, robberies, and killings (*see* Section 1.a.).

During the rebellion, individuals associated with opposition parties or rebellion leaders or believed to be sympathizers were subjected to increased harassment and abuse. Several hundred RDR members were arrested without legal procedures having been followed, and a number reportedly were killed by security forces under unclear circumstances (*see* Sections 1.a. and 1.d.).

After September 19, police harassment and abuse of noncitizen Africans increased significantly as the Government blamed many of the surrounding countries for complicity in the crisis. Noncitizen Africans, mostly from neighboring countries, complained after September 19 that they were subject to police harassment, repeated document checks, increased security force extortion and racketeering, and violence.

Police and security forces continued to use excessive force to disperse demonstrations, some of which were violent (*see* Section 2.b.).

There were credible reports of disciplinary or legal actions against some police officers for mistreating suspects and arrestees during the year; however, critics deemed such actions uneven and inadequate. On May 15, Minister of Interior Boga Doudou fired 50 police officers and gendarmes, suspended 27 others for racketeering and extortion, and had 8 police officers and 4 gendarmes arrested on racketeering and extortion charges. Minister Boga Doudou stated that the suspensions and arrests would be an example to other officers; however, independent newspapers noted that the majority of those fired were of northern origin and suggested that the Minister of Interior was using the occasion to reduce their numbers in the police ranks.

In August Minister of Interior Boga Doudou issued a statement threatening sanctions against members of the security forces who confiscated or destroyed noncitizens' identification papers; however, no action was taken by year's end (*see* Sections 1.a., 1.d., 1.f., and 5).

On July 26, police arrested Sergeant Baba Nene for the July killing of taxi driver Kalilou Keita (*see* Section 1.a.). On September 11, police arrested Blea Tia in the shooting of taxi driver Seydou Kone; an investigation was ongoing at year's end.

There were no reports of action taken against members of the security forces in any of the following incidents in 2001: The April shooting of a taxi driver in Daloa; the April beating of Dago Fabrice in Yopougon; the May beating of a man in Daloa; the May beating of eight persons, including a secondary school teacher and two girls; and the June forcible dispersal of a strike at Blohorn Unilever.

There were no reported disciplinary actions against members of the security forces responsible for abuses committed during 2000.

During the year, there were fewer reports that Liberian refugees in the western part of the country faced harassment and threats from supporters of Liberian President Charles Taylor.

There were numerous incidents of ethnic violence during the year, some of which resulted in injuries (*see* Section 5).

After September 19, in the northern half of the country, rebel military police operated with impunity in administering justice without legally constituted executive or judicial oversight. There also were credible reports of rebel soldiers or local recruits harassing and abusing with impunity local citizens, often on the basis of ethnic background and presumed political leanings.

Conditions were poor and in some cases life threatening in the country's 33 prisons, largely because of inadequate budgets and overcrowding. In November the main Abidjan Arrest and Correction Center (MACA) prison in Abidjan housed 5,200 detainees; it was built for 1,500. There were credible reports that prisoners frequently brutalized other prisoners for sleeping space and rations; however, there were no reports of guards brutalizing prisoners. The daily food allowance per prisoner in the MACA was \$0.12 (80 CFA francs) the cost of one serving of corn meal mush. In other prisons, the daily allowance was \$0.18. Families frequently supplemented the food ration and at some prisons inmates grew vegetables to feed themselves. The Red Cross helped feed prisoners with no family. Doctors Without Borders (MSF) supplemented the prison system's inadequate medical facilities. Several small national and international charities also helped some prisoners. There were press reports of a flourishing drug trade and prostitution in the MACA.

During the year, some prisoners reportedly died from the crowding, disease, and malnutrition in the MACA. During the month of September, according to a newspaper report from the western city of Man, 38 of the 541 inmates in the city's prison died. In 2001 poor treatment and poor conditions reportedly resulted in the deaths of 160 prisoners.

On October 18, more than 500 prisoners in Man made an attempted unsuccessful escape. A week later, in the central cities of Bouaflé and Divo, 16 prisoners were killed during prison breaks.

In early January, President Gbagbo announced a decree amnestying more than 7,000 convicted prisoners, but not including inmates who had committed serious crimes.

Men and women were held separately in prisons. Male minors were held separately from adult men, but the physical barriers at the main MACA prison were inadequate to enforce complete separation. Prison conditions for women and children remained particularly difficult. Female prisoners were segregated in a separate building under female guard. There were no reports during the year that guards raped female prisoners; however, there were continued reports that female prisoners engaged in sexual relations with wardens to get food and privileges. There were no health facilities for women. Pregnant prisoners went to hospitals to give birth and then returned to prison with their babies. Some women prisoners were pregnant before being jailed. The penitentiary accepted no responsibility for the care or feeding of the infants; the women received help from local NGOs such as L'Amour en Action and the International Catholic Office for Children (BICE). During the year, BICE removed 500 children from the prison and placed them with family members or foster families and provided female inmates with food, medical care, clothing, and other necessities.

Juvenile offenders were held separately from adults. At the end of 2001, 170 juveniles aged 13 to 17, including 11 girls, were in detention. According to a local press report, in 2000 approximately 2,500 children spent time in the country's 33 prisons. During the year, BICE taught juvenile prisoners trades, such as sewing, carpentry, gardening, house painting, and drawing.

Pretrial detainees were held with convicted prisoners.

The Government permitted access to prisons by local and international NGOs that provided prisoners with food and medical care, as well as spiritual and moral support. BICE, as well as international NGOs such as the ICRC, Prisoners Without Borders, MSF, World Doctors, and local NGOs such as Action Justice, French Speaking Countries Outreach (FSCO), and International Prisons' Friendship had access to the prisons in the country. However, none of these NGOs monitored human rights conditions. LIDHO and MIDH monitored human rights but had to await written permission from the warden.

After taking control of the northern half of the country in the September 19 rebellion, rebels released the 300 detainees in the Korhogo penitentiary and the 2,200 prisoners in the Bouake prison and penal camp, gave many of them arms, and forced them into military service. Rebel leaders stated that they had no way to feed and maintain the prisoners, many of whom had no family in the area.

In October the ICRC visited prisoners detained by rebels in Bouake. There were credible reports that the rebels killed many of the prisoners. The rebels reportedly considered the dozens of men they were holding to be loyalist infiltrators who took part in the failed attempt to retake the city in early October.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, in practice arbitrary arrest and detention remained a common occurrence. Under the Code of Penal Procedure, a public prosecutor may order the detention of a suspect for 48 hours without bringing charges, and in special cases, the law permits an additional 48-hour period. Police often held persons for more than the 48-hour legal limit without bringing charges. According to members of the jurists' union, this practice was common, and magistrates often were unable to verify that detainees who were not charged in fact were released. A magistrate could order preventive detention for up to 4 months but also had to provide the Minister of Justice with a written justification on a monthly basis for continued detention. Despite the frequency of arbitrary arrest, there was no accurate total of persons held (*see* Section 1.e.).

Although the law prohibits it, police restricted access to some prisoners. There were reports of police denying detainees access to a lawyer or to their families. Police treatment of lawyers improved during the year.

Defendants do not have the right to a judicial determination of the legality of their detention. A judge may release pretrial detainees on provisional liberty if the judge believed that the suspect was not likely to flee. Many inmates continued to suffer long detention periods in the MACA and other prisons while awaiting trial. A magistrate reported in November that more than 1,770 of the 5,370 detainees (31 percent) in the MACA prison were awaiting trial (*see* Section 1.c.). Despite the legal limit of 10 months of pretrial detention in civil cases and 22 months in criminal cases, some detainees were held in detention for many years awaiting trial. In January there was a credible newspaper report that six detainees at the Bouake penal work camp had been held for 12 years without trial and there were others who had been in the camp for 10 years awaiting trial.

There were many instances throughout the year of the gendarmes or other security forces making arbitrary arrests, and such arrests increased after September 19. Domestic and international human rights groups—AI, HRW, and the UNCHR—criticized the arbitrary arrests and detentions. National and international human rights groups were unable to give precise figures on detainees as government authorities would not allow them to visit military installations where prisoners were held. At year's end, MIDH reported 115 detainees at the MACA and 43 at the DST, but was unable to gather further information. Journalists were arrested, detained, or questioned for short periods of time without being charged (*see* Section 2.a.).

On July 3, police and gendarmes ransacked a Williamsville neighborhood in search of weapons and arrested approximately 100 residents. They were released a few days later. The RDR and some independent newspapers alleged that the authorities' action was an attempt to intimidate voters in the RDR-leaning district prior to the July 7 departmental elections.

During the municipal electoral campaign in March 2001, the police arrested an RDR student leader Diarrassouba and newspaper editor Bakayako. The then president of FESCI, a student organization close to the FPI, accused Diarrassouba of attempted murder. In April 2001, he and several other RDR leaders were released without charge. A short time later, Diarrassouba and fellow student leader Kamagate were arrested and imprisoned after protesting the outcome of an FESCI election. At the end of the year, they reportedly still were in detention in the MACA.

During the year, security forces arbitrarily arrested merchants and transporters. For example, on April 29, gendarmes raided a market in Abidjan and arrested and held 15 persons without charges. The gendarmes released nine of the arrestees within 1 week, but six others remained detained in an unknown location without family visits or legal counsel. All but one of the 15 arrestees were citizens from the northern region.

The DST was charged with collecting and analyzing information relating to national security. The DST had the authority to hold persons for up to 4 days without charges, but human rights groups stated there were numerous cases of detentions exceeding the statutory limit. Lawyers at MIDH and the president of the human rights NGO Justice Action accused the DST of expanding its role to include preliminary judicial investigations and police custody. Justice Action alleged that the DST, which was part of the Ministry of Interior, was trying to assume functions carried out by court authorities and the Ministry of Justice. Some DST arrestees claimed that they were denied contact with family members or a lawyer.

On June 28, the DST arrested police General Mouhandou Alain, Inspector of Police Services, and held him for 42 days, accusing him of working with the military in Burkina Faso to destabilize the country. He was released on August 9 without being charged.

During the months prior to the events of September, security forces arrested a number of persons from the north of the country, persons of northern origin, and

RDR party members and officials. For example, on June 8, a police team in Korhogo arrested Soro Tchorna Abou and Yeo Alassane and accused them of plotting against President Gbagbo. The DST reportedly denied the two men legal counsel and after 3 weeks reported one of the men missing. On June 21, the DST arrested and held incommunicado for 2 months businesswoman Assita Sylla. On August 10, the military Rapid Intervention Unit (BIR) arrested at home Ibrahim Keita, the President of Cora de Comstar, a cellular telephone company, and took him to the DST. Keita had access to his physician and after 3 days, his lawyer. The Government accused Keita of financing destabilization efforts. On August 13, the Government arrested Kone Miriam, a businesswoman and local RDR leader, and a friend of Keita's son, Ali Omais. On September 12, authorities released Assista Sylla, Ibrahim Keita, Kone Miriam, and Ali Omais for lack of evidence.

In the weeks before the September 19 rebellion, the DST arrested 27 military personnel and held them incommunicado as security risks. Many of the soldiers detained were northerners and at least nine of the soldiers were close to former junta leader General Guei. In early July, the DST arrested several gendarmes on grounds of plotting a coup d'etat. At year's end, they still were in detention.

After the September 19 rebellion, local and international human rights organizations reported government security forces made many arbitrary arrests, frequently without warrants and frequently holding persons beyond the statutory limits without bringing charges. There were credible reports that the police and gendarmes detained persons in various military camps in Abidjan. Few of these detainees entered the civil justice system. There also were credible reports of forced confessions.

After the September 19 rebellion, the Government established telephone hotlines and encouraged citizens to report persons believed to be "assailants." HRW and AI criticized the Government's abuse of this law enforcement tool. They reported that authorities made numerous arrests based on hotline denunciations of persons for unproven sympathies with the rebels or "suspicious" activity and thus generated a general climate of fear and abuse. In the northern half of the country, AI and others reported that rebels similarly arrested and mistreated persons based on a neighbor's denunciation or suspicion that an individual's sympathies were with the Government.

HRW and AI also reported that since September 19 there were 82 persons who had been arrested and put in prison that ICRC was able to track in the judicial records. AI investigators reported in mid-October that, despite obtaining the agreement of the Justice Minister, they were denied access to some detainees.

Some of the persons arrested included mayors and party leaders, such as: Ali Keita, RDR deputy party spokesman, and Ali Dosso, an official of the Central Bank of the West African States CFA Franc zone (BCEAO)—Dosso was released and Ali Keita remained in the MACA prison at year's end; Tiemoko Yade Coulibaly, the RDR Mayor of Sinematiali and the Chairman of Societe General Banque de Cote d'Ivoire (SGBCI)—he was released within a short time; Ouattara Yaya, RDR political commissioner in the northern city of Ferkessedougou—he was placed under house arrest; Aly Coulibaly, RDR party spokesman and former journalist—he was released the next day; Camara Yerefe, a popular actor and television comedian nicknamed "H"—he was released after a short time; Clement Nabo, the RDR mayor of the port city of San Pedro—he was released the following day; the RDR deputy mayor of Vavoua—he remained in detention at year's end; Kamagate Lama, agronomist and RDR Municipal Counselor of Teningboue—his arrest status was unknown; several RDR party members in Dimbokro—they remained in detention at year's end; Mohamed Dembele, the 22-year-old son of Adama Dembele and the president of the Alassane Ouattara support group—he was released after a few days; and two of San Pedro's assistant mayors, both RDR members—they remained incarcerated at year's end.

The Government arrested many members of the RDR and UDPCI parties whom it suspected of sympathizing with or of playing a role in the rebellion. Both accused the Government of conducting a "witch hunt" against opposition parties. By late October, the RDR stated that authorities had arrested more than 300 of its members, although a leader of the RDR youth wing stated a few days later that more than 500 members had been arrested. Party officials stated that party leaders typically were released after a day or two, but less well-known party members usually were held 1 to 2 weeks. Party officials stated that 55 members were released on November 18 from the DST and various gendarme installations. After the release, at year's end the RDR reported that 115 northerners, many of whom were RDR members, were held at Abidjan's MACA prison, 43 at the DST and gendarme establishments, and 20 elsewhere in the country.

In October the Secretary General of the youth wing of the UDPCI, founded by General Guei, alleged that government forces arrested and beat more than 30 party

members and killed 1 person. In early November, party and press sources reported that in the western town of Man six party members were arrested, and a few days later three more leaders, including a deputy mayor, were arrested in Biankouima. They reportedly were transferred to the Gendarme Research Brigade in Abidjan and still were in detention without charge at year's end.

In June the Defense Minister granted permission to General Abdoulaye Coulibaly, the third ranking member of the 2000 military junta, to leave the country and he departed for France and Canada in early September.

On September 19, rebels in Bouake seized Sports Minister Francois Amichia and held him hostage for more than 1 week before he escaped. Rebels also prevented the president of the LIDHO from leaving Bouake for 1 week. He had traveled to Bouake to deliver university lectures when the September 19 rebellion occurred.

AI's October 18 report severely criticized rebel arrests of numerous persons, particularly in Bouake, and the lack of any news of those detainees.

On November 5, President Gbagbo issued a communique accusing the rebels of responsibility for widespread arrests, illegal detentions, and disappearances, but mentioned no specific cases and stated only that the accusations were based on credible information (*see* Section 1.a.). The communique called for an international observer mission to investigate abuses committed by the rebels in the north. In mid-December the UNCHR conducted a 1-week mission in government-held and rebel-held territories that corroborated reports of illegal arrests and detentions in both parts of the country.

The Constitution specifically prohibits forced exile, and no persons were exiled forcibly during the year.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice the judiciary was subject to executive branch, military, and other outside influences. Although the judiciary was independent in ordinary criminal cases, it followed the lead of the executive in national security or politically sensitive cases. Judges served at the discretion of the executive, and there were credible reports that they submitted to political pressure and financial influence. The judiciary was slow and inefficient.

The formal judicial system is headed by a Supreme Court and includes the Court of Appeals and lower courts. The Constitutional chamber, whose main responsibility is to determine the constitutionality of laws and the eligibility of presidential candidates, is part of the Supreme Court. At year's end, Kone Tia remained president of the Supreme Court. The Constitution grants the President of the Republic the power to replace the head of the court after a new parliament is convened.

Military courts did not try civilians. Although there were no appellate courts within the military court system, persons convicted by a military tribunal may petition the Supreme Court to set aside the tribunal's verdict and order a retrial.

In rural areas, traditional institutions often administered justice at the village level, handling domestic disputes and minor land questions in accordance with customary law. Dispute resolution was by extended debate, with no known instance of resort to physical punishment. The formal court system increasingly was superseding these traditional mechanisms. The Constitution specifically provides for a Grand Mediator to bridge traditional and modern methods of dispute resolution. The President appoints the Grand Mediator, who since his nomination by the Bedie government, has been Mathieu Ekra.

The law provides for the right to public trial, although key evidence sometimes was given secretly. The Government did not always respect the presumption of innocence and the right of defendants to be present at their trials. Those convicted had the right of appeal, although higher courts rarely overturned verdicts. Defendants accused of felonies or capital crimes had the right to legal counsel. The judicial system provided for court-appointed attorneys; however, no free legal assistance was available, except infrequently when members of the bar provided pro bono advice to defendants for limited periods.

On March 5, more than 200 of the country's 700 magistrates marched in Abidjan to demand improved living conditions and higher salaries. On March 6, for the first time in the country's history, the judges went on strike. The judges ended their strike in return for the Government's promises that their grievances would be examined. Their salary and other demands had not been met by year's end.

On May 13, the trial began of 27 suspects in the attempted coup d'etat of January 2001. The 72 persons initially arrested were incarcerated for more than 1 year without a trial. They included 42 military personnel and 30 civilians, among whom were 3 Burkinabe, 2 Malians, and a Nigerien. The investigating magistrate released all but 27 before the trial. In a 4-part trial lasting several weeks, the court acquitted 19 of the 27. Of those found guilty, 2 were given 2-year prison sentences and 6 were given 20-year sentences for "undermining the security of the state and participating



in an armed band.” According to press reports, several witnesses in the trial contradicted themselves and withdrew their statements implicating Hamed Bassam Traore, who received a 20-year sentence.

On July 30, an Abidjan court began the trial of Jean Jacques Bechio, Alassane Ouattara’s political and diplomatic advisor and former Minister of Civil Service and Ambassador to the U.N. The security forces arrested him in the aftermath of the January 2001 failed coup for crimes against the security of the state. The court later reduced the charge, eventually trying Bechio for illegal possession of military weapons and for reputedly having suspicious telephone conversations with an anonymous person in a private telephone booth. In a trial that widely was considered fair, the court handed down a 12-month suspended sentence, fined him \$750 (500,000 CFA francs), and stripped him of his civil rights for 5 years.

In July 2001, eight gendarmes were tried in a short and procedurally flawed military trial for the Yopougon mass grave of 57 bodies discovered in late October 2000. With the trial held on a gendarme compound and with no protection offered to witnesses, a number of prosecution witnesses reportedly feared reprisals and failed to appear at the trial (*see* Section 1.a.). The judge acquitted all eight gendarmes, citing insufficient evidence. Several NGOs publicly demanded a new trial. The military prosecutor, who had requested life sentences for the accused, did not file an appeal. At the December 2001 Forum for National Reconciliation, President Gbagbo announced a reinvestigation of the Yopougon mass grave affair and in April the Government designated six magistrates to conduct the new inquiry but reportedly they had not met by year’s end.

There were no reports of political prisoners; however, HRW and AI believed that political leaders who were detained and not yet released at year’s end primarily because of their opposition political views rather than hard evidence of involvement in the coup, should be considered political prisoners.

There was little available information on the judicial system used by the rebels in northern region; however, on November 8, a French press article described rebel military police bringing suspected thieves and racketeers to a “judge” dressed in fatigues who in a quasi-judicial process pronounced sentence, including imprisonment in the local jail. The rebels reported that they have imprisoned several dozen persons as common criminals in Bouake.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Code of Penal Procedure specifies that a law officer or investigative magistrate may conduct searches of persons, vehicles, homes, or any other nonpublic place, with authorization of the appropriate judicial or administrative authority, if there is reason to believe that there is evidence on the premises concerning a crime. The official must have the prosecutor’s agreement to retain any evidence seized in the search and is required to have witnesses to the search, which may take place at any time of day or night. The events of September 19 triggered a widespread suspension of privacy rights.

In practice police sometimes used a general search warrant without a name or address. Police frequently entered the homes of noncitizen Africans (or apprehended them at large), took them to local police stations, and extorted small amounts of money for alleged minor offenses. Police and gendarmes entered the homes of opposition members throughout the country, often without a warrant (*see* Sections 1.c. and 1.d.). Police also searched the homes and offices of journalists (*see* Section 2.a.).

For example, soon after the failed coup of September 19, security forces ransacked the offices of the Daloa mayor and other municipal officials; the mayor and other officials were members of the RDR party.

On September 19, the home of RDR leader Alassane Ouattara was looted and burned to the ground by unidentified persons while it ostensibly was under government protection. Ouattara and his wife had taken refuge at the residence of the German Ambassador next door, but within a few hours were moved at the request of the Government to the residence of the French Ambassador. On September 26, gendarmes conducted a warrantless search of the residence of Samassi Baba, Ouattara’s driver.

Security forces reportedly monitored private telephone conversations, but the extent of the practice was unknown. The Government admitted that it listened to fixed line and cellular telephone calls. Government authorities monitored letters and parcels at the post office for potential criminal activity and they were believed to monitor private correspondence, although no evidence of this was produced. After September 19, in the northern towns of Bouake and Katiola, rebels also monitored parcels for potential threats to their position.

Members of the Government reportedly continued to use students as informants. Government security forces in Abidjan began the destruction of shantytowns near military installations inhabited by both noncitizen Africans and citizens. These

dwelling areas reportedly harbored rebels and weapon caches. The destruction of these houses resulted in the displacement of tens of thousands of persons. An estimated 30 percent of Abidjan's population lived in unauthorized, illegally constructed shantytowns.

On October 4, the Government announced that it would destroy all shantytowns in the city within a month. On October 8, after an international outcry, President Gbagbo ordered the security forces to stop the destruction of the shantytowns, with the exception of those near military bases, and appealed for a halt to the attacks on foreigners. Nevertheless, security forces continued to raze shantytowns, often using physical violence against the inhabitants and robbing them.

On October 3 and 4, Minister for Human Rights Wodie visited a number of sites cleared by security forces and announced that the inhabitants of those sites would be resettled in centers operated by the Ministry of Social Security and Health. The social centers established generally were converted houses that represented inadequate and, at best, temporary dormitory accommodations for displaced families.

On October 16 and 17, the U.N. High Commissioner for Refugees (UNHCR) reported that security forces without warning destroyed several hundred more homes in shantytowns, displacing approximately 2,000 persons. Many of the displaced sought refuge at UNHCR-sponsored centers. On October 18, after the curfew, security forces arrived at the Koumassi shelter and interrogated its 200 refugees outside of the structure. Other similar incidents occurred at other refugee centers (*see* Section 2.d.).

Unlike in the previous year, there were no incidents reported of security forces seizing the property of opposition leaders and prominent persons at the airport.

There were corroborated reports that the rebels forcibly conscripted locals to join their ranks (*see* Section 1.c.). Those who refused reportedly disappeared. Many of the conscripts were youth or children, although there also were reports that many volunteered to join the rebels.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of expression; however, the Government restricted this right in practice. Private newspapers frequently criticized government policy. Before the rebellion of September 19, the arrest, prosecution, and imprisonment of journalists decreased significantly from the previous year. Nevertheless, members of the security forces continued to harass and sometimes beat journalists. Outspoken members of the press continued to receive death threats and suffer physical intimidation from groups aligned with the ruling FPI party. Until September journalists did not practice self-censorship and frequently criticized government policy; however, the September 19 rebellion triggered significant self-censorship and a deterioration of press freedom. Journalists did not wish to appear “unpatriotic.”

The only remaining government-owned daily newspaper, *Fraternite Matin*, which had the greatest circulation of any daily, rarely criticized government policy. The Government's planned privatization of *Fraternite Matin* was on hold at year's end. The Minister of Communication repeated on several occasions that government newspapers were incompatible with democratic societies. There were a number of private newspapers: Approximately 20 dailies; 30 weeklies; 5 semimonthlies; and 10 monthlies. Newspapers often ceased publication and were supplanted by others due to strong competition, a limited audience, and financial constraints. A few newspapers were politicized, sometimes resorting to fabricated stories to defame political opponents. The law requires the “right of response” in the same newspaper, thus newspapers often printed articles in opposition to an earlier article.

The National Press Commission (CNP) was established officially in November 2001; its function was to enforce regulations relating to the creation, ownership, and freedom of the press. Unlike in the previous year, the CNP did not suspend any newspapers during the year.

The Government exercised considerable influence over the official media's program content and news coverage, using them to promote government policies and criticize the opposition. Much of the news programming during the year was devoted to the activities of the President and government officials.

The law authorizes the Government to initiate criminal libel prosecutions against officials. Although some newspapers voiced their disapproval of presidential or government actions frequently and vocally, the Government did not tolerate insults or attacks on the country's highest officials, foreign chiefs of state or government, or their diplomatic representatives. In addition, the State may criminalize a civil libel suit at its discretion or at the request of the plaintiff. Criminal libel was punishable by from 3 months to 2 years in prison.

In August a court ordered a 3-month suspension of *Le National*, a right-wing nationalistic paper, after a civil administrator filed defamation charges. Despite the order, *Le National*, which previously was regarded as close to the governing PDCI, but later was considered close to the governing FPI, continued to publish.

On October 29, the trial of three journalists from *Le Jour* was slated to begin, but was deferred and had not taken place at year's end. The President of the National Assembly, Mamadou Koulibaly, sued the journalists for defamation for writing a detailed July 2000 article accusing him of corruption in his former capacity as Minister of Finance.

Security forces continued to beat and harass journalists. For example, in late January, police beat *Le Jour* journalist Abou Traore in the garden of Interior Minister Boga Doudou's house. Traore was writing a story about the negotiations between Boga Doudou and police officers on strike. The CNP and the Observatory of Press Liberty and Ethnics (OLPED), the journalists' association, wrote letters to the Government criticizing the beating.

In February Bledson Mathieu, the editor of the weekly satirical cartoon newspaper *Gbich*, received several death threats from unknown persons.

On September 9, 10 uniformed policemen raided the offices of the Mayama Press Group, which published *Le Patriote*, *Tassouman*, and *Abidjan-Magazine*. All three publications were independent, but were considered close to the RDR and its leader, Alassane Ouattara. Tassouman published a story that Minister of Interior Boga Doudou was using a vehicle previously stolen by carjackers. In spite of the newspaper's promise to correct the information and report that the stolen vehicle belonged to the Minister of National Solidarity, police tear gassed the offices and beat at least four journalists. On September 11, a ministerial delegation visited the office, expressed its regret over the raid, and insisted that the Government and Minister Boga Doudou had not supported or instigated the actions.

Following the rebellion of September 19, the Government gradually reduced press freedoms in the name of patriotism and national unity. In late September, Minister of Communications Sery Bailly declared that "the safest thing for journalists was to report the news in a proper manner" and that the crisis should motivate journalists to prove their patriotism and to defend the country. A few weeks later, the CNP reminded journalists that while newspapers could continue their independent editorial policies, "in view of the prevailing war situation" the journals must "display a sense of patriotism." Outspoken members of the press who questioned government policy reported physical intimidation and receiving death threats from groups aligned with the FPI party and the Government. Foreign journalists complained to the Government of similar threats.

On September 19, the pro-RDR *Le Patriote* suspended publication because of threats received from youth groups reportedly allied with the ruling party. In late September, FPI and government activists severely beat *Le Patriote* journalist Keita Mamadi while he was attending a FPI-government meeting in Yopougon. On October 10, *Le Patriote* resumed daily publication, but on October 16, approximately 40 youths carrying weapons ransacked its offices. *Le Patriote* began publishing again in a few days. Reporters Without Borders (RSF) lodged a formal protest with the Government over the attack, and the OLPED also criticized the attack.

On October 16, *Nouveau Reveil* suspended publication in response to persistent death threats since September 19 allegedly made by persons close to the FPI and the Government. *Le Nouveau Reveil* often carried articles critical of the FPI and the Government. On October 19, the CNP released a statement that "noted with regret" the vandalism against *Le Patriote* and the threats against *Le Nouveau Reveil*, which was close to the PDCI. The CNP called on relevant authorities to take all necessary measures to provide for the security of all parties.

On September 25, 10 gendarmes searched without a warrant the residence of Louis Andre Dacoury-Tabley, the owner of *Le Front* opposition daily newspaper, which frequently criticized the FPI and the Government. Dacoury-Tabley was outside of the country, but a few weeks later emerged as the rebel spokesman.

There were several reports during the year, but particularly after September 19, of international journalists being subjected to government harassment and intimidation. Since the uprising began, several foreign journalists and cameramen were threatened or physically attacked and their cameras seized. Because of continued insecurity, some international reporters and the citizens who worked for foreign press agencies chose to leave the country temporarily.

On October 29, the Government's daily, *Fraternite Matin*, carried a report from the peace negotiations between the Government and rebels, featuring questions and answers from both sides' negotiators, and marking the first time the state media carried direct statements from the rebel spokesman. The state-controlled television

and radio carried the same story later with the interviews with negotiators for both sides.

On November 13, in an interview in *Fraternite Matin*, Minister of Communications Sery Bailly stated that any journalist conducting an interview with the rebel MPCJ could face prosecution. He explained that the Government had teams that met daily to guide national radio and television programming and the Government's daily newspaper to ensure that they promoted a positive image of the Government and "had the orientation that the Government judged necessary and useful."

No action was taken against members of the security forces who beat and harassed journalists in 2001 and 2000.

Because of low literacy rates, radio was the most important medium of mass communications. Newspapers and television were relatively expensive. The Government-owned broadcast media company, RTI, owned two major radio stations; only the primary government radio station broadcast nationwide. Neither station offered criticism of the Government; both government-owned stations frequently criticized opposition parties and persons critical of the Government. Four major private international radio stations operated: Radio France Internationale (RFI), the British Broadcasting Company (BBC), Africa Number One, and Radio Nostalgie; however, all were off the air at year's end. These stations broadcast on FM in Abidjan only, except for RFI, which broadcast via relay antennas to the north and center of the country. The RFI and BBC stations retransmitted internationally produced programming. The Africa Number One station, which was 51 percent locally owned, broadcast 6 hours of locally produced programming every day; retransmitted programming from Africa Number One's headquarters in Libreville, Gabon, filled the remaining air time. Radio Nostalgie was 51 percent owned by Radio Nostalgie France, but it was considered a local radio station. The RFI, BBC, and Africa Number One stations all broadcast news and political commentary about the country.

There were approximately 50 community radio stations authorized under government regulations. They had limited broadcast range and were allowed no foreign language programming, no advertising, and only public announcements limited to the local area. Some of the stations did not broadcast for the lack of resources.

In May 2001 the Government announced that five new private TV stations and eight new private radio stations would begin broadcasting. The first of these, Private TVCI International, began broadcasting in mid-October.

The Government owned and operated two television stations (RTI 1 and RTI 2) that broadcast domestically produced programs. Only one broadcast nationwide. Neither station criticized the Government, but they frequently criticized the opposition or persons who opposed the Government's actions. There were two satellite television broadcasters: One French (Canal Horizon/TV5), and one South African (DS TV). They did not broadcast domestically produced programs. The Government did not accept any applications to establish privately owned domestic television stations.

The private radio stations, except for Radio Nostalgie, had complete control over their editorial content. The Government monitored Radio Nostalgie closely because the major shareholders of the company were close to RDR president Alassane Ouattara. National broadcast regulations forbade the transmission of any political commentary, and Radio Nostalgie's operations were suspended temporarily several times in 2001 for allegedly violating that regulation. Radio Nostalgie was ransacked on several occasions before and after September 19. On October 17, approximately 20 men wearing military uniforms ransacked the offices of Radio Nostalgie. Eyewitnesses reportedly saw them arrive in vehicles bearing government markings. The office of Radio Nostalgie's chief executive officer, Hamed Bakayoko, was ransacked on September 9. Bakayoko was a northerner and was considered to be close to Alassane Ouattara and the RDR. With the events of September 19, Radio Nostalgie switched to an all-music format, broadcasting no news. RSF lodged a formal protest with the Government over the attack and the OLPED also criticized the attack.

After the uprising began September 19, managers of the state-controlled television and radio stations denied several dozen staff members access to work. According to the pro-RDR newspapers, the employees were dismissed because they were not partisans of the governing FPI party. Although full programming continued, the RTI Director claimed that workers were denied access because the stations needed only essential staff as a result of the post-September 19 turmoil and programming modifications.

On September 22, the Government suspended the local FM broadcasts of RFI, BBC, and Africa Number One, because they allegedly broadcast untrue, distorted, or biased reports on the conflict and supported the rebels. All three stations had aired statements or interviews with rebel soldiers as well as wide-ranging reports on events throughout the country. Government-controlled broadcasts continued uninterrupted.

On October 10, three armed policemen detained BBC correspondent Kate Davenport. The policemen initially attempted to confiscate the reporter's equipment; however, when she refused to hand it over, the police forced themselves into her car and demanded that she drive them to a police station. The police released Davenport after a few hours.

On October 17, DST officials arrested Gael Mocaer, a French freelance radio producer, at his hotel room, and held him at the Government's intelligence headquarters in Abidjan, reportedly because he might have filmed government buildings without permission. Officials reportedly removed his personal belongings from the hotel, held him without charges, and denied him visitors. On October 23, Mocaer was released without explanation or charges being brought.

On October 21, the rebels in the central city of Bouake began broadcasting for several hours per day using the RTI TV station to air speeches and meetings of the MPC, the rebels' political arm. In response to pro-rebel broadcasts, the Government accused the RTI technicians in Bouake of complicity in an illegal rebellion.

The Government did not restrict access to or distribution of other electronic media. There were 12 domestic Internet service providers, of which 4 were major providers. All 12 service providers were privately owned and relatively expensive. The licensing requirements imposed by the Government telecommunications regulatory body, ATCI, reportedly were not unduly restrictive.

There is no law specifically concerning academic freedom; however, in practice the Government tolerated a considerable amount of academic freedom but inhibited political expression through its proprietary control of most educational facilities, even at the post-secondary level. A presidential decree required authorization for all meetings on campuses.

Many prominent scholars active in opposition politics retained their positions at state educational facilities; however, some teachers and professors suggested that they have been transferred, or fear that they may be transferred, to less desirable positions because of their political activities. According to student union statements, security forces continued to use students as informants to monitor political activities at the University of Abidjan.

Members of the university and secondary students' association, FESCI, attacked and intimidated teachers, and there were violent conflicts between FESCI rival groups that resulted in a number of injuries and a reported death during the year.

There were student protests during the year (*see* Section 2.b.).

*b. Freedom of Peaceful Assembly and Association.*—The Constitution allows for freedom of assembly; however, the Government sometimes restricted this right in practice. Groups that wished to hold demonstrations or rallies were required by law to submit a written notice of their intent to the Ministry of Security or the Ministry of Interior 3 days before the proposed event. No law expressly authorizes the Government to ban public meetings or events for which advance notice has been given in the required manner. In practice the Government prohibited specific events deemed prejudicial to the public order; even if authorization was granted, it later could be revoked.

There were a number of antigovernment marches prior to September 19; most were labor-related demands for pay increases and other benefits (*see* Section 6.b.). There were fewer instances than in the previous year of police forcibly dispersing demonstrations when they deemed that public order was threatened; generally they allowed the demonstrations to proceed. There were no reports of the police or other security forces restricting meetings of NGOs, labor organizations, religious groups, or professional associations.

On February 25, hundreds of female vendors from a market in the Yopougon section of Abidjan marched to the President's office to protest the use of police force to intimidate vendors. The police allegedly beat several vendors because they had refused to pay the market taxes. The Prime Minister's Cabinet Director met with the protesters.

In April police tear gassed shopkeepers in Yopougon who were protesting the bulldozing of several small shops, which reportedly did not conform to building standards.

Following the September 19 rebellion, there were several progovernment demonstrations. On October 2, more than 10,000 persons marched peacefully in Abidjan to support President Gbagbo and the Government forces against the rebels.

An October 22 demonstration at the French military base near the Abidjan airport resulted in injuries to dozens of marchers when French troops repelled them with tear gas and water cannons after they attempted to breach the front gate of the base.

No action was taken against security forces who forcibly dispersed demonstrations in 2001.

The Constitution provides for freedom of association and the Government generally respected this right in practice. The Government allowed the formation of political parties, trade unions, professional associations, and student and religious groups, all of which were numerous.

The Constitution states that all parties and nongovernment organizations must respect the laws of the Republic, including the requirement that all such organizations register with the Ministry of Interior before commencing activities. In order to obtain registration, political parties had to provide information on their founding members and produce internal statutes and political platforms or goals consistent with the Constitution. There were no reports that the Government denied registration to any group, but processing rarely was expeditious. There were more than 100 legally recognized political parties, 7 of which were represented in the National Assembly (*see* Section 3).

The Constitution prohibits the formation of political parties along ethnic or religious lines; however, in practice ethnicity and religion were key factors in some parties' membership (*see* Sections 2.c. and 5).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion and the Government generally respected that right; however, after September 19, the Government targeted persons perceived to be perpetrators or supporters of the rebellion, who often were Muslim.

There was no state religion; however, for historical as well as ethnic reasons, the Government informally favored Christianity, in particular the Roman Catholic Church. Catholic Church leaders had a stronger voice in government affairs than their Islamic counterparts, which led to feelings of disenfranchisement among some Muslims. In August President Gbagbo restructured and expanded his cabinet to include 6 Muslims among 37 ministers, one of whom became the Minister of State for Foreign Affairs and was one of the President's closest advisers.

The law requires religious groups desiring to operate in the country to register. In practice the Government's regulation of religious groups generally has not been unduly restrictive. No religious group complained during the year of arbitrary registration procedures or recognition. Although non-traditional religious groups, like all public secular associations, were required to register with the Government, no penalties were imposed on groups that failed to register.

Members of the country's largely Christianized or Islamic urban elites, which effectively controlled the State, generally were disinclined to accord to traditional indigenous religions the social status accorded to Christianity and Islam.

Some Muslims believed that their religious or ethnic affiliation made them targets of discrimination by the Government with regard to both employment and the renewal of national identity cards (*see* Section 5). Due to the tense political situation in the country and the ethnic divisions that frequently were a strong factor in political party membership, Muslims (or persons with northern names assumed to be Muslim) sometimes reportedly were scrutinized more closely when applying for identity documents. As these northern Muslims shared names, style of dress, and customs with several of the country's predominantly Muslim neighboring countries, they sometimes were accused wrongly of attempting to obtain nationality cards illegally in order to vote or otherwise take advantage of citizenship. This created a hardship for a disproportionate number of Muslim citizens.

In late June, after months of improved relations, tensions rose between RDR supporters and FPI supporters in the period prior to the July departmental elections. In late June, security forces and RDR and FPI supporters clashed in and near Daloa. Party militants burned mosques and churches, as well as homes and villages, especially those of Muslims. Muslims accused the security forces of favoring the FPI. At least six persons were killed, although some estimates were much higher. Also in late June in Abidjan, members of a progovernment activist student union, FESCI, attacked and injured Muslim university students. Muslims accused FESCI of grouping Muslims, members of northern ethnic groups, and RDR loyalists into one identity.

The ongoing rebellion after September 19 generated new ethnic and religious strains. Security forces entered and searched mosques and homes of clerics and other Muslims without warrants, allegedly looking for arms or rebels and sympathizers (*see* Sections 1.a. and 1.d.). Security forces detained, questioned or beat some Muslims and questioned some Islamic leaders on suspicions that they were part of the unrest. Nationalist newspapers wrote of the "Islamic plot" to topple President Gbagbo, which led the Government to detain, arrest, and kill an estimated 200 Muslims.

On October 30, the CNI issued a statement asserting that since September 19 the Muslim community had fallen under unfair suspicion and was suffering arbitrary arrests, beatings, and killings by the security forces (*see* Sections 1.a., 1.c., and 1.d.).

The CNI statement claimed that state television and radio had created a climate of hatred.

Rebels in Bouake and elsewhere in the north executed more than 100 persons, most of whom were Christian, who were members of the Government's armed forces or persons thought to be loyal to the Government (*see* Section 1.a.).

Conflicts within religious groups surfaced occasionally. In February the Celestial Christian Church reunified after the head of the church in Nigeria reinstated Blin Jacob Edimou, the founding priest of the Ivoirian Celestial Church, to his position as head of the Church. In June all churches that were closed following the violence reopened after the restoration of unity within the Harrist organization.

Relations between the various religious communities generally were amicable; however, there was some societal discrimination against Muslims and followers of traditional indigenous religions (animists).

Some non-Muslims opposed construction of mosques, on the grounds that the Islamic duty to give alms daily could attract beggars and some non-Muslims disliked hearing the public calls to prayer emanating from mosques.

Followers of traditional indigenous religions sometimes were subject to societal discrimination. Many Christians and Muslims looked down on practitioners of traditional indigenous religions as pagans, practitioners of black magic or human sacrifice, and refused to associate with them. The practices of traditional indigenous religions often were shrouded in secrecy, and included exclusive initiation rites, oaths of silence, and taboos against writing down orally transmitted history. However, many practitioners of traditional indigenous religions seemingly were unaware of societal discrimination and did not complain.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution does not provide specifically for these rights, and the Government on occasion restricted them in practice. However, after September 19, freedom of movement was restricted further. The Government generally did not restrict internal travel. However, police, gendarmes, and water, forestry, and customs officials frequently erected and operated roadblocks on major roads, where they demanded that passing motorists or passengers produce identity and vehicle papers and regularly extorted small amounts of money or goods for contrived or minor infractions. In the period prior to the July departmental elections, FPI militants erected roadblocks to prevent members of other parties from campaigning or voting (*see* Section 3).

After September 19, security forces or local civilian "self defense committees" erected numerous roadblocks and harassed and extorted travelers, commercial traffic and truckers, foreigners, refugees, UNHCR workers, and others. Uniformed forces and civilian committees demanded payment at each roadblock, sometimes reportedly beating and detaining those who could not pay. In addition, the Government established a restrictive curfew from early evening until early morning that inhibited movement around the country.

Citizens normally traveled abroad, emigrated freely, and had the right of voluntary repatriation. However, after the September rebellion, opposition party members reported that they feared being arrested at the airport if they attempted to leave the country. Unlike in the previous year, there were no reported instances of restriction of opposition politicians from traveling outside of the country.

There were no known cases of revocation of citizenship. The citizenship issue continued to be debated extensively during the year. The public debate over Alassane Ouattara's citizenship, electoral eligibility, and reinstatement of his political and citizenship rights resulted in an Abidjan court granting him in June a certificate of nationality, valid for only 6 months, which was required to run for public office.

The Constitution does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The law includes refugees but does not specify a separate legal status for them. The Government provides first asylum, and, according to a UNHCR census in June, there were 72,000 registered refugees in the country, primarily from Liberia and Sierra Leone. From January to April, approximately 7,000 new Liberian refugees entered the country.

The Government cooperated with UNHCR and other humanitarian organizations in assisting refugees. The UNHCR announced plans during the year to close three field offices in the western part of the country; however, the Government protested the decision, and the UNHCR decided to retain two field offices. The September rebellion halted plans to build new refugee camps and the UNHCR removed its international staff from those field offices when the security situation deteriorated. As the Government and local press publicly blamed the rebellion on foreigners, UNHCR

received threats because of its role in protecting Liberian and Sierra Leonean refugees.

In the 2 months following the September rebellion, an estimated 30,000 Burkinabe, and more than 1,000 Nigerians, Malians, and Guineans left the country. Various West African governments complained during the year about harassment of their citizens in the country (*see* Section 1.a.). The U.N. and other international organizations documented abuses against foreigners in Abidjan that included arbitrary arrest, beating, and theft of money and valuables. A foreign NGO documented many cases of gangs of youths working in conjunction with security authorities to beat and extort money and valuables from noncitizen Africans.

Following September 19 and the rebel takeover of the northern half of the country, an estimated 3,000 citizens sought refuge across the border in Mali. The Government continued to repatriate those citizens, transporting them by air to Abidjan. The repatriation program was ongoing at year's end.

After September the Government's destruction of shantytowns in Abidjan displaced tens of thousands of persons (*see* Section 1.f.). An estimated 80 percent were noncitizen Africans, mostly from Muslim dominated neighboring countries to the north. Citizens and other co-nationals in Abidjan neighborhoods took in a large number of the internally displaced persons (IDPs) temporarily. Some left for their home countries, some with the aid of their governments. Of the 7,000 IDPs from shantytown destruction, 1,000 were UNHCR-registered refugees. UNHCR placed these displaced urban refugees in temporary facilities. On numerous occasions, security forces visited these UNHCR centers after the curfew, checking the residents' identity documents and interrogating them, reportedly accusing some of them of being rebels and threatening to kill them. Despite repeated UNHCR protests to the Government, the practice continued during the year.

The identity card law included provision for the issuance of identity cards to refugees. The Minister of Defense indicated that the Government would issue cards free of charge to refugees, but none were issued during the year. Security officials often did not honor identity documents issued to refugees by the UNHCR. There were frequent reports of security officials stopping refugees to ask for identity documents. When the refugee produced only a UNHCR document, the security officials often also demanded money. There also were credible reports that security forces destroyed refugees' identity documents, arbitrarily detained, and occasionally beat refugees.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides for the right of citizens to change their government peacefully through democratic means. The Constitution and Electoral Code provide for presidential elections every 5 years and legislative elections every 5 years by a single and secret ballot. The Constitution also continues the tradition of a strong presidency. Significant violence and irregularities marred presidential elections held in October 2000 and legislative elections held in December 2000.

The Constitution of the Second Republic was implemented formally in August 2000. The Constitutional and Electoral Consultative Commission (CCCE), created by the junta's National Committee of Public Salvation (DNSP), drafted the Constitution. Members of major political parties and civil society comprised the CCCE; however, the CNSP and General Guei made changes to the CCCE's text prior to submitting the draft Constitution to a referendum. The Constitution was adopted in a referendum held in July 2000 by 86 percent of those voting. A quasi-independent commission that included representatives from some government ministries, civil society, and political parties supervised the referendum.

The Constitution includes language that is considered more restrictive than the Electoral Code on questions of parentage and eligibility requirements for candidates. The presidential elections followed several postponements and a controversial Supreme Court decision in October 2000, disqualifying 14 of the 19 candidates, including all of the PDCI and RDR candidates. RDR leader Ouattara was excluded from running in the presidential and legislative elections following the Supreme Court's rulings that he had not demonstrated conclusively that he was of Ivoirian parentage. Furthermore, the Court maintained that Ouattara had considered himself a citizen of Upper Volta (Burkina Faso) earlier in his career. The Court disqualified Emile Constant Bombet, PDCI candidate and former Interior Minister, because of pending charges of abuse of office when he was Minister. The Court disqualified former President Bedie, who also was the president of the PDCI party, because he did not submit the required medical certificate.



As a result of the Supreme Court decision, most international election observers declined to monitor the election. There were only 75 observers nationwide, 29 of whom were European Union observers whose original mission was to assess the overall security situation. The nationwide participation rate was 33 percent, and some polling places, especially in the north, closed early because of the lack of voters. Preliminary results showed that Gbagbo was leading by a significant margin. However, on October 23, 2000, soldiers and gendarmes entered the National Elections Commission (CNE) to stop the count. They expelled journalists and disrupted television and radio broadcasting. On October 24, 2000, Daniel Cheick Bamba, an Interior Ministry and CNE official, announced on national radio and television that the CNE had been dissolved and declared General Guei the victor with 56 percent of the vote. Thousands of Gbagbo supporters began protesting almost immediately, demanding a full vote count. Mass demonstrations continued until October 26, 2000, and resulted in numerous deaths and injuries. On October 25, 2000, national radio and television reported that Guei had stepped down.

When Gbagbo was inaugurated on October 26, 2000, gendarmes loyal to him violently suppressed RDR street demonstrators demanding new presidential elections. In December 2000, gendarmes and police officers also violently dispersed members of the RDR who were demonstrating to protest against the invalidation of Ouattara's candidacy in the legislative elections (*see* Sections 1.c. and 2.b.).

The December 2000 National Assembly election was marred by violence, irregularities, and a very low participation rate. The FPI won 96 out of 225 seats in the National Assembly; the PDCI, the former ruling party, won 77 seats; independent candidates won 17 seats; and 4 other parties won 7 seats. Largely because of the RDR boycott of the elections to protest the invalidation of Ouattara's candidacy, the participation rate in the legislative election was only 33 percent. In addition, the election could not take place in 26 electoral districts in the north because RDR activists disrupted polling places, burned ballots, and threatened the security of election officials.

In January 2001, the Government conducted legislative by-elections in Agnibilekrou and in the northern regions where the elections had been boycotted and disrupted by the RDR. Following the legislative by-elections, 223 of the 225 seats of the National Assembly were filled: The FPI won 96 seats, the PDCI 94 seats, the PIT 4 seats, very small parties 2 seats, independent candidates 22 seats, and the RDR (in spite of its boycott of all of the legislative elections) 5 seats. The two seats from Kong, where Ouattara planned to run, remained unfilled as the RDR, the only party running in that electoral district, boycotted the elections.

Citizens' ability to elect sub-national governments was limited. The State remained highly centralized. Subnational government entities existed on several levels, and included 19 regions, 58 departments, 230 districts, and 196 communities. However, at the level of the region (regional prefect), the department (prefect), and the district (sub-prefect), the Government appointed office holders. Other departmental and community officials, including mayors, were elected, as were some traditional chieftains. Subnational governments relied on the central government for most of their revenues, but mayors had autonomy to hire and fire community administrative personnel.

On July 7, the country held its first province level departmental (provincial) elections. Voters selected 58 departmental councils to oversee local infrastructure development and maintenance as well as economic and social development plans and projects. Their functions were not yet completely defined in law. Voter turnout was 28 percent, compared with 40 percent in the 2001 municipal elections. The ongoing national identity card program was not completed by the election date, but the CEI and the Government nonetheless declared that only the new green national identity card, or an "attestation of identity" document issued by local authorities, was valid for voting. Independent observers calculated that almost one half of all eligible voters were excluded from the elections by the difficulties and controversy surrounding issuance of the green cards.

All parties complained that some of their members were unable to obtain identity cards in time for the voting, but the PDCI and RDR parties were the most affected. Independent observers and the independent local press reported cases of FPI party militants putting up roadblocks to prevent members of other parties from campaigning or voting and uniformed forces intimidating voters and opening ballot boxes to empty them of non-FPI votes.

In early August, President Gbagbo formed a national unity government that included all major political parties. He expanded the cabinet from 28 to 37 portfolios. In the national unity government the FPI and its political allies maintained more than two-thirds of the ministerial posts. On October 3, President Gbagbo created the new cabinet position of Minister of Interior for Security but simultaneously sub-

sumed defense and security under the Presidency. In late November, the RDR party leadership announced that it was withdrawing its four ministers from the Government, and their successors had not been named at year's end.

The youth wings of political parties were allowed to organize and were active. The youth wing of the governing FPI party was a major political force. With the direct financial support through the presidency and the protection of the police and military, the FPI youth wing operated with impunity to control the political debate in the street, to intimidate the local and national press, and to exclude the youth wings of the other parties from the political debate. After the September 19 rebellion, on several occasions in October and November the youth wing of the FPI (JFPI); closely allied with Panafrican Congress of Young Patriots (COJEP) led by Charles Ble Goude; and the Patriots for the Total Liberation of Cote d'Ivoire (UPLT-CI) organized several progovernment rallies that drew tens of thousands of marchers (*see* Section 2.b.). The youth wings of the PDCI and RDR kept a low profile, especially after September 19 but staged some activities during the year.

There were no legal impediments to women assuming political leadership roles. Women held 19 of 225 seats in the National Assembly, with 2 seats vacant in the district of Kong since the disturbances in 2000. The first vice president of the National Assembly was a woman. Women held 6 of the 37 ministerial positions in the cabinet. Four of 41 Supreme Court justices were women. Henriette Dagri Diabate served as Secretary General of the RDR, the party's second ranking position.

There were no legal impediments to the exercise of political rights by the more than 60 ethnic groups in the country. President Gbagbo improved ethnic and regional balance in the Government by including members from 13 different ethnic groups: 10 members of Gbagbo's cabinet were from his own Krou group (Bete, Dida, and Guere); 4 were from the Southern Mande group (Gban, Gouro, and Yacouba) in the western provinces; and 5 ministers were from the north (Malinke and Senoufo). The remaining 18 ministers were from the center, the east, and the south (Baoule, Agni, Attie, Aboure, and Abbey), the ethnic groups that traditionally have been the strongest politically. President Gbagbo's cabinet contained six Muslims.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic human rights groups, including LIDHO, MIDH, Justice Action, and the CVCI generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views. The Government occasionally met with some of these groups. There were no credible reports of the Government restricting or prosecuting these groups or their members. Unlike in the previous year, the Government did not investigate NGOs.

During the year, LIDHO, MIDH, and other human rights groups gathered evidence and testimony on events. They also frequently published letters and statements in various independent local daily newspapers, often criticizing state security forces. The Government increased restrictions on press freedoms as a result of the September 19 rebellion (*see* Section 2.a.). Subsequently, only certain independent daily newspapers would publish LIDHO, MIDH, and CVCI statements and letters. On October 10, two local newspapers carried a MIDH report on human rights violations by the rebels and the Government. The October 20 edition of an independent daily newspaper carried a CVCI statement severely criticizing abuses it stated were committed by the security forces.

International human rights groups, like AI and HRW, generally operated without government restrictions, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their inquiries and views. The Government generally cooperated with international inquiries into the post-September 19 human rights situation, authorizing in October inquiries by both AI and HRW. There were no reports of the Government suppressing such groups or denying them visas; however, on occasion the Government has restricted their access to certain sensitive areas. In October HRW was not allowed to approach shantytowns that were being razed. AI reported they were not allowed access to prisons in police or military camps and security forces briefly detained the AI investigators who wanted to interview persons whose homes had been razed in a shantytown.

Local newspapers printed the objections lodged by RSF concerning restrictions placed on the local and international press since the onset of the crisis September 19 (*see* Section 2.a.).

During the year, the Government regularly permitted access to the World Food Program (WFP), the Red Cross, and other international humanitarian organizations. Both organizations were resident. Eleven U.N. agencies, including the International

Labor Organization (ILO), and the World Health Organization (WHO) were resident and active throughout the year.

The Government permitted the publication and dissemination of a U.N. High Commissioner for Human Rights (UNHRC) communique issued in October that warned against the spread of propaganda that incited hatred and racial discrimination, and called upon the Government to strengthen its commitments to international agreements prohibiting such attitudes. On November 8, the U.N. High Commissioner for Human Rights called on the Government to pursue the perpetrators of kidnappings, arbitrary detentions, and summary executions.

When President Gbagbo created the national unity government in early August, he created a Ministry of Human Rights and appointed as Minister a highly regarded attorney and experienced magistrate. After the outbreak of the rebellion, on October 17, she met with the principal human rights organizations, including LIDHO and MIDH, to express the Government's continued concern for human rights, despite the ongoing strife. The Ministry installed a free telephone hotline to allow victims of harassment to inform the appropriate authorities and launched a program of short television messages on human rights. On October 22, in an interview with the Government daily newspaper, *Fraternite Matin*, the Human Rights Minister appealed to both government and rebel forces to respect the internationally agreed human rights standards during wartime.

In October the NGO Group for Research on Democracy and Economic and Social Development (GERDDES-CI) conducted a human rights awareness campaign in response to the events following the uprising. GERDDES formed 6-person teams with Christian and Muslim representatives and members of leading human rights and democracy groups. The teams met local ethnic, religious, and political leaders in key "front line" districts to hear their concerns and to counsel tolerance. On October 25, President Gbagbo received GERDDES-CI director Honore Guei and other leaders to lend his political support to the project.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution and the law prohibit discrimination based on race, ethnicity, national origin, sex, or religion; however, in practice women occupied a subordinate role in society. Ethnic discrimination and division were problems.

*Women.*—Representatives of the Ivoirian Association for the Defense of Women (AIDF) stated that spousal abuse (usually wife beating) occurred frequently and often led to divorce. A 1998 AIDF survey found that many women refused to discuss domestic violence; of women who completed the AIDF interviews, nearly 90 percent had been beaten or struck on at least one occasion. Female victims of domestic violence suffered severe social stigma. The courts and police viewed domestic violence as a family problem unless serious bodily harm was inflicted, or the victim lodged a complaint, in which case they could initiate criminal proceedings. However, a victim's own parents often urged withdrawal of a complaint because of the shame that attached to the entire family. The Government did not collect statistics on rape or other physical abuse of women. The Government had no clear policy regarding spousal abuse. The civil code prohibits, and provides criminal penalties for, forced or early marriage and sexual harassment, but contains nothing about spousal abuse.

Women's advocacy groups protested the indifference of authorities to female victims of violence and called attention to domestic violence and FGM. The groups also reported that women victims of rape or domestic violence often were ignored when they attempted to bring the violence to the attention of the police. AIDF and the Republican Sisters, another women's NGO, continued to seek justice on behalf of rape victims but had made no progress by year's end. AIDF ran a house for battered girls and wives, which reportedly received approximately 18 battered women per week. The AIDF also opposed forced marriage and defended the rights of female domestic workers.

FGM was a serious problem. The law specifically forbids FGM and imposes on those who perform it criminal penalties of imprisonment for up to 5 years and a fine of approximately \$540 to \$3,000 (360,000 to 2 million CFA francs); double penalties apply to medical practitioners. FGM was practiced primarily among the rural populations in the north and west and to a lesser extent in the center. The procedure usually was performed on young girls or at puberty as a rite of passage, with techniques and hygiene that did not meet modern medical standards. According to WHO and the AIDF, as many as 60 percent of women have undergone FGM. Many families from the cities went back to their villages to have their daughters circumcised. The practice was declining in popularity, but persisted in many places. In 2001 approximately 100 girls underwent FGM in the western department of Guiglo.

In July Mrs. Adom Coulibaly, Director of Regulations and Protection at the Ministry of Women's Affairs, led a mission of women NGO leaders and magistrates to several districts of Abidjan to talk about the risks associated with FGM, as well as the legal sanctions imposed on those who practiced it. News that some Yacouba women living in the Abobo section of Abidjan intended to circumcise their daughters prompted the teach-in. On September 24, the Inter Press Service published an article on an excision ceremony in the western town of Gbangbegouine. During the year, the Manh Boya theater group continued its sensitization campaign against FGM and illiteracy in several districts of Abidjan as well as in the north of the country. As a result of the active campaign against FGM undertaken by the Government and NGOs, during 2001 several practitioners were arrested for performing excisions. One woman still was serving a sentence at the MACA for having performed FGM at year's end.

Women from nearby countries sometimes were trafficked to Cote d'Ivoire, including for prostitution (*see* Section 6.f.).

Prostitution is not illegal as long as it occurred between consenting adults in private. Soliciting and pandering both were illegal and the Morals Squad sometimes enforced the law. Operating an establishment that was mainly for prostitution also was illegal. A local NGO estimated that 58 percent of the women prostitutes in Abidjan were not citizens (*see* Section 6.f.).

The Constitution and the law prohibit discrimination on the basis of sex; however, women occupied a subordinate role in society. Government policy encouraged full participation by women in social and economic life; however, there was considerable informal resistance among employers to hiring women, whom they considered less dependable because of their potential pregnancy. Some women also encountered difficulty in obtaining loans, as they could not meet the lending criteria established by banks such as a title to a house and production of a profitable cash crop, specifically coffee and cocoa. Women in the formal sector usually were paid at the same rate as men (*see* Section 6.e.). In rural areas, women and men divided the labor, with men clearing the land and attending to cash crops such as cocoa and coffee, while women grew vegetables and other staples and performed most household tasks.

Women's advocacy organizations continued to sponsor campaigns against forced marriage, marriage of minors, patterns of inheritance that excluded women, and other practices considered harmful to women and girls. Women's advocacy organizations also campaigned during the year against the legal texts and procedures that discriminated against women. In March during the Government-sponsored "Women's Fortnight," women from all regions of the country asked the Government to reform the social security code and to increase the family allowance paid for children. Women criticized the fact that because the tax code did not recognize women as heads of households, female workers frequently paid income tax at a higher rate than their male counterparts. Women also asked that prenatal allowances be exempt from tax, that women and men share parental authority, and that the pensions of deceased salaried women be paid to the widower. No action was taken by year's end.

*Children.*—The Ministries of Public Health and of Employment, Public Service, and Social Security sought to safeguard the welfare of children, and the Government also encouraged the formation of NGOs such as the Abidjan Legal Center for the Defense of Children.

The Government strongly encouraged children to attend school; however, primary education was not compulsory. Primary education was free but usually ended at age 13. Poverty caused many children to leave the formal school system when they were between the ages of 12 and 14. A student who fails the secondary school entrance exams does not qualify for free secondary education. The family must then pay for secondary education, which many cannot afford.

Students who passed entrance exams may elect to attend free public secondary schools. Secondary school entrance was restricted by the difficulty of the exam, which changed each year, and the Government's ability to provide sufficient spaces for all who wished to attend. Many children left school after only a few years. According to government statistics, 57 percent of school age children (ages 6 to 18) attended primary school in the 2000–2001 academic year. According to UNICEF statistics, 62 percent of girls of primary school age reportedly were enrolled in school in 2000, compared with 58 percent in 1996. The percentage of girls attending junior high and high schools was less than 20 percent and 10 percent, respectively. The upward trend in school attendance of girls was attributable to various initiatives over the past 10 years by the Government and international organizations, such as UNICEF and the African Development Bank. The WFP has worked with the Government to establish a countrywide system of school canteens that provided lunches

for \$.04 (25 CFA francs). The Gbagbo government abolished the requirement that pupils wear a uniform to primary schools, which is expected to increase female enrollment because school will be cheaper for families. The Government also distributed free books and school supplies in some targeted primary schools.

Parental preference for educating boys rather than girls persisted, particularly in rural areas. Before September 19, primary school enrollment for girls was increasing in the northern part of the country. The Minister of National Education stated that almost one-third of the primary and secondary school dropout rate of 66 percent was attributable to pregnancies, and that many of the sexual partners of female students were teachers, to whom girls sometimes granted sexual favors in return for good grades or money. The penalty for statutory rape or attempted rape of either a girl or a boy aged 15 years or younger was a 1- to 3-year prison sentence and a \$150 to \$1,500 (100,000 to 1 million CFA francs) fine.

The Ministry of Health operated a nationwide network of clinics for children, infants, and prenatal care (PMI) staffed with nurses and doctors who served the local residents, whether citizens or noncitizens, free or at low cost. The Health Ministry also conducted a nationwide vaccination program for measles, yellow fever, meningitis and other diseases and publicized "well baby" contests. Rotary Clubs sponsored a polio vaccination campaign throughout the country. There were no reported differences in the treatment of boys and girls.

There were large populations of street children in the cities. During the year, the Government newspaper, *Fraternite Matin*, reported 215,000 street children in the country, of whom 50,000 were in Abidjan. According to the AIDF, the BICE (International Catholic Children's Office), the Ministry of Family, Women, and Children's Affairs, and press reports, some children were employed as domestics and were subject to sexual abuse, harassment, and other mistreatment by their employers (see Section 6.d.). A forum of approximately 15 NGOs, including Children of Africa and the BICE, worked with approximately 8,000 street children in training centers, similar to halfway houses. The NGOs paid the children a small subsistence sum while teaching them vocational and budgeting skills. The Ministry of Family, Women, and Children's Affairs reported that many street children were reluctant to stay in training centers where they earned no money and were subject to strict discipline.

The Ministry of Family, Women, and Children made efforts to reduce the number of children working outside the confines of their own family to curb child abuse (see Section 6.d.).

In some parts of the country, FGM was performed commonly on girls (see Section 5, Women).

Children regularly were trafficked into the country from neighboring countries (see Section 6.f.).

The rebel forces that controlled the northern half of the country used child soldiers who they recruited and armed after September 19. U.N. organizations reported from Bouake and other northern sites that most of the young recruits or volunteers were 17 or 18 years of age; however, there were some who were 15 or younger.

*Persons with Disabilities.*—The law requires the Government to educate and train persons with physical, mental, visual, auditory, and cerebral motor disabilities, to hire them or help them find jobs, to design houses and public facilities for wheelchair access, and to adapt machines, tools, and work spaces for access and use by persons with disabilities. The Government was working to implement these requirements at year's end. Wheelchair accessible facilities for persons with disabilities were not common, and there were few training and job assistance programs for persons with disabilities.

Laws also exist that prohibit the abandonment of persons with mental or physical disabilities and enjoin acts of violence directed at them. Persons with mental disabilities often lived in the streets. Adults with disabilities were not specific targets of abuse, but they encountered serious difficulties in employment and education. The Government supported special schools, associations, and artisans' cooperatives for persons with disabilities, but many persons with physical disabilities begged on urban streets and in commercial zones.

In August following a strike by persons with disabilities demanding increases in their minimal benefits, the Government created a new Ministry for Social Affairs and the Handicapped.

Traditional practices, beliefs, and superstitions varied, but infanticide in cases of serious birth defects was less common than in the past.

*National/Racial/Ethnic Minorities.*—The country's population was ethnically diverse. Citizens born in the country derived from five major families of ethnic groups. The Akan family comprised more than 42 percent of the citizenry; the largest Akan

ethnic group, and the largest ethnic group in the country, was the Baoule. Approximately 18 percent of citizens belonged to the northern Mande family, of which the Malinke were the largest group. Approximately 11 percent of citizens belonged to the Krou family, of which the Bete were the largest group. The Voltaic family accounted for another 18 percent of the population, and the Senoufou were the largest Voltaic group. Approximately 10 percent belonged to the southern Mande family, of which the Yacouba were the largest group. Major ethnic groups generally had their own primary languages, and their nonurban populations tended to be concentrated regionally.

All ethnic groups sometimes practiced societal discrimination on the basis of ethnicity. Urban neighborhoods still had identifiable ethnic characteristics, and major political parties tended to have identifiable ethnic and regional bases, although interethnic marriage increasingly was common in urban areas.

At least 26 percent of the population was foreign, and of that group, 95 percent were other Africans. There were more than 5 million West African immigrants living in the country. Most of the Africans were from neighboring countries, with half of them from Burkina Faso. Birth in the country did not automatically confer citizenship.

Some ethnic groups included many noncitizens, while other ethnic groups included few noncitizens. There were societal and political tensions between these two sets of ethnic groups. This cleavage corresponded to some extent to regional differences; ethnic groups that included many noncitizens were found chiefly in the north and west. Members of northern ethnic groups that were found in neighboring countries as well as in the country often were required to document their citizenship, whereas members of formerly or presently politically powerful ethnic groups of the south and center reportedly were not required to do so. Police routinely abused and harassed noncitizen Africans residing in the country (*see* Section 1.d.). Official harassment reflected the frequently encountered conviction that foreigners were responsible for high crime rates, as well as a concern for identity card fraud. After the rebellion of September 19, harassment of northerners increased markedly.

The Constitution includes a presidential eligibility clause that limits presidential candidates to those who can prove that both parents were born citizens in the country and states that a candidate never may have benefited from the use of another nationality. Because of this restriction, RDR leader Alassane Ouattara was declared ineligible for both presidential and legislative elections in 2000 (*see* Section 3). In June a court granted him an Ivoirian certificate of nationality of limited duration.

Over the past decades, many West Africans, especially from the neighboring countries to the north migrated to the country to work on cocoa or fruit plantations or have sought to earn their living in Abidjan and other cities. Outdated or inadequate land ownership laws gave rise to conflicts with an ethnic and antifoiegn aspect.

Ethnic tensions led to fighting and deaths, especially at the time of the July 7 departmental elections (*see* Section 1.a.). For example, on July 8 in Gagnoa, conflict between members of the Bete ethnic group (President Gbagbo's group) and Dioulas (a general term for persons of northern ethnic groups, whether citizens or noncitizens) left 3 dead and 43 injured. Later in July, Betes and Dioulas youth attacked each other in Daloa, which resulted in 1 dead, 14 injured, several women were raped, and several houses damaged. In early July, Ebrie (from the coastal lagoons) and Dioulas clans clashed in Songon-Agban near Abidjan, injuring 5 persons.

After September 19, President Gbagbo accused "a neighboring country" of being behind the rebellion. The Government razed shantytowns where many poor West African immigrants and citizens lived, rendering as many as 12,000 persons homeless (*see* Section 1.f.).

On October 6, government television declared that the key to victory over the rebels was to expel all Burkinabe immigrants. In a televised address on October 8, President Gbagbo asked citizens not to attack foreigners. In October government supporters in the western region of Duekoue forced more than 2,000 Burkinabe nationals to leave their cocoa and coffee farms, accused them of being rebel sympathizers, and reportedly killed 11 of them. In late October, the Governments of Burkina Faso and Mali issued statements criticizing the rebellion and urging the Government to stop attacks on their citizens and other foreigners.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and the Labor Code grant all citizens, except members of the police and military services, the right to form or join unions. Registration of a new union required 3 months. Two of the three largest labor federations were the General Union of Workers of Cote d'Ivoire (UGTCI) and the Federation of Autonomous Trade Unions of Cote d'Ivoire (FESACI). The third largest federation, Dignite, and one other were not affiliated with the Government.

Unions legally are free to join federations other than the UGTCI. In the past, the Government pressured unions to join the UGTCI but no longer does so.

Only a small percentage of the workforce was organized, and most laborers worked in the informal sector that included small farms, small roadside and streetside shops, and urban workshops. However, large industrial farms and some trades were organized. There was an agricultural workers union.

Labor inspectors had the responsibility to enforce a law that prohibits antiunion discrimination. There have been no known prosecutions or convictions under this law, nor have there been reports of antiunion discrimination.

Unions were free to join international bodies, and the UGTCI was affiliated with the International Confederation of Free Trade Unions.

*b. The Right to Organize and Bargain Collectively.*—The law protects persons working in the formal sector (approximately 1.5 million workers or 15 percent of the workforce) from employer interference in their right to organize and administer unions. The Constitution provides for collective bargaining, and the Labor Code grants all citizens, except members of the police and military services, the right to bargain collectively. Collective bargaining agreements were in effect in many major business enterprises and sectors of the civil service. In most cases in which wages were not established in direct negotiations between unions and employers, the Ministry of Employment and Civil Service established salaries by job categories (*see* Section 6.e.).

The Constitution and statutes provide for the right to strike and the Government generally protected that right in practice. However, the Labor Code requires a protracted series of negotiations and a 6-day notification period before a strike may take place, making legal strikes difficult to organize. Workers in the private and government sectors continued to strike over working conditions and terms of employment; however, the Government generally tolerated the strikes, which rarely resulted in violence.

In 2001 the Government asked labor organizations and other “social partners” to abide by a “social truce” to limit strikes or other actions that would slow economic activity while the Government reformed and strengthened institutions. The Labor Ministry arbitrated more than 120 labor conflicts during the year, in spite of the “social truce.” Employees could appeal decisions made by labor inspectors to labor courts.

There were several strikes during the year, including by judges (*see* Section 1.e.). In late January and early February, police in Abidjan went on strike to demand salary equivalency with the gendarmerie. On January 28, a meeting between policemen and the late Interior Minister Boga Doudou ended when a tear gas grenade exploded. It remained unclear who detonated the grenade. After the policemen met with Prime Minister Affi N’Guessan, the two sides resolved the pay dispute, and the policemen returned to work after receiving a compromise wage increase.

When municipal workers went on strike in March to demand the reinstatement of more than 200 dismissed city employees, the Mayor of the Abobo area of Abidjan ordered security forces to break up the protest. After the strike, some of the dismissed employees were rehired.

On June 24, security personnel forcibly broke up a hunger strike by seven of Air Afrique’s female workers who complained of not receiving pay for 10 months (like all workers for the defunct air carrier). Security forces arrested the strikers following their unsuccessful meeting with the Transport Minister. All the women were released the same or the next day.

There were no developments in the cases of security forces who forcibly dispersed strikes in 2001 and 2000.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children; however, the ILO’s Committee of Experts in its annual report for 2000 questioned a decree that places certain categories of prisoners at the disposal of private enterprises for work assignments without their apparent consent. Legislation exists allowing inmates to work outside of prison walls; however, because of a lack of funds to hire wardens to supervise the inmates, the law often was not invoked.

The Government did not enforce the prohibition against forced child labor effectively (*see* Section 6.f.). Approximately 109,000 child laborers worked in hazardous conditions on cocoa farms in the country in what has been described as the worst forms of child labor (*see* Section 6.f.); some of these children were forced or indentured workers but 70 percent worked on family farms or with their parents.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—In most instances, the legal minimum working age is 14; however, the Ministry of Employ-

ment and Civil Service enforced this provision effectively only in the civil service and in large multinational companies. Labor law limits the hours of young workers, defined as those under the age of 18. However, children often worked on family farms, and some children routinely acted as vendors, shoe shiners, errand boys, and car watchers and washers in the informal sector in cities. There were reliable reports of children laboring in “sweatshop” conditions in small workshops. Children also worked in family operated artisanal gold and diamond mines. Although the Government prohibits forced and bonded child labor, it did not enforce this prohibition effectively (see Section 6.f.).

*e. Acceptable Conditions of Work.*—The Government administratively determined monthly minimum wage rates, which last were adjusted in 1996. During the year President Gbagbo promised a comprehensive pay raise; however, only the police had received an increase by year’s end (see Section 6.a.). Minimum wages varied according to occupation, with the lowest set at approximately \$52 (36,000 CFA francs) per month for the industrial sector, which was not sufficient to provide a decent standard of living for a worker and family. A slightly higher minimum wage rate applied for construction workers. The Government enforced the minimum wage rates only for salaried workers employed by the Government or registered with the social security office. The majority of the labor force worked in agriculture or in the informal sector where the minimum wage did not apply. According to a Labor Ministry survey, workers in the agricultural and fishing sector received an average of \$1,100 (726,000 CFA francs) a year.

Labor federations such as Dignite attempted to fight for just treatment under the law for workers when companies failed to meet minimum salary requirements or discriminated between classes of workers, such as local and foreign workers.

For example, the sanitary services company ASH continued to pay wages as low as \$15.50 (12,000 CFA francs) a month to female employees who swept the streets of Abidjan. According to Dignite, labor inspectors continued to ignore this violation of the law. The shipbuilding company Carena continued to discriminate between European engineers who were paid on average \$11,400 (8 million CFA francs) a month and their African colleagues who received approximately \$114 (80,000 CFA francs) a month. Government labor and employment authorities did not take action in these cases.

Through the Ministry of Employment and the Civil Service, the Government enforced a comprehensive Labor Code that governs the terms and conditions of service for wage earners and salaried workers and provides for occupational safety and health standards. Employees in the formal sector generally were protected against unjust compensation, excessive hours, and arbitrary discharge from employment. The standard legal workweek was 40 hours. The Labor Code requires overtime payment on a graduated scale for additional hours and provides for at least one 24-hour rest period per week.

Working conditions did not improve during the year and, in many cases, continued to decline. Government labor inspectors could order employers to improve substandard conditions, and a labor court could levy fines if the employer failed to comply with the Labor Code. However, in the large informal sector of the economy, the Government enforced occupational health and safety regulations erratically, if at all. The practice of labor inspectors accepting bribes was a growing problem, and observers believed that it was widespread. Workers in the formal sector had the right under the Labor Code to remove themselves from dangerous work situations without jeopardy to continued employment by utilizing the Ministry of Labor’s inspection system to document dangerous working conditions. However, workers in the informal sector ordinarily could not absent themselves from such labor without risking the loss of their employment. Several million foreign workers, mostly from neighboring countries, typically worked in the informal labor sector, where labor laws did not apply.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons, and although the Government increased its antitrafficking efforts, trafficking in persons was a problem. The Government prosecuted traffickers under existing laws against the kidnaping of children. The country was a source and destination country for women and children.

Law enforcement efforts continued during the year. After the events of September 19, minimal law enforcement continued in government-held territory. The military fronts that divided the country prevented northern workers from reaching the cocoa, coffee, and other rich agricultural zones in the south where labor demand is high. Furthermore, the rebels closed the borders with Mali and Burkina Faso.

During the year, authorities intercepted several persons involved in trafficking. UNICEF had no estimate of the number of children intercepted or repatriated dur-



ing the year. For example, in February police arrested two Ghanaian nationals for smuggling 7 young girls between the ages of 6 and 19 into the country to work as household servants. Also in February, the police arrested a citizen while trying to transport three Malian children into the country. The children were returned to their parents. In April gendarmes intercepted and arrested 3 citizens in Daoukro while they attempted to transport 15 young girls between the ages of 12 and 14 to work in households in Abidjan. The girls were returned to their families in the area.

In May a citizen of Benin was arrested in Meagui, near the Soubre cocoa region, when authorities discovered 30 persons between the ages of 10 and 30 in his residence. The children said they had been promised jobs paying between \$300 and \$600 (200,000 and 400,000 CFA francs) per year. Some reported having worked in various jobs for as long as 4 years without receiving compensation. They eventually were repatriated to Benin by UNICEF.

There were no developments in the trafficking cases from 2001 and 2000.

The Government cooperated with neighboring countries, international organizations, and NGOs to combat trafficking in persons. During the year, the Minister of Employment and the Minister of Family, Women, and Children's Affairs continued working with Malian authorities to prevent crossborder child trafficking and to repatriate Malian children from the country. The Government continued to work with the Governments of Burkina Faso and Togo on an antichild trafficking and repatriation protocol, similar to the agreement with Mali, but no such agreements were signed by year's end. The talks have not been held since the September rebellion broke out. In July 2001, a national committee for the fight against child trafficking was created that included representatives from the Ministries of Foreign Affairs, Interior, Security and Decentralization, Justice, Labor, Agriculture, Communication, Social Affairs and National Solidarity, and Family, Women, and Children's Affairs. Representatives from several national and international organizations and NGOs, such as UNICEF, REFAMP-CI (network of women ministers and parliamentarians), and the BICE, also were part of the committee. In September the Government and NGOs held a forum in Bouake to highlight the problem of trafficking of young Nigerian girls (often as young as 12 to 15 years of age) to work as prostitutes in urban areas.

The extent of the problem was unknown. The country's cities and farms provided ample opportunities for traffickers, especially of children and women. The informal labor sectors were not regulated under existing labor laws, so domestics, most non-industrial farm laborers and those who worked in the country's wide network of street shops and restaurants remained outside most government protection.

The regular trafficking of children into the country from neighboring countries to work in the informal sector in exchange for finder's fees generally was accepted. Children were trafficked into the country from Mali, Burkina Faso, Ghana, Togo, Benin, and Mauritania for indentured or domestic servitude, farm labor, and sexual exploitation. There were reports that children, some as young as 6 years of age, were trafficked from Benin to work as agricultural laborers and maids.

Women principally were trafficked to the country from Nigeria, Ghana, Liberia, and Asian countries. A local NGO estimated that 58 percent of the women prostitutes in Abidjan were not Ivoirians and reported that a small number of Ivoirian women were trafficked to Europe and the Middle East for prostitution.

Women and children were trafficked from the country to African, European, and Middle Eastern countries.

The controversy over child labor in the cocoa sector in the country continued, and the U.S. Agency for International Development (USAID), the ILO, the Institute of Tropical Agriculture, and the Chocolate Manufacturers' Association financed studies to document the problem. The survey research, released to the Government in July, revealed that most children who were working in the cocoa sector worked on the family's farm (approximately 70 percent) or beside their parents. Others, most frequently the children of extended family members or persons well known to them, indicated their or their family's agreement to leave their respective countries to work on farms in the country to earn money or in search of a better life. The research showed that approximately 109,000 child laborers worked in hazardous conditions on cocoa farms in the country in what the study described as the worst forms of child labor. The studies estimated that 59 percent were from Burkina Faso, 24 percent were citizens, and the others were from Mali or other countries to the north.

In 2001 international media reports exposed the practice of importing and indenturing Malian boys for fieldwork on Ivoirian farms and plantations under abusive conditions. For example, children recruited by Malians in the border town of Sikasso were promised easy and lucrative jobs in the country, transported across the border, and then sold to others who dispersed them throughout the farms and plantations of the central and western regions. According to press reports, some of the trafficked

boys were under 12 years of age and were placed in indentured servitude for \$140 (100,000 CFA francs) where they worked 12-hour days under grueling conditions for \$135 to \$190 (95,000 to 125,000 CFA francs) per year and were locked at night in crowded sheds with their clothing confiscated.

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## DJIBOUTI

Djibouti is a republic with a strong presidency and a weak but evolving legislature. In April 1999, the country elected its second president since gaining independence from France in 1977. Ismael Omar Guelleh, the candidate of the ruling People's Rally for Progress (RPP), won the election with 74 percent of the vote against opposition candidate Moussa Ahmed Idriss whose Unified Djiboutian Opposition Party (ODU) received 26 percent of the vote. For the first time since multiparty elections began in 1992, no group boycotted the election. The ODU later challenged the results; however, international and locally based observers considered the election to be generally fair and cited only minor technical difficulties. Guelleh took the oath of office as President in May 1999, with the support of an alliance between the RPP and the Government-recognized section of the Afar-led Front for the Restoration of Unity and Democracy (FRUD). The 1997 legislative elections, in which the ruling party coalition won all 65 seats, took place without international observers amid opposition claims of massive fraud. Legislative elections have not been held since that time. The judiciary was not independent of the executive.

The 8,000-member National Police Force (FNP) was responsible for internal security and border control and was under the control of the Ministry of Interior. The Ministry of Defense controlled the army. The Gendarmerie Nationale, a police force responsible for the President's security, was an autonomous unit under the Ministry of Defense. The President retained an elite Republican Guard, which was an independent unit of the Gendarmerie Nationale. A small intelligence bureau reported directly to the President. Civilian authorities generally maintained effective control of the security forces, but there were instances in which the security forces acted independent of the Government's authority. Members of the security forces committed serious human rights abuses.

The country has little industry and few natural resources; its population was estimated at 650,000. Outside the capital city, the primary economic activity was nomadic subsistence. Citizens were free to pursue private business interests and to hold personal and real property. The part of the annual gross domestic product not generated by and for the foreign community, which included approximately 8,000 French citizens, was estimated at no more than \$250 (44,000 DF) per capita annually. Unusually low rainfall caused drought conditions that negatively affected some of the population. Much of the country's wealth was concentrated in the hands of a small elite.

The Government's human rights record remained poor, and serious problems remained. The RPP continued to control the political system and to suppress organized opposition. There was at least one report of the arbitrary or unlawful deprivation of life by the Government or its agents. There were credible reports that security forces beat, physically abused, and raped prisoners and detainees; however, unlike in previous years, there were no reports that security forces tortured detainees. Police beat protesters. The Government did not take steps to prosecute human rights abusers and official impunity was a problem. Prison conditions remained harsh. The Government continued to detain persons arbitrarily. Prolonged detention and incommunicado detention were problems. The judiciary was not independent of the executive and did not provide citizens' due process. The Government infringed on citizens' privacy rights. The Government restricted freedom of the press. The Government limited freedom of assembly, used force to disperse demonstrations and strikes, and restricted freedom of association. While the Government respected freedom of religion in general, it discouraged proselytizing. There were some limits on freedom of movement. The Government remained antagonistic to the formation of human rights groups. Violence and discrimination against women persisted, and, although the Government prohibited such practices, the practice of female genital mutilation (FGM) continued to be widespread. Discrimination on the basis of ethnicity, nationality, and clan background persisted. The Government restricted unions and harassed and intimidated their leaders. Child labor exists.

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There was at least one report of the arbitrary or unlawful deprivation of life by the Government or its agents.

On April 18, members of the Presidential guard under the command of Captain Mohamed Djama fired on demobilized military pensioners protesting in front of the Presidential palace, killing one and injuring two others (*see* Section 2.b.).

Landmines laid by the Government and FRUD forces in the 1990's remained in some areas of the country, especially in areas controlled by the FRUD prior to the peace accord. There were no confirmed reports of deaths due to landmines during the year. The Government continued efforts at demining and reports indicated that the country will soon be declared "mine safe."

No action was taken against the members of the security forces responsible for the following killings in 2001: The February police shooting of Mohamed Assa Ali; the February police shooting of Asari Mohamed Moussa; the June military killing of one inhabitant of Hol-Hol refugee camp.

No action was taken, nor was any likely, against the members of the security forces responsible for the following killings in 2000: The December killings of 9 persons during an attempted overthrow of the Government; the October killing of a demonstrator; the June killing of Daher Guedi Fourreh, nephew of Moumin Bahdon Farah, the leader of the opposition party Groupe pour la Democratie et Republique (GDR).

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there continued to be credible reports that police and gendarmes beat, physically abused, and raped prisoners and detainees. Unlike in previous years, there were no reports that security forces tortured detainees.

Police beat protestors while dispersing several demonstrations during the year (*see* Section 2.b.).

There was no action taken, nor was any likely, against members of the security forces responsible for the following actions in 2000: The police raping, beating, and stealing from the approximately 5,000 undocumented foreigners arrested and detained in December; the December injuring of 10 persons during a clash between police and Gendarmerie; and the October police shooting and injuring of several demonstrators.

There were no confirmed reports of injuries due to landmines during the year (*see* Section 1.a.).

Prison conditions were harsh, and overcrowding was severe. Gabode prison, built for 350 persons, at times housed nearly twice that number. The Government sometimes shortened prison terms to reduce overcrowding. The Ministry of Justice noted that many of the prisoners were illegal Ethiopian immigrants who have committed crimes in the country, but that the majority of the more than 400 prisoners in Gabode prison at year's end were citizens. Prisoners reportedly must pay authorities to obtain food or to receive food brought by family members. Several prisoners were reported to be suffering from untreated illnesses or gunshot wounds received during arrest. Medical care was inadequate, and the prison infirmary lacked sufficient medication and medical staff. There were no educational or rehabilitation facilities within the prison. The lack of funding hampered the ability of Ministry of Justice officials to improve conditions or provide even minimal services.

Women and men were detained in separate cells. Reports persisted that prison guards raped female inmates. Children of female inmates under the age of 5 sometimes were allowed to stay with their mothers; authorities said that milk was provided for the children. In principle juveniles were housed separately from adult prisoners; however, in practice this was not always the case. Pretrial detainees usually were not held separately from convicted prisoners due to the lack of facilities.

On July 18, former police chief Yacin Yalah Galab died, 5 weeks after being sentenced to 15 years imprisonment for his role in the failed 2000 coup attempt, amidst rumors that the Government had denied him access to necessary medical treatment (*see* Section 1.e.).

An International Committee of the Red Cross (ICRC) delegate from Kenya made quarterly visits to the main prison. During the year, the ICRC visited the detained police officers who were accused of plotting to overthrow the Government in December 2000 (*see* Section 1.d.). The president of the Djiboutian Human Rights League (LDDH) was granted permission to visit prisoners in Gabode Prison during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest and detention; however, the Government did not respect these prohibitions. The law stipulates that the State may not detain a person beyond 48 hours without an examining magistrate's formal charge. Detainees may be held another 24 hours with the prior approval of the public prosecutor. All persons, including those accused of political or national security offenses, must be tried within 8 months of arraignment; however, the police occasionally disregarded these procedures. Unlike in previous years, there were no reports that police used lengthy periods of detention without charge. Incommunicado detention was used. The law provides for bail and expeditious trial; however, 13 persons in detention since December 2000 for a failed coup attempt were not tried until June 16 (*see* Sections 1.c., 1.e., and 2.b.).

On April 3 Police detained 11 demonstrating high school students for 7 days without charge (*see* Section 2.b.).

Conditions at Nagad detention center, where Ethiopians and Somalis were held prior to deportation, also were extremely harsh. Detainees at Nagad were held in unsanitary conditions and often were not fed for several days before their deportation (*see* Section 2.d.).

The law prohibits forced exile; however, some released citizen prisoners were pressured to go overseas, most often to France.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice the judiciary was not independent of the executive. Constitutional provisions for a fair trial were not respected universally, even in non-political cases, because of interference from the executive branch. The Minister of Justice was responsible officially for human rights.

The judiciary, based on the French Napoleonic code, was composed of a lower court, appeals courts, and a Supreme Court. The Supreme Court can overrule decisions of the lower courts. Magistrates are appointed for life terms. The Constitutional Council rules on the constitutionality of laws, including those related to the protection of human rights and civil liberties; however, its rulings were not respected always.

The legal system is based on legislation and executive decrees, French codified law adopted at independence, Islamic law (Shari'a), and nomadic traditions. Urban crime was dealt with in the regular courts in accordance with French-inspired law and judicial practice. Civil actions may be brought in regular or traditional courts. Shari'a is restricted to civil and family matters. The Government promulgated a new law on judicial organization in 2000, which included the establishment of a National Committee for the Promotion and Protection of Human Rights and provided for the separation of the court system from the Ministry of Justice; however, the Government had not separated the court system from the Ministry of Justice by year's end.

Traditional law (Xeer) often was used in conflict resolution and victim compensation. For example, traditional law often stipulates that a blood price be paid to the victim's clan for crimes such as murder and rape.

The Constitution states that the accused is innocent until proven guilty and has the right to legal counsel and to be examined by a doctor if imprisoned. Although trials officially were public, in politically sensitive cases security measures effectively prevented public access. Legal counsel was supposed to be available to the indigent in criminal and civil matters; however, defendants often did not have legal representation. Court cases were heard in public before a presiding judge and two accompanying judges. The latter received assistance from two persons, lay assessors, who were not members of the bench, but who were considered to possess sufficient legal sophistication to comprehend court proceedings. The Government chose lay assessors from the public at large, but credible reports indicated that political and ethnic affiliations played a role in the selection.

In May the National Assembly approved a government-proposed political amnesty bill (*see* Section 3). In 2001 in honor of the holy month of Ramadan, 80 prisoners were granted amnesty.

On June 17, the court sentenced General Yacin Yalah Galab, former chief of police, to 15 years imprisonment for his role in the failed coup attempt of December 2000. Eleven co-defendants received sentences of between 3 and 12 years. One co-defendant, Abounasser Awaleh Cheick, was acquitted of all charges. General Yacin, who had suffered from failing health for sometime, died 5 weeks after his sentencing amidst rumors that the Government had refused him adequate medical treatment.

On June 26, the Government announced a presidential pardon, which stipulated that all persons serving sentences of 1 year or less would be freed, all persons serving sentences of 2 to 5 years would have their sentences reduced by 6 months for every 1 year served, all persons serving sentences of 5 to 10 years would have their sentences reduced by 4 months for every 1 year served, and all persons serving sen-

tences of 10 years or more would have their sentences reduced by 2 months for every 1 year served in honor of the 25th anniversary of independence.

In June 2001, human rights attorney Aref Mohamed Aref was readmitted to the bar but had not argued a case by year's end. He and his colleague, Djama Amareh Meidal, had been disbarred for alleged irregularities in their representation of a client in a 1994 commercial dispute. Meidal remained disbarred at year's end.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, the Government did not respect these prohibitions in practice. The law requires that the authorities obtain a warrant before conducting searches on private property; however, in practice the Government did not always obtain warrants before conducting such searches, and it reportedly monitored and sometimes disrupted the communications of some government opponents.

The Government prevented access in country to certain Internet websites during the year (*see* Section 2.a.).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government restricted these rights in practice. The law prohibits the dissemination of false information and regulates the publication of newspapers. The Constitution prohibits slander.

The Government owned the principal newspaper, *La Nation*, which published bi-weekly. There were several opposition-run weekly and monthly publications that circulated freely and openly criticized the Government.

In 2000 the Government banned the importation and sale of the Somaliland newspapers *Jamhuuriya* and *The Republican*, and the ban remained in effect at year's end.

The Government also owned the radio and television stations. The official media generally were uncritical of government leaders and government policy. In 2000 the British Broadcasting Corporation (BBC) began broadcasting its World Service in the country in conjunction with Radio-Television Djibouti (RTD), the official government station. The BBC and RTD broadcast 24 hours a day in four languages on the radio. Radio France Internationale also broadcasts in the country. During the year, the Government signed a contract with the International Broadcasting Board to begin both short and medium wave Voice of America broadcasts into the country.

The country had one government-owned Internet service provider. The Government prevented access to several opposition and human rights websites based in Europe throughout the year.

The Government generally did not restrict academic freedom. In general teachers could speak and conduct research without restriction, provided that they did not violate sedition laws.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government limited this right in practice. The Ministry of Interior requires permits for peaceful assembly and monitors opposition activities. While permits generally were approved, the Government commonly used a show of police force and threatening tactics to intimidate and discourage potential demonstrators. Some opposition leaders effectively practiced self-censorship, and refrained from organizing popular demonstrations, rather than provoke a government crackdown.

On April 3, police forces used tear gas and clubs to disperse 60 students of the Balbara district of Djibouti City who were protesting their exclusion from graduate exams. Eleven students were confined without charge for 7 days before release (*see* Section 1.d.).

On April 18, members of the Presidential Guard under the command of Captain Mohamed Djama fired on unarmed, disabled, military pensioners demonstrating in front of the Presidential Palace, killing one person and wounding two others. The demobilized veterans were protesting the possible loss of disability pension benefits. Security forces claim that the protestors were hostile and attempted to rush the palace; witnesses report that the threat appeared minimal. Several demonstrators were arrested, charged, and detained for several days before the Government released them in conjunction with a new pension agreement.

On June 17, police used tear gas and clubs to disperse demonstrators discontented with the guilty verdict and prison sentences in the trial of Yacin Yalah Galab and his twelve codefendants for an attempted coup (*see* Section 1.e.).

There was no action taken against members of the security forces responsible for the following actions in 2001: The January police use of tear gas and clubs to dis-

perse a group of striking union workers; the May police use of tear gas to disperse a gathering of workers celebrating May Day; the October police use of tear gas to disperse an unruly demonstration by 800 high school students.

The Constitution provides for freedom of association provided that certain legal requirements were met; however, the Government restricted this right in practice. The Constitution does not limit the number of political parties, and on September 4, the Government announced the annulment of a 1993 referendum, limiting the number of political parties to four.

Nonpolitical associations must register and be approved by the Ministry of Interior (MOI). The LDDH said that the Ministry had registered it. In February the MOI reportedly refused the registration request of the Baha'i community (*see* Section 2.c.).

*c. Freedom of Religion.*—The Constitution, while declaring Islam to be the state religion, provides for freedom of religion, and the Government generally respected this right in practice; however, proselytizing was discouraged. Although Islam is the state religion, the Government imposed no sanctions on those who choose to ignore Islamic teachings, or practice other faiths. More than 99 percent of the population was Sunni Muslim.

The Government required that religious groups be registered. In February the MOI refused the registration request of the Baha'i community, according to Baha'i leaders.

There was no legal prohibition against proselytizing; however, proselytizing was discouraged. Unlike in the previous years, there were no reports that members of the Baha'i Faith were detained and questioned by the police for possible proselytizing activities.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, the Government at times limited these rights in practice. For example, a judge may order a passport seized for those under judicial surveillance or awaiting trial. There were no reports of government passport seizures during the year.

In August 2001, airport police prevented PRD president DAF from boarding a despite his having received permission from the court to depart. It was unclear why DAF was refused permission to leave; however, Mr. Farah subsequently was allowed to travel to Lebanon in October 2001 and to the United States during the year.

Landmines laid by the Government and FRUD forces in the 1990's remain in some areas of the country, especially in areas controlled by the FRUD prior to the peace accord. Landmines laid in Tadjoura and Obock districts restricted freedom of movement (*see* Section 1.a.).

Women were not permitted to travel without the permission of an adult male relative (*see* Section 5).

In April 2001, following a commercial dispute, the Government closed its border with Somaliland, including land, sea, and air routes, as well as all telecommunications; however, the border reopened in March.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government offered first asylum; however, the Government committee responsible for determining refugees' status has not met since 1995. The Government officially did not recognize those refugees under the protection of the U.N. High Commission for Refugees (UNHCR); however, the refugees were permitted to remain in the country.

The country hosted up to 100,000 refugees and illegal immigrants from neighboring countries, equal to approximately one-fifth of the population. The UNHCR assisted more than 21,000 Somali and Ethiopian residents of the two remaining refugee camps. Approximately 2,500 Ethiopian and Somali urban refugees were registered with the UNHCR office in Djibouti City. During the year, the UNHCR repatriated more than 1,800 Somaliland refugees who had fled to the country during the Somaliland civil war.

In 2000 the UNHCR repatriated more than 1,700 Ethiopian refugees who had fled to the country in 1984–85 and ceased to register Ethiopians as refugees. In previous years, the Djiboutian National Office for the Assistance of Refugees and Displaced Persons reported that it deported up to a thousand Ethiopians each week. Although the number of deportations still was believed to be high, no figures were available during the year.

There were reports that members of the security forces sometimes compelled illegal immigrants to work for them under threat of deportation (*see* Sections 5 and 6.c.).

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government, and citizens exercised this right through a generally democratic process in presidential elections held in 1999.

The RPP candidate Ismael Omar Guelleh, the designated successor of former President Hassan Gouled Aptidon, won the 1999 election with 74 percent of the vote. For the first time since multiparty elections began in 1992, no group boycotted the vote. Although Moussa Ahmed Idriss and the ODU challenged the results, alleging election "irregularities" and asserting that "foreigners" voted in various districts of the capital, international and domestic observers considered the election to be generally fair and transparent, citing only minor irregularities. All 5 of the districts were visited by at least 1 of the 22 international observers on election day. Observers representing the Arab League, the International Organization of Francophone States (La Francophonie), and the OAU issued a joint communique that expressed satisfaction with the transparency of the election but cited minor technical problems. Representatives of both candidates were present in virtually all voting stations, and there was no ethnic strife among Afars, Yemenis, and Somalis. Large numbers of persons of all communities supported both candidates.

The RPP, which has been in power since independence in 1977, continued to rule the country. The RPP also continued to control carefully the political system to suppress any organized opposition. In 1997 the ruling party coalition that includes the FRUD party won all 65 seats in legislative elections, which took place without international observers and amid opposition claims of massive fraud. In 2000 the Government and the faction of the FRUD that had rejected the 1994 peace accord signed a new peace accord, ending FRUD opposition to the Government. On May 12, the two sides signed the final peace treaty, officially ending the more than decade-long civil war, and laying the groundwork for this faction to participate in the Government.

Two other legal political parties have existed since 1992, the National Democratic Party (NDP) and the Party for Democratic Renewal (PRD); neither held a parliamentary seat or a cabinet level post. Previous efforts by both the legal and unrecognized opposition parties to unify floundered due to disagreements among their leaders over whom should lead a unified opposition.

Government harassment of opposition leaders decreased during the year, and there were no reported incidents. In September 2001, the Government proposed an amnesty bill for five former RPP leaders, paving the way for their return to politics. In May the National Assembly approved the amnesty bill.

Women generally have been excluded from senior positions in government and in the political parties even though they legally were entitled to participate in the political process. No women served in the legislature. In 1999 the President announced the appointment of the first female minister to his cabinet. Hawa Ahmed Youssouf served as Minister of State for the Promotion of Women's, Family, and Social Affairs, and reports to the Prime Minister. Khadija Abeba, President of the Supreme Court, was the highest-ranking female official and, according to the Constitution, would become interim President should that position become vacant.

The President's subclan, the Issa Mamassans, wielded disproportionate power in affairs of state. Afars hold a number of senior Ministerial posts; however, they were not well represented at lower levels. Somali clans other than the Issa and citizens of Yemeni origin were limited unofficially to one ministerial post each. There also were informal limits on the number of seats for each group in the Parliament.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

The Government did not support the formation of local human rights groups. The Union of Djiboutian Women (UNFD) and the Djiboutian Association for the Promotion of the Family (ADEPF) promote the rights of women and children. The Committee in Support of Political Prisoners (CSPP) was formed in February 1998. The Committee's goal was to publicize the plight of political prisoners and mobilize support for the improvement of prison conditions and for the release of political prisoners. The LDDH operated without government interference during the year.

The ICRC maintained a small office that was staffed with locally hired personnel. The ICRC regional representative, who was based in Nairobi, made quarterly visits.

In 2000 the Government permitted a visit by a delegation of the Organization of African Unity (OAU) Human Rights Committee for the first time. The delegation met with senior government officials and had free access to prisons and human rights groups.

There was a government ombudsman, whose specific responsibilities were not well known. In 2000 the Government promulgated a new law on judicial organization, which included the creation of a national human rights committee, and in August the Government-sponsored Human Rights Committee for the Promotion and Protection of Human Rights was established.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination on the basis of language, race, or sex; however, discrimination against women and ethnic minorities persists. In particular the Government's enforcement of laws to protect women and children was ineffective.

*Women.*—Domestic violence against women existed but few cases were reported. Violence against women normally was dealt with within the family or clan structure rather than in the courts. The police rarely intervened in domestic violence incidents, and the media reported only the most extreme examples, such as murder. The Government remained concerned about the problem of rape, and the law includes sentences of up to 20 years' imprisonment for rapists. The number of such cases prosecuted during the year was unknown.

It was believed that as many as 98 percent of females have undergone FGM. FGM traditionally was performed on girls between the ages of 7 and 10. In 1988 the Union of Djiboutian Women (UNFD) began an educational campaign against infibulation, the most extensive and dangerous form of FGM. The campaign has had only a limited impact on the prevalence of this custom, particularly in rural areas, where it was pervasive. After the 1995 U.N. Women's Conference in Cairo, Egypt, the UNFD declared that all forms of mutilation should be forbidden. The law states that "violence causing genital mutilation" is punishable by 5 years' imprisonment and a fine of more than \$5,650 (1 million DF); however, the Government has not yet convicted anyone under this statute. The efforts of the UNFD and other groups appeared to be having some effect, at least in the capital city. In 1997 some health workers reported a precipitous drop in the number of hospitalizations related to FGM in Djibouti City. Many believed that the incidence of infibulation has decreased, although no systematic data were available on the problem. U.N. and other experts believed that lesser forms of FGM still were practiced widely and that infibulation still was common in rural areas.

Women legally possessed full civil rights, but custom and traditional societal discrimination in education dictate that they play a secondary role in public life and have fewer employment opportunities than men. Few women worked in managerial and professional positions; women largely were confined to trade and secretarial fields. Customary law, which is based on Shari'a, discriminates against women in such areas as inheritance, divorce, and travel (see Sections 2.c. and 2.d.). Male children inherited larger percentages of an estate than do female children. The few women who were educated increasingly turn to the regular courts to defend their interests.

*Children.*—The Government devoted almost no public funds to the advancement of children's rights and welfare. A few charitable organizations worked with children. Primary education was compulsory; however, the Government did not monitor compliance. The Government provided free public education; however, there were extra expenses that could be prohibitive to poorer families, such as transportation, book fees, and chalk. Many schools were in poor condition and needed upgrading. Teacher salaries were paid only sporadically, and a large percentage of highly qualified teachers have left the profession. The number of classrooms for secondary students was inadequate, and only approximately 20 percent of children who started secondary school completed their education. Only 32 percent of girls were literate compared with 60 percent of boys, and more than 53 percent of the total population was illiterate. Only 62 percent of girls attend primary school compared with 73 percent of boys, and only 23 percent of girls attend secondary school compared with 33 percent of boys. In 1999 the Government reaffirmed its 1998 commitment to increase the number of female students in the educational system to 50 percent; however, there was no change in the number of female students or the literacy rate by year's end.

Child abuse existed; however, except for FGM, it was not believed to be common.



FGM was performed on as many as 98 percent of young girls (*see* Section 5, Women).

The Government has not addressed child abuse, which often was punished lightly; for example, when a child was raped or abused, the perpetrator usually was fined an amount sufficient to cover the child's medical care. The Government has not used applicable existing provisions of the law to deal with child abuse more severely.

*Persons with Disabilities.*—The Government did not mandate accessibility to buildings or government services for persons with disabilities. Although persons with disabilities have access to education and public health facilities, there was no specific law that addressed the needs of persons with disabilities, and there were no laws or regulations that prevent job discrimination against persons with disabilities. Persons with disabilities had difficulty finding employment in an economy where at least 60 percent of the able-bodied adult male population was underemployed or jobless.

On April 18, government security forces fired on a group of demobilized military veterans with disabilities protesting benefits payments in front of the Presidential palace, killing one and wounding two (*see* Sections 1.a. and 2.b.).

*National/Racial/Ethnic Minorities.*—The Government continued to discriminate against citizens on the basis of ethnicity in employment and job advancement. Somali Issas were the majority ethnic group and controlled the ruling party, the civil and security services, and the military forces. Discrimination based on ethnicity and clan affiliation limited the role of members of minority groups and clans, particularly the Afar minority ethnic group, in government and politics.

The Government conducted periodic roundups of undocumented foreigners, which usually targeted Ethiopians and noncitizen Somalis. There were credible reports that security forces frequently use these undocumented foreigners as forced labor on public works projects as well as for their own needs (*see* Sections 2.d. and 6.c.). There was no known action taken against members of the security forces responsible for raping, beating, or stealing from the approximately 5,000 undocumented foreigners (mostly Ethiopians) arrested and detained in December 2000 (*see* Sections 1.a., 1.d., and 2.d.). The Government blamed undocumented foreigners for the country's economy, unemployment rate, and rising crime.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Under the Constitution, workers were free to join unions and to strike provided that they comply with legally prescribed requirements; however, the Government restricted these rights. In 1999 the Government took control of the two largest labor federations, the General Union of Djiboutian Workers (UGTD) and the Union of Djiboutian Workers (UDT). Police broke into UDT offices and confiscated banners and the public address system that were to have been used in Labor Day ceremonies, and the Government dictated the election of its supporters to head the UDT and UGTD and took possession of union offices. The International Labor Organization (ILO) and the International Confederation of Free Trade Unions (ICFTU) criticized the Government's actions. In 1999 the ILO reported that the situation of the country's unions had "gravely deteriorated." In response to ILO and ICFTU criticisms, the Government agreed to hold new elections. On September 22, the UDT held an independent congress. Adan Abdou was elected Secretary General and Ahmed Djama was elected President. The Congress was attended and endorsed by the CISL (Conférence Internationale pour les Syndicalistes Libre); however, on October 22, with official encouragement the Government-sponsored UDT held a congress at which Said Mahamoud was elected president.

The ILO rejected the credentials of government officials claiming to represent the UDT and UGTD at several international conferences. The ILO refused admittance to its June conference to representatives of the Government-sponsored UDT. No other union representatives attended.

Prior to the Government takeover, approximately 70 percent of workers in the small formal economy were members of the UDT or UGTD; however, since the takeover, there have been almost no independent union activities. The Government repeatedly promised to improve the situation; however, certain members of the Government continued efforts to maintain some semblance of legitimacy for their government-sponsored unions. The Djiboutian Labor Congress (CIDJITRA), composed of Ministry of Labor officials, created by the Government to counter the UDT and UGTD, no longer existed. According to the ICFTU, "trade union freedoms now exist only on paper," and the Government "has created a collective of grassroots trade unions, whose affiliates do not include one single representative organization with elected officials."

In 2000 the ILO Conference Committee on the Application of Standards cited the country for its failure to address five specific issues of labor law reform outlined by the ILO.

The law prohibits antiunion discrimination, and employers found legally guilty of discrimination were required to reinstate workers fired for union activities; however, the Government did not enforce the law.

At its 2000 annual conference, the ILO urged the Government to enact the labor resolutions that it had signed in 1998. The ILO noted ongoing abuses by the Government in forbidding union meetings and preventing union officials from receiving their mail. The ILO Committee of Experts report released during the year indicated that little progress had been made and that the Government continued to deviate between national labor law and adherence to guarantees set forth in ILO conventions.

The law permits unions to maintain relations and exchanges with labor organizations abroad, and the Government does not restrict such contact. The nongovernment-controlled UDT was a member of the ICFTU.

*b. The Right to Organize and Bargain Collectively.*—Although labor has the legal right to organize and bargain collectively, collective bargaining rarely occurred. Relations between employers and workers were informal and paternalistic. Wage rates generally were established unilaterally by employers on the basis of Ministry of Labor guidelines. In disputes over wages or health and safety problems, the Ministry of Labor encouraged direct resolution by labor representatives and employers. The Government could and did select labor representatives. The ILO Committee of Experts again cited section 6 of the Djibouti labor code, which limits trade union representatives to citizens, consequently restricting the full exercise of the right of workers to elect representatives in full freedom. The election of representatives also was influenced by the relationship between clan elders and clans with unions and workforces. Workers or employers may request formal administrative hearings before the Ministry's inspection service; however, critics claimed that the service suffered from poor enforcement, due to its low priority and inadequate funding.

The law requires representatives of employees who plan to strike to contact the Ministry of Interior 48 hours in advance. The Government paid the salaries of teachers, security forces, and civil servants sporadically throughout the year; however, their salaries remained 3 to 9 months in arrears by year's end. During the year, there were occasional demonstrations by teachers and other civil servants protesting salary arrears. The demonstrations generally took place on Thursday mornings and peacefully dispersed after 1 or 2 hours. Kamil Hassan, a schoolteacher, who previously had been detained in 1997 as a leader of a teacher's strike, was officially reinstated in March but was still not teaching at year's end.

An export processing zone (EPZ) was established in 1994. Firms in the EPZ were exempt from the Government's social security and medical insurance programs. Employers within the EPZ have authority to pay less than minimum wage, offer less annual leave than the rest of the country, and in the EPZ the work week was longer (see Section 6.e.). Plans for the EPZ largely have failed; and it did little business and employed few persons.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children; however, there were reports that members of the security forces sometimes compelled illegal immigrants to work for them under the threat of deportation.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits all labor by children under the age of 14, but the Government did not always enforce this prohibition effectively, and child labor, although not common, existed. A shortage of labor inspectors reduced the likelihood of investigation into reports of child labor. Children generally were not employed in hazardous work. Children may and did work in family-owned businesses, such as restaurants and small shops, at all hours of the day and night.

The country has not ratified ILO Convention 182 on the worst forms of child labor.

*e. Acceptable Conditions of Work.*—Only a small minority of the population was engaged in wage employment. The Government administratively sets minimum wage rates according to occupational categories, and the Ministry of Labor was charged with enforcement. The monthly wage rate for unskilled labor, set in 1976, was approximately \$125 (22,000 DF). Most employers paid more than the minimum wage. Some workers also received housing and transportation allowances. The national minimum wage did not provide a decent standard of living for a worker and family. The Government owed 3 to 9 months' worth of salary arrears to teachers, security forces, and civil servants at year's end (see Section 6.a.).

By law the workweek was 40 hours, often spread over 6 days. Some employers asked employees to work up to 12 hours per day and paid them an additional wage. Workers were provided daily and weekly rest periods and paid annual leave. The Ministry of Labor was responsible for enforcing occupational health and safety standards, wages, and work hours. Because enforcement was ineffective, workers sometimes faced hazardous working conditions, particularly at the port. Workers rarely protested, mainly due to fear that others willing to accept the risks would replace them. There were no laws or regulations permitting workers to refuse to carry out dangerous work assignments without jeopardizing their continued employment.

Only legal foreign workers were protected under the law; undocumented workers were detained and deported.

*f. Trafficking in Persons.*—There was no specific law prohibiting trafficking in persons; however, there were no reports of persons being trafficked to, from, or within the country.

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## EQUATORIAL GUINEA

Equatorial Guinea nominally is a multiparty constitutional republic; however, in practice President Teodoro Obiang Nguema and the small Mongomo subclan of the majority Fang tribe, which has ruled since the country's independence in 1968, dominated the Government. President Obiang, who has ruled since seizing power in a military coup d'état in 1979, was re-elected with 97.1 percent of the vote and 98 percent of registered voters participating in a December election marred by extensive fraud and intimidation. The President's Democratic Party of Equatorial Guinea (PDGE) controlled the judiciary and the legislature; the latter was chosen in elections in 1999 that were criticized widely by the international community as seriously flawed. The judiciary was not independent.

President Obiang exercised control over the police and security forces through the Minister of the Interior, who also served as President of the National Electoral Board. The Director General of National Security was the President's brother, Armengol Ondo Nguema. Civilian authorities generally maintained effective control of the security forces; however, there were some instances in which they acted independently of government authority. The security forces committed numerous serious human rights abuses.

Although the 2002 census estimated the population at 1,015,000, credible estimates put the number at closer to 500,000. The opposition claimed that the Government inflated the census in anticipation of the December presidential election. The majority of the population lives by subsistence agriculture, supplemented by hunting and fishing. Unemployment and underemployment were very high. Barter was a major aspect of the economy. The gross domestic product (GDP) grew by 23.8 percent during the year. Per capita income during 2001 grew to \$3,852. Much of the growth in income was due to an increase in crude oil, which averaged 280,000 barrels per day during the year. Investment and other use of oil revenues lacked transparency despite repeated calls from international financial institutions and citizens for greater financial openness. Poor fiscal management and a lack of transparency in public accounting of national finances have undermined the country's economic potential. There is little evidence that the country's oil wealth is being devoted to the public good. Most foreign economic assistance was suspended due to the lack of economic reform and the Government's poor human rights record; however, some countries resumed aid during the year.

The Government's human rights record remained poor; although there were some improvements noted in a few areas, numerous serious problems remained. Citizens' ability to change their government peacefully remained somewhat restricted. The security forces committed numerous abuses, including torture, beating, and other physical abuse of prisoners and suspects, which at times resulted in deaths. Members of the security forces generally committed abuses with impunity. Prison conditions remained harsh and life threatening. There were deaths in custody from torture and abuse, combined with a continuing lack of medical care. Prisoners often were tortured to coerce confessions. Security forces used arbitrary arrest, detention, and incommunicado detention. The judicial system repeatedly failed to ensure due process and remained subject to executive pressures. The Government restricted the right to privacy. The Government severely restricted freedom of speech and of the press; however, freedom of speech improved marginally during the year. The Government continued to restrict the rights of assembly and association and limit freedom of religion and movement. There were no effective domestic human rights non-

governmental organizations (NGOs). Violence and discrimination against women remained serious problems. Discrimination against ethnic minorities, particularly the Bubi ethnic group, and foreigners continued. The Government restricted labor rights. Child labor persisted and forced prison labor was used. There were reports of trafficking in persons.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were reports of unlawful killings during the year. During the year, opposition parties and the international press reported between three and five deaths subsequent to the June coup trial from torture by prison authorities (*see* Sections 1.c. and 1.e.). For example, on July 3, police officer Juan Odo Nguema died in Malabo's Black Beach prison, reportedly due to torture. Nguema had been sentenced to 6 years in prison for participating in the coup d'etat to oust President Obiang (*see* Section 1.e.). Government authorities attributed Nguema's death to bronchial pneumonia, a liver abscess, and anemia.

There were reports during the year that prison authorities tortured, beat, and otherwise abused prisoners; such abuse, combined with a lack of medical care, resulted in some prison deaths.

On February 15, the head of a military unit killed 35-year-old Dimas Bueriberi outside of Malabo during a power outage. The shooter said he mistook Bueriberi, an electrician, for a bandit.

On October 7, Presidential Guard Army Commander Narciso Edu Nsue killed Luis Obiang, a sergeant under his command, after both men had been drinking in a Malabo bar. Edu Nsue was detained on charges of homicide and awaits a military tribunal.

The Government did not prosecute any members of the security forces considered responsible for extrajudicial killings in previous years, nor is it likely to do so.

*b. Disappearance.*—There were no reports of disappearances during the year.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law mandates respect for the liberty and dignity of persons, but does not prohibit specifically torture, cruel, or inhuman punishment. Members of the security forces tortured, beat, and otherwise abused suspects, prisoners, and opposition politicians. After visiting prisons in 2001, U.N. Human Rights Commission (UNHCR) Special Representative Gustav Gallon described torture as a "normal means of investigation." The Government does not provide medical care to prisoners or detainees.

There were reports that prison authorities tortured, beat, and otherwise abused prisoners, and that such abuse, combined with a lack of medical care, resulted in the deaths of some prisoners (*see* Section 1.a.). There were credible reports of three such deaths in Black Beach prison during the year.

There were reports that officials tortured opposition political activists subsequent to the coup trial (*see* Section 1.e.). There were numerous reports that police authorities tied prisoners' arms and legs behind their backs and suspended them from a bar. During the trial, there was evidence that prisoners suffered dislocated wrists and elbows, and many walked with a limp.

Torture commonly was used to extract forced confessions, particularly from the group of 144 alleged coup plotters arrested in March. For example, Felipe Ondo Obiang, leader of the banned Republican Democratic Front (FDR), reportedly was tortured at Black Beach Prison in Malabo. His hands were beaten so severely that he reportedly lost use of his fingers. He was not allowed visitors, nor did prison guards accept food brought to Obiang from his family and friends. On June 9, Obiang received a 20-year prison sentence after a lengthy trial marked by many procedural abuses.

On July 14, presidential guard soldiers at Black Beach prison beat Bibiana, the wife of imprisoned Convergence for Social Democracy (CPDS) Secretary General Placido Mico, as she took food and clothing to her husband.

During the year, security forces harassed oil company employees. For example, gendarmes removed one employee from an oil company vehicle and beat him unconscious for refusing to pay a bribe. A patrol boat also fired on an oil company boat without causing any injuries.

Local authorities singled out foreigners from neighboring countries for harassment such as verbal intimidation and arbitrary arrest. Police routinely extorted money from citizens of Cameroon, Nigeria, Ghana, Togo, and Benin.

The conditions of jails and prisons in the country remained harsh and life threatening; inmates were not provided with food, medical care, working toilets, drinkable

water, clean and healthful living space, and minimum equipment, such as beds. There were credible reports that conditions at Black Beach prison improved during the year, including facility renovations. In November 2001, Special Representative Gustav Gallon paid an unauthorized visit to a Bata gendarmerie detention center. Gallon reported 17 persons, including 4 children, were being held in a cell that measured 4 by 1.5 meters and did not contain toilet facilities. Two of the prisoners had clear signs of torture. When questioned, the prison authorities did not deny charges of torture and could offer no explanation for the prisoners' detention.

Prison authorities and prisoners sexually assaulted female prisoners. Prisoners were used habitually as labor and as workers on construction projects for certain officials, without pay or other compensation. There were unconfirmed reports that judges used prisoners as domestic workers.

On July 29, various sources reported Black Beach Prison's inmate food supply was exhausted, and prison authorities no longer were distributing rice and peas to the prison population; however, observers indicated that inmates were being fed by year's end. Also in July, Black Beach authorities hospitalized inmate Candido Obiang Abia for stomach cramps and high fever. According to reports from other inmates, prison officials had not fed Obiang Abia in 4 days.

Male and female prisoners were not held in separate facilities, nor were adult and juvenile prisoners. Pretrial detainees and political prisoners were not held separately from convicted prisoners.

There were no local NGOs other than the Government-controlled National Commission on Human Rights of Equatorial Guinea (CNDH). In the past, the Government-controlled CNDH has reported that jail and prison conditions were harsh. Although the CNDH reported that prisoners were not mistreated, CNDH reports indicated there were food shortages and a lack of medical care. CNDH officials took partial credit for the Black Beach Prison facility renovations during the year. There were no international human rights NGOs resident in the country. The International Committee of the Red Cross (ICRC), which historically has made recommendations to the Government, monitored prison conditions. On October 8, the ICRC signed an accord with the Government institutionalizing its ability to visit detainees and prisoners on a regular basis. The agreement provided that the ICRC would have access to all detained persons, be able to converse freely with all detainees and prisoners, repeat its visits, and receive from the Government a list of all detainees and prisoners. During the ICRC's first November visit under the agreement, ICRC representatives were able to visit all prisoners and detention facilities.

*d. Arbitrary Arrest, Detention, or Exile.*—There were nominal legal procedural safeguards regarding detention, the requirement for search warrants, and other protection of citizens' rights; however, security forces systematically ignored these safeguards, and continued to arrest and detain persons arbitrarily and with impunity. Security forces often detained individuals "on orders from superiors" without any further formality.

Police routinely detained prisoners incommunicado. Foreigners from neighboring countries sometimes were targeted for arbitrary mistreatment and random arrest (see Section 1.c.).

During the year, authorities detained members of political opposition parties for short periods. Some political detentions lasted more than a few months. It was difficult to estimate the number of political detainees, although it was believed to be fewer than 100 persons. The Government used the psychological effects of arrest, along with the fear of beatings and harassment, to intimidate opposition party officials and members.

In March and April, the Government arrested 144 persons in connection with an alleged coup plot in October 2001, including FDR leaders Felipe Ondo Obiang and Guillermo Nguema Ela. The detainees were held incommunicado at Bata prison and tortured until they confessed (see Section 1.e.).

On April 18, authorities placed CPDS Secretary General Placido Mico under house arrest for his participation in the alleged 2001 coup d'etat plot. In May Mico was arrested, charged with coup conspiracy, tried, and sentenced to 8 years in prison.

On May 17, national security forces, led by President Obiang's brother, Antonio Mba Nguema, arrested and imprisoned 17 members of the Bubi ethnic group on charges of coup plotting. Mba Nguema said members of the security agency found plans for military camps in the detainees' possession. All 17 members were held in Black Beach Prison. The Bubis stated they were not engaged in political activity but rather celebrating the anniversary of their founder and observing the traditional ceremonies of the Bubi people. On May 31, the National Resistance of Equatorial Guinea Group (RENAGE) released a communique stating that during the round-up,

security forces cut off the ears of 2 of the 17 detainees, Venancio Epara and Gustavo Epeso. No further information was available at year's end.

In July every security officer at the Bata airport (between 15 and 20) was arrested after the opposition party Popular Union (UP) leader was allowed to board a flight departing for Gabon.

Security forces detained relatives of prisoners and criminal suspects in an attempt to force the prisoners or suspects to surrender (*see* Section 1.f.).

Unlike in the previous year, there were no reports that government security forces detained oil company employees.

There were no developments in the 2000 case of Nve Maana who was restricted indefinitely to the environs of Mongomo or of Macias Nguema and others arrested in 2000 who remained in detention pending trial on conspiracy charges.

It was unknown if Marcelo Seme Nze, Ruben Sima, and Romualdo Angue Nbons remained in detention at year's end.

Security forces responsible for arbitrary arrest and detention and other abuses were not held accountable for their actions. The U.N. Special Representative noted that some executive officials closely related to the security apparatus of the Government were treated as being above the law.

In April the Government enacted a law to protect women from imprisonment for not repaying the dowry following divorce (*see* Section 5). Women who had been detained for failure to repay a dowry were released from prison in an October amnesty.

The Government used forced internal exile, including against five men reportedly restricted to Mongomo (*see* Section 1.f.). The Government did not use forced external exile; however, some persons have fled the country for political reasons. During the year, President Obiang urged exiled opposition figures to return to the country and to legalize their parties. In 2001 Joaquin Elema, leader of the RENEGE-allied Forum for the Democratization of Equatorial Guinea (FODEGE) and General Coordinator of the Coordination of the Democratic Opposition (CODE), returned to the country; however, RENAGE's leaders reported that attempts to return to the country were unsuccessful.

*e. Denial of Fair Public Trial.*—The Constitution provides for judicial independence; however, the judiciary was not independent. Judges served at the pleasure of the President, and they were appointed, transferred, and dismissed for political reasons. Judicial corruption was widespread.

The court system is composed of lower provincial courts, two appeals courts, a military tribunal, and a Supreme Court. The President appoints members of the Supreme Court, who report to him and take their orders from him in practice. The President was the most powerful member of the judicial branch. Tribal elders adjudicated civil claims and minor criminal matters in traditional courts in the countryside. There were no objective criteria for the selection of judges below the Supreme Court; the law allows the Ministry of Justice to undertake periodic inspections and name judges. Some judges were absent regularly from their posts, resulting in delays in judicial proceedings. As a result of these absences, prisoners often remained in detention at police stations awaiting hearings for longer than the 72 hours prescribed by law; in addition, jails became even more overcrowded and unsanitary (*see* Section 1.d.).

The Constitution and laws provide for legal representation in trials and the right to appeal; however, in practice the authorities often did not respect these provisions. Civil cases rarely came to public trial. Cases involving national security were tried by the military tribunal. Cases that essentially were political in nature frequently were referred to military courts, even when the defendants were civilians and the charges were not related to the military. The Code of Military Justice permitted persons who disobeyed a military authority to be tried in a military tribunal whether or not they are military personnel. Military courts did not provide for due process or other procedural safeguards, and proceedings were not made public. The Parliament's Complaints Commission was the de facto third branch of "judicial authority," although it had no formal legal jurisdiction. According to local media, the Parliament's President acted as a court of last resort.

Beginning on May 22, a special tribunal convicted 68 prisoners and their relatives and sentenced them from 6 to 20 years in prison for a purported coup d'etat plot against President Obiang. Those sentenced included leaders of the three main opposition parties that remained independent from President Obiang's ruling party, including CPDS Secretary General Placido Mico, UP Secretary General Guillermo Nguema Ela, and the leader of the banned FDR, Felipe Ondo Obiang (*see* Section 1.d.). There were numerous irregularities associated with the trial, including evidence of torture and a lack of substantive proof (*see* Section 1.c.). The trial was held in a movie theater. The judge consistently overruled the defense attorney's attempt

to question the prisoners about torture. Prisoners who renounced confessions allegedly were tortured upon their return to prison. The court provided the defense with charges and defendants' statements the day before the trial began, and defense lawyers did not have access to their clients through most of the proceedings. Most of the defendants noted that their statements were not truthful and were made only to stop the torture. The prosecution alleged that Ondo Obiang led a meeting in Bata in October 2001 to plot the murder of President Obiang and the overthrow of his administration. It produced no other evidence aside from statements extracted under torture. Obiang and the other defendants said that the "coup meeting" actually was a meeting of FDR supporters exploring how to obtain additional names of co-founders from each region of the country in order to apply for the party's legalization. The court based Mico's conviction on testimony from Obiang's nephew, extracted under torture and later denied.

Since the trial, the presiding judge has been appointed to the Supreme Court. Six of those 68 convicted, including UP Secretary General Fabian Nsue Nguema, were released following an October presidential pardon. President Obiang has indicated that others convicted during the coup trials may receive full or partial pardons, or reduced sentences.

On October 12, President Obiang issued an amnesty for 40 ethnic Bubis convicted following a 1998 revolt in Luba. In addition, the President pardoned all women and persons over 70 years of age. All persons included in the amnesty were released by year's end; however, the amnesty applied only to some of the 68 prisoners convicted in June for the alleged October 2001 coup plot. The exact number of those released was not available at year's end.

The Government holds a number of political prisoners; however, the 20 persons previously imprisoned at Evinayong reportedly had been released under the October amnesty.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such actions; however, the Government did not respect these prohibitions in practice. There continued to be reports that security forces regularly searched homes and arrested occupants without warrants, and they generally did so with impunity.

There continued to be reports of government surveillance of members of the opposition parties and foreign diplomats. During the year, Reporters without Borders (RSF) noted that several associative and political journalists complained of increasing difficulties accessing the Internet. The journalists said that there also had been an increase in illegal monitoring of telephone calls and of e-mail, which was controlled by the only (state-affiliated) Internet access supplier (*see* Section 4).

Authorities displaced approximately 500 Cameroonians living in Malabo following a new government policy to prevent foreign nationals from benefiting from increasing petroleum wealth (*see* Section 5). At year's end, the evacuees had not been able to return to their residences and their exact status was unknown.

On January 11, UP Secretary General Nguema reported that authorities gave seven high ranking military officials, who had been forced to retire because of their affiliation with the UP, 4 days to leave Malabo for their respective villages. Nguema said the injunction was "without apparent reason" and contravened an accord signed by the Government disallowing extrajudicial confinement.

Membership in the PDGE generally was a prerequisite for hiring and promotion, both in the public and private sectors. Membership in a rival political organization was considered grounds for dismissal from any position, public or private. Opposition politicians who are not participating in the Government often claimed to have been dismissed from their jobs after joining alternate political groups.

Security forces detained relatives of prisoners and criminal suspects in an attempt to force the prisoners or suspects to surrender. For example, during the March arrests of 144 alleged coup plotters, family members of Felipe Ondo Obiang, including his pregnant niece, were detained incommunicado and tortured.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government severely restricted these rights in practice. Journalists practiced self-censorship. Freedom of speech has improved marginally in recent years, though many feel the improvements are superficial and ephemeral. A small number of foreign press representatives were allowed to cover the December presidential election.

The Government did not tolerate criticism of public institutions and public sector mismanagement and permitted no criticism of the President or the security forces. Expatriates dependent on the goodwill of the Government did not voice complaints about the frequent government abuses against them. These practices ranged from

the police demanding bribes for imaginary offenses to city, provincial, and federal officials extorting money for “licenses” for which there was no statutory basis. Complaints about official conduct in the country continued to be accompanied by requests not to be identified to avoid reprisals.

On April 29, authorities imprisoned Fabian Nsue, President of the UP, for insulting the head of state after Nsue made critical statements about a large pay raise announced, then rescinded by President Obiang. At the time of his arrest, Nsue, a lawyer, was preparing the defense of several persons accused of involvement in an alleged October 2001 coup. Nsue was released in an October amnesty.

There were five general-interest newspapers that published irregularly: *La Gaceta*, a Malabo-based monthly publication with informal connections to the Government; *El Correo Guineo Ecuatoriano*, a bimonthly newspaper published by the *Gaceta* group; *La Opinion*, an opposition newspaper published every 2 to 3 weeks; *El Tiempo*, an opposition newspaper; and *Ebano*, a publication of the Ministry of Information, Tourism, and Culture, which appeared approximately twice a month. Students at the National University have published a magazine, *AYO*, and the Guinean-Hispano Cultural Center also has published a monthly cultural review, *El Patio*. The PDGE published *La Voz del Pueblo*, and the opposition CPDS published *La Verdad*. Although no laws or regulations were published during the year, *La Gaceta* has a contract with the Government to publish laws and regulations adopted by the administration regularly.

All journalists must be registered with the Ministry of Information. According to the Ministry, in 2001 there were 18 independent reporters registered, and between 35 and 45 reporters employed by the official party or government. In previous years, guides from the Ministry were required to accompany visiting foreign reporters; however, during 2001 at least four foreign reporters with various publications traveled and reported independently in the country. The Government allowed approximately 5 foreign journalists to cover the December presidential election.

The law authorizes government censorship of all publications. The Ministry sometimes required publishers to submit copy for approval prior to publication during the year. In addition, all local publications exercised self-censorship and were subject to prior restraint. There was very limited availability of foreign publications.

On May 21, Vice Minister for Press Radio and Television Alfonso Nsue Mokuy signed into law a resolution requiring foreign media houses and press correspondents to obtain ministerial accreditation before entering the country. Prior to the decision, the Ministry of Information merely required media houses and correspondents to be registered with the Ministry. The ruling corresponded with the opening of June’s coup d’etat trial and was described as “temporary,” renewable on a case-by-case basis. The ruling remained in effect at year’s end.

Also in May, authorities prevented the Association of the Press of Equatorial Guinea (ASOPGE) from organizing exhibitions and conferences programmed for the May 3, International Freedom of the Press Day. Mokuy said that ASOPGE previously had been declared illegal and accused the association of working in a “parallel government” rather than legally with the Ministry. The status of ASOPGE was unknown at year’s end.

On June 1, presidential security forces questioned ASOPGE President Pedro Nolasco Ndong and threatened to ban him from coup d’etat trial proceedings unless he stopped having contacts with trial defendants and international observers (see Section 1.e.). On July 9, a member of the presidential guard warned him that President Obiang had ordered his arrest. Fearing for his life, Ndong left Malabo the following day for Spain and remained there at year’s end. Nolasco Ndong’s newspaper *La Nacion* had published a series of articles criticizing the prison conditions of Malabo’s Black Beach Prison where, the articles alleged, many opposition members were being held.

On June 2, coup d’etat trial police authorities banned AFP and BBC freelance correspondent Rodrigo Angue Nguema from entering the courtroom, even after Nguema showed his press card (see Section 1.e.).

Radio was the most important and influential medium of mass communication. During the year, the Government continued to dominate effectively domestic radio broadcasting. It owned and operated the station Radio Malabo. The President’s son, Teodorino Obiang Nguema, who also was Minister of Forestry, Environment, and Fisheries, owned the only private local radio station, Radio Asonga. The Government has not approved the one or two other applications for private radio stations that have been pending for several years.

Unlike in the previous year, no radio stations were shut down.

The only domestic television station was government-controlled, and broadcast only a few hours a day. Television Asonga, owned by President Obiang and run by his son in coordination with Radio Asonga, broadcast by cable only in Bata. Foreign



cable television was available, and offered the Cable News Network (CNN), French news, movies, sports events, and cartoons; however, relatively few citizens could afford cable. Satellite reception increasingly was available.

The Government generally withheld access to domestic broadcasting from opposition parties and rarely referred to the opposition in anything but negative terms when broadcasting the news.

International electronic media was available and includes Radio France International, which broadcast in Malabo, and Radio Exterior, the international short-wave service from Spain. Radio Exterior often broadcast news about the country and interviews with opposition politicians. It was virtually the only means for the opposition to disseminate its views and positions widely. Its editorials, like those of most of the Spanish media, frequently were highly critical of the Government. The Government regularly accused Radio Exterior, sometimes with justification, of misrepresenting the situation in the country.

Internet service was available, although access was expensive and computer ownership was not widespread. During the year, UP Secretary General Fabian Nsue was arrested and convicted of "slandering" the President in an Internet article.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of assembly; however, the Government restricted this right in practice. Government authorization must be obtained for private home meetings of more than 10 persons for discussions that the Government considers political in nature. Although the Government formally has abolished permit requirements for party meetings within party buildings, in practice opposition parties must inform the authorities in order to hold gatherings of any kind, regardless of location. Security forces generally monitored gatherings in public places, even small gatherings. The Government required notification for public events; however, it did not routinely deny permission for such events.

The Government continued to require that the Catholic NGO Autonomous Rural Development (DAR) in the diocese of Ebibeyin inform the locally appointed official delegate of each board meeting. The DAR complied with the requirement and received permission to meet, but the local delegate insisted on being present during the meetings. During the year, DAR avoided the Ebibeyin order by meeting in Bata.

The Constitution provides for the right of association; however, the Government restricted this right in practice. The law prohibits the formation of political parties along ethnic lines. The law prohibits coalitions between political parties; however, five opposition groups formed a coalition (see Section 3). Opposition party members complained of disruption of meetings.

There were 12 political parties that the Government called "opposition parties"; 11 have allied themselves with the ruling PDGE. The Government advertised these opposition parties as examples of the country's multiparty democracy.

The Progress Party (PP) remained illegal due to criminal sentences imposed in 1997 and again during the year on its leader, Severo Motto, for a coup attempt in 1996. Motto reportedly fled to Spain. The President invited the PP to organize a new political party under another name; however, the PP did not do so by year's end.

The Independent Democratic Socialist Party (PIDS) and the Democratic Republican Front (FDR) still were seeking recognition.

The Government reportedly applied pressure to persuade opposition members or officials to join the PDGE party; significant numbers of opposition members joining the PDGE during the year suggested such practices persisted. Reportedly the Government bribed members of the opposition.

*c. Freedom of Religion.*—The law provides for freedom of religion; however, in practice the Government limited this right in some respects.

The law includes a stated official preference for the Catholic Church and the Reform Church of Equatorial Guinea due to their traditional roots and historic influence in the social and cultural life of the populace. For example, a Roman Catholic Mass normally was part of any major ceremonial function such as the October 12 national day.

A religious organization must be registered formally with the Ministry of Justice and Religion before its religious activities are allowed. While religious groups must be approved and registered in order to function legally, there were no reports during the year that the Government had refused to register any group. The approval process usually takes several years, due primarily to general bureaucratic lag and not the result of a policy designed to impede the operation of any religious group.

The Government continued to restrict the freedom of expression of the clergy, particularly regarding any open criticism of the Government. According to Director of

DAR, Jose Maguga, Church representatives practiced self-censorship on these issues during the year. The Government required permission for any religious activity outside the church building, but in practice this requirement did not appear to hinder organized religious groups. The Government required that DAR inform the local delegate in Ebibeyin each time that it had a board meeting (*see* Section 2.b.).

Religious study was required in schools and was usually, but not exclusively, Catholic.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights; however, the Government limited them in practice. Local police routinely extorted bribes from occupants of vehicles traveling outside the capital. The police routinely stopped citizens at roadblocks, subjected them to searches, and extorted money from them. Police and soldiers continued to target citizens of Cameroon, Gabon, and Nigeria (*see* Section 1.c.). The Government justified these roadblocks as customs controls to compensate for its inability to control the country's borders effectively. These checkpoints effectively restricted the freedom of movement of members of the opposition. Prior to the presidential election, the Government re-opened a number of military roadblocks on the island of Bioko between Malabo and Luba and also in the vicinity of Bata on the mainland.

All citizens were required to obtain permission to travel abroad from the local Police Commissioner, and some members of opposition parties were denied this permission. Those who did travel abroad sometimes were interrogated upon their return (*see* Section 2.a.). On January 20, the Inter-Ministerial Human Rights Commission eliminated exit visa requirements for citizens traveling outside the country; however, the Government refused issuance of exit visas to some opposition figures early in the year.

During the year, President Obiang continued to urge exiled opposition figures to return to the country and to legalize their parties; however, there were no reports of returnees during the year.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In recent years, an average of one or two persons requested refugee status in the country. The Government provided first asylum and generally granted asylum requests; the Government cooperated with the U.N. High Commissioner for Refugees (UNHCR).

There were no reports of the forced return of any persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully; however, in practice there have been no free, fair, and transparent elections since independence in 1968. The President exercised strong powers as head of state, commander of the armed forces, and leader of the Government party, the PDGE. Impeachment of the head of state is forbidden in the constitution. Leadership positions within the Government in general were restricted to the President's Mongomo clan of the Fang ethnic group and its closest supporters. The Government completely dominated the elected Chamber of Deputies and the Minister of the Interior also acted as President of the National Electoral Board.

In 1997 the Government and 13 political parties promulgated a revised national pact that called for the creation of a multiparty electoral commission and an observance commission to monitor compliance with the agreement. The pact also stipulated an end to various political and electoral abuses and the extension of voting rights already nominally provided in the Constitution. However, the Government has not abided by most of the pact's provisions, and opposition activists reported that the Government made virtually no effort to implement the pact. The Government's refusal to issue exit visas to some opposition figures early in the year violated the pact's principle of freedom of travel and the Government's own elimination of the exit visa requirement. The continued arrests of CPDS and UP party leaders further undermined the Government's claims that it abided by the pact, as did its continued restrictions on freedom of movement and the continued lack of access to government media by the opposition (*see* Sections 2.a. and 2.d.).

The electoral law mandates the replacement of open voting by secret ballots in future elections but prohibits coalitions between political parties. Nevertheless, five opposition groups including the CPDS, Front for Democratic Opposition (PSD), PP, Progressive Democratic Alliance (ADP), and the UP formed the Front of Democratic

Opposition (FOD). The formation of this alliance with an unrecognized party widely was alleged to be the real reason behind CPDS Secretary General Placido Mico's detention (*see* Section 1.d.). Significant segments of the political opposition either remained banned or had yet to be recognized by the Government by year's end, including the FDR, the PP, the PIDS, and the Movement for Autodetermination of Bioko Island (MIAB) (*see* Section 2.b.).

The last legislative elections that should have been held in 1998 were postponed until March 1999. The three opposition parties initially called for a boycott of the polls to protest pre-election irregularities; however, all but one of the parties, the CPDS, ultimately participated in the voting. One CPDS candidate was elected; however, he refused to take his seat after the Government accused him of rigging the election. International observers considered the 1999 legislative election process to be seriously flawed and characterized by numerous irregularities and restrictions on the ability of the opposition to campaign. Roadblocks impeded the opposition's ability to travel, and opposition leaders were detained intermittently and sometimes mistreated, tortured, or assessed stiff fines. The UP and CPDS opposition parties won 5 of the 80 seats, refused to take their seats in the new legislature, and called for the results to be annulled and new elections held.

Prior to the December presidential elections, there were reports that arrests and harassment of opposition party members increased (*see* Section 1.d.).

President Obiang won the December 15 election, with 97.1 percent of the vote and 98 percent of registered voters participating. Opposition leaders charged earlier in the year that census results showing a twofold population increase were flawed and that numbers were inflated to perpetuate election fraud. Four of the leading opposition candidates published a statement that rejected the vote and called for new elections. There were widespread reports of irregularities on election day, including intimidation at the polls. For example, in some towns, commission members gathered voters and asked whether any intended to vote for the opposition. When none responded affirmatively, their votes were counted for the President. Voters were discouraged from voting in secret, ballots were opened, and ruling party representatives reportedly cast votes in their own right as well as on behalf of minor children and the deceased. There also were reports that security forces intimidated voters by their presence in polling booths. The European Union (E.U.) expressed concern regarding the democratic process, severely criticized the way the presidential election was carried out, and recommended that the Government invite the U.N. or the E.U. to send an electoral assistance mission.

There were no legal restrictions on the participation of women or minorities in politics. There were 5 women in the 80-member legislature and 3 women in the 41-member cabinet.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were no effective domestic human rights NGOs. The law restricts NGOs and identifies specific areas in which they may operate; human rights was not one of these areas.

CNDH was established by Parliament in 1991 and had as its main responsibility monitoring respect for fundamental human rights throughout the country. It concentrated primarily on prison conditions. Unconfirmed sources have said that the Parliament, ("Peoples' House of Representatives"), appointed CNDH members.

No international human rights NGO was resident in the country; however, there were signs of improvement in the relations between some international organizations and the Government. During the year, the Government signed a convention providing the ICRC regular prison access (*see* Section 1.c.).

Catholic Relief Services (CRS) confined its programming to health-related issues, citing safety concerns for staff and partners. There have been allegations from CRS, Reporters Without Borders, and the Center for Rural Development that NGO representatives visiting Malabo have had their movements, calls, e-mails, and faxes monitored (*see* Section 1.f.).

In August a Spanish volunteer associated with the NGO Central Caritas spent 3 weeks in jail on charges of espionage after he was arrested in Malabo for viewing, from a public street, solar panels mounted on a military facility.

During the year, the Government denied requests from Micominsen, a Spanish order of nuns whose charitable work includes stocking hospitals and providing clean water sources, to enter the country.

In April the Commission on Human Rights terminated the mandate of UNCHR Special Representative Gustavo Gallon, despite protest from the international community and the former Special Representative himself. Gallon stated in his January report that the country should continue to be monitored, and according to the Com-

mission's resolution, advisory and technical support in the area of human rights will continue.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits all forms of discrimination; however, both governmental and societal discrimination against women and ethnic minorities continued.

*Women.*—Domestic and societal violence against women, particularly wife beating, was common. The public beating of wives was forbidden by government decree; however, violence in the home generally was tolerated. The Government does not prosecute perpetrators of domestic violence. Many prisons do not have separate areas for men and women, and women were subjected to sexual abuse both from the authorities and other prisoners while in detention.

The massive influx of single foreign men in the petroleum sector has contributed to an increase in prostitution. During periodic crackdowns, police arrested prostitutes but allowed their clients, generally expatriates, to go free.

Although the Constitution provides for equal rights, women largely were confined by custom to traditional roles, particularly in agriculture. Polygyny, which was widespread among the Fang, contributed to women's secondary status, as did limited educational opportunity.

There was no discrimination against women in formal inheritance and family law; however, in the Fang, Ndowe, and Bisio cultures, primogeniture was practiced. Because women become members of their husband's family upon marriage, they usually were not accorded inheritance rights. When the husband dies, a widow either remains with his family in a dependent, marginalized position or she returns the dowry and leaves with nothing.

There was discrimination against women in traditional practice. For an estimated 90 percent of women, including virtually all ethnic groups except the Bubi, tradition dictates that if a marriage is dissolved, the wife (or her father or brother) must return the dowry given her family by the bridegroom at the time of marriage. Tradition also dictates that if a girl's family accepts a dowry from a man, she must then marry him, regardless of her wishes. If the marriage does not take place, the family is required by tradition to return the dowry, which they sometimes cannot do. This could lead to imprisonment of the bride or a family member for the debt (*see* Section 1.d.). If a marriage dissolves, the husband also automatically receives custody of all children born after the marriage, while the mother maintains custody of all children born prior to the marriage.

According to the law, women have the right to buy and sell property and goods; however, in practice the male-dominated society permitted few women access to sufficient funds to engage in more than petty trading or to purchase real property beyond a garden plot or modest home.

*Children.*—No provisions for the welfare of children were legislated. The Government devoted little attention to children's rights or their welfare and had no set policy in this area. Education was compulsory through primary school, but the law was not enforced. In practice boys were expected either to complete an additional 7 years of secondary school or to finish a program of vocational study following primary education. Pregnancy and the requirement to assist in agricultural work made this level of education less likely for girls. Many rural families were unable to afford the school fee and book expenses for children over 10 years of age. The 1999 report by the U.N. Special Representative noted that only 12 percent of girls reach the secondary level of education compared with more than 24 percent of boys. Only 9 percent of girls finish fifth grade. Generally women have only one-fifth the educational level of men. New schools have opened; however, they were reported to be without basic materials such as books and desks. Teachers were political appointees and often received no training. Children suffered poor health and a high mortality rate.

*Persons with Disabilities.*—There was no constitutional or legal provision to protect persons with disabilities from discrimination in employment, education, or the provision of other state services. While there was no formal evidence of discrimination against persons with disabilities, anecdotal evidence suggested that basic care may be withheld when children have potentially disfiguring diseases such as polio. The law does not mandate access for persons with disabilities to buildings.

*National/Racial/Ethnic Minorities.*—Discrimination against ethnic or racial minorities was not legal, and the Government did not overtly limit their participation in politics; however, the monopolization of political power by the President's Mongomo clan of the Fang ethnic group persisted. In practice some members of ethnic minorities faced discrimination because they were not members of the Fang ethnic group, or belonged to a Fang subclan other than the President's.

Differences among clans of the Fang ethnic group, in particular resentment of the political dominance of the Mongomo clan, also were sources of significant political tensions and in past years, of occasional violence.

Beginning on July 24, police forced approximately 500 Cameroonians out of Malabo following implementation of a new policy concerning nationals of neighboring countries. A government spokesperson claimed the policy was designed to curb the illegal entry of Cameroonians attracted by increasing petroleum-led growth.

Several thousand citizens of Nigeria, Ghana, and Francophone Africa continued to reside in the country. Most were small traders and businesspersons. The police reportedly continued to harass and extort money from them as well as harassing asylum seekers on an individual basis.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right to organize unions; however, the Small Farmers Syndicate (OSPA), was the country's only legally recognized labor union. According to the International Confederation of Free Trade Unions (ICFTU), the Government never has allowed the registration of unions; as a result, the Equatorial Guinea Trade Union has been forced to carry out its activities in secret. There were a few cooperatives with limited power. The law stipulates that a union must have at least 50 members who are from a specific workplace and located in the same geographic area to register; this effectively blocked union formation. The CPDS tried unsuccessfully to legalize its affiliated Syndicated Workers' Union (UST), and an independent union, Independent Syndicated Services (SIS), was denied registration despite having met the requirements of the law. In April the Government shut down a newly created bar association, an action that reportedly discouraged early efforts to organize a college of physicians.

The 1992 Law of Associations and Syndicates provides that a separate law be enacted to govern unions for civil servants; however, this law has not been enacted. During the year, the International Labor Organization (ILO) advised the Government on the formation of professional organizations.

During the year, the country's major private employer, the oil industry, which was dominated by foreign firms, continued to take steps to reduce government control of hiring in the industry. Companies employed methods ranging from public advertising of jobs and objective testing to screening of applicants by non-citizens only, in an attempt to eliminate the former political bias in the hiring process. According to regional representatives of the ILO, oil industry efforts largely have been ineffective, and the Government continued to influence employment in all sectors.

In May 2001, an ILO team met with the Government to discuss reform of the country's labor laws and ILO assistance for labor inspectors; however, no subsequent action has been taken.

There was no law prohibiting antiunion discrimination.

*b. The Right to Organize and Bargain Collectively.*—The law provides workers the right to organize and bargain collectively; however, there were many legal requirements before collective bargaining was permitted, which limited unions' ability to organize. There was no evidence of collective bargaining by any group; however, the Labor Ministry sometimes mediated labor disputes. The Government and employers set wages, with little or no participation by workers.

The law provides for the right to strike. The Labor Code contains provisions to uphold worker rights, but the Government generally did not enforce them, in part because of inadequate staffing in the Ministry of Labor. Apart from the Labor Ministry, workers had few other places to seek redress. Members of the National Assembly reportedly tried to mediate employer-worker disputes over wages or dismissals; however, they had no legal authority to do so.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law forbids forced or bonded labor, including by children, and slavery; however, detainees and convicted felons performed extensive labor outside prison, including for prison officials, without compensation (*see* Section 1.c.).

There were reports that forced child labor occurred (*see* Section 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The legal minimum age for the employment of children was 14 years, but the Ministry of Labor did not enforce this law, and child labor was common particularly on family farms and businesses. The Government also did not enforce the law that stipulates mandatory education through primary school. Underage youth performed both family farm work and street vending. While the Ministry of Labor was responsible for

the enforcement of labor legislation, the Government did not have a comprehensive policy on child labor.

*e. Acceptable Conditions of Work.*—Employers must pay the minimum wages set by the Government, and most companies pay more than the Government-established minimum wage. The minimum monthly wage ranges from \$100 (75,000 CFA francs) per month for unskilled workers to \$1,000 (750,000 CFA francs) per month for oil sector professionals. The mandated minimum wage in the oil sector was twice the minimum wage in commercial enterprises, and oil sector workers received a much higher scale than elsewhere in the national economy, often 10 times the minimum wage. The minimum wage for unskilled workers was not sufficient to provide a decent standard of living for a worker and family. The law prescribes a standard 35-hour workweek and a 48-hour rest period, which were observed in practice in the formal economy.

The Labor Ministry reportedly took no further action on the 2001 case where several employees of the Malabo city administration sought payment of overdue wages.

The Labor Code provides for comprehensive protection for workers from occupational hazards; however, the Government did not enforce this in practice. The Government has seven labor inspectors in Malabo and five based in Bata, which was an insufficient number to oversee local industry. The Government began training more inspectors in 2001.

Employees who protested unhealthy or dangerous working conditions risked losing their jobs.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons, and reports that the country increasingly was a minor destination and transit point for trafficked persons continued. The Government sent representatives to Libreville to attend a regional conference on trafficking in persons; however, no legislative or policy changes had resulted by year's end.

Children primarily were trafficked into the urban labor sector in Malabo and Bata, mostly from Benin and Nigeria. Benin girls between the ages of 12 and 16 worked 12-hour days selling cosmetics on the streets of Malabo. These girls often were unpaid and physically mistreated. Nigerian boys worked in market stalls in Bata, often without pay or personal freedom. UNICEF reported that country served as a transit point for children who were trafficked to Gabon. The country was both a destination and a transit point for trafficked women, mostly from Cameroon, Benin, and Nigeria. Women were trafficked into hubs of prostitution to serve the growing businessman population in Malabo.

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## ERITREA

Eritrea is a one-party state that became independent in 1993, following an internationally monitored referendum in which citizens voted overwhelmingly for independence from Ethiopia. The Eritrean People's Liberation Front (EPLF), which led the 30-year war for independence, has controlled the country since it defeated Ethiopian armed forces in 1991; its leader, Isaias Afwerki, served as the President. The EPLF became the People's Front for Democracy and Justice (PFDJ) and redefined itself as a political party in 1994; it is the sole political party in the country. Elections, which were first postponed 1997, were postponed again in December 2001. Government officials stated that the elections were delayed because of continuing tensions with Ethiopia and problems caused by dissidents and the press. The Government created an electoral commission that was charged with setting a new date for elections; however, the commission had not set the date for elections by year's end. The Constitution, ratified in 1997, provides for democratic freedom; however, its provisions were not implemented by year's end. The judiciary formally was independent; however, it was weak and subject to executive interference.

The police were responsible for maintaining internal security, although the Government could call on the armed forces, the reserves, and demobilized soldiers in response to both domestic and external security requirements. These forces were under the full control of, and responsive to, the Government. In 1998 fighting broke out between the armed forces and Ethiopian militia along the border, which led to a 2-year war with Ethiopia. The Government responded to the escalating military conflict by calling up reserves and increasing its armed forces to approximately 300,000 soldiers. In addition to the war with Ethiopia, the army was engaged in a low-intensity conflict with the Eritrean Islamic Jihad (EIJ), a small, Sudan-based insurgent group that has mounted attacks in the north and west since 1993. Some members of the security forces committed serious human rights abuses.

While trade, services, and manufacturing accounted for the greatest portion of gross domestic product, the rural economy was based largely on subsistence agriculture, and more than 70 percent of the population of 3.6 million was engaged in farming and herding. The economy recovered somewhat from the severe disruption inflicted in 2000 by the conflict with Ethiopia, which resulted in the dislocation of more than 1 million persons, an almost four-fold rise in inflation, an increased fiscal deficit, a drop in economic activity, increased pressure on the local currency as foreign exchange reserves fell, and a severe drop in agricultural production that increased the country's dependence on food donations, up to 50 percent of total food requirements. During the year, inflation fell to approximately 9 percent from 15 percent in 2001, and economic growth rose to 9 percent from 7 percent. The continued integration of as many as 75,000 Eritreans or Ethiopians of Eritrean origin deported from Ethiopia, 52,000 long-term Eritrean refugees from camps in Sudan, and an unknown number of internally displaced persons (IDPs), continued to burden the economy. In addition, much of the skilled labor force continued to serve in the national service. The majority of national service was military but some persons worked in civilian government jobs. International economic assistance accounted for a major portion of external revenues. Remittances from citizens who lived abroad also provided an important source of external revenues, estimated at approximately \$300 million per year. The country had an annual per capita income of less than \$200, and approximately one-third of the population depended on foreign emergency assistance. The ruling party, the PFDJ, continued to exert a strong economic influence through various investments and party-owned businesses.

The Government's poor human rights record worsened, and it continued to commit serious abuses. Citizens did not have the ability to change their government, which was controlled completely by the PFDJ. There were some reports, difficult to confirm, that the police occasionally resorted to torture and physical beatings of prisoners, particularly during interrogations, and police severely mistreated army deserters and draft evaders. The Government generally did not permit prison visits by local or international human rights groups. The Government allowed the International Committee of the Red Cross (ICRC) access to Ethiopian civilian detainees and POWs, although all POWs and almost all Ethiopian civilians were released from detention by year's end. Arbitrary arrests and detentions continued to be problems; an unknown number of persons were detained without charge, some incommunicado, because of political opinion, suspected association with the Ethiopian Mengistu regime, radical Islamic elements, or terrorist organizations. The judiciary was weak and subject to executive influence and lacked the resources to provide speedy trials. The use of a special court system limited due process. The Government infringed on the right to privacy. The Government severely restricted freedom of speech and press, including the rights of the religious media. There were limits on freedom of assembly. The Government restricted the freedom of religion. The Government restricted freedom of movement. Violence and societal discrimination against women continued to be problems, and female genital mutilation (FGM) remained widespread despite government efforts to discourage the practice. Jehovah's Witnesses and members of the Kunama ethnic group also faced some government and societal discrimination. The Government restricted workers' rights. There were unconfirmed reports of forced labor. Child labor occurred.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The Government continued to deploy military police throughout the country using roadblocks, street sweeps, and house-to-house searches to find deserters and draft evaders (*see* Section 1.d.). The Government continued to authorize the use of deadly force against anyone resisting or attempting to flee. There were reports of resistance, especially by parents of draft-age girls, which resulted in the deaths of both soldiers and civilians.

No action was taken in the 2001 cases in which two students died in detention of by heat-related causes as a result of a forced summer work program. There were reports that the living conditions during the program were made more severe purposely to punish students for protesting against the program; however, the university summer program did not take place during the year.

There were reports that at least one POW died of disease during the year (*see* Section 1.c.).

According to the Government Commission for Coordination with the U.N. Peacekeeping Mission, there were an estimated 3 million landmines and unexploded ordnance in the country, including between 500,000 and 1 million landmines from the 1962–91 war for independence. The EIJ or others laid some new mines. The U.N.

reported 48 deaths from landmine incidents between January and September, compared with 63 deaths in 2001, 142 in 2000, and more than 350 in 1999. It was not clear whose landmines were responsible for these casualties. It was probable that there were additional, unreported deaths in remote areas.

No reported action was taken, nor was any likely to be taken, against the camp guards who killed approximately 30 Ethiopian detainees at a camp in Wia in 2000.

In 2000 the Government deported thousands of Ethiopians to Ethiopia under difficult and dangerous conditions, which resulted in a number of deaths. A few deportees reportedly disappeared and were believed to have died. After the end of the war with Ethiopia in August 2000, forced, mass deportations stopped.

*b. Disappearance.*—There were unconfirmed reports of politically motivated disappearances.

During the year, it was reported that journalists who had been missing reportedly were in government custody (see Section 2.a.).

There were no developments in the August 2001 disappearance of four ethnic Kunama or the September 2001 case in which the Government arrested 11 senior PFDJ and National Assembly members, whose whereabouts remained unknown at year's end (see Section 2.a.).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The transitional Penal Code prohibits torture; however, there were some unconfirmed reports that the police at least occasionally resorted to torture and physical beatings of prisoners, particularly during interrogations. During the year, the police severely mistreated and beat army deserters and draft evaders. The police subjected deserters and draft evaders to various military disciplinary actions that included prolonged sun exposure in temperatures of up to 113 degrees Fahrenheit or the tying of the hands and feet for extended periods of time (see Section 1.d.).

There were reports that women drafted to the national service were subjected to sexual harassment and abuse.

Unlike in the previous year, there were no reports that students were hospitalized as a result of participating in a mandatory summer work program, which was terminated during the year.

During the year, there were dozens of reported injuries from landmines and unexploded ordnance. It is probable that there were additional, unreported injuries that occurred in remote areas.

No action was taken, nor was any likely to be taken, against the guard at the Keren detention facility, who in 2000 shot and injured an Ethiopian detainee.

In 2000 the Government deported to Ethiopia thousands of Ethiopians under potentially difficult and dangerous conditions without the participation of the ICRC (see Section 2.d.). Some reportedly disappeared or died. The deportations stopped in August 2000 after the end of the war with Ethiopia. In 2000 there were some instances in which private Eritrean individuals threatened and beat Ethiopians. It was not known if any police action was taken in these cases. In some cases, police intervened too late to prevent the abuse or were unable to halt it. During the year, abuse of Ethiopians by individuals was not systematic, and there were fewer cases than in the previous year.

Prison conditions remained Spartan. The Government permitted three visits per week by family members. There were no confirmed reports that any prisoners died due to lack of adequate medical care. Women and men were held in separate facilities. There were no juvenile detention centers or correction facilities, and juvenile offenders often were incarcerated with adults. Pretrial detainees generally were not held separately from convicted prisoners; however, in some cases, detainees were held separately. For example, the "Group of 15" political detainees and others detained on national security grounds were thought to be held separately, although their whereabouts remained unknown. These political detainees were denied visitors during the year.

During the year, the Government returned 303 Ethiopian POW's to Ethiopia. On August 29, the Government handed over the last group of ICRC-documented POWs in the country. The condition of the POWs was generally good; however, at least one POW died of illness during the year.

The Government allowed the ICRC to visit and register Ethiopian civilian detainees in police stations and prisons; however, the ICRC was not permitted to visit the unknown number of Ethiopian soldiers who the Government claimed were deserters from the Ethiopian army. Neither the ICRC nor local groups were permitted to monitor prison conditions.

During the year, there were reports that some of the 14 Sudanese prisoners arrested in 1994 could have been released in previous years. No further action was likely to be taken in this 1994 case (see Section 1.d.). There also was a report that



additional, prolonged detentions of Sudanese nonpolitical prisoners continued during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention were serious problems. The Penal Code stipulates that detainees may be held for a maximum of 30 days without being charged with a crime. In practice the authorities sometimes detained persons suspected of crimes for much longer periods. The Government held numerous pretrial detainees during the year. The Government continued to detain a small number of Ethiopians during the year; however, the majority were prisoners who were convicted of common crimes.

During the year, human rights observers documented at least six examples of arbitrary arrest, including of relatives of the previously detained “G-15” group and diplomats who were called back from their posts. At least four of these detainees, in addition to many detained in previous years, remained in prison without charges at year’s end. There also were unconfirmed reports of other arrests during the year.

During the year, the Government deployed military police throughout the country using roadblocks, street sweeps, and house-to-house searches to find deserters and draft evaders (*see* Section 1.a., 1.c., and 1.f.). The military police detained persons who had not completed their national service requirement, and those who had evaded previous drafts (*see* Section.f. and 6.c.). There was a general public perception that these round-ups were directed particularly at female draftees. This perception caused significant anxiety and individual complaint throughout society but no organized protests. In some instances, authorities arrested and detained for several hours or even days individuals, including pregnant women, children under age 18, and citizens of other countries, who were not subject to national service obligations or had proper documentation showing they had completed or were exempt from national service. The few deportees of Eritrean origin from Ethiopia who could not demonstrate their ties to the country were issued documents that identified them as Ethiopians, which permitted them to stay in the country (*see* Section 2.d.). Government and army officials reportedly considered these Ethiopian deportees to be citizens who were trying to avoid national service. As a result, they were subjected to harassment and detention while the authorities checked their status.

In 2000 authorities detained two journalists who reportedly were inducted into the military to fulfill their national service obligations and remained in the army at year’s end. Approximately four Jehovah’s Witnesses remained in detention without charge for failing to participate in national service; some had been detained for more than 5 years without charge (*see* Section 2.c.).

In July 2001, the Government arrested the president of the independent Asmara University Students’ Association; he remained in detention without charge until he escaped in August. Most observers believe he was arrested for leading student opposition against the Government’s requirement that university students participate in a summer work program (*see* Section 6.c.). The summer work program for university students was not held during the year in response to intense criticism when two students died during the 2001 program while working in harsh desert conditions (*see* Section 1.a.).

There were unconfirmed reports that the Government continued to hold numerous members of the Eritrean Liberation Front (ELF), an armed opposition group. Authorities sometimes arbitrarily arrested and detained former combatants or members of the PFDJ who violated an unwritten code of conduct (*see* Section 1.e.).

During the year, there were reports that some of the 14 Sudanese prisoners arrested in 1994 may have been released in previous years. No further action is likely to be taken in this case (*see* Section 1.c.).

The Government continued to arrest sporadically individuals with known or perceived ties to political dissidents. It was estimated that a total of 80 political dissidents were detained at year’s end.

There were no developments in the following 2001 cases: The September arrest of approximately 10 journalists and editors from independent newspapers who remained in detention without charge and without access to visitors (*see* Section 2.a.); the September arrest and incommunicado detention of 11 senior PFDJ and National Assembly members, including former Cabinet ministers and army generals, who were part of the Group of 15 and whose whereabouts remained unknown (*see* Section 2.a.); the September and October arrest of several elders who remained in detention without charge; and the October arrest of two local employees from a foreign embassy who remained in detention without charge and without access to visitors.

In addition to the arrests in September 2001, the Government arrested other individuals, many of them with known or perceived ties to political dissidents, and detained them without charge and without access to visitors at year’s end.

There were no developments in the 2000 arrest of a journalist for the newspaper Tsigenai who remained in detention without charge at year’s end or the 2000 case

in which several members of the Kunama ethnic group who were detained without charges on suspicion of collaborating with Ethiopian forces.

An unknown number of persons suspected of association with the Ethiopian Mengistu regime, radical Islamic elements, or suspected terrorist organizations remained in detention without charge, in some cases for years.

There was no information available, nor is any likely to become available, on the several members of the Kunama ethnic group who were detained without charges on suspicion of collaborating with Ethiopian forces in 2000.

An unknown but believed to be small number of Ethiopians, particularly men, were thought to be held in police stations, prisons, and jails in Asmara and possibly in other areas. The Government stated that Ethiopians detained in such places were in detention because they had committed a crime or legal infraction. International monitors had access to the majority of detainees in police stations and jails. In May 122 Ethiopian civilians who had been detained in Massawa were repatriated by the ICRC. The Government previously had denied holding them.

The Government generally did not use exile as a means of political control, and the law has no provisions concerning exile. The Government continued to repatriate Ethiopians to Ethiopia. By December 2001, the Government had repatriated more than 21,000 Ethiopians to Ethiopia. All of these persons were repatriated voluntarily and with ICRC participation (*see* Section 2.d.).

*e. Denial of Fair Public Trial.*—The judiciary was formally independent; however, it was weak and subject to executive interference. The continued use of an executive special court system allowed executive interference with the judicial process. In addition, the judiciary relied on the Ministry of Justice for logistical and budgetary support, which further limited its independence. In August 2001, the Minister of Justice fired the president of the High Court after he publicly complained of executive interference with the High Court.

The judicial system had three parts: Civilian, military, and special courts. The civilian court system consisted of village courts, subregional courts, regional courts, and the High Court, which also served as an appellate court. The developing judicial system suffered from a lack of trained personnel, inadequate funding, and poor infrastructure that, in practice, limited the Government's ability to grant accused persons a speedy trial. At independence the Government chose to retain the Ethiopian legal system but made some modifications to it. The Government developed new commercial, penal, and criminal codes, which remained ready for ratification by the National Assembly, although ratification had not occurred by year's end. A new civil code was drafted during 2001; however, it was not enacted by year's end.

Under the legal system, minor infractions were brought to village courts and subregional courts. More serious offenses were argued before regional courts, and cases involving murder, rape, and other serious felonies were heard by the High Court. All cases, except those argued before the High Court, were heard by a single judge; on the High Court, panels of three judges heard cases.

Defendants had access to legal counsel, usually at their own expense. Although there was no formal public defender's office, the Government had requested successfully that attorneys work without fee to represent defendants accused of serious crimes punishable by more than 10 years in prison, who could not afford legal counsel. Defendants could appeal verdicts to a High Court panel, which was composed of the High Court president and four other judges.

Since the population largely was rural, most citizens only had contact with the legal system through the traditional village courts. Village judges, who were appointed by a panel composed of heads of regional courts, the regional prosecutor, and the regional governor, heard civil cases. Magistrates versed in criminal law heard criminal cases. Local elders adjudicated many local issues—for example, property disputes and most petty crimes—according to customary law. Where both litigants were Muslims, civil cases were heard under Shari'a law. The traditional courts cannot impose sentences involving physical punishment. The Ministry of Justice also offered training in alternative dispute resolution to handle some civil and petty criminal cases.

The drafting of many civilians, including court administrators, defendants, judges, lawyers, and others involved in the legal system, into the national service had a significant negative impact on the judiciary. The High Court was reduced from 7 benches to 3 benches, and provincial, zone, and village court personnel were reduced by 40 percent. As a result of these personnel constraints, there were lengthy delays in the processing of cases, particularly at the High Court level.

The special court system ostensibly was created to reduce a growing backlog in the civilian court system. However, in practice the special courts, which banned defense counsel and the right of appeal, allowed the executive branch to mete out punishment without respect for due process and could subject the accused to double

jeopardy. Judges in the special courts were senior military officers, most of whom had little or no legal experience. They based their decisions on “conscience,” without reference to the law. There was no limitation on punishment. The special courts had jurisdiction over some criminal cases, such as capital offenses, felonies, misdemeanors, cases of tax evasion involving large sums, and cases of embezzlement by senior officials. The office of the Attorney General decided which cases were to be tried by a special court. The Attorney General also allowed the special courts to retry civilian court cases, including those decided by the High Court, thereby subjecting defendants to double jeopardy.

The special courts also handled crimes involving corruption, theft, and misuse of government authority allegedly committed by former members of the EPLF during the war for independence. Senior former fighters and members of the PFDJ often were held to a stringent unwritten code of conduct, and violations of this code were handled by the special courts outside the normal judicial process. Those accused of violating this circle of trust were arrested and held without formal charge or tried in the special courts.

There were no reports of political prisoners; however, there were numerous reports of persons detained for political reasons (*see* Section 1.d.).

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Government at times infringed on the right to privacy. Under the law, warrants are required for routine searches and seizures, except in cases where authorities believe individuals may attempt to escape or destroy evidence. Warrants also theoretically are required before the Government can monitor mail, telephones, or other means of private communication; however, in practice the Government often did not obtain warrants, and there were reports that the Government monitored telephone calls and e-mail. Government informers were believed to be present throughout the country. There were unconfirmed reports that members of the PFDJ placed Ethiopians under surveillance.

During the year, military police were deployed throughout the country to find deserters and draft evaders. Members of the force carried out frequent document checks using roadblocks, street sweeps, and house-to-house searches and routinely detained persons of military age who had not done their national service (*see* Sections 1.d. and 6.c.).

There were unconfirmed reports that the Government took land from members of the Kunama ethnic group without compensation and gave it to others on the grounds that the land was not being exploited efficiently (*see* Section 5). In addition the Government failed to compensate foreigners for property seized by the former Mengistu regime in Ethiopia or to return that property.

In 2000 the Government closed Ethiopian-owned businesses, forced Ethiopians to vacate government-owned housing, froze some bank accounts, and seized some assets belonging to Ethiopians.

During 2001 the situation had improved somewhat. Ethiopians generally were able to renew residence permits without difficulty during the year; however, they continued to be unable to obtain business licenses, driving licenses, or leases, and many continued to lose their jobs because of their nationality. In most cases, Ethiopian business owners who lost their inventories when their shops were closed did not receive compensation. These hardships encouraged many Ethiopians to leave the country during 2001. During the year, conditions remained difficult for Ethiopians living in the country, but most who wanted to leave had already done so. There were reports that Ethiopians who remained in the country were not allowed to live in the strategically important Debub province bordering Ethiopia.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Government restricted the freedom of speech and the press, particularly since September 2001 when it closed the private press and arrested most independent journalists, which effectively prevented all public and much private criticism of the Government. All private newspapers were banned, and the ban remained in effect at year’s end.

After September 2001, the Government controlled all nonreligious media, including three newspapers, one radio station, one television station, and one of only two newspaper printing presses in the country. There were no private radio or television stations, and after September 2001, there were no private, nonreligious newspapers. The Government had the authority to ban the import of any foreign publication, although it had not done so. Some Western periodicals were available regularly at several bookshops and from street vendors in Asmara. The press law forbids the local reprinting of articles from banned publications. The Government continued to restrict the right of the religious media to comment on politics or government policies.

The Government permitted five part-time reporters for foreign news outlets to operate in the country. Those who worked for Deutsche Welle and Voice of America were citizens, while the BBC, IRIN, and Reuters reporters were foreigners.

The arrests of journalists continued during the year. In January and February, four journalists were arrested and remained detained without charge at year's end. Three were working for the Arabic section of the official government media. The fourth, previously a reporter for an independent newspaper that was closed in 2001, was detained trying to leave the country. Observers reported that nearly all reporters and editors of the independent press had either fled the country or been detained.

In September 2001, the Government arrested and detained without charge 11 senior PFDJ and National Assembly members of the Group of 15 after they expressed dissenting political views (*see* Section 1.d.). Authorities then arrested and detained independent journalists without charge and closed the private press after the publication of the views of the Group of 15. The detained journalists included: Yosuf Mohamed Ali, editor-in-chief of Tsigenai; Said Abdulkader, editor-in-chief of Admas; Selayinghes Beyene and Dawit Habetemichael, reporters for Megaleh; Aaron Berhane, editor-in-chief of Setit; Medhane Haile, editor-in-chief of Keste Debona; Emanuel Asrat and Wedi Ade from Zemen; and an independent photographer, Seyum Fesehaye. Although the Government stated that the arrests were not related to opposition views, it offered no evidence against them and did not charge them formally. Subsequently, other persons were arrested arbitrarily and remained in custody without charge at year's end. The Government defended the arrests as necessary on grounds of national security but did not provide an additional explanation. In April nine of the reporters arrested in September 2001, declared a hunger strike. They subsequently were moved to undisclosed locations, and their whereabouts were unknown at year's end.

During the year, it was reported that four journalists who have been missing since 1999, 2000, and 2001 were in government custody. One of them was affiliated with the official Hadas Eritrea newspaper.

After the independent press was closed in September 2001, the Government formed a committee to revise the Press Law. The law does not allow private ownership of broadcast media or foreign influence or ownership of any media. The law requires that all newspapers obtain a license from the Ministry of Information before publication and that all reporters register with the Ministry. The law in theory allows individuals to publish newspapers and magazines. Prior to September 2001, eight independent newspapers published on a weekly or biweekly basis, with an estimated circulation of 45,000. In September 2001, the Government closed these publications, and religious publications were banned during the year. There were no independent print media operating in the country by year's end.

Access to the Internet was available in Asmara and Massawa, and there were four commercial Internet Service Providers in the country. There were no restrictions on the use of the Internet.

Although the Government claimed that there were no restrictions on academic freedom, the University of Asmara refused to give diplomas to its graduates unless they had completed their national service obligations (*see* Section 6.c.). The Government placed tight controls on students who wanted to study abroad. Many were unable to obtain exit visas or were prevented from leaving the airport despite having necessary approvals. In addition, new graduates occasionally were pressured to work for government entities (*see* Section 2.d.).

*b. Freedom of Peaceful Assembly and Association.*—The Government limited freedom of assembly. A permit from the Ministry of Local governments was required for a public meeting or demonstration. There were no reports of any political demonstrations that were not sponsored by the ruling party; no other permits were applied for during the year.

Several respected elders who were arrested in 2001 for meeting without a permit remained in detention without charge at year's end (*see* Section 1.d.).

The Government restricted the freedom of association. The Government did not allow the formation of any political parties. The draft laws on guidelines for new elections and the formation of political parties had not been submitted to the provisional National Assembly for amendment and ratification at year's end. The Government had expressed its opposition to the formation of any party based on ethnicity or religion.

*c. Freedom of Religion.*—The Government restricted the freedom of religion, except in the cases of the four major religions in the country: Orthodox Christianity, Islam, Catholicism, and the Evangelical Lutheran.

In May the Ministry of Information, which oversees religious affairs, called together the leaders of several smaller churches, referred to collectively as the "Pentes," and ordered them to close down. The Pentes included Born Again Christians, Pentecostals, Full Gospel, and other smaller Protestant groups. The Government required these churches to register and receive authorization to reopen. The churches were informed that partial registrations would not be accepted. By year's end, no churches had been authorized to reopen. The four major religions were not required to register.

Islam and the three major Christian denominations were practiced and tolerated widely throughout the country with persons free to worship at the church or mosque of their choice; however, the Government closed churches of other denominations and continued to harass, detain, and discriminate against the small community of Jehovah's Witnesses because of their refusal, on religious grounds, to vote in the independence referendum or to perform national service. Although persons from other religious groups, including Muslims, reportedly had been punished in past years for failure to participate in national service, only Jehovah's Witnesses were subject to dismissal from the civil service, had their trading licenses revoked, were evicted from government-owned housing, and were denied passports, identity cards, and exit visas. There were no reports that Jehovah's Witnesses who performed national service and participated in the national independence referendum were subject to discrimination. Jehovah's Witnesses often were denied identification cards, passports, exit visas, trading licenses, government housing, and government employment unless they hid their religion.

The Government also harassed and monitored some Orthodox churches whose religious services it did not approve.

There were some complaints in the Muslim community that the Government had discriminated against Islam in favor of Orthodox Christianity by granting Orthodox churches tax relief not offered to mosques.

The Government prohibited political activity by religious groups and faith-based nongovernmental organizations (NGOs), and the Government's Directorate of Religious Affairs in the Ministry of Local government monitored religious compliance with this proscription against political activity.

At year's end, approximately four Jehovah's Witnesses remained in detention without charge and without being tried for failing to participate in national service. These individuals had been detained for varying periods of time, some for more than 5 years without charge. The maximum penalty for refusing to perform national service is only 3 years' imprisonment. Ministry of Justice officials denied that any Jehovah's Witnesses were being held without charge; however, they acknowledged that some Jehovah's Witnesses, and a number of Muslims, were serving sentences for convictions on charges of evading national service.

The army resorted to various forms of extreme physical punishment to force objectors, including some Jehovah's Witnesses, to perform their military service (*see* Section 1.c.).

There were negative societal attitudes toward members of religious denominations other than the four major ones. Many citizens approved of the strict measures levied against those churches during the year. Jehovah's Witnesses faced some social discrimination because of their refusal to participate in the 1993 independence referendum and to perform national service. However, the level of societal discrimination against Jehovah's Witnesses has declined in recent years.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—While citizens could travel freely within the country and change their place of residence and work, authorities restricted freedom of movement and emigration. The Government required all citizens to carry national identification cards, which they must present on demand at security checkpoints. The Government restricted travel to some areas within the country for security reasons. Military police periodically set up roadblocks in Asmara and other cities to find draft evaders and military deserters (*see* Section 1.d.). Periodic crackdowns continued to occur during the year.

The Government continued to restrict travel along much of the border with Sudan. Some areas remained heavily mined, a legacy of the war for independence. Occasionally, the ELJ or others set new mines, leading to additional travel restrictions (*see* Sections 1.a. and 1.c.).

Citizens were required to obtain an exit visa to travel outside the country. Citizens of national service age (18 to 40), Jehovah's Witnesses (*see* Section 2.c.), officials of the former Ethiopian military regime, and others who had fallen out of favor with the Government routinely were denied exit visas. In addition, the Government

often refused to issue exit visas to adolescents, apparently on the grounds that they were approaching the age of eligibility for national service. In practice it was very difficult for anyone under the age of 40 to get an exit visa. There were many instances in which the newly married spouse a citizen living abroad was denied an exit visa to join the partner. Often the citizen in the country was denied an exit visa because the spouse could not prove payment of the 2-percent income tax, which was imposed on citizens who lived abroad or who had run afoul of the Government.

In general, citizens had the right to return; however, citizens had to show proof that they paid the 2-percent tax on their annual income to the Government while living abroad to be eligible for government services upon their return to the country. Applications to return from citizens living abroad who had run afoul of the law, contracted a serious contagious disease, or had been declared ineligible for political asylum by other governments, were considered on a case-by-case basis.

During the year, the Government annulled or denied exit visas for several citizens who had received scholarships to foreign universities or been nominated for participation in exchange programs. Government officials said their cases would be reexamined on an individual basis.

Unlike in previous years, there were no reports that Ethiopians still in the country were unable to obtain exit visas.

During the year, the Government repatriated approximately 1,500 Ethiopians to Ethiopia. They were repatriated voluntarily and with ICRC participation. An estimated 20,000 to 25,000 Ethiopians remained in the country at year's end. In 2001 more than 20,000 Ethiopians were repatriated under similar circumstances. At the end of November, the Ethiopian government released more than 1,200 Eritrean POWs, the last of the recorded Eritrean prisoners from the 1998–2000 conflict.

Approximately 1.1 million citizens were displaced internally as a result of the conflict with Ethiopia. Most of these IDPs returned home; however, approximately 67,000 IDPs remained in 11 camps in the Debub and Gash Barka zones at year's end. Camp facilities were basic, but conditions generally were adequate. There also was a large but unknown number of IDPs residing outside camps during the year.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government provided first asylum to Somali and Sudanese refugees during the year. There were 498 Sudanese refugees at the Elite camp in the western part of the country and 2,560 Somali refugees at the Emkala camp, near Massawa. There also were 5,000 to 7,000 Beja Sudanese refugees in the Gash Barka region. The Eritrean Relief and Refugee Commission (ERREC), a government agency, was the principal organization responsible for refugees and IDPs.

During the year, UNHCR reported that approximately 20,000 Eritrean refugees were repatriated from Sudan. Since July 2000, when repatriations began, the total was 74,000. At year's end, 19,000 of the more than 60,000 refugees remaining in Sudan had registered for repatriation.

There were no reports of the forced return of persons to a country where they feared persecution.

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

Citizens have not been had the right to change their government in multiparty elections. Authority within the Government was held very narrowly among a small group of former fighters. The Government was dominated completely by the PFDJ, which came to power in the 1993 popular referendum in which more than 99 percent of voters chose to have an independent country managed by a transitional government run by the PFDJ rather than to remain part of Ethiopia. The PFDJ still had not fulfilled the ambitious program that it initially outlined for a transition to a democratically elected government by 1997. National elections, originally scheduled for 1997, never were held. The only authorized political party was the PFDJ, and there were no opposition parties active domestically (*see* Section 2.b.).

In 2001 two committees developed guidelines and rules for new elections and the formation of political parties; however, the draft electoral law and the draft law regulating the formation and activities of political parties had not been acted on by year's end. National Assembly elections scheduled for December 2001, did not take place. Government officials stated that the elections were delayed because of continuing tensions with Ethiopia and problems caused by dissidents and the private press. In February another electoral commission was established to set a new date for elections and review the previously drafted laws; however, elections still were not scheduled at year's end.

During the year, village-level elections were held in the rural parts of Dehub (South central) and Maakel (central) provinces.

In an effort to encourage broader participation by women in politics, the PFDJ named 3 women to the party's 19-member Executive Council and 11 women to the 75-member Central Council at the last party congress that was held in 1994. Women participated in the Constitutional Commission (occupying almost half of the positions on the 50-person committee). They also served in several senior government positions, including Minister of Justice and Minister of Labor. By law, one-third of regional National Assembly seats are reserved for women, and women also may compete for the nonreserved seats.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

The Ministry of Foreign Affairs and Ministry of Local governments jointly were responsible for handling human rights inquiries. All NGOs had to register with the ERREC; there were 31 international and 16 domestic NGOs operating in the country, the majority of which were involved in emergency assistance. Only one domestic human rights organization, Citizens for Peace in Eritrea (CPE), was allowed to operate, and its work was limited to advocacy on behalf of war victims.

A government decree provides that religious organizations, including faith-based NGOs, cannot engage in development activities; however, it never was enforced in practice. In addition, the four main religious groups (Orthodox, Catholic, Muslim, and Evangelical Lutheran) coordinated the provision of relief services to deportees from Ethiopia in conjunction with the ERREC. A governmental decree requiring that all NGOs hire only those who had completed their national service never was enforced.

Most international human rights organizations were not permitted to operate within the country, with the exception of the ICRC, which continued its programs during the year and provided shelter and supplemental food to approximately 100,000 persons who were displaced by the conflict with Ethiopia (*see* Section 2.d.). The ICRC also visited prisons and detention centers where Ethiopians were held during the year (*see* Section 1.c.).

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The transitional civil code prohibits discrimination against women and persons with disabilities, and the Government enforced these provisions.

*Women.*—The Government has not taken a firm public stance against domestic violence and generally has ignored the problem. Violence against women was pervasive. Spousal abuse is a crime; however, spousal abuse, especially wife beating, was common. Domestic violence seldom was discussed openly by women because of societal pressures. Such incidents more commonly were addressed, if at all, within families or by religious clergy. It was estimated that more than 65 percent of women in the Asmara area were the victims of domestic violence during the year. The Government response to domestic violence was hindered by a lack of training, inadequate funding, and societal attitudes.

Rape is a crime; however, no specific information was available on its prevalence in the country.

FGM was widespread, with estimates placing the number of women and girls who have been subjected to FGM as high as 95 percent. FGM was practiced by almost all ethnic and religious groups in the country. In the lowlands, infibulation—the most severe form of FGM—was practiced. There was no law prohibiting FGM. However, the Government worked to combat the practice of FGM. The Government and other organizations, including the National Union of Eritrean Women, sponsored education programs that discouraged the practice. The U.N. Population Fund, through the Ministry of Health, sponsored reproductive health projects that provided training and awareness programs that focused on the negative physical and psychological impacts of FGM.

Prostitution is illegal; however, as a result of war-related displacement and difficult economic conditions, prostitution was a serious problem. The problem was magnified by the presence of many international peacekeepers, NGOs, and other foreign men in the country since the end of the war with Ethiopia.

The Government consistently advocated improving the status of women, many of whom played a significant role as fighters in the struggle for independence. Since independence, women have enjoyed a legal right to equal educational opportunities, equal pay for equal work, and legal sanctions against domestic violence. Much of society remained traditional and patriarchal, and generally women did not enjoy a social status equal to men. The law provided a framework for improving the status of women, but laws were enforced unevenly, because of a lack of capacity in the

legal system and ingrained cultural attitudes. In practice males retained privileged access to education, employment, and control of economic resources, with more disparities in rural areas than in cities.

The law requires women between the ages of 18 and 40 to participate in national service (*see* Section 6.c.). During the year, there were increased efforts to detain women draft evaders and deserters (*see* section 1.d.). According to some reports, women drafted to the national service were subject to sexual harassment and abuse. In 2001 the Government transferred most women out of direct combat roles and re-assigned them to civilian government jobs or support roles for the military.

*Children.*—The Ministry of Labor and Human Welfare was responsible for government policies concerning the rights and welfare of children. The Children's Affairs Division under the Ministry of Labor and Human Welfare covered childcare, counseling, and probation. The law criminalizes child prostitution, pornography, and sexual exploitation.

Education through grade seven was compulsory and free. However, education above grade seven was neither free nor compulsory, and while the situation has improved, there was a shortage of schools and teachers at all levels. According to Ministry of Education figures, only 38 percent of children attended school. Approximately 75 percent of the population was illiterate. In rural areas, young girls usually left school early to work at home.

Child abuse was not thought to be common.

FGM was performed on up to 95 percent of all young girls (*see* Section 5, Women).

*Persons with Disabilities.*—The long war for independence and the conflict with Ethiopia left thousands of men and women with physical disabilities from injuries they received as guerrillas, soldiers, and civilian victims. The Government dedicated a large share of its resources to support and train these former fighters, who were regarded as heroes, and did not discriminate against them in training, education, or employment. There were no laws mandating access for persons with disabilities to public thoroughfares or public or private buildings; however, many newly constructed buildings provided access for persons with disabilities.

*National/Racial/Ethnic Minorities.*—There were reports of government and societal discrimination against the Kunama, one of nine ethnic groups, who reside primarily in the west. Because a Kunama opposition group operated out of Ethiopia and was supported by Ethiopian authorities, some Kunama in the country were suspected of supporting or having sympathies with the Ethiopian government. In 2001 there were unconfirmed reports that the Government took land from Kunamas without compensation and gave it to other ethnic groups on the grounds that the land had not been efficiently exploited. There also was an unconfirmed report that Eritrean refugees returning from Sudan were resettled on Kunama fields after evicting the native Kunama. There was some societal discrimination against Kunamas because they were seen as ethnically and culturally different from most Eritreans.

There was no information available, nor is any likely to become available, on the several members of the Kunama ethnic group who were detained without charges on suspicion of collaborating with Ethiopian forces in 2000.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Some government policies restricted free association or prevented the formation of unions, including within the civil service, the military, the police, and other essential services. The Ministry of Labor must grant special approval for groups of 20 or more persons seeking to form a union. There were no reports that the Government opposed the formation of any labor associations during the year.

Proclamation Eight provides workers with the legal right to form unions and to strike to protect their interests. The National Confederation of Eritrean Workers (NCEW), which was part of the EPLF during the war, maintained a close affiliation with the Government, and its leadership consisted of high-ranking PFDJ members. The NCEW represented more than 25,000 workers from 250 unions and received some assistance from the International Labor Organization (ILO) and foreign labor organizations. The largest union within the NCEW was the Textile, Leather, and Shoe Federation.

Unions may affiliate internationally. All five workers' federations within the NCEW maintained affiliations with international unions.

*b. The Right to Organize and Bargain Collectively.*—Under the new labor code, which was ratified in November 2001, a tripartite board composed of workers, employers, and Ministry of Labor officials is required to resolve differences. Under the labor law in force, disputes were taken to court. During 2001 the NCEW brought 54 cases to court, while an additional 17 NCEW cases remained pending. By August



2001, 20 of the 71 cases were settled through agreements between the parties, 11 had been settled through the Ministry of Labor, and 3 were adjudicated.

There were no strikes reported during the year.

There were no export processing zones. A free trade zone, encompassing the ports of Massawa and Assab, was being established at year's end.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children; however, there were unconfirmed reports that it occurred during the year. All citizens between the ages of 18 and 40 were required to participate in a national service program, which included military training and civic action programs. In addition, some national service inductees were released back to their civilian jobs, while nominally kept in the military, because their skills were deemed critical to the functioning of the Government or the economy. These individuals were required to forfeit to the Government earnings in excess of the national service salary and were required to perform farm labor. High school students also were required to participate in a paid summer work program.

In 2001 the Government announced that university students were required to participate in a paid summer work program for 1 month or they would be ineligible to continue their studies. This requirement first was imposed on university students in 1999 but suspended in 2000 because of the war. The students objected to the work program, in part because many students needed to work during the summer to earn the money required for their academic and living costs, which are approximately \$200-\$300 (2,700–4,100 Nakfa) per year. The students objected that the Government's payment of approximately \$78 (1,050 Nakfa), out of which the students would have to pay their food, lodging, travel, and other expenses, was insufficient. Unlike in the previous year, there was no summer work program for university students during the year (*see* Section 1.c.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The legal minimum age for employment is 18 years, although apprentices may be hired at age 14. The law prohibits apprentices under 18 years of age from performing certain dangerous or unhealthy labor, such as working in mines or sewers. Labor inspectors in the Ministry of Labor and Human Welfare are responsible for the enforcement of laws pertaining to the employment of children; however, due to the small number of inspectors, inspections were infrequent. According to the Ministry of Education, only 38 percent of children attended school due, in part, to a shortage of schools and teachers. It was common for rural children who did not attend classes to work on family farms, fetching firewood and water, and herding livestock among other activities. In urban areas, some children worked as street vendors of cigarettes, newspapers, or chewing gum. Children also worked as child-minders, traders, and in small-scale manufacturing. Unlike in the previous year, there were no reports that the Government inadvertently employed children under the age of 18 as soldiers.

The Government has not ratified ILO Convention 182 on the Worst Forms of Child Labor.

*e. Acceptable Conditions of Work.*—There were two systems that regulate employment conditions—the civil service system and the labor law system. There was no legally mandated minimum wage in the private sector. In the civil service sector, wages varied from \$24 to \$288 (325 to 3,900 Nakfa) per month. Factory workers in government-owned enterprises earned the highest wages. The minimum wage in the civil service sector did not provide the average worker and family with a decent standard of living.

The standard workweek was 44 ½ hours, but many persons worked fewer hours. Under the Labor Law, workers are entitled to 1 day of rest per week, and most workers were allowed 1 to 1 ½ days off per week. The Government has instituted occupational health and safety standards, but inspection and enforcement varied widely among factories. Workers were permitted to remove themselves from dangerous work sites without retaliation.

Legal foreign and citizen workers are treated equally under the law.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons, and there were unconfirmed reports of trafficking for forced or bonded labor.

## ETHIOPIA

Ethiopia continued its transition from a unitary to a federal system of government, under the leadership of Prime Minister Meles Zenawi. In 2000 the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF) won general elections to the federal and regional parliaments. Most opposition political parties competed in the election; however, due to lack of funds and often weak political organization, opposition

parties contested only 20 percent of the seats to the federal parliament, where EPRDF and affiliated parties held 518 of 548 seats. EPRDF and affiliated parties also held all regional parliaments by large majorities, although opposition parties had held approximately 25 percent of seats in the Addis Ababa Regional Council until the Prime Minister dissolved the entire council in October. The ruling party continued to control all 13 executive committee seats in the regional council. The regional council remained dissolved at year's end; no dates had been set for new elections. Opposition parties held exactly 10 percent of the seats in the Southern Region at year's end. According to international and local observers, the 2000 national elections generally were free and fair in most areas; however, serious election irregularities occurred in the Southern Region, particularly in Hadiya zone. Federal regions, largely organized along ethnic lines, increasingly were autonomous and had a large degree of local control over fiscal and most political issues. However, the relationship between the central government and local officials and among various judiciaries lacked consistent coordination, and occasionally actions were taken at the local level that conflicted with stated federal policy. Highly centralized authority, poverty, civil conflict, and unfamiliarity with democratic concepts combined to complicate the implementation of federalism. The Government's ability to protect constitutional rights at the local level was limited and uneven. Political parties predominantly were ethnically based. Local administrative, police, and judicial systems remained weak throughout the country. The judiciary was weak and overburdened but continued to show signs of independence; progress was made in reducing the backlog of cases.

The security forces consisted of the military and the police, both of which were responsible for internal security. The Federal Police Commission and the Federal Prisons Administration were subordinate to the Ministry of Federal Affairs. The military consisted of both air and ground forces and reported to the Ministry of National Defense. Following the end of fighting between Ethiopia and Eritrea in 2000, some Ethiopian troops were demobilized, and others were redeployed from the border area in Tigray to other regions throughout the country, which increased the internal military presence in some parts of the Somali, Oromiya, and the Southern Regions. Military forces conducted an increased number of low-level operations against the Oromo Liberation Front (OLF), the Somalia-based Al'Itihad Al'Islami terrorist organization (AIAI), and elements of the Ogaden National Liberation Front (ONLF) both in the country and in southern Somalia and northern Kenya. Some members of the security forces committed human rights abuses.

The economy was based on smallholder agriculture, with more than 85 percent of the estimated population of 63 million living in rural areas under very basic conditions and engaged in subsistence farming. Agriculture accounted for approximately 45 percent of gross domestic product (GDP). Industry accounted for approximately 12 percent of economic activity; in urban centers, the majority of economic activity was in the informal sector. Severe drought, massive crop failures, and extensive livestock losses adversely affected 10 to 14 million persons during the year, and caused GDP growth to slow to 5 percent. Trade barriers favored party-owned businesses. Inflation decreased to -3 percent during the year. Military spending decreased during the year. The Government continued to implement an economic reform program designed to stabilize the country's financial position, promote private sector participation in the economy, and attract foreign investment; however, significant impediments to investment remained, and there were approximately 200 government-owned enterprises that had not been privatized by year's end.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. Security forces committed a number of unlawful killings and at times beat and mistreated detainees. Prison conditions remained poor. The Government continued to arrest and detain persons arbitrarily, particularly those suspected of sympathizing with or being members of the OLF. The Government ceased the detention and deportation without due process of Eritreans and Ethiopians of Eritrean origin. The Government released and repatriated under the auspices of the International Committee of the Red Cross (ICRC) 1,188 Eritrean prisoners of war (POWs) and 774 civilians during the year. Thousands of suspects remained in detention without charge, and lengthy pretrial detention continued to be a problem. The judiciary remained weak and overburdened. The Government infringed on citizen's privacy rights, and the law regarding search warrants was ignored widely. The Government restricted freedom of the press and continued to detain or imprison members of the press. Journalists continued to practice self-censorship. The Government at times restricted freedom of assembly; security forces used excessive force to disperse demonstrations. The Government limited freedom of association, but the nongovernmental organization (NGO) registration process continued to improve. On occasion local authorities infringed on freedom of reli-

gion. The Government restricted freedom of movement. Numerous internally displaced persons (IDPs) from internal ethnic conflicts remained in the country. During the year, neither the Human Rights Commission (HRC) nor the Office of the Ombudsman was operational. Violence and societal discrimination against women and abuse of children remained problems. Female genital mutilation (FGM) was widespread. The Government supported efforts to eliminate FGM and other harmful traditional practices. The exploitation of children for economic and sexual purposes remained a problem. Societal discrimination against persons with disabilities and discrimination against religious and ethnic minorities continued. Forced labor, including forced child labor, and child labor, particularly in the informal sector, continued to be a problem. There were reports of trafficking in persons.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The security forces committed many unlawful killings, including some alleged political killings during the year. The number of unlawful killings during the year was estimated to be between 1,000 and 1,500. There continued to be numerous unconfirmed reports of unlawful killings by government security forces from Oromiya and the Somali regions.

For example, on July 18, soldiers shot and killed a 13-year-old boy who was returning home from a wedding party with four friends. The Government did not investigate the killing by year's end.

On July 21, soldiers shot and killed a 25-year-old driver who was walking back to his residence. The Government did not investigate the killing by year's end.

On November 10, the military opened fire on a crowd that began throwing stones at them, killing one person and injuring eight others, at a security checkpoint near Hartishek, outside the town of Jijiga in Somali region.

In December government security forces killed two persons in Kuraz Woreda in the town of Amorate, South Omo region.

During the year, the Government took no disciplinary action against members of the security forces responsible for the following 2001 killings: The January killing of 5 persons during riots between Christians and Muslims in Harar; the April killing of at least 31 Addis Ababa University (AAU) students during a violent demonstration; and the April killing of an Oromo Mekelle University student who had protested the violence at the AAU demonstrations.

During the year, the Government took no disciplinary action against members of the security forces responsible for the following 2000 killings: The February torturing and killing of two farmers in Soro; the March killing of a student who was attempting to assist another person who was being arrested; the March killing of Getu Driba in Ambo; the April killing of a student during a student demonstration in Dembi Dollo; the May killing of seven SEDPC supporters; and the December killing of a student during a demonstration in Awassa.

During the year, the Government completed its investigation of the 2000 case in which security forces killed two women in Hadiya zone while they were voting; however, the Government did not report on its findings or take any disciplinary action.

There was no action taken, nor any likely, against the persons responsible for the following 2000 and 2001 preelection and postelection killings: The January 2001 case in which rapid deployment forces of the federal and regional police killed 2 supporters during a meeting organized by the Council of Alternative Forces for Peace and Democracy in Ethiopia (CAFPDE); the April 2001 case in which the army killed 4 Southern Ethiopian People's Democratic Coalition (SEPDC) members in Badoacho, Shone Woreda; the case in which government forces killed at least 11 supporters of the SEPDC in the period leading up to the December 2001 elections; the 2000 case in which an EPRDF member killed 3 persons, including an opposition party election observer; the 2000 killing of 5 election observers, 1 opposition candidate, and 3 other persons when their cars either were struck by rockets or landmines; and the 2000 beating to death of a man detained allegedly in retaliation for election activities.

Security forces killed numerous persons while forcibly dispersing demonstrations during the year (*see* Sections 1.d. and 2.b.).

There were some deaths in custody during the year due to illness and disease (*see* Section 1.c.).

No action was taken, nor was any likely, in the July 2001 death in custody of an opposition party member who had been detained following the AAU student demonstration.

Government soldiers continued to operate in Somalia during the year (*see* Section 1.b.). No further information about the 2000 case of government soldiers killing two persons in Somaliland was available at year's end.

During the year, one person was killed by a landmine left over from the war with Eritrea. The U.N. reported that 64 persons died and 163 were injured by landmines in the Temporary Security Zone between January 2001 and November. In March a civilian demining unit began to survey and remove landmines from border areas.

On October 17, 4 children were killed in Higlo, in Gode Zone, after playing with unexploded ordnance left over from the 1977 war with Somalia.

On November 20, a child was killed and another seriously injured while playing with unexploded ordnance in a field near the town of Dire Dawa.

The OLF and ONLF continued to use landmines during the year. Some U.N. vehicles were hit by mines near Jigiga, resulting in injuries to personnel. On August 5, a bomb exploded at the Edom Hotel in the town of Jijiga, killing one person and injuring six others. No group claimed responsibility for the attack, although authorities believed the ONLF was responsible.

On September 11, a bomb killed four persons at the Tigray Hotel in Addis Ababa. The Government blamed the OLF for the attack and claimed to have arrested the perpetrators. The OLF denied responsibility for the attack.

There was no further information by year's end in the 2000 case in which landmines allegedly were used to derail a freight train near Nazareth or the 2001 arrests of five OLF members who allegedly committed the act.

Clashes between the Government and armed groups resulted in civilian deaths during the year. For example, on October 30, elements of the Ethiopian Patriotic Front, an armed Amhara dissident group, clashed with government troops; on November 5, they ambushed an army convoy killing 8 soldiers. Members of the army reportedly rounded up farmers in the area in retaliation for the killings, accused them of assisting the rebels, and summarily executed two residents. On October 31, the military killed 25 persons and injured 37 in fighting with elements of the ONLF, near the town of Luga on the Somalia border.

Ethnic clashes resulted in numerous deaths during the year (*see* Sections 2.d. and 5).

On February 19, bandits shot and killed a South African tourist at a roadblock outside Gondor.

According to the Ethiopian Human Rights Council (EHRCO), on July 22, armed men wearing masks forcibly removed four persons from their car, shot and killed three of them, including the head of the Southern Region's education bureau, and seriously injured the fourth between Awassa and Liku town. The identities of the armed men remained unknown; however, suspects in the killings were held incommunicado in a military camp in Awassa at year's end (*see* Section 2.b.).

On April 4, the Federal High Court convicted 10 Somalis, members of AIAI, for their role in 1995 and 1996 bombings.

The Federal High Court in Addis Ababa continued to arraign and prosecute 5,198 persons formally charged with genocide and other war crimes, including extrajudicial killings, under the previous Marxist Dergue regime (*see* Section 1.e.).

*b. Disappearance.*—There were some reported cases of disappearances perpetrated by the Government during the year; however, none appeared to be politically motivated. In nearly all cases, security forces abducted persons without warrants and detained them in undisclosed locations for varying lengths of time ranging from weeks to months. For example, in response to the September 11 bombing at the Tigray Hotel in Addis Ababa (*see* Section 1.a.), on September 12, regional police officers took Mesfin Itana, an Oromo youth, from his place of work in the Merkato area because of suspected ties to the OLF. On September 13, police took several young Oromo businessmen from their places of work, and their whereabouts remained unknown at year's end. On September 18, the police took two brothers, Yilma Mosisa and Gdissa Mosisa, from their home, and their whereabouts also remained unknown at year's end.

On December 4, plainclothes policemen abducted well-known singer Raya Abamecha from his neighborhood in Addis Ababa. His whereabouts remained unknown at year's end.

During incursions into Somalia, government forces occasionally abducted persons. In one incident, government forces conducted an operation in southwest Somalia and captured a Somali colonel, who later was released.

There were reports in July that Anuak warriors abducted 32 Nuer IDPs from a bus taking them to Fugnido; the Government made little progress in its investigation of the disappearances, and the whereabouts of the 32 IDPs were unknown at year's end (*see* Section 2.d.).

The federal High Court in Addis Ababa continued to arraign and prosecute 5,198 persons charged with genocide and other war crimes under the previous regime, including the disappearance of 14,209 persons (*see* Section 1.e.).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits the use of torture and mistreatment; however, there were several credible reports during the year that security officials often beat or mistreated detainees. There were reports that federal and local security forces harassed SEPDC supporters. Police also beat persons when intervening in clashes (*see* Section 2.c.).

In March there were reports from international refugee agencies that security forces detained and tortured three Sudanese refugees from the Fugnido camp in the Gambella Region (*see* Section 2.d.). There also were reports that the Government's refugee agency beat or otherwise physically abused Sudanese refugees in the Sherkole refugee camp during the year. By year's end, the Government refugee agency had failed to investigate credibly the allegations; however, the agency transferred to Addis Ababa one of its members accused of abusing refugees and placed him on "indefinite leave." The agency also agreed to a follow-up investigation comprised of agency representatives and the U.N. High Commissioner for Refugees (UNHCR) and NGO staff.

On August 4, local police in Addis Ababa forcibly drove away with batons approximately 800 runners participating in a 10 km road race organized by the Ethiopian Athletics Federation (EAF) because the Addis Ababa Athletics Federation complained that the EAF lacked a municipal permit in a jurisdictional dispute. Dozens were injured as a result of the police intervention.

On December 30, police dragged Oromo student activist Gelan Nedhi Chewaka from his dormitory at the University of Mekelle and beat him until he lost consciousness. Gelan was left for dead on the university campus where fellow students discovered him the following morning. His condition reportedly was grave at year's end.

No action was taken during the year against members of the security forces responsible for torturing, beating, or abusing persons in the following 2001 cases: The January injuring of approximately 20 persons when government soldiers attempted to restore order after a riot broke out between Muslims and Christians in Harar; the April beating and injuring of at least 253 persons during the demonstrations at AAU; the April reported beating of women and young children after the forcibly entry into their homes by officers during the AAU demonstrations; the April beating of students and opposition party members detained after the AAU demonstrations; and the April beating of a group of mothers who were attempting to visit their children detained at Sendafa.

No action was taken against members of the security forces responsible for torturing, beating, or abusing the persons in the following 2000 cases: The March injuring of students during a demonstration; the beating of a man who was detained allegedly in retaliation for election activities; and the December beating to death of a man in detention.

No action was taken against the security forces responsible for beating or abusing persons in the following 2001 preelection and postelection cases: The April beating of Ayele Amore, an SEPDC supporter, in Badoacho; the April injuring of four SEPDC members during clashes between the army and the SEPDC in Badoacho in the Shone Woreda; and the May beating of Selfamo Kintamo, an elderly supporter of the SEPDC and the uncle of a SEPDC parliamentarian, in Soro.

Unlike in the previous year, there were no reports that security forces raped or sexually abused persons during arrests, detentions, or other government operations.

No action was taken against the security forces responsible for the June 2001 rape of two girls who took food to family members detained in Hosana or the July 2001 rape of a woman from Soro who was in temporary detention for her husband's involvement with the SEPDC.

Security forces injured numerous persons during the year while forcibly dispersing several demonstrations (*see* Section 2.b.).

There were more reports of injuries, and at least one reported death, caused by landmines (*see* Section 1.a.).

During the year, ethnic clashes resulted in numerous injuries (*see* Section 5).

Prison conditions were poor, and overcrowding remained a serious problem. Prisoners often were allocated fewer than 21 ½ square feet of sleeping space in a room that could contain up to 200 persons. The daily meal budget was approximately 25 cents per prisoner per day. Prison food was inadequate, and many prisoners had family members deliver food every day or used their own funds to purchase food from local vendors. Prison conditions were unsanitary, and access to medical care was not reliable. There was no budget for prison facility maintenance. Prisoners

typically were permitted daily access to prison yards, which often included working farms, mechanical shops, and rudimentary libraries. Prison letters must be written in Amharic, which made outside contact difficult for non-Amharic speakers; however, this restriction generally was not enforced.

Visitors generally were permitted; however, in September 50 detainees claimed that they were denied visits from relatives and friends. The SNNPS ordered the Federal Police Commission to correct its treatment of detainees involved in the May internecine clashes in Awassa after the Court considered claims from the 50 detainees of routine late night beatings by prison police. The detainees also complained of deliberate delays into the investigation of their cases and the suspension of their salaries.

There were some deaths in prison during the year due to illness and disease; however, no statistics on the number of deaths in prison were available at year's end.

Female prisoners were housed separately from men; however, juveniles sometimes were incarcerated with adults (*see* Section 5). Pretrial detainees often were detained separately from convicted prisoners at local police stations or in the limited Central Investigation Division (CID) detention facility in Addis Ababa until they were charged. By year's end, there still were 75 detainees at CID. The law requires that prisoners be transferred to federal prisons upon conviction; however, this requirement sometimes was not enforced in practice.

Approximately 2,000 Eritrean soldiers were captured as a result of fighting in 2000. Under ICRC auspices, the Government released and repatriated the last groups of POWs and civilian internees from the Ethiopian-Eritrean conflict. A total of 1,188 Eritrean POWs and 774 civilians were repatriated during the year. All registered prisoners from the conflict were released by year's end.

The Government permitted independent monitoring of prisons and police stations by the ICRC and by diplomatic missions. The ICRC generally had access to federal and regional prisons, civilian detention facilities, and police stations throughout the country during the year. The ICRC was allowed to meet regularly with prisoners without third parties being present. In addition to visiting the CID detention facility which held numerous persons whose cases were under investigation at year's end, the ICRC was permitted to visit regularly all of the 29 police stations in Addis Ababa during the year. During the year, the ICRC received government permission to visit military detention facilities where suspected OLF fighters were detained. The Government generally gave the ICRC access to detention facilities that held Eritrean POWs, including the main camp at Dedesa. The ICRC also regularly visited civilian Eritrean nationals and Ethiopians of Eritrean origin detained on national security grounds. The ICRC also was permitted access to Zeway Prison, Showa Robit Prison, and other detention facilities; however, diplomats were not permitted access to these facilities.

Government authorities continued to permit diplomats to visit prominent detainees held by the SPO for alleged involvement in war crimes and terrorist activities, including former AAU President Alemayehu Tefera. In May Ethiopian Teachers Association (ETA) President Taye Woldesemayat was released (*see* Section 1.d.). Mamo Wolde, former Dergue housing official and governor of Sidamo, who also was a 1968 Olympic marathon winner, was released in December 2001 after serving a 6-year sentence for murder but died a few months after his release (*see* Section 1.d.).

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution and both criminal and civil codes prohibit arbitrary arrest and detention; however, the Government did not respect these rights in practice. Under the criminal procedure code, any person detained must be informed of the charges within 48 hours and, in most cases, be offered release on bail. Suspects of serious offenses could be detained for 14 days while police conducted an investigation, if a panel of judges ordered it, and for additional 14-day periods while the investigation continued. In practice and especially in the outlying regions, authorities regularly detained persons without a warrant, did not charge them within 48 hours, and, if persons were released on bail, never recalled them to court. The Government provided public defenders for detainees who were unable to afford private legal counsel, but only when their cases came before the court. While in detention, such detainees were not able to confer with legal counsel.

The Constitution provides that arrested persons have the right to be released on bail; however, bail was not available for some offenses, such as murder, treason, and corruption. In most cases, bail was set between \$120 (1,000 birr) and \$1,200 (10,000 birr).

There were reports that in small towns, persons were detained in police stations for long periods without access to a judge and that sometimes these persons' whereabouts were unknown for several months.

The Government continued its harassment of teachers during the year, particularly in Oromiya. According to the ETA, approximately 142 teachers were detained and accused of being OLF sympathizers, many of whom still were in prison at year's end. For example, in Wollega Zone, 28 teachers were arrested and held for varying lengths of time before being released on bail. In the town of Ambo, West Shewa Zone, 4 teachers were imprisoned, and in Sendafa, North Shewa Zone, 7 teachers were arrested and later released in cases related to the April student unrest in Oromiya schools (*see* Section 2.b.). The ETA also claimed that government authorities detained, threatened, and later released dozens of teachers from West Shewa Zone, Harari Region, Hadia, Dersahe Special Woreda, and Konso for their involvement in a February ETA conference in Awassa.

Thousands of criminal suspects remained in detention without charge; many of the detainees were accused of involvement in OLF violent activities or were arrested after the April 2001 student demonstrations. Some detainees were held for years without being charged. Such cases were remanded at least 10 to 15 times, for 2 weeks each time, and courts allowed police to conduct investigations that continued for months. In addition, judges were shifted among cases, judges failed to show up for hearings, or new judges were not reassigned upon the death or incapacity of assigned judges in time for hearing dates. Detention conditions remained poor.

Police detained journalists during the year (*see* Section 2.a.).

Police detained persons for holding illegal meetings and demonstrations during the year, and several persons detained in previous years for illegal meetings and demonstrations remained in detention at year's end (*see* Section 2.b.).

In March security forces detained and tortured three Sudanese refugees (*see* Section 1.c.).

In response to attacks by armed opposition groups operating out of Somalia and Kenya (*see* Section 1.a.), the military again conducted operations in and around border areas during the year. The Government denied the presence of its military in those countries. These operations resulted in the capture and detention of hundreds of opposition fighters and their suspected supporters on both sides of these borders. The vast majority of these incidents took place in the Oromiya and Somali regional states. Several thousand persons allegedly associated with armed opposition groups remained in detention at year's end. Most detainees were accused of participating in armed actions by the OLF or the ONLF. In typical cases, security forces arrested and held these persons incommunicado for several days or weeks before eventually releasing them. For example, on April 9, security forces arrested at least 60 members of the OLF for conspiring to commit terrorist acts in Oromia. Following the June bombing of the Dire Dawa train station, police detained many young Oromo males without warrants for questioning. Among those detained was Dinkinesh Deressa Kitila, an employee of Total/Elf oil company, who was arrested on June 7, and held at Karchale central prison on suspicion of being an OLF supporter. After the September bombing of the Tigray Hotel in Addis Ababa, the Government blamed the OLF and detained dozens of suspected OLF sympathizers without warrants (*see* Section 1.a.). The Government released some 600 OLF fighters during the year.

Parliamentary immunity protected members of the House from arrest or prosecution except in the act of committing a crime ("flagrante delicto"). The two representatives of the SEPDC in the Regional Council, who were arrested in 2001 on charges of inciting violence without having their parliamentary immunity formally revoked, were released on bail during the year. A third parliamentarian who was charged separately in connection with the killing of a police officer and whose immunity was revoked, remained in hiding at year's end.

In April the court remanded until February 2003 the May 2001 case of Berhanu Nega and Mesfin Woldemariam, two prominent academics and human rights activists, and charged them with inciting the AAU students to riot.

Moga Frissa, arrested in October 2001 on charges of subversion and alignment with a terrorist organization, remained free on bail with charges still pending at year's end. Aberra Aguma also remained free on bail.

On May 14, President Dr. Taye Woldesemayat was released from prison after 6 years in detention after the Supreme Court, under international pressure, overturned the lower court's 1999 conviction for treason. The charges for membership in an illegal organization were not overturned, and Taye was sentenced to 5 years imprisonment. Charges against four other co-defendants were dropped.

In the months immediately before the 2001 regional elections, authorities harassed and detained supporters of parties belonging to the SEPDC opposition coalition. Numerous SEPDC supporters who authorities in the Southern Region detained in retaliation for voting for the opposition in the 2000 national elections were released, and nine SEPDC candidates for office remained in detention at year's end.

The 104 persons still in detention at the end of 2001 were split between Hosana and Durame prisons. Since May when 15 detainees were released on bail, another 16 detainees in Hosana were ordered released upon payment of \$1,200 each (10,000 birr); however, all 16 remained in Hosana prison unable to post bail. In cases related to the elections, 38 SEPDC supporters were serving between 1-and 4-year sentences in Durame prison; another 16 SEPDC members arrested in part for illegal assembly in Durame remained in detention in Durame prison. The nine other SEPDC members who were detained for 3 years in connection with a murder in Siraro prison, Eastern Oromiya Zone, were released in December from Addis Ababa Central Prison because no evidence was found linking them to the crime (*see* Section 3).

During the year, approximately 50 elders, teachers, and civil servants charged with subversion following the 1999 student demonstrations were released.

The following detainees remained in custody at year's end: Alazar Dessie, an American citizen working as a consultant to the Commercial Bank of Ethiopia, who was arrested for abusing his power and has been awaiting trial for more than 1½ years while not ever having been charged formally; 24 businessmen and government officials, including Seye Abraha and Bitew Belay, who were arrested in 2001 under allegations of corruption but never were charged formally; the official driver of the Eritrean Embassy, who was arrested in August 2001 and whose whereabouts remained unknown; 600 criminal detainees in the Oromiya region who were not charged, pending ongoing investigations; and 37 Oromos arrested in 1997 for their alleged involvement in OLF terrorist acts.

Several detainees at the Gondar Prison complained to government officials that they were detained without charge, some for years, while the police investigated their cases. Muche Berihun, who was charged with murder although the person whom he allegedly murdered was killed after he was detained, had been held in solitary confinement for 3½ years. In June his hearing began, and the court adjourned it until February 2003. He remained in detention at year's end. Wondante Mesfin has been in detention in Nefas Mewcha Prison in South Gondar Zone since 1994 and never has appeared in court nor been charged formally.

In 1997 the SPO formally charged 128 defendants with politically motivated genocide dating back to the 1976 "Red Terror" (*see* Section 1.e.). During the year, the Government acquitted 69 defendants and released 392 prisoners for lack of evidence. In December 2001, former Olympian Mamo Wolde, an official under the Derg regime, was released after serving a 6-year sentence for the state-sponsored killing of several teenage boys (*see* Section 1.c.). The trial of former AAU president Alemeyehu Tefera, imprisoned since 1993, was pending at year's end. At year's end, witnesses still were being heard and evidence taken in the ongoing trials. Opposition groups alleged that some of the persons detained by the SPO were held for political reasons, and the Government denied that it held persons for political reasons.

The last group of approximately 200 civilian detainees of Eritrean origin who had been held at Dedesa internment camp were repatriated to Eritrea in November under ICRC auspices, and the Dedesa camp was closed. During the year, the Government transferred 219 Eritrean military deserters who also had been held at the Dedesa detention center to a refugee camp in northern Ethiopia (*see* Section 2.d.).

The ICRC participated in all repatriations to Eritrea, and under ICRC auspices, 1,188 POWs and 774 civilians were repatriated to Eritrea during the year (*see* Section 2.d.).

Exile was prohibited, and the Constitution provides that citizens shall not be deprived of their nationality against their wills. There were no reports of forced exile during the year. A number of persons remained abroad in self-imposed exile, including 43 journalists (*see* Section 2.a.). The Government stopped deporting forcibly Eritreans and Ethiopians of Eritrean origin after it signed the cessation of hostilities agreement with Eritrea in June 2000.

Approximately 317 Ethiopian students who arrived in Kenya in 2001 following the April riots at Addis Ababa University were granted refugee status and remained at the Kakuma refugee camp in northwest Kenya at year's end. There was no new information during the year about students who reportedly fled to Djibouti after the April riots at AAU.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary remained weak and overburdened. Although the federal and regional courts continued to show signs of judicial independence, in practice severe shortages of adequately trained personnel in many regions, as well as serious financial constraints, combined to deny many citizens the full protections provided in the Constitution.

Consistent with the Constitution, the Government continued to decentralize and restructure the judiciary along federal lines with the establishment of courts at the



district (woreda), zonal, and regional levels. The federal High Court and federal Supreme Court heard and adjudicated original and appeal cases involving federal law, transregional issues, and national security. The regional judiciary increasingly was autonomous, with district, zonal, high, and supreme courts mirroring the structure of the federal judiciary. There were two three-judge benches at the High Court level to handle criminal cases. The SPO delegated some of the war crimes trials to the supreme courts in the regions where the crimes allegedly were committed, which increased the efficiency of the process.

Regional offices of the federal Ministry of Justice monitored local judicial developments, and the regional courts had jurisdiction over both local and federal matters, but the federal judicial presence in the regions was limited nevertheless. Anecdotal evidence suggested that some local officials believed they were not accountable to a higher authority.

To remedy the severe lack of experienced staff in the judicial system, the Government continued to identify and train lower court judges and prosecutors, although officials acknowledged that the pay scale offered did not attract the required numbers of competent professionals. Senior government officials charged with judicial oversight estimated that the creation of a truly independent and skilled judicial apparatus would take decades. The Government welcomed foreign financial and technical assistance to accelerate this process. Pending the passage by regional legislatures of laws particular to their region, all judges will be guided by the federal procedural and substantive codes.

According to the Constitution, accused persons have the right to a public trial by an ordinary court of law within a reasonable time after having been charged. Accused persons have the right to be represented by legal counsel of their choice. However, in practice, lengthy pretrial detention was common, closed proceedings occurred, and at times, detainees were allowed little or no contact with their legal counsel (*see* Section 1.d.). Defendants did not enjoy a presumption of innocence in practice, although the Constitution provides for it in theory. The public defender's office provides legal counsel to indigent defendants, although its scope remained severely limited, especially with respect to trials of the SPO. The law does not allow the defense access to prosecutorial evidence before the trial.

The Constitution provides legal standing to some preexisting religious and customary courts and gives federal and regional legislatures the authority to recognize other courts. By law all parties to a dispute must agree before a customary or religious court may hear a case. Shari'a (Islamic) courts may hear religious and family cases involving Muslims. In addition, other traditional courts still functioned. Although not sanctioned by law, these courts resolved disputes for the majority of citizens who lived in rural areas and who generally had little access to formal judicial systems.

The outbreak of hostilities with Eritrea adversely impacted the military justice system. Most foreign assistance to train officers and noncommissioned officers was suspended at the same time that the rapid expansion of the military greatly increased the need for trained military lawyers and judges. This training need remained unmet by year's end.

The SPO was established in 1992 to create an historical record of the abuses committed during the Mengistu government and to bring to justice those criminally responsible for human rights violations. The SPO had the authority to arrest and interrogate anyone suspected of involvement in the Red Terror Campaign under Mengistu. The federal High Court considered the cases of 2,658 defendants accused of genocide, war crimes, and aggravated homicide. Trials began in 1994 and continued during the year; however, the process was subject to frequent and lengthy adjournments. Court appointed attorneys, sometimes with inadequate skills and experience, represented many of the defendants, following claims that they could not afford an adequate defense. The SPO reported that as of April 30, of the 6,426 defendants who were awaiting trial, 2,952 were tried in absentia, including former dictator Colonel Mengistu Haile Mariam, who remained in exile in Zimbabwe. A total of 1,569 cases had decisions handed down; of these 1,017 persons were convicted. During the year, the Government acquitted 69 defendants and released 392 prisoners for lack of evidence. In October the Federal High Court announced that all the cases of defendants indicted on charges of genocide and crime against humanity would be completed by September 2003. Cases were handled more quickly than in previous years; however, most cases still were in progress at year's end (*see* Section 1.d.). In 2001 the SPO opened a new case against persons accused of participating in the 1987 Hawzein Massacre; the majority of those named in the file have been charged already with other offenses. There was no further information on the status of this case by year's end.

*f. Arbitrary Interference with Privacy, Family, Home or Correspondence.*—The law requires judicial search warrants to search private property; however, in practice warrants seldom were obtained outside of Addis Ababa.

There continued to be reports that police forcibly entered the homes of civilians. There also were reports that security forces took persons from their homes in the middle of the night without warrants.

Property and money belonging to the ETA that was seized following the arrest of Dr. Taye had not yet been returned to the ETA (*see* Section 1.d.). The next hearing regarding ETA property seized by the Government was set for March 2003.

At year's end, police had not returned confiscated documents taken during a May 2001 raid on EHRCO's offices in violation of a revised court order.

The Government arbitrarily monitored private communication such as Internet communications and cellular phone conversations. All electronic communications facilities were state-owned.

There were credible reports during the year of the forced displacement of families in rural areas. One displaced farmer said that in April, in the Abe Dongero Woreda in East Wellega Zone of Oromiya, the woreda administrator allegedly ordered the forced eviction of approximately 250 Amhara persons from their land to make the land available to a business investor. An Oromia Regional government official acknowledged that a problem existed in the woreda and that the Government was studying the issue.

In July there were credible reports from the EHRCO that the Government, in an attempt to "clean up" Addis Ababa, forcibly resettled approximately 200 homeless persons to an area nearly 30 miles outside of the city. In September city bulldozers demolished approximately 10,000 shacks.

There were more credible reports during the year from EHRCO and opposition parties that in certain rural areas, local officials used threats of land redistribution and withholding of food aid and fertilizer to garner support for the ruling coalition. There also were credible reports that teachers and other government workers have had their employment terminated if they were not of the dominant ethnic group in their region. According to the SEPDC, some SEPDC supporters were suspended or dismissed from their jobs in retaliation for voting for the opposition in the 2000 elections (*see* Section 3).

People from rural areas suffering from famine and drought who came to Addis Ababa sometimes were returned forcibly to their villages. In December approximately 300 famine victims from Western Hararghe Zone of Oromia Region were ordered by security forces to return to their villages. When they refused, security forces rounded them up and forcefully transported them in buses back to their villages.

The Family Law Code imposes a 6-month waiting period on anyone seeking to remarry following a divorce or the death of one's spouse (*see* Section 5). The Government maintained that this waiting period was necessary to determine whether a woman may still be carrying the child of her former spouse.

Security forces detained family members of persons sought for questioning by the Government.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and press; however, the Government used legal and other mechanisms to restrict these rights in practice. For example, the Government continued to prosecute journalists and editors for publishing articles that violated the law. Some journalists practiced self-censorship, calling their business a "guessing game." However, the private press remained active and often published articles that were extremely critical of the Government.

According to the Constitution, citizens generally were free to discuss publicly any topic they choose; however, on occasion the Government restricted this right in practice. During the year, several groups critical of the Government held press conferences and public meetings without retribution, and several opposition parties held press conferences that were covered by both the private and the Government press. The Government continued to oppose activities and operations of groups that were critical of it, such as the ETA (*see* Section 2.b.).

There were a total of 81 newspapers, 22 magazines, and 2 news agencies. Out of the total number of newspapers, there were approximately 34 private Amharic-language weekly newspapers, 7 English-language weeklies, and 1 English-language daily. Circulation figures ranged from 2,000 to 20,000 copies each. In addition to the private press, there were 3 ruling party coalition papers, in Amharic, Oromifa, and Tigrigna, which had a total circulation figure of approximately 70,000. There were 2 government dailies, the English-language Ethiopian Herald (circulation 40,000)

and the Amharic Addis Zemen (circulation 50,000), and a government Arabic-language weekly, Al-Alam (circulation 10,000).

The official media, including broadcast, wire service, and print media received government subsidies; however, they legally were autonomous and responsible for their own management and partial revenue generation. The Government's press and information department acted as an official spokesperson and managed contacts between the Government, the press, and the public. The office of the Government spokesperson and information sections of government ministries routinely refused to respond to queries from the private press and limited their cooperation with the press to the Government-run Ethiopian News Agency, the ruling party-run Walta news agency, and correspondents of international news organizations. Government reporters practiced self-censorship.

Generally the Government permitted private newspapers and news organizations to attend government briefings and press conferences, and some government officials provided information and granted interviews to private journalists. However, there were instances when members of the independent press were barred from attending press conferences given by government agencies, such as one given by the Ethiopian Tourism Commission in July where only the ruling-party Walta Information Agency and the Government-owned Ethiopian News Agency were allowed to cover the event. The Prime Minister's office continued to deny all access to the independent press for coverage of official events at the Prime Minister's office.

The Ministry of Information and Culture required that newspapers show a bank balance of \$1,200 (10,000 birr) at the time of their annual registration for a license to publish. This substantial sum of money effectively precluded some smaller publications from registering. Although the requirement was not enforced strictly, the Ministry of Information and Culture noted publicly that many papers were not in compliance and could be closed down on short notice. Permanent residency also was required to establish a newspaper. The Government did not require this of other businesses, and some independent journalists maintained that the residency requirement was used as a form of intimidation.

The majority of private papers as well as government papers were printed at government-owned presses. However, a few private papers started using smaller private printing presses, one of which was owned by the publisher of the Daily Monitor. All EPRDF publications were printed at the party-run Mega Publishing Enterprise. Police had the authority to shut down those printing presses without a court order. Amare Aregawi, editor of *The Reporter*, an independent newspaper, asserted that his paper's dependency on a government-owned printing press was used against him when he wanted to publish an article concerning the U.N. Boundary Commission's decision earlier in the year. He alleged that the Government printing press technicians were "conveniently absent" on every occasion that he sought to have the article published.

Despite the constant threat of legal action, the private press remained active and continued to publish articles critical of the Government and to report on human rights abuses. Many private newspapers continued to publish inaccurate information, unsubstantiated stories, and harsh antigovernment articles without any official penalty.

While much of the private press continued to lack professionalism in its reporting, some print media were developing into more responsible publications. Others were opposition newsletters that often purveyed unsubstantiated criticism of the Government. Several were tied to distinct ethnic groups, especially the Amharas and Oromos, and severely criticized the Government for being ethnocentric.

The Government used statutory provisions concerning publishing false information, inciting ethnic hatred, libel, and publishing articles offensive to public morality to justify the arrest and detention of journalists.

Police beat journalists during the year (*see* Section 2.c.).

During the year, six journalists were detained. On April 3, the First Criminal Bench of the Federal High Court arrested and sentenced Lubaba Seid, former editor-in-chief of *Tarik*, to 1 year of imprisonment, but granted her parole in late December. The court found Lubaba guilty of violating the Press Law by disseminating "fabricated news that could have a negative psychological effect on members of the Defense Army and disturb the minds of the persons." Lubaba was charged for reports in the August 1996 issue of *Tarik* newspaper entitled "An OPDO cadre who replaced Samora Yenus in Eastern Oromiya has defected," and "The President's personal security guards are said to have defected." *Tarik* had been shut down for several years, but published for a few months in 2000 before it was forced to shut down again.

On July 10, the Federal High Court arrested and sentenced Tewodros Kassa, former editor of *Ethop*, to 2 years in prison. He was charged with publishing "false

information that could incite people to political violence,” and for libel against a businessman. Tewodros previously had served a 1-year sentence.

In July Zegeye Haile, editor-in-chief of Genanaw, was arrested after his guarantor lifted his bail guarantee for previous press charges. Zegeye was in detention at the Addis Ababa Central Prison pending a new bail guarantor at year's end, and no other details were available on his pending cases or the bail amount. Genanaw has been closed for more than 2 years.

Three journalists were detained and released after paying bail during the year: Gizaw Taye Wordofa, editor of Lamrot, who was detained on charges of publishing articles offensive to public morality; Melese Shine, editor of Ethop newspaper and magazine, who was detained on March 20 in connection with a defamatory article on Prime Minister Meles Zenawi and a published interview with a “rebel” colonel under the previous regime; and Tsegaye Ayalew, editor-in-chief of Genanaw, who was detained in November 2001 on unknown charges, but released on September 15 after posting approximately \$125 bail.

A number of journalists were summoned to the Central Criminal Investigation Office during the year on various charges and released on bail: Tsega Mogus, editor-in-chief of Zarenew, who was charged with incitement to violence; Kidushabte Belachew, editor-in-chief of Mebrek, who was charged with violating the Press Law and the Penal Code; and Daniel Gezahegn, editor of Moged, who was accused of slandering Major-General Bacha Debella, a government official.

Two journalists were fined for press charges. On March 1, the Federal High Court fined Kifle Mulat, former editor-in-chief of Ethio-Time and current president of the Ethiopian Free Press Journalists Association (EFPJA), \$1,300 (12,000 birr) on charges of disseminating false information and violating the Press Law in a 1997 article in Ethio-Time of in which he compared the current regime to the preceding Derg regime. Kifle paid the fine the same day and was released.

On July 31, Tesfa Tegegn, publisher of Ethop, was charged with parodying the name and dignity of government leaders and the head of government. Two of the charges were dropped but Tesfa was fined \$400 (4,000 birr) for his satire of Prime Minister Meles Zenawi, and he was detained for 5 days at the Addis Ababa Central Prison until he paid the fine.

Some journalists arrested in 2001 were released on bail during the year. Tamrat Zuma, editor-in-chief of the defunct Amharic-language weekly Atkurot, was released after he obtained bail money from international press institutions and human rights groups through EFPJA. The case against Temrat still was pending at year's end, and Atkurot has been closed for more than 3 years. There was no further information regarding Zemedkur Mogus at year's end.

Robel Mitiku, editor-in-chief of Goh, also was released early in the year after posting bail of \$1,200 (10,000 birr). No information was available about the charges filed against him, and Goh has been closed for over two years.

Approximately 30 journalists had trials pending at year's end.

At year's end, about 43 journalists remained in self-imposed exile, including Dawit Kebede, editor-in-chief of the defunct Fiameta; Israel Seboka, the editor-in-chief of Seife Nebelbal newspaper; Samson Seyoum Kebede, the former editor of Goh; Yohannes Abebe, a journalist for Goh; Berhan Hailu, editor of Wegahata; and three journalists of Urjii, Tesfaye Deressa, Solomon Nemera, and Garoma Bekele, who left the country for Canada during the year.

The Government did not ban or shut down any newspaper or publication during the year. Newspapers critical of government leaders and their policies were available widely in the capital but scarce elsewhere, although circulation in the regional capitals increased during the year.

On July 25, in discussions with a delegation of the Committee to Protect Journalists (CPJ), Minister of Information Bereket Simon said that a new draft press law had been prepared “with the aim to encourage constructive and responsible journalism.” A number of private newspapers reported that the new law would be even more restrictive, and that the Ministry also was drafting a code of ethics for journalists. During the year, there were two laws that governed the press: The 1957 Penal Code and the 1992 Press Law. Independent journalists accused the Government of selectively applying sections of the Penal Code to levy charges against journalists and applying sections of the 1992 press law for penalizing them.

Radio remained the most influential medium for reaching citizens, especially those who live in rural areas. Although the law allows for private radio stations, regulations were not implemented, and there were no truly independent radio stations. Two nongovernmental stations, Radio Fana, a station controlled by the ruling EPRDF coalition, and the TPLF radio, which broadcast in the Tigrigna language from Mekele, had close ties to the Government. Broadcasting time on the state-run Radio Ethiopia was sold to private groups and to individuals who wanted to buy

spots for programs and commercials. The Government operated the sole television station, and news was controlled tightly. The state-run ETV continued to broadcast "TV Africa," which was contracted from a South African company. There were no restrictions on access to international news broadcasts. Ownership of private satellite receiving dishes and the importation of facsimile machines and modems were permitted; however, access to this technology was limited by its cost.

In January the Ethiopian Broadcasting Agency, created in 1999 to review applications for private radio and television licenses, started recruiting staff and organizing the office, but did not start issuing broadcast licenses. In January the Addis Broadcasting Company acquired a business license from the Ministry of Trade and Industry, but it was unable to start any radio or television broadcasting until licensed by the Ethiopian Broadcasting Agency. Private entities that would like to be broadcasters continued to claim that the delay in implementing the broadcast law was deliberate.

The Government prohibited political parties and religious organizations from owning stations; foreign ownership also was prohibited.

Foreign journalists continued to operate freely and often wrote articles critical of government policies. They or their local affiliates were granted greater access to government officials than were local independent journalists. Several foreign news organizations maintained bureaus or offices in Addis Ababa; the majority of these were staffed with local journalists, and they usually operated free of government restriction.

The EFPJA continued to be active during the year organizing journalism training workshops and issuing statements to press advocates and human rights organizations inside and outside the country on the arrests and harassment of journalists. The Ethiopian Journalists Association (EJA), which included only government and party journalists, was not active during the year.

The Ethiopian Women's Media Association (EWMA), which included both government and private journalists, remained active during the year; the EWMA organized training and workshops and printed a journal.

Internet access was provided through the Government-controlled telecommunications company, which maintained a waiting list for new accounts. In August subscription fees were reduced by 43 percent and rates by 50 percent. The number of subscribers reached 8,000 after a major technical upgrade was completed and more reliable service was provided. The Government issued further regulations for licensing private Internet service providers (ISP's); however, no private ISP's were operating at year's end. Private satellite transmission uplinks generally were not allowed. Outside the capital, Internet services were installed in nine cities that also served the surrounding localities.

The Government did not respect academic freedom during the year. The Government maintained that professors could research any field within their discipline but that they could not espouse political sentiments. In March all students, including those involved in the April 2001 riots except for 14, were allowed to return to AAU. In July Prime Minister Meles met with university professors in an effort to inform them of government policies and to discuss democratization and educational issues; however, participants claimed that the Prime Minister did not address many of their concerns. The ETA claimed that uniformed police officers were visible on campuses and that plainclothes security officers tried to blend in with the student body. Teachers were not permitted to deviate from official lesson plans. Political activity was discouraged on university campuses. After the April 2001 riots, students were forbidden to form associations on the basis of their ethnicity. Many student leader activists fled the country after the riots. While in theory student governments were permitted, many students refrained from involvement in any on-campus activity that could be considered political in nature by the Government. According to a survey conducted by the ETA of 280 public universities and secondary schools throughout the country, nearly 90 percent of the school directors and vice-directors of those schools belonged to the ruling party or its affiliates.

Three top AAU administration officials resigned their posts in December in view of growing government interference in internal university matters. Government officials wanted AAU to change its system of student evaluations to conform to a "gemgema" (self-criticism) system favored by the ruling party. Government officials also reportedly sought to influence the establishment of a pro-government student union at AAU.

During the year, police killed and injured numerous persons while forcibly dispersing student demonstrations (*see* Section 2.b.).

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, on several occasions the Government restricted this right in practice. Organizers of large public meetings or demonstrations must notify

the Government in advance and obtain a permit. There were no reports that any permits were denied; however, there were long unexplained delays in issuing permits and last minute revocations of permits, which hindered the ability of groups to organize events.

The independent ETA continued to have problems organizing seminars in certain regions. In January the ETA paid the equivalent of \$105 (900 birr) to rent the meeting hall of the Sidama Zone Culture Department for 3 days. After taking the money, the Culture Department refused to allow the ETA use of the meeting hall and also refused to return ETA's money (*see* Section 6.a.).

Police killed and injured numerous students while forcibly dispersing demonstrations during the year. For example, on March 25, security forces killed at least three students and arrested several hundred others during a protest led by high school students in the West Shoa and East and West Wellega Zones of the Oromiya Region over the Government's new education policy and rising food prices. NGOs reported that police killed eight students. The Government did not investigate the killings and took no action against the responsible security forces. Following the March student protests in East and West Wellega Zones, at least 13 teachers reportedly were arrested and detained in Ambo, and several other persons were taken from Guder, a small town close to Ambo, western Shoa, Oromiya region. The Oromia Regional government reported that the teachers were accused of inciting students to riot and spreading OLF propaganda.

In April security forces used live ammunition to stop unarmed student demonstrators in the zonal capitals of Nekempte, Ghimbi, and Ambo. There were no reports of beatings or killings during the April protests. Approximately 100 demonstrators were arrested for their association with the OLF. None of the detained demonstrators were charged officially; all except for nine subsequently were released after posting bail. Those nine persons remained in detention in Meta Robi at year's end.

On May 24, according to official government reports, police killed 15 protesters and injured 25 in Awassa, the capital of the Southern Region. The opposition SEPDC alleged that security forces killed 51 persons (2 of whom were local police officers trying to convince the crowd to disperse peacefully) and injured 44 persons. EHRCO reported that police killed 5 student demonstrators and seriously injured at least a dozen others with gunfire. The protesters were from the Sidama ethnic group and were demonstrating their opposition to a plan to make Awassa a chartered city, which would remove it from the Sidama Zone. Government officials accused the protesters of demonstrating without a permit and stated that security forces fired only after the protesters threatened them. The Government has refused to allow an independent investigation of the incident, and has appointed the Vice President of the Southern Region, who himself reportedly was implicated in the conflict, to head the Government's internal investigation. Since the May violence in Awassa, police arrested some 40 demonstrators. Approximately 30 of them were released on bail at different times after appearing before the Southern Region's Supreme Court in October. The remaining 10 still were in prison in Awassa. Seven other individuals arrested in cases related to the Awassa demonstration and the killing of the head of the Southern Region's education bureau were held incommunicado in a military camp in Awassa (*see* Section 1.a.). EHRCO reported that the Government fired approximately 180 zonal and regional police officers for alleged complicity with demonstrators.

There was no investigation during the year of actions taken by security forces following the April 2001 riots at AAU. The 14 Oromo students who were expelled from the university for alleged subversive activity remained suspended from attending classes because of their involvement in the demonstration on campus (*see* Section 2.a.). There were no new reports of expulsions on similar grounds during the year. There were no reports of beatings or killings by police of any demonstrators during the April protests.

Police also dispersed meetings during the year and arrested numerous persons. For example, in February the police dispersed a conference organized by the ETA in Awassa. There were 587 teachers in attendance along with some officials from foreign embassies. After 3 hours, the police permitted the ETA to resume its meeting. Since that meeting, the ETA reported that police detained 37 teachers from the SNNPRS who attended the conference. All but one later were released on bail. The police also called in 12 teachers from Oromiya and gave them stern warnings never to participate again in such meetings. In October the ETA received notification that at least one teacher who attended the Awassa conference still was in detention in a prison in the town of Bonga, Kaffa Zone.

On August 3, local police dispersed the biweekly meeting of the Addis Ababa Teachers Association (AATA), an affiliate of the ETA, because the AATA did not have municipal permission to hold that meeting, even though the meeting was held

in AATA offices. The AATA tried to schedule another meeting on September 6, but that also was broken up by local police on the same grounds.

On October 15, police fired into the air to disperse a crowd of 4,000 farmers gathered at a meeting of the Ethiopian Democratic Union Party (EDUP) in Este Woreda in the village of Dankura Maryam, South Gonder Zone. EDUP officials maintained they had a valid permit for their meeting. Police beat many of the farmers, injuring 50 seriously, and kept dozens in detention for a week.

Unlike in the previous year, persons were not arrested for holding SEPDC meetings.

Of the 10 opposition candidates arrested in January 2001 and charged with holding an illegal meeting organized by the CAFPDE, Eastern Shoa Zone, Oromia regional state, 9 remained in custody. The tenth was released on bail because he was not from that area. Those candidates were arrested for campaigning illegally although the law permits campaigning during that time. After the riots in which police killed two CAFPDE supporters, the candidates were charged with incitement to violence and the killings of the two CAFPDE supporters (*see* Section 1.d.).

No action was taken against the security forces responsible for killing or injuring persons while forcibly dispersing the following 2000 demonstrations: The March demonstration in Ambo, the April demonstration in Dembi Dolo, and the December demonstration in Awassa.

During the year, approximately 50 elders, teachers, and civil servants charged with subversion following the 1999 student demonstrations were released.

The Constitution provides for freedom of association and the right to engage in unrestricted peaceful political activity; however, the Government limited this right in practice. Although the NGO registration process improved significantly, a number of policy issues regarding NGOs remained unresolved. The Ministry of Justice governed primary registration. In 2000 an inter-ministerial committee convened by the Ministry of Justice completed a draft of the revised NGO registration legislation without consulting NGOs; the legislation still was pending at year's end. The HRL, closed in 1998 for its alleged connections to the OLF, continued to wait to get an operating license (*see* Section 4).

The Government required political parties to register with the National Election Board. Parties that did not participate in two consecutive national elections were subject to deregistration. Registered political parties also must receive permission from regional governments to open local offices. There were 58 organized political parties; 8 were national parties, and the remainder operated only in limited areas. There were no reports during the year that any political party had its registration revoked.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, on occasion local authorities infringed on this right. The Ethiopian Orthodox Church (EOC) was the dominant religion.

The Government required that religious groups be registered. Religious institutions register with the Ministry of Justice and must renew their registration every year. Under the law, a religious organization that undertakes development activities must register its development wing separately as an NGO. Religious groups were given free government land for churches, schools, hospitals, and cemeteries; however, the title to the land remained with the Government, and the land, other than that used for prayer houses or cemeteries, could be taken back at any time. An interfaith effort was underway during the year to promote revision of the law for religious organizations to obtain duty-free status.

Minority religious groups complained of discrimination in the allocation of government land for religious sites. Protestant groups occasionally complained that local officials discriminated against them when seeking land for churches and cemeteries. Evangelical leaders complained that because they were perceived as “newcomers” they remained at a disadvantage compared with the EOC and the Ethiopian Islamic Affairs Supreme Council (EIASC) in the allocation of land. The EIASC complained that it had more difficulty obtaining land from the Government bureaucracy than the EOC while others believed that it was favored for mosque locations. Many mosques were built by squatters without city government approval and since have been targeted for demolition.

The Government did not issue work visas to foreign religious workers unless they were attached to the development wing of a religious organization.

Muslim leaders complained that public school authorities occasionally interfered with their free practice of Islam. Some public school teachers in the SNNPR, Addis Ababa, and in the Amhara region objected to Muslim schoolgirls covering their heads with scarves while at school. Muslim leaders stated that in some schools, Muslim girls went without head coverings to avoid similar problems.

Under the Press Law, it is a crime to incite one religion against another. The Press Law also allows for defamation claims involving religious leaders to be prosecuted as criminal cases. The charges against Tilahun Bekele, publisher of Netsanet; Daniel Gezahegn, deputy editor-in-chief of Mogedwere; and Samson Seyoum Kebede, the former editor of Goh, were pending at year's end. Samson was convicted on five counts of incitement to war and for spreading Islamic fundamentalism in reports published in Agere. No information was available on how much of his 4½-year sentence he served before being released. According to the EFPJA, Samson left the country and reported to the East African Journalists' Association office, based in Nairobi.

There were more than 6,000 members of Jehovah's Witnesses in the country. The Government continued its policy of not deporting members of Jehovah's Witnesses of Eritrean origin, who might face religious repression in Eritrea (*see* Section 2.d.).

Several inter-religious clashes resulted in deaths and injuries. For example, on January 19, in Kemisse in the Amhara Region, one person was killed during a clash between Muslims and Christians. According to police reports, they arrested several persons for organizing the disruption or throwing rocks at a procession; however, all of those arrested subsequently were released. It remained unknown who was responsible for the killing at year's end.

On July 17, a clash between Ethiopian Orthodox followers and Protestants in Amhara Region resulted in the death of one person, and eight others were seriously injured. The local police did not intervene, and no action was taken against those responsible by year's end.

On November 18 and December 27, confrontations between members of Lideta Maryam Orthodox Parish in Addis Ababa and Ethiopian Orthodox Church officials over alleged corruption by church officials appointed by the Patriarch of the Ethiopian Orthodox Church turned violent when police raided the church compound and forcibly dispersed members of the congregation who were assembled in prayer. Police killed one man and injured dozens. According to the EHRCO, police indiscriminately beat many persons in the compound, including nuns, monks, elderly women, and other bystanders. A Federal Police officer severely beat Voice of America journalist Helen Mohammed when she tried to gain access to the Lideta Church compound on December 27. Police also beat Tobia reporter Yonas Wolde Senbet and confiscated his camera at the church. According to EHRCO, after the raid, police detained approximately 700 persons at Kolfe police training camp and subjected them to physical abuse. Many complained they were doused with water, forced to crawl on gravel, and denied food and water for most of the 5 days they were in detention. Police required them to sign statements under duress admitting to their roles in inciting riots at the church before they could be released.

On December 29, a riot broke out between Orthodox and Protestant worshippers in Mekelle, Tigray Region, at Adventist prayer service being conducted in a stadium. Some Orthodox followers, upset by the display of public Adventist preaching, reportedly sparked the clashes by first throwing stones at Adventist followers gathered in the stadium, then by looting Adventist offices in the city. Police intervened to break up the riots, which resulted in five dead and three seriously injured. The police reported that 10 people were detained, but independent sources placed the figure much higher.

Leaders of the Ethiopian Islamic Affairs Supreme Council (EIASC) struggled during the year with Wahibist fundamentalism within their ranks. The growing influence of radical elements within Islamic communities in the country, aided by funding from Saudi Arabia and other Gulf states for mosque construction, continued to concern the EIASC.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, the Government restricted them in practice.

The Government modified its policy regarding the detention and deportation of Eritreans and Ethiopians of Eritrean origin to Eritrea after it signed a cessation of hostilities agreement with Eritrea in 2000. Detention and deportation was carried out only in conjunction with the ICRC. The Government, together with the ICRC, monitored the deportation or repatriation of 1,188 Eritrean POWs and 774 Eritrean civilians during the year. In 2001 approximately 80,000 to 100,000 Eritreans and Ethiopians of Eritrean origin resided in the country; there were no updated statistics by year's end. All Eritreans and Ethiopians of Eritrean origin were registered with the Government and held identity cards and 6-month residence permits to gain access to hospitals and other public services.



During the year, the Government transferred some 219 Eritrean military deserters who had been held at the Dedessa detention center to a northern refugee camp. Given the improbability that any of the deserters could be repatriated to Eritrea, UNHCR had processed most of them for possible resettlement to third countries by year's end.

The law requires citizens and residents to obtain an exit visa before departing the country. Eritreans and Ethiopians of Eritrean origin were able to obtain exit visas but often were not permitted to return to the country. Since the signing of the Algiers agreement in December 2000, ICRC has facilitated the repatriation of approximately 997 Ethiopian and 1,388 Eritrean POWs (*see* Section 1.d.). On November 27, the Government released more than 1,200 Eritrean POWs, and at year's end, there were no more registered prisoners from the conflict.

In Addis Ababa and western Gondar in the Amhara region, there were very small concentrations of Ethiopian Jews (Falashas), most of whom have emigrated to Israel, and those who claimed that their ancestors were forced to convert from Judaism to Ethiopian Orthodoxy (Feles Mora). Many Feles Mora immigrated to Israel; the Government did not restrict their ability to do so. Israeli Embassy officials reported that all eligible Feles Moras were processed for immigration to Israel. Approximately 17,000 Feles Mora remained in the country awaiting immigration at year's end.

Some codefendants from the All Amhara People's Organization (AAPO), convicted in 1992 on charges of treason, completed their prison sentences in 1998 and 1999 and were permitted to leave the country during the year. Former members of AAPO were appealing to the court to secure pension rights they lost when they were sentenced, but had not been successful by year's end. A hearing was set for March 2003.

The number of Ethiopian students detained at the Kakuma refugee camp in northwest Kenya following the April 2001 riots in Addis Ababa declined from 317 to 247. The UNHCR reported that despite fears of detention, many students voluntarily returned to Ethiopia during the year. According to Human Rights Watch (HRW), security forces bribed Kenyan police to harass, intimidate, and arbitrarily arrest Ethiopian refugees in Nairobi.

As a result of the conflict with Eritrea, numerous persons were displaced internally. The Government presented relief and rehabilitation proposals for these IDPs to bilateral donors and NGOs. The World Food Program reported that approximately 75,000 IDPs remained in the country along the border with Eritrea. There originally were approximately 300,000 IDPs following the border war; however, approximately 225,000 IDPs were resettled.

Due to violent clashes between different ethnic groups during the year, thousands of persons were killed, injured, and displaced internally (*see* Section 5). For example, on November 27, ethnic clashes within the Fugnido camp between Dinka and Nuer refugees left 39 refugees dead and 9 injured. The UNHCR reported that Ethiopian authorities arrested and detained four officials of the Fugnido municipal government and several Gambella regional officials in connection with the massacre. UNHCR and officials of the Government's refugee agency have pledged to create a committee comprised of regional and federal agencies to investigate the causes of the Fugnido clashes and massacre. There were reports that Anuak warriors abducted 32 Nuer IDPs from a bus taking them to Fugnido; the Government made little progress in its investigation of the disappearances, and the whereabouts of the 32 IDPs were unknown at year's end.

The law provides for the granting of asylum and refugee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government generally cooperated with UNHCR and other humanitarian organizations in assisting refugees and returning citizens.

The country hosted approximately 138,816 refugees; most were from Somalia and Sudan. The Government in cooperation with the UNHCR continued to provide first asylum to refugees from Sudan and Somalia. Along the border of northwest Somalia, approximately 49,000 Somali refugees were resident in 3 camps at year's end, a decrease from 70,000 Somali refugees in 6 camps in 2001. Along the Sudanese border approximately 85,000 Sudanese refugees were resident in 5 refugee camps around Gambella and Asosa at year's end. The UNHCR reported that approximately 120 of the 450 armed rebels from Sudan awaiting transfer at the end of 2001 were admitted to one of the Sudanese refugee camps inside Ethiopia. The UNHCR also noted that some of those held at the end of 2001 returned voluntarily.

There were approximately 4,335 Eritrean Kunama refugees and a small population of urban refugees from other countries at year's end. During the year, government military forces took over a new refugee camp for security reasons, forcing the

refugees to remain in a nearby camp with inadequate health, education, water, and sanitation facilities.

In January there were credible reports that in December 2001, security forces tortured three Sudanese refugee leaders following disturbances at Fugnido refugee camp in the western part of the country. There also were reports that staff members of the Administration for Refugee and Returnee Affairs (ARRA) physically abused Sudanese refugees at the Sherkole Camp. For example, in June ARRA staff members kicked and beat a refugee who was trying to collect rations during a revalidation exercise. By year's end, there were no indications that the Government had investigated these incidents (*see* Section 1.c.).

Refugees at Sherkole also complained of conflict with local residents over scarce resources. They claimed that local villagers had attacked, and in some cases sexually assaulted, women who had gone to collect firewood outside of designated collection points for camp residents.

There were no reports during the year of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully and allows for the right of secession. The Constitution grants universal adult (18 years of age) suffrage, establishes periodic elections by secret ballot, and allows citizens to take part in the conduct of public affairs, directly and through freely chosen representatives; however, in practice the EPRDF ruling party dominated the Government. According to observers organized by EHRCO, local U.N. staff, diplomatic missions, political parties, and domestic NGOs, the 2000 national elections and the 2001 regional elections were generally free and fair in most areas but were marred by serious irregularities, including killings, disappearances, voter intimidation and harassment, and unlawful detentions of opposition party supporters, particularly in the SNNPRS region.

The EPRDF ruling party was dominated by the Tigrayan ethnic group. Of 548 seats in the House of People's Representatives (HPR), 496 were held by the EPRDF or its affiliate parties. The Tigray People's Liberation Front (TPLF), one affiliate party, occupied 40 seats. The EPRDF, its affiliates, and EPRDF sympathizers controlled all seats in the 108 member House of Federation, whose members were appointed by regional governments and by the federal government.

Membership in the EPRDF gave advantages to its members, and the party owned many businesses and awarded jobs to loyal supporters. In addition to the Government, only the EPRDF and the TPLF were allowed to operate radio stations (*see* Section 2.a.).

Opposition parties continued to lack organization or direction. Prime Minister Meles claimed to support "constructive engagement" with the opposition; however, Meles publicly criticized the opposition for its disloyalty and its "politics of hate."

Citizens exercised the right to vote for a national government in 2000 during elections for the HPR, and during local elections held in 2001 in February, March, and December. In the 2000 national elections, 17 opposition political parties contested the election, including the AAPO, the SEPDC, and the Oromo National Congress. The better funded and better organized incumbent party, the EPRDF, generally dominated candidates of the relatively weaker and less organized opposition parties and independent candidates, except in the SNNPRS, where the opposition made significant gains. EPRDF candidates won 481 seats in the HPR, EPRDF affiliate candidates won 37 seats, opposition party candidates won 16 seats, and independent candidates won 13 seats. The Government established a donor supported fund for opposition party candidates, provided opposition candidates access to state-owned electronic media, and changed the law to permit civil servants to run for office without first resigning their positions. The Government was willing to engage opponents in open debate at candidate and party forums. Many of these debates were broadcast live on national radio and television and reported on in both government and private newspapers. Free radio broadcast time was set aside for the elections, and 225 independent candidates and 33 political parties made use of it.

There were credible reports that local officials throughout the country ignored NEB instructions on the acceptance of candidate endorsement signatures from opposition party candidates. There were instances in which the NEB had to force local authorities to accept nominations. There were credible reports that during candidate registration, many kebele (village or municipal unit) offices were closed for holidays or were otherwise unstaffed, hindering the registration process of opposition candidates. In the Somali region prior to the August 2000 elections, thousands of bal-

lots were reprinted to rectify the fact that a female opposition candidate had not been listed despite having met NEB requirements for candidate registration.

There were a number of killings as a result of preelection and postelection violence; numerous persons also were arrested and detained, some because they voted for the opposition (*see* Section 1.d.). Several SEPDC candidates for the national or municipal elections were detained, and two SEPDC members elected to the regional council in 2000 were detained without having their parliamentary immunity formally removed (*see* Section 1.d.).

There also were numerous reports from SEPDC that members of the security forces harassed and intimidated persons who supported or voted for the opposition during the 2000 elections. For example, there were credible reports that ruling party personnel withheld fertilizer and food aid in the SNNPRS region and suspended or dismissed SEPDC supporters from their jobs in retaliation for voters electing opposition candidates; they were not allowed to return to their positions by year's end. Some teachers in the Southern Region who served as SEPDC election observers were not able to collect their salaries and were denied entry to summer update courses.

There were credible reports that during the 2000 national elections citizens who tried to register to vote were told by government personnel that they had to prove their citizenship; under the law only citizens can vote. Reportedly Ethiopians of Eritrean origin were not allowed to register or to vote.

There were allegations of irregularities, including incidents of election officials instructing voters for whom to vote, candidates campaigning at polling stations, and candidates being pressured into quitting. There also were credible reports of ballot stuffing, vote count fraud, voter intimidation or bribery, dismissals from work, withholding of salaries, detentions, abductions, and killings. The NEB, acting on its constitutional authority, investigated complaints of the irregularities and determined that many of them had merit. The NEB ordered new elections in some areas of SNNPRS that were held later in 2000; they were declared generally free and fair by international observers. In 2000 the NEB agreed to bring charges against those suspected of the worst election abuses in the SNNPRS; however, no action had been taken by year's end.

In February, March, and December 2001, local elections at the kebele and woreda (county) levels were conducted in all regions and administrative zones except in the Somali regions. In February 2001, after the EPDRF overwhelmingly won the woreda elections, opposition groups reported intimidation of candidates and voters by the ruling party cadres, including the killing of two supporters (*see* Section 1.a.); opposition groups also accused the NEB of failing to address these problems during the period prior to the elections. Opposition parties subsequently announced their withdrawal from the February 2001 elections, which was followed by the withdrawal of opposition party members from seats in the Addis Ababa municipal council. In August 2001, the NEB made a statement indicating that the Government was aware of election irregularities and that the harassment of persons in the SNNPRS had impeded the organization of local elections. The NEB also called for the unconditional release of those detained for their affiliation with the SEPDC.

Elections for the Somali region that were scheduled for 2001 were postponed indefinitely. The Government said that necessary preparations for those elections were still not in place. A new date had not been set by year's end.

The December 2001 elections in the Southern Region were affected by the harassment of opposition parties in the region following the 2000 elections. There were few election observers on hand because the elections were scheduled to coincide with Christmas and New Year's weekends; however, in March EHRCO reported that these elections were not free and fair. EHRCO also reported that 449 persons were arrested in connection with the elections. Opposition participation in the elections was hampered by difficulty in registering candidates and limitations on time remaining to campaign. After claiming that election fraud occurred during the zonal and woreda elections, most parties belonging to the SEPDC coalition did not participate in the kebele elections, citing the inability of the NEB to ensure free and fair elections.

There were credible reports from SEPDC representatives that at least 11 of their members were killed in the period leading up to the December 2001 regional elections (*see* Section 1.a.).

There were credible reports that local authorities in the Oromiya, Amhara, and Southern Region periodically arrested and detained supporters of opposition parties in the period prior to and following the regional elections in those areas.

Local government officials in Konso Special Woreda, in the Southern Region, continued to deny representatives of the opposition Konso People's Democratic Union (KPDU) the right to assume the offices to which they were elected in 2001. After

opening a branch office in the town of Fasha on December 29, pro-government supporters severely beat several KPDU members and seriously damaged the newly opened office. According to the KPDU, local government officials also detained Kafta Kayitre and held him incommunicado for leasing office space in Fasha to the KPDU.

On November 20, the home of EDUP official Desalegn Yimer was burned down by an arsonist in Ambasel Woreda, Kebele 2, in the town of Hayk, South Wello Zone, which resulted in extensive property loss. The EDUP blamed government forces for the incident. No government investigation had been initiated by year's end.

In October Prime Minister Meles dissolved the Addis Ababa city government and replaced it with a provisional administration to be led by EPRDF/TPLF member Arkebe Oqubay until elections are held next year.

Political participation remained closed to a number of organizations that have not renounced violence and did not accept the Government as a legitimate authority. These groups included MEDHIN, the Coalition of Ethiopian Democratic Forces, the Ethiopian People's Revolutionary Party, the OLF, some elements of the ONLF, and several smaller Somali groups.

Of the 19 members of the Council of Ministers, 1 was a woman, 2 other women held ministerial positions, and a number of other women held senior positions. There were 42 women among the 548 members of the HPR, and 9 of 113 members in the House of Federation were women. Of the 14 members of the Supreme Court, 3 were women.

The Government policy of ethnic federalism led to the creation of individual constituencies to help ensure representation in the HPR of all major ethnic groups. Small ethnic groups were not represented in the legislature. There were 23 nationality groups in 6 regional states that did not have a sufficient population to qualify for constituency seats; however, individuals from these nationality groups competed for 23 special seats in the 548-seat HPR in the 2000 elections.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups operated with some government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative with them; however, the Government often was distrustful and wary of such groups. Some of the most prominent domestic human rights organizations included EHRCO, the Human Rights League (HRL), and the Ethiopian Women's Lawyers Association (EWLA). These and numerous other groups primarily engaged in civic and human rights education, legal assistance, and trial monitoring. However, the Government neither shared information about nor acknowledged the existence of human rights abuses with members of the NGO community.

The HRL, founded by Oromo civic leaders in 1997, continued to be investigated by the Government at year's end for its alleged ties to the OLF. In 2001 the HRL sued the Government, and the court ordered the Ministry of Justice to reply to the HRL petition for registration by February. The lawsuit was pending at year's end (*see* Section 2.b.).

Unlike in the previous year, the EWLA did not experience harassment from the Government. The EWLA's primary function was to represent women legally, particularly in civil matters involving the new family law, spousal abuse, divorce, child custody, and criminal matters.

Several international human rights groups visited the country during the year. There were no reports that any member of such a group had difficulty obtaining an entry visa. In July a group of researchers from HRW visited to gather information on the violence in Awassa and Tepi. In August the CPJ visited to meet with members of the independent press and to criticize government intimidation of journalists. Education International was able to visit without restriction during the year. Prison Fellowship International has developed a good relationship with prison officials throughout the country. In September Transparency International sent a team to Addis Ababa to explore conditions for establishing a local chapter.

During the year, the ICRC was allowed to visit most federal and regional prisons, civilian detention facilities, and police stations throughout the country, including the facilities where persons still were in detention at year's end in connection with the student riots in April 2001. The ICRC was granted access to the Tatek military detention facilities but not to other military detention facilities where suspected OLF fighters had been held (*see* Section 1.d.). The ICRC generally was given access to detention facilities holding Eritrean POWs, including the main camp at Dedesa (*see* Sections 1.c. and 1.d.). In 2000 the Government and Eritrea agreed that the ICRC

would be the supervisory organization for the exchange of expellees or deportees and would facilitate all POW exchanges.

Officials of the Federal Security Authority generally were responsive to requests for information from the diplomatic community.

The Government is required under the Constitution to establish a Human Rights Commission and Office of the Ombudsman. The Office of the Ombudsman was expected to have the authority to receive and investigate complaints with respect to misadministration by executive branch offices. In 2000 Parliament completed legislative action to create both entities, and in July 2001 the parliamentary committee was selected to appoint members to the Ombudsman office; however, neither entity was operational by year's end.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination based on race, color, sex, language, national origin, political or other opinion, or social status; however, the Government in practice did not effectively enforce these protections.

*Women.*—Domestic violence, including wife beating and marital rape, was a pervasive social problem. While women had recourse to the police and the courts, societal norms and limited infrastructure prevented many women from seeking legal redress, especially in rural areas. Social practices obstructed investigations and prosecutions in rape cases, and many women were not aware of their rights under the law. It was estimated that there were more than 1,000 rapes a year in Addis Ababa alone. Federal police reported 393 cases of rape committed during the year; however, it was estimated that there were more than 1,000 rapes a year in Addis Ababa. The number of reports by rape victims to police and the amount of press reporting of rape cases increased. In cases of marriage by abduction, the perpetrator was not punished if the victim agreed to marry him (unless the marriage was annulled); even after a perpetrator was convicted, the sentence was commuted if the victim married him. Rape sentences increased in practice from 10 to 13 years, in line with the 10 to 15 years prescribed by law; however, rapists generally remained in prison for a period of between 7 and 10 years. There were credible reports that members of the military who were redeployed from border areas to other regions sexually harassed and raped some young women. During the year, the EWLA conducted research on the number of rapes committed and the number of rape convictions handed down; however, they had not released their results by year's end.

Although illegal, the abduction of women and girls as a form of marriage still was practiced widely in the Oromiya region and the SNNPRS, despite the Government's attempts to combat this practice. Forced sexual relationships often accompanied most marriages by abduction, and women often were abused physically during the abduction. Many of those girls married as early as the age of 7, despite the legal marriage age of 18. Abductions led to conflicts among families, communities, and ethnic groups.

The majority of girls underwent some form of FGM. The NCTPE conducted a survey that was published in 1998, which indicated that 72.7 percent of the female population had undergone FGM, down from an estimated 90 percent of the female population in 1990. Clitoridectomies typically were performed 7 days after birth and consisted of an excision of the labia. Infibulation, the most extreme and dangerous form of FGM, was performed at any time between the age of 8 and the onset of puberty.

The Constitution prohibits traditional harmful practices that result in bodily or mental harm. The 1957 Penal Code provides that anyone who caused bodily injury to another and impaired the victim's health would be subject to punishment. However, these provisions did not specifically outlaw FGM. The Government was updating the Penal Code and in the draft version of the legislation, FGM was banned. The Government also worked to discourage the practice of FGM through education in public schools.

Thousands of women traveled to the Middle East as industrial and domestic workers. There were credible reports from the EWLA that some female workers were abused in these positions (*see* Section 6.f.).

The Constitution states that all persons are equal before the law; however, the Government has not yet fully put into place mechanisms for the effective enforcement of these protections. The Family Law sets the legal marriage age for girls at 18, the same as for boys; elevates civil law above customary and religious law; allows for the legal sharing of property for unmarried couples who live together for at least 5 years; eliminates family arbitrators as a means of settling marital disputes in lieu of the court system; allows for the joint administration of common marital property; requires the courts to take into account the situation of children or the weakest member of the family in the event of divorce or separation; and imposes

a 6-month waiting period on women seeking to remarry following divorce or the death of a spouse.

Discrimination against women was most acute in rural areas, where 85 percent of the population lived. The Civil Code and the Penal Code, both of which were under review by the Ministry of Justice, contained discriminatory regulations, such as the recognition of the husband as the legal head of the family and the sole guardian of children over 5 years old. Domestic violence was not considered a serious justification to obtain a divorce. There was only limited juridical recognition of common law marriage. Irrespective of the number of years the marriage existed, the number of children raised, and joint property, the woman was entitled to only 3 months' financial support should the relationship end. A husband had no obligation to provide financial assistance to his family and, as a result, women and children sometimes were abandoned when there was a problem in the marriage.

All land belonged to the Government; however, women could obtain government leases to land, and the Government had an explicit policy to provide equal access to land for women. However, this policy rarely was enforced in rural communities. In urban areas, women had fewer employment opportunities than did men, and the jobs available did not provide equal pay for equal work.

The Government endorsed a National Policy on Women to enhance the status of women that sought to expand educational and work opportunities, improve access to health care, and educate women regarding unhealthy traditional practices such as early marriage. A National Plan of Action, aimed at addressing various gender constraints to development had been drafted under the leadership of the Women's Affairs Office within the Prime Minister's Office. There were few improvements in the status of women since the inception of the program. According to a study by the National Committee on Traditional Practices of Ethiopia in 1998, certain harmful practices such as early marriage and marriage by abduction appeared to be declining. Neither the HRC nor the Office of the Ombudsman was operational by year's end. Once operational, both organizations were expected to have a representative responsible for women's rights (*see* Section 4).

*Children.*—The Government supported efforts by domestic and international NGOs that focused on children's social, health, and legal issues. For example, local officials provided transportation and free facilities to NGO activities. Neither the HRC nor the Office of the Ombudsman was operational by year's end; however, once operational, both organizations are expected to have a representative responsible for the rights of children. However, the Government had limited their ability to provide improved health care and basic education.

By law primary education was compulsory, free, and universal; however, despite efforts by the Government to increase the number of schools, there were not enough schools to accommodate the country's youth. The Government used a three-shift system in all primary and secondary schools to maximize the utilization of classrooms and to provide an opportunity for working children to attend school. During the year, approximately 40 percent of primary and 67 percent of secondary schools operated in two shifts to maximize the utilization of classrooms. Most urban schools operated evening classes to provide an opportunity for working children to attend classes. Nationwide the total enrollment of school-age children was 61.6 percent. Only 71.7 percent of male primary school-age children and 51.2 percent of female primary school-age children attended school. Girls attended school in lower numbers than boys, except in Addis Ababa, where girls' attendance was slightly higher at 52.7 percent. Government reports showed that 31 percent of the children who attended school left the system before they reached the second grade. Only 28 percent of children who began first grade completed eighth grade. The literacy rate was approximately 20 to 30 percent, and only 17 percent of women were literate compared with 26 percent of men; however, it was difficult to estimate literacy rates accurately due to a lack of government statistics. Only 20.4 percent of boys and 13.7 percent of girls attended general secondary school (grades 9–10). During the year, the Government widened the implementation of its education policy that compressed 12 years into 10 years of general education for students not planning to attend college. Students planning to attend university continued to study for 2 additional years in what was a pre-university program (grades 11–12). Students in grade 12 continued to take the Ethiopian School Leaving Certificate Exam (ESLCE). Students in grade 10 also were required to take the ESLCE. There was space in institutions of higher learning for only a small percentage of graduates.

In Addis Ababa's police stations, there were 10 Child Protection Units that were staffed by members of an NGO and protected the rights of juvenile delinquents and victims of crime. Some police officers completed training on procedures for handling cases of child abuse and juvenile delinquency; however, there was a clear need for reform of the juvenile justice system. Three federal judges sat on one bench to hear

all cases of juvenile offenses. There was a large backlog of juvenile cases and accused children often remained in detention with adults until their cases were heard. There was only 1 juvenile remand home with a capacity of 150 for children under age 15, and the juveniles who could not be accommodated at the juvenile remand home were incarcerated with adults.

Societal abuse of young girls continued to be a problem. FGM was performed on the majority of girls (see Section 5, Women).

Other harmful traditional practices surveyed by the NCTPE included uvulectomy, milk-teeth extraction, early marriage, marriage by abduction, and food and work prohibitions (see Section 6.f.). The Family Code defines the age of sexual consent as 18 for both females and males; however, early childhood marriage was common in rural areas where girls as young as age 7 were subjected to arranged marriages. In the Afar region of the east, young girls continued to be married to much older men, but this traditional practice came under greater scrutiny and criticism during the year. The Tigray Women's Association also impacted societal attitudes toward early marriage. Pregnancy at an early age often led to obstetric fistulae and permanent incontinence. Treatment was available at only 1 hospital in Addis Ababa that performed more than 1,000 fistula operations a year. It estimated that for every successful operation performed, 10 other young women needed the treatment. The maternal mortality rate was extremely high partly due to food taboos for pregnant women, poverty, early marriage, and birth complications related to FGM, especially infibulation.

There were approximately 50,000 to 60,000 street children in Addis Ababa; however, the figures were difficult to estimate, and observers believed the problem was growing. These children begged, sometimes as part of a gang, or worked in the informal sector (see Section 6.d.). Government and privately run orphanages were unable to handle the number of street children, and older children often abused younger children. Due to severe resource constraints, abandoned infants often were overlooked or neglected at hospitals and orphanages. Children sometimes were maimed or blinded by their "handlers" to raise their earnings from begging. EHRCO reported that during the year, security forces relocated approximately 200 homeless persons, many of them children, to areas outside Addis Ababa (see Section 1.f.).

Child prostitution continued to be a problem and was perceived widely to be growing (see Section 6.f.).

Children reportedly were trafficked out of the country in adoption schemes (see Section 6.f.).

The Ministry of Defense did not permit persons under the age of 18 to join the armed forces, and the Government made efforts to enforce this policy. There were no reports that children under the age of 18 were recruited into the military during the year; however, in the past, military officers admitted that underage applicants sometimes were enlisted. Scarce birth certificates, poor educational opportunities, patriotism, and pervasive poverty encouraged underage applicants to try to circumvent restrictions on underage soldiers. If a unit commander suspected but could not prove that a soldier was underage, he could transfer the soldier from a front-line combat unit to a rear-area command. There were no reports of children joining local militias during the year.

*Persons with Disabilities.*—The law mandates equal rights for persons with disabilities; however, the Government had no established mechanisms to enforce these rights. Persons with minor disabilities sometimes complained of job discrimination. The Government did not mandate access to buildings or require government services for persons with disabilities. The Constitution provides rehabilitation and assistance to persons with physical and mental disabilities; however, the Government devoted few resources for these purposes.

There were approximately six million persons with disabilities in the country. The conflict with Eritrea resulted in numerous soldiers losing limbs, many from landmine explosions. Wheelchairs were rare in the country. Although there were approximately 800,000 mentally ill persons, there was only 1 mental hospital and only 10 psychiatrists in the country.

There were approximately 70 NGOs that worked with persons with disabilities. For example, the Amhara Development Association provided vocational training to war veterans with disabilities in Bahir Dar. The Tigray Development Association operated a center in Mekele that provided prostheses and seed money for business development, training, and counseling for persons with disabilities. The international NGO Landmine Survivors provided a number of services to victims of landmine explosions including counseling and referrals to rehabilitation services.

*National/Racial/Ethnic Minorities.*—There were more than 80 ethnic groups. Although many of these groups influenced the political and cultural life of the country,

Amharas and Tigrayans from the northern highlands played a dominant role. The largest single group was the Oromos, who accounted for 40 percent of the population. There were credible reports that teachers and other government workers had their employment terminated if they were not of the dominant ethnic group in the region.

In an attempt to address ethnic concerns, the Government established a federal system with political boundaries drawn roughly along major ethnic lines. With federalism, regional states had much greater control over their affairs. Political parties were primarily ethnically based.

Ethnic clashes during the year resulted in a number of deaths, injuries, and the displacement of thousands of persons (*see* Section 2.d.). For example, in January 92 ethnic Somalis were killed during regional clashes over grazing and water rights. Banditry and lawlessness continued to prevail in the region at year's end.

In March between 600 and 800 persons were killed during clashes between the Sheko-Mejjanger and Manja and the Sheka and Bench-Majjii in and around the town of Tepi, capital of the Yeki District, in the Southern Region. Government officials reported 128 deaths; however, the SEPDC reported more than 1,700 deaths. More than 2,000 homes were destroyed and 5,800 persons were displaced as a result of the violence. The clashes involved local officials and members of each of these communities, and resulted from the dissatisfaction of many Sheko-Mejjanger who had wanted autonomy following an unsuccessful attempt in 1993 to move the Shekicho zone from the Southern Region to the Gambella Region. The Government claimed to have arrested 41 policemen, 39 militia members, and 11 administrative officials for their involvement in the clashes. However, the Government refused to allow an independent investigation of the incident and put the Federal Police in charge of the Government's internal investigation.

In April several persons were killed and numerous houses were burned during fighting over a land dispute between the Deresha and the Zaise. Local ruling party officials had incited the violence between the previously peaceful groups.

On October 15, 8 Amhara men shot and killed at least 31 Afar women in a village marketplace in North Shoa Zone, Amhara Region. Police detained seven of the eight suspected killers for questioning. The Chairman of the Kure Beret Farmers Association, who also was detained for questioning in relation to this case, was killed while in prison. There was no indication that the Government had opened an investigation into his death by year's end.

During the year, there were numerous clashes between the Anuak and Nuer clans. For example, on July 7, 60 persons were killed and 41 were injured during ethnic conflict between Nuer and Anuak tribesmen in the Gambella region over political power sharing. EHRCO reported that all houses in eight kebeles were burned to the ground, and 8,760 persons were displaced from their homes. The situation remained unstable at year's end. There were no reports that the Government investigated the conflict.

On September 25, a grenade was thrown into a student dormitory at the Gambella Teachers College. One person died and five were injured in the attack. The students were all members of the Nuer clan.

On October 7, four persons were injured when someone exploded a grenade in the center of Gambella town. The apparent target of the attack was the truck driver transporting ethnic Nuer to the area.

Unlike in the previous year, there were no reports of killings during ethnic clashes between the Oromo Borena and the ethnic-Somali Garre pastoralists, or between drought victims from Amhara and the Oromos in the Gida Kiremv district.

The military remained an ethnically diverse organization; however, diversity was less common in the higher ranks among officer personnel. There were reports that soldiers redeployed from the war front to other regions abused civilians, particularly in the Amhara, Oromia, and SNNPRS regions. There were reports that soldiers targeted Oromos for abuse during the year.

There were occasional reports of discrimination and exclusion of Eritreans, particularly by kebele level officials. Reports indicated that kebele officials sometimes denied indigent Eritreans access to free medical supplies.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides most workers with the right to form and join unions; however, the law specifically excludes teachers and civil servants, including judges, prosecutors, security services, air transport and railway services, urban and inter-urban bus services, filling stations, banks and postal service workers from organizing unions. Employer interference was not a major problem; however, there was government interference. Many trade union leaders have been removed from their elected office or forced to leave the country. According



to the Confederation of Ethiopian Trade Unions (CETU), trade union leaders still were being sent to prison for forming unions or seeking redress or their grievances. Many of the trade union leader arrests took place in Oromiya region. The minimum number of workers required to form a union was 20. All unions had to be registered; however, the Government still retained the authority to cancel union registration. The law stipulates that a trade organization may not act in an overtly political manner.

Approximately 300,000 workers were unionized. The Ethiopian Teachers' Association (ETA) has been a particular target for government harassment. The ETA formerly had a membership of 120,000; however, that number has decreased significantly due to government intimidation and restrictions on ETA activities. During the year, the ETA estimated its membership at 110,000. The Government, in an attempt to influence ETA leadership, created a "new" ETA that drew its funding from mandatory contributions from teachers. Teachers were coerced to make payments of \$0.23 (2 birr) a month to the "new" ETA, which counted them as its members. The International Labor Organization (ILO) Committee of Experts cited the Government's interference with the operation of the original ETA and the Government-inspired formation of the "New ETA" as an abrogation of the basic right of association.

The ETA claimed that 205 unionized teachers had been dismissed, detained, or transferred to remote areas since April 2001. In May the Government, after significant international pressure, released Dr. Taye Woldeamayyat, president of the ETA, from prison after he had served 6 years of a 15-year sentence for inciting violence (*see* Section 1.d.). Security forces continued to harass members of the ETA. Police again arrested then-Acting Secretary-General of the ETA Abate Angori in December for having written a press release that the Government deemed inflammatory in the wake of the April 2001 riots at Addis Ababa University. Officials at Maekelawi Criminal Investigation Bureau have summoned him on several occasions. He last was summoned to court on November 18, but the judges were not available. While awaiting notification of his next hearing, the police arrested him and held him incommunicado for more than a week.

Police also harassed the Addis Ababa Teachers Association, a subgroup of the ETA, during the year by dispersing its meetings. The ETA was denied access to a meeting hall in Sidama Zone even though a government official took its money for the hall rental. Several teachers were detained for participating in an ETA conference in Awassa during the year (*see* Sections 1.d. and 2.b.).

Seasonal and part-time agricultural workers were not organized even on state-owned plantations. Seasonal workers' compensation, benefits, and working conditions were far below those of unionized permanent plantation employees.

There was no requirement that unions belong to the CETU, which included all nine federations organized by industrial and service sectors rather than by region. Recently publicized allegations of widespread corruption within CETU's leadership ranks and of CETU's close ties to the Government have paralyzed the organization. A special meeting of CETU's General Congress was scheduled for January 2003 to try to resolve the impasse.

The law prohibits antiunion discrimination by employers against union members and organizers; however, unions reported that union activists frequently were fired. Unlawful dismissal suits often took years to resolve because of case backlogs in the labor courts. There were grievance procedures for hearings on allegations of discrimination brought by individuals or unions. Employers found guilty of antiunion discrimination were required to reinstate workers fired for union activities. However, according to labor leaders, a number of court cases in which workers were terminated for union activities still were pending after 4 or 5 years.

No further information was available by year's end on the 2000 case in which 586 workers, including union leaders, were expelled from a private company following the dissolution of its labor union.

Independent unions and those belonging to CETU were free to affiliate with and participate in international labor bodies. There were no restrictions on individual trade unions applying for membership in the International Confederation of Trade Unions (ICTU). Some unions affiliated with international organizations; however, no Ethiopian trade unions were members of the ICTU. CETU applied for membership in the ICTU, but a response from the ICTU was pending at year's end. In 2000 the ILO Committee on Freedom of Association issued a strong criticism of the Government for its restrictions on freedom of association.

*b. The Right to Organize and Bargain Collectively.*—The Constitution protects the right of collective bargaining for most workers, and in practice the Government allowed citizens to exercise this right freely. Labor experts estimated that more than 90 percent of unionized workers were covered by collective bargaining agreements.

Wages were negotiated at the plant level. Some efforts to enforce labor regulations were made within the formal industrial sector.

The 1993 government Labor Proclamation 42 explicitly gives workers the right to strike to protect their interests; however, it also sets out the need for aggrieved workers first to make efforts at conciliation before striking. These applied equally to an employer's right to lock out workers. Strikes must be supported by a majority of the workers affected. If workers brought their dispute to the attention of the Ministry of Labor, the Ministry would appoint a conciliator to bring about a settlement. If the conciliator failed to settle a labor dispute within 30 days, he was obliged to prepare a report for the Ministry. Either party could submit the matter to a Labor Relations Board (LRB) or submit to independent arbitration. The Government established LRBs at the national level and in some regions. The Minister of Labor and Social Affairs appointed each LRB chairman, and the four board members included two each from trade unions and employer groups. However, workers still retained the right to strike without resorting to either of these options, provided they had given at least 10 days notice to the other party and to the Ministry, made efforts at reconciliation, and provided at least a 30-day warning in cases already before a court or LRB. The proclamation also forbid strikes by air transport and railway service workers, electric power suppliers, bus operators, gas station personnel, hospital and pharmacy personnel, bank employees, firemen, postal and telecommunications personnel, and urban sanitary workers.

In April truckers who demanded more security on the road through Afar went on strike for 2 days. The strike followed the killing and mutilation of a trucker by Afar bandits. The Government and CETU considered strikes such as the truckers strike in Afar State and less publicized strikes by road construction crews throughout the country illegal because workers did not follow the procedures set forth by Labor Proclamation 42.

The law prohibits retribution against strikers, but labor leaders said that most workers were not convinced that the Government would enforce this protection. Labor officials said that due to high unemployment and long delays in the hearing of labor cases, some workers were afraid to participate in strikes or other labor actions.

The law also prohibits workers who provide essential services from striking.

There were no export processing zones (EPZs).

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children; however, there were reports it occurred. Forced labor could be used by court order as a punitive measure. For example, there were credible reports that persons detained after the April 2001 riots in Addis Ababa were subjected to forced labor at Sendafa police facility, Showa Robit prison, and the Zeway prison (*see* Section 1.c.). The Constitution prohibits slavery and involuntary servitude, and there were no reports of slavery within the country.

Young girls reportedly were forced into prostitution by family members (*see* Sections 5 and 6.f.). There were several anecdotal accounts from the EWLA of young persons, especially girls, traveling to the Middle East to work as domestic laborers, some of whom were beaten and sexually abused (*see* Section 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Child labor remained a serious problem. Under the law, the minimum age for wage or salary employment is 14 years; special provisions cover children between the ages of 14 and 18, including the prohibition of hazardous or night work. The Government defined hazardous work as work in factories or involving machinery with moving parts, or any work that could jeopardize children's health.

Children between the ages of 14 and 18 years were not permitted to work more than 7 hours per day, work between the hours of 10 p.m. and 6 a.m., work on public holidays or rest days, or perform overtime work. While the Government made some effort to enforce these regulations within the formal industrial sector, social welfare activists, civic organizers, government officials, and employers agreed that child labor was pervasive throughout the country, especially in the informal sector. In urban areas, numerous children worked in a variety of jobs, including shining shoes, hustling passengers into cabs, working as porters, selling lottery tickets, and herding animals. Child labor remained a serious problem in rural areas, where it occurred primarily on plantations and was aggravated by a family tenancy (sharecropping) system, and child domestic laborers were common.

Child laborers often were abused. An 1999 ILO-funded research survey reported that the prevalence of child abuse among urban child laborers was 70 percent, compared with 24½ percent among non-economically active children from the same urban district. The study concluded that physical and emotional abuse were twice as common among child workers compared with non-workers, sexual abuse was five

times as common, and neglect was eight times as common. Among child workers surveyed, rapes occurred exclusively among child domestic laborers. The findings of a new ILO-funded survey on child labor abuse will not be available before February 2003.

A second 1999 research study of child labor sponsored by the CETU's National Federation of Farm, Plantation, Fishery, and Agro-industry Trade Unions focused on rural locations. The study reported that 30 percent of the workers on state farms surveyed were between the ages of 7 and 14. Child workers, who worked alongside parents hired by the state, typically worked 6 days a week, received no benefits, and earned less than \$10 (80 birr) a month. At 1 plantation, 75 percent of the children worked 12-hour days. There were no new reports regarding child labor abuse on plantations. There also was evidence that children as young as 14 years old were permitted to join local militias with the consent of village leaders. This reportedly was part of an effort to keep children in local areas despite limited educational or employment opportunities (see Section 5). The Government maintained that most economically active children were engaged in family-based, non-exploitative child work that was part of the socialization process and that there was not a child labor problem.

The Ministry of Labor and Social Affairs was designated to enforce child labor laws. The Government's definition of worst forms of child labor included prostitution and bonded labor; however, the Government was not a signatory to ILO Convention 182 on the Worst Forms of Child Labor.

The law prohibits forced and bonded labor by children; however, there were reports that it occurs (see Sections 6.c. and 6.f.).

*e. Acceptable Conditions of Work.*—The law mandates a minimum wage of approximately \$15 (120 birr) per month for all wage earners in both the private and public sectors; in addition each industry and service sector established its own minimum wage. For example, public sector employees, the largest group of wage earners, earned a minimum wage of approximately \$22 (175 birr) per month; employees in the banking and insurance sector had a minimum wage of \$25 (200 birr) per month. According to the Office of the Study of Wages and Other Remuneration, these wages were insufficient to provide a decent standard of living for a worker and family. Consequently most families needed to have at least two wage earners to survive, which forced many children to leave school early. In addition, only a small percentage of the population was involved in wage labor employment, which was concentrated largely in urban areas.

The Labor Law stipulates a 48-hour legal workweek, consisting of 6 days of 8 hours each, with a 24-hour rest period. However, it was not enforced effectively, and in practice, most employees worked a 40-hour workweek consisting of 5 8-hour days.

The Government, industry, and unions negotiated to set occupational health and safety standards; however, the inspection department of the Ministry of Labor and Social Affairs enforced these standards ineffectively, due to a lack of human and financial resources. Enforcement also was inhibited by a lack of detailed, sector-specific health and safety guidelines. Workers had the right to remove themselves from dangerous situations without jeopardizing their employment; however, most workers feared losing their jobs if they were to do so.

The law also protects foreign workers.

*f. Trafficking in Persons.*—The law and the Constitution prohibit trafficking in persons; however, there were numerous reports that persons were trafficked to, from, and within the country. Child prostitution was a problem, especially in urban areas. The criminal code applied only to women and children trafficked for the purposes of prostitution; such trafficking was punishable by up to 5 years imprisonment and a fine of \$1166 (10,000 birr). Various laws prohibit trafficking and provide for fines and prison sentences of up to 20 years. During the year, 80 to 100 persons were charged with trafficking; however, there were no reported prosecutions or investigations during the year, due in part to limited resources.

There were unconfirmed reports that children from the southern part of the country were transported into Kenya by child traffickers operating adoption rings, and adopted as other nationalities. The Government closed down adoption agencies operating in the country that failed to observe proper rules and regulations.

The National Steering Committee Against Sexual Exploitation of Children was chaired by the Children, Youth, and Family Affairs Department of the Ministry of Labor and Social Affairs. NGOs reported that girls as young as age 11 were recruited to work in houses of prostitution where they were kept uninformed of the risks of HIV/AIDS infection and other sexually transmitted diseases. There were many press reports of the large-scale employment of children, especially underage girls, as hotel workers, barmaids, and prostitutes in resort towns and rural truck

stops. There were no reported cases that poor rural families sold their young teenage daughters to hotel and bar owners on the main truck routes; however, the practice was believed to exist. Social workers noted that young girls were prized because their clients believed that they were free of sexually transmitted diseases. The unwanted infants of these young girls usually were abandoned at hospitals, police stations, welfare clinics, and adoption agencies. Pervasive poverty, migration to urban centers, early marriage, HIV/AIDS and sexually transmitted diseases, and limited educational and job opportunities aggravated the problem of children engaged in commercial sexual exploitation. There were several NGOs that aided child victims, including the Forum on Street Children-Ethiopia, which provided shelter and protection for children forced into prostitution or commercial sexual exploitation.

There was evidence that children were trafficked from rural areas to Addis Ababa, lured by false promises of employment. Although illegal, the abduction of women and girls as a form of marriage still was practiced widely in Oromiya regions and the SNNPRS (*see* Section 5).

Private entities arranged for overseas work and, as a result, the number of women sent to Middle Eastern countries, particularly Lebanon, Saudi Arabia, Bahrain, and the United Arab Emirates, as domestic or industrial workers increased significantly during the year. These Ethiopian women typically were trafficked through Djibouti, Yemen, and Syria. In 2001 there were reports that Syrian border police shot three women, killing one and injuring two, as they attempted to cross the border from Lebanon. The Chief of the Investigation and Detention Center in Lebanon reported that 20,000 to 25,000 Ethiopian women worked in Beirut, a majority of whom were trafficked. Approximately 50 percent of these women were not able to return legally to their home country.

There reportedly was a network of persons based in the tourism and trade sectors who were involved heavily in soliciting potential clients, recruiting young girls, arranging travel, and fabricating counterfeit work permits, travel documents, and birth certificates. There were reports from the EWLA that some domestic workers abroad were subjected to abusive conditions, including sexual exploitation. In addition, the employers of domestic laborers sometimes seized passports, failed to pay salaries, and overworked their employees. Some domestics were forced to work for their employers' relatives without additional pay. Domestics were forced to pay a monetary penalty for leaving their employment early. Reports of abuse decreased after the Ministry of Labor and Social Affairs began reviewing the contracts of prospective domestic workers and denying exit visas if the contracts did not appear satisfactory.

Training programs were implemented for police officers on the criminal aspects of trafficking. These institutions have limited resources and jurisdiction to protect or intervene in cases of prosecution of offending employers.

There were some government initiatives during the year to combat trafficking, including government consultation with IOM to try to resolve the problem. The Ministry of Labor and Social Affairs had limited success in regulating employment agencies that sent migrant workers to Middle Eastern countries. Many illegal employment agencies escaped government scrutiny and continued to operate freely. There was a consulate in Beirut to assist women who were trafficked to Lebanon. The federal police's Women's Affairs Bureau, in collaboration with the media, created a public awareness program on the dangers of migrating to Middle Eastern countries.

## GABON

Gabon is a republic dominated by a strong presidency. Although opposition parties have been legal since 1990, a single party, the Gabonese Democratic Party (PDG), has remained in power since 1968 and has circumscribed political choice. PDG leader El Hadj Omar Bongo, President since 1967, was reelected for another 7-year term in 1998. The 1998 presidential election was marred by irregularities. Members of the PDG and allied parties held large majorities of seats in both chambers of the national legislature comprised of the directly elected National Assembly and the Senate, members of which were chosen by municipal and regional government officials. Following legislative elections in December 2001 that were marred by numerous irregularities, in April the Constitutional Court annulled the election results in 12 districts. In May legislative by-elections were held and resulted in 107 National Assembly seats for the PDG and allied parties and 13 for the opposition. The PDG won approximately 85 percent of the seats in nationwide municipal elections held, after several delays, in December. The municipal elections were marked by extremely low voter turnout. The judiciary was independent in principle but remained subject to government influence.

The national police, subordinate to the Interior Ministry, and the Gendarmerie, subordinate to the Defense Ministry, primarily were responsible for domestic law enforcement and public security. Elements of the armed forces and the “Republican Guard,” an elite, heavily armed unit that protects the President, sometimes performed internal security functions; both were subordinate to the Defense Ministry. The anti-gang unit proposed in 2001 never became operational. During the year, security forces continued to conduct “sweep” operations intended to detain bandits. Members of the security forces occasionally committed human rights abuses.

The country’s economy lacked diversity and was heavily dependent on foreign trade; its population was approximately 1.2 million. The Government dominated much of the economy through oil refining, telecommunications, and timber export parastatals; water, electric, railroad, and sugar parastatals have been privatized. Government financial mismanagement and corruption have contributed to significant arrears in domestic and external debt payments. The oil industry generated nearly half of recorded gross national product that gave the country’s citizens a relatively high standard of living. A third of the country’s citizens live in the capital, Libreville, along with many immigrants from poor African countries, who work chiefly in the informal and service sectors. Income distribution remained heavily skewed in favor of urban dwellers and a small economic elite, while the rural population continued to receive relatively few social services.

The Government’s human rights record remained poor; and it continued to commit serious abuses. The Government continued to limit the ability of its citizens to change their government. Outstanding cases of extrajudicial killings by security forces remained unresolved. The security forces beat and tortured prisoners and detainees, prison conditions remained harsh and life threatening, arbitrary arrest and detention were problems, the judiciary remained subject to government influence, and authorities routinely infringed on citizens’ privacy rights. The Government continued to restrict freedom of the press and movement. Violence and societal discrimination against women continued to be problems. Forced labor remained a problem, and there were reports of trafficking in children.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents during the year. Outstanding cases of extrajudicial killings committed by the security forces in previous years are unlikely to be resolved.

There was no action taken, nor is any likely to be, against a police officer who shot and killed an unarmed 16-year-old youth after an altercation between the boy and a taxi driver in April 2001.

Unlike in previous years, there were no reports that gendarmerie or regular army troops killed persons.

A small number of ritualistic killings reportedly were committed during the year. No official connection to the murders was established, and the Government publicly criticized the practice (*see* Section 1.c.).

In February a 17-year-old boy was mutilated and killed by nine acquaintances during a hunting trip in Tchibanga. The nine were arrested and reportedly accused a deputy in the National Assembly of having paid them to obtain the boy’s body parts for ritualistic use to aid him in the April legislative elections. The suspects later were convicted and sent to prison. No charges were brought against the deputy. No further action was expected in the case.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, security forces sometimes beat or tortured prisoners and detainees as punishment and to extract confessions. There were unconfirmed reports in the African immigrant community that police and soldiers occasionally beat noncitizen Africans during operations to round up and deport illegal immigrants (*see* Section 1.f.); however, there were no reports of rapes during the year.

Unlike in the previous year, police did not injure demonstrators; however, in December 2001, police injured strikers (*see* Section 6.b.).

Concerned organizations claimed that government officials employed trafficked foreign children as domestic workers and also alleged that government officials might be involved in facilitating trafficking in children (*see* Section 6.f.).

There were occasional incidents of violence in which practitioners of some traditional indigenous religions inflicted bodily harm on other persons (*see* Section 1.a.).

However, the details of these incidents were uncertain. Such actions often appeared to occur in connection with elections. The Ministry of the Interior maintained that violence and bodily harm to others in the practice of a traditional religion was a criminal offense and was prosecuted vigorously, although most reported incidents did not result in arrests or prosecution.

Conditions in most prisons were harsh and life threatening. Sanitation and ventilation were poor, and medical care was almost nonexistent. Prisons provided inadequate food for inmates. Women were held separately from men, juveniles were held separately from adults, and pretrial detainees were held separately from convicted prisoners. There were no known visits by human rights monitors to prisons during the year, although the Government was not known to have impeded such visits in past years.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, the Government did not observe these prohibitions. The law provides for up to 48 hours of initial detention, during which period police must charge a detainee before a judge. However, in practice police rarely respected this provision. Charges often were not filed expeditiously, and persons often were detained arbitrarily for long periods. Bail may be set if there is to be a further investigation. Pretrial detainees have the right to free access to their attorneys, and this right was not restricted in practice. Detainees have the right to an expeditious trial, as defined by the law. Pretrial detention was limited to 6 months for a misdemeanor and to 1 year for a felony charge. These periods may be extended for 6 months by the examining magistrate. Prolonged pretrial detention was common. A local attorney estimated that approximately 40 percent of persons in custody are pretrial detainees.

Members of the security forces frequently detained individuals at roadblocks under the guise of checking vehicle registration and identity papers of occupants. The security forces generally used such operations to extort money.

The law prohibits forced exile, and the Government did not use it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, while the judiciary generally was independent in principle, it remained subject to government influence.

The judicial system includes the regular courts, a military tribunal, and a civilian High Court of Justice. The regular court system includes trial courts, appellate courts, and the Supreme Court. The Constitutional Court is a separate body charged with examining constitutional questions, including the certification of elections. In some areas, minor disputes may be taken to a local chief, but the Government does not recognize such decisions. The High Court of Justice, last convened in 1990, is constituted by the Government as required to consider matters of state security.

There were systemic resource and personnel shortages in the judiciary, which often contributed to prolonged pretrial detention (*see* Section 1.d.). After striking for most of 2001, court clerks returned to work in October 2001 and did not strike during the year.

The Constitution provides for the right to a public trial and the right to legal counsel. These rights generally were respected in criminal cases. Nevertheless, procedural safeguards were lacking, particularly in state security trials, where a judge may deliver an immediate verdict of guilty at the initial hearing if the Government presents sufficient evidence.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, the Government did not respect these prohibitions in practice. As part of criminal investigations, police may request search warrants from judges, which they obtained easily, sometimes after the fact. The Government has used them in the past to gain access to the homes of opposition figures and their families.

Police and security forces conducted warrantless searches (sweeps) for illegal immigrants and criminals (*see* Section 1.c.). Soldiers stopped and searched vehicles at roadblocks, and soldiers and police conducted house-to-house searches in impoverished neighborhoods. Police frequently stopped vehicles to extort bribes.

In July the Government destroyed makeshift houses in a fishing village near Libreville and deported approximately 720 West Africans. Although some occupants had a legal right to reside in the country, the Government characterized its actions as a fight against insecurity and increasing crime in the country. The village was targeted after incidents in which small boats attacked and robbed merchant vessels anchored in Libreville's port.

Government authorities routinely monitored private telephone conversations, personal mail, and the movements of citizens.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, although citizens generally continued to speak freely and criticize the Government, the Government continued to restrict press freedom. Legislators in the National Assembly openly criticized government policies, ministers, and other officials.

The only daily newspaper published was the state-affiliated L'Union. Approximately nine privately owned weekly or monthly publications in newspaper format, which represented independent views and those of various political parties, appeared during the year; however, most appeared irregularly due to financial constraints and, in two cases, to government suspension of their publication licenses. All newspapers—including the state-affiliated L'Union—actively criticized the Government and political leaders of all parties. Most also criticized the President.

Journalists are subject to the Communications Code, a law that specifies their rights and responsibilities. Libel can be either a criminal offense or a civil matter. The law authorizes the Government to initiate criminal libel prosecution against persons for libeling elected government officials; it also authorizes the State to criminalize civil libel suits. In previous years, the Government used prosecutions for civil and criminal libel against journalists to restrict freedom of expression, especially criticism of the Government; however, there were no reports that the Government targeted individual journalists during the year.

In December 2001, the Government promulgated a new Communications Code proposed by the National Communications Council (CNC), a government agency subordinate to the Communications Ministry. The Code further restricts press freedom by expanding the scope of criminal libel laws in the name of protecting “dignity of the person.” It stipulates that penalties for libel and other offenses include a 1- to 3-month publishing suspension for a first offense and a 3- to 6-month suspension for repeat offenses. Editors and authors of libelous articles can be jailed for 2 to 6 months and fined \$700 to \$7,000 (500,000 to 5 million CFA francs). In September the CNC suspended publication of two independent, satirical newspapers, Misamu and Gabaon, for stories alleging the theft of \$5 million (3 billion CFA francs) from the public treasury and criticizing the Senate president, respectively. Three other independent newspapers, La Lowe, Nganga, and Le Scribouillard, were given official warnings by the CNC for the lack of respect for citizens' privacy and attacks on the integrity of members of the Government.

La Griffie, a Libreville-based satirical weekly newspaper remained closed during the year, and Dorothee Ngouoni, an editor at La Griffie who left the country in 1999 after she was convicted of defamation, remained abroad. Raphael Ntoutoume Nkoghe and Michel Ongoundou Loundah both were able to practice journalism.

In November 2001, Germain Ngoyo Moussavou, the editor-in-chief of L'Union newspaper, was fired after he published editorials criticizing the Minister of Interior's handling of preparations for the 2001 legislative elections; however, in February he was appointed as a political adviser to the President.

The Government owned and operated two radio stations that broadcast to all areas of the country. Much of their news coverage concerned the activities of government officials; however, their editorials sometimes were critical of specific government policies and of specific government ministers.

Financial considerations and election preparations resulted in fluctuations in the number of radio stations that operated. At year's end, approximately six privately owned radio stations operated in the country; most were apolitical. The Government owned and operated two television stations, RTG-1 and RTG-2. There were three privately owned television stations.

The Government did not interfere with domestic reception of broadcasts of international radio stations, including Voice of America. Radio France International broadcast locally. Foreign newspapers and magazines were available widely.

The Government did not restrict access to or use of the Internet. At year's end, there were three Internet service providers in the country, one state-owned and the others privately owned. In urban areas, there were public facilities that provided relatively affordable access to the Internet.

The Government did not restrict academic freedom, including research; however, the Government shut down the country's only State-funded universities because of strikes. The universities officially reopened in December (*see* Section 6.b.).

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. The law requires that groups obtain permits for public gatherings in advance, and the Government usually granted them.

Unlike in the previous year, police did not forcibly disperse demonstrations.

*c. Freedom of Religion.*—The Constitution provides for religious freedom, and the Government generally respected this right in practice.

Some Protestants alleged that the Government television station accorded free air time to the Catholic Church but not to minority religious groups. Others alleged that the armed forces favored Roman Catholics and Muslims in hiring and promotions.

The Ministry of the Interior maintained an official registry of religious groups; however, it did not register traditional religious groups. The Government did not require religious groups to register but recommended that they do so in order to assemble with full constitutional protection. No financial or tax benefit was conferred by registration. The Government has refused to register approximately 10 religious groups, including Jehovah's Witnesses. A 1983 decree banning Jehovah's Witnesses, which the Government promulgated on the grounds that Jehovah's Witnesses allegedly do not protect adequately individuals who might dissent from the group's views, remained in effect; however, in practice the Government allowed members of Jehovah's Witnesses to meet and practice their religion. The Government has made uncorroborated claims that it permits Jehovah's Witnesses to proselytize.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, the Government frequently restricted them in practice. There were no legally mandated restrictions on internal movement. Police and gendarmes continued to stop travelers frequently to check identity, residence, or registration documents, and members of the security forces regularly harassed expatriate Africans working legally as merchants, service sector employees, and manual laborers (*see* Section 1.f.). They extorted bribes and demanded services with the threat of confiscation of residency documents or imprisonment. Residency permits cost up to \$150 (100,000 CFA francs), and first time applicants also must provide the cost of a one-way air ticket to their country of origin. In theory, but usually not in practice, the Government refunds the cost of the air ticket when the individual departs the country permanently.

The Government agency that controls immigration intermittently enforced an internal regulation requiring married women to have their husbands' permission to travel abroad. An exit visa was not required for citizens to travel abroad; however, noncitizens resident in the country must obtain a visa in order to leave and return. There were reports by citizens that government authorities with no explanation regularly refused to issue passports for travel abroad.

Individuals alleged that they encountered unreasonable delays in obtaining passports.

Police and security forces conducted warrantless searches (sweeps) for illegal immigrants and criminals (*see* Section 1.f.). There were unconfirmed reports that police occasionally beat and raped noncitizen Africans during operations to assemble and deport illegal immigrants.

In July the Government destroyed makeshift houses in a fishing village near Libreville and deported approximately 720 West Africans (*see* Section 1.f.).

Dozens of victims of child trafficking were repatriated with assistance from non-governmental organizations (NGOs) and the embassies of their countries of origin (*see* Section 6.f.).

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government generally cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and also provided first asylum. The Government strictly controlled the process of refugee adjudication. At year's end, approximately 12,000 refugees remained in the country. In September 2001, representatives of the Government, the Government of the Republic of the Congo, and the UNHCR signed a tripartite repatriation agreement providing for the return of Congolese refugees from the country. By year's end, 180 Congolese refugees had been repatriated with UNHCR assistance. During the year, some refugees from the Republic of the Congo voluntarily repatriated themselves.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully; however, mismanagement and serious irregularities in both the 1998 presidential elections and the December 2001 legislative elections limited severely this right in practice. A single party, the PDG, has remained in power since its cre-



ation by President Bongo in 1968, and political choice has remained limited in practice despite the legalization of opposition parties in 1990.

The country is dominated by a strong Presidency. The President can veto legislation, dissolve the national legislature, call new elections, and issue decrees while the legislature is not in session that have the force of law. The legislature generally has approved legislation presented to it by the President but on occasion has not done so. The President appoints and can dismiss judges through the Ministry of Justice, to which the judiciary is responsible. The President appoints ministers of government, provincial governors, prefects and subprefects, and the heads of parastatal firms.

President Bongo, who has been President since 1967, was reelected for another 7-year term in a December 1998 election marred by irregularities that generally favored his incumbency, including incomplete and inaccurate electoral lists and the use of false documents to cast multiple votes.

Elections for the National Assembly, the lower house of the bicameral legislature, are held every 5 years. The December 2001 National Assembly elections were marred by numerous irregularities, including the boycotting of the first round by nine opposition parties. International observers reported that the elections were marked by organizational flaws and "insufficient and dysfunctional" application of the electoral law. The Constitutional Court in April annulled the election results in 12 districts, citing candidates or their representatives for stuffing ballot boxes, falsifying results documents, and bribing or threatening voters. In May legislative by-elections were held to fill the affected seats, which resulted in the PDG and allied parties holding 107 and the opposition holding 13 seats in the National Assembly.

The ability of citizens to choose their subnational governments remained limited in practice. Among subnational officials, provincial governors, prefects, and subprefects are officers of the central government responsible to the President. Mayors and municipal councils were elected; however, municipal governments have limited financial autonomy and depend heavily on funding from the central government.

After three delays prompted primarily by the Government's lack of funds, country-wide municipal elections were held in December. Though the ruling PDG party won some 85 percent of all seats, the level of voter abstention was extreme, reaching 100 percent in some precincts.

The Senate, the upper house of the bicameral national legislature, was created in 1996, with first elections for Senators in 1997. Municipal and regional government officials elect all 91 senators, who serve 6-year terms. The next senatorial elections were scheduled for February 2003.

Major opposition parties included the National Lumberjack Assembly-Gabonese People's Assembly (RNB-RPG) and the Gabonese Progressive Party (PGP). The RNB-RPG's political base was in the northern province of Woleu-Ntem inhabited chiefly by members of the Fang ethnic group, and in Libreville neighborhoods with many Fang residents, although the party attracted some support from other regions and ethnic groups. The PGP enjoyed strong support in Port Gentil, the center of the country's petroleum industry, and among the Myene ethnic group. Ideological splits and rivalries limited the effectiveness of the PGP.

There were no restrictions on the participation of women and minorities in politics. At year's end, 11 of 120 members of the National Assembly, 12 of 91 senators, and 5 of 43 government ministers were women. Indigenous Pygmies rarely participate in the political process, and the Government has made only limited efforts to include them (*see* Section 5).

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

The Government officially allowed the existence of independent human rights groups, and the few that are active advocate mostly on behalf of women, children, persons with disabilities, and the homeless. In January the Government created a Ministry of Human Rights and appointed an opposition leader as minister of state to head it.

#### *Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution forbids discrimination based on national origin, race, gender, or opinion; however, the Government did not enforce these constitutional provisions uniformly, and there was considerable discrimination against women, especially in domestic affairs. The Government also has provided a lower level of health care and educational services to children of families of other African nationalities than it provided to citizens.

*Women.*—Domestic violence against women was believed to be common, especially in rural areas; however, there were few reports during the year. Although rape is

not known to be a chronic problem, government and NGO workers reported cases of minor female domestic workers (often victims of trafficking) who were sexually molested by employers. Police rarely intervened in such incidents, and women virtually never filed complaints with civil authorities. Only limited medical and legal assistance was available.

Female genital mutilation (FGM) occurred among the resident population of expatriate Africans. There were no laws against FGM, but according to local women's groups, it was not practiced on Gabonese girls.

The law provides that women have rights to equal access in education, business, and investment. Women owned businesses and property, participated in politics, and worked throughout the Government and the private sector. Nevertheless, women continued to face considerable societal and legal discrimination, especially in rural areas.

By law couples must stipulate at the time of marriage whether they intend to adhere to a monogynous or a polygynous relationship; polygynous marriages were more common. For monogynous married couples, a common property law provides for the equal distribution of assets after divorce. In a polygynous marriage, a husband is obligated to give all wives the same level of financial support; however, he may marry additional wives without permission from his existing wives. Wives who leave polygynous husbands receive half of their existing support as a one-time payment. In inheritance cases, the husband's family must issue a written authorization before his widow can inherit property. Common law marriage, which was accepted socially and practiced widely, affords a woman no property rights.

A regulation requires that a woman obtain her husband's permission to travel abroad; however, this requirement was not enforced consistently.

*Children.*—The Government has used oil revenue to build schools, pay teachers' salaries, and promote education, even in rural areas; however, the upkeep of schools and payment of teachers has declined in recent years. Education is compulsory until age 16 and generally is available through sixth grade. However, fewer than half of secondary school-age children attended school. Secondary school attendance rates for immigrant children were likely to be lower, although public schools accepted immigrant children, and the Government encouraged them to attend. Education was free except for miscellaneous expenses such as books and other school supplies. According to a U.N. agency, 64 percent of women were literate in 1998, compared with 78 percent of men.

The country has a relatively high infant mortality rate, and only approximately 16 percent of children have been vaccinated. Although international donors worked to improve the situation, the Government allocated few resources for vaccines and the logistical support necessary to administer them. Children remained the responsibility of the extended family—including aunts, grandmothers, and older siblings. There was little evidence of physical abuse of children, although there were some reports that girls were sexually abused by family members after reaching puberty. The law provides for protection against child labor and sexual and physical abuse.

FGM was performed on girls in the resident population of expatriate Africans (*see* Section 5, Women).

There was concern about the problems facing the large community of children of African noncitizens. Almost all enjoyed far less access to education and health care than did children of citizens; some were victims of child trafficking and abuses (*see* Sections 6.d. and 6.f.).

*Persons with Disabilities.*—There are no laws that prohibit discrimination against persons with disabilities or that provide for access to buildings or services; however, there were no reports of official discrimination against persons with disabilities. There was no known societal discrimination against persons with disabilities.

*Indigenous Persons.*—The Baka (Pygmies) are the earliest known inhabitants of the country. Several thousand Pygmies live in the country, most in large tracts of still-intact rain forest in the northeast. The law grants them the same civil rights as other citizens. Pygmies largely were independent of formal authority, keeping their own traditions, independent communities, and local decision-making structures. Pygmies did not participate in government-instituted programs that integrated many small rural villages into larger ones along major roads. Pygmies suffered societal discrimination, often lived in extreme poverty, and did not have adequate access to public services. There were no specific government programs or policies to assist or hinder Pygmies.

In 2001 a local NGO conducted a study, funded by UNICEF, of the Bukoya Pygmy population in the northeastern part of the country. NGO workers visited more than a dozen villages and found that most Pygmies there lived in conditions tantamount to slavery, working on plantations for "masters" for one plate of rice and a few cents

per day. The NGO described the children born to Pygmy families in these situations as the “property” of the master. A typical family lives on 13 cents per day. Pygmies who complained about their situations often were beaten.

*National/Racial/Ethnic Minorities.*—The country’s citizen population included several ethnic groups, each of which generally speaks a distinct primary language and is concentrated in an identifiable area of the country. There was no majority ethnic group; the largest ethnic group was the Fang, which makes up more than 30 percent of the population and is concentrated in the north. Other major ethnic groups included the Myene, the Bapunu, the Bakwele, the Obamba, and the Nzebi.

There was some correlation between ethnic and political divisions. Support for the ruling party was stronger among persons from southern ethnic groups, including President Bongo’s Bateke ethnic group, than among the northern Fang group or the coastal Myene group (see Section 3).

The Government generally fostered ethnic balance in the public sector, throughout which persons from all major ethnic groups continued to occupy prominent positions. However, there was evidence that members of the President’s Bateke ethnic group and other ethnic southerners held a disproportionately large number of key positions in the military and security forces (see Section 3).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution places no restrictions on the right of association and recognizes the right of citizens to form trade and labor unions. Virtually the entire private sector workforce was unionized. Unions must register with the Government in order to be recognized officially. Public sector employees may unionize, although their right to strike is limited if it could jeopardize public safety. There were many independent unions, including powerful unions of teachers, civil servants, transport workers, and communications workers. Some independent unions have associated to form the Gabonese Confederation of Free Unions (CGSL). The Gabonese Labor Confederation (COSYGA) continued to be affiliated with the Government but has criticized publicly some government policies it perceived as contrary to labor interests. The Labor Code provides extensive protection of worker rights.

While no laws specifically prohibit antiunion discrimination, the court may require employers who are found guilty by civil courts of having engaged in such discrimination to compensate employees.

Unions and confederations were free to affiliate with international labor bodies and participate in their activities. COSYGA was affiliated with the Organization of African Trade Union Unity, while the CGSL was affiliated with the International Confederation of Free Trade Unions. Both COSYGA and CGSL had ties with numerous other international labor organizations.

*b. The Right to Organize and Bargain Collectively.*—The Labor Code provides for collective bargaining by industry, not by firm; collectively bargained agreements set wages for whole industries. Labor and management meet to negotiate differences, and the Ministry of Labor provides an observer. This observer does not take an active part in negotiations over pay scales, working conditions, or benefits. Agreements also apply to nonunion workers.

Strikes are legal if they are held after an 8-day notice advising that outside arbitration has failed. The Labor Code prohibits direct government action against individual strikers who abide by the arbitration and notification provisions. It also provides that the Government cannot press charges against a group for criminal activities committed by individuals.

In November 2001, the Libreville city hall workers union, Solidarity, went on strike to protest poor management, inadequate working materials, and discriminatory pay. In December 2001, the police attempted forcibly to disperse the strike and injured four workers. In February the Government ended the strike through mediation, offering compensation and agreeing to revisit other grievances at a later date.

In November 2001, the National Union of Teachers and Researchers organized the union’s first coordinated strike in Libreville and Franceville to demand salary increases and improved working conditions in the country’s two universities. Approximately 12,000 university students in both cities joined the union in protest. In January the Government shut down both state-funded universities and placed union members on paid suspension. The universities officially reopened in December.

In March workers at the Cora Wood company in Port Gentil staged a 3-day strike to protest the non-payment of indemnities promised them after the buyout of their former company, Gabon Forest. The strikers erected barricades and blocked all other lumber companies from shipping timber through the city harbor. The police

monitored the strike but did not intervene. The Prime Minister mediated an agreement between workers and company that included payment of indemnities.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor; however, there were reports that such practices occurred, including by children. Some Pygmies reportedly lived in conditions tantamount to slavery (*see* Section 5).

Forced child labor was a problem. Children—in particular immigrant children—were forced to work as domestic servants or in the informal commercial sector (*see* Sections 6.d. and 6.f.).

The Government cooperated with UNICEF and the International Labor Organization (ILO) to combat forced child labor and child trafficking (*see* Section 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Children below the age of 16 may not work without the express consent of the Ministries of Labor, Education, and Public Health. These ministries rigorously enforced this law with respect to citizen children, and there were few citizens under the age of 18 working in the modern wage sector. However, a significant number of foreign children worked in marketplaces or performed domestic duties. These children generally did not go to school, received only limited medical attention, and often were the victims of exploitation by employers or foster families. Laws forbidding child labor theoretically extended protection to foreign children as well, but abuses often were not reported. A 2001 ILO study estimated that the number of economically active children between the ages of 10 and 14 years was 19,000 to 20,000, but the actual number was difficult to quantify since most children worked in the informal sector.

The Legal Code stipulates fines and prison sentences for violations of the minimum age for working. The Ministry of Justice was responsible for implementing and enforcing child labor laws and regulations. Inspectors from the Ministry of Labor were responsible for receiving, investigating, and addressing child labor complaints; however, the inspection force was inadequate, complaints were not investigated routinely, and violations were not addressed adequately.

The Government prohibits forced and bonded child labor; however forced child labor was a problem (*see* Section 6.f.).

*e. Acceptable Conditions of Work.*—The Labor Code governs working conditions and benefits for all sectors and provides a broad range of protection to workers. Traditionally representatives of labor, management, and the Government met annually to examine economic and labor conditions and to recommend a minimum wage rate within government guidelines to the President, who then issued an annual decree. This procedure has not been followed since 1994, in part because the Government was pursuing a policy of wage austerity recommended by international financial institutions. The monthly minimum wage was approximately \$91 (60,000 CFA francs); government workers received an additional monthly allowance of \$30 (20,000 CFA francs). Government workers also received transportation, housing, and family benefits; however, the law does not mandate housing or family benefits for private sector workers. In view of the high cost of living, the minimum wage does not provide a decent standard of living for a worker and family.

The code stipulated a 40-hour workweek with a minimum rest period of 48 consecutive hours. Employers must compensate workers for overtime work. All companies in the modern wage sector paid competitive wages and granted generous fringe benefits required by law, including maternity leave and 6 weeks of annual paid vacation.

The Ministry of Health established occupational health and safety standards, but it did not enforce or regulate them effectively. The application of labor standards varied greatly from company to company and between industries. In the formal sector, workers may remove themselves from dangerous work situations without fear of retribution.

The Government reportedly did not enforce Labor Code provisions in sectors where the bulk of the labor force was foreign. Foreign workers, both documented and undocumented, may be obliged to work under substandard conditions; may be dismissed without notice or recourse; or may be mistreated physically, especially in the case of illegal aliens. Employers frequently required longer hours of work from noncitizen Africans and pay them less, often hiring on a short-term, casual basis in order to avoid paying taxes, social security contributions, and other benefits.

*f. Trafficking in Persons.*—No law specifically prohibits trafficking in persons; however, trafficking in children was a serious problem. The Government did not actively investigate cases of trafficking and has not prosecuted any cases against traffickers. There were reports that some trafficked women and children were sexually abused.

In August 2001, the Council of Ministers proposed a law that would prohibit the trafficking and exploitation of children. In April the National Assembly refused to vote on the law for technical reasons and returned it to the Government for correction and resubmission. At year's end, it had not been resubmitted. Although the Government maintained that existing laws provided adequate legal grounds, no one was prosecuted for trafficking by year's end.

In January the Government used child labor laws to prosecute a Malian woman for brutally and repeatedly beating a child-trafficking victim who was working for her. The perpetrator was fined \$200 (120,000 CFA francs), ordered to pay \$600 to a trafficking victim's shelter, and sentenced to 1 year in prison. The woman was believed to have fled the country before the sentence could be enforced.

Children (especially girls) were trafficked into the country, primarily from Benin and Togo, for use as domestic servants or in the informal commercial sector. Some of the children suffered sexual abuse. Nigerian children were trafficked to the country primarily to work in the informal commercial sector.

Concerned organizations claimed that government officials employed trafficked foreign children as domestic workers, and also alleged that government officials might be involved in facilitating child trafficking.

In March the Government, the European Union, and an Italian NGO established a shelter for trafficking victims. Although in October UNICEF offered to establish a nationwide help line for victims, the Government had not provided employees to staff the telephones at year's end. Trafficking victims were not detained or deported. The Government had an informal cooperative relationship with NGOs providing services to victims.

An interministerial committee comprised of representatives from the Labor, Justice, Foreign Affairs, and Family Ministries was involved in antitrafficking efforts. The Government cooperated with UNICEF programs aimed at discouraging trafficking.

In March the Government, UNICEF, and the ILO hosted a second regional crossborder trafficking conference at which attendees from 14 countries agreed to a list of "General Principles" as a basis for future discussions and bilateral agreements. In May the Government and the ILO launched a 3-year project on the prevention of child trafficking and child labor in the country.

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## THE GAMBIA

The Gambia is a republic under multiparty democratic rule. President Alhaji Yahya A.J.J. Jammeh was reelected president for 5 years in October 2001, in an election the results of which the opposition initially accepted and observers considered generally free and fair, despite some shortcomings. Observers considered the January legislative elections and the April local election generally free and fair; however, the coalition of the largest opposition parties boycotted both elections. President Jammeh's political party, the Alliance for Patriotic Reorientation and Construction (APRC), won the majority of the National Assembly and the majority of the local council seats. The multiparty opposition remained weak and divided. Unlike in the previous year, the Government did not rely on the security forces to implement its policies. The Constitution provides for an independent judiciary; although the courts have demonstrated their independence on occasion, the judiciary, especially at lower levels, reportedly was subject to executive branch pressure and corruption.

The Gambian Armed Forces reported to the Secretary of State for Defense, a position that was held by the President. The police reported to the Secretary of State for the Interior. The National Intelligence Agency (NIA) reported directly to the President but otherwise was autonomous. The NIA was charged with protecting state security by conducting intelligence and covert investigations. These forces generally were responsive to the Government; however, they occasionally acted without direct orders. While civilian authorities generally maintained effective control of security forces, there were a few instances in which elements of the security forces, particularly the NIA, acted independently of government authority. Some members of the security forces committed human rights abuses.

The economy was market oriented with encouragement for private enterprise, and a rapidly growing population of approximately 1.4 million. Much of the population was engaged in subsistence farming. The country's farmers, a majority of whom were women, grow rice, millet, corn, and groundnuts (peanuts), the country's primary export crop. The high population growth rate has diluted the positive effects of modest economic expansion. Late rains decreased crop yields, hampered economic

growth, and increased the country's burden of debt during the year. Per capita gross domestic product was estimated to be \$330.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Citizens exercised their right to change their government in the January legislative elections and the March local government elections, which most observers considered relatively free and fair. Unlike in the previous year, security forces did not commit unlawful killings. Security forces harassed or otherwise mistreated journalists, detainees, prisoners, and opposition members. Prison conditions remained good, and the Government took steps to improve conditions at prisons during the year. Security forces arbitrarily arrested and detained citizens on a few occasions, particularly opposition politicians and journalists. There were reports of incommunicado detention. There was one known political prisoner. The Government at times infringed on citizens' privacy rights. The Indemnity law allows the President to make someone immune from prosecution for acts committed during any unlawful assembly, public disturbance, riotous situation, or period of public emergency. The Government limited freedom of the press, and security forces at times arrested and detained persons who publicly criticized or who published embarrassing or inaccurate stories about the Government. During the year, the Parliament passed a National Media Commission Bill, which further regulated and restricted freedom of speech and of the press. Journalists practiced self-censorship. The Government at times restricted freedom of assembly and association. The Government at times enforced restrictions on freedom of movement. In January President Jammeh invited former President Dawda Jawara to return to the country. Jawara previously remained outside the country under threat of arrest and detention on corruption charges. On June 1, President Jammeh received former President Jawara at State House. During the year, the country provided first asylum for several thousand refugees from Senegal. Violence and discrimination against women persisted. The practice of female genital mutilation (FGM) was widespread and entrenched. Child labor was a problem, and there were some instances of child prostitution.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Unlike in the previous year, there were no reports that security forces committed unlawful killings.

Unlike in the previous year, there were no reports that security forces shot and killed persons at checkpoints. No action was taken, nor is any likely, in the following 2001 cases: The January killing of Bakary Cessay; or the October killing of Hussein Wasni; or the October killing of Ousman Cessay.

No action was taken, nor is any likely, in the January 2000 killing of two military personnel.

In 2001 the Government established a commission to examine the findings of a coroner's inquest into the killings of 14 persons by security forces in April 2000; however, the Government rejected the commission's findings and decided that no one would be prosecuted (*see* Section 1.c.). The 2001 Indemnity Law protected individuals from prosecution or legal action by the families of the victims.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that government officials employed them. There continued to be reports that security forces mistreated detainees; however, there were no reports that prisoners or opposition supporters were tortured while in detention.

Police officers harassed journalists during the year (*see* Section 2.a.).

Unlike in the previous year, there were no reports that security forces shot and injured several persons (*see* Section 1.a.) or that police harassed and detained citizens and foreigners at gunpoint.

Unlike in the previous year, President Jammeh did not threaten opposition members.

No action was taken against the responsible members of the security forces who beat or otherwise abused persons in the following 2001 cases: The February beating of John Seneise; the April beating of 17-year-old Sukuta Secondary student, Brian Secka; and the June beating of three athletes from Kanifing after a volleyball match.

No action was taken against those responsible for election violence in 2001.

No action was taken against the responsible members of the security forces who beat or otherwise abused persons in the following 2000 cases: The January mistreat-

ment of Ousman Ceesay or the May beating of a journalist from the Democratic Republic of the Congo.

In January 2001, following the submission of the Government commission's report on the killing of 14 students by security forces in April 2000, the Government announced that it disagreed with the recommendations of the commission and, in the spirit of reconciliation, nobody would be prosecuted. In April 2001, after a heated debate, the National Assembly approved a very controversial Indemnity Bill, which was backdated to January 2000. The coalition of lawyers and some National Assembly members who disagreed with the bill said that the bill, which was passed to amend the Indemnity Act of 1982, would deny persons their right of access to justice. The bill read: "The President may, for the purpose of promoting reconciliation in an appropriate case, indemnify any person he may determine, for any act, matter or omission to act, or things done or purported to have done during any unlawful assembly, public disturbance, riotous situation or period of public emergency." In May 2001, the President signed the bill, despite a general outcry and petitions from human rights organizations. The legislation prevents those affected, including parents of children killed in April 2000, from seeking redress in any court in the country.

There were no reports of violence related to the January legislative elections.

Conditions at Mile 2, Janjanbureh, and Jeshwang prisons remained spartan but adequate. The International Committee of the Red Cross (ICRC) visited Mile 2 and Jeshwang prison during the year and found that the conditions were good. Prisoners received three meals a day, each prison had an infirmary, and outside doctors were brought in to provide additional medical care when required. However, the ICRC also noted that the psychological conditions of the prisons were "hard"; for example, maximum security prisoners were confined to small, individual cells for 21 hours a day and were allowed few family visits. The Prison Department organized a Prison Rehabilitation Week (PRW), which focused public attention on the prisoners and raised funds for skills training for prisoners. The program also targeted female and juvenile prisoners.

There were credible reports of beatings and malnourishment of detainees; however, there were no reports of harsh treatment of long-term prisoners. Local jails continued to experience overcrowding. Inmates, including detainees awaiting charges and those who were charged and awaiting trial, occasionally had to sleep on the floor; they were provided with mats or blankets. Police were reluctant to terminate fistfights between prisoners until the dispute was settled, and many of the prisoners were injured. Women, juveniles, and pretrial detainees were housed separately. There was no separate section or facility for political prisoners; there was only one known political prisoner.

Unlike in previous years, local nongovernmental organizations (NGOs) generally were permitted to visit prisons upon request. Representatives from the African Commission on Human and Peoples Rights and the ICRC visited the three prisons during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution includes provisions to protect against arbitrary arrest and detention; however, police and security forces arbitrarily arrested and detained citizens on a few occasions. Periods of detention ranged from a few hours to 2 weeks. There were reports that some detainees were held incommunicado.

The Government has not revoked formally military decrees enacted prior to the 1997 Constitution that give the NIA and the Secretary of State for the Interior broad power to detain individuals indefinitely without charge "in the interest of national security." The Constitution provides that decrees remain in effect unless inconsistent with constitutional provisions. These detention decrees appear to be inconsistent with the Constitution, but they have not been subject to judicial challenge. The Government has stated that it no longer enforced these decrees; however, in some instances, the Government did not respect the constitutional requirement that detainees be brought before a court within 72 hours. Detainees often were released after 72 hours and instructed to report to the police station or NIA headquarters periodically until their case went to trial. During the year, many local police stations and the NIA changed their procedures and practices to satisfy the constitutional requirement that any detainee be released or charged within 72 hours.

The law requires that authorities obtain a warrant before arresting a person; however, persons were arrested without them. Detainees were not always allowed prompt access to family members or a lawyer. There was a functioning bail system.

Police arrested and detained opposition party supporters; however, there were no reports of torture in detention. For example, on November 22, police arrested the leader of the UDP, Ousainou Darboe, and two other UDP members, Shyngle Nyassi and Marong because a judge revoked their bail in the murder case that has been

pending since July 2000. On November 29, the court again released Darboe on bail. On December 2, Nyassi and Marong also were released on bail. At year's end, the trial was scheduled to resume in February 2003.

Security forces detained persons who expressed views in disagreement with the Government (*see* Section 2.a.). Security forces detained journalists during the year (*see* Section 2.a.). Unlike in the previous year, there were no reports that religious leaders were detained.

On June 27, the court acquitted Omar Jallow and his four associates of eight counts of conspiracy, assault, trespassing, and threatening violence.

The trials of two UDP supporters charged with breach of peace for allegedly playing a UDP political rally videocassette on the Bantanto Community Television remained pending at year's end.

No action reportedly was in the 2001 case of UDP activist Kassa Jatta; UDP militant Musa Fatty; Alanie Mybally, former vice president of Gamsu; Dr. Momodou Lamin Manneh, an opposition supporter; Citizen FM Radio director George Christensen; and Muhammed Lamin Sillah from Amnesty International. The NIA released all without charge except for Sillah. Sillah was held incommunicado and released after he was charged with inciting genocide and confusion and attempting to overthrow the Government; he was not tried.

There were no developments in the 2000 detention of Ebrima Yabo, Ebrima Barrow, Momodou Marenah, Dumo Saho, Lalo Jaiteh, and Omar Darboe on suspicion of attempting to violate state security.

Unlike in previous years, security forces did not detain persons who expressed views in disagreement with the Government.

In previous years, security forces arrested persons for allegedly plotting to overthrow the Government. At least one soldier, the alleged coup leader, arrested in 2000 for plotting to overthrow the Government, remained in detention at year's end.

The slow pace of the justice system resulted in remand prisoners waiting long periods in pretrial detention. Approximately 40 of Mile 2's 230 inmates were in detention without a trial. There were no remand prisoners at Jeshwang Prison, which housed 70 inmates. Most of the detainees have been in the remand wings of the Mile 2 and Janjanbureh prisons for more than 4 years without trial.

The Government did not use forced exile. Senior officials of the former government, including Vice President Saihou Sabally and Secretary General Abdou Sara Janha, remained outside the country for fear of harassment or detention but did not face official charges. Threats were used to prevent these politicians from returning home to participate in the presidential election, despite the repeal of Decree 89 and the enforcement of the orders of the commissions of inquiries on the assets of the affected politicians (*see* Section 3). Former President Sir Dawda Jawara returned to the country during the year following a December 2001 invitation from President Jammeh. Jawara previously remained outside the country under threat of arrest and detention on corruption charges. On June 1, President Jammeh received former President Jawara at the state house.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice the judiciary reportedly at times was subject to executive branch pressure, especially at the lower levels. Nevertheless the courts have demonstrated independence on several occasions, at times in significant cases. For example, in June the courts ruled that the Government must return the passport of opposition politician Omar "O.J." Jallow after the Immigration Department seized it (*see* Section 2.d.).

The judicial system suffered from corruption, especially at the lower levels, and from inefficiency at all levels. Many cases were not heard for months or years because the court system was overburdened and lacked the capacity to handle the high volume of cases. In an effort to alleviate the backlog and reduce the possibility of undue influence and corruption, the Government solicited judges and magistrates from other Commonwealth countries who share a similar legal system. Despite these steps, the problem of corruption in the legal system persisted. The Constitution provides for the right to a fair trial; however, the lack of resources and widespread corruption limited this right in practice.

The judicial system comprises the Supreme Court, the Court of Appeal, high courts, and eight magistrate courts. Village chiefs presided over local courts at the village level. Trials were public, and defendants had the right to an attorney at their own expense. Defendants received presumption of innocence; had the right to confront witnesses and evidence against them; presented witnesses on their own behalf; and could appeal judgement to a higher court.

The judicial system recognizes customary, Shari'a, and general law. Customary law covers marriage and divorce for non-Muslims, inheritance, land tenure, tribal and clan leadership, and all other traditional and social relations. Shari'a law was



observed primarily in Muslim marriage and divorce matters; and it favored men in its provisions. Christian and civil marriage and divorce matters were settled by the appropriate church and the Office of the Attorney General. General law, following the English model, applied to felonies and misdemeanors in urban areas, and to the formal business sector.

In 1997 the Court of Appeal overturned the treason convictions and death sentences of four men accused of leading an abortive coup in 1996. The Government appealed this decision to the Supreme Court, and the case remained before the Supreme Court at year's end.

Persons have been held for extended periods without trial (*see* Section 1.d.).

There was one known political prisoner, a former AFPRC vice chairman, Lieutenant Sana Sabally, who was serving 9 years at Mile 2 prison in Banjul for conspiring to assassinate the President in 1995. International and domestic human rights organizations were not permitted access to him.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such abuses; although the Government generally respected these prohibitions, in practice there were some exceptions. The Government has not repealed Decree 45, which abrogates constitutional safeguards against arbitrary search and permits search and seizure of property without due process. This decree formally remained in effect, pending a judicial finding that the decree is inconsistent with the Constitution. In practice the Government appeared not to enforce it, but no court case has been brought to test the decree's constitutionality. In some instances, security forces forcibly entered homes to arrest citizens without warrants.

Opposition politician Omar "O.J." Jallow alleged that security forces entered his compound without permission at night to arrest him when they confiscated his passport and detained him.

Observers believed the Government monitored citizens engaged in activities that it deemed objectionable.

The Government restricted the right to transfer funds and in previous years, confiscated the assets of most senior officials of the former Jawara government.

In April 2000, the Tambakoto village head illegally seized the land of five UDP activists; the lands had not been returned by year's end.

There were no investigating commissions formed during the year.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and the press, however, in practice the Government limited the full exercise of these freedoms by using intimidation and restrictive media legislation. The Government also employed arrest, detention, and interrogation to intimidate journalists and newspapers that published articles that it considered inaccurate or sensitive. As a result, journalists practiced a significant degree of self-censorship.

Security forces arrested and detained persons who publicly criticized the Government or who expressed views in disagreement with the Government (*see* Section 1.d.). For example, on September 16, the NIA detained Omar "O.J." Jallow for critical remarks he made about the Government (*see* Section 2.d.).

No subsequent action was taken in the case of Muhammed Lamin Sillah, the coordinator of the Coalition of Human Rights Defenders and Secretary General of the domestic chapter of Amnesty International.

Decrees 70 and 71 continued to inhibit free reporting. The decrees require all newspapers to post a \$4,500 (100,000 dalasi) bond or cease publication. The bond was required to ensure payment of any penalties imposed by a court for the publication of blasphemous or seditious articles or other libel. State-owned publications were not subject to these decrees. The possession and distribution of documents deemed to be "political literature" was not barred by decree, and the ruling APRC and opposition parties distributed leaflets and papers that could be considered "political literature" during the year. Although still independent, the nongovernment press practiced a degree of self-censorship. Despite government harassment, strong criticism of the Government was frequent, and opposition views appeared in the independent press.

English, French, and other foreign newspapers and magazines were available. The Government published a daily newspaper, the *Gambia Daily*. The *Daily Observer*, though independent, favored the Government in its coverage; however, during the year, there were a few occasions that the newspaper featured an editorial that criticized the Government's position on the Media Commission Bill. There were four other independent newspapers, including one published by an opposition political party, and one independent weekly magazine. All newspapers that were not state-owned pay a \$4,500 (100,000 dalasi) mandatory registration fee. Independent publi-

cations continued to operate; however, they complained that the fee places a serious financial burden on them.

On August 5, President Jammeh signed the National Media Commission Bill, which imposed restrictions on the press's ability to cover the news. The legislation gave a state-appointed committee the right to license and register journalists (and to impose subject heavy fines and suspension for failure to do so), force reporters to reveal confidential sources, issue arrest warrants to journalists, and formulate a journalistic code of ethics. A high court judge, who would be chosen by the Chief Justice, would chair the Media Commission. The media and international press organizations criticized the media commission as a potential infringement on press freedom. The commission will include four government representatives: the Permanent Secretary of the department responsible for information, the Director General of Gambia Radio and Television Services (GRTS), the Executive Secretary of the Commission, and a representative of the Women's Bureau. It also will include representatives of the following 5 NGOs: The Gambia Press Union (an independent press organization), the Gambia Teachers Union, the Supreme Islamic Council, the Gambian Christian Council, and the Gambia Bar Association.

Security forces and police harassed and detained journalists. The Government detained, questioned, and otherwise harassed journalists and editors of newspapers that published articles it considered inaccurate or sensitive. For example, on July 19, the NIA arrested a Congolese reporter from the Pan African News Agency (PANA), Guy Patrick Massoloka, and detained him for approximately 2 weeks. Massoloka claimed mistreatment in detention. The Government claimed Massoloka published an unregistered weekly newspaper and deported him before filing charges against him.

On August 2, the NIA arrested and detained Pa Ousman Darboe and Alhaji Yoro Jallow, reporters at the Independent newspaper, in relation to an article alleging that the Vice-President had remarried. Both were released within 72 hours of detention.

There reportedly was no action taken against the members of the police responsible for detaining, and in some cases beating, Alieu Badara Mansaray; UDP activist Kassa Jatta; Momadou Thomas; Bakary Manneh; and Namory Thawl in 2001.

Unlike in the previous year, there were no reports that security forces forcibly entered the homes of journalists.

The Government generally did not restrict the publication, importation, or distribution of written material; however, some problems remained. On April 20, police arrested and detained until April 24 without bail Musa Sanyang for printing and distributing photographs of Omar Ceesay, an independent candidate in the election for Basse council chair. On April 20, police in Basse arrested Musa Sanyang and held him until April 24 without bail. The police released him without charge and without stating a reason for the arrest, although Sanyang believed it was related to his support for an independent candidate in the April 25 local election.

Unlike in previous year, President Jammeh did not threaten Gambia Radio.

One government controlled and four private radio stations broadcast during the year. Occasionally there were public affairs broadcasts on at least two independent radio stations. Local stations sometimes rebroadcast the British Broadcasting Corporation (BBC), Radio France Internationale, and other foreign news reports, and all were available via shortwave radio. Senegalese television and radio were available in many parts of the country. Wealthy residents also used television satellite systems to receive independent news coverage.

During most of the year, government television and radio gave very limited coverage to opposition activities, including statements by opposition parliamentarians in the National Assembly. However, during the January and April elections, opposition candidates had frequent and fair access to state-owned radio and television. In most other respects, the state media served as propaganda instruments for the Government and its supporters.

Former producer Peter Gomez did not appeal his dismissal from state-owned Radio Gambia.

Unlike in previous years, there were no reports that security forces arrested journalists on the pretext of financial matters regarding their stations. Citizen FM was known in the past for its civic education and political programming and remained closed at year's end. At year's end, Baboucarr Gaye, the owner of Citizen FM, had paid the entire amount of an alleged tax owed to the Government; however, he had not been allowed to appear in court or re-open the radio station.

There was convenient, inexpensive Internet access through Internet cafes and private accounts. The Government did not restrict Internet access or operation.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, at times the Government limited this right in practice. The authorities interfered with efforts by the principal opposition party, the UDP, to organize public meetings. For example, in May the UDP had applied for and received a permit to use a public address system during a tour of the North Bank. After the tour began, the UDP received a letter from the Inspector General of Police revoking the permit with no cause stated. The UDP and other opposition parties held public rallies freely the rest of the year, and there were no reports that security forces disrupted demonstrations.

In May 2001, the President signed a bill that allows him to indemnify, or grant amnesty to, any person he determines for any action done during an unlawful assembly or other disturbance (see Section 1.c.).

The Constitution provides for freedom of association; however, the Government restricted this right in practice. The AFPRC's Decree 81 of 1996 requires NGOs to register with the National Advisory Council, which has the authority to deny, suspend, or cancel the right of any NGO to operate, including that of international NGOs. However, the Government did not take action against any NGOs during the year.

Unlike in the previous year, the Government did not expel foreign diplomats from the country.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

No subsequent action was taken in the 2001 case of Imam Baba Leigh.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights but allows for “reasonable restrictions,” which the Government at times enforced. Unlike in previous years, police did not harass or detain citizens and foreigners at gunpoint or shoot or kill anyone at checkpoints.

The authorities prohibited those under investigation for corruption or security matters from leaving the country. On March 24, when People's Progressive Party (PPP) leader Omar “O.J.” Jallow returned from observing a foreign election, government officials confiscated his passport. Jallow claimed that the seizure was in retribution for politically charged remarks he had made comparing the country's presidential election to other African countries. The Government claimed it had the right to hold Jallow's passport to prevent him from traveling while he faced corruption charges; however, earlier in the month, the judge in the case against Jallow had granted him permission to leave the country. The Government also failed to return the passport when ordered to do so by the court and continued to hold it after Jallow was acquitted. On September 26, the Government returned Jallow's passport.

Unlike in the previous year, there were no reports that security forces harassed immigrants.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government granted first asylum to refugees and generally cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations. The Government worked with the UNHCR and local NGOs in processing refugee claims. The country hosted approximately 3,500 Senegalese refugees from the troubled Casamance region, as well as approximately 4,500 additional refugees from Guinea-Bissau, Liberia, and Sierra Leone.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in legislative and local elections. The APRC continued to dominate the political landscape during the year. In October 2001 presidential election, which most observers considered to be relatively free and fair despite some shortcomings, the President was reelected. The Constitution provides for the democratic election of the President every 5 years.

In January National Assembly elections were held and the major opposition coalition decided to boycott the elections. The opposition coalition accused the Independent Electoral Commission (IEC) of allowing fraudulent voter registrations and mismanaging both the presidential and national elections. The boycott was criticized widely as unjustified and as an inappropriate response to the alleged fraud and left many of its own candidates unfunded and unsupported at the time of the election. In January the APRC won the majority for the National Assembly, in part because

the UDP/PPP opposition coalition boycotted the legislative election. The Democratic Organization for Independence and Socialism (PDOIS) won two seats and the National Reconciliation Party (NRP) won one seat. The President appointed four members of his own party and one former opposition presidential candidate to the 48-member assembly.

In April local elections were held that were considered generally free, fair, and transparent; however, the UDP boycotted the local elections, which allowed the APRC to run unopposed for many seats. There were unsubstantiated reports of vote-buying by the APRC and opposition parties.

In June 2001, the National Assembly passed several amendments that reduced the power of the IEC to control many fundamental election matters. The National Assembly gained the power to set the registration requirements for political parties and change constituency boundaries; local chieftaincies became presidential appointments instead of elected positions; voter registration requirements were relaxed; and the IEC lost the right to question voters about their citizenship during the registration process. International observers described the October 2001 presidential electoral process as generally free and fair, despite some shortcomings. Five opposition parties competed in the election and won approximately 47 percent of the votes cast; President Jammeh won approximately 53 percent of the vote. The opposition political parties initially conceded but then accused the Government of bribing voters and issuing threats, both explicit and veiled, against individuals and communities that did not support the incumbent. They accused the IEC of registering foreigners and issuing them voter cards, thereby permitting them to vote in the elections. Observers agreed there probably were some irregularities in the registration process, but on a much smaller scale than the UDP/PPP/GPP coalition alleged. The post-election period was marred when Jammeh fired more than 20 village heads and civil servants, several of whom were APRC members, who had not expressed public support for him during the campaign or who had been accused of corruption or incompetence; security forces also arrested and detained many opposition supporters throughout the country.

Approximately 55 percent of women registered to vote in the October 2001 presidential election. There were 7 women in the 48-seat National Assembly; three were elected, four were appointed by the President. There were 3 women in the 15-member Cabinet, including the Vice President. The Secretary General of the Government (the president's chief of staff and head of the civil service) was also a woman.

There were no statistics available on the percentage of minorities who compose the legislature or the cabinet. President Jammeh and many members of his administration were Jolas, an ethnic group that previously was marginalized; however, it now actively participates in government.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. The Government officials were somewhat cooperative and responsive to their views.

Unlike in the previous year, authorities did not arrest human rights activists.

Unlike in previous years, there were no sensitive, public cases of termination appealed to the ombudsman.

#### *Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination based on race, sex, disability, language, or social status, and the Government generally respected these prohibitions.

*Women.*—Domestic violence, including abuse, was a problem. It was reported occasionally, and its occurrence was believed to be common. Police tended to consider these incidents to be domestic issues outside of their ordinary jurisdiction. Rape, spousal rape, and assault are crimes under the law; rape was not common. The law against spousal rape is difficult to enforce effectively, as many people do not consider it a crime and fail to report it. The law does not differentiate between married and unmarried women in this regard.

The practice of FGM was widespread and entrenched. There is no law against the practice. Reports placed the number of women who have undergone FGM at between 60 and 90 percent. Approximately seven of the nine major ethnic groups practiced FGM at ages varying from shortly after birth until 16 years old. FGM was less frequent among the educated and urban segments of those groups that practice FGM. There were unconfirmed reports of incidences of health-related complications, including deaths, relating to the practice of FGM; however, no accurate statistics were available. In recent years, the Government publicly has supported efforts to

eradicate FGM and discouraged FGM through health education; however, the Government has not passed legislation against FGM, which is not considered a criminal act. President Jammeh publicly has stated that the Government would not ban FGM; however, the Government was working to convince traditional village leaders to support the abandoning of the traditional practice of FGM.

In June the media reported that religiously-motivated kidnapers abducted a 13 year-old-girl in Tanji village and forcibly circumcised her. The kidnapers did not deny the charges; rather they asserted that their action was justified because the girl voluntarily visited the circumcision site during the appointed period. Tradition dictates that an eligible girl who visits the circumcision site during the appointed period must be circumcised. Police filed criminal charges under laws prohibiting kidnaping and child endangerment. At least one women's group publicly protested the judge's decision against the defendants. As of this writing, the decision has been appealed, and the family is considering civil charges. Practitioners of FGM and other types of circumcision in the country firmly believe that Islam mandates it and its surrounding rites; however, Imam Baba Lee of the Kanifing Mosque declared that Islam forbids such harmful customs.

Prostitution is illegal but was a growing problem.

Sexual harassment is not prohibited by law and the Department of Women's Affairs oversee programs to ensure the legal rights of women. Sexual harassment is not believed to be widespread, although individual instances have been noted. Traditional views of women's roles resulted in extensive societal discrimination in education and employment. Employment in the formal sector was open to women at the same salary rates as men. No statutory discrimination existed in other kinds of employment; however, women generally were employed in such places as food vending or subsistence farming.

Shari'a law usually is applied in divorce and inheritance matters for Muslims, who make up approximately 90 percent of the population. Women normally received a lower proportion of assets distributed through inheritance than did male relatives.

Marriages often were arranged and, depending on the ethnic group, polygyny was practiced. Women in polygynous unions have property and other rights arising from the marriage. They have the option to divorce, but not a legal right to approve or be notified in advance of subsequent marriages.

The Department of Women's Affairs, under the direction of the Vice President, oversees programs to ensure the legal rights of women. Active women's rights groups exist (*see* Section 4).

*Children.*—The Government was committed to children's welfare. The Department of Education and the Department of Health, Social Welfare, and Women's Affairs were the two most generously funded departments; however, lack of resources limited state provision of both education and health services.

The Constitution mandates free compulsory primary education up to 8 years of age, but the state of the educational infrastructure prevented effective compulsory education. The participation of girls in education was very low. Girls constituted approximately 40 percent of primary school students and roughly one-third of high school students. The enrollment of girls was low particularly in rural areas where a combination of poverty and sociocultural factors influenced parents' decisions not to send girls to school.

In October the Government implemented a program to pay school fees for all girls. The program covered only the highly populated area around the capital city in the first year; however, the Government hopes to expand the program to the entire country.

Authorities generally intervened when cases of child abuse or mistreatment were brought to their attention; however, there was no societal pattern of abuse against children. Any person who has carnal knowledge of a girl under the age of 16 is guilty of a felony (except in the case of marriage, which can be as early as 12 years of age). Incest also is illegal. These laws generally were enforced. Serious cases of abuse and violence against children were subjected to criminal penalties.

FGM was performed primarily on young girls (*see* Section 5, Women).

Child prostitution was a problem (*see* Section 6.f.).

*Persons with Disabilities.*—There were no statutes or regulations requiring accessibility for persons with disabilities. No legal discrimination against persons with physical disabilities existed in employment, education, or other state services. Persons with severe disabilities subsisted primarily through private charity. Persons with less severe disabilities were accepted fully in society, and they encountered no discrimination in employment for which they physically were capable.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Labor Act, which applies to all workers except civil servants, specifies that workers are free to form associations, including trade unions, and provides for their registration with the Government. Unions must register to be recognized, and there were no cases where registration was denied to a union that applied for it. The Labor Act specifically prohibits police officers and military personnel, as well as other civil service employees, from forming unions. Approximately 20 percent of the work force was employed in the modern wage sector, where unions were most active. Approximately 30,000 workers were union members, constituting an estimated 10 percent of the work force.

The Gambian Worker's Confederation (GWC) and the Gambian Workers' Union (GWU) were the two main independent and competing umbrella organizations. The Government recognized both organizations.

Employers may not fire or discriminate against members of registered unions for engaging in legal union activities; and the Government has stepped in to assist workers who have been fired or discriminated against by employers.

Unions and union confederations may affiliate internationally, and there were no restrictions on union members' participation in international labor activities. The Gambia Worker's Union (GWU) was a member of the International Confederation of Free Trade Unions.

*b. The Right to Organize and Bargain Collectively.*—The Labor Act allows workers to organize and bargain collectively. Although trade unions were small and fragmented, collective bargaining took place. Each recognized union has guidelines for its activities determined by the Joint Industrial Council Agreement (JIC), an arrangement among all of the active trade unions and their employers, which was drafted and signed by the unions. Unions were able to negotiate without government interference; however, in practice the unions lacked experience, organization, and professionalism, and often turned to the Government for assistance in negotiations. Union members' wages exceeded legal minimums and were determined by collective bargaining, arbitration, or agreements reached between unions and management and considered to be legal after insuring that the agreements are in compliance with the JIC. No denial of registration was reported. The act also sets minimum contract standards for hiring, training, terms of employment, and provides that contracts may not prohibit union membership.

The Labor Act authorizes strikes but requires that unions give the Commissioner of Labor 14 days' written notice before beginning an industrial action (28 days for essential services). The Labor Act specifically prohibits police officers and military personnel, as well as other civil service employees, from striking. It prohibits retribution against strikers who comply with the law regulating strikes. Upon application by an employer to a court, the court may prohibit industrial action that is ruled to be in pursuit of a political objective. The court also may forbid action judged to be in breach of a collectively agreed procedure for settlement of industrial disputes. Because of these provisions and the weakness of unions, few strikes occur. There were no strikes during the year.

The Government established an export processing zone (EPZ) at the port of Banjul and the adjacent bonded warehouses. The Labor Code covers workers in the EPZs, and they were afforded the same rights as workers elsewhere in the economy.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor and there were no reports that such practices occurred. The law does not prohibit specifically forced and bonded labor by children; however, it is not known to occur.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Government does not have a comprehensive plan to combat child labor. The statutory minimum age for employment is 18 years. There is no effective compulsory education, and because of limited secondary school openings, most children completed formal education by the age of 14 and then began work. Employee labor cards, which include a person's age, were registered with the Labor Commissioner, who was authorized to enforce child labor laws. However, enforcement inspections rarely took place. Child labor protection does not extend to youth performing customary chores on family farms or engaged in petty trading. In rural areas, most children assisted their families in farming and housework. In urban areas, many children worked as street vendors or taxi and bus assistants. There were a few instances of child street begging. The tourist industry has stimulated a low level of child prostitution (*see* Section 5).

The Department of State for Labor was responsible for implementing the terms of the ILO Convention 182 on the worst forms of child labor.

*e. Acceptable Conditions of Work.*—Minimum wages and working hours were established by law through six joint industrial councils and labor, management, and the Government were represented on these councils. The lowest minimum wage was approximately \$0.66 (12 dalasi) per day for unskilled labor. This minimum wage was not sufficient to provide a decent standard of living for a worker and family. The minimum wage law covers only 20 percent of the labor force, essentially those workers in the formal economic sector. The majority of workers were employed privately or were self-employed, often in agriculture. Most citizens did not live on a single worker's earnings and shared resources within extended families.

The basic legal workweek was 48 hours within a period not to exceed 6 consecutive days. Nationwide the workweek included 4 8-hour workdays and 2 4-hour workdays (Friday and Saturday). A 30-minute lunch break was mandated. Government employees were entitled to 1 month of paid annual leave after 1 year of service. Private sector employees receive between 14 and 30 days of paid annual leave, depending on length of service.

The Labor Act specifies safety equipment that an employer must provide to employees working in designated occupations. The Factory Act authorizes the Ministry of Labor to regulate factory health and safety, accident prevention, and dangerous trades, and the Ministry is authorized to appoint inspectors to ensure compliance with safety standards. Enforcement was inconsistent due to insufficient and inadequately trained staff. Workers may demand protective equipment and clothing for hazardous workplaces and have recourse to the Labor Department. The law provides that workers may refuse to work in dangerous situations without risking loss of employment; however, in practice workers who do so risk loss of employment.

The law protects foreign workers employed by the Government; however, it only provides protection for privately employed foreigners if they have a current valid work permit. Foreign workers may join local unions.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports of trafficking in persons. The tourist industry has stimulated a low level of child prostitution, which was prosecuted vigorously.

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## GHANA

Ghana is a constitutional republic with a strong presidency and a unicameral 200-seat Parliament; multiparty elections have been held every 4 years since the country returned to constitutional rule in 1992. In December 2000, six opposition parties and the ruling National Democratic Congress (NDC) contested presidential and parliamentary elections, which despite a few incidents of intimidation and election fraud, domestic and international observers judged generally free and fair. In January 2001, John Agyekum Kufuor of the opposition New Patriotic Party (NPP) was inaugurated as president. President Kufuor was elected in a run-off election with 56.7 percent of the vote against then Vice-President John Atta Mills of the NDC. The Constitution calls for a system of checks and balances, with an executive branch headed by the President, a unicameral parliament, an independent judiciary, and several autonomous commissions, including the Commission for Human Rights and Administrative Justice (CHRAJ). In practice the system of checks and balances was limited by a system-wide lack of resources that affected all three branches. The Government generally respected the constitutional provisions for an independent judiciary; however, in practice the judiciary was subject to influence and corruption and lacked adequate resources.

The police, under the jurisdiction of an eight-member Police Council, were responsible for maintaining law and order. A separate department, the Bureau of National Investigations (BNI), handled cases considered critical to state security and answered directly to the executive branch. While civilian authorities generally maintained effective control over security forces, there were some instances in which elements of the security forces acted independently of government authorities. Some members of the police and other security forces committed a number of serious human rights abuses.

The economy remained dependent on agriculture, with approximately 36 percent of gross domestic product (GDP) and 48 percent of employment derived from this sector, according to government statistics. The country's population was 19.9 million. Gold, cocoa, and timber were the traditional sources of export earnings; gold revenues fell due to the drop in the prices of this commodity on the world market while cocoa prices rose substantially towards year's end. The economy grew at a rate of 4.2 percent, up from 3.7 percent in 2001. Inflation fell from 21 percent to 13 percent. Per capita GDP in dollar terms fell to approximately \$300.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Police use of excessive force resulted in some unlawful killings and injuries. There continued to be credible reports that members of the police beat suspects in custody, and that police and some elements of the military arbitrarily arrested and detained persons. Police corruption was a problem. Although members of the security forces often were not punished for abuses, nearly all of the 64th Infantry Unit, which was believed to have committed many abuses under the previous government, were transferred to other units during the year. Prison conditions remained harsh and life-threatening. Prolonged pretrial detention remained a problem. Juvenile detainees were housed in separate facilities. Inadequate resources and a system vulnerable to political and economic influence compromised the integrity of the overburdened judicial system. At times the Government infringed on citizens' privacy rights. The Government generally respected freedom of speech and of the press; however, there were occasional reports that government officials pressured government media outlets to cease or minimize coverage of opposition politicians. Major government media outlets exercised some restraint in their coverage. At times the Government restricted freedom of assembly, and police forcibly dispersed some demonstrations. There were some limits on freedom of religion. Although the Government generally respected freedom of movement, police set up barriers to demand bribes from motorists. A night-time curfew was imposed in the north of the country where intraethnic violence occurred. Violence against women was a serious problem; however, prosecution of sexual abuse against underage girls increased and courts began to give lengthier sentences for such abuse. *Trokosi*, a traditional form of ritual servitude, was practiced on a limited scale in one region of the country. Female genital mutilation (FGM) still was practiced, primarily in the north. Unlike in previous years, no interreligious clashes occurred. There were some incidents of ethnically motivated violence, and some ethnic groups complained of discrimination. Child labor was a problem in the informal sector, and forced child labor and trafficking in women and children also were problems. Vigilante justice also was a problem. Ghana was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Security forces committed a number of unlawful killings of criminal suspects. The number of deaths reportedly caused by members of the security forces during the year was unavailable. There were seven in 2001 and five in 2000.

In recent years, the police service in particular has come under severe criticism following incidents of police brutality, corruption, and negligence. Public confidence in the police remained low, and mobs attacked several police stations due to perceived police inaction, a delay in prosecuting suspects, rumors of collaboration with criminals, and the desire to deal with suspects through instant justice. The Ghana Governance and Corruption Survey completed in 2001 found that the police were among the "least trusted, least effective, and most corrupt" government institutions in the country. The Inspector General of Police (IGP) trained the police in human rights and riot control.

On May 22, security forces broke into a house in the Odorkor neighborhood of Accra and dragged two suspected armed robbers outside. They beat the men and hit them with the butts of guns, which resulted in the death of one of the men. A police officer was charged formally with murder; however, the trial had not begun by year's end.

On June 13, security forces responding to a robbery report killed four persons who later were reported to be members of a local neighborhood watch committee. The Government set up a three-member inquiry committee to investigate the incident, and on September 13, the committee submitted its report to the Government. The Attorney General's office announced its intention to prosecute the officers, but had not done so by year's end.

There were no developments in the following 2001 cases: The February alleged killing of a suspect by a police sergeant; the March death of three persons when police forcibly dispersed residents in Nsoatre, Brong-Ahafo Region; the May police beating of a farmer in Obuase, Ashanti Region who died from his injuries; the July death in prison of a 90-year-old man in Sunyani, Brong-Ahafo Region; and the October case in which an armed bank robbery suspect in Mampong, Ashanti District died while in custody at the Kumasi Central Prison.



In May 2001, 126 persons were crushed and trampled to death when police used tear gas to control a portion of the crowd who were vandalizing the stadium during a soccer match at the Accra Sports Stadium. An official Commission of Inquiry concluded that the police overreacted to fan vandalism and bore primary responsibility for the incident; the Commission also cited negligence by the National Sports Council and the poor design of the stadium's stairwells. The Commission concluded that the police who provided testimony conspired to subvert the Commission's work through a conspiracy of silence. In December the Attorney General's office began criminal proceedings against the six senior police officers who gave the order to fire tear gas.

The trial in the case of a police officer charged with the August 2001 murder of a 27-year-old Accra Polytechnic student at Dansoman, Greater Accra, began in March and was ongoing at year's end.

A police investigation into the September 2001 killing of two persons by a police officer who shot his gun at a minibus and several bystanders was concluded during the year and found the officer to be at fault. No action was taken as the officer had been lynched by a mob after the incident.

There were no developments in the following 2000 cases: The April killing of a miner during a conflict in Bibiani; the July killing of a young man in the Eastern Region who had a history of mental illness; the October case of a driver who died of unexplained causes while hospitalized after allegedly causing an accident in which four of former President Rawlings' bodyguards were killed; the November case in which police killed an alleged fuel smuggler in the Afedido in the Volta Region; and the police shooting of a 23-year-old man in Madina, Greater Accra Region.

Many persons died in prisons due to extremely harsh conditions and lack of medical treatment (*see* Section 1.c.).

In January and March, public and private burial ceremonies for the bodies of three former heads of state and five senior military officers who were executed in 1979 took place.

During the year, chieftancy disputes led to several deaths and a number of injuries (*see* Section 5).

The press reported numerous cases of vigilante style "instant justice" conducted by angry citizens and mobs on suspected criminals and suspected witches that led to a number of deaths and injuries (*see* Section 5). In several instances, security forces intervened to save the lives of suspected criminals (*see* Section 1.c.).

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there were continued credible reports that members of the police and customs officials beat prisoners and other citizens. It generally was believed that severe beatings of suspects in police custody occurred throughout the country but largely went unreported.

Government officials stated that the use of armed forces personnel in the maintenance of law and order would cease; however, the military continued to participate regularly in law enforcement activities during the year.

In April 2001, the IGP issued a directive against the use of warning shots by the police, stating that it was not authorized by police regulations; however, there were instances in which police used warning shots. Police continued to use rubber bullets and water cannons in crowd control situations (*see* Section 2.b.).

Police corruption was a serious problem (*see* Sections 1.d. and 2.d.). Government officials said publicly that the Government's "zero tolerance for corruption" policy applied to the police and other security officials; however, a survey conducted during 2001 by the Center for Democratic Development showed that 67 percent of respondents said they had paid bribes to the police.

During the year, nearly all members of the 64th regiment, which previously guarded former President Rawlings and was the reported source of many human rights abuses in the previous government, were transferred to other units of the armed forces.

Unlike in the previous year, there were no reports of clashes between supporters of the ruling and opposition parties. The commission of inquiry into the January 2001 clash between a group of NPP activists and NDC supporters in Asutuare, Greater Accra Region had not been established by year's end. A police investigation determined that the cause of the clash was a long-standing chieftancy dispute rather than political tensions; however, residents of the town and opposition party leaders, including the M.P. for the district, disagreed publicly with the police's findings, describing the clash as a coordinated attack on NDC supporters. The case had not been called to court by year's end.

On April 14, the CHRAJ wrote to the Minister of Defense seeking his cooperation in investigating the 2000 case in which 25 off-duty soldiers attacked and injured more than 20 civilians, including a taxi driver who allegedly insulted a group of intoxicated soldiers the previous evening in Accra. The Defense Ministry had not responded by year's end.

Four persons accused of killing a police officer during a series of disturbances in 2000 in Asankranguaaa, Western Region, were released on bond at year's end as police continued to investigate the incident and allegations of police misconduct during the incident.

There were no further developments in the March 2001 case in which police injured several rioters after attempting to control a mob of Liberian refugees from Budumburam Refugee Camp in the Greater Accra Region and in the May 2001 case in which a police officer injured a youth while attempting to disperse a group of youths in Accra.

There were no developments in the following 2000 cases: The January case in which a cocoa farmer from Dadieso in the Western Region alleged that a police inspector detained him for 2 days without bail and beat him; the January dispersals of student demonstrations; the March dispute between 2 assemblymen in the Eastern Region town of Asutsuare that resulted in the arrest of 68 civilians, some of whom claimed that police brutalized them; the June dispersals of student demonstrations; the July beating and shooting of a man who resisted arrest; the July use of tear gas to disperse a group of civilians who attacked the Navrongo police station; the July use of water cannons to disperse a demonstration by trade union members; the July serious injuring of a policeman by an assemblyman and other civilians who allegedly attacked farms and residents in Asutsuare; the August case of the alleged detention and beating of a businessman by members of the elite 64th Infantry Regiment; the August use of tear gas and rubber bullets to disperse students of Yendi Junior Secondary School; the December assault of journalists from a private television station; the December inquiry of a journalist and an M.P.; and the December use of rubber bullets and tear gas to disperse a crowd at the Supreme Court.

"Machomen" (party thugs) and land guards, private security enforcers hired by citizens to settle private disputes and vendettas, caused injury and property damage during the year. The machomen were not constituted legally but were organized privately and operated outside the law. The trial of a land guard in the Greater Accra Region who was accused of involvement in a killing over a land dispute in 2001 was ongoing at year's end.

Unlike in the previous year, there were no incidents of violence during this year's drumming ban (*see* Section 2.c.).

During the year, chieftancy disputes led to numerous injuries (*see* Section 5).

The press reported numerous cases of vigilante style "instant justice" conducted by angry citizens and mobs on suspected criminals and suspected witches that led to a number of deaths and injuries (*see* Section 5). For example, on July 27, a mob in Accra severely beat three suspected pickpockets. Police intervened and stopped the mob from lynching the men.

Prisons in most cases were maintained very poorly and conditions were harsh and life threatening. However, according to the CHRAJ Year 2000 Inspection Report, which was released publicly during the year, prison conditions have improved over previous years. The Director General of Prisons described the prisons as overcrowded and underfinanced and publicly called for improved living conditions for the prisoners. Three of the country's largest facilities, which were intended to hold 1,600 inmates, held approximately 3,800. On July 26, the Director General of the Prison Service called for the introduction of legislation on non-custodial sentences to reduce congestion; however, no steps were taken to implement these measures by year's end.

Prisoners' daily food allowance was approximately \$.57 (4,000 cedis). Prisoners relied on families or outside organizations for additional food, medicine, and other supplies. Bedding was available for only 30 percent of the inmates, and there was no funding for clothes. Medical facilities were inadequate, and the prisons supplied only the most basic medicines. Overcrowding contributed to a high prevalence of communicable diseases. Some suspects allegedly plead guilty in order to be sent to prison and leave the unsanitary conditions in the police remand cells.

In 2001 134 prisoners died in the country's prisons, 9 from malnutrition, 21 from HIV/AIDS, 17 from tuberculosis, 13 from diarrhea or dehydration, 8 from malaria, and the rest from other illnesses. While the Government agreed that conditions in the prisons were not acceptable, it stated that lack of funding prevented further improvements.

On May 11, two suspects died in a police holding cell in Accra. At the time of the incident, there were 45 inmates in the cell, and police blamed the death on overcrowding. On May 13, acting Minister of the Interior directed the Inspector General of Police to conduct an investigation into the incident; however, the results of the investigation were not made public by year's end.

Juvenile offenders were housed in a dedicated facility. In 2001 the CHRAJ and the Prisons Service confirmed reports of some children as young as 14 years old housed with the general prison population; however, on July 14, the Interior Ministry reported that all of the juveniles had been transferred to the Borstal Institute, a juvenile correction center. Women were housed separately from men; pretrial detainees were housed with convicted prisoners.

The Prisons Service had an assessment team to inspect facilities. While the CHRAJ had access to the prisons, the Government generally did not grant access to the press. The Government permitted foreign diplomats to visit prisons during the year. Nongovernmental organizations (NGOs) were not given access to prisons on a routine basis. The International Committee of the Red Cross (ICRC) was allowed access to prisons but did not request access during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution provides for protection against arbitrary arrest, detention, or exile; however, arbitrary arrest and detention were problems. The Constitution states that an individual detained shall be informed immediately, in a language that the detained person understands, of the reasons for the detention, and of the right to a lawyer and to an interpreter, at state expense. It also requires judicial warrants for arrest and provides for arraignment within 48 hours. However, in practice many abuses occurred, including detention without charge for longer than 48 hours and failure to obtain a warrant for arrest. In addition, at times persons were detained for trivial offenses or on unsubstantiated accusations. Authorities routinely did not notify prisoners' families of their incarceration; such information often was obtained only by chance. Human rights activists criticized the common practice of arresting persons on Friday and keeping them in detention over the weekend until court was in session on Monday, which they described as a deliberate circumvention of the 48-hour detention rule.

The court has unlimited discretion to set bail, which can be prohibitively high. The court may refuse to release prisoners on bail and instead remand them without charge for an indefinite period, subject to weekly review by judicial authorities. Police also demanded money from suspects as a precondition of their release on bail.

The Constitution allows judicial authorities to hold citizens for up to 48 hours without filing charges against them. However, in practice it was common to remand a prisoner to investigative custody. The Constitution requires that a detainee who has not been tried within a "reasonable" time be released either unconditionally or subject to conditions necessary to ensure that he appear at a later date for court proceedings. In October 2000, the acting Ashanti Regional Director of CHRAJ stated that more than one-third of the inmates of Kumasi Central Prison were remand prisoners. One-third remained in prison even after the warrants committing them to prison had expired. He criticized the judicial system for imposing prison sentences instead of levying fines, which could prevent further overcrowding of the prisons.

On March 10, two police officers attempted to arrest the former head of the Ghana National Petroleum Corporation while he was at church for questioning on charges of causing financial loss to the state. Fellow worshippers criticized the arrest, and the police desisted. The man later reported to the police for questioning.

It was unknown if the 41 persons arrested in March 2001 in Yameriga, Upper East Region, still were in detention at year's end.

A citizen of Belize remained in custody awaiting deportation after a contingent of police and military personnel forcibly entered a house adjacent to the compound of former president Rawlings and arrested him in June 2001.

In August 2001, soldiers and police arrested the linguist of the chief of the Sefwi Wiawso Traditional Area, Western Region, when they searched the homes of both the linguist and the chief. During the year, the Western Regional police commander apologized for the incident but no inquiry was made by year's end.

There were no new developments in the 2000 case in which police detained 70 persons during an investigation into violence related to a chieftancy dispute in Asankranguaa.

The 1999 case in which police arrested more than 700 men after a Muslim-Protestant conflict in the Central Region town of Agona Nyakrom and brought them to Accra for investigation was dismissed during the year.

In February six of the nine accused persons in the 1998 murder of two policemen in Ablekuma were sentenced to death, and the other three were released for lack of evidence.

Police arrested persons attempting to demonstrate (*see* Section 2.b.).

There were credible reports that police extorted money from local businesses by acting as private debt collectors and arrested citizens in exchange for bribes from detainees' disgruntled business associates.

Police and military used checkpoints and mass arrests while searching for criminals (*see* Section 2.d.). For example, on April 28, 2,000 persons were detained in the Agbogboshie neighborhood of Accra. Police checked records and identification and arrested those wanted for crimes or in possession of weapons, stolen merchandise, illegal drugs, and other prohibited items. Of the approximately 2,000 detained, 202 were identified as suspected criminals and charged with various crimes. Media reports indicated that four individuals fleeing the roundup drowned in a nearby lagoon.

In August 2001, law enforcement and military personnel arrested 200 persons in Kumasi. According to the police, the exercise was intended to flush out suspected criminals. At year's end, 28 persons remained in police custody and 30 persons had trials pending.

The opposition NDC claimed that the Government used anti-corruption investigations to intimidate and harass its members. The Government continued to question former officials during the year.

The Government has not implemented any meaningful policy to reduce the number of pretrial detainees, although the independent press called for reduction of harsh bail conditions for suspects who did not pose a threat to society. The Attorney General drafted a bill that would provide alternative dispute resolution methods to clear the court backlog, including a time limit on pending cases and was scheduled to forward it to the Cabinet in 2001; however, no legislation was introduced to Parliament during the year. There was no further information on the case of a farmer in the Volta Region who has been in remand for 10 years without charge; he was suspected of poisoning and killing another farmer.

Rural women can be punished with banishment by traditional village authorities for being pregnant out-of-wedlock or for suspected witchcraft. The press reported that hundreds of women accused of witchcraft were sent to penal villages in the Northern Region by traditional authorities such as a shaman (*see* Section 5). Foreign diplomats and NGO representatives who visited them estimated that there were between 550 and 1,150 accused witches, the vast majority of them women, living in the camps; however, in 2000 CHRAJ estimated that more than 5,000 women were residents in witches' camps in the Northern Regions. An August 8 media report said 87 women between the ages of 40 and 80 remained in the Gambaga "witches" village.

The Government did not practice forced exile and encouraged citizens, including dissidents living abroad, to return. Some former government and Provisional National Defense Council (PNDC) officials have returned and resumed careers and political activities.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision; however, in practice the judiciary appeared to be subject on occasion to executive influence.

The Constitution mandates Superior Courts of Judicature consisting of the High Court (of Judicature) and Regional Tribunals, the High Court of Appeals, and the Supreme Court. The Constitution allows the Government to nominate any number beyond a minimum of nine members to the Supreme Court; confirmation was the responsibility of Parliament. The Chief Justice was empowered to impanel the justices of his choice to hear cases. These provisions, along with a lack of resources, limited the court's role as a balance to the power of the executive branch and contributed to the perception that the judiciary occasionally was subject to executive influence. There were no official charges of corruption on the part of judges; however, there were press allegations of corruption within the judicial system. In August and September, the Center for Democratic Development, a local think tank, organized a program with the Parliamentary Select Committee on the Judiciary to explore corruption within the judicial system.

The Constitution establishes two basic levels of courts: superior and lower. The superior courts included the Supreme Court, the Appeals Court, the High Court, and regional tribunals. In March 2001, the Acting Chief Justice of the Supreme Court inaugurated two Fast Track Courts, a division of the High Court of Judicature, intended to try cases to conclusion within 6 months. The Fast Track Courts were authorized to hear cases involving banks and investors, human rights, electoral petitions, government revenue, prerogative writs, defamation, specified commercial and industrial cases, and criminal cases involving substantial public money or are a matter of extreme public importance. A former government employee charged with causing financial loss to the state challenged the Fast Track Courts'

constitutional legitimacy; however, the Supreme Court found that the Courts were constitutional. As of February 1, 195 cases were filed before the Fast Track Court, 137 for Banking and Commercial matters, and 40 for Human Rights and Defamation. The Government announced plans to establish Fast Track Courts throughout the country. Parliament may establish lower courts or tribunals by decree.

During the year, Parliament passed Act 620, designed to abolish Community Tribunals run by appointed panels and police and replace them with magistrate courts on the date the Act becomes effective. The Chief Justice and Attorney General had not put the Act into effect by year's end.

Legal safeguards were based on British legal procedures. Defendants are presumed innocent, trials are public, and defendants have a right to be present, to be represented by an attorney (at public expense if necessary), and to cross-examine witnesses. In practice the authorities generally respected these safeguards.

There were frequent reports that a large number of prisoners were held in detention for extended periods, sometimes years, without going to trial (*see* Section 1.d.). The Attorney General drafted a bill that would provide alternative dispute resolution methods to reduce the court backlog, including a time limit on pending cases.

During the year, prosecutors dropped the case against four defendants for allegedly plotting to overthrow the Government in 1994 and released them.

There were no developments in the 2001 appeals of two men arrested for murder in 1991 who were in prison in Wa, Upper West Region, for 10 years without trial. They remained in custody at year's end.

The CHRAJ's charter provides for it to investigate alleged violations of human rights and take action to remedy proven violations. It continued to hold workshops to educate the public, traditional leaders, the police, and the military on human rights issues. It mediated and settled cases brought by private individuals with grievances against government agencies or private companies (*see* Section 4).

The law gives village and other traditional chiefs power to mediate local matters and enforce customary tribal laws dealing with such matters as divorce, child custody, and property disputes. However, a number of laws passed during the PNDC era (1981-92), as well as the 1992 Constitution, have eroded steadily the authority of traditional rulers and vested it in civil institutions, such as courts and district assemblies.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, this provision has yet to be tested in court, and in practice the Government infringed on these rights at times. Although the law requires judicial search warrants, police did not always obtain them in practice.

Opposition party activists claimed that the Government was engaged in surveillance and harassment of those perceived to be opposed to the ruling party; however, unlike in the previous year, security forces did not conduct searches of the homes of opposition party members.

The Government authorized an investigation into the August 2001, raid on the residence of Alhaji Sedi, the National Organizer of the EGLE (Every Ghanaian Living Everywhere), and three cases in which security forces allegedly raided the homes of civilians; however, no results had been announced by year's end.

Opposition parties, and some persons in private business, continued to allege that some government contracts were awarded on the basis of ruling party membership and that government officials pressured businesses to steer contracts toward favored companies and individuals.

The CHRAJ began an investigation into the February 2001 demolition of Kyekywere village, Western Region by Abosso Goldfields Limited, a local mining firm acting under the auspices of the local District Security Council; however, it had not released its findings by year's end.

A \$5 million (34.5 billion cedis) lawsuit against the Accra Metropolitan Assembly (AMA), the former Chief Executive, and the Attorney General who without due process demolished a private hotel in Accra that they claimed was blocking a drainage route, was ongoing at year's end. The owner of the hotel contended that the demolition constituted trespassing and unlawful interference in the owner's civil rights.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, there were occasional reports that government officials pressured government media outlets to cease or minimize coverage of opposition politicians. Opposition political parties and others frequently criticized the Government, and the Government allowed more control of print and electronic media to be transferred to the

private sector. Unlike in the previous year, ministers did not file libel suits. Major government media outlets exercised some restraint in their coverage.

In an August 10 speech, former president Jerry Rawlings criticized the Government and asked the public to engage in “positive defiance” and “unlawful order.” On August 13 and 14, the BNI called Rawlings in for several hours of questioning to investigate whether his statements constituted an act of treason. On August 21, the Attorney General issued a statement saying the former president could not be charged with treason for his August 10 remarks.

There were more than a dozen newspapers including three government-owned dailies, two government-owned weeklies, and several privately owned newspapers published daily, weekly, biweekly, or triweekly. Several of the privately owned newspapers increased to daily circulation from weekly or biweekly. Two of the Government-owned dailies had national circulation. However, most newspapers circulated only in regional capitals, and many of the smaller private newspapers were available only in Accra. The President could not appoint chief executives to the state-owned media.

The Government-owned media reported extensively on charges of corruption or mismanagement by government officials in the previous administration; they increasingly criticized the Government’s policies. State-owned media reported some allegations of corruption or mismanagement by officials in the Kufuor government. During the year, there were occasional editorials in the state-owned media critical of the Government. There were no reports that the Government disciplined or dismissed journalists working in state-owned media for stories deemed unacceptable. The Government ended its subsidy of one newspaper in 2001 and no longer financed any newspaper. The opposition NDC claimed that government media denied it equal access and coverage on numerous occasions, and in practice the Government-controlled media did give greater exposure to government officials.

Some privately owned newspapers were harshly critical of the Government’s policies and of President Kufuor and his ministers and advisors. The Government at times alleged that some reporters and editors failed to abide by professional ethical guidelines. On many occasions, both the Government and National Media Commission (NMC), a constitutionally mandated independent government body, publicly urged the media to act responsibly.

In July 2001, Parliament repealed the Criminal Libel and Seditious Laws through an amendment to the Criminal Code. The laws had provided for 10 years’ maximum imprisonment for reporting intended to injure the reputation of the State. According to the Amendment, all prosecutions instituted under the repealed laws pending before any court or tribunal were discharged. At year’s end, many civil libel cases still were pending; however, the voluntary use of the NMC as an alternative mediating body to the courts increased. The NMC was charged with maintaining journalistic standards, including the investigation, mediation, and settlement of complaints made against or by the media; however, it did not have legally binding authority to implement its recommendations. Resolutions recommended by the NMC included retraction, apology, and the printing of rejoinders. Of the 79 cases reviewed as of September 30, 13 cases were resolved, and the remaining cases were pending; 50 cases were brought by private individuals, 4 cases by former government ministers, and 25 cases by organizations or institutions. Seventeen cases were brought against state-owned media, and 62 cases against the privately owned media. On March 14, the NMC directed a privately owned newspaper to publish a retraction of an article it published in July 2001 that alleged a former finance minister was arrested at Accra’s airport in possession of \$1.5 million cash. The newspaper acknowledged the allegations were inaccurate and published a retraction and an apology. The NMC has published its standards and guidelines.

Unlike in the previous year, there were no claims that independent journalists occasionally blackmailed individuals and organizations by threatening to print negative articles if they were not paid.

In 2000 military police acting under orders from the Deputy Minister of Defense of the previous government detained the news editor of an Accra newspaper who had attempted to contact the Deputy Minister after receiving an allegation that he had threatened a guard at a local security company. The editor was released later that day and filed a complaint with the CHRAJ against the former Deputy Minister. The first hearing before the CHRAJ was completed in 2001; however, during the year, the complainant failed to appear for two consecutive CHRAJ hearings, and the case was adjourned indefinitely.

According to the National Communications Authority, Accra had 1 government-owned and 12 private FM radio stations, and there were approximately 40 private FM stations across the country. Most stations were independent and aired a wide range of viewpoints. There was one government owned television station that broad-

cast nationwide. There were two semi-private television stations that broadcast in the Greater Accra, Eastern, and Ashanti regions. There were three cable networks broadcasting in the Greater Accra Region, two of which also broadcast in Kumasi. There was one private television station broadcasting in Kumasi.

The Minister of Communications continued to be the chairman of the National Communications Authority (NCA), the body responsible for allocating bandwidth and broadcast media licenses. According to media organizations, the NCA should be independent of the Ministry of Communications, and the Minister's appointment represented a conflict of interest. The media also claimed that the new board members were appointed without proper consultation with the Council of State, as required by the NCA Act. There were some complaints regarding delays in obtaining bandwidth and licenses for broadcast media.

The investigation that the Attorney General's office began in 2001 into the content of tapes publicized in 1999 that appeared to implicate President Rawlings in several infamous extralegal actions of the predemocratic era was ongoing at year's end.

The Government readily granted accreditation to foreign journalists. The British Broadcasting Corporation (BBC) and Radio France International had full-time FM rebroadcasting stations in Accra, and several foreign radio broadcasts, including Voice of America (VOA), had part-time affiliations with local stations in several cities. Foreign periodicals were sold in Accra and other major cities and circulated freely even when they contained articles critical of the Government. Most citizens obtained their news from the electronic media, the VOA, and the BBC radio service. Several companies had cable or satellite rebroadcasting stations that served the country's three major cities.

There were more than 10 operating Internet Service providers (ISPs) in the country at year's end.

The Government did not restrict academic freedom. Academics were allowed to publish and pursue research. Student organizations organized and met freely.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly; however, at times the Government restricted this right. The Government does not require permits for demonstrations; however, police can deny use of the route. The law requires that all organizers of "special events" or "processions" inform the police of their intentions at least 5 days in advance so that the police can institute precautionary measures. The law also provides for curfews and arrest without warrants in specified instances.

The Government permitted several peaceful demonstrations and rallies during the year; however, on at least one occasion, police used force to disperse a demonstration.

On June 4, the anniversary of the date of his first coup, former President Rawlings, and other opposition leaders, spoke at a rally in Accra for the second year in a row, attended by hundreds of NDC supporters. Rawlings accused the Government of harassing and intimidating NDC activists. There were no reports of violence, and the rally dispersed peacefully.

On August 3, police fired rubber bullets and water cannons into a crowd to break up a gathering during a festival parade in Ada, Greater Accra Region, which resulted in a number of injuries. Police reportedly were unaware that the marchers had a parade permit. The Ada Traditional Council demanded an investigation, but no investigation was conducted by year's end.

On August 20, 11 persons were arrested and then released in Tamale, Northern Region, as they attempted to demonstrate along the route U.N. Secretary General Kofi Annan would be traveling. The group was arrested for violating an existing ban on demonstrations in the Dagbon Traditional area due to a state of emergency in effect in the area (*see* Section 2.d.).

The ban on campus demonstrations remained in effect during the year; however, it never has been enforced.

Political parties held rallies and national congresses without hindrance during the year.

The Constitution provides for freedom of association, and the Government generally respected this right in practice; however, the Government continued to prohibit the existence and formation of all political groupings within the security services. In February 2001, it banned the "Association of Committees for the Defense of Revolution" (ACDRs), which served as NDC support organizations within the security services and in military and police barracks. It also prohibited the formation of "Danquah-Busia Clubs" or other support organizations for the ruling NPP. According to the Minister of Interior, members of the military and security services were free to join political parties and associations; however, such activities were prohibited within police and military compounds.

NGOs were required to register with the Registrar General's office and the Department of Social Welfare, but this registration was routine.

The Electoral Commission (EC) must accredit political parties. The parties must show evidence of a "national character," such as official representation in all 10 of the country's regions. The EC evaluated whether the party showed evidence of a viable national support base before granting accreditation and could annul the registration of a party that failed to meet the criteria for being a viable party.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, there were some limits to this right. In the past, the Government did not always prosecute those responsible for religiously motivated attacks; however, the Government increased its prosecution of violent acts, including religious violence, and all incidents of religious violence were prosecuted during the year.

Religious institutions that wish formal recognition were required to register with the Registrar General's Department; however, this was a formality only, and there were no reports that the Government denied registration to any group. Most traditional religions, with the exception of the Afrikania Mission, did not register.

The Government required that all students in public schools up to the equivalent of senior secondary school level attend a daily "assembly" or devotional service; however, in practice this regulation was not enforced always. The devotional service was a Christian service and included the recital of The Lord's Prayer, a Bible reading, and a blessing. Students at the senior secondary school level were required to attend a similar assembly three times per week. Students attending government-administered boarding school were required to attend a nondenominational service on Sundays. The Director General of the Ghana Education Service instituted new regulations for all public educational institutions, including the stipulation that students of minority ethnic groups should not be forced by school authorities to worship with the majority religious groups in school; however, the Minister still received isolated reports of disrespect for the directive in some public schools. Afrikania also publicly urged the Government to stop requiring Christian "indoctrination" of children in all government-funded schools.

Although the law prohibits involuntary servitude, Trokosi, a form of religious servitude usually lasting no more than a few months, exists on a limited scale (see Section 5). Government agencies, like CHRAJ, have campaigned actively against Trokosi for years. Supporters of traditional African religions, such as the Afrikania Renaissance Mission, have said that these activities constituted discrimination against indigenous religious beliefs.

The Government made extensive efforts to mediate between charismatic Christian churches and ethnic Ga traditionalists in the period prior to the 2002 annual ban on drumming. Unlike in the previous year, no incidents of violence were reported during the year's ban on drumming. No police action was taken in regard to any attacks from previous years.

There were occasional reports of interreligious and intrareligious incidents but no violent incidents based on religious affiliation.

There were no further developments in the 2000 case where members of the Christo Asafo Christian Church clashed with members of the Boade Baaka traditional shrine at Taifa, Greater Accra Region.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

Citizens and foreigners were free to move throughout the country. Police checkpoints existed nationwide to prevent smuggling, but most were unmanned during daylight hours. Security officers manned checkpoints nationwide to prevent smuggling, seize illegal weapons, and catch criminals. In September 2001, the Ghana Police Administration announced that police would erect security checkpoints throughout the country in response to an upsurge in highway robberies; periodic customs checkpoints and patrols continued during the year. The Regional Police Commanders monitored the activities of police personnel working at the checkpoints. There were numerous reports that police used checkpoints to solicit bribes. Police roadblocks and car searches were a normal part of nighttime travel in larger cities. The police administration acknowledged that the force had a problem with some members occasionally erecting illegal barriers to solicit bribes from motorists. Citizens generally were free to travel internationally and to emigrate or to be repatriated from other countries.



In response to a March 27 incident in which 30 persons were killed in intratribal violence in Yendi, Northern Region, the Government declared a 90-day state of emergency in the Dagbon traditional area (*see* Section 5). The state of emergency included a dusk-to-dawn curfew. The curfew has been renewed at 1 month intervals since July by Parliament, and still was in effect at year's end. However, by year's end, the curfew had been reduced from 10 p.m. until 2 a.m. There were isolated reports of beatings of individuals caught after curfew; however, by September the reports had ceased.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The country generally had a liberal policy of accepting refugees from other West African nations. The Government provided first asylum. UNHCR estimated that there were approximately 35,000 Liberian refugees and asylum seekers, 6,000 Sierra Leonean refugees and asylum seekers, 1,000 Togolese, and a small number of other African refugees in the country.

Refugees from the crisis in Cote d'Ivoire passed through the country without hindrance to third countries. There were no reports of abuse during the year. The Government worked closely with the U.N. and other international partners to identify sites for reception and transit centers to assist refugees and others fleeing the crisis. While only approximately 200 Liberian and Sierra Leonean refugees requested assistance, many others passed through the country on their way to neighboring countries.

The trials of 24 Liberian refugees who rioted in March 2001 following the alleged attack on a refugee by a Ghanaian continued at year's end.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government, and citizens exercised this right through a democratic process in presidential and parliamentary elections held in December 2000. Despite a few incidents of intimidation and election fraud, domestic and international observers judged the election to be generally free and fair. The country continued its transition from a one-party state to a more established multiparty constitutional system. The political system included recognized opposition parties, which expressed their views freely within Parliament and won a near majority of the parliamentary seats in the 2000 election.

The Constitution calls for a system of checks and balances, with an executive branch headed by the President, a unicameral parliament, an independent judiciary, and several autonomous commissions, such as the CHRAJ. In practice the system of checks and balances was limited by a system-wide lack of resources that affected all three branches. During the year, opposition members continued to express frustration about impediments that the executive branch imposed by its refusal to support opposition amendments to proposed legislation; however, the former ruling party, which was the opposition under the Kufuor government with nearly half the seats in Parliament, closely scrutinized government actions. Parliament still sought effective oversight of the workings of the executive branch. Although all M.P.'s could introduce bills, no one has ever done so; however, some have introduced motions.

In the first round of the 2000 presidential elections, neither major candidate received a majority vote. In December 2000, a presidential runoff was held in accordance with the constitutional requirement that the president be elected with at least 50 percent plus one of the votes. In the runoff John Agyekum Kufuor of the NPP beat Vice President John Evans Atta Mills with 56.7 percent of the vote.

In August citizens elected representatives to the district assemblies and the unit committees, which form the basis of the local government structure. These elections were held on a nonpartisan basis, as called for in the Constitution. The President appointed 30 percent of each assembly, and the rest were elected positions. DCEs must be confirmed by two-thirds of the district assembly members. Some district elections were postponed for 1 or 2 weeks due to poor organization by the Electoral Commission. District level elections were not held in the Dagbon traditional area in the north of the country due to the existing state of emergency (*see* Sections 2.d. and 5).

Unlike in the previous year, there were no political protests.

There were no legal obstacles to the participation of women in government. There were 18 female M.P.'s in the 200-member Parliament, and there were 13 female ministers and Council of State members out of 92.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

At least 20 domestic and international human rights NGOs generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were responsive to their views. However, the Government did not grant ready access to prisons (*see* Section 1.c.). Prominent NGOs included the International Committee of the Red Cross (ICRC), Amnesty International, the International Federation of Woman Lawyers (FIDA), the African Center for Human Development, and Ghanalert. The Government cooperated with international humanitarian organizations, including the ICRC.

In 2001 the Government began an audit of the December 31st Women's Movement (DWM), an NGO run by former First Lady Nana Konadu Rawlings and closely associated with the former government, allegedly because public money has gone to the DWM. The audit was ongoing at year's end. No other NGOs have been the subject of such audits.

The CHRAJ was charged with investigating alleged violations of human rights and taking action to remedy proven violations. The CHRAJ continued to hold workshops to educate the public, traditional leaders, the police, and the military on human rights issues. It mediated and settled cases brought to it by individuals with grievances against government agencies or private companies. On average the CHRAJ received between 4,000 and 5,000 new petitions per year, with steady increases each year. By the end of 2000, the CHRAJ had received a total of 41,901 petitions and completed action on 33,089; 40 percent of the cases were resolved through mediation. Of the 9,265 cases submitted to CHRAJ in 2000, 7,321 were lodged against private companies, organizations, and individuals. The remaining 1,944 cases were filed against government organizations, public companies, and officials. Of the cases received during the year, 1,022 (11 percent) involved complaints about human rights, and 2,208 (23.8 percent) involved administrative justice, including abuse of office by officials, labor disputes, and delays in dispensing justice.

The CHRAJ continued to investigate corruption allegations filed against public officials. The Serious Fraud Office also investigated cases of fraud that lead to government financial loss.

The CHRAJ operated with no overt interference from the Government. Its biggest obstacle was a lack of adequate funding. Low salaries and poor working conditions resulted in the loss of many CHRAJ-trained personnel to other government agencies that were able to pay their employees more.

In December 2001, Parliament created a National Reconciliation Commission to establish a historical record of human rights abuses for the periods of "unconstitutional government" and make recommendations for redress. The President appointed commissioners in February, and on September 3, the Commission began receiving accounts of abuses. Public hearings were scheduled to begin in January 2003. The commissioners will have 12 months to complete their work, subject to a 6-month extension for good cause.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination on the basis of race, sex, disability, language, or social status. The courts were empowered specifically to order enforcement of these prohibitions, although enforcement by the authorities was generally inadequate, in part due to limited financial resources.

*Women.*—Violence against women, including rape and domestic violence, remained a significant problem. A 1998 study revealed that particularly in low-income, high-density sections of greater Accra, at least 54 percent of women had been assaulted in recent years. A total of 95 percent of the victims of domestic violence were women, according to data gathered by the FIDA. These abuses usually went unreported and seldom came before the courts. The police tended not to intervene in domestic disputes. The media increasingly reported cases of assault and rape. The police administration's Women and Juvenile Unit (WAJU) handled cases involving domestic violence, child abuse, and juvenile offenses. With offices in nine cities around the country, the WAJU worked closely with the Department of Social Welfare, FIDA, and the Legal Aid Board. As of September 30, WAJU recorded a total of 3,155 cases, including 1,052 instances of assault, 380 cases of defilement, 113 rapes, and 53 abductions.

FIDA presented the draft of the country's first domestic violence bill to the Director of Legislative Drafting of the Parliament, who was responsible for converting proposed bills into proper legislative format for eventual consideration by Parliament. On November 11, the Attorney General's office held a public consultative forum on the draft bill; however, the bill had not gone before Parliament by year's end.

In late 1998, a series of “mysterious” murders of women occurred in the Mateheko area of Accra. There were more than 30 murders between 1993 and 2000, which were referred to as “serial murders.” In May 2001, a suspect who police had arrested confessed to eight of the murders. On August 7, he was convicted of murder and sentenced to death. The sentence had not been carried out by year’s end.

The Criminal Code bans the practice of customary servitude (known as *Trokosi*), protects women accused of witchcraft, makes the age of criminal responsibility 12 years, criminalizes indecent assault and forced marriages, and imposes punishments for defilement, incest, and prostitution involving children.

Belief in witchcraft still was strong in many parts of the country. Most accused witches were older women, often widows, who were identified by fellow villagers as the cause of difficulties, such as illness, crop failure, or financial misfortune. Many of these women were banished by traditional village authorities or their families and go to live in “witchcamps,” villages in the north populated by suspected witches (see Section 1.d.). In the past, in addition to banishment, suspected witches were subject to violence and lynching. The women did not face formal legal sanction if they returned home; however, most feared that they could be beaten or lynched if they returned to their villages. The law provides protection to alleged witches. There were no definitive statistics on the number of women living in northern witchcamps, and international and domestic observers estimated that there were between 550 and 1,150 women in the camps. The CHRAJ and human rights NGOs mounted a campaign to end this traditional practice but have met with little success. Various organizations provided food, medical care, and other forms of support to the residents of the camp.

There were no developments in the following 2001 cases: The January case of two elderly women in Komenda, Central Region, who were accused of being witches by their nephew and subsequently abducted and tortured to obtain confessions (one of the women died 2 weeks later); the April case in which a man living in Tongor in the Volta Region chopped off the hands of an elderly aunt, claiming she was a witch; and the June case of a woman in Abutia-Kloe, Volta Region, who was beaten to death by persons who accused her of using witchcraft to mastermind the May 2001 stadium disaster in Accra (see Section 1.a.).

There were no developments in the 2000 case in which a local teacher accused an 80-year-old woman in the Volta region of being a witch.

There were several traditional discriminatory practices that were injurious to the health and development of young girls. In particular female genital mutilation (FGM) was a serious problem. A 1998 study estimated that between 9 and 12 percent of women have undergone FGM, but some estimates were as high as 30 percent. A Ministry of Health survey conducted between 1995 and 1998 found that FGM was practiced among nearly all the northern sector ethnic groups, up to 86 percent in rural parts of the Upper West and Upper East Regions. Often it was performed on girls under the age of 15. Officials at all levels have spoken against the practice, and local NGOs made some inroads through their educational campaigns to encourage abandonment of FGM and to retrain practitioners. Traditional chiefs became more outspoken in their opposition to the practice of FGM. The law prohibits FGM; however, members of the legal community advocated legislation to close loopholes in the law and extend culpability to those who aid in carrying out FGM and to citizens who commit the crime outside the country’s borders. On September 6, two women were arrested in Kpatia, Upper East District, for assisting another woman in the circumcision of 5 of their teenage grandchildren. The women cooperated with police; however, the woman who performed the circumcision was not found by year’s end. In some cases in which FGM was performed, the victims actively sought out practitioners, sometimes without their parents’ knowledge, in a quest to become ready for marriage.

There were no laws that specifically protect women from sexual harassment.

There is a Ministry of Women and Children’s Affairs to address gender and children’s issues; however, women continued to experience societal discrimination. Women in urban centers and those with skills and training encountered little overt bias, but resistance to women entering nontraditional fields persisted. Women, especially in rural areas, remained subject to burdensome labor conditions and traditional male dominance. Traditional practices and social norms often denied women their statutory entitlements to inheritances and property, a legally registered marriage (and with it, certain legal rights), and the maintenance and custody of children.

Women’s rights groups were active in educational campaigns and in programs to provide vocational training, legal aid, and other support to women. The Government was active in educational programs, and former President Rawlings and his wife were among the most outspoken advocates of women’s rights.

*Children.*—Within the limits of its resources, the Government was committed to protecting the rights and welfare of children. The Government spent between 2.5 percent and 3 percent of GNP on education, approximately 60 percent of which went toward basic education in 2001. Education was compulsory through primary and junior secondary school (the equivalent of grades 1 through 9); however, education was not free. In practice schools imposed fees of up to \$50 (400,000 cedis) per term, and students also were required to purchase uniforms and books. In addition, teachers often withheld material during their regular lessons and asked students to pay additional fees for after-hours “tutoring” in those subjects as a way to supplement their incomes. In September 2001, the Ghana Education Service (GES) froze all fees charged by Senior Secondary Schools (SSS) items such as bedding and cutlery, which were not approved by the GES. These items must be listed in schools’ prospectuses as items that parents must buy. All fees approved by the Council were to be paid by the Government.

Some children were unable to attend school because they needed to work to supplement their family’s income (*see* Section 6.d.), they had to travel long distances to reach the school, or there was a lack of teachers, especially in more rural areas. Additionally children’s attendance at school was not enforced regularly by government authorities, and parents rarely, if ever, were sanctioned for keeping their children out of school. The Government has taken some concrete steps to support education, including support of “informal” schools (NGO-sponsored schools that were not regulated by the Government and provide nontraditional education), and increased emphasis on assuring that students progressed from one school grade to another. According to UNICEF’s “Situation Analysis of Children and Women in Ghana 2001,” using Ministry of Education (MOE) data, 77.6 percent of eligible children were enrolled in primary school in 2000, with a ratio of 29 boys to 21 girls. According to MOE data for 1999–2000, 61.0 percent of students in the 12 to 14 year age range were enrolled in junior secondary school. The dropout rate was decreasing; however, the school enrollment rate also has dropped slightly and overall enrollment probably was even lower because of annual population growth. The 2000–2001 advancement rate from junior secondary to senior secondary school was 35 percent.

There was little or no discrimination against female children in education, but girls and women frequently dropped out of school due to societal or economic pressures. The Government actively campaigned for girls’ education. There was a girls’ education unit within the basic education division of the Ghana Educational Service. The Minister of State for Primary, Secondary, and Girl-Child Education was responsible for addressing gender-related issues in education. The percentage of girls enrolled in school continued to decrease. In September the Government estimated that girls’ enrollment in primary school had decreased from 75 percent in 1992 to 71 percent in 2001. According to published estimates, at the primary and junior secondary level, male enrollment was between 3 and 10 percent higher than female enrollment, and the gap significantly was greater at the senior secondary school level. Some officials attributed the lower female enrollment to the fact that many girls marry early or become pregnant. Enrollment of women at the university level in 2001 was 29 percent.

There were frequent reports of teachers sexually assaulting their female students. The girls often were reluctant to report the attacks to their parents, and social pressure often prevented parents from going to the police and other authorities. In April 2001, a math tutor at Aburi Girl’s Secondary School, Eastern Region, fled after being accused of assaulting at least 17 girls. Students reportedly told the school administration, including the headmistress, about the assaults, but they were rebuffed and no action was taken. During the year, the headmistress resigned and the teacher was dismissed.

WAJU and regular police units increasingly investigated and prosecuted sexual abuse of minors, and press reports of court cases ending in lengthy prison sentences became routine.

The Ghana National Commission on Children (GNCC), a policymaking and coordinating body established to improve the lives of children, provided the WAJU with office equipment. The GNCC also has administered training programs for law enforcement and judicial officials around the country to familiarize them with the Children’s Act and other pertinent child labor legislation.

FGM was performed on girls primarily (*see* Section 5, Women).

Trokosi, also known as Fiashidi, was a religious practice involving a period of servitude lasting up to 3 years. It is found primarily among the ethnic Ewe group in the Volta Region. A virgin girl, sometimes under the age of 10, but often in her teens, is given by her family to work and be trained in traditional religion at a fetish shrine for a period lasting between several weeks and 3 years as a means of atonement for an allegedly heinous crime committed by a member of the girl’s fam-

ily. In exceptional cases, when a girl of suitable age or status is unavailable, a boy can be offered. The girl, who is known as a Trokosi or a Fiashidi, then becomes the property of the shrine god and the charge of the shrine priest for the duration of her stay. As a charge of the priest, the girl works in the shrine and undergoes instruction in the traditional indigenous religion. In the past, there were reports that the girls were the sexual property of the priests; however, while instances of abuse may occur on a case-by-case basis, there was no evidence that sexual or physical abuse was an ingrained or systematic part of the practice. Shrine priests generally were male, but may be female as well. The practice explicitly forbids a Trokosi or Fiashidi to engage in sexual activity or contact during her atonement period. Trokosi may or may not attend school. During the atonement period, most girls do not live in the shrines, which generally were little more than fenced-in huts with small courtyards; many remained with their families or stayed with members of the shrine living nearby. The girl's family must provide for the girl's needs during her stay, including food and clothing; however, in some cases families are unable to do so. After she has completed her service to the shrine, the girl's family completes their obligation by providing items, which may include drinks, cloth, money, and sometimes livestock, to the shrine for a final release ritual. After the release ritual, the girl returns to her family and resumes her life, without, in the vast majority of cases, any particular stigma attaching to her status as a former Trokosi shrine participant. Generally the women continued to associate themselves with the shrine, a voluntary association involving return visits for ceremonies. In many instances, when a Trokosi woman dies, years if not decades after she has completed her service and resumed her life in the village, her family was expected to replace her with another young girl, thus continuing the association of the family to the shrine from generation to generation. In very occasional cases, the family abandons the girl or cannot afford the cost of the final rites, in which case she may remain at the shrine indefinitely. She also may leave the shrine and return to her village; however, her family's reputation with the shrine, and possibly with the community, may be tarnished. Shrines rarely have more than 4 girls serving their atonements at any one time, and there were no more than 100 girls serving their atonement periods at Trokosi shrines throughout the Volta Region at year's end.

Trokosi shrines all follow these general practices; however, specific practices, such as the length of indoctrination, the exact nature of the ritual instruction, and the requirements for the release rites, varied from shrine to shrine and district to district.

The law bans ritual servitude in comprehensive legislation to protect women and children's rights. NGOs, such as International Needs, and government agencies, such as the CHRAJ, have been campaigning against Trokosi, for years. The practice has decreased in recent years because other belief systems have gained followers, and fetish priests who died have not been replaced. According to one local NGO, there were approximately 2,000 women or girls associated with Trokosi shrines, with a fraction actually living in the shrines; however, according to other international observers, there were no more than 100 girls serving at Trokosi shrines throughout the Volta Region.

Another traditional practice that violates the rights of children was forced childhood marriage, which is illegal. The GNCC was working with the CHRAJ to effect the prosecution of the chief of Mpeasem-Easuakyir, in the Central Region, who coerced a 14-year-old girl into marrying him after he abused and impregnated her. FIDA supported the efforts and emphasized that the marriage violated the Children's Act, which sets the marriageable age at 18, as well as the Criminal Code, which prohibits sex with a child under 16 years of age.

On August 11, WAJU arrested a couple in Akwatia, Ashanti Region, for forcing their 15 year-old daughter to marry a 60 year-old man. WAJU still was investigating the case at year's end.

On August 31, a 5-year-old girl was kidnaped from Assin Praso, Central Region, and sold for \$500 (4 million cedis), reportedly to be used for "ritual" purposes. Four men were arrested. Investigations still were ongoing at year's end.

Child prostitution, although illegal, also existed. The Eastern regional branch of the Ghana Hairdressers and Beauticians Association announced that it offered free apprenticeships to 150 street girls in the Eastern Region to equip them with marketable skills.

There were reports that trafficking in children occurred, including children being sold into slavery either for forced labor or sexual exploitation (*see* Sections 6.c. and 6.f.).

*Persons with Disabilities.*—The Constitution specifically provides for the rights of persons with disabilities, including protection against exploitation and discrimination. In practice persons with disabilities were not discriminated against in any sys-

tematic or overt manner. The Constitution also states that “as far as practicable, every place to which the public has access shall have appropriate facilities for disabled persons.” However, in practice this provision has yet to be implemented. In December the Deputy Minister of Manpower Development and Employment announced that his Ministry submitted a bill to cabinet that would compel public and corporate institutions to make provisions for persons with disabilities.

*National/Racial/Ethnic Minorities.*—Although the Government played down the importance of ethnic differences, its opponents have complained that it is dominated by Ashantis and other Akans at the expense of Ewes and northerners. The President and some of his ministers and close advisors were Ashanti, but the Vice President and many ministers were of other ethnic origins.

Efforts by NGOs to encourage reconciliation continued this year; however, during the year, there were several violent confrontations within ethnic groups related to chieftancy issues, particularly those of succession and land. For example, on March 27, the Ya-Na, chief of the Dagomba tribe in Yendi, Northern Region, and 29 of his followers were killed in fighting with a rival faction of the royal family. The two factions long have feuded over traditional ceremonies and the right to hold the throne. Extensive police investigations, an independent Commission of Inquiry, and traditional and international fact-finding teams all were working toward establishing responsibility for the deaths and resolution of the underlying conflict. In August the Commission finished public hearings, and in November it submitted its report to the executive branch. The Commission’s report recommended the prosecution of several dozen individuals involved in the violence, including the Northern Regional Minister. The report exonerated two other senior government officials who resigned as a result of the violence. The Commission also recommended the official reprimand of military officers in command over the area where the fighting took place. In December the Government responded by accepting most of the Commission recommendations; however, the Government declined to prosecute the Northern Regional Minister. The state of emergency continued in the Dagbon Traditional Area at year’s end (see Section 2.d.).

In June a High Court dropped charges against the chief in Acherensua, Brong-Ahafo Region who allegedly shot and killed one person and injured five others in a dispute over demands that he abdicate. The Attorney General’s office indicated it would appeal the Court’s decision but had not done so by year’s end.

In July charges were dropped against the chief involved in a chieftancy dispute in Juaso in the Ashanti Region that resulted in the death of a policeman, several injuries, the burning of the police station, and the arrest of more than 60 persons and his followers.

In December 2001, violence between the Mamprusi and Kusasi ethnic groups in Bawku resulted in widespread rioting, destruction of property, and loss of life. During the year, displaced persons returned to Bawku and rebuilt their homes; stores and schools reopened. Senior government officials visited the town and pledged to assist the reopening of peace negotiations between the Kusasi and Mamprusi peoples. In October national and regional government officials engineered a compromise in which the District Chief Executive and assembly member positions were shared between the two ethnic groups. As a result of this compromise, prospects for reconciliation improved.

There were no further developments in the 2000 clashes between the Tamong and Puli clans in Bimbagu, West Mamprusi District in the Northern Region that resulted in two deaths or in the 2000 incident in which four persons were killed after a conflict over a chieftancy dispute in Weija, Greater Accra Region.

Government officials, M.P.’s, and other prominent opinion leaders regularly called for peaceful coexistence between ethnic groups. The Permanent Peace Negotiating Team (PPNT) was a facilitative body whose primary purpose is to mediate disputes. The Government has a ban on firearms in the Northern Region and northern part of the Volta Region.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for freedom of association. This right was restricted formally by the Trades Union Ordinance, which conferred broad powers on the Government to refuse to register a trade union, and by the Industrial Relations Act (IRA), which governed trade union activities; however, the Government has not interfered with the right of workers to associate in labor unions and has encouraged pluralism in labor organizations. The IRA governed trade unions and their activities. The percentage of workers belonging to unions appeared to be decreasing as more of the workforce entered the informal sector where there was no union activity. The Ministry of Employment and Manpower Development es-

timated that 80 percent of the work force was employed in the informal sector, and that number was expected to increase.

The Trades Union Congress (TUC), the largest labor organization in the country, consisted of 17 national unions. Led by experienced union leaders, the TUC has been a vocal and constructive critic of the Government's economic policies. Civil servants had their own union, the Civil Servants Association, which operated outside of the TUC umbrella. The Ghana Federation of Labor (GFL) was intended to serve as an umbrella organization for several independent labor unions, which either had ceased ties with or were never members of the TUC.

The law requires employers found guilty of antiunion discrimination to reinstate workers fired for union activities.

Unions had the right to affiliate with international bodies. The TUC was affiliated with the Organization of African Trade Union Unity headquartered in Accra and also was a member of the International Confederation of Free Trade Unions.

*b. The Right to Organize and Bargain Collectively.*—The law protects workers from employer interference and their right to organize and administer their unions. The IRA provides a framework for collective bargaining and some protection against antiunion discrimination. Trade unions engaged in collective bargaining for wages and benefits for both private and state-owned enterprises without government interference. However, the Government, labor, and employers negotiated together through a tripartite commission to set minimum standards for wages and working conditions. No union leaders have been detained in recent years for union or other activities.

The law recognizes a right to strike, but there have been no legal strikes since independence. Under the IRA, the Government established a system of settling disputes, first through conciliation, then through arbitration. Parties in a dispute may request compulsory arbitration. A union may call a legal strike if the Government does not call for formal arbitration. However, no union ever has gone through the complete process. There were numerous unsanctioned strike actions during the year, none of which met the requirements for a legal strike detailed in the IRA. The IRA prohibits retribution against strikers, and this law was enforced.

No further action was taken on the October 2001 appeal by workers from DL Steel Limited to the Minister of Trade and Industry regarding a worker-rejected severance package settlement by year's end.

In September 2001, the Minister of Manpower Development and Employment stated that there were 22 industrial actions involving 12,830 workers in the first 8 months of 2001, costing the country 39,261 man-days of labor. Most actions involved demands for higher wages and better benefits.

There was legislation that authorized export processing zones (EPZs), and a few EPZs are in operation. Existing labor law applied in any EPZ, including the right to organize.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, including by children; however, approximately 100 women and girls were bound to shrines in the Volta Region through the localized Trokosi system and performed limited servitude for limited periods (*see* Section 5). It was difficult to determine the extent to which forced and bonded labor by children was practiced.

There were newspaper reports of children being sold into slavery for either sexual exploitation or labor, such as 10- to 12-year-old boys working for fisherman in exchange for a yearly remittance to their families. A 2002 report on child trafficking by the African Center for Human Development counted 708 children under the age of 18 working in fishing villages along the Volta Lake in the Afram plains (*see* Section 6.f.). However, there were no reports during the year that children were sold into slavery; the practice appeared to involve informal servitude, often with the consent of their parents (*see* Sections 6.d. and 6.f.).

The ILO continued to urge the Government to revise various legal provisions that permitted imprisonment with an obligation to perform labor for offenses that were not allowed under ILO Convention 105.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law sets a minimum employment age of 15 years and prohibits night work and certain types of hazardous labor for those under 18 years of age. In 2000 the Ministry of Employment and Social Welfare estimated that 18,000 children were working in Accra and 800,000 countrywide. The ILO estimated that 12 percent of children between the ages of 10 and 14 work. Children as young as 7 years worked as domestic laborers, porters, hawkers, miners, quarry workers, fare-collectors; they also worked in agriculture. The fishing industry on Lake Volta has a particularly high number of child laborers engaged in potentially hazardous work. According to an ILO representative, child labor in the tourism industry also increased. Child laborers were

poorly paid and subjected to physical abuse; they received little or no health care and generally did not attend school. According to government labor officials, child labor problems did not exist in the formal labor sector because “exploitive child labor” (defined as that which deprives a child of health, education, or development) was prohibited.

The migration of children from rural to urban areas increased, due to economic hardship. Children were driven to the streets to fend for themselves, increasing both the occurrence of child labor and the school dropout rate. Observance of minimum age laws was eroded by local custom and economic circumstances that encouraged children to work to help support their families. Most economic activity of children between ages 5 and 14 took place in the context of a family enterprise.

The African Center for Human Development, a local NGO, found that child labor and child trafficking were widespread in the informal labor sector, especially in larger cities and border areas (see Section 6.f.). In response to the study, the Government established a National Steering Committee for the International Program for the Elimination of Child Labor (IPEC), composed of representatives from the Government, the Ghana Employer’s Association, the TUC, the media, international organizations, and NGOs to look into child labor issues. The Committee developed the “National Plan of Action for the Elimination of Child Labor in Ghana 2001–2002,” which was published by the Ministry of Manpower Development and Employment and ILO/IPEC Ghana. Implementation of the IPEC began in 2001; a national coordinator and steering committee were established, and the Government’s statistical service was conducting a national survey of the child labor problem.

A Comprehensive Children’s Act provided additional child labor protection and strengthened the punishment for violators under the Act. The Act incorporated the existing labor legislation’s minimum age for employment and prohibitions on night work and hazardous labor. In addition, the legislation allows for children aged 15 years and above to have an apprenticeship whereby the craftsmen and employers have the obligation to provide a safe and healthy work environment along with training and tools. Fines and imprisonment for violators were increased considerably.

However, child labor laws were not enforced effectively or consistently, and law enforcement officials, including judges, police, and labor officials, often were unfamiliar with the provisions of the law protecting children. District labor officers and the Social Services sub-committees of District Assemblies were charged with seeing that the relevant provisions of the law were observed. Inspectors from the Ministry of Labor and Social Welfare were responsible for enforcement of child labor regulations. They visited each workplace annually and made spot checks whenever they received allegations of violations. All law enforcement and judicial authorities in the country were hampered by severe resource constraints and a lack of public awareness about the problem.

The Ministry of Manpower Development and Employment had more than 100 labor inspectors throughout the country responsible for monitoring companies’ labor practices; however, the inspectors did not look exclusively or specifically at child labor. When inspectors found infractions of child labor laws, they generally informed the employers about the provisions of the law and asked them to make changes; however, there was no record of any prosecutions for child labor resulting from these inspections. Officials only occasionally punished violators of regulations that prohibited heavy labor and night work for children. In addition, the inspectors’ efforts were concentrated only in the formal sector, which was not where the majority of child labor was performed.

The law prohibits forced and bonded labor performed by children; however, during the year, international observers reported that up to 100 girls and women were connected to Trokosi shrines (see Sections 5, 6.c., and 6.f.).

*e. Acceptable Conditions of Work.*—A tripartite commission composed of representatives of the Government, labor, and employers set minimum standards for wages and working conditions. On May 1, after lobbying by trade unions, the Tripartite Commission raised the daily minimum wage to \$0.89 (7,150 cedis), which was insufficient to provide a decent standard of living for a single wage earner and family. Furthermore, there was widespread violation of the minimum wage law. In most cases, households had multiple wage earners, and family members engaged in some family farming or other family-based commercial activities. Trade unions argued that an eventual minimum of a \$1 (8,000 cedis) per day would provide a living wage to workers.

The law sets the maximum workweek at 45 hours, with one break of at least 36 consecutive hours every 7 days; however, through collective bargaining the basic workweek for most unionized workers was 40 hours. The Government compensated



extra duty hours only for overtime actually worked, in accordance with labor equity, rather than as an automatic salary supplement.

Occupational safety and health regulations exist, and the Labor Department of the Ministry of Health and Social Welfare occasionally imposed sanctions on violators. However, safety inspectors were few and poorly trained. They took action if matters were called to their attention, but lacked the resources to seek out violations. Workers had the right to withdraw themselves from dangerous work situations without jeopardy to continued employment, although they rarely exercised this right.

The law protects both legal and illegal foreign workers.

*f. Trafficking in Persons.*—No laws specifically addressed trafficking in persons, and trafficking in persons was a problem; however, the Government could prosecute traffickers under laws against slavery, prostitution, and underage labor. The country was a source and a destination country for trafficked persons. The Government acknowledged that trafficking was a problem.

The law, which defines the rights of children and codifies the law in areas such as child custody, health, and education, did not address specifically trafficking. The country was a signatory of ILO Convention 182 and various ministries were working with the ILO and NGOs to address trafficking. In March draft legislation criminalizing trafficking in persons and establishing specific penalties for convicted traffickers was completed; however, the legislation was not submitted to Parliament by year's end. The Ministry of Manpower Development and Employment, in conjunction with ILO/IPEC, implemented a "National Plan of Action for the Elimination of Child Labor in Ghana (*see* Section 6.d.)."

Law enforcement authorities were not trained or given sufficient resources to deal with the problem and had a difficult time identifying persons who were being trafficked because of the fluid nature of family relations in the country. For example, a friend often was called a "cousin," and an older woman an "aunt," even if there was no blood relation. The Government was attempting to train security forces, immigration authorities, customs and border officials, and police on issues of trafficking, and early in the year, immigration officials were successful in stopping some child traffickers. There were no developments in the April 2001 case in which a woman was arrested at Paga, Upper East Region for trafficking to the Gambia eight boys and three girls, between the ages of 6 and 14 or the 2000 case of two men who had attempted to sell two young men into forced labor for \$9,100 (50 million cedis) and were charged with "slave dealings."

Trafficking was both internal and international, with the majority of trafficking in the country involving children from impoverished rural backgrounds. The most common forms of internal trafficking involved boys from the Northern Region going to work in the fishing communities in the Volta Region or in small mines in the west and girls from the north and east going to the cities of Accra and Kumasi to work as domestic helpers, porters, and assistants to local traders. In 2000 more than 100 boys reportedly were contracted out to Lake Volta fishermen (*see* Sections 6.c. and 6.d.). Local NGOs reported these children were subjected to dangerous working conditions and sometimes were injured or killed as a result of the labor they perform.

During the year, several persons were intercepted while trying to take approximately 50 persons from the northern part of the country to work in the southern part of the country. The 50 children were returned to their homes and the traffickers were in police custody. The case was pending in court at year's end.

Children between the ages of 7 and 17 also were trafficked to and from the neighboring countries of Cote d'Ivoire, Togo, and Nigeria to work as farm workers, laborers, or household help. On September 5, four Ghanaian girls aged 14 to 18 were handed over to WAJU at the Ghana-Togo border. The girls said they were taken from Ghana and forced to work as prostitutes in Nigeria. On September 7, one woman was arrested, and the investigation was ongoing at year's end.

Much of the recruitment of children was done with the consent of the parents, who sometimes were given an advance payment or promised regular stipends from the recruiter and were told the children would receive food, shelter, and often some sort of training or education. Some parents sent their children to work for extended family members in urban areas; treatment of children sent to work in relatives' homes varied. Many children were given to professional recruiters, usually women, who placed the children with employers in cities. A child in these circumstances usually was paid between \$2.50 and \$3.75 (20,000 and 30,000 cedis) per month. In many cases, the children never received the education or vocational training the recruiters promised. Girls may be forced into prostitution and often were sexually abused by their employers.

Women also were trafficked to Western Europe, mostly Italy, Germany and the Netherlands. International traffickers promised the women jobs; however, the women often were forced into prostitution once they reached their destination. The women were sent sometimes directly to Europe, while others were trafficked through other countries. Some young women were trafficked to the Middle East, particularly Lebanon, where they worked in menial jobs or as domestic help. There also was a growing trade in Nigerian women transiting Ghana on their way to Western Europe and reportedly the Middle East to work in the sex industry. Traffickers in person from other countries reportedly used Accra as a transit point to Europe and reportedly the Middle East. There reportedly was some trafficking in persons from Burkina Faso, mostly transiting Ghana on the way to Cote d'Ivoire.

In March the Government announced its National Plan to Combat Trafficking in Persons. The plan called for new legislation to criminalize trafficking in persons, specific penalties for traffickers, and specialized training for law enforcement agencies to detect and prosecute traffickers. A National Commission to Combat Trafficking was created, which coordinated antitrafficking efforts of governmental and nongovernmental actors.

Several NGOs, both local and international, worked with trafficking victims. These organizations, as well as the University of Ghana's Center for Social Policy Studies, conducted studies into trafficking as part of their broader agenda, performed some rescue operations for street kids, provided training and education for victims of trafficking and abuse, and in some cases, assisted with family reunification.

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## GUINEA

Guinea is a constitutional republic in which effective power is concentrated in a strong presidency. President Lansana Conte has ruled since 1984 first as head of a military junta, and since 1994 as a civilian president. Conte won a second 5-year term in a December 1998 election that was marred by violence and civil unrest, widespread irregularities, and the arrest and detention of major opposition candidates during vote counting. In November 2001, a nationwide referendum, which some observers believe was flawed, amended the Constitution to permit the President to run for an unlimited number of terms, and to extend the presidential term from 5 to 7 years. The country's second legislative election, originally scheduled for 1999, was held June 30. President Conte's Party of Unity and Progress (PUP) and associated parties won 91 of the 114 seats, with an officially announced turnout of 72 per cent but a much lower actual participation rate. The nonviolent election was boycotted by two of the three major opposition parties. An increasingly disproportionate number of appointed public sector positions, including senior military and cabinet posts, were held by members of the President's own minority ethnic Soussou group. The judiciary was subject to executive influence, particularly in politically sensitive cases.

The Gendarmerie and the national police shared responsibility for internal security and sometimes played an oppressive role in the daily lives of citizens. Members of the Presidential Guard were accountable to virtually no one except the President. There was no effective civilian control of the security forces, whose members committed serious human rights abuses; however, there were fewer reported abuses than in previous years.

Approximately 85 percent of the country's population of 7.6 million were engaged in subsistence agriculture. More than 80 percent of export earnings came from mining, particularly bauxite, gold, and diamonds. Economic growth lagged in recent years following a period of modest growth between 1996 and 1999, which was attributable in part to substantial assistance from international financial institutions and bilateral donors. Since 1999 government collaboration with donors has been complicated by additional defense spending, widespread corruption, particularly at the port and customs offices, and limited transparency in the Government, which has blocked efforts at economic and fiscal reform.

The Government's human rights record remained poor; although there were improvements in several areas, serious problems remained. The Government's tight control of the electoral process, its refusal to create an independent electoral oversight mechanism, and its prohibition of nongovernmental broadcast media, effectively restricted citizens' right to change their government. There were three unlawful killings by security forces during the year, and there were no reports of disappearances. Civilian and military security forces beat and otherwise abused civilians. Members of the security forces committed abuses, often with impunity. Prison conditions were inhumane and life threatening. Arbitrary arrest and prolonged pre-

trial detention were problems. The Government maintained the executive branch's influence over the judicial system and the electoral process, and infringed on citizens' privacy rights. The Government restricted freedom of speech and of the press, although the private press criticized the Government freely. The Government restricted freedom of assembly and association and infringed on freedom of movement. Violence and societal discrimination against women, prostitution of young girls, female genital mutilation (FGM), ethnic discrimination and interethnic violence, child labor, and reports of trafficking of women and children continued.

Unlike in the previous year, there were no reports of crossborder attacks by Revolutionary United Front (RUF) rebels from Sierra Leone and armed attackers from Liberia.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—In past years, security forces killed numerous persons, and there were reports of deaths in custody due to torture and abuse. There were three confirmed reports of security forces killing persons during the year. In July a military patrol shot a young man following a dispute; there were no reports of any arrests. In August a drunken gendarme shot and killed a young man in Conakry. The gendarme was arrested and jailed the following day, after the young man's family and neighbors protested. Gendarme officials also paid compensation to the family. In November army troops beat to death an individual in Kouroussa; there were no reports of any arrests.

There were no reports of student killings during the year. No action has been taken, nor is any likely to be, against the bodyguards of the prefect of Koundara who killed and injured students during the November 2001 protests.

Unlike in the previous year, there were no reported deaths in custody due to inhumane prison conditions and inadequate medical treatment (*see* Section 1.c.). No action was taken against prison officials who mistreated refugees in 2001. Guinean prisoners, acting on orders from prison officials, reportedly also killed a number of Sierra Leonean refugees in 2001.

No action was taken, nor is any likely to be, against the security forces in the following 2000 cases: The killing of six persons in Conakry in November and the case of a prisoner allegedly tortured to death. There was no investigation, nor is there likely to be, into the clashes between security forces, ruling party militants, and opposition party supporters during the 2000 municipal elections, which resulted in the deaths of eight persons and injuries to several others.

Between January and April 2001, the army crossed into northern Sierra Leone on a number of occasions in pursuit of RUF rebels and other attackers from Sierra Leone and Liberia. During these actions, security forces killed a number of civilians and destroyed numerous houses and other structures in RUF-occupied villages; however, no statistics were available. Since the May 2001 shelling of a group of RUF rebels at a disarmament site, which killed at least one civilian, there have been no reports of the Guinean military mounting crossborder operations into Sierra Leone or Liberia.

Government authorities continued to block efforts by human rights groups and nongovernmental organizations (NGOs) to investigate political killings that took place in the 1970s under then-President Sekou Toure. Following visits during 2001 to Camp Boiro, where political prisoners were held during the Sekou Toure regime, human rights groups and NGOs suggested that an intentional lack of maintenance and upkeep was destroying evidence of the camp's former use. During 2001 the Government did not permit survivors of Camp Boiro to receive funds intended to transform the camp into a memorial; the group did not apply for funds during the year.

There were no crossborder attacks by RUF rebels or other attackers from Sierra Leone and Liberia during the year and no action was taken against those responsible for attacks in previous years.

Many victims of crime feared that they might never receive justice because of judicial corruption and at times resorted to exacting their own form of retribution through vigilante violence. Some suspected criminals, notably thieves and rapists, were beaten to death or burned by their victims or others after being soaked with a flammable liquid. In August 2001, two criminals reportedly were killed; there were no reports of any punishment for those who killed criminals.

*c. Disappearance.*—Unlike in previous years, there were no reports of politically motivated disappearances. There also were no reports that refugees, Sierra Leonean citizens, or RUF rebels were abducted during the year.

*d. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Penal Code and the Constitution prohibit torture and cruel, inhuman, or degrading treatment; however, both civilian and military security forces beat and otherwise abused civilians. There also were reports that security forces used torture and beatings to extract confessions and employed other forms of brutality, including holding prisoners incommunicado without charges under inhumane conditions. There were no reported judicial proceedings against officers suspected of committing abuses. Many citizens viewed the security forces as corrupt, ineffective, and even dangerous. Police ignored legal procedures and extorted money from citizens at roadblocks (*see* Section 2.d.).

Human Rights Watch (HRW) reported that, during the screening of Liberian refugees entering the country during July and August, young male refugees were stripped and searched for tattoos, scarification, or other signs of connection with dissident Guinean or RUF forces. Some of these young men were reported to have been detained in local jails in the Yomou area for up to 1 week, and there were unconfirmed reports that some were beaten and tortured. In June 2001, an NGO reported that army troops amputated the limbs of their RUF prisoners; however, there were no witnesses to confirm these reports, which the Government denied.

There continued to be reports of sexual assaults on refugees (*see* Section 2.d.). HRW reported that over a period of 3 days in August, soldiers gang raped three or four refugee women in the town of Yomou. The soldiers subsequently were arrested and imprisoned by their commanding officer. There also were reports that refugees were beaten, stripped, and searched at roadblocks while in detention (*see* Section 1.d.).

The Organisation Guinéenne de Defense des Droits de L'Homme et du Cityoyen (OGDH) reported that in the spring in the town of Mandiana, a gendarme acting on his own tortured a citizen to extract information about a rifle stolen from the gendarme. The gendarme was arrested and imprisoned.

No action was taken against trainees responsible for the November 2001 beating of students in Kissidougo or the security forces who in November and December 2001 forcibly dispersed demonstrations and beat students.

No action was taken, nor is any likely to be, in the following cases from 2000: Security forces who shot, beat, and raped civilians, and pillaged personal property during the June elections; the soldiers, police, and civilian militia groups who detained, beat, and raped refugees from Sierra Leone and Liberia in September; and the case of defendants in the Alpha Conde trial who reported that they were tortured, starved, and neglected during their detention.

Prison conditions were inhumane and life threatening. While officials provide a basic diet for prisoners, most inmates relied on supplemental assistance from families or friends to maintain their health. Guards often demanded bribes in exchange for allowing delivery of food to those incarcerated. Standards of sanitation remained poor, which have resulted in several dozen deaths due to malnutrition and disease in previous years; there were no confirmed reports of deaths during the year (*see* Section 1.a.). Some prisoners have reported sleeping on their knees because their cells were so small. Prisoners reported threats, beatings, and harassment by guards, and some reported being denied food and a place to lie down. The independent press, a local human rights organization, and a former prisoner reported in previous years that inmates routinely were beaten and subjected to other forms of abuse at the prison in Koundara in the north.

The OGDH determined that prisoners in at least one major prison in N<sup>o</sup>Zerekore had suffered more from neglect and lack of resources than from mistreatment. According to the OGDH, the N<sup>o</sup>Zerekore prison was a converted grain warehouse with no electricity or running water. Built in 1932 for 70 prisoners, it housed 120 in 2001. Although the Minister of Justice has criticized inhumane prison conditions during televised visits to prison facilities in 2001, no concrete action was taken to improve conditions by year's end.

There were credible reports from prisoners that female inmates were subject to harassment and sexual assault by guards. Men and women were housed separately, but juveniles generally were housed with adults. Pretrial detainees were not separated from convicted prisoners, and the prison system often was unable to track pretrial detainees after arrest. At times detainees remained in prison for up to 2 years without trial. Although the Government claimed that it did not have political prisoners, prisoners of political importance usually were held in the main prison in Conakry with the general prison population; however, they were housed in separate cells.

The Government permitted prison visits by the International Committee of the Red Cross (ICRC) and other local humanitarian and religious organizations, which offered medical care and food for those in severe need. A former prisoner reported

that without this assistance, those who did not have families or friends would have starved to death.

The ICRC reported that it had been allowed regular access to all 33 official detention facilities in the country during the year due to a signed agreement with the Government. According to the ICRC, authorities were cooperative, and the ICRC has been encouraged by the response of the prison and security authorities to ICRC initiatives in improving prison facilities in Conakry and Kankan.

*d. Arbitrary Arrest, Detention, or Exile.*—Security forces regularly used arbitrary arrest and detention, despite procedural provisions in the Penal Code designed to safeguard detainees. In practice administrative controls over the police were ineffective, and security forces rarely followed the Penal Code. The Code of Penal Procedure permits only the Gendarmerie to make arrests, but the army, the Presidential Guard (Red Berets), and the state police often detained persons as well.

The Penal Code requires that the Government issue a warrant before an arrest can be made and that detainees be charged before a magistrate within 72 hours; however, many detainees were incarcerated for longer periods before being charged. After being charged, the accused may be held until the conclusion of the case, including a period of appeal. The Constitution proscribes incommunicado detention; however, at times it occurred in practice. The law provides for access by attorneys to their clients, but authorities frequently did not respect this provision. Release on bail was at the discretion of the magistrate who had jurisdiction.

The Penal Code strictly forbids the detention of civilians at military camps; however, this provision largely was ignored.

There were no reports of politically motivated arrests prior to the June legislative elections; however, the OGDH reported that an undetermined number of opposition members were arrested in Dalaba on election day and later were released after paying a \$50 fine (100,000 FG francs).

In September police detained three Union of Republican Forces (UFR) officials at their headquarters on suspicion of conspiracy against the Government. The three officials were released after a search of the building.

Authorities arrested journalists (*see* Section 2.a.).

Security forces frequently detained persons at roadblocks and extorted money from them (*see* Section 2.d.). The army and the Gendarmerie continued to detain refugees during the year. In September the U.N. High Commission for Refugees (UNHCR) reported that 89 of the total refugee population of 180,000 were in detention throughout the country. In June 2001, authorities arrested 52 persons reportedly after refugees in the Telikoro camp attacked a group of gendarmes inside the camp. The protection office of the UNHCR reported that 33 persons remained in custody in the Kissidougou prison after being tried and convicted on a variety of charges. HRW confirmed that refugees died during the year while in detention because of poor prison conditions and abuse (*see* Sections 1.a., 1.c., and 2.d.).

There was no further information, nor is there likely to be, on the following incidents from 2000: The whereabouts of 3 of 5 refugees detained at the Guekedou refugee camp and the detention by the police of approximately 30 students who were protesting poor conditions in schools.

Bar Association attorneys, the independent press, and government sources described in past years a parallel and covert system of justice run by unidentified uniformed personnel who conducted midnight arrests, detained suspects, and used torture in secret prisons to obtain confessions before transferring detainees to prosecutors (*see* Section 1.c.). Unlike in previous years, there were no reports of specific incidents involving a parallel justice system. In previous years, a variety of witnesses, including former prisoners and those accused in the coup-plotting trial of Alpha Conde, had reported that the Government imprisoned for political reasons persons considered a threat to state security at the Kassa prison, allegedly located on an island off Conakry. The Government denied the existence of the Kassa Island prison and stated that prisoners identified as political detainees have been incarcerated for criminal acts and were housed in other prisons. There have been no new reports of the existence of the Kassa facility since 2000.

The Government does not practice forced exile, although several soldiers who fled the country in 1996 after a mutiny attempt remained in self-imposed exile, according to their families. There were credible reports that these soldiers were engaged in the armed attacks on the country in conjunction with RUF rebels from Sierra Leone and Liberian forces in 2001 and 2000 (*see* Section 1.a.).

*e. Denial of Fair Public Trial.*—The Constitution provides for the judiciary's independence; however, judicial authorities routinely deferred to executive authorities in politically sensitive cases. Magistrates were civil servants with no assurance of tenure. Because of corruption and nepotism in the judiciary, relatives of influential

members of the Government often were, in effect, above the law. Judges often did not act independently, and their verdicts were subject to outside interference. Influential persons often intervened on behalf of their relatives to affect the disposition of a case.

The judiciary includes courts of first instance, the two Courts of Appeal, and the Supreme Court, which is the court of final appeal. A military tribunal prepares and adjudicates charges against accused military personnel, to whom the Penal Code does not apply. Civilians were not subject to military tribunals. The Government announced in 1996 the creation of a Discipline Council for dealing with civil servants who abuse their positions as government employees; however, the Council still had not prosecuted any cases by year's end.

The judicial system was plagued by numerous problems, including a shortage of qualified lawyers and magistrates and an outdated and restrictive penal code. The Penal Code provides for the presumption of innocence of accused persons, the independence of judges, the equality of citizens before the law, the right of the accused to counsel, and the right to appeal a judicial decision. Although in principle the Government was responsible for funding legal defense costs in serious criminal cases, in practice it rarely disbursed funds for this purpose. The attorney for the defense frequently received no payment. In 2000 the Minister of Justice introduced a system for tracking cases of pretrial detainees to follow up on those that did not reach the courts in a timely manner; however, a lack of information technology and training rendered the system ineffective. No improvements were made to this system during the year.

In January the Minister of Justice attempted to dissolve the Bar Association and arrest its president for not following the Ministry's recommendations. Negative publicity and pressure from President Conte forced the Minister to reverse his position.

The State Security Court is comprised of magistrates directly appointed by the President, and the verdict is open only to an appeal on a point of law, not for the reexamination of evidence. In 2000 the State Security Court tried presidential candidate Alpha Conde and his codefendants.

Alpha Conde was arrested with three others in 1998 and charged with the following: Illegal use of military force; undermining the authority of the state and the integrity of the national territory; use of violence against a state security officer; wrongful possession and transfer of foreign currency; and an illegal attempt to cross the border. In September 2000, Conde was found guilty and was sentenced to 5 years in prison in a flawed trial. Most of Conde's codefendants were found innocent and released, while all of the others were sentenced to time served. In May 2001, President Conte pardoned Conde. Conte previously was reported to have restored all of Conde's political and civil rights; however, Conde's right to vote and run for political office in the country have not been restored.

Many citizens wary of judicial corruption preferred to rely on traditional systems of justice at the village or urban neighborhood level. Litigants presented their civil cases before a village chief, a neighborhood leader, or a council of wise men. The dividing line between the formal and informal justice systems was vague, and authorities may refer a case from the formal to the traditional system to ensure compliance by all parties. Similarly if a case cannot be resolved to the satisfaction of all parties in the traditional system, it may be referred to the formal system for adjudication. The traditional system discriminated against women in that evidence given by women carries less weight, in accordance with Islamic precepts and customary law (*see* Section 5).

There were no claims during the year that the Government held political prisoners. According to the Rally of the Guinean People party (RPG), approximately 20 party members were detained during 2001 by the prefecture authorities in Beyla, Kerouane, and Macenta on unspecified charges. All 20 were released in 2001.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the inviolability of the home, and judicial search warrants are required by law; however, police and paramilitary police often ignored legal procedures in the pursuit of criminals. Police and the military frequently detained persons at nighttime roadblocks for purposes of security but also to extort money or goods.

Security officials were believed widely to monitor the mail. Local businesses, including foreign companies, often complained of intimidation and harassment by public officials and authorities.

During the year, authorities relocated thousands of refugees from border areas to camps in the country's interior; the relocation was voluntary (*see* Section 2.d.).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of expression, subject to certain limitations; however, despite government statements in support of free speech and a free press, the Government broadly restricted these rights. The Government prohibited talk or chants in public that it considered seditious, established defamation and slander as criminal offenses, and prohibited communications that insulted the President; incited violence, discrimination, or hatred; or disturbed the public peace. Sanctions included fines, revocation of press cards, imprisonment, and banishment.

In December a journalist was arrested and tried in Conakry for the defamation of a public official. The journalist was sentenced to 1-year imprisonment but subsequently was pardoned by President Conte.

In July 2001, police in Conakry closed the offices of the UFR, whose leader vocally opposed the Government's campaign to extend the President's term in office. The office reopened during 2001 and the UFR continued to function as an opponent of the administration.

The Government published an official newspaper, the daily *Horoya*, and operated the official television and radio (ORTG) stations. The state-owned media provided extensive and favorable coverage of the Government and ruling party, while providing little coverage of opposition party activities. For example, the Government and the PUP used the state-owned media to campaign for constitutional changes to allow a third term for President Conte (see Section 3). Journalists for the official press practiced self-censorship and avoided reporting on politically controversial issues. However, some younger broadcast journalists for the official press reported critically about the Government.

There was a vocal private press that criticized the President and the Government. For example, the weekly satirical newspaper *Le Lynx* published front-page cartoons lampooning the President and senior government officials. Seven private newspapers (*Le Lynx*, *La Lance*, *L'Oeil*, *Le Democrat*, *L'Independant*, *La Nouvelle Tribune*, and *L'Observateur*) were published weekly in Conakry, and up to 10 other publications appeared sporadically, although technical difficulties and high operating impeded regular publication. *Le Lynx* and *La Lance*, under the same management, had Internet web sites. One newspaper, *L'Espoir*, was affiliated with the governing political party, and several other newspapers were affiliated with opposition parties. Other newspapers offered news and criticism of both the Government and the opposition. However, because the literacy rate was only approximately 35 percent of the total population and the price of newspapers was beyond the reach of the average citizen, print media had a limited audience. Despite the limited reach of the print media, the Government still occasionally criticized and harassed print journalists.

In December the Government suspended three newspapers—*Croisade*, *Diplomate*, and *Defi*—for unspecified reasons.

The Government-controlled press promoted ruling party candidates during the June legislative elections. Opposition parties were allowed 5 minutes on government television and radio per party per night during the final month leading up to the election.

Political tracts occasionally circulated in Conakry and other urban areas. Some tracts supported the Government, while others specifically criticized senior officials. Foreign publications, some of which criticized the Government, often were available.

In July an army officer detained the editor of the newspaper *L'Aurore* and then released him the following day.

The trial of the journalist arrested in July 2000 for publishing an article about the electric company *Sogel* still was pending at year's end, although he had been released.

The Government owned and operated all domestic broadcast media including radio, which was the most important source of information for the public. Although the law permits private electronic media, the Government never has approved license requests for private radio and television stations, on the grounds of national security and stability. Many citizens listened regularly to foreign-origin shortwave radio. The Government did not restrict access to or distribution of foreign television programming via satellite or cable; although relatively few citizens could afford these services.

The Government did not restrict access to the Internet. At year's end, there were four domestic service providers, three private and one affiliated with SOTELGUI, the joint venture telephone company (owned by the Government and a Malaysian telecommunications firm), which held a monopoly on international telephone lines. Storefront operations offering Internet access were common throughout downtown

Conakry; however, a lack of reliable telephone lines restricted home access, even for the few who could afford it.

The Ministry of National Education and Scientific Research exercised limited control over academic freedom through its influence on faculty hiring and control over the curriculum. In general teachers were not subject to classroom censorship.

Police broke up student protests in Dubreka, Fria, Boke, Kamsar, Kindia, and Kankan during the year. In all of these cases, students had been protesting for better classroom conditions.

*b. Freedom of Peaceful Assembly and Association.*—The law restricts freedom of assembly, and the Government exercises its power to restrict unwanted political activity. The Penal Code bans any meeting that has an ethnic or racial character or any gathering “whose nature threatens national unity.” The Government requires 72-hour advance notification of public gatherings, otherwise the events are considered illegal.

The Government banned all street marches except funerals. The law permits local authorities to cancel a demonstration or meeting if they believed that it posed a threat to public order. They could hold event organizers criminally liable if violence or destruction of property ensued. In December 2000, the Governor of Conakry announced that written permission from his office was required for all public meetings of all associations, NGOs, groups, cooperatives, and political parties. Police and gendarmes dispersed several unauthorized demonstrations during the year, including several student protests and protests against price increases in Kamsar and Conakry (see Section 2.a.).

No action was taken against security forces who forcibly dispersed demonstrators in 2001.

No action was taken against security forces who killed six persons, including a university professor, who were meeting to plan a demonstration against the Government’s policy in the forest region in late 2000.

The law provides for freedom of association; however, the Government restricted this right in practice. The Government imposed cumbersome requirements to obtain official recognition for public social, cultural, religious, or political associations. Most of the restrictions focused on political associations as opposed to nonpolitical associations. For example, political parties had to provide information on their founding members and produce internal statutes and political platforms consistent with the Constitution before the Government recognized them.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion and permits religious communities to govern themselves without state interference, and the Government generally respected these rights in practice.

The Government-sponsored National Islamic League (NIL) represented the country’s Sunni Muslim majority, which comprised 85 percent of the population. The Government requires that all recognized Christian churches join the Association of Churches and Missions in order to benefit from certain government privileges, such as tax exemptions and energy subsidies. Missionary groups were required to make a declaration of their aims and activities to the Ministry of Interior or to the NIL.

Government support of the powerful, semi-official NIL led some non-Muslims to complain that the Government uses its influence to favor Muslims over non-Muslims, although non-Muslims were represented in the Cabinet, administrative bureaucracy, and the armed forces. The Government refrained from appointing non-Muslims to important administrative positions in certain parts of the country, in deference to the particularly strong social dominance of Islam in these regions.

Relations among the various religions generally were amicable; however, in some parts of the country, Islam’s dominance was such that there was strong social pressure that discouraged non-Muslims from practicing their religion openly.

For a more detailed discussion see the 20002 International Religious Freedom Report.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides citizens with the right to travel freely within the country and to change their place of residence and work; however, authorities at times infringed on these rights. The Government requires all citizens to carry national identification cards, which they must present on demand at security checkpoints. Police and security forces frequently detained persons, particularly late at night, at military roadblocks and extorted money from them. The private press and local NGOs reported that travelers often were pressured to pay bribes to allow passage. Government officials stated that a few rogue soldiers were corrupt; however, abuse at official checkpoints was systemic. Unlike in the previous year, the Government did not require armed escorts in the forest region due to the presence of Liberian dissidents in the border area.



The border with Liberia remained closed officially during the year; however, the Government continued to accept refugees. HRW reported that at some border crossings security forces were turning away young Liberian men who were suspected of being combatants in the conflict in northern Liberia. There also were confirmed reports that government soldiers at some border crossing points were cooperating with the Liberian dissident movement Liberians United for Reconciliation and Democracy (LURD) to screen refugees for forced recruitment (*see* Section 1.f.).

The border with Sierra Leone remained officially closed during the year. Local commercial and personal travel between the countries was permitted, and Sierra Leonean refugees residing in the country officially were allowed to return to Sierra Leone both on their own and under the auspices of UNHCR.

According to the Government, as of early in the year, there were 82,000 internally displaced persons (IDPs) remaining in the country as a result of the 2000 and 2001 border attacks by RUF rebels from Sierra Leone and by Liberian forces.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the UNHCR, the World Food Program, other humanitarian organizations, and donor countries to assist refugees. The Government provides first asylum in accordance with U.N. and Organization of African Unity conventions. The UNHCR stated that as of September more than 150,000 Liberian and Sierra Leonean refugees resided in the country. Of these refugees, 92,546 (50,895 Liberians and 41,641 Sierra Leoneans) were under UNHCR protection in camps, with the remainder living in Conakry or villages and towns in the forest region. As of July 17, 56,390 Sierra Leoneans had repatriated voluntarily since 2001.

Operations to move Liberian refugees away from the border began in August 2001 but were halted in July due to increasing arrivals of new Liberian refugees.

In the past, the Government generally was hospitable toward refugees; however, as crossborder raids by RUF rebels from Sierra Leone and by Liberian forces intensified in 2000 and 2001, the Government increasingly became less tolerant toward refugees. Unlike in the previous year, there were neither border crossings by the army into northern Sierra Leone nor by RUF rebels from Sierra Leone and Liberian forces into the country during the year.

There were some reports that refugees were forced to pay bribes to get past many of the checkpoints. Security forces continued to arrest suspected rebels at the border as they tried to enter the country. Security forces, searching for tattoos and other marks identifying rebels, searched and stripped refugees in public during the year (*see* Sections 1.c. and 1.d.).

While allegations surfaced during the year that U.N. employees sexually abused or exploited refugees, a subsequent investigation failed to corroborate any of the charges from the initial report. Nonetheless, U.N. officials reportedly took steps to increase security for refugees in the country.

There were reports from NGOs and UNHCR that the LURD forcibly recruited refugees at camps in Guinea. For example, on August 26, members of LURD entered Kouankan refugee camp and attempted to recruit 10 refugees to return to Liberia to fight against the Liberian government. The LURD members eventually returned to Liberia with two refugees who they claimed were former combatants. Government authorities made no attempt to deny LURD combatants access to the Kouankan refugee camp.

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

The 1990 Constitution provides for a popularly elected President and National Assembly; however, the ability of citizens to exercise this provision effectively was restricted. The Government's tight control of the electoral process and lack of an independent electoral oversight mechanism called into serious doubt the ability of citizens to change their government peacefully.

From June through November 2001, the Government and ruling party campaigned to amend the Constitution's mandated limit of two 5-year presidential terms. This campaign included the use of government-controlled media and official events in order to create the impression that there was widespread popular support for the amendment. In November 2001, a nationwide referendum was held on constitutional changes to allow the President to run for an unlimited number of terms, and to extend the presidential term from 5 to 7 years. The Government reported 91 percent participation in the referendum, and more than 98 percent of the votes in favor of the changes; however, impartial observers stated that turnout appeared to be no more than 25 percent.

The Government continued to dominate the electoral process. The Government continued to refuse to establish an independent national election commission. The

Government retained exclusive control of all registration and election procedures, including the casting and counting of votes. The Government controlled both the 1993 and the 1998 multiparty presidential elections and the multiparty legislative elections in 1995 and June, limiting the opposition to a subordinate role. There were approximately 46 legally recognized political parties; deputies of 5 different parties were represented in the National Assembly elected in June.

According to the Government's tabulation of results, President Conte was elected in 1998 to a second 5-year term, receiving 56 percent of the 2.7 million votes cast. The election was marred by violence and disruption of opposition campaigning before the polling, by civil unrest after the polling, by widespread irregularities that tended to favor the incumbent, and by the arrest and detention of major opposition candidates during the vote-counting process.

Opposition party officials charged that security forces arrested and detained more than 100 opposition pollwatchers on election day, manipulated voting procedures in some areas, and overlooked irregularities in voter registration and in ballot-counting procedures. Members of the armed forces were required to vote on the military installations to which they were posted and were subject to strong pressures to vote for President Conte.

Observers from various organizations, affiliated chiefly with developing countries, issued a statement that found no fault with the casting of ballots on election day; however, observers from European and other credible foreign organizations did not endorse that statement, which was issued before the election results were announced and that did not address registration, campaigning, and the counting of votes.

Legislative elections originally scheduled for 1999 were rescheduled for December 2001; however, they were postponed again due to logistical and timing problems and pressure from the international community. Members of the National Assembly met in April 2001 and conducted normal business; however, some observers have questioned the legality of the session as the members' terms expired in 2000. In June legislative elections were held, and observers judged the results to be questionable due to a lack of transparency and neutrality in the electoral process.

The President continued to hold the power to appoint the governors, prefects, and their deputies to administer regions and subregions respectively. Most of these officials were members of the PUP or of parties allied with it. Local governments generally had limited autonomy. Although they had some financial resources with which to fund local programs, most of their funds were controlled by the central government.

There were 19 female deputies in the 114-member National Assembly elected on June 30. Three women held seats in the 26-member Cabinet: The Minister of Commerce; the Minister of Tourism; and the Minister of Social Affairs and Promotion of Women. There were few women at senior levels below minister, and there were no women in the senior ranks of the armed forces. Women played a minor role in the leadership of the major political parties.

The Cabinet and armed forces leadership included representatives of all major ethnic groups. However, a disproportionate number of senior military officers were Soussou, the President's ethnic group.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were a number of local NGOs primarily interested in human rights problems. Government officials generally were cooperative and responsive to their views; however, some local organizations alleged that government officials tried to intimidate them, and that they often met resistance when trying to investigate abuses or engage in civil education. Various government officials blocked private efforts to memorialize victims of the Sekou Toure regime that ruled the country from independence until 1984. Following a series of crossborder raids by rebels in 2001 and 2000, several NGOs suspended activities due to insecurity and instability in the border region. NGOs resumed operation in the forest region during the year, although most took extra precautions due to the ongoing conflict across the borders in both Liberia and Cote d'Ivoire.

A human rights office within the Ministry of Defense, the Office of International Humanitarian Rights, has conducted more than 100 human rights seminars since 1994 to teach military personnel about human rights recognized by international and regional agreements. Seminars were conducted by military and civilian trainers from the ICRC during the year under the auspices of this human rights office.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution states that all persons are equal before the law regardless of gender, race, ethnicity, language, beliefs, political opinions, philosophy, or creed; however, the Government did not enforce these provisions uniformly.

*Women.*—Domestic violence against women was common, although estimates differed as to the extent of the problem. Wife beating is a criminal offense and constitutes grounds for divorce under civil law; however, police rarely intervened in domestic disputes. The social stigma attached to rape prevented most victims from reporting it. Marital rape goes unreported, because most women and men view it as the husband's right. Several local NGOs were working to increase public awareness of the nature of these crimes and to promote increased reporting. The Government did not pursue vigorously criminal investigations of alleged sexual crimes.

FGM was practiced widely in all regions and among all religious and ethnic groups. FGM is illegal under the Penal Code, and senior officials and both the official and private press have spoken against the practice; however, there have been no prosecutions. FGM was performed on girls and women between the ages of 4 and 70, but exact figures on this procedure were difficult to establish. The Coordinating Committee on Traditional Practices Affecting Women's and Children's Health (CPTAFE), a local NGO dedicated to eradicating FGM and ritual scarring, cited a recent decline in the percentage of women and girls subjected to FGM. CPTAFE estimated the figure to be between 65 and 75 percent; however, expert estimates varied between 65 and 90 percent. The lower figure, if accurate, would represent a decline over recent years due to education of the population by women's rights groups about the health risks associated with the practice. However, infibulation, the most dangerous form of FGM, still was performed in the forest region, but less frequently than in previous years. Despite diseases resulting from crude and unsanitary surgical instruments and deaths resulting from the practice, the tradition continued, seriously affecting many women's lives. FGM also increased the risk of HIV infection since unsterilized instruments were shared among participants.

The Government made efforts to educate health workers on the dangers of this procedure, and it supported the CPTAFE's efforts. The CPTAFE reported high rates of infant mortality and maternal mortality due to FGM. In 1997 the Government, in collaboration with the World Health Organization, initiated a 20-year program to eradicate FGM. As a result, government ministers, health officials, and the media have discussed FGM more frequently; however, there were no statistics evaluating the success of the program.

A growing number of men and women opposed FGM. Urban, educated families were opting increasingly to perform only a slight symbolic incision on a girl's genitals rather than the complete procedure. During the year, CPTAFE held large public ceremonies celebrating the "laying down of the excision knife" in which some traditional practitioners of FGM pledged to discontinue the practice; however, most of those who performed FGM opposed its eradication since the practice was lucrative.

There were reports that women were trafficked for the sex trade and illegal labor (see Section 6.f.).

Although the Government made regular statements in the media against sexual harassment, women working in the formal sector in urban areas complained of frequent sexual harassment.

The Constitution provides for equal treatment of men and women, and the Ministry of Social Affairs and Women's Promotion worked to advance such equality; however, women faced discrimination throughout society. Women faced discrimination particularly in rural areas where opportunities were limited by custom and the demands of childrearing and subsistence farming. Women were not denied access to land, credit, or businesses, but inheritance laws favored male heirs over females. Government officials acknowledged that polygyny was a common practice. Divorce laws generally tended to favor men in awarding custody and dividing communal assets. Legal evidence given by women carried less weight than testimony by men (see Section 1.e.). The Government affirmed the principle of equal pay for equal work; however, in practice women received lower pay than men.

*Children.*—The Constitution provides that the Government has a particular obligation to protect and nurture the nation's youth, and the Government allocated a significant percentage of the budget to primary education; however, the Government did not spend the allocated funds. A Minister of Youth was charged by the President with defending women's and children's rights, and a permanent committee dedicated to defending the rights of the child, with members chosen from different ministries, NGOs, and other sectors, was established in 2000.

The Government provided free, compulsory primary school education for 6 years; however, enrollment rates were low due to school fees and lax enforcement of laws

mandating school attendance. Approximately 51 percent of all eligible students were enrolled in primary school, including 66 percent of eligible boys compared with 37 percent of eligible girls. Girls often were taken out of school and sent to work to help pay for their brothers' education.

FGM was performed commonly on girls (see Section 5, Women).

The legal age for marriage is 21 years for men and 17 years for women; however, underage marriage was a problem. The CPTAFE, in conjunction with the Government, local journalists, and international NGOs, promoted an education campaign to discourage underage marriage. Although such marriages are prohibited by law, parents contract marriages for girls as young as 11 years of age in the forest region.

There were reports that girls were trafficked for prostitution and other labor (see Section 6.f.).

*Persons with Disabilities.*—The Constitution provides that all persons are equal before the law. There are no special constitutional provisions for persons with disabilities. The Government has not mandated accessibility for persons with disabilities, and few persons with disabilities worked, although some developed opportunities in the informal sector in small family-run businesses.

*National/Racial/Ethnic Minorities.*—The country's population was ethnically and regionally diverse. No single ethnic group constituted a majority nationwide. The largest ethnic groups were the Puhlar, also called Peuhl or Fulani (approximately 40 percent of the population), the Malinke (approximately 30 percent), and the Soussou (approximately 20 percent). Each group spoke a distinct primary language and was concentrated in a distinct region: The Soussou in lower Guinea; the Puhlar in middle Guinea; and the Malinke in upper Guinea.

While the Constitution and the Penal Code prohibit racial or ethnic discrimination, ethnic identification was strong. Mutual suspicion affected relations across ethnic lines, in and out of the Government. Widespread societal ethnic discrimination by members of all major ethnic groups was evident in private sector hiring patterns, in the ethnic segregation of urban neighborhoods, and in the relatively low levels of interethnic marriage. The proportion of public sector positions occupied by Soussous, particularly at senior levels, was perceived widely as exceeding their share of the national population.

The ruling PUP party, although generally supported by Soussous, has transcended ethnic boundaries more effectively than the major opposition parties, which have readily identifiable ethnic and regional bases; the UNR's main base was the Puhlar, while the RPG's main base was the Malinke. Soussou preeminence in the public sector and Malinke migration into the traditional homelands of smaller ethnic groups in the forest region have been major sources of political tensions that sometimes have erupted into violence.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right of employees to form independent labor unions and prohibits discrimination based on union affiliation. The Government generally respected this right in practice. Approximately 160,000 workers were reported as unionized, although inadequate labor statistics make it difficult to estimate the exact percentage of workers in unions. Approximately 52,000 were government workers and thus automatically members of the Government union. The rest were engaged in private, mixed, and informal sectors. The largest independent union, Union of Workers of Guinea (USTG), claimed 64,000 members, 18,000 of which were women.

The Labor Code states that all workers, except military and paramilitary personnel, have the right to create and participate in organizations that defend and develop their individual and collective rights as workers. The Labor Code requires elected worker representatives for any enterprise employing 25 or more salaried workers.

There were several trade unions and labor confederations; the National Confederation of Guinean Workers (CNTG) remained the largest confederation. CNTG was an umbrella organization for 16 individual unions of government employees, each of which was affiliated with a government ministry. The CNTG was funded indirectly by the Government, although dissident members sought to increase the Confederation's freedom from government control. Independent unions and confederations have gained popularity, such as the Free Union of Teachers and Researchers of Guinea, the Professional Union Federation for Education, and the National Organization for Free Trade Unions of Guinea.

The Code also prohibits antiunion discrimination. Union delegates represented individual and collective claims and grievances with management. However, at regional and prefecture levels, unionized labor faced strong opposition from govern-

ment officials. Union officials were selected on the basis of nepotism and patronage; these individuals were not sensitized to the rights of workers, and often viewed unions as an enemy of the Government. As a result, union activities in the interior of the country faced harassment and interference from many governors and prefects. Union activities in Conakry faced less harassment and interference. Individual workers threatened with dismissal or other sanctions had the right to a hearing before management with a union representative present and, if necessary, to take the complaint to the Conakry Labor Court, which convened weekly to hear such cases. In the interior, civil courts heard labor cases.

The Government continued to pay the travel and lodging expenses of CNTG representatives to International Labor Organization (ILO) conferences. Other independent unions had to fund their own attendance at ILO conferences.

Unions affiliated freely with international labor groups such as the ILO.

*b. The Right to Organize and Bargain Collectively.*—Under the Labor Code, representative workers' unions or union groups may organize in the workplace and negotiate with employers or employer organizations. The law protects the right to bargain collectively concerning wages and salaries without government interference. Employers established rules and hours of work in consultation with union delegates.

The Labor Code grants salaried workers, including public sector civilian employees, the right to strike 10 days after their representative union makes known its intention to strike. It prohibits strikes in sectors providing "essential services," which includes hospitals, radio and television, army, police, communications, and transport services.

Strikes were sometimes met with intimidation from security forces and, as a result, often did not take place. In September 2001, the Government did not interfere with a weeklong strike called by the Bar Association protesting the threatened arrest of one of its members. The strike ended following negotiations with government officials. In January the Independent Union of Guinean Teachers and Researchers and the Federation of Professional Educators called a strike, which was settled peacefully after the Government agreed to meet most of the unions' demands.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Labor Code specifically forbids forced or bonded labor, including by children; however, there were reports that it occurred (*see* Section 6.f.).

The law prohibits the exploitation of vulnerable persons for unpaid or underpaid labor, which carries a penalty of 6 months to 5 years imprisonment and a fine of approximately \$25 to \$150 (36,400 to 218,400 GF francs). Submitting a vulnerable or dependent person to inhumane working or living conditions carries a sentence of 1 month to 5 years imprisonment and a fine of approximately \$25 to \$250 (36,400 to 364,000 GF francs).

The Government did not enforce these provisions of the law in practice.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—According to the Labor Code, the minimum age for employment is 16 years. Apprentices may start to work at 14 years of age. Workers and apprentices under the age of 18 were not permitted to work at night, for more than 10 consecutive hours, or on Sundays. The Labor Code also stipulates that the Minister of Labor and Social Affairs must maintain a list of occupations in which women and youth under the age of 18 cannot be employed. In practice enforcement by ministry inspectors was limited to large firms in the modern sector of the economy. Overall approximately 48 percent of children under age 15 were employed, accounting for approximately 20 percent of the total working population and 26 percent of agricultural workers. Child labor in factories was not prevalent because of the low level of manufacturing. Working children were found mostly in the informal sector areas of subsistence farming, and small-scale commerce and mining. Girls as young as age 14 engaged in prostitution (*see* Section 6.f.).

The Government has spoken out against child labor, but lacked the resources, enforcement mechanism, and the legislative will to combat the problem. As a result, child laborers did not have access to education or health care; they suffered from chronic malnutrition, traumatic stress, and depression.

Many young Muslim children sent to live with a Koranic master for instruction in Arabic, Islam, and the Koran worked for the teacher as payment. Children often were sent from rural areas to Conakry to live with family members while they attended school. However, if the host family was unwilling or unable to pay school fees, the children sold water or shined shoes on the streets, and the host family took the money in exchange for their room and board (*see* Section 6.f.).

The Government signed and ratified the ILO Convention 182 during the year. The worst forms of child labor were found in the artisanal mining sector where children hauled granite and sand for little or no money.

There were reports that forced and bonded child labor occurred (*see* Section 6.f.).

*e. Acceptable Conditions of Work.*—The Labor Code allows the Government to set a minimum hourly wage; however, the Government has not exercised this provision nor does it promote a standard wage. Prevailing wages often were inadequate to provide a decent standard of living for a worker and family. There also were provisions in the code for overtime and night wages, which were fixed percentages of the regular wage.

The Labor Code mandates that regular work not to exceed 10-hour days or 48-hour weeks, and a period of at least 24 consecutive hours of rest each week, usually on Sunday. Every salaried worker has the legal right to an annual paid vacation, accumulated at the rate of at least 2 workdays per month of work. In practice the authorities enforced these rules only in the relatively small modern urban sector.

The Labor Code contains provisions of a general nature regarding occupational safety and health, but the Government has not elaborated a set of practical workplace health and safety standards. Moreover, it has not issued any of the ministerial orders laying out the specific requirements for certain occupations and for certain methods of work that are called for in the Labor Code. The Ministry of Labor and Social Affairs was responsible for enforcing labor standards, and its inspectors were empowered to suspend work immediately in situations hazardous to health; however, enforcement efforts were sporadic. Labor inspectors acknowledged that they could not cover even Conakry, much less the entire country, with their small staff and meager budget.

Under the Labor Code, workers have the right to refuse to work under unsafe conditions without penalty. Nevertheless, many workers fear retaliation should they refuse to work under unsafe conditions. Employees in high-risk professions, such as night guards, drivers, and police, have protested poor working conditions without result. There were no reports of such protests during the year.

The law applies to all workers in the country, regardless of nationality; however, the law does not define whether it applies to persons working in the country illegally.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons and carries a penalty of 5 to 10 years imprisonment and confiscation of any money or property received as a result of trafficking activities; however, some NGOs in the past reported that women and children were trafficked within the country, as well as internationally, for the sex trade and illegal labor. Trafficking in persons from rural areas to urban centers increasingly was recognized as a problem (*see* Section 6.c.). Accurate statistics are difficult to obtain, because victims do not report the crime for fear for their personal safety.

Several government agencies, particularly the Ministry of Social Affairs and the Promotion of Women and Children, were involved in antitrafficking efforts.

In February 2001, the Children's Protection Division and UNICEF reported that trafficking of children was a problem among the Sierra Leonean and Liberian refugee populations in the prefectures of Guekedou, Macenta, N'Zerekore, and Forecariah; girls were exploited for domestic labor, and boys were exploited as street sellers and agricultural workers. The International Rescue Committee and UNICEF reported that children living in foster families often did not receive adequate food, shelter and clothing, and were compelled to work in the streets, sometimes as prostitutes, for their subsistence.

There were no specific reports of trafficking in persons in the country this year. In July 2001, authorities arrested 51 Nigerians in Conakry for trafficking in persons. The authorities released 33 young girls, who were destined for Europe, to the Nigerian Embassy. The remaining 17 were adult males extradited back to Nigeria to be prosecuted for trafficking in persons.

Prostitution existed in the informal economic sector and employed girls as young as 14 years of age. The Government did not take action when prostitution of minors was brought to its attention, and it did not monitor actively child or adult prostitution.

## GUINEA-BISSAU<sup>1</sup>

Guinea-Bissau's transition to a multiparty democracy was slowed by the domination of President Koumba Yala of the Partido de Renovacao Social (PRS), who was elected in January 2000 with a 72 percent electoral majority in a runoff election. In the 1999 legislative elections, the PRS won 38 of 102 National Assembly seats, and ended the 26-year domination of the African Party for the Independence of Guinea-Bissau and Cape Verde (PAIGC). Local and international observers considered both elections to be generally free and fair, although there were reports of some irregularities in the 1999 election. During the year, the country was characterized by continuing political and economic instability. A new constitution, approved by the National Assembly in April 2001, was neither vetoed nor promulgated by the President, and the resulting ambiguity undermined the rule of law. Impulsive presidential interventions in ministerial operations continued to hamper effective governance. On November 14, the President dismissed the Government of Prime Minister Alamaro Nhasse, dissolved the National Assembly, and called for legislative elections. On November 16, the President appointed Prime Minister Mario Pires to lead a caretaker government. The Government was controlled by presidential decree at year's end. The Constitution provides for an independent judiciary; however, it was subject to political influence and corruption, and was undermined when the President replaced the President of the Supreme Court on two occasions during the year.

The police, under the direction of the Ministry of the Interior, have primary responsibility for the country's internal security; however, a lack of resources and training continued to hamper their effectiveness. The armed forces are responsible for external security and can be called upon to assist the police in internal emergencies. In August the Government, with funding from international donors, began a comprehensive program designed to restructure the armed forces and improve military living conditions with the demobilization of approximately 4,000 active duty military personnel. The reinsertion and reintegration phases of the program were not implemented by year's end. The military remained loyal to the President and generally was under his control and responsive to him. In September when tensions arose between the President, Prime Minister Nhasse, and members of the ruling party, the military publicly stated its commitment to defending the Constitution. In December 2001, some members of the military allegedly attempted a coup d'etat; 28 officers were arrested and detained. In May a second coup attempt allegedly took place. All alleged coup plotters were released following an amnesty announced by the President in June. Members of the security forces committed serious human rights abuses.

The population of approximately 1.3 million relies largely upon subsistence agriculture and the export of cashew nuts in a market economy. In 2001 the country suffered a substantial slowdown in economic activity, with real GDP growth estimated at 0.2 percent, as a result of significantly lower levels of foreign assistance and a drop in cashew prices in the international market of approximately 30 percent. The country remained burdened by heavy external debt and pervasive underemployment.

The Government's human rights record remained poor, and it continued to commit serious abuses. Members of the security forces continued to use beatings and physical mistreatment to abuse persons. The Government did not punish members of the security forces responsible for such abuses. Arbitrary arrest and detention, including of journalists and human rights activists were problems. The Government at times used incommunicado detention. Prison conditions remained poor. The judiciary was subject to political influence, corruption, and executive intimidation. The Government infringed on citizens' privacy rights. The Government restricted freedom of speech and the press, and journalists practiced self-censorship. The Government limited freedom of movement. Violence and discrimination against women were problems. Female genital mutilation (FGM) was practiced widely. Child labor, including some forced child labor, was a problem.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings; however, on July 15, police killed one youth and injured others while re-

<sup>1</sup>On June 14, 1998, the United States Embassy suspended operations in the midst of heavy fighting in Guinea-Bissau and all official personnel in the country were evacuated. This report is based on information obtained by U.S. embassies in neighboring countries and from other sources.

solving a hostage situation that involved a policeman kidnaped by a group of youths performing circumcision rites.

There was no action taken, nor is any likely, in the 2001 death in custody of an officer allegedly connected to a December 2001 coup attempt; and the death in custody of a soldier allegedly connected to the 2000 coup attempt.

Unlike the previous year, there were no reported deaths from landmine explosions during the year (*see* Section 1.c.).

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and evidence obtained through torture or coercion is invalid; however, the Government often ignored these provisions, and security forces beat, mistreated, and otherwise abused persons. Unlike in the previous year, human rights observers did not note repeated instances of police and members of the armed forces beating and abusing civilians for minor social or legal infractions. Several journalists reported abuse while in detention. Security and police authorities historically have employed abusive interrogation methods, usually in the form of severe beatings. The Government rarely enforced provisions for punishment of members of security forces who committed abuses.

On September 24, Rui Ferreira, a National Assembly Deputy belonging to the opposition Resistencia Guinea Bissau Party (RGB/MB) arrived late at a National Day event where the President was giving a speech. Presidential bodyguards severely beat Ferreira to prevent him from entering the site. Ferreira was hospitalized and later released. There were no reports of a government investigation into the incident by year's end.

There were no further developments in the case of Fernando Gomes who security forces beat on a number of occasions while he was in incommunicado detention in May 2000.

No action was taken, nor is any likely, to investigate or prosecute members of the security forces for abuses committed after the November 2000 coup attempt (*see* Section 1.d.).

On September 24, during his National Day speech to the National Assembly, President Yala singled out Democratic Alliance M.P. Victor Mandinga, an outspoken critic of the President, after Mandinga rose to quit the chamber in protest of the President's speech. Using a racial slur, Yala told Mandinga, whose father originally came from Sao Tome, that he should "go back where he came from." On October 1, Mandinga claimed that two bullets struck his house, with one lodging in the ceiling of his office. In an official statement following an October 1 press conference held by Mandinga, Prime Minister Nhasse asked the Interior Ministry to investigate the incident, but accused the opposition of trying to "destabilize the Government and denigrate the image of the President."

In October 2001, the British Broadcasting Corporation (BBC) news reported that President Yala had threatened to shoot any politician trying to enter a military barracks in order to use the army against him; however, there were no reports that this threat ever was carried out.

Although reliable statistics were not available, during the year, a landmine explosion injured at least one person in the city of Bissau.

Prison conditions remained poor, but generally they were not life threatening. The country does not have formal prisons. Most prisoners were detained in makeshift detention facilities on military bases in Bissau and neighboring cities. Unlike in the previous year, beatings were not used as a means of coercion. The Government at times used incommunicado detention. Places of detention generally lacked running water or adequate sanitation. Detainees' diets were poor and medical care was virtually nonexistent. Men and women were held in separate facilities, and juveniles were held separately from adults. Pretrial detainees were not held separately from convicted prisoners.

The Human Rights League was given access to most prisoners and detainees during the year. The office of the Representative of the U.N. Secretary General (UNOGBIS) visited high profile prisoners during the year, and was instrumental in assuring their well being and providing them with food and medical care. During the year, the International Committee of the Red Cross (ICRC) also was given access to prisoners.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, security forces arbitrarily arrested and detained persons, including journalists and human rights activists. Unlike in the previous year, security forces did not arrest members of the Supreme Court.

The law provides for procedural rights, such as the right to counsel, the right to release if no timely indictment is brought, and the right to a speedy trial; however,



in practice the judicial system generally failed to provide these rights (*see* Section 1.e.).

Police detained suspects without judicial authority or warrants.

During the year, the Government arrested and detained numerous journalists and other members of the media (*see* Section 2.a.).

On January 26 and February 2 respectively, the Vice-President and former President of the Guinean Human Rights League (LGDH) were arrested on charges of misappropriating funds donated to the LGDH by a foreign NGO in 1999 (*see* Section 4).

On June 28, former Prime Minister Faustino Imbali was arrested on charges of embezzling public funds during his tenure as Prime Minister, which ended December 2001. After being held for 24 hours, Imbali was released, and was recalled for questioning on July 4. A second attempt to arrest him, ordered by Attorney General Caetano Intchama, reportedly was countermanded by the Prime Minister and Imbali's release was ordered. President Yala confirmed the order for his release, and on August 16, the President dismissed Intchama.

On October 25, security forces summoned and questioned former President Malam Bacai Sanha after he met with the Foreign Minister of Mozambique during the latter's visit. Sanha was released without charge.

During the week of December 2, several members of the military were arrested following an alleged coup attempt that same week. At year's end, they had not been visited by human rights officials.

In November 2001, President Yala ordered Emiliano Nosolini, President of the Supreme Court, his deputy, and a senior accounting official to be arrested and detained (*see* Section 1.e.). They were charged with corruption following an audit of Supreme Court finances. On February 14, the three were released and charges in all three cases were pending at year's end.

In December 2001, authorities arrested and detained 28 members of the military following an alleged coup attempt on December 3. The Government did not release publicly any evidence linking the 28 detainees to the reported coup. Early in the year, U.N. officials and representatives of the ICRC were permitted to visit these prisoners. On June 11, all prisoners were released after President Kumba Yala announced a general amnesty for those implicated in the alleged coup attempt and in another coup attempt that allegedly took place in May.

In 2000 the Government arrested approximately 400 citizens and soldiers immediately following an attempted coup by General Mane. Inacio Tavares, the president of the LGDH, accused the military of physical abuse, torture, and persecution of the families of suspects. In February 2001, Amnesty International (AI) reported that 124 military and security officers remained in detention without formal charges, in "appalling conditions." One detainee already had died and others were in serious condition. By October 2001, the remainder was released, with some 30 among them released on bail. In June and July, a civil court tried and convicted 13 of the 30 accused, handing down sentences varying from 3 to 10 years. All were released pending the outcome of their appeals to the Supreme Court. Trials were pending for the remaining 17 accused.

At year's end, several opposition politicians arrested in 2000 remained under house arrest (*see* Section 2.d.).

The Government did not use forced exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, judges were poorly trained and paid and sometimes were subject to political pressure and corruption. The Supreme Court was especially vulnerable to political pressure, because its members were appointed by the President and often were replaced. In previous years, there was some evidence that the judiciary retained a degree of independence; however, the judiciary was subject to executive influence and control. In 2000 the President of the Supreme Court was elected democratically by his colleagues and officially installed in December 2000; the President did not appoint him. When the Supreme Court declared unconstitutional President Yala's ban on the Islamic group Ahmadiya and the expulsion of its members from the country in August 2001, President Yala dismissed the Supreme Court President, Emiliano Nosolini, and four other justices on charges of corruption (*see* Section 1.d.). The National Assembly strongly criticized the dismissals and supported the Court's decision. The President replaced Nosolini with his former political adviser, Mario Lopes. The failure of the President to promulgate the amended constitution, which addressed the question of presidential authority to choose Supreme Court justices, heightened confusion surrounding the Supreme Court.

Civilian courts conduct trials involving state security. Under the Code of Military Justice, military courts only try crimes committed by armed forces personnel. In December 2001, President Yala appointed a Supreme Military Tribunal to try the sol-

diers in detention for involvement in the alleged December 3 coup attempt (see Section 1.d.); however, in May and June, a civil court undertook the trials. The Supreme Court was the final court of appeal for both military and civilian cases. The President had the authority to grant pardons and reduce sentences.

Citizens who could not afford an attorney had the right to a court-appointed lawyer.

Traditional law still prevailed in most rural areas, and persons who lived in urban areas often brought judicial disputes to traditional counselors to avoid the costs and bureaucratic impediments of the official system. The police often resolved disputes.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Home, or Correspondence.*—The Constitution prohibits such actions; however, the Government did not always respect these prohibitions in practice. The police did not always use judicial warrants. There were unconfirmed reports that police searched the mail.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, during the year, in many instances the Government restricted these rights. Opposition politicians had little or no access to government-controlled media. In March 2001, the Vice-Procurator General advised the domestic media to practice “self-censorship”; journalists still practiced self-censorship.

During the year, the Government harassed or arrested NGO members who criticized the Government on radio programs (see Section 4). In addition, during the year, the Government ordered all media organizations to cease publication of information relating to the LGDH (see Section 4).

The privately owned *Correio Guinea-Bissau* was published several times a week during the year; other newspapers, including *Gazeta de Noticias*, *Fraskera*, and the Government-owned *No Pintcha*, were weeklies. All of the newspapers published only sporadically during the year due to financial constraints and dependence on the state-owned printing house. The national printing press, the only facility for publishing newspapers in the country, often lacked the raw materials to publish them.

The daily newspaper *Diario de Bissau*, closed in October 2001 by the Attorney General for causing “irreparable damage” to the independence of the nation and operating without a license, reopened during the year. The *Diario*’s publisher later ceased publishing the daily *Diario* and commenced publication of the weekly paper *Correio Guinea-Bissau*. The daily newspaper *Gazeta de Noticias*, also closed in October 2001, did not open during the year due to high operating costs.

Journalists were arrested during the year for criticizing the Government. For example, on June 17, Joao de Barros, publisher and editor of the independent newspaper *Correio de Bissau* was arrested following his appearance on a talk show on the independent *Radio Bombolom*. During the talk show, Barros stated that recent rumors of a coup plot against the Government were designed to divert attention away from government corruption and described the President’s military threats against neighboring Gambia as “pathetic.” Barros was released after 48 hours.

On June 20, a journalist, Nilson Mendonca, was arrested and detained for 24 hours following a news report in which he claimed that President Yala was to apologize to Gambian authorities for having accused them of supporting insurgents in the country.

On August 7, Carlos Vamain, a prominent lawyer, was fined by a court for allegedly “threatening national unity” with remarks made during a radio broadcast. Vamain reportedly accused President Yala of “tribalizing” the administration by allegedly packing the Government and military with members of his Balanta ethnic group.

The 2001 detention case against Adolfo Palma, a correspondent of the Portuguese news agency *Lusa*, was pending at year’s end.

Bacar Tchernon Dole, a journalist for the national radio and the weekly newspaper *No Pintcha*, who was arrested and held without charge in January 2001 for a report on an attack in the Sao Domingos area of the country by Casamancais rebels no longer was in detention at year’s end.

The June 2001 case in which authorities arrested newspaper owner Joao de Barros and journalist Athizar Mendes after they published an article linking President Yala to corruption was dropped during the year.

In 2000 the independent stations *Radio Pidjiguiti* and *Radio Mavegro* resumed broadcasting. National television broadcasts from 7 p.m. to midnight on weekdays and 5 p.m. to midnight on weekends. Reportedly the Government-controlled stations practiced self-censorship. Opposition politicians have little or no access to government-controlled media.

On December 2, the Ministry of Information summoned for questioning the local representative of Radio/TV Portugal (RTP) following a television broadcast in which Amnesty International urged authorities to investigate the November 2000 death of military leader Ansumane Mane. On December 4, the Government announced it had suspended RTP's Africa license to broadcast in the country, and on December 6, the Government declared the RTP delegate, Joao Pereira da Silva, persona non grata and gave him 48 hours to leave the country. At year's end, RTP broadcasts had resumed, and da Silva had not returned to the country.

The Internet was available in the country, and the Government did not restrict its use.

The Government did not restrict academic freedom.

*c. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the freedoms of assembly and association, and the Government generally respected these rights in practice. Permits were required for all assemblies and demonstrations. There were reports that at times the Government banned assemblies.

On October 11, the Government banned a Resistencia da Guine-Bissau (RGB) party congress led by RGB Deputy Helder Vaz, citing a Supreme Court ruling that declared Vaz was not the legitimate RGB leader. The party congress later was held at a different location, where the participants elected Vaz as the leader. Two senior RGB leaders subsequently were charged with civil disobedience and required to appear before authorities once a week; the cases were pending at year's end. Authorities also requested the National Assembly to remove Vaz's parliamentary immunity so that he could be charged. On December 13, following a rival RGB congress at which Tchongo was elected RGB leader, the Attorney General declared Tchongo the legitimate leader of the RGB.

All private associations were required to register with the Government. There were no reports that any associations were denied registration.

*d. Freedom of Religion.*—The Constitution provides for freedom of religion; however, the Government did not respect this right when in August 2001 President Yala abruptly expelled the Ahmadiya, an Islamic religious group, from the country (see Section 2.d.). The Supreme Court declared the expulsion unconstitutional; however, the Ahmadiya was not permitted to return by year's end.

Although the Government must license religious groups, there were no reports that any applications were refused.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*e. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, the Government limited them in practice.

Unlike in previous years, there were no checkpoints or police harassment during the year. There were no travel restrictions in the country during the year.

The Minister of the Interior issues passports. In 2000 President Yala invalidated the passports of several politicians and placed them under house arrest in Bissau. At year's end, some still were under travel restrictions. Fernando Gomes and Agnelo Regala (director of Bombolon Radio) still were not issued passports and were required to report to the Public Ministry twice a week.

Citizens have the right to return to the country and were not subject to revocation of their citizenship.

In August 2001, the President banned the Islamic group Ahmadiya (see Section 2.c.), and 11 members (all citizens of Pakistan) were expelled to Senegal.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government has provided asylum to refugees from the conflicts in Liberia, Sierra Leone, and the Casamance region of Senegal. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. During the year, the UNHCR reported that approximately 7,700 refugees, mostly Senegalese citizens, were in the country. More than 6,000 of these refugees lived in villages along the country's northern border where they were integrated into the local economy and largely self-sufficient. Another 1,000 Senegalese refugees lived in camps and received assistance from UNHCR. There also were approximately 500 Senegalese, Liberian, and Sierra Leonean urban refugees. The UNHCR reported that the Government was tolerant of these refugees and permitted them to engage in economic activities to support themselves; however, on May 22, two Sierra Leonean refugees reportedly were arrested on the premises of the Adventist Mission in Bissau after having requested assistance.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. However, on November 14, President Yala, citing both the internal and external lack of confidence in the Government, dissolved the National Assembly, dismissed the Government and called for early legislative elections. On November 16, the President appointed Prime Minister Mario Pires to lead a caretaker government until the legislative elections, and the country remained under rule by presidential decree at year's end.

In January 2000, voters elected President Koumba Yala with a 72 percent electoral majority in a runoff election following multiparty elections in 1999. Yala defeated interim president Malam Bacai Sanha of the PAIGC. International observers, foreign diplomats, and local NGOs considered both elections, which included candidates from 13 parties as well as several independents, to be generally free and fair. Yala's party, the PRS, won 38 of 102 National Assembly seats. The victory of the PRS ended the 26-year domination by the PAIGC. The PAIGC, the country's only legal party from 1974 to 1991, and the majority party in the National Assembly until the 1999 elections, won 24 of the 102 seats in the National Assembly, while opposition parties gained a majority. In addition to the 38 seats won by the PRS, the RGB won 29 seats, and 4 other parties split the remaining 11 seats.

Local elections have not yet been held in the country.

In April 2001, the National Assembly voted with the required majority to amend the constitution and the draft, which limited certain presidential powers, notably the authority to name and dismiss armed forces service chiefs and ambassadors, and passed it to the President for promulgation. At year's end, the President had neither promulgated nor vetoed the Constitution, and the issue remained a point of contention between the legislature and the executive. Controversy over the President's authority to appoint and dismiss Supreme Court judges was ongoing and had its basis in the ambiguity created by the stalemate over the Constitution (*see* Section 1.e.).

The President reshuffled his cabinet several times during the year. Following these changes, on August 25, Prime Minister Nhasse gave an interview on Radio Bombolom during which he accused President Yala of unilateralism, abuse of power, and causing instability in the country. The tension between the President and Prime Minister (who also is the President of the ruling PRS party) appeared to have been resolved in September; however, on November 14, President Yala dissolved the National Assembly, dismissed the Government, and called for legislative elections. No date had been set for the elections by year's end.

Prior to the dissolution of the National Assembly, there were 10 women among the 102 members. There were two female ministers in the caretaker government that was appointed in November.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views; however, the Government harassed and arrested NGO members for criticizing the Government in the media.

On January 4, following a January 3 radio broadcast in which authorities were called on to present evidence of an alleged coup attempt in December 2001, senior government officials accused representatives of the LGDH of subversive and destabilizing behavior. Later the same day, police officers visited the LGDH Vice President, Joao Vaz Mane, at his home and demanded the recording of the radio broadcast. On January 16, Mane received a letter from the Attorney General's office instructing him to appear to answer questions relating to the radio broadcast. On January 26, Mane was arrested and on February 2, former LGDH president and opposition politician Fernando Gomes was also arrested. Both were charged with misappropriation of funds donated to the LGDH by a foreign NGO in 1999. AI and the International Federation of Human Rights severely criticized the arrests. On February 1, Mane was released and on February 10, Gomes was released. Both were required to report weekly to the Attorney General's office and Gomes' passport was confiscated. On December 3, the Regional Tribunal of Bissau handed down a 2-

month suspended sentence for Gomes and fined Vaz approximately \$450 (FCFA 290,000).

According to AI, on February 4, Carlos Schwarz, director of the local NGO Aid and Development (AD) and Agnello Regala, owner and director of Radio Bombolom, appeared before the Attorney General to answer questions related, respectively, to the functioning and statutes of a community radio, Voz de Quelele, sponsored by AD, and Radio Bombolom.

On March 24, the LGDH council voted to suspend its President, Inacio Tavares, accusing him of having fabricated charges against Mane and Gomes. On March 29, police locked LGDH headquarters. Following media coverage of the lockout, on April 6, the Attorney General ordered all media organizations to cease publication of information relating to the LGDH. The LGDH was denied access to its headquarters by authorities until August 22.

AI recommended that the Government investigate various human rights abuses committed since November 2000, including General Mane's death, to further encourage reconciliation efforts.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution and law prohibit discrimination on the basis of sex, and race; however, in practice the Government did not enforce these provisions effectively.

*Women.*—Domestic violence, including wife beating, was an accepted means of settling domestic disputes. Although police intervened in domestic disputes if requested, the Government had not undertaken specific measures to counter social pressure against reporting domestic violence, rape, incest, and other mistreatment of women.

Female genital mutilation (FGM) was practiced widely within certain ethnic groups, especially the Fulas and the Mandinkas. The practice was increasing as the Muslim population has grown and was being performed not only on adolescent girls, but also on babies as young as 4 months old. The Government has not outlawed the practice; however, a national committee continued to conduct a nationwide education campaign to discourage FGM. International NGOs, including the Swedish group Radda Barnen and Plan International, as well as several domestic NGOs, such as Friends of Children and Sinim Mira Nasseque, continued working through the national committee to eliminate FGM.

The law prohibits prostitution, and there was no evidence that it was a problem. Traditional and Islamic law do not govern the status of women, and men and women were treated equally under the law.

Official discrimination against women is prohibited by law; however, it persists. Women are responsible for most work on subsistence farms and have limited access to education, especially in rural areas. Adult illiteracy is 66 percent for men and 82 percent for women. Women do not have equal access to employment. Among certain ethnic groups, women cannot own or manage land or inherit property.

*Children.*—The Government allocated only limited resources for children's welfare and education. According to a November 2000 study by an international agency, enrollment in basic education rose from 42 percent in 1993 to 62 percent in 2000 (enrollment of girls increased from 32 percent to 45 percent, while the rate for boys increased from 55 percent to 79 percent). However, in 1998 10 percent of rural schools offered only the first grade, and 23 percent offered only the first and second grades.

FGM was performed commonly on young girls and sometimes even infants (see Section 5, Women).

The law provides for compulsory military service for persons between 18 and 25 years old; however, boys under the age of 16 could volunteer for military service with the consent of their parents or tutors. Children were used as soldiers during the civil war; however, all remaining child soldiers were demobilized during the year.

*Persons with Disabilities.*—The law does not prohibit specifically discrimination against persons with disabilities, and the Government does not ensure equal access to employment and education; however, there were no reports of overt societal discrimination. The Government has made some efforts to assist veterans with disabilities through pension programs, but these programs do not address adequately veterans' health, housing, and food needs. There were no reports of funds for special programs for persons with disabilities. There was no law mandating accessibility.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides all civilian workers with the freedom to form and join independent trade unions. However, the vast majority

of the population worked in subsistence agriculture. Most union members were government or parastatal employees; only a small percentage of workers were in the wage sector and were organized.

The Government registers all labor unions. There were 21 labor unions registered and operating in the country. All unions officially were independent of the Government, but 15 unions were affiliated with the National Workers Union of Guinea-Bissau (UNTGB), which retained close informal ties with the PAIGC. The law does not favor UNTGB-affiliated unions over others. Six other unions were affiliated with the General Confederation of Independent Unions (CGSI), established in 2000.

The Government's provisions for the protection of workers against antiunion discrimination have very little effect due to low union membership. Although there were no laws providing sanctions against employers practicing such discrimination, no workers have alleged antiunion discrimination, and the practice was not believed to be widespread.

The International Labor Organization (ILO) Committee of Experts made seven direct requests of the Government during the year, and the Government responded to all seven requests.

All unions were able to affiliate freely with national confederations and international labor organizations of their choice. The UNTGB was affiliated with the International Confederation of Free Trade Unions. Individual unions belonged to International Trade Secretariats.

*b. The Right to Organize and Bargain Collectively.*—The Constitution does not provide for or protect the right to bargain collectively; however, in March 2001, a tripartite National Council for Social Consultation (CNCS) including the Government, workers, and employers was established legally and began functioning. The Council conducts collective consultations on salary issues and draft legislation concerning labor issues. Most wages were established in bilateral negotiations between workers and employers, taking into consideration the minimum salaries set annually by the Government's Council of Ministers (*see* Section 6.e.).

The Constitution provides for the right to strike and protection for workers from retribution for strike activities. The only legal restriction on strike activity was the requirement for prior notice. During the year, health workers, teachers, and television workers organized strikes to protest poor working conditions and unpaid salaries, with no government retribution against the strikers.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children; however, children in cities often worked in street trading, and those in rural communities did domestic and fieldwork without pay. The Government did not take action to combat such practices by year's end.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The legal minimum age was 14 years for general factory labor and 18 years for heavy or dangerous labor, including all labor in mines. These minimum age requirements generally were followed in the small formal sector, but the Ministry of Justice and the Ministry of Civil Service and Labor did not enforce these requirements in other sectors.

The Government had not ratified ILO Convention 182 on the Worst Forms of Child Labor by year's end.

The law prohibits forced and bonded child labor; however, forced child labor was a problem (*see* Section 6.c.).

*e. Acceptable Conditions of Work.*—The Government's Council of Ministers annually establishes minimum wage rates for all categories of work; however, it does not enforce them. The lowest monthly wage was approximately \$20 (14,800 CFA francs) per month plus a bag of rice. This wage was insufficient to provide a decent standard of living for a worker and family, and workers must supplement their income through other work, reliance on the extended family, and subsistence agriculture.

The maximum number of hours permitted in a normal workweek without further compensation is 45, but the Government does not enforce this provision. With the breakdown of the formal economy in 1998, most of the country returned to barter, and both the Government and private sector lacked the funds to pay salaries. Since 2000 the Government has failed to pay on a regular basis its teachers, civil servants, and medical practitioners.

With the cooperation of the unions, the Ministry of Justice and Labor establishes legal health and safety standards for workers, which then are adopted into law by the National Assembly. However, these standards were not enforced, and many persons worked under conditions that endanger their health and safety. Workers do not have the right to remove themselves from unsafe working conditions without losing

their jobs. In view of the high unemployment rate, a worker who left for such reasons could be replaced easily.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

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## KENYA

Kenya is a republic dominated by a strong presidency. On December 27, Mwai Kibaki of the opposition National Rainbow Coalition (NARC) was elected as the country's third president winning 61 percent of the vote, and was sworn in on December 30. Former President Daniel Arap Moi, who led the former ruling Kenya African National Union (KANU) and served as President since 1978, stepped down in December at the end of his constitutionally mandated term. Five presidential candidates contested the elections, but the main contestants were KANU candidate Uhuru Kenyatta and Kibaki, a former Vice-President and Minister of Finance in the Moi government. NARC is a coalition of more than a dozen political parties, including former members of KANU who defected from that party late in the year. There were incidents of violence in the preelection period and on election day; however, the elections generally were peaceful. Since independence in 1963, KANU had controlled both the Presidency and the Parliament continuously; other parties were illegal only from 1982 to 1991. During the December general elections, KANU lost its majority in parliament to NARC, in addition to losing the presidency. Observers concluded that the elections broadly reflected the popular will and were free and fair. At year's end, NARC held 133 parliamentary seats and KANU held 67 seats in the 222-seat unicameral National Assembly. In addition to his role as President, Kibaki is the commander-in-chief of the armed forces. The judiciary suffered from corruption and was subject to executive branch influence.

In addition to the armed forces, there was a large internal security apparatus that included the police's Criminal Investigation Department (CID), the National Security Intelligence Service (NSIS), the National Police, the Administration Police, and the paramilitary General Services Unit (GSU), which detailed members on a rotating basis to staff the 700-person Presidential Escort. The CID investigated criminal activity and the NSIS collected intelligence and monitored persons who the State considered subversive. To improve the accountability of investigative services, arrest authority was removed from the NSIS and the organization was separated from the CID. While civilian authorities generally maintained effective control of the security forces, there were some instances in which the security forces acted independent of government authority. Members of the security forces, especially the police, continued to commit numerous, serious human rights abuses.

The economy is market-based and the large agricultural sector employed more than 70 percent of the country's population of approximately 30 million. Estimates for the unemployment rate range from the official 25 percent to more than 50 percent. Although many sectors continued to be dominated by state-owned monopolies, the nonagricultural economy includes large privately owned light manufacturing, commercial, and financial sectors. Tea was the largest source of foreign exchange earnings. Major international financial institutions continued their suspension of financial assistance following the cancellation of anticorruption measures. Annual per capita gross domestic product for 2001 was officially reported as \$300, with approximately 57 percent of the population living at or below the poverty level, on less than \$1 per day. The spread of HIV/AIDS, estimated to have infected approximately 13 percent of the population between the ages of 14 and 49, had increasingly adverse effects on the country's wage-earners, including teachers and other professionals. A weakened infrastructure—unreliable power and telecommunication systems and roads in disrepair—exacerbated economic problems and disinvestment. Also fueling disinvestment were concerns over personal security and uncertainty related to the outcome of the general elections and the associated political transition.

The Government's human rights record remained poor, and it continued to commit numerous, serious abuses. Citizens' ability to change their government peacefully was demonstrated with the inauguration of a new president following the December general elections. Security forces, particularly the police, continued to commit extrajudicial killings, torture and beat detainees, use excessive force, rape, and otherwise abuse persons. Prison conditions remained life threatening. Police harassed and arbitrarily arrested and detained persons, including journalists, politicians, and political activists. The Government arrested and prosecuted a number of police officers for abuses; however, most police who committed abuses were neither

investigated nor punished. Lengthy pretrial detention was a problem, and the judiciary was subject to executive branch influence. The authorities infringed on citizens' privacy rights. The Government limited freedom of speech and of the press, and harassed and intimidated newspapers that often were critical of the Government. The Government repeatedly restricted freedom of assembly, and the police disrupted public meetings and forcibly dispersed demonstrators and protesters. The Government restricted freedom of association. Political intimidation and violence worsened prior to the December general elections. The Government continued to limit the independence of its Standing Committee on Human Rights (SCHR), and the President continued to criticize nongovernmental human rights organizations (NGOs) for their alleged involvement in partisan politics. Violence and discrimination against women and abuse of children remained serious problems. Female genital mutilation (FGM) remained widespread, child prostitution remained a problem, and the spread of HIV/AIDS has orphaned many children. There was some discrimination against persons with disabilities. The Government continued to exacerbate ethnic tensions by discriminating against many ethnic groups; interethnic tensions, often spurred by political competition, continued and resulted in numerous violent conflicts and some deaths. Unlike in previous years, there were no reports of ritual murders associated with aspects of traditional indigenous religious rites. The Government continued to limit some worker rights, including summarily dismissing striking public employees. Child labor remained a problem, and there were instances of forced child labor. Violence by mobs and by nongovernmental armed groups also resulted in many deaths.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Security forces, especially members of the police, the GSU, and the CID, continued to use lethal force and committed a number of extrajudicial killings. The SCHR, the Governmental body charged with addressing human rights issues, noted the “widespread use of lethal, excessive, and unnecessary force on civilians by police” in its April general report. The Kenya Human Rights Commission (KHRC), a leading human rights NGO, reported that it has documented more than a thousand cases of extrajudicial killings in the last decade. According to government figures, police killed 117 suspected criminals, and another 11 suspects and detainees died while in police custody during the year. The KHRC reported that police killed 85 persons between January and September. Police often were not restrained in the use of lethal force, especially when confronting armed criminal suspects, and the Government generally failed to take appropriate action against members of the security forces accused of unlawful or arbitrary killings.

Law enforcement officials maintained that security forces were justified in their use of deadly force because of the heavily armed, violent criminals they often encountered. According to the Government, 22 police officers were killed in the line of duty during the year. Police claimed that the increased use of sophisticated weapons by criminals had increased the risks faced by police in performing their duties. In responding to continuing high levels of crime, some police used excessive and deadly force, sometimes without apparent provocation.

On March 12, the KHRC reported that Administration Police officers shot and killed Jacob Odero Ogolla at a bar in Kayole when he was approached by the security agents demanding to know the whereabouts of two persons they said he was seen with at the bar. The officers allegedly shot Ogolla four times in the chest and later dumped his body along the road. No arrests or investigations have been made in this case.

There were incidents in which police killed bystanders. On September 22, police and suspected robbers in Bungoma engaged in a gun battle that resulted in the death of six persons, including two bystanders.

Persons died from torture while in custody (*see* Section 1.c.).

There were some internal police investigations into the many killings of civilians by members of the security forces and some prosecutions; however, few were effective. The authorities sometimes attributed the absence of an investigation into an alleged extrajudicial killing to the failure of citizens to file official complaints. However, the form required for filing complaints was available only at police stations, which often lacked the forms or were not forthcoming in providing them. There also was considerable public skepticism of a process that assigned the investigation of police abuse to the police themselves. The Police Department reported that 49 police officers were indicted during the year for various offenses, including murder, assault causing bodily harm, and corruption; however, the Government did not provide de-



tails on how many of these indicted police officers were tried, acquitted, convicted, or imprisoned.

In January two police officers had their charges reduced to manslaughter in the case of the February 2001 killing of University of Nairobi student Allan Mbiti by three police officers. The other officer was sentenced in December 2001 to 10 years in prison. The case still was pending at year's end.

The investigation into two Administration Police officers accused of the March 2001 killing of Francis Kiraha Kibugi was completed and they were charged with murder; however, it was unknown whether a trial had begun by year's end.

An inquest determined that there was no one to charge for the January 2001 alleged torture and killing of Abdillahi Mohamed Mashuhuri. A police officer was charged for the March 2001 killing of Geoffrey Ngoima Mbugua.

There was no action taken against members of the security forces in the July 2001 killing of seven suspected bank robbers, and the July 2001 killing of a primary school teacher during a fight between Kisii and Maasai youths.

The following cases were pending at year's end: The trial of a police officer in the 1997 killing of Catholic lay brother Larry Timmons; the trial of two police officers charged with manslaughter in 2001 for the May 2000 killings of two suspected carjackers; an inquest into the March 2000 killings of eight suspected carjackers; and an investigation into the January 2000 killing of 5-year-old Chesortich.

Hundreds of prisoners died in custody due to life-threatening prison conditions, including inadequate food and medical treatment (*see* Section 1.c.). The Government recorded 536 deaths in prisons during the year, and the chief causes of death were attributed to pulmonary tuberculosis, gastroenteritis, pneumonia, and malaria.

In March Mungiki clashed with a rival gang in Nairobi's Kariobangi district where 23 persons were killed. The Mungiki is a small, controversial, cultural, and political movement based in part on Kikuyu ethnic traditions. Its origins may have been rooted in traditional religious and cultural beliefs, but more recently they were perceived widely to be a vigilante group. The Mungiki were involved in or implicated in a number of violent attacks against political or ethnic rivals during the year. On September 22, members of the Mungiki attacked several individuals leaving a rally organized by dissident KANU officials of the "Rainbow Alliance" in Nairobi; two persons reportedly were killed.

Mob violence continued at high levels during the year, which observers believe may have been associated with a continuing high crime rate. According to the Government 95 persons were killed in mob violence during the year. The KHRC reports that it has documented 719 deaths from mob violence in the last 6 years. Human rights observers attributed mob violence to a lack of public confidence in the police and the judicial process. The great majority of mob violence victims, who died by lynching, beating, or burning, were persons suspected of criminal activities, including robbery, cattle rustling, and membership in terror gangs. Most perpetrators of mob violence went unpunished. In addition, the social acceptability of mob violence also provided cover for apparent personal vengeance under the guise of "mob justice."

There were several occurrences of mob violence during the year. For example, on January 5, two individuals suspected of stealing cows were stoned and beaten to death in a village at Njoro in Nakuru. No one was arrested for the crime.

On March 30, a mob killed three brothers for allegedly being involved in multiple incidents of theft and robbery in Limuru, an area on the outskirts of Nairobi. The KHRC reports that a mob-operated court, convened earlier in the day at a shopping center, found the brothers guilty of several crimes. The brothers, taken from their sister's home, were beaten unconscious, doused with gasoline, and burnt alive. No arrests were made in the case.

No known action was taken in the following mob violence cases: The April 2001 deaths of nine persons in a Nairobi slum during clashes between residents and gang members, and the May 2001 stoning death of a person in Kericho District in the Rift Valley.

Occasionally mobs killed members of their communities on suspicion that they practiced witchcraft (*see* Section 2.c.).

Interethnic violence continued to cause numerous deaths (*see* Section 5). Some of these disputes spilled over into the country from neighboring countries (*see* Section 2.d.).

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution states that "no one shall be subject to torture or degrading punishment or other treatment"; however, security forces continued to use torture and physical violence during interrogation and to punish both pretrial detainees and

convicted prisoners. Although authorities periodically issued directives against the use of torture by police, the problem persisted. Human rights organizations, churches, and the press highlighted and criticized numerous cases of torture and several cases of indiscriminate beating of groups of persons by police during the year. Common methods of torture practiced by police included hanging persons upside down for long periods, genital mutilation, electric shocks, and deprivation of air by submersion of the head in water. There were numerous allegations of police use of excessive force and torture. The KHRC believed police brutality was widespread and estimated that there were hundreds of cases during the year. However, detainees routinely claimed that they had been tortured, making it difficult to separate real from fabricated incidents.

The KHRC reported 49 torture-related deaths in 2001, and People against Torture (PAT) reported 70 cases of death by torture and 238 total cases of torture in 2001.

On February 9, Councilor Amos Korichir died from head injuries allegedly inflicted during torture. According to reports from the KHRC, Korichir was taken into police custody following an argument he had with a local trader who reported the incident to the authorities. Two police officers reportedly tortured him for several hours until he became unconscious and then later dumped his body on the roadside where he was discovered and taken to a hospital. The Eastern Provincial Police Officer maintained that Korichir had been released from police custody in good health and died from unknown causes. An inquest was ordered into Korichir's death, and a hearing was pending at year's end.

On March 31, according to NGOs, Paul Kimani Wambiru died after being tortured at the Nyeri Police Station. Wambiru was arrested on March 25 on allegations of stealing approximately \$384; he reportedly was held until March 31, exceeding the 48-hour limit that a person can be held without charge. Wambiru's death was discovered after his father visited the police station on March 31 and was informed by attending officers that his son had died earlier that day after being released from custody for lack of evidence. A postmortem examination revealed that Wambiru died from multiple internal and external injuries, including a ruptured bladder and small intestines. According to the Government, five police officers were charged with Wambiru's murder and the case still was pending in court at year's end.

Police beat journalists during the year (*see* Section 2.a.).

Police repeatedly used excessive force and beat persons when breaking up demonstrations, student protests, and opposition political party rallies (*see* Section 2.b.).

In 2000 former President Moi was quoted widely in the press as calling for action against the Mungiki; police forcibly disrupted several of the group's meetings 2001, injuring a number of persons. The Government arrested some Mungiki members during the year (*see* Section 1.d.).

Security forces continued to commit numerous human rights abuses, often with impunity. According to the SCHR in its 2002 general report, ". . . disciplinary sanction imposed on officers found guilty of brutality were frequently inadequate. Officers were rarely prosecuted for using excessive force. Investigations by SCHR of numerous cases alleging torture revealed that there was a "Code of Silence" under which officers failed to report brutality, destroyed evidence, or threatened witnesses in an effort to cover-up abuses commanded widespread loyalty, contributing to a climate of impunity." Public officials at times made pronouncements calling on security forces to discharge their duties responsibly and to use restraint; however, such pronouncements had little effect on police behavior.

During the year, the Government investigated some allegations of police use of excessive force and torture, and prosecuted several police officers; some officers were charged, convicted, and sentenced for killings (*see* Section 1.a.). The Government did not provide information on the number of cases of torture that occurred during the year.

An inquest was pending at year's end into the January injuring of Arwings Odera.

There was no action taken in the 2001 report that prison wardens from King'ong'o prison pulled a murder suspect from his hospital bed and returned him to the prison, where they allegedly beat him unconscious then returned him to the hospital. The Government denied that such an incident occurred.

According to organizations that work with street children, police also beat and abused street children (*see* Section 5). In June Mombasa police officers Mwingo Chula and Peter Ndwiga, who were arrested for raping a 13-year-old street girl in May 1999, were acquitted.

In February police officers Charles King'ori and Wilson Kinyanjui from the Makeni Police Station were acquitted of assault in the case of Charles Muteti Mulwa.

Margaret Njeri claimed that police tortured her to extract a confession; police officers allegedly beat her until she bled and sexually abused her. In 2000 Njeri filed

a formal complaint to police and said that she intended to sue police for damages; there was no further information on the case at year's end.

In September 2000, a magistrate in Nakuru granted the request of six army officers, Nahashoon Kili, Moses Kiprotich, John Masai, Joseph Tanui, Henry Buienei, and Tito Rono, to pursue charges of torture against members of the 66th Artillery Battalion; the six had been held for 6 months in 2000 on suspicion of mutiny. On February 3 in Eldoret, four of the six officers told journalists that while under military detention, they had their testicles pricked with needles, were beaten, were deprived of food for days, and were doused with cold water while naked. The officers said they were tortured into falsely confessing to having planned a mutiny. In 2001 the Chief Magistrate dismissed the case against the members of the 66th Artillery Battalion for procedural reasons. The army officers appealed the decision; however, there was no further information on the case by year's end.

No known action was taken in the following 2000 cases: The January case of William Tanui; the February beating of Mohammed Sheikh; and the February case of police firing at suspected robbers who were fleeing from police and seriously injuring a teenaged boy.

No known action was taken during the year against police who reportedly used excessive force when breaking up demonstrations, student riots or Mungiki meetings in 2000.

Caning continued to be used as punishment in cases such as rape (*see* Section 5). Acts of violence, including rape, banditry, and shootings, occurred frequently near refugee camps (*see* Sections 2.d. and 5).

There were some violent incidents between progovernment supporters and opposition supporters during the year, mostly during opposition rallies (*see* Section 2.b.).

Prison conditions were harsh and life threatening, due both to a lack of resources and to the Government's unwillingness to address deficiencies in the penal system. Prisoners were subjected to severe overcrowding, deficient health care, and received inadequate water, diet, and bedding. Police and prison guards subjected prisoners to torture and inhuman treatment (*see* Section 1.a.). Rape of both male and female inmates, primarily by fellow inmates, was a serious problem, as was the increasing incidence of HIV/AIDS. Prisoners were detained in unsanitary conditions and have inadequate access to medical treatment. As a result, disease was widespread in prisons, and the death rate was high. Only one prison health facility had a resident doctor. The others were staffed by clinical officers or nurses posted from the nearest government hospital. Prisoners sometimes were kept in solitary confinement far longer than the maximum 90 days allowed by law. Prisoners and detainees frequently were denied the right to contact relatives or lawyers. A 2001 Nation newspaper investigative report on prisons nationwide highlighted the difficulty family members had in visiting prisoners, including numerous bureaucratic and physical obstacles, each requiring a bribe.

According to the Government, the country's prisons reportedly held twice their estimated capacity of 16,886 inmates. The Government reported that there were 35,157 prisoners during the year of which nearly 33 percent—13,497 prisoners—were pretrial detainees. The SCHR, the only domestic human rights body allowed such access, produced a special report during the year on its comprehensive investigation into the country's prison system. It asserted that while the prison population has increased steadily over the last several years, prison facilities had not. According to the Government, there were 89 prison facilities. Overcrowding led to health-related problems arising from the sharing of amenities, encouraged the spread of infectious diseases, and resulted in food and water shortages. There was little access to health care and medicine. According to the Government, 536 prisoners died in jails during the year, compared with 464 in 2001. During the year, deaths were due chiefly to tuberculosis, gastroenteritis, pneumonia, and malaria; dysentery, anemia, malaria, heart attack, typhoid fever, and HIV/AIDS were also common causes of death among prisoners.

The SCHR concluded in its 2002 special report on prisons that "Conditions of prison facilities do not meet the minimum accepted standards for the treatment of prisoners. Inmates' human rights and dignity was compromised and eroded in prisons. . . Torture, cruel, inhuman, and degrading treatment was prevalent in prisons." The SCHR documented numerous cases of human rights abuses alleged by inmates during its investigations. This included reports of prisoners being tortured through the application of electrical shocks to genitalia, inhumane treatment such as subjecting inmates to artificial light from a 150 watt bulb continuously for up to 24 hours, and female inmates being stripped and placed in solitary confinement in a flooded cell for up to a week. In March 2001, the KHRC hosted a public meeting at which former prisoners discussed their experiences while in prison. The former prisoners described prisons as filled with disease, death, corruption, and brutality with guards

demanding bribes for the most basic amenities. Press reports continued to highlight the substandard prison conditions.

By most accounts, prisoners received three meals per day; however, the SCHR found that inmates sometimes were given half rations as punishment and at times for the “slightest offence.” Most prisoners it interviewed had expressed concerns about both the quantity and quality of food they were given, that it was insufficient and inadequate. According to the SCHR, prison diet consisted “almost entirely of ugali (maize meal), beans, and occasionally cabbages or kale... portions of meat were served in some prisons once or twice a week but in grossly inadequate rations.” The SCHR also found water shortages to be a problem in some prisons, particularly at the Kakemaga prison where they have not had running water for the last 5 years. There were no reports during the year of food shortages or that prisoners died from hunger.

Men, women, and children officially were kept in separate cells, and there were no reports that men and women were placed in the same cells. Women sometimes lacked access to sanitary napkins and often had only one change of clothes, leaving them naked during the washing of their laundry. Young teenagers frequently were kept in cells with adults in overcrowded prisons and detention centers. Youth detention centers were understaffed, overcrowded, and inmates had minimal social and exercise time. The SCHR reported in its 2002 special report on juvenile detention centers that it encountered major overcrowding at all of the centers it investigated and found that one in particular, the Nairobi Juvenile Remand Home, held more than 4 times its capacity of 100 detainees. Some young inmates remained in the centers for years, as their cases awaited resolution. Juvenile detainees were subjected to corporal punishment, which has been banned in the schools system. According to the SCHR’s 2002 special report on the state of juvenile detention centers, a majority of juveniles in remand were actually “children who have been arrested from the streets as victims of neglect or children in need of care and discipline.” The SCHR reported that in 2001, 797 out of 1016 juveniles in detention fell into this category and expressed concern about the cohabitation of such children with juveniles held in detention for more serious offenses. Overall, the SCHR found that the juvenile detention system did not meet the minimum human rights standards for accommodation, facilities, food, or the separation of juveniles based on the offenses they have committed and that no adequate medical care existed in any of the institutions it visited.

Nearly all prisoners serving more than 6 months in prison worked in the prison industries and farms. Men worked in printing services, car repair, tailoring, metal work, and leather and upholstery work. Women were taught sewing, knitting, dress-making, rug making, basket weaving, jewelry making, and other crafts. The Government reported that prisoners can earn \$0.62 (approximately 48 Kenyan Shillings) per year. Prisoners on good conduct can, with permission, work beyond the 8-hour day to produce goods, from which they earn two-thirds of the profits. Prisons were unable to invest these sizable profits in the prisons because income generated from the sale of prison products was sent directly into the Government Consolidated Fund. Some observers alleged that prison officials used the free prison labor for personal profit and prisoners have complained of being overworked; however, many inmates leave prison with a valid trade certificate.

The courts partly were responsible for overcrowding, as the backlog of cases in the judicial system continued to fill the prison detention cells (*see* Sections 1.d. and 1.e.). Many detainees spend more than 3 years in prison before their trials were completed, often because they cannot afford even the lowest bail. Very few can afford attorneys.

The Government did not permit consistent independent monitoring of prison conditions. In general the Government did not permit domestic NGOs to visit prisons; however, some independent NGOs worked with the Government in evaluating torture cases and performing autopsies on deceased prisoners. The SCHR had the authority to inspect prison facilities on demand at any time and, during the year, published two reports that examined the state of prisons and juvenile detention centers.

*d. Arbitrary Arrest, Detention, or Exile.*—Despite constitutional protections, police continued to arrest and detain citizens arbitrarily. The Constitution provides that persons arrested or detained be brought before a court within 24 hours in noncapital offenses and within 14 days in capital cases. The Penal Code specifically excludes weekends and holidays from this 14-day period. The law does not stipulate the period within which the trial of a charged suspect must begin. Indicted suspects often were held for months or years before being brought to court. The Government has acknowledged cases in which persons have been held in pretrial detention for several years. Police from the arresting location were responsible for serving court summons and for picking up detainees from the prison each time the courts heard their

cases. Police often failed to show up or lacked the means to transport the detainees, who then must await the next hearing of their case.

The law provides that families and attorneys of persons arrested and charged are allowed access to them, although this right often was not honored (*see* Section 1.c.). Family members and attorneys may visit prisoners only at the discretion of the authorities. This privilege often was denied. For those who were charged, it often was possible to be released on bail with a bond or other assurance of the suspect's return.

Prison overcrowding was a problem, and the backlog of cases in the judicial system continued to fill the detention sections of prisons (*see* Section 1.c.).

In 2000 the Government instituted the Community Service Order (CSO), a program whereby petty offenders perform community service rather than serve a custodial sentence. According to the Home Affairs Permanent Secretary, the Government spent \$250,000 (20 million Kenyan shillings) on the CSO in 2000 and \$500,000 (40 million Kenyan shillings) in 2001. According to a March press report, more than 67,000 prisoners were serving sentences under the program, engaged in such activities as building bridges, schools, and hospitals. This was significantly higher than in 2001 when there reportedly were 11,000 petty offenders participating in the program. In May the chairman of the National Committee on Community Service Order, Justice Samuel Oguk, said that magistrates were not fully utilizing CSO as an alternative to custodial sentences for petty offenders, which led to the further congestion of prisons. The program eventually could help alleviate overcrowding; however, there was no indication of any relief by year's end.

Citizens frequently accused police officers of soliciting bribes during searches or falsely arresting individuals to extract bribes (*see* Section 1.f.). The police continued conduct massive searches ("sweeps") for illegal immigrants and firearms (*see* Section 1.f.). In June the Nairobi police engaged in several days of sweeps reportedly to ensure that the "city was free of criminals," according to Simeon Kipkeu, the Officer Commanding of the Kasarani Police Division. According to press reports, the operation was a joint General Service Unit and Administration Police effort leading to the arrest of more than 1,000 foreign nationals; however, the Government reported that 835 foreign nationals actually were arrested and that 511 were verified to be in the country illegally and were arraigned in court. The remaining 324 persons were handed over to the U.N. High Commissioner for Refugees (UNHCR). There was no information on whether those arraigned were detained at year's end. The sweeps were conducted primarily in Nairobi's Eastleigh area, home to a large Somali community; residents accused the police of using excessive force and robbing them of cash and other valuables.

On August 21, heavily armed police entered the home of the chairman of the Kenya Employers Federation (KFE), Walter Mukuria, and took him into custody for 4 hours. Mukuria's arrest reportedly was precipitated by an inquiry he made into the ownership of a bank to which a questionable transfer of a substantial amount of worker funds had been made. The transfer was made without the approval of the National Social Security Fund trustees, and Mukuria's inquiry implicated the involvement of a prominent government official. The KFE alleged that Mukuria was denied legal representation following his arrest and was forced to sign a seven-page statement. There was no pending case against Mukuria at year's end.

According to MUHURI, police allegedly detained five colleagues of Abdillahi Mohamed Mashuhuri whom they arrested on narcotics charges after raiding Mashuhuri's house in January 2001. The five were tried and acquitted in March.

The Government at times arrested civil society leaders and opposition politicians and charged them with participating in illegal gatherings (*see* Sections 2.b. and 4).

In 2001 police beat and arrested James Orengo when he and others went to a proposed rally site in Kisii to notify police of their intent to hold an MWM rally, as required by law. Police prevented Orengo's lawyers from seeing him. Orengo was charged with taking part in an illegal assembly and resisting arrest; he subsequently was released, but his case remained pending before the court at year's end. Orengo has been arrested on questionable charges more than eight times since 1997; many of these cases against Orengo, including one from January 2000, remained pending at year's end.

In February 2001, police forcibly prevented a MWM rally and arrested numerous persons. Also in February 2001, police arrested another opposition M.P., Peter Anyang' Nyong'o, and four opposition supporters in Kisumu, where MWM also attempted to hold a rally. Anyang' Nyong'o was released; however, it was not known whether the others were released or whether there were any charges pending against Nyong'o and the opposition supporters at year's end.

Unlike in the previous years, there were no reports of Muungano wa Mageuzi (MWM) rallies. The movement since has ceased to exist.

Following an opposition rally in April 2001 that police earlier had attempted to cancel for “security concerns,” police arrested two Democratic Party (DP) M.P.s, Maina Kamanda and David Manyara (*see* Section 2.a.). Kamanda was charged with treason for allegedly threatening the life of President Moi during a speech at the meeting. Kamanda later was released and the treason charge was dropped; however, he was charged with the lesser offense of “incitement,” the same charge on which Manyara was arrested a few days later for a speech he gave at the same rally. The Attorney General dropped the prosecution and ended the case against Kamanda by year’s end.

In April 2001, police forcibly dispersed a march by Mungiki members; six persons reportedly were arrested, and numerous persons were injured. They were charged, found guilty, and sentenced to pay a fine of \$129 (approximately 10,000 Kenyan shillings) or serve 1 year in prison.

In November 2001, more than 70 members of the Mungiki and Kamjesh groups were arrested for extortion and for seizure of the routes used by privately owned public transportation vehicles, known as matatus. Also in November 2001, police arrested Mungiki leader Ibrahim Waruinge, who previously had announced that Mungiki planned to take over the management of the routes of privately owned transportation vehicles; he was charged with promoting “warlike” activities during a July 2001 clash between Mungiki members and matatu drivers that resulted in five deaths. Waruinge was released on bond. During the year, elements of his group were considered to be in collaboration with the ruling party KANU following the public demonstration some of its members held in Nairobi on August 20 in support of presidential aspirant and Moi protege Uhuru Kenyatta. A number of Mungiki members were arrested following their involvement in the March massacre of residents in a Nairobi slum; 28 members were arrested in Kiambu in July for allegedly circulating pamphlets threatening to circumcise forcibly women; 35 Mungiki suspects were arrested in April following an attack by men believed to be Mungiki at a Nakuru bus terminal that critically injured seven persons, including two police officers; and four Mungiki members were arrested in September for allegedly forcing residents in Laikipia District to take oaths binding them to Mungiki and to support Uhuru Kenyatta, the KANU presidential candidate.

Student protests and riots continued during the year; however, unlike in the previous year, there were no reports that students were arrested as a result.

During the year, police arrested some journalists (*see* Section 2.a.).

No updates were available in the following 2001 cases: The January case of Arwings Odera, a freelance journalist, charged with publishing false information (*see* Section 2.a.), and the April case against the owner of Citizen Radio and Television (CITIZEN).

There was no information available in the following cases from 2000: The April arrests of Joseph Kirangathi Njoroge, Esther Wamucii, John Gitonga, and Mwangi Gachie Kamau; the July arrests of 10 Mungiki members; and the December arrest of several journalists during an MWM rally.

Pretrial detention remained a problem. On February 14, after being held in detention since March 2000, Margaret Wanjiku Mugo and her five children were charged with the killing of their husband and father. The family had been scheduled to stand trial in March 2001, but their file went missing. They finally were charged on February 14; the case was pending at year’s end. In its 2002 report, the SCHR highlighted numerous cases of lengthy delays in the prosecution of cases against inmates held in remand and noted that “there were unnecessary delays in prosecution of cases,” adding that “remand inmates constitute a large percentage of the prison population thereby overstretching the limited resources available to prisons. . .”

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice the judiciary often was corrupt and subject to strong influence from the executive branch. The President has extensive powers over appointments, including those of the Attorney General, the Chief Justice, and Appeal and High Court judges. The President also can dismiss judges and the Attorney General upon the recommendation of a special tribunal appointed by the President. Although judges have life tenure (except for the very few foreign judges who were hired by contract), the President has extensive authority over transfers.

In previous years, judges who ruled against the Government sometimes were punished with transfer or nonrenewal of their contracts; however, no known retaliatory action against judges was reported during the year. Judges occasionally demonstrated independence.

The court system consisted of a Court of Appeals, a High Court, and two levels of magistrate courts, where most criminal and civil cases originated. The Chief Justice was a member of both the Court of Appeals and the High Court, thus undercutting the principle of judicial review. Military personnel were tried by military

courts-martial, and verdicts may be appealed through military court channels. The Chief Justice appointed attorneys for military personnel on a case-by-case basis.

The country has Islamic courts that resolve disputes, adjudicate inheritance questions and marital issues, and handle other civil matters where all parties were Muslim and accept the court's jurisdiction. The Constitution provides for these courts, and states that "jurisdiction of a Kadhi's court shall extend to the determination of questions of Muslim law relating to personal status, marriage, divorce, or inheritance in proceedings in which all the parties profess the Muslim religion." The Islamic courts have functioned in the country for many years. There were no other customary or traditional courts in the country. However, the national courts used the customary law of an ethnic group as a guide in civil matters so long as it did not conflict with statutory law. This was done most often in cases that involved marriage, death, and inheritance issues and in which there was an original contract founded in customary law. For example, if a couple married under national law, then their divorce was adjudicated under national law, but if they married under customary law, then their divorce was adjudicated under customary law. Citizens may choose between national and customary law when they enter into marriage or other contracts; however, thereafter the courts determine which kind of law governs the enforcement of the contract. Some women's organizations sought to eliminate customary law because they felt it was biased in favor of men (*see* Section 5).

Civilians are tried publicly, although some testimony may be given in closed session. The law provides for a presumption of innocence, and for defendants to have the right to attend their trial, to confront witnesses, and to present witnesses and evidence. Civilians also can appeal a verdict to the High Court and ultimately to the Court of Appeals. Judges heard all cases. In treason and murder cases, the deputy registrar of the High Court can appoint three assessors to sit with the High Court judge. The assessors were taken from all walks of life and receive a sitting allowance for the case. Although the assessors render a verdict, their judgment was not binding. Lawyers can object to the appointments of specific assessors.

Defendants do not have the right to government-provided legal counsel, except in capital cases. For lesser charges, free legal aid rarely was available, and then only in Nairobi and other major cities. As a result, poor persons may be convicted for lack of an adequate defense. Although defendants have access to an attorney in advance of trial, defense lawyers do not always have access to government-held evidence. The Government can plead the State Security Secrets Clause as a basis for withholding evidence, and local officials sometimes classified documents to hide the guilt of government officials. Court fees for filing and hearing cases were high for ordinary citizens. The daily rate of at least \$25 (2,000 Kenyan shillings) for arguing a civil case before a judge was beyond the reach of most citizens.

Critics of the Government—politicians, journalists, lawyers, and students—have been harassed through abuse of the legal process. Authorities continued to arrest opposition M.P.s and journalists during the year (*see* Sections 1.d. and 2.a.), and a number of opposition M.P.s, student leaders, and human rights activists still had one or more court cases pending during the year.

Several cases involving opposition M.P.s have been pending for years, with the courts repeatedly postponing the hearings, thereby requiring the M.P.s to appear periodically in court or risk fines or imprisonment.

The Attorney General's constitutional power to discontinue proceedings in private prosecution cases was a problem. Arguing that citizens must first notify his office before initiating private prosecution, Attorney General Amos Wako has used this authority on a number of occasions to terminate cases against government officials.

There were no reports of political prisoners. However, some NGOs alleged that political and human rights activists were arrested and jailed on spurious charges during the year to curb their activities. The Kenya Human Rights Network (KHRN) reported that on May 19 two human rights activists from Makueni District, Nicodemus Mutuku and Alois Mwaiwa Muia, were arrested on murder charges following mob violence that left one person dead. KHRN maintained that the two men, who reportedly were engaged actively in land rights issues, were targeted for their activism and wrongfully accused. The Network claimed that the detention of Mutuku and Muia amounted to "detention without trial," since a person accused of murder was not eligible for bond and can be held in prison for up to 6 years while evidence was gathered against them before being brought to trial. KHRN argued that if the Government "is intent on putting someone away for political reasons, all they need to do was to successfully frame him/her up for murder and take years preparing the committal bundle (gathered evidence and other documentation)." Mutuku and Muia were acquitted during the year; however, an appeal of the decision was filed by year's end.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—At times authorities infringed on citizens' privacy rights. Although the Constitution provides that "no person shall be subjected to the search of his person or his property or the entry by others on his premises," it permits searches without warrants "to promote the public benefit." The Police Act permits police to enter a home forcibly if the time required to obtain a search warrant would "prejudice" their investigation. Although security officers generally obtained search warrants, they occasionally conducted searches without warrants to apprehend suspected criminals or to seize property believed to be stolen. Citizens frequently accused police officers of soliciting bribes during searches or of falsely arresting individuals to extract bribes. Unlike in previous years, there were no reports that Nairobi police searched offices of the media without warrants.

On August 21, heavily armed police entered the home of the chairman of the Kenya Employers Federation, Walter Mukuria, and took him into custody for 4 hours (*see* Section 1.d.).

The police continued to conduct massive warrantless searches ("sweeps") for illegal immigrants and firearms in residential neighborhoods of major cities (*see* Section 1.d.). Residents complained that police who entered homes on the pretense of searching for weapons often asked for radio, television, and video receipts and permits, then demanded bribes to refrain from confiscating those items in the absence of such documents. In January the police reportedly arrested more than a 100 persons in a sweep of street families and children in Nairobi; their status was unknown at year's end.

Security forces monitored closely the activities of dissidents, following or otherwise harassing them. They employed various means of surveillance, including a network of informants to monitor the activities of opposition politicians and human rights advocates. Some opposition leaders, students, journalists, and others continued to report that the Government subjected them to surveillance and telephone wiretaps; however, there were no reports of interference with written correspondence during the year.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government restricted these rights in practice. The Government broadly interpreted existing laws to restrict free expression. The Government continued to harass, beat, and arrest members of the media during the year (*see* Sections 1.d.). The print media has been relatively independent for decades; there was further liberalization of the electronic media during the year, including radio, television, and Internet communications. The regulatory framework for broadcast media allowed abuse and manipulation in the issuance, withholding, and revoking of broadcast permits and frequencies. Police repeatedly dispersed demonstrators to prevent criticism of the Government, and journalists covering such events often were present during the dispersal (*see* Section 2.b.). In spite of these pressures, the press, civic organizations, and opposition parties continued to present their views to the public, particularly in the print media. Government pressure led some journalists to practice self-censorship.

In October three police officers were fired for reportedly holding a private political discussion in which it was suggested that the KANU presidential candidate would lose the December elections to the opposition. The officers' comments reportedly were taped and given to senior officers who brought the three before a police disciplinary tribunal. They were found guilty of violating a provision of the Police Act that prohibits affiliating with a political party or group and compromising their political neutrality. The firings were criticized widely as an infringement on the freedom of expression and as an unjust application of the law. Many local officials and other public servants openly affiliated with then ruling KANU and freely attended public rallies and other political functions in support of the party without fear of punishment. In response to negative public reaction following the incident, Police Commissioner Philemon Abong'o told the media that the officers could appeal their dismissal.

In April 2001, President Moi ordered the police to monitor and record all public speeches by politicians at political rallies. The order was regarded widely as an attempt to restrict political speech by threatening to arrest those whose speech could be interpreted by the Government as inflammatory. The order did not appear to be enforced actively during the year.

The Constitution prohibits debates on issues under consideration by the courts, and in conjunction with a ruling by the Speaker of the Assembly that some aspects of the President's conduct were inappropriate topics for parliamentary debate, has limited the scope of deliberation on a number of political issues.



In April 2001, police arrested two DP M.P.s, Maina Kamanda and David Manyara (*see* Section 1.d.). Kamanda was charged with treason for allegedly threatening the life of President Moi during a speech at the meeting. The Government-controlled Kenya Broadcasting Corporation (KBC) broadcast a video that showed Kamanda saying that President Moi should be shot if he did not leave office after his current term ended; however, a Kenya Television Network (KTN) news video of the same event indicated that the tape shown on KBC had excluded three words. Kamanda actually had said that Kamanda himself should be shot if he (Kamanda) were to agree to another term for Moi.

Public officials used libel laws to attack publications directly critical of actions by government officials. In 2000 a ruling in a libel case involving a government minister ordered that printers and distributors were to be held equally responsible with publishers and authors for libelous content in publications and books. Further interpretation of libel laws and related legislation also has made retail stores equally liable should the material in question be found libelous.

On March 22, Minister for Trade and Industry Nicholas Biwott won a libel suit against *The People Daily* in the amount of \$250,000 (20 million Kenyan shillings) for implicating him in alleged corrupt dealings involving a hydroelectric project. In June 2001, President Moi and Biwott sued a former U.S. Ambassador accredited to the country and a bookstore that carried the Ambassador's book for libel over allegations in the publication that the President and Biwott were involved in the 1991 murder of Foreign Minister Robert Ouko. In June Biwott won a libel suit against a bookstore for selling the book. The courts granted him \$96,100 (7.5 million Kenyan shillings) in damages and ordered the bookstore's apology printed on the back pages of two of the country's most prominent newspapers. Moi's libel suit against the former Ambassador still was pending in court.

In general the print media remained candid and independent. The mainstream print media included four daily newspapers that reported on national politics. The largest newspaper, the *Nation*, was independent and often published articles critical of government policies. The second largest newspaper, the *East African Standard*, was controlled by an investment group with close ties to the Government and the ruling KANU party. It generally, although not automatically, was supportive of the Government. The third daily newspaper, the *People Daily*, formerly a weekly, was owned by an opposition politician and was highly critical of the Government. The fourth daily, the *Kenya Times*, which has a small circulation, reflected KANU party views. There also were numerous independent tabloid or "gutter" periodicals, which appeared irregularly and were highly critical of the Government. Reporting in these tabloids ranged from revealing insider reports to unsubstantiated rumor mongering.

On May 8, Parliament passed a controversial bill regulating the media. Under the act, commonly known as the "Media Bill," publishers were required to purchase a bond of \$12,800 (1 million Kenyan shillings) before printing any publication, then they must deposit copies of their newspapers and books with a registrar within 2 weeks of publication. The new bond amount was a 100-fold increase over the previous bond amount of \$128 (10,000 Kenyan shillings). The new law makes it a crime to sell or distribute publications not deposited or bonded, under penalty of a fine of \$256 (20,000 Kenyan shillings) or 6 months imprisonment. Many observers viewed the law primarily as an effort to rein in the tabloid or "gutter" press, which will jeopardize the survival of many financially marginal publications. However, some observers also considered it a measure to intimidate and curb the legitimate press prior to the December 27 general elections.

While all newspapers suffered financially to varying degrees because of the prolonged economic and business downturn, the Government no longer openly pressured businesses against advertising with opposition media during the year.

While there was no overt official government pressure on journalists, individual journalists reported that they were pressured by government officials and other influential persons to avoid reporting on issues that could harm the interests of these persons or expose their alleged wrongdoings. Some editors and journalists reportedly practiced self-censorship because of government pressure or bribes; there also were credible reports of journalists accepting payments to report or withhold certain stories, some of which were fabricated.

The Government attempted to intimidate the pro-opposition press with arrests and pressure, and by selective prosecution of journalists under a colonial-era section of the Penal Code that criminalizes the publication of information likely to cause fear or alarm.

Journalists were arrested, harassed, and otherwise intimidated during the year. For example, on March 15, supporters of the now defunct National Development Party reportedly attacked *Nation* journalist Odhiambo Orlale at the party's headquarters during a party executive committee meeting. An Assistant Minister present

reportedly warned Orlale against writing stories about the party that he deemed negative. Before the party leader Raila Ódinga reportedly intervened to rescue the journalist, Orlale was beaten with clubs. The police reportedly took no action when the incident was reported nor have they taken any by year's end.

On April 11, city council guards beat People Daily photographer Collins Kweyu in Nairobi when he took pictures of city hawkers being arrested by the guards and Administration Police. Four Administration Police reportedly watched without intervening as the guards attacked Kweyu for allegedly operating without a license. Kweyu's camera was confiscated. The Inspectorate Department reportedly was investigating this case at year's end.

On September 22, persons attending a political rally organized by the opposition "Rainbow Alliance" beat a television crew with the private news production company, Picasso Communications. The crew reportedly was mistaken for a KBC news crew, which allegedly prompted the attack. There were no reports of any arrests by year's end.

On September 23, journalists George Omonso of the Daily Nation and John Wanddeto of the People Daily were arrested allegedly for inciting striking teachers who were demonstrating in Kitale. The two journalists later were released.

Arwings Odera, a freelance journalist who had published a series of articles alleging corruption in government-backed projects, remained outside the country for fear of his life at year's end.

The Government continued to loosen its control over electronic broadcast media in and around Nairobi, while maintaining its dominance of broadcast services to regional towns and rural areas, where the majority of the country's population live.

KBC is the oldest broadcaster and the only one with a national network of broadcast and cable television, AM and FM radio, and short-wave broadcasts. KBC remained the only domestic source of current information for most persons outside the Nairobi area; stations operated by other media companies, including 12 radio stations, operated primarily in Nairobi and its outlying areas.

The Government controlled KBC, and KBC's monopoly on national broadcasting continued to limit severely the ability of opposition leaders and other critics of the Government to communicate with the electorate outside the capital. KBC stations did not criticize the Government and give a large share of news time to government or KANU party functions and little coverage to opposition activities. During the year, KBC news coverage remained biased in favor of KANU and President Moi. In addition, the KBC's limited coverage of the opposition generally was negative, compared with uniformly positive coverage of KANU. In September KBC granted the KANU presidential aspirant unprecedented radio and television airtime, covering live his political rally in Nakuru for several hours. No similar coverage was given to any of the opposition candidates during the campaign period; however, at the end of the campaign KBC provided small amounts of free airtime to all parties.

KTN, a subsidiary of the East African Standard group of newspapers that was owned by KANU supporters, aired news programs with more balanced political coverage than KBC. KTN broadcasts in Nairobi and Mombasa. During the year, KTN also began broadcasting in Nakuru as part of an expansion program to reach the entire country. Stellavision also was owned by KANU supporters and operates in collaboration with TV Africa and SKY TV of London. Stellavision did not air local news, relying instead on rebroadcasts of SKY TV and British Broadcasting Corporation (BBC) world news; it broadcasts in Kisumu, Mombasa, and Nairobi. Other TV stations in operation in Nairobi were Nation-TV, associated with the Nation newspaper group, and Family, a Christian-oriented broadcaster. Citizen TV and Citizen Radio, which broadcast generally objective news programs, ceased operations for a time in 2001. However, Citizen Radio and Citizen TV resumed broadcasts by the end of 2001. Family TV and Radio broadcasts in the Nairobi metropolitan area; Nation Television also broadcasts in Mombasa, providing independent media coverage.

The following radio stations also broadcast in Nairobi: Nation, Kameme, BBC, Voice of America (VOA), Capital, Family, Kiss, Iqra, Metro East, and Sounds Asia. In addition to KBC, Sauti ya Rehema, a nondenominational religious radio station broadcasting in Kiswahili, English, and other local languages in Eldoret, and the Mombasa-based Christian-oriented Baraka FM radio broadcasting in Kiswahili and English transmit outside of Nairobi. In August Sauti ya Rehema launched a television station in Eldoret that broadcast, in English and Kiswahili, local and international Christian programs reaching a large segment of the Rift Valley and parts of Uganda. The Nation Media Group broadcasts radio and television transmissions to Nairobi and received authorization for radio broadcasts in Mombasa, Kisumu, and Nakuru. Iqra, a radio station run by the Supreme Council of Kenyan Muslims (SUPKEM) provided information, educational programming, and entertainment for Muslim audiences in Nairobi. VOA programming was broadcast on FM radio in

Nairobi; however, a VOA request for similar broadcast access to Mombasa was not approved.

The Government, through the Communication Commission of Kenya (CCK, continued to delay action on a number of radio and television license applications on the grounds that it was reorganizing and regularizing its licensing procedures. The Ministry of Information, Transport, and Communication continued to argue that it was waiting for the recommendations on media liberalization from the Attorney General's Task Force on Press Law. That Task Force made its initial report in 1998; however, it still had several outstanding issues to resolve, including the manner of selection of the 13-member Media Commission, which would act as an independent body issuing broadcast licenses. In April 2001, the Government announced that a policy on broadcast licensing would be issued to ensure transparency in licensing procedures; however, no such policy was issued by year's end. The CCK regulated frequency allocations, while the Ministry of Transport and Communications issued licenses. The Ministry has licensed 33 organizations (6 of which were KBC companies) to broadcast, and the CCK has allocated frequencies to a total of 9 television and 18 radio stations, although some were not broadcasting at year's end. Nation Media sued the Government for permission to broadcast radio and television nationwide, but the case still was before the courts at year's end. In June 2001, the Government announced that it would not issue any more licenses to broadcast in Nairobi until new policies were in place. According to the Ministry, there were 120 applications for Radio/TV licenses pending at the end of 2001.

Private organizations that have been issued frequencies to broadcast but had not yet done so included the Pentecostal Church, Pete Aviation, and Maritime Media Services. During the year, Daystar University was granted a broadcasting license and planned to serve Nairobi, Machakos, and Kijiado once it was allocated frequencies. Daystar intends to utilize the low-powered radio station to train journalism students. The Catholic Church, which reportedly has been allocated radio and television frequencies for Nairobi, had not begun broadcasting by year's end. It reportedly wanted a nation-wide frequency, while the Government insisted on region-by-region allocation of locally based broadcasters. The Catholic Church reportedly also was seeking frequencies in Mombasa, Nyeri, and Kisumu. The Government also licensed and provided frequencies to the East African Television Network (EATN), the only recipient of a national frequency other than KBC; however, a dispute arose with the Government after EATN formed a partnership with Nation Media. The Government blocked EATN from using the frequencies and the case was pending in the courts at year's end.

In January 2001, the CCK ordered the shutdown of Citizen broadcasts for unpaid licensing fees and improper use of communications equipment. Citizen claimed that the shutdown, which only affected its operations outside Nairobi, was motivated politically. Citizen, which began broadcasting in 1999, appealed the order in the courts and continued broadcasting in Nairobi; however, in 2001 the court upheld the CCK's order and Citizen again appealed to the Court of Appeal. In April 2001, after Citizen moved its broadcast equipment from borrowed space on government-controlled towers to a new location on the outskirts of Nairobi, the CCK sealed Citizen's offices, confiscated equipment, and detained its owner, who later was released. Citizen appealed the Government's action, and the court ruled that the CCK had acted properly in seizing equipment. The CCK subsequently stripped Royal Media, the parent company of Citizen, of its broadcast licenses. Citizen's owner appealed that ruling. In February criminal charges accusing him of illegally setting up a radio communication station in Nairobi were dropped. However, Citizen's owner still was seeking the return of confiscated broadcasting equipment at year's end.

Representatives of the international media remained free to operate; 120 international correspondents worked in the country, and approximately 100 media organizations reported out of Nairobi without official interference.

Sedition was not grounds for censorship of publications; however, the Prohibited Publications Review Board reviewed publication bans. A number of publications remained banned, including such works as "The Quotations of Chairman Mao Zedong" and Salman Rushdie's "Satanic Verses."

In March police banned the staging of the play, *Ngoma Cia Aka* (the Whirlwind) by playwright Wahome "Whispers" Mutahi in Nyeri. The police claimed that the play was immoral and posed a security threat.

The Government did not restrict access to the Internet. There were approximately 20 domestic Internet service providers (ISP's) that generally were privately owned. Internet access was limited only by economic and infrastructural factors, and was fairly widespread in urban areas. Although liberalization of Internet communications continued, Internet access in the country continued to be limited by Telkom, the communications parastatal. All ISP's were required to use the communications

parastatal to connect to the Internet. There were no reports of Telkom interfering with the content of Internet transmissions. Telkom was slated for privatization in 2001; however, no action was taken by year's end.

The Government and school administrators continued to limit academic freedom. There were six private universities and six universities owned, subsidized, and administered by the Government. Most post-secondary students attended government-run institutions, partly because of their lower fees. President Moi, as chancellor of all state universities, appointed the vice chancellors who managed the institutions under the supervision of the Ministry of Education. A number of student activists have been expelled from universities in recent years because of political activities, and most have been refused readmission. Students claimed that the Government interfered in student elections to ensure sympathetic student leaders.

Student protests and riots occurred sporadically during the year, and police forcibly dispersed several protests after they became violent, which resulted in injuries (*see* Section 2.b.).

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government restricted this right in practice. Organizers must notify the local police in advance of planned public meetings; however, authorities continued to disrupt public demonstrations and meetings about which the police had been informed in advance, often characterizing them as “illegal” gatherings. In 2000 President Moi repeated his 1999 statements that government officials should deny “permits” (for public demonstrations) to politicians who use public rallies to abuse other leaders; however, officials have legal authority to cancel planned public gatherings only if there were simultaneous meetings previously scheduled for the same venue, or if there were specific security threats. The President's 2000 statement barring MWM from holding public meetings was aggressively enforced in 2001, although there was no apparent legal basis for this policy (*see* Section 1.d.). With the exception of a controversial march through downtown Nairobi in support of the KANU presidential candidate for the December general elections (*see* Section 1.d.), the Mungiki did not hold rallies during the year. Moi said that licenses would only be given to registered political parties, and that the Government would ban events by any “lobby groups, some religious organizations, and nongovernmental organizations whose aims and operations were sinister.” government and opposition politicians often warned political opponents not to attend or organize gatherings in certain constituencies, and during the year such warnings were more pronounced prior to the December 27 general elections. Also during the year, a number of opposition rallies and meetings were disrupted by organized youth and police, often violently.

Police forcibly disrupted public assemblies, including some political rallies and meetings (*see* Section 1.d.). The Government at times arrested civil society leaders and opposition politicians and charged them with participating in illegal actions. For example, on March 3, a chief in Bungoma reportedly cancelled a civic education meeting organized by the Community Empowerment and Development Forum on the grounds that the organizers were sympathetic to opposition parties.

On May 12, M.P. Kipruto Arap Kirwa and 13 others were arrested and their vehicles confiscated for holding an “unlawful” meeting in Nandi District after they attempted to hold a political meeting at Keteng Primary School. Kirwa, who reportedly was beaten at the time of the arrest, was held for 24 hours and released without charge while 13 others held with him were released on bond on May 16.

On August 15, police disrupted a meeting organized by the Coast Civil Society Forum in Mombasa that they described as illegal. The group of approximately 100 persons were meeting to elect officials to the Forum. The Mombasa police chief Gerald Oluoch said that the meeting was blocked because it had not been authorized.

On September 9, police disrupted a meeting to elect officials of the Social Democratic Party (SDP). The SDP is a member of the umbrella party the National Alliance Party of Kenya (NAK); a NAK official, Kiraitu Murungi, accused the police of systematically harassing NAK members.

On September 19, 15 councilors from Tharaka District were reportedly arrested at a restaurant for holding an “illegal” meeting. They later were released following the intervention of the area District Commissioner. The civic leaders maintained that they were meeting in order to plan for the nomination of delegates to the constitutional review conference, which was canceled once Parliament was dissolved in October prior to the December general elections. The conference required the participation of M.P.s and could not proceed without them.

During the year, several meetings and rallies organized by Ford People, whose presidential candidate was former Finance Minister Simeone Nyachae, were the targets of physical attacks and forced cancellations.

In May Ford People was forced to cancel a meeting in Malindi under pressure from the police. The Malindi police chief Charles Ontita reportedly said that the meeting had been canceled because of "the high political temperature, which might lead to violence and injuries."

Following an opposition rally in April 2001, that police earlier had attempted to cancel for "security concerns," police arrested two DP M.P.s, Maina Kamanda and David Manyara (*see* Section 1.d.).

Some civil society activities, including demonstrations, were disrupted during the year. For example, on February 20, antiriot police armed with teargas and batons disrupted a peaceful demonstration organized by the Center for Human Rights and Civic Education in Mwingi District to protest the alleged land grabbing by a cabinet minister. Several demonstrators reportedly were injured and arrested. Four of the arrested activists later were released, and the case still was under investigation at year's end.

In March President Moi called for the Mungiki and a number of other vigilante groups, to be "banned" following the group's involvement in a clash in Kariobangi, a Nairobi neighborhood, in which 23 persons were killed (*see* Section 1.a.). However, in August, members of Mungiki were allowed to demonstrate through downtown Nairobi in support of KANU presidential aspirant and Moi protege Uhuru Kenyatta without interference from security forces, suggesting that the ban on this group was enforced selectively. No action was taken against the police who forcibly dispersed a march by Mungiki members and beat them in April 2001. Some Mungiki members may have been in custody at year's end; however, Mungiki leader Ibrahim Waruinge was released by year's end.

University student protests occurred sporadically during the year, and at times they became violent. On July 19, University of Nairobi students protested the shooting death by a police officer of a fellow student, who was part of a group assaulting a police station to free another student. The protest lasted 2 days, and student threw stones, blockaded roads, burned tires, and destroyed property in downtown Nairobi. Police responded with tear gas and rubber bullets; however, no injuries were reported. On September 16, students from the same university engaged the police in running battles and threw stones in downtown Nairobi after a police officer shot and killed a university student who they suspected of using or selling drugs. After several hours of trying to quell the riot, police officers responded with live ammunition; however, no injuries or deaths were reported.

Violent incidents continued between progovernment supporters and opposition supporters during the year; political parties reportedly used gangs of young followers to harass other parties and to prevent them from holding meetings or events. In April armed youth in Butere constituency attacked Ford People officials, including the national chairman Kimani wa Nyoike, as they attempted to open party offices. The group was attacked with stones and other objects, shattering windows of the vehicles carrying Nyoike and another official. The attacks followed on MP Amukoa Anangwe's warning to Ford People officials not to tour his constituency. The Ford People officials fled and were unable to address their supporters. The armed youth announced that no opposition politician would be welcome to campaign in the Butere constituency.

The Government continued to use the Societies Act to restrict freedom of association. The act requires that every association be registered or exempted from registration by the Registrar of Societies. Since 1997 the Government has acted on some long-pending applications for political party registration, increasing the number of registered political parties from 23 to 40. However, the Government continued to refuse to reverse its 1994 denial of registration of the Islamic Party of Kenya.

Unlike in the previous year, former President Moi did not attack repeatedly NGOs in public speeches, saying they were in the pay of foreigners intent on destabilizing the country; however, government officials, including Moi, did accuse international NGOs and some segments of the donor community of supporting the opposition in the period prior to the December general elections but offered no evidence to back these charges.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, while groups generally were allowed to worship freely, the Government at times interfered with other activities by religious groups.

The Government required religious organizations to register with the Registrar of Societies, which reported to the Office of the Attorney General. The Government allowed traditional indigenous religious organizations to register, although many chose not to do so. Once registered religious organizations enjoyed tax-free status, and clergy were not subject to duty on purchased goods. Religious organizations generally received equal treatment from the Government; however, some small splinter

groups have found it difficult to register due to their inability to define their status as more than an offshoot of a larger religious organization. The Government has not granted registration to the Tent of the Living God, a small Kikuyu religious group banned during the single party-era; however, with the arrival of a multiparty system in 1992, membership in the Tent of the Living God has diminished greatly. Some members of the group were believed to have joined the Mungiki. On April 30, police arrested 39 members of the Tent of the Living God for holding an illegal meeting after the group led a march through downtown Nairobi. On May 7, all 39 were released on condition that they hold no illegal meetings or processions in the future.

Following the discovery of “cult” killings in Uganda in 2000, William Ruto, then Assistant Minister in the Office of the President, said that the Government would crack down on religious groups that endanger the safety of their adherents. In January M.P. Odeny Ngure called on the Government and mainstream churches to cooperate in formulating policies to eliminate cults from the country; however, no action was taken by the end of the year. Also in January, district officials in Gigil stopped a religious meeting at the Emmanuel Church of God during a 2-week crusade after community residents complained of continual wailing and screaming coming from the church. Residents charged that the group was a cult and that its members had sold their property to prepare for the return of Jesus Christ; the church denied the allegations.

In June in Busia, a district officer, who was a Seventh-Day Adventist, was suspended for refusing to perform his official duties on Madaraka Day, which fell on a Saturday. Also in June in Nandi, the Board of Governors suspended 10 high school students, who were Seventh-Day Adventists, for refusing to take a test on a Saturday. Supporters of the students challenged the Board’s decision, arguing that the school did not have the constitutional right to deny individuals the right to observe their religious practices. There was no information on the status of the case at year’s end.

The Government historically has been unsympathetic to tribal religious groups that have engendered protest movements. The Government frequently harassed and periodically arrested and detained members of the Mungiki, a small, controversial, cultural and political movement based in part on Kikuyu ethnic traditions. Mungiki espoused political views and cultural practices that were controversial to mainstream society; however, many observers characterized the Mungiki as a vigilante group or gang because of the criminal activities of some of its members as well as their reported harassment and intimidation of residents in areas where the group was active (*see* Sections 1.a. and 2.b.). While religion may have played a role in the formation of the group, observers believed that it was not a key characteristic of the group. The Mungiki did not adhere to any single religion and members were free to choose their own religion; the group included Muslims and Christians. The number of Mungiki members was unknown, but the group has a significant following among the unemployed and other marginalized segments of society. The debate over the rights of the Mungiki to practice their cultural traditions and advance their political agenda was ongoing; however, during the year, certain elements of this group were supporting ruling party presidential aspirant Uhuru Kenyatta (though he has repudiated them) and no longer were viewed to be targets of government harassment. In addition, the Mungiki were involved in or implicated in a number of violent attacks against political or ethnic rivals during the year (*see* Section 1.a.).

Practicing witchcraft reportedly was a criminal offense under colonial-era laws; however, persons generally were prosecuted for this offense only in conjunction with some other offense, such as murder. Witchcraft traditionally has been a common explanation for diseases for which the causes were unknown. The practice of witchcraft was understood widely to encompass attempts to harm others not only by magic, but also by conventional means such as poisons. Although many traditional indigenous religions included or accommodated belief in the efficacy of witchcraft, they generally approved of harmful witchcraft only for defensive or retaliatory purposes and purported to offer protection against it.

In January in Nyamira, police arrested two persons for possession of witchcraft supplies, including snake skin, tortoise shell, and powders, and for practicing witchcraft. According to the police, a pastor from Butere Mumias Deliverance Church claimed that the two persons had caused the mysterious illness of a man.

Muslim leaders continued to charge that the Government was hostile toward Muslims. Muslims complained that non-Muslims received better treatment when requesting citizenship documents. According to Muslim leaders, government authorities scrutinized more rigorously the identification cards of persons with Muslim surnames and required them to present additional documentation of their citizenship (i.e., birth certificates of parents and, sometimes, grandparents). The Government

has singled out the overwhelmingly Muslim ethnic Somalis as the only group whose members were required to carry an additional form of identification to prove citizenship. Ethnic Somalis must produce upon demand their Kenyan identification card and a second identification card verifying screening; both cards were required to apply for a passport. This heightened scrutiny appeared to be due to an attempt to deter illegal immigration, rather than due to the religious affiliation of ethnic Somalis. Since 2001 the immigration office in the predominately Muslim city of Mombasa has required that applicants for birth certificates or passports had to include their grandparents' national documents with their applications. Sheikh Mohammed Dor, the Secretary General of the Council of Imams and Preachers, criticized the action as imposing "outrageous restrictions" on the country's Muslims.

On March 28, government authorities charged Wanjiru Nduhiu, the leader of an unregistered Kikuyu group, with urging her followers to renounce Christianity and revert to traditional beliefs and practices, such as FGM; she remained in detention at year's end.

In late August 2001, Marsden Madoka, former Minister for Internal Security, reportedly stated that the Government intended to take more than 341 schools, which were mainly under the control of the Presbyterian, Anglican, and Catholic churches, and transfer control to the African Independent Pentecostal Church of Africa (AIPCA). On January 25, President Moi directed district education boards to return those schools to the AIPCA that it had operated prior to the country's independence; however, Moi ordered that AIPCA schools already sponsored by other churches to remain under such sponsorship. The British Colonial government seized the AIPCA schools because of the church's support of the anticolonial Mau Mau movement. AIPCA began to repossess its schools during the year.

There was no new information in the August 2000 case of Father John Anthony Kaiser, a Catholic priest working in the country for more than 30 years, who was found dead near Naivasha town. A FBI report, released in April 2001, concluded that the evidence collected was most consistent with suicide, and that it was unlikely that Father Kaiser had been murdered. The Attorney General has stated that he would reopen the case only if new evidence were presented.

There generally was a great deal of tolerance among religious groups; however, there were a few instances of violence between Christian and Muslim groups, and Muslims continued to perceive themselves treated as second-class citizens in a predominantly Christian country.

There were several disputes over land ownership during the period covered by this report; some resulted in violence. In January approximately 500 squatters in Nyeri district forcibly dispersed members of the Othaya Presbyterian Church of East Africa from the church compound in which the worshippers had assembled for open-air services; several persons were injured. Both the worshippers and the squatters claimed ownership of the church property, which is located on government land. An investigation into the incident was ongoing at year's end. Also in January in Marakwet district, several persons, including a Pentecostal Assemblies of God (PAG) minister, were injured during a land dispute between members of a Catholic church and the PAG. The dispute reportedly began when Catholic worshippers accused PAG members of making too much noise while praying in a building adjacent to the Catholic church.

On January 27, Egerton University officials barred approximately 300 worshippers from the African Inland Church (AIC) from conducting services in the Lord Egerton Castle, which has been the subject of a longstanding property dispute between the University and the AIC. According to the AIC, President Moi allocated the castle and the 50 adjacent acres to the Church in 1995; according to records at the Ministry of Lands, the property belongs to the chaplain of the University and two other individuals. President Moi issued a statement indicating that the castle and surrounding property belonged to the University; however, AIC leaders urged their followers to ignore the statement. The dispute was ongoing at year's end.

In March progovernment youths forcibly dispersed persons worshipping at a church in Nairobi, scattered church property out of the building, and locked worshippers outside the church. The youths charged that the church was located on land belonging to KANU and that the police had failed to assist them in reclaiming the land. No known action was taken against the youths by year's end.

Occasionally mobs killed members of their communities on suspicion that they practiced witchcraft; however, there were no statistics available on the number of such deaths during the year. For example, on January 14, 80-year-old Rosalina Owuode, suspected of being a sorcerer, was stoned to death by a mob in Nyabiswa village in Migori district. On February 9, a married couple, Nyakundi and Josephine Makori were beaten and burnt to death by a mob in Kitutu Masaba in Nyamira district for allegedly practicing witchcraft. In April villagers killed a man in Gucha

on suspicion of being a sorcerer and for allegedly bewitching a neighbor who had recently died. No arrests were reported in any of these cases by year's end.

For years Muslims and Christians have held an open debate over their respective places in society. Each group claimed to have a larger number of adherents than was plausible, and some Muslim groups believed that the Government and business communities deliberately impeded development in predominantly Muslim areas. Some Muslim leaders claimed that discrimination against Muslims has resulted in a greater incidence of poverty among Muslims than among other religious groups; however, there was no statistical evidence to support this claim.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—By law citizens may travel freely within the country, and there were no reported violations of this right. However, police routinely stopped vehicles and checked vehicle safety and driver documents on roads throughout the country. Police often demanded bribes at such checkpoints. Ethnic Somalis must produce upon demand their Kenyan identification card and a second identification card verifying screening; both cards were required to apply for a passport (*see* Section 2.c.).

The Government did not restrict foreign travel or emigration; however, the law requires a woman to obtain her husband's or father's permission to obtain a passport (*see* Section 5). In practice adult women often were able to circumvent this restriction by claiming to be unmarried. Civil servants and M.P.s must get government permission for international travel, which generally was granted routinely. Unlike in the previous year, the Government did not deny permission to some government ministers to travel.

Unlike in the previous year, the Government did not close the border with Somalia during the year.

The majority of the estimated 400,000 persons displaced or forced to relocate during the early 1990's because of ethnic violence were believed to have returned to their homes or moved elsewhere; however, some still were waiting to return home at year's end. Many of the rural residents displaced by the violent ethnic clashes in Rift Valley between 1991 and 1993 still have not returned to their homes and remain displaced in urban areas. Some of the several thousand persons displaced by ethnic clashes since then also have not returned to their homes due to fear of renewed violence (*see* Section 5).

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, in 1991 the Government drafted legislation to establish a mechanism for granting refugee or asylum status. The drafting committee submitted the legislation to the Attorney General's office for review in 2000; and by year's end, the Attorney General's office reported that the relevant Ministry could forward the legislation to the Cabinet for discussion and approval before its publication and enactment. The UNHCR granted refugee status to Somali refugees at the Dadaab camps and to Sudanese refugees arriving at the Kakuma camp. A UNHCR eligibility committee in Nairobi performed a similar function for individuals of other nationalities.

The Government offered first asylum and provided it to the approximately 200,000 refugees registered by UNHCR who lived in official UNHCR camps. An undetermined number of refugees lived outside the camps in cities and rural areas. Somalis accounted for approximately 64 percent of the total refugee population, followed by large numbers of Sudanese and a scattered number of other nationalities from across the region. In April an estimated 10,000 Somalis fled to Mandera in the northeastern part of the country after fighting erupted at Bula Hawa on the Somali side of the border. Three refugees were killed by stray ammunition from warring factions. The Government threatened to return the refugees to Somalia if UNHCR did not resettle them. Under international pressure, the Government moved refugees to relative safety, away from the border. By year's end, most of the refugees either had returned to Somalia or were resettled in Daadab.

Police performed nighttime sweeps in urban areas to round up illegal immigrants and refugees (*see* Sections 1.d. and 1.f.).

The Government required that all refugees reside at designated camps, most of which were located near the Somali and Sudanese borders, unless granted permission to live elsewhere in the country, primarily to attend higher education institutions, undergo medical treatment, or avoid security threats at the camps. However, many refugees lived illegally outside the camps, especially in Nairobi.

Incidents of rape of women and girls in refugee camps continued to occur (*see* Sections 1.c. and 5). Many rapes occurred when women and girls collected firewood and



building materials outside the camps; however, reported rapes continued to decline during the year.

Acts of violence, including banditry and shootings, occurred frequently near the camps. Refugees have been mistreated and abused by citizens and by residents of different refugee camps because of ethnic and religious differences. Interclan violence frequently erupted among rival Somali clans at the camps (*see* Section 5); Somali refugees who marry non-Muslims also may be subjected to abuse by family members.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government through free and fair multiparty elections; however, this right was realized fully only in December when citizens chose a new president through an election for the first time since President Moi came to power in 1978. The December 27 multi-party general elections were the country's third for presidential, parliamentary, and civic seats. Five presidential candidates contested the elections, but the main contestants were KANU candidate Uhuru Kenyatta and NARC candidate Mwai Kibaki, a former Vice-President and Minister of Finance in former President Moi's government. NARC is a coalition of more than a dozen political parties, including former members of KANU who defected from that party during the year. This coalition formed a united front to contest the December general elections. Since independence in 1963, KANU had controlled continuously both the presidency and the national legislature.

During the year, citizens prepared for the December presidential, parliamentary, and civic elections. There were active political campaigns throughout the year, some of which were marred by violence. The Government continued to use physical beatings, arbitrary arrest, and prosecution to harass and intimidate opposition M.P.s, and political violence and intimidation, often with ethnic undertones, increased during the run up to the elections; however, the level of election-related violence was substantially less than in the previous two general elections. The freedoms of assembly and of speech often were restricted during the year as opposition leaders complained their activities were being targeted and their views were not being covered sufficiently by KBC. The Government's domination of domestic broadcast media, especially outside major urban centers, continued to restrict severely the ability of opposition politicians to communicate with citizens (*see* Section 2.a.). Police or organized youth gangs disrupted or forced the cancellation of a number of opposition meetings and rallies (*see* Section 2.b.). Politicians and public servants routinely warned political rivals against campaigning in their areas.

At the local level, the President exercised sweeping power over the administrative structure. The President appointed both the powerful provincial and district commissioners as well as numerous district and village officials. In elections many local officials actively assisted the ruling KANU.

At the national level, the Constitution authorizes the President to dissolve the legislature and prohibits debate on issues under consideration by the courts. This prohibition, in conjunction with a ruling by the Speaker of the Assembly that some aspects of the President's conduct were inappropriate topics for parliamentary debate, has limited the scope of deliberation on a number of political issues. M.P.s were entitled to introduce legislation, but in practice it generally was the Attorney General who did so. The President significantly influenced the legislative agenda. However, the National Assembly had the power to hire its own staff and to vote its own budget, despite President Moi's long-expressed opposition to it doing so. In 2000 the National Assembly passed implementing legislation to establish the Parliamentary Service Commission, which exercised fully its power to hire staff and establish a budget by year's end. In August 2001, opposition M.P.s in the National Assembly successfully blocked a constitutional amendment to establish an independent anticorruption authority, which was backed by KANU and the President. The opposition claimed that the legislation did not give the proposed authority sufficient independence and objected to an amnesty provision in the legislation.

During the year, the President Moi fired a number of government officials, including the Vice President, after they became affiliated with the "Rainbow Alliance," a grouping of KANU dissidents and their supporters who opposed what they considered to be preferential treatment being given to presidential candidate Uhuru Kenyatta in KANU's nomination process.

In 2000 President Moi, acting as chairman of KANU, suspended six M.P.s for dissent, including Jimmy Angwenyi, Kipkalya Kones, Anthony Kimeto, Cyrus Jirongo,

and former Finance Minister Simeon Nyachae. The suspension prevented the M.P.s from bringing any motions sponsored by their party to Parliament; however, they still could submit motions on their own and participate in all Parliament activities.

In 1998 a constitutional review commission was created under the Constitution of Kenya Review Act to recommend changes in the Constitution that would reduce the power of the Presidency. After the process stalled in 1999, the National Assembly created a Parliamentary Select Committee to revise the existing act and form a review commission; the Ufungamano Initiative, a church-led group, formed the next day, creating a parallel process. During 2001 the Constitution of Kenya Review Commission (CKRC), created by Parliament in 2000, expanded following months of political wrangling and stalled efforts; in May 2001, the Ufungamano process merged with the parliamentary process. In June 2001, the newly created Constitutional Review Commission began work. During the year, the new Commission faced a number of obstacles, including efforts by the judiciary to block it from preparing a draft constitution and several delays in the process leading to requests to extend the Commission's mandate. However, the CKRC completed a draft constitution in September, which was expected to be submitted to Parliament for debate after a national convention. Some had called for holding the December general elections under the new constitution, but delays in the process made this impossible.

In July 2001, at the start of the CKRC hearings, the President declared that NGOs and churches should not be involved in the review process and should not engage in civic education. However, this directive was ignored; the CKRC accredited several NGOs to conduct civic education on the process and these groups were engaged in civic education activities during the year.

Elected local councils existed, but the executive branch of the central government had not granted them adequate funding and had restricted their functions. Although rural and municipal councils were authorized by law to provide a wide range of health, education, and infrastructure services, in practice their functions were reduced to partial oversight of schools, secondary and tertiary roads, markets, and natural resources such as forests. Most councils lacked sufficient financial autonomy and revenues to perform adequately even these limited functions.

Although there were no legal restrictions, traditional attitudes circumscribed the role of women in politics. There were only 9 female M.P.s (4 elected and 5 nominated) in the 222-seat National Assembly prior to the December general elections. There only was one female member of the Cabinet. The December elections increased the number of women in Parliament to nine elected and six nominated.

There was one nominated M.P. who was of Asian origin in the former Parliament. Although the President Moi's Cabinet included persons from many ethnic groups, approximately one-third of the ministers were either Kalenjin or Luhya.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views; however, there were some reports that less established NGOs, particularly those in rural areas, were subjected to interference from provincial administrators and security forces, and government officials intimidated and threatened to disrupt the activities of human rights and other organizations and NGOs.

The number of human rights organizations continued to grow. These included NGOs such as the KHRC, the Kenya Anti-Rape Organization, Coalition on Violence Against Women, The Center for Human Rights and Democracy, Muslims For Human Rights, the Legal Advice Center, the Catholic Justice and Peace Commission, the National Council of Churches of Kenya, the Center for Governance and Development, People Against Torture, the Independent Medico-Legal Unit (IMLU), and the Release Political Prisoners pressure group. An array of legal organizations, including the International Commission of Jurists-Kenya, the International Federation of Women Lawyers (FIDA), the Law Society of Kenya, and the Public Law Institute, advocated human rights.

Several NGOs maintained comprehensive files on human rights abuses. A number of attorneys represented the indigent and human rights advocates without compensation, although they could handle only a small percentage of those who needed assistance, and were concentrated chiefly in Nairobi and other large cities.

The Government continued to criticize publicly and to intimidate NGOs, many of which it accused of being "subversive" and of working with the opposition to replace the KANU government. The Government NGO Coordination Board under the NGO Act registers NGOs. The Government used this structure to put pressure on the nongovernmental National NGO Council. Since 1999 the Office of the President in-

structed all district governments to monitor NGOs within their districts with a view to ensuring that NGOs either advance government-approved objectives or cease to operate; however, NGOs did not report an increase in government monitoring during the year.

Some civil society activities were disrupted during the year (*see* Sections 2.a. and 2.b.). For example, on January 4, police disrupted a civic education play performed by a theatre group in conjunction with an NGO in Keiyo District. The police characterized the gathering as “illegal.” The previous day, a similar play being performed in the same district, and launched by M.P. Tabitha Seii, also was disrupted.

Less than 2 weeks after the October 18 release of the Akiwumi Report (*see* Section 5), police raided two local NGOs—Muslims for Human Rights (MUHURI) and Human Resettlement and Disaster Care (HUREDICA)—during which documents reportedly containing evidence against the Government were seized. Both NGOs had done work related to the ethnic and political violence surrounding the 1992 and 1997 general elections that led to a number of deaths and displaced persons. Three of HUREDICA’s principal staff also were arrested during the raid and later released after 6 hours of interrogation. The questioning reportedly included inquires on who funded their organization and whether they had plans to sue President Moi over the ethnic clashes.

The Government allowed human rights organizations to witness some autopsies of persons who died in police custody. The Attorney General’s Office generally responded in detail to foreign embassies’ human rights inquiries; however, some local human rights NGOs complained the Attorney General’s office and other government offices often were not responsive to their inquiries.

The KHRC produces a “Quarterly Human Rights Report” (formerly the “Quarterly Repression Report”) that cataloged the human rights situation in the country, as well as special reports on pressing human rights problems. The Institute for Education in Democracy and other NGOs monitored elections in cooperation with the Electoral Commission and diplomatic missions.

The 10-member SCHR established in 1996 was empowered to “investigate alleged violations of constitutional freedoms,” including abuse of power by public officials. It was tasked with drafting recommendations on human rights problems and providing these to the Government agencies under whose purview the problems fall. However, it was subordinate to the Office of the President and it had received sufficient funds to fill only 20 of its 27 authorized staff positions; the positions were filled mostly with staff on secondment from the Government. Although it had been accused of being relatively inactive in the past, in June 2001, the SCHR produced a thorough report on the death of six prisoners from King’ong’o prison in Nyeri (*see* Section 1.a.). The SCHR also produced a frank report on the harsh conditions faced by detainees in prisons and juvenile detention centers. In June Parliament passed a bill creating a more autonomous and independent national human rights commission—the Kenya National Commission on Human Rights—that is expected to replace the SCHR. President Moi assented to the bill in October. The legislation was drafted by the Attorney General and the SCHR with the help of NGOs and civil society. Since Parliament was dissolved in October, the commission had not been established by year’s end; it is the duty of the Parliamentary Speaker to invite applications to the Commission.

#### *Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination on the basis of a person’s “race, tribe, place of origin or residence or other local connection, political opinions, color, or creed”; however, government authorities did not enforce effectively many of these provisions. There was credible evidence that the Government sponsored large-scale ethnic violence during the early 1990’s, and there were some indications that some government officials at least have tolerated and in some instances instigated ethnic violence on a smaller scale since that time. The SCHR stated in its 2002 general report that “many undisputed reports . . . indicate that leaders and senior public servants have continued to mismanage their freedom of expression by making inflammatory and inciting statements with far reaching consequences.” The report also noted that “The Committee believes . . . that incitement has played and continues to play a very significant role in the genesis, escalation and recurrence of ethnic conflicts . . .”

*Women.*—Domestic violence against women was a serious and widespread problem. Press accounts of such violence, sometimes resulting in the death of a woman, were reported frequently. According to the Government, 1,199 cases of rape were reported to the police in Nairobi during 2001, compared with 1,148 in 2000. The available statistics probably underreport the number of incidents, as social mores discouraged women from going outside their families or ethnic groups to report sexual

abuse. According to a study by The Center for Human Rights and Democracy in Eldoret, 60 percent of rape cases in the North Rift region were not reported because women feared unfair treatment by police. A 2001 study by Kangemi Women Empowerment Centre, a small group based in one of Nairobi's largest low-income communities, claimed that three out of five women in the community were victims of domestic violence, and that one-third of the women had suffered sexual abuse in 2001. The study noted that the abused women rarely reported the violations, because they believed perpetrators would not be punished, and no protective or remedial action would be taken. Although the validity of these two studies was unproven, the basic figures supported other published figures as well as numerous press accounts and anecdotal evidence.

Since 1994 FIDA has collaborated with the police to stop domestic violence. Police typically viewed violence against women as a family matter, not a crime. FIDA has trained more than 500 police officers about gender issues. The organization, as part of its ongoing police sensitization project, also had developed a curriculum on dealing with gender-based violence that was to be included in the training of new police recruits.

The law carries penalties of up to life imprisonment for rape, although actual sentences usually were no more than 10 years. The rate of prosecution remained low because of cultural inhibitions against publicly discussing sex, fear of retribution, disinclination of police to intervene in domestic disputes, and unavailability of doctors who otherwise might provide the necessary evidence for conviction. Moreover, wife beating was prevalent and largely condoned by much of society. Traditional culture permitted a man to discipline his wife by physical means and was ambivalent about the seriousness of spousal rape. There was no law specifically prohibiting spousal rape. The media continued to report extensively on the prevalence of spousal and domestic abuse.

There continued to be incidents of rape of refugee Somali women at the Dadaab refugee camps (*see* Section 2.d.). According to the UNHCR, refugee women reported 70 rapes during the first 11 months of 2001, compared with 82 rapes in 2000.

FGM, also referred to as "female genital cutting," was practiced by certain ethnic groups and remained widespread, particularly in rural areas. The press reported severe injuries to several girls from the practice of FGM. On June 7, the Daily Nation reported that a 28-year-old woman was forcibly circumcised in Meru by her in-laws, leaving her seriously injured. Two of her in-laws were arrested and charged, but the woman who performed the excision escaped. According to a December 2001 report by the Government and UNICEF, 38 percent of women nationwide have undergone FGM. According to the women's rights organization Maendeleo Ya Wanawake ("Development of Women" in Swahili), the percentage of girls undergoing the procedure was as high as 80 to 90 percent in some districts of Eastern, Nyanza, and Rift Valley provinces. FGM usually was performed at an early age. President Moi has issued two presidential decrees banning FGM, and the Government prohibited government-controlled hospitals and clinics from practicing it. In December 2001, the Children's Bill, which bans FGM on girls under the age of 18, was passed and signed into law. Various communities have instituted "no cut" initiation rites for girls as an alternative to FGM. Family Planning Association of Kenya (FPAK) established such a rite called Ntanira na Kithomo (initiate me through education) in Nyambene in Meru and some Marakwet and Maasai communities also have instituted similar rites of passage. According to the FPAK, its program contributed to a 13 percent decline in the prevalence of FGM in Meru North District. However, despite the December 2001 ban on the practice and the emergence of alternative rites of passage, FGM still was practiced widely across the country. In April 16 girls sought refuge at the Centre for Human Rights and Democracy (CHRD) in Eldoret to escape undergoing FGM. They were among a group of 350 girls who had participated in an alternative rite of passage in December 2001 and now were being threatened by family members with FGM. CHRD secured a court injunction against the girls' parents preventing them from forcing the girls to undergo FGM. The executive director of CHRD, Ken Wafula, said that 1,300 girls underwent FGM in Marakwet in December 2001. This statistic was in sharp contrast to those compiled in 1999, when only 169 girls were subjected to FGM in the same district.

Prostitution is illegal; however, it was a problem and was perpetuated by poverty. Prostitution has contributed to the spread of HIV/AIDS, which affected approximately 13 percent of the population. In June the U.N. Program on HIV/AIDS (UNAIDS) reported that 30 percent of pregnant women in Embu District in Eastern Province were HIV-positive, making it the area with the highest rate of infection in the country.

Women experienced a wide range of discriminatory practices, limiting their political and economic rights and relegating them to second-class citizenship. The Con-

stitution extends equal protection of rights and freedoms to men and women, but only in 1997 was the Constitution amended to include a specific prohibition of discrimination on grounds of gender. However, constitutional provisions allow only males to transmit automatically citizenship to their children. The Government has not passed enabling legislation to implement domestically international conventions on women's rights; however, the Attorney General submitted to Parliament three bills designed to protect women's rights—The Domestic Violence (Family Protection) Bill; The National Commission on Gender and Development Bill; and The Equality Bill—all were debated but were pending at year's end. The Task Force on Laws Relating to Women, established by the Attorney General in 1993, produced a draft report; however, it was not published by year's end.

Women continued to face both legal and de facto discrimination in other areas. For example, a married woman legally was required to obtain the consent of her husband before obtaining a national identity card or a passport (*see* Section 2.d.).

The Law of Succession, which governs inheritance rights, provides for equal consideration of male and female children; however, in practice most inheritance problems did not come before the courts. Women often were excluded from inheritance settlements, particularly if married, or given smaller shares than male claimants were given. Moreover, a widow cannot be the sole administrator of her husband's estate unless she has her children's consent. Most customary law disadvantages women, particularly in property rights and inheritance. For example, under the customary law of most ethnic groups, a woman cannot inherit land and must live on the land as a guest of males who were relatives by blood or marriage. Wife inheritance was practiced in some communities, which restricted a woman's right to choose her mate and placed her at risk of contracting a sexually transmitted disease such as HIV/AIDS.

Women made up approximately 75 percent of the agricultural work force and had become active in urban small businesses. Nonetheless, the average monthly income of women was approximately two-thirds that of men, and women held only an estimated 5 percent of land titles. Women had difficulty moving into nontraditional fields, were promoted more slowly than men, and were laid off more. Societal discrimination was most apparent in rural areas.

Maendeleo Ya Wanawake, the nation's best-known women's rights and welfare organization, was established as a nonpolitical NGO during the colonial era, but was aligned closely with the ruling KANU party and consequently suffered diminished credibility as an independent body. A growing number of women's organizations were active in the field of women's rights, including FIDA, the National Council of Women of Kenya, the National Commission on the Status of Women, the Education Center for Women in Democracy, and the League of Kenyan Women Voters.

The Women's Political Caucus, formed in 1997, continued to lobby over matters of concern to women and to increase the influence of women on government policy. A bill was introduced in 2000 to create a number of parliamentary seats reserved for women; however, no action was taken on the legislation by year's end.

*Children.*—The system of free education in the early years of the country's independence gave way to a "cost-sharing" education system in which students paid both tuition and other costs. These were a heavy burden on most families, and at year's end the newly elected government promised to eliminate tuition fees for primary education. Although the law mandates that schooling be available for all children up through grade 12 and that it be compulsory, there was a very high dropout rate in part because of large educational expenses. The East African Standard newspaper reported in March 2001 that 8,000 girls dropped out of school each year due to pregnancy. There were an estimated 4 million children between 6 and 14 years of age who were out of school. On September 25, while initiating the National Council for Children's Services, Minister for Home Affairs William Ruto declared that "Three million children who should be in school were not and 8.6 million more do not have access to basic needs." The legally mandated universal schooling also did not occur in practice because of a shortage of schools. Levels of education for boys and girls differed widely. Although the number of boys and girls in school roughly was equal at the primary level, boys substantially outnumbered girls in higher education. Rural families were more reluctant to invest in educating girls than in educating boys, especially at the higher levels. Seventy percent of illiterate persons in the country were female.

Corporal punishment of students was banned formally in 2001; however, it did not cease completely in practice. On February 25, a teacher beat a 13-year-old student to death at Nyamarambe Primary School, Kehancha Division for failing a math test. The teacher fled the scene and was not located by year's end. In March a teacher at Tabaka Boys Boarding School, in Gucha district, beat a student unconscious, re-

portedly for not cutting his hair. The teacher was detained after turning himself into police.

The health care system for school children, which once provided periodic medical checkups and free milk, was defunct. In December 2001, Parliament passed the Children's Bill, which has provisions to ensure children's welfare and provide them with basic rights; however, these provisions were not implemented by year's end.

FGM was practiced commonly on young girls by certain ethnic groups, particularly in rural areas (*see* Section 5, Women).

Economic displacement and the spread of HIV/AIDS continued to affect the problem of homeless street children. The number of Nairobi's street children was more than 60,000 in 2000, an estimated 20 percent increase from 1999. In January the East African Standard reported on the growing problem of "street families" where entire nuclear families were living on the street due to a failing economy. The Standard also reported that there were an estimated 250,000 children living on the streets of the country's urban areas—primarily Nairobi, Mombasa, Kisumu and Nakuru—a figure that it said was a conservative estimate. These children often were involved in theft, drug trafficking, assault, trespassing, and property damage. Street children faced harassment as well as physical and sexual abuse from the police and within the juvenile justice system. They were held in extremely harsh conditions in crowded police station cells, often without toilets or bedding, with little food, and inadequate supplies. They often were incarcerated with adults and frequently beaten by police (*see* Section 1.c.).

Child rape and molestation continued. There were frequent press reports of rapes of young girls by middle-aged or older rapists. There were repeated reports of molestation or rape of children by schoolteachers, mostly in rural areas. Legally, a man does not "rape" a girl under age 14 if he has sexual intercourse with her against her will; he commits the lesser offense of "defilement." The penalty for the felony of rape can be life imprisonment, while the penalty for defilement was up to 5 years' imprisonment. Men convicted of rape normally received prison sentences of between 5 and 20 years, plus several strokes of the cane. Child marriages were a problem, and the issue frequently was highlighted in newspapers.

Child prostitution was a major problem (*see* Section 6.f.).

*Persons with Disabilities.*—Government policies do not discriminate against persons with disabilities in employment, education, or in the provision of other state services; however, persons with disabilities frequently were denied drivers' licenses. There were no mandated provisions of accessibility for persons with disabilities to public buildings or transportation. KTN broadcast some news programs in sign language. A bill to address problems faced by persons with disabilities was pending before Parliament prior to its October dissolution; at year's end, it was unclear whether it would be taken up by the new Parliament. The bill aims to outlaw discrimination against persons with disabilities and to assist them through new requirements such as mandatory education for children with disabilities.

In August 2001, the African Medical Research Foundation of Kenya (AMREF) released a study entitled "Sexual Abuse of People with Learning Disabilities." According to the study, there was a high prevalence of rape of persons with disabilities.

*National/Racial/Ethnic Minorities.*—The country's population was divided into more than 40 ethnic groups, among which there were frequent and credible allegations of discrimination, as well as frequent interethnic violence. In general each ethnic group has a distinct primary language and was concentrated in a distinct region; however, the languages of some groups were very similar to the languages of related ethnic groups. In private business and in the public sector, members of virtually all ethnic groups commonly discriminated in favor of other members of the same group when able to do so. Neighborhoods in large cities tended to be segregated ethnically, although interethnic marriage has become fairly common in urban areas. Political cleavages tended to correlate with ethnic cleavages (*see* Section 3).

Unofficial results of the 1999 census indicated that the Kikuyu constitute 21 percent of the population, and the Luhya were estimated to constitute 16 percent, the Kalenjin 12 percent, the Luo 11 percent, and the Kamba 10 percent of the population.

Ethnic-regional differences continued to pose obstacles to political and economic liberalization. Members of President Moi's Kalenjin ethnic group (a coalition of nine small ethnic groups) and other traditionally pastoral Nilotic ethnic groups were represented disproportionately and held key positions in the Government, the ruling KANU party, the GSU, and the Presidential Escort. Many members of these groups appeared to believe that economic and political liberalization would likely harm their groups, and to favor other groups. The Kikuyu and the closely related Kamba, Meru, and Embu groups make up more than one-third of the country's population;

members of these groups also dominated much of private commerce and industry and have tended to support opposition parties since they were legalized in 1992. The Kikuyu, the largest, best-educated, and most prosperous ethnic group, dominated the country under its first president, Jomo Kenyatta, a Kikuyu.

Members of the coastal Bajuni, Mijikenda, and Digo communities accused the Government of denying them their rights to land, and of favoring members of inland “up-country” ethnic groups, who migrated to the coast largely during the period when Kenyatta was president.

On October 18, under judicial pressure, the Government released the “Akiwumi Report” on ethnic clashes between 1991 and 1998. The report indicted public officials from petty policemen to senior officials and cite political factors as the primary cause of ethnic violence that resulted in more than a 1,000 deaths during the 1990’s, disrupted two general elections, and displaced hundreds of thousands of persons. The report detailed a pattern of local authorities failing to act on warnings of impending violence, failing to intervene to stop violence while it was occurring, and failing to pursue known perpetrators. It also accused senior officials of giving inflammatory speeches in volatile areas and in some cases, financing persons responsible for violence. The Attorney General claimed that the report was biased, and some opposition leaders claimed it had been changed to obscure the role of the State House; however, the report largely was recognized as a significant document.

Attacks and revenge counterattacks continued between ethnic groups throughout the country, resulting in an average of 50 to 75 deaths per month. Significant conflict occurred between ethnic Pokots and Marakwets, between Pokots and Turkanas, between Turkanas and Samburus, between Maasais and Kisiis, between Orma and Pokomos, between Boranas and Somalis, and among various Somali clans. Many factors contributed to interethnic conflicts, including the proliferation of guns, the commercialization of traditional cattle rustling, the weakening of state authority, the emergence of local militia leaders, the development of a modern warrior/bandit culture (distinct from the traditional culture), irresponsible local political leadership, shrinking economic prospects for affected groups, a regional drought, and the inability or unwillingness of security forces to stem the violence.

A number of persons were killed during ethnic fighting between the Kisii and Maasai communities in the southwestern part of the country. In April five persons were killed a result of cattle rustling along the Gucha/Tans Mara border. Government officials in the region reportedly banned the carrying of weapons such as arrows and machetes following the incident; however, on October 6, suspected Maasai youth raided several homesteads for cattle in Gucha again near the Gucha/Trans Mara border, killing three Kisii men in the process. They reportedly were armed with homemade guns and other weapons. A number of other residents were injured and several villagers fled their homes fearing renewed attacks. It was not known whether the perpetrators of the attack were apprehended by year’s end.

There were also numerous violent clashes between other ethnic groups in various regions of the country during the year. On February 16, armed cattle rustlers reportedly from Turkana district killed four Pokot herdsmen in Nasolot village of West Pokot district. Two ethnic Borana were killed by Samburu raiders who made off with 800 head of cattle on April 18. The attackers reportedly raided four villages in the Merti Division of Isiolo district. In September ethnic Turkanas and Boranas clashed and more than 20 persons were killed. There were no known arrests made in any of these cases by year’s end.

There was no known action taken in the following 2001 cases: The May raid in which Maasai raiders shot and killed four Kisii youths; the May killing of six Kisii in attacks that some residents claimed were instigated by the police; and the July killing by security officers of a primary school teacher during a fight between Kisii and Maasai youths (*see* Section 1.a.).

Clashes in 2001 between the Orma and Pokomo communities in Tana River District in Coast Province also claimed many lives. In March 2001, 20 schools were closed after 13 persons were killed in 2 weeks of fighting between the communities. The schools have resumed classes; however, it was unknown whether any action had been taken against perpetrators of the violence by year’s end.

The Government has singled out the overwhelmingly Muslim ethnic Somalis as the only group whose members were required to carry an additional form of identification to prove that they were citizens. The continued presence of and at times criminal activities by Somali refugees have exacerbated the problems faced by citizens of Somali ethnicity (*see* Sections 2.c. and 2.d.).

There was widespread resentment among citizens of African ethnicity toward Asians living in the country. The Asian community constituted between 0.5 and 1 percent of the total population and consisted of second and third generation Asians with full citizenship and a smaller body of recent immigrants. Many persons of Afri-

can descent resented those of Asian descent for their affluence, and for their reluctance to assimilate African culture and to employ blacks, particularly in management positions. They also saw Asians as taking jobs and commercial opportunities away from Africans. The involvement of some Asians in corrupt activities along with government officials further fueled popular resentment. Politicians, both opposition and ruling party, from time to time appealed to majority prejudices by attacking Asian citizens, accusing them of exploiting and usurping the natural inheritance of African citizens.

*Section 6. Worker Rights*

*a. The Right of Association.*—The law provides that all workers are free to join unions of their choice; however, the Police Act prohibits members of the national police force from joining unions. Workers employed in export processing zone (EPZ) firms had the right to organize and bargain collectively; however, those who worked in many small firms in the EPZs face dismissal if they joined unions. In December 2001, the Labor Commissioner registered the Union of Kenya Civil Servants (UKCS), which granted civil servants the right to join unions for the first time since 1980; however, laid-off civil servants did not receive the full severance package promised them by the Government. The law provides that as few as seven workers may establish a union, so long as the objectives of the union do not contravene the law and no union was representing the employees in question already.

Unions must apply to and be granted registration by the Government. The Government also may deregister a union, but the Registrar of Trade Unions must give the union 60 days to challenge the deregistration notice. An appeal of the Registrar's final decision may be brought before the High Court.

There were 41 unions representing approximately 600,000 workers, approximately one-third of the country's formal-sector work force. All but 5 of these unions, representing approximately 250,000 workers, were affiliated with the one approved national federation—the Central Organization of Trade Unions (COTU). The largest non-COTU union was the 240,000-member Kenya National Union of Teachers (KNUT). The COTU leadership generally did not pursue workers' rights vigorously; however, most affiliates chose to remain rather than give up its even minimal support. As a result, most union activity took place at the shop steward level and not at the industrial level where most labor-related decisions were made. This placed the average worker at a disadvantage in disputes with management.

The Government created COTU in 1965 as the successor to the Kenya Federation of Labor and the Kenya African Workers' Congress. COTU's constitution gave the President the power to remove COTU's three senior leaders from office and grants nonvoting membership on the executive board to representatives of the Ministry of Labor and of KANU. Although the board was composed of the leadership of affiliated unions, it was common for political parties, especially KANU, to provide funding and other support for the election of senior union officials.

In August 2001, Frances Atwoli, the leader of the Agriculture and Plantation Workers Union, was elected Secretary General of COTU. Atwoli, who replaced the incumbent of 15 years, pledged to end corruption within the union and to remove the provisions in COTU's constitution that grant seats on COTU's board to government and ruling party officials.

Workers' rights groups continued to raise the general problem of the Government's harshness towards labor with the International Labor Organization's (ILO) Committee on Freedom of Association. In June 2001, a tripartite Kenyan Task Force on Labor Law Reform was established and was committed to revising the labor law. In August 2001, members agreed that the legal loophole that allowed the practice of barring union organizers from EPZ factory premises must be closed; however, it was not submitted to Parliament for action by year's end.

The law prohibits employers from intimidating workers but antiunion discrimination existed. Employees wrongfully dismissed for union activities can take their cases to the Industrial Court, and many have been awarded damages in the form of back pay—reinstatement was not a common remedy. More often aggrieved workers have found alternative employment in the lengthy period prior to the hearing of their cases.

The COTU was affiliated internationally with both the Organization of African Trade Union Unity and the International Confederation of Free Trade Unions. Many of its affiliates were linked to international trade secretariats.

*b. The Right to Organize and Bargain Collectively.*—While not having the force of law, the Industrial Relations Charter, executed by the Government, COTU, and the Federation of Kenya Employers, gives workers the right to engage in legitimate trade union organizational activities. Both the Trade Disputes Act and the charter authorize collective bargaining between unions and employers. Wages and condi-



tions of employment were established in negotiations between unions and management. The Government permits wage increases of up to 100 percent and renegotiation of collective agreements; however, the law allows employers in ailing industries to dismiss workers regardless of the provisions of their collective bargaining agreements. Collective bargaining agreements must be registered with the Industrial Court in order to ensure adherence to these guidelines. In 2001 the UKCS, banned in 1980, was reregistered, which resolved a longstanding International Labor Organization (ILO) complaint against the country. In theory the UKCS had the right to negotiate the terms and conditions of civil service employment; however, it has not done so. It could be difficult for the UKCS to renegotiate conditions of employment because the interim national union officials were not civil servants.

The law permits workers to strike; however, this right was restricted. For example, 21 days must elapse following the submission of a letter to the Minister of Labor before a strike can occur. Members of the military services, police, prison guards, and the National Youth Service are prohibited from striking. Other civil servants, like their private sector counterparts, can strike following the 21-day notice period (28 days if it was an essential service, such as water, health, education, or air traffic control). During this 21-day period, the Minister may mediate the dispute, nominate an arbitrator, or refer the matter to the Industrial Court, a body of five judges appointed by the President, for binding arbitration. Once a dispute is referred to mediation, fact-finding, or arbitration, any subsequent strike is illegal. Moreover, the act gives the Minister of Labor broad discretionary power to determine the legality of any strike.

In past years, the Minister used this power to declare strikes by bank workers and teachers illegal, although the required notice had been given. During the year, the Ministry of Labor declared a number of strikes illegal, including a strike by air traffic controllers, a strike by the Kenya National Union of Teachers (KNUT), and a nurses strike. In 1997 the KNUT called a nationwide strike, which the Government quickly settled with pay increases of more than 200 percent spread over more than 5 years, rather than risk antagonizing the influential teachers before the election. The Government's failure to implement the second of the promised pay hikes resulted in a 1998 KNUT strike, which the Government declared illegal. The strike ended after 15 days when the Government refused to renegotiate. In 2000 Dr. Gitu, the Ministry of Labor's Permanent Secretary, admitted that the Government should not have agreed to pay the 1997 salary package for teachers; he was subsequently fired. The Government and the KNUT remained in sporadic negotiation regarding the implementation of the agreed-upon salaries; however, by September the contracted pay hikes were not paid, prompting KNUT to strike again. In response to the strike, the Government took steps to rescind the 1997 pay increase, withhold teacher salaries, and cancel union members' automatic contributions to KNUT. The KNUT remained resolute in their demands, and COTU threatened a nationwide general strike if the Government failed to pay the teachers. The High Court temporarily blocked the Government's reportedly illegal revocation of the 1997 salary agreement pending a full hearing on the dispute. The strike ended on October 20, when KNUT leaders and the Government agreed to postpone negotiations for the benefit of students who were to sit for their national exams on October 22. A new agreement on the implementation or revision of the 1997 salary package was not expected until 2003. The agreement with KNUT committed the Government to pay the remaining four phases of the salary increase and arrears of 150 to 200 percent by July 1, 2003, but only after a subcommittee was appointed to work out the payment schedule. The committee finalized its report in November, and the Minister of Education officially published it in December. The agreement also committed the Government not to persecute teachers for taking part in the strike and rescinded the cancellation of the check-off system for payment of union dues.

In 2001, the last year for which statistics were available, there were 21 strikes involving 4,640 workers and resulting in the loss of 12,828 cumulative days of work. Most strikes were due to unpaid wage arrears and involved local government and manufacturing workers. Some of these strikes involved violence on the part of the strikers, usually in an attempt to keep other workers off the job. In some instances, strikers also were dispersed forcibly by the Government. During the year, there were a number of strikes in which the Government responded forcibly against both associations and unions during threatened or actual strikes. The Government fired and replaced striking air traffic controllers, ordered striking nurses back to work, and skirmished with the striking KNUT.

With the exception of the Factories Act, all labor laws, including the right to organize and bargain collectively, apply in the EPZs (*see* Section 6.e.). However, the EPZ Authority and the Government grant many exemptions to applicable laws. For example, the Government waived aspects of the law that prevent women from working

in industrial activities at night. In practice workers in EPZ firms may face dismissal if they join unions (*see* Section 6.a.). In August 2001, the Textile and Tailors Union alleged widespread intimidation of workers seeking to unionize at a foreign-owned EPZ firm. The employer stated that the union had forged the signatures of workers supporting unionization, and the leader of the union was arrested. More than 1 year later the case still was pending before the court and was not expected to be heard until 2003.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution proscribes slavery, servitude, and forced and bonded labor, including by children; however, under the Chiefs' Authority Act, a local authority can require persons to perform community services in an emergency. The ILO Committee of Experts has found that these and other provisions of the law contravene ILO Conventions 29 and 105 concerning forced labor. The law remains in effect; however, the Government overruled attempts by chiefs to institute arbitrary community service during the year. Some observers alleged that prison officials used free prison labor for personal profit (*see* Section 1.c.). During the year, there were reports, especially in rural areas, of children being loaned out as workers to pay off family debts.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The employment in industry of children under the age of 16 is illegal; however, the law does not apply to the agricultural sector, where approximately 70 percent of the labor force was employed, nor to children serving as apprentices under the terms of the Industrial Training Act. Ministry of Labor officers nominally enforced the minimum age statute, and the Government was making efforts to eliminate child labor, working closely with the COTU and the ILO's International Program for the Elimination of Child Labor. According to a survey by the Central Bureau of Statistics, there were 1.9 million children who worked in the country (primarily in the agricultural sector) 1.3 million of whom were employed full time and 600,000 of whom worked while attending school; however, the number of child laborers could be as high as 5 million. The Central Bureau of Statistics also estimated that 18 percent of working children had no formal education. The problem has received considerable media attention for several years.

Children often worked as domestic servants in private homes. There were many instances of children working in the informal sector, mostly in family businesses. Children usually assisted parents on family plots rather than seek employment on their own. However, deteriorating economic conditions and the effects of the HIV/AIDS pandemic have given rise to more child labor in the informal sector, which was difficult to monitor and control. During the year, there were reports of abuse of children serving as domestic employees. A significant number of workers on tea, coffee, sugar, and rice plantations were children, who usually worked in family units. In addition, a large number of underage children were active in the sex industry (*see* Section 6.f.) and in the salt harvesting industry along the coast. In view of the high levels of adult unemployment and underemployment, the employment of children in the formal industrial wage sector in violation of the Employment Act was less common but not unknown.

The Government took several meaningful steps in 2001 to combat the worst forms of child labor, including the establishment of a Child Labor Division in the Ministry of Labor in September and the enactment of the Children's Act in December. A draft strategic plan to implement the Act was prepared and the focus has been on sensitization of employers but not investigative and law enforcement. An ILO-sponsored COTU program has facilitated the return of 562 child laborers to school and trained 1,100 shop stewards on the prevention of child labor since 1997. Many NGOs also were active in this area; an NGO working with COTU and the Agriculture and Plantation Workers Union has facilitated the return of another 962 child laborers to school since 1999.

Forced labor by children occurred (*see* Section 6.c.).

*e. Acceptable Conditions of Work.*—The legal minimum wage for blue-collar workers in the wage sector has 12 separate scales, varying by location, age, and skill level; however, in many industries the minimum wage equaled the maximum wage. The lowest minimum wage was \$42 (3,288 Kenyan shillings) per month in the largest urban areas and \$25 (1,535 Kenyan shillings) in rural areas. Workers covered by a collective bargaining agreement generally received a better wage and benefit package than those not covered, including an average of \$110 (8,646 Kenyan shillings) per month, a mandated housing allowance of approximately \$20 (1,595 Kenyan shillings), and traditional benefits such as a transport allowance or a "house owner occupier" allowance.

The minimum wage was insufficient to provide a decent standard of living for a worker and family. Most workers relied on second jobs, subsistence farming, informal sector opportunities, or the extended family for additional support.

The law limits the normal workweek to 52 hours, although nighttime employees may be employed for up to 60 hours per week. Some categories of workers have a shorter workweek. As was the case with respect to minimum wage limitations, the law specifically excludes agricultural workers. An employee in the nonagricultural sector was entitled to 1 rest day per week. There also were provisions for 21 days of annual leave and sick leave. The law also provides that the total hours worked (regular time plus overtime) in any 2-week period for night workers not exceed 144 hours; the limit was 120 hours for other workers. The Ministry of Labor was responsible for enforcing these regulations, and there were few reports of violations. Workers in some enterprises claimed that employers forced them to work extra hours without overtime pay.

The Factories Act sets forth detailed health and safety standards; however, a 1990 decree by the Minister of Finance excludes EPZs from the Act's provisions (*see* Section 6.b.). The Ministry of Labor's Directorate of Occupational Health and Safety Services (DOHSS) has the authority to inspect factories and work sites; however, the DOHSS lacked statutory authority to inspect factories in the EPZs. The Kenyan Task Force on Labor Law Reform noted in an August 2001 workshop that the 1991 notice should be revoked, and the Permanent Secretaries for Labor and Finance have begun the revocation process. Labor and NGOs continued to criticize health and safety conditions in the EPZs. For example, during the year, NGOs have highlighted problems in the cut flower farming sector. The KHRC sponsored a national "Flower Week" to call attention to problems on flower farms. They alleged serious violations of worker rights, including use of hazardous pesticides and fertilizers without adequate protection, low wages, and casualization (hiring long term "seasonal workers" without providing any benefits or job security.)

The 65 DOHSS health and safety inspectors may issue notices enjoining employers from practices or activities that involved a risk of serious personal injury. Such notices can be appealed to the Factories Appeals Court, a body of four members, one of whom must be a High Court judge. The number of factory inspections has increased significantly since 1992. The law stipulates that factories that employ at least 20 persons have a health and safety committee with representation from workers. However, according to the Government, less than half of even the very largest factories had instituted health and safety committees. Workers were not forced by law to remain in hazardous conditions; however, many would be reluctant to remove themselves because of the high unemployment problem and the resulting risk of loss of their job.

Foreign workers were covered by the same legislation and work rules as citizens. The law protects both legal and illegal foreign workers.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons, and there were reports that persons were trafficked to, from, or within the country.

Child prostitution was a major problem in Nairobi and Mombasa, often connected with the tourist trade. Child prostitution has grown considerably due both to economic contraction and to the increase in the number of children orphaned because of the spread of HIV/AIDS. During the year, the ILO reported that 30,000 girls under the age of 19 years were engaged in prostitution in the country.

In January 2001, authorities arrested and deported six Sudanese on suspicion of running an operation to smuggle Kenyans to the Middle East for work. In previous years, there were unverified reports that citizens were trafficked to Saudi Arabia under the guise of employment opportunities, and that South Asians were trafficked into the country to work in sweatshops. In 1999 the *People* newspaper published an article about the experiences of several Kenyan women who had been misled into accepting jobs in the Middle East, only to work in what they described as "modern slavery."

The Government did not have any programs that specifically targeted trafficking; however, several NGOs provided services that could benefit persons who were victims of trafficking.

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## LESOTHO

Lesotho is a constitutional monarchy with King Letsie III as Head of State. Under the Constitution, the King filled a ceremonial role, had no executive authority, and was proscribed from actively taking part in political initiatives. In May Prime Minister Pakalitha Mosisili, the leader of the Lesotho Congress for Democracy (LCD)

party, won reelection and was the Head of government. In the May elections, the LCD won 77 of the 80 constituency based seats and the opposition Lesotho People's Congress (LPC) won 1 constituency-based seat. The remaining 2 constituency based seats were won by the LCD in by-elections held in August. The 40 proportionally based seats were divided among 9 opposition parties, including 21 seats for the main opposition party, the Basotho National Party (BNP). The Government welcomed international and independent domestic observers; all observers were allowed to perform their work without hindrance. The campaign and the elections were completely free from any violence or intimidation. Domestic and international observers concluded that the election was free, fair, peaceful, lawful, and transparent. In the past, the judiciary at times was subject to government and chieftainship influence; however, there were no reports of the use of such influence during the year.

The security forces consisted of the Lesotho Defense Force (LDF), the Lesotho Police Service (LPS), and the National Security Service (NSS). The Prime Minister was the Minister of Defense, with direct authority over the LDF and the NSS. The police force was under the authority of the Minister of Home Affairs. The 1996 Lesotho Defense Act, the 1997 Regulations for Military Justice, and the 1996 and 1997 amendments to the Royal Lesotho Mounted Police Force Act brought these services under direct civilian control. The security forces had a history of intervening in the country's politics and government; however, they did not do so since an abortive army mutiny in 1998. The LDF continued to be the subject of a national debate on the structure, size, and role of the armed forces. The NSS and the LPS also were undergoing comprehensive restructuring. Some members of the security forces committed human rights abuses.

The country, which has a population of approximately 2.15 million, is landlocked and surrounded by South Africa. It was almost entirely dependent on its sole neighbor for access to the outside world. Approximately 13 percent of the adult male work force worked in mines in South Africa. Per capita GDP rose 0.9 percent in local currency terms in 2000 to approximately \$400 (3,785 maloti). State-owned enterprises predominated in the agroindustrial and agribusiness sectors, but private sector activity dominated in the small manufacturing and construction sectors. Under the traditional chieftainship structure, land use and tenure were controlled by the traditional chiefs and formally owned by the Kingdom (i.e., "crown lands").

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were unconfirmed allegations of torture by security forces and credible reports that the police at times used excessive force against detainees. Prison conditions were poor, and lengthy pretrial detention was a problem. There were long delays in trials. Domestic violence was common, and women's rights continued to be restricted severely in some areas. Societal discrimination against persons with disabilities was common. Some worker rights were restricted. Child labor was a problem in traditional agriculture and the informal sector. Lesotho was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

In 1999 the Government began investigating the 1994 palace coup and the alleged involvement of military personnel in the killing of the Deputy Prime Minister; 25 members of the LDF were arrested and charged with involvement in the killing. Four of the soldiers were convicted in courts-martial for their role in the 1998 army mutiny. The trials for the killing of the Deputy Prime Minister were scheduled to resume in February; however, they were postponed at the request of the defendants and had not resumed by year's end.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution expressly prohibits such practices, and the Government generally respected these provisions; however, there were unconfirmed allegations of torture by security forces and credible reports that the police at times used excessive force against detainees.

Prison conditions were poor. Prison facilities were overcrowded and in disrepair.

Women were housed separately from men, and juveniles were housed separately from adults. Rape in prison reportedly was not a problem. Pretrial detainees often were held with convicted prisoners.

Prison regulations provide for visiting committees that were made up of principal chiefs, church ministers, representatives of the business community, advocates of the High Court, and other citizens. These committees may visit any prison without the prior knowledge of the prison director, and generally were allowed to do so. The committee reports its findings to the prison director after every inspection. The International Committee of the Red Cross (ICRC), through its regional office in Botswana, monitored prison conditions in the country during visits in February, July, and September.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

Pretrial detainees were a significant portion of the prison population. Because of serious backlogs of the court caseloads, the period of pretrial remand for some suspects could last months or even years.

The Government did not use forced exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in the past, magistrates appeared at times to be subject to government and chieftainship influence. There were no reports of such influence during the year.

The judiciary consisted of the Court of Appeal (which meets semi-annually), the High Court, magistrates courts, and customary or traditional courts, which existed largely in rural areas to administer customary law.

The High Court also provided procedural and substantive advice and guidance on matters of law and procedure to military tribunals; however, it did not participate in judgments. Military tribunals operating under the 1996 Defense Act have jurisdiction over military cases only. Decisions by military tribunals can be appealed only to a special court-martial appeal court, which was composed of two judges from the High Court, one retired military officer with a legal background, and the registrar of the High Court.

Persons detained or arrested in criminal cases and defendants in civil cases had the right to legal counsel; however, there was no system to provide public defenders. The Ministry of Justice and the NGO community maintained a few legal aid clinics. The authorities generally respected court decisions and rulings. There was no trial by jury. Criminal trials normally were adjudicated by a single High Court judge who presided, with two assessors that served in an advisory capacity. In civil cases, judges normally heard cases alone. The law provides for granting bail, which the authorities granted regularly and generally fairly. There was a large case backlog, which led to lengthy delays in trials (*see* Section 1.d.).

In civil courts, women and men were accorded equal rights; however, in traditional and customary courts certain rights and privileges accorded to men were denied to women (*see* Section 5). When traditional law and custom were invoked in a court case, a male plaintiff could opt for customary judgments by a principal chief rather than a civil court, and the judgment was binding legally. This system greatly disadvantaged women.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law does not protect fully citizens' privacy rights; however, there were no reports that authorities infringed on citizens' privacy rights during the year. Although search warrants were required under normal circumstances, the law provided police with wide powers to stop and search persons and vehicles and to enter homes and other places without a warrant. There are some prohibitions against monitoring telephone conversations. Unlike in previous years, there were no allegations that security forces monitored the telephone conversations of citizens and foreigners during the year.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. There were several independent newspapers—including one controlled by the Roman Catholic Church, one controlled by the Lesotho Evangelical Church, and four English-language weeklies—that routinely criticized the Government. The official state-owned or state-controlled media consisted of one radio station, a 1½ hour daily newscast on a local television channel, and two weekly newspapers. All faithfully reflected official positions of the ruling party. There were four private radio stations, but no private local television station. South African and global satellite television and radio broadcasts were available widely.

There was a lack of free access to government information, which often was described as a limitation on the free press; however, there were no other barriers that affect press coverage of government activities.

Internet services were freely available from a number of private Internet service providers.

The Government did not restrict academic freedom. Although the Government owned and administered the country's only university, the academic staff represented the full political spectrum and was free to express its views.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the freedom of assembly and association, and the Government generally respected these rights in practice. A public meeting, rally, or march did not require prior police permission, only advance notification. Political party meetings and rallies were held regularly and without hindrance from the Government. In addition to the LCD, the Basotho Congress Party (BCP), and the BNP, there were 16 smaller, registered political parties.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The majority of the members of the Government were Christians, which reflected the religious composition of the country.

There generally was mutual understanding and cooperation between Christians and Muslims. Unlike in previous years, there were no reports of tensions between Christians and Muslims during the year.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The law provides for the granting asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In 1994 the Government allowed approximately 25 refugees from Somalia and Uganda registered with the U.N. High Commissioner for Refugees to study in the country. They were expected to return to their countries of first asylum after completing their studies but had not done so by year's end. Other than these students, there was no resident refugee population. The Government has provided first asylum; however, the issue did not arise during the year.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, which was respected in the May elections. As in 1998, the Government freely allowed international observers into the country and these observers concluded that the election was free, fair, peaceful, and lawful. In the May elections, the LCD won 77 of the 80 constituency based seats and the opposition Lesotho People's Congress (LPC) won 1 constituency-based seat. The remaining 2 constituency based seats were won by the LCD in by-elections held in August. The 40 proportionally based seats were divided among 9 opposition parties, including 21 seats for the main opposition party, the Basotho National Party (BNP). The campaign and the election were completely free from any violence or intimidation. Unlike the elections of 1998 and 1993, the opposition has accepted the results and has refrained from any violent and extraconstitutional attempts to overthrow the elected government. Instead, the BNP initiated a legal action alleging fraud, which was pending in the courts at year's end.

The Parliament was made up of 120 members, 80 constituency based members, decided by plurality vote, and 40 proportionally selected members. In the May elections, the LCD won 77 of the 80 constituency based seats and the LPC won 1. The remaining two constituency-based seats were won by the LCD in by-elections held in August to replace candidates who died during the campaigning period. The 40 proportionally based seats were divided among 9 opposition parties, including 21 seats for the main opposition party, the BNP.

Countrywide voter registration was held between August 13 and September 30, 2001 to prepare updated voter rolls. The period was extended by 2 weeks at the request of opposition parties, particularly the BNP. The Government welcomed independent domestic and international observers during this process, which, according to the observers, was carried out in an orderly, peaceful, and lawful manner. The May 25 election and the process leading up to it were free from violence or intimidation.

tion. Independent domestic and international delegations concluded that the election was free, fair, peaceful, lawful, and transparent.

There were 12 women in the 80-member National Assembly, and there were 12 women in the 33-member Senate. Four women were government ministers, and two women were assistant ministers. In June the Parliament unanimously re-elected the first female Speaker of the National Assembly.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

*Section 5. Discrimination Based on Race, Sex, Language, Disability, or Social Status*

The Constitution prohibits discrimination based on race, color, sex, language, political or other opinion, national or social origin, birth, or other status, and the Government generally respected these prohibitions in practice; however, the Constitution also recognizes customary law as a parallel legal system, and women's inheritance and property rights were restricted severely under the traditional chieftainship system.

*Women.*—Domestic violence against women occurred frequently, and, although dependable statistics were not available, it was believed to be widespread. In Basotho tradition, a wife may return to her "maiden home" if physically abused by her husband. Under common law, wife beating is a criminal offense and defined as assault; however, few domestic violence cases were brought to trial. Beatings and violence against women perpetrated by husbands or other male relatives occurred frequently; however, increasingly it was considered socially unacceptable behavior. A 1998 national conference on the empowerment of women noted that of 100 cases of human rights abuses, 90 involved women who were victims of domestic violence, rape, or sexual harassment.

The law prohibits rape, which is punishable by a minimum sentence of 5 years' imprisonment, with no option for a fine. The law also prohibits sexual harassment; however, in most cases, it was difficult to prove. Prostitution is illegal; however, it was difficult to police or prosecute, and it was a problem.

Both law and custom under the traditional chieftainship system severely limited the rights of women in areas such as property rights, inheritance, and contracts. Women have the legal and customary right to make a will and sue for divorce; however, under customary law, a married woman is considered a minor during the lifetime of her husband. She cannot enter into legally binding contracts, whether for employment, commerce, or education, without her husband's consent. A woman married under customary law has no standing in civil court and may not sue or be sued without her husband's permission. Government officials have criticized publicly this customary practice. The tradition of paying a bride price (lobola) was common. Polygyny was practiced by a very small percentage of the population.

Women's rights organizations have taken a leading role in educating women about their rights under customary and common law, highlighting the importance of women participating in the democratic process. In 1998 the Government created the Ministry of Gender and Youth Affairs. The Ministry funded, with small financial grants and the use of facilities, efforts by women's groups to sensitize women and society in general to the status and rights of women.

*Children.*—The Government devoted substantial resources to primary and secondary education. Education was not compulsory even at the primary levels, and a substantial number of children did not attend school, particularly in rural areas where there were few schools, where children were involved in subsistence activities in support of their family's welfare, or where families could not afford the costs associated with school attendance, such as, fees for the purchase of uniforms, books, and materials. The problem of school nonattendance affected boys disproportionately more than girls. In traditional rural Basotho society, livestock herding by young boys was a prerequisite to manhood in the community, and this frequently interfered with their school enrollment. The Government began implementation of a program that provided free public education through the primary grades (1 through 6). The program commenced in all schools in the first grade during 2000, and it covered the costs of school fees, books, and one meal per day. Expansion of the program to the third grade occurred during the year, and the program was scheduled to expand to the fourth grade in 2003.

There was no pattern of societal abuse against children. However, familial stress, poverty, the spread of HIV/AIDS, and divorce led to a rise in child homelessness and abandonment, creating a growing number of street children.

Child prostitution was a problem. Young girls reportedly move to urban areas to work as prostitutes. The prevalence of commercialized child prostitution was low; however, both the Government and UNICEF agreed it was a growing problem, largely driven by poverty (*see* Section 6.f.).

*Persons with Disabilities.*—Discrimination against persons with physical disabilities in employment, education, or provision of other government services is unlawful; however, societal discrimination was common. The Government has not legislated or mandated accessibility to public buildings for persons with disabilities. The Minister of Justice, Human Rights, Rehabilitation, Law, and Constitutional Affairs is blind; he was appointed to this position in 2001.

*National/Racial/Ethnic Minorities.*—Most citizens spoke a common language and shared common historical and cultural traditions. Small numbers of Asians (primarily ethnic Chinese and Indians) and South African whites were active in the country's commercial life. Economic and racial tension between the Chinese business community and the Basotho remained a problem. Unlike in previous years, there were no reports that civil unrest or riots targeted persons of Asian descent during the year.

#### Section 6. Worker Rights

*a. The Right of Association.*—Under the law, workers have the right to join and form trade unions without prior government authorization. The Labor Code prohibits civil servants from joining or forming unions. The Government regarded all work by civil servants as essential. The law prohibits public employees from becoming members of trade unions established under the Labor Code; however, the law allows them to form staff associations. In response to a 2001 request by the International Labor Organization (ILO), the Government was reviewing the law in order to address concerns related to freedom of association without compromising its responsibility to provide essential services; however, there were no developments by year's end.

Under the Labor Code, prepared with the assistance of the ILO, all trade union federations must register with the Government. There were 43 trade unions and employee organizations registered with the Registrar of Trade Unions. There were four small trade union federations that rarely cooperated with one another: The Lesotho Trade Union Congress; the Lesotho Federation of Democratic Unions; the Worker's Congress of Trade Unions, and the Congress of Lesotho Trade Unions. Unions were not affiliated formally with political parties; however, the former head of the largest garment workers union was elected to Parliament as a member of the Lesotho Workers Party with substantial union support.

The labor and trade union movement was very weak and fragmented. There were several small unions in the public and industrial sectors, but there was no unified trade union congress. There were cases of unions competitively organizing small numbers of workers in the same sector.

Overall unionized workers represented approximately 10 percent of the work force. Approximately 13 percent of the male labor force worked in the coal and gold mines of South Africa, and the majority of those who did not were engaged primarily in traditional agriculture. A majority of Basotho mine workers were members of the South African National Union of Mineworkers (NUM); however, as a foreign organization, the NUM was not allowed to engage in union activities in the country.

There was credible evidence that some employers prevented union organizers from access to factory premises to organize workers or to represent them in disputes with owners or managers. There were reports that some employers harassed union organizers, intimidated members, and frequently fired union activists. The Commission of Labor, which operated as part of the Labor Ministry, was charged with investigating allegations of labor law violations (*see* Section 6.e.).

There were no instances of governmental restrictions on international affiliations or contacts by unions or their members. There were no instances of governmental restrictions on the rights of workers or union members to form political parties or associations. The Lesotho Workers' Party was formed during the year and succeeded in winning one of the 40 proportional seats in Parliament.

*b. The Right to Organize and Bargain Collectively.*—In principle all legally recognized trade unions enjoy the right to organize and bargain collectively, and the Government generally respected these rights; however, some employers tried to restrict these rights in practice. Employers usually were cooperative; however, some employees were threatened with expulsion and loss of employment if they join unions.



There was credible evidence that most employers in the textile and garment sector used blacklists to deny employment to workers who have been fired by another employer within that sector. There were reports that some employers harassed union organizers.

Following the threat of strike action over the minimum wages published by the Government in 2001, members of the Association of Lesotho Employers met with the main textile union, Lesotho Clothing and Allied Workers Union (LECAWU), and negotiated a 10 percent increase instead of the 6 percent that had been set by the Government. LECAWU and the Employers Association also agreed to meet annually to negotiate wages independent of the minimum set by the Government. Employee grievances reportedly were handled promptly by the Labor Commission, and there were no significant backlogs of cases during the year.

The law provides for the right to strike; however, no legally authorized strike has occurred since independence in 1966. Because civil servants generally were not allowed to strike, all public sector industrial actions were by definition unauthorized. In the private sector, the Labor Code requires an escalating series of procedures to be followed by workers and employers before strike action is authorized. In past years, some small unions and their members have undertaken wildcat strikes or spontaneous industrial actions without following the procedures for dispute resolution; however, there were no reported strikes during the year. Legal protection for strikers from retribution has not been enforced always in cases of illegal strikes. There were no violent strike-related incidents during the year.

The Labor Code was amended in 2000 to establish a Directorate of Dispute Prevention and Resolution within the Ministry of Employment and Labor. The Directorate started hearing cases in January and has won praise from the union movement for prompt disposition of cases brought before it.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The legal minimum age for employment in commercial or industrial enterprises is 15 years, and legal minimum age for hazardous employment is 18 years; however, children under 14 years of age reportedly were employed in family-owned businesses. Many urban street children work in the informal sector. Most of the jobs in which children find themselves were gender-specific: Boys (as young as ages 4 and 5) were livestock herders; girls were domestic servants; boys carry packages for shoppers, wash cars, and collect fares for minibus taxis; teenage girls (and a few boys) were involved in prostitution; and both boys and girls work as street vendors. Although there were allegations of child labor in the textile and garment sector, investigations by UNICEF, the ILO, and the Labor Commission found no evidence to support the charges.

There are statutory prohibitions against the employment of minors in commercial, industrial, or nonfamily enterprises involving hazardous or dangerous working conditions, and although enforcement of prohibitions was very lax in previous years, the Ministry of Labor and Employment's Inspectorate was staffed adequately and conducted quarterly inspections during the year. Children under 18 years of age may not be recruited for employment outside of the country. In traditional society, rigorous and occasionally dangerous working conditions for the country's young livestock herdboys were considered a prerequisite to manhood, essential to the livelihood of families, and a fundamental feature of local culture beyond the reach of labor laws. The emphasis on traditional socialization methods to the exclusion of formal education continued the cycle of poverty for most youth. Child labor laws covered all sectors except for the agricultural sector.

*e. Acceptable Conditions of Work.*—In general wages were low. A national minimum wage is determined annually by the Wage Advisory Board, a tripartite entity, consisting of government, trade unions, and employers. The monthly minimum wage for unskilled laborers was \$80 (648 maloti), and \$140 (1,129 maloti) for heavy vehicle operators. Minimum wages for workers in lower skilled jobs were insufficient to ensure a decent standard of living for a worker and family. Most wage earners supplemented their income through subsistence agriculture or remittances from relatives employed in South Africa. Many private employers paid more than minimum wages to attract and retain motivated employees. However, there also was reason to believe that some employers, especially in export sectors, treated the minimum wage as a maximum wage.

The Labor Code provides for basic worker rights, including a maximum 45-hour workweek, a weekly rest period of at least 24 hours, 12 days of paid leave per year, and paid sick and public holidays; however, employers did not always respect these

rights in practice. Required overtime was legal so long as overtime wages were paid for work in excess of the legally mandated 45-hour workweek. Inspections by both buyer's representatives and the Labor Department have ensured that workers were paid the proper overtime rate for any overtime hours worked.

There were allegations in 2001 that some companies paid below minimum wage, enforced long hours sometimes by locking in workers, and deducted wages when employees were found talking or taking more than one break a day. Some employers, particularly small businesses, allegedly refused sick-pay leave and engaged in unfair dismissal practices. The majority of complaints dealing with these issues were brought to the Directorate of Dispute Prevention and Resolution, where they were resolved within weeks. Only 10 percent of the complaints filed with the Directorate concerned the textile sector.

A second judge has been appointed to the Labor Court, which transferred its pending unfair dismissal cases to the Directorate of Dispute Prevention and Resolution, thus eliminating the court's former case backlog. The Labor Commission was staffed adequately and handled most complaints within a 1-month period; it cooperated closely with the ILO in establishing inspection regimes. Labor inspectors generally conducted unannounced inspections in factories four times per year. The Labor Commission was authorized to order the reinstatement of wrongfully dismissed employees and the payment of back wages, but it did not have the authority to impose criminal fines.

The Labor Code requires employers to provide adequate light, ventilation, and sanitary facilities for employees and to install and maintain machinery in a manner designed to minimize the risk of injury, and in practice employers generally follow these regulations. The law provides for a compensation system for industrial injuries and diseases arising out of and in the course of employment. The Labor Code also empowers the Minister of Labor to make regulations pertaining to work safety in specific areas. There are regulations in force concerning welding and cutting, noise, and spray painting. Regulations on construction and chemical safety were being promulgated. The Labor Code does not protect explicitly the right of workers to remove themselves from hazardous situations without prejudice to employment; however, Labor Code sections on safety in the workplace and dismissal implied that dismissal in such circumstances would be illegal. The Labor Code protects both legal and illegal foreign workers, unless the workers signed contracts that specified differently.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons, and there were reports of trafficking.

The Government and the local UNICEF office recognized that poverty and the high incidence of HIV/AIDS has led to a growing problem of transactional sex practiced by under aged girls who were in many cases orphans. A recent UNICEF assessment concluded that child prostitution in the country was a poverty-driven phenomenon rather than a commercial enterprise and that the financial arrangements were casual and not the product of organized criminal syndicates. However, UNICEF and the Government agreed, that while the numbers remained small, the trend toward commercial prostitution by children under age 18 was a growing problem in the country. The Minister of Home Affairs asked UNICEF for financial support and technical assistance to establish a child protection unit within the police force, similar to programs that have been established in South Africa and Namibia with UNICEF support. At present, there is little capability within either the police force or the Department of Social Welfare to address the needs of children likely to engage in prostitution.

There was a report that illegal immigrant smugglers, primarily from South and East Asia, continued to take advantage of the country's undersupervised borders to pass persons temporarily through the country to transportation hubs in South Africa for onward movement to Europe and North America. There was no clear evidence that these movements included women or children, or that these organizations were recruiting or transporting persons illegally for involuntary servitude, slavery, or forced or bonded labor. It was suspected that most of the persons who were moved by these criminal organizations were primarily economic immigrants seeking employment in other countries. There were no reports or evidence of forced or bonded labor or servitude in the country resulting from these activities.

The Government took no specific action to address trafficking in persons during the year.

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## LIBERIA

Liberia is a centralized republic dominated by a strong presidency. The Constitution provides for three branches of government, but there was no effective system of checks and balances, and presidents traditionally have wielded extraordinary power. Charles G. Taylor, who is of both indigenous and Americo-Liberian ancestry, has led the Government since 1996, when forces under his command emerged dominant after a 7-year civil war. President Taylor used intimidation, patronage, and corruption to maintain power. In 1997 Taylor won the presidential election, and his National Patriotic Party (NPP) won three-quarters of the seats in the legislature. The elections were administratively free and transparent, but were conducted in an atmosphere of intimidation, because most voters believed that Taylor's forces would have resumed fighting if he had lost. Other leaders of the former warring factions subsequently left the country. From February 8 until September 14, the Government operated under a state of emergency that suspended some civil liberties such as peaceful assembly in response to the armed insurgency of a rebel group, Liberians United for Reconciliation and Democracy (LURD). The Government used the provisions of the state of emergency to stop all support for rebel goals, real or imagined. The bicameral legislature exercised little independence from the executive branch. The judiciary was subject to political influence, economic pressure, and corruption.

The regular security forces include: The Armed Forces of Liberia (AFL); the Liberia National Police (LNP), which has primary responsibility for internal security; the Antiterrorist Unit (ATU), composed of an elite special forces group consisting predominately of foreign nationals from Burkina Faso and The Gambia, as well as former Revolutionary United Front (RUF) combatants from Sierra Leone; and the Special Security Service (SSS), a large, heavily armed executive protective force. The ATU absorbed Taylor's most experienced civil war fighters, including undisciplined and untrained loyalists. There also were numerous irregular security services attached to certain key ministries and parastatal corporations, the responsibilities of which appeared to be defined poorly. National Police Director Paul Mulbah headed the police force; however, former National Patriotic Front of Liberia (NPFL) officials within the police service wielded considerable power. The national army, which fought against Taylor's faction during the civil war, has yet to be downsized and restructured as required by the 1996 Economic Community of West African States (ECOWAS)-brokered Abuja Peace Accords. Several thousand troops deployed in northern counties were fighting armed dissidents; however, there were few troops deployed to maintain security in other rural areas of the country. Fighting between the security forces and the LURD rebels intensified and spread towards Monrovia during the first half of the year; however, government forces regained lost territory by the year's end. The Government offered a general amnesty to LURD fighters that several dozen accepted. Security forces frequently acted independently of government authority, particularly in rural areas. Members of the security forces committed numerous, serious human rights abuses.

Liberia, with a population of approximately 3.1 million (UNDP estimate), was a very poor country with a market-based economy that has yet to recover from the ravages of the civil war. Few statistics were available, but real growth probably was negative. Average per capita income was estimated at less than \$170. An estimated 80 percent of the population lives on less than \$1 per day. The country had an unemployment rate of at least 70 percent and only a 30 percent literacy rate. The internal displacement of civilians in Lofa, Bong, and Nimba Counties and the absence of infrastructure throughout the country continued to depress the economy, despite the country's rich natural resources and potential self-sufficiency in food. Government officials continued to exploit the country's natural resources for personal profit. Extortion was widespread in all levels of society.

The Government's human rights record remained poor, and it continued to commit numerous, serious abuses. The security forces committed many unlawful killings, and they were accused of the disappearances of numerous persons, especially ethnic Mandingos suspected of antigovernment sympathies. Security forces frequently tortured, beat, and otherwise abused or humiliated citizens. The Government investigated some of the alleged abuses by the security forces; however, abusers rarely were charged or disciplined. Prison conditions remained harsh and sometimes life threatening. Security forces continued to use arbitrary arrest and detention, and lengthy pretrial detention remained common. The judicial system, hampered by political influence, economic pressure, inefficiency, corruption, and a lack of resources, was unable to ensure citizens' rights to due process and a fair trial. In some rural areas where the judiciary had not been reestablished, clan chieftains administered criminal justice through the traditional practice of trial-by-ordeal; au-

thorities tacitly condoned this practice. Political prisoners held from previous years were released; however, numerous persons during the state of emergency were denied habeas corpus and held indefinitely as “illegal combatants,” often without access to lawyers or international humanitarian organizations. Security forces violated citizens’ privacy rights. The Government restricted freedom of speech and of the press; it detained, threatened, and intimidated journalists. The Government banned political gatherings during the state of emergency. Security forces restricted freedom of movement. Security forces frequently harassed human rights monitors. Violence and discrimination against women remained problems. The welfare of children widely remained neglected, and female genital mutilation (FGM) continued to be practiced. Societal ethnic discrimination remained widespread, ethnic differences continued to generate violence and political tensions, and the Government continued to discriminate against groups that had opposed Taylor in the civil war, especially the Mandingo and the Krahn ethnic groups. Forced labor persisted in rural areas. Child labor remained widespread, and there were reports of forced child labor. Ritualistic killings also persisted.

Rebels fighting in the northwest also committed serious human rights abuses. The absence of independent observers in rebel-controlled areas made documentation of such abuses difficult.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Security forces continued to commit extrajudicial killings. Human rights organizations estimated that such killings increased during the year as hundreds of civilians died in the fighting which occurred in Lofa and Gbarpolu Counties. Fighting between government forces and LURD insurgents spread from the border areas towards Monrovia during the first half of the year and culminated in several pitched battles for key towns; however, by October the Government reoccupied most of the country’s territory. No perpetrators were arrested or convicted for any killings connected to the conflict.

There were many unlawful killings during the year. For example, on June 19, an ATU officer and presidential guards opened fire on a taxicab in Monrovia and killed a 6-year-old child and critically injured his mother and the driver. President Taylor ordered an investigation of the incident, which was ongoing at year’s end.

On July 3, police shot, killed, and publicly displayed in Monrovia the body of Kennedy Kessely, thought to be an armed robber. There was no investigation, and no action was taken against the responsible members of the police.

In September Lt. Issac Gono, a driver attached to ATU chief Charles Taylor Jr.’s command, was beaten to death by his colleagues as a disciplinary measure for denting a vehicle. Two soldiers were arrested and held for court martial. The trial was opened; however, it later was suspended for unknown reasons, and the case was pending at year’s end.

On September 22, Special Operations Division (SOD) policemen killed John B. Toe after he allegedly had been involved in an armed robbery. There were no reports of an investigation, and none of the responsible members of the security forces were disciplined or charged by year’s end.

There were no developments in the July 2001 case of three SOD officers arrested and detained for killing an immigration officer in Bong County; the July 2001 case of the commander of the Kakata town police and another man arrested and detained for murder and armed robbery; and the August 2001 case of the killing by unknown persons of the Chief Financial Officer of the Police Training Academy outside of Monrovia.

Former Deputy Minister of Labor Bedell Fahn and four members of the ATU arrested for torturing two Nigerian men to death in October 2001 were tried during the year. Fahn was sentenced to 10 months in prison; however, in September he was released. Two ATU members were acquitted and the other two were sentenced to life imprisonment.

The police commander of Gbarnga who shot and killed a fourth grade boy in December 2001 was dismissed from the police force. He remained in detention pending trial at year’s end.

In October the Catholic Church established a four-person commission to investigate the five American nuns who allegedly were killed by NPFL rebels in 1992 in Monrovia.

No action was known to have been taken, or is any likely to be, against the police officers responsible for the killing of Nyanqui Luoh in 2000.

In March unknown persons killed Henry Cooper, chairman of the Unity Party Bong County Branch under unexplained circumstances. No one was arrested for the

crime by year's end; however, residents believed the killing was politically motivated.

There continued to be reports that rival security personnel clashed violently during the year. For example, in June four persons were killed during a fight between AFL soldiers and progovernment militia in Sanoyea, Bong County.

As fighting with the LURD rebels spread and moved south, there were credible reports that government forces, especially the ATU, as well as members of the Lorma ethnic group continued to harass, intimidate, detain, and kill members of the Mandingo ethnic group and other suspected LURD sympathizers (*see* Section 1.d.). During the year, uncontrolled government security forces killed large numbers of civilians who were suspected of being rebel sympathizers by shooting them, burning them alive, or cutting their throats; some soldiers killed civilians while looting their villages. Human rights monitors reported that abuses included torture and rape (*see* Section 1.c.). Minister of Information Reginald Goodridge denied that security forces committed abuses.

In September several attacks on villages and customs posts along the Guinea border resulted in approximately a dozen deaths. It was not clear whether the perpetrators were government forces, Guinean villagers, Guinean rebels, or LURD rebels.

Rebel forces fighting the Government in the northwest killed, tortured, and raped civilians. For example, on June 17, LURD rebels opened fire on civilians at a market in the town of Gbah and killed at least four persons. LURD rebels also commandeered food, shelter, and persons for forced labor.

On June 20, LURD rebels attacked Sinje, the site of a refugee camp on the border of Sierra Leone, and killed one civilian and two government soldiers; government soldiers killed one LURD rebel during the attack (*see* Section 2.d.).

There were no reported developments in the 2000 case of 12 men arrested for the burning of a mosque and other buildings and the death of 4 persons in a property dispute in Nimba County; the 12 men reportedly remained in detention pending a trial at year's end.

There were no further developments in the 2000 attacks reportedly in northeastern Nimba that resulted in numerous deaths.

There were no developments in the January 2001 attack by a Guinean helicopter gunship on Solumba that killed at least 10 persons.

Incidents of ritualistic killings, in which human body parts used in traditional rituals were removed from the victim, continued to be reported (*see* Section 2.c.). There were no reported developments, nor were any likely, in the 2000 case of two suspects charged with killing and mutilating a 10-year-old girl.

*b. Disappearance.*—Security forces were responsible for numerous disappearances. For example, in May security forces allegedly abducted several ethnic Mandingos during a LURD rebel attack near Monrovia. The Mandingos remained missing at year's end.

There was no resolution or further information about the May 2001 case of 24 persons taken into custody by the ATU and transported to Gbatala military base in Bong County. The whereabouts of seven refugees who were arrested upon their return from Guinea in 2000 remained unknown.

During the year, rebels were responsible for abductions. For example, LURD rebels abducted 60 blind refugees, along with a British priest. In July all of the refugees were released; however, one elderly man was killed during fighting in June.

In June LURD rebels abducted five nurses from a refugee camp; in September they were released (*see* Section 2.d.).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, government police and security forces frequently tortured, beat, and otherwise abused and humiliated citizens. Detainees continued to charge that they were tortured while in detention, especially at a security-training base in Gbatala. Victims and witnesses reported beatings, torture, killings, and sexual abuse at the base. Despite calls by human rights organizations for the closure of the base, the base remained opened at year's end. The Government also resisted efforts by human rights monitors to visit the detention facilities at Gbatala. The use of torture reportedly was widespread in interrogating LURD captives in conflict zones.

On April 24, lawyer and critic of the Government, Tiawan Gongole, was arrested under the terms of the state of emergency after the independent newspaper *The Analyst* published a speech in which Gongole exhorted civil society to work for peace and criticized the Liberian Marketing Association for being a "cheerleader" for the Government. Police stripped naked and severely beat Gongole while he was in detention at the Central Police Station; he had to be hospitalized after his release. His

request for habeas corpus was denied repeatedly, past the 48 hour constitutional limit. On May 6, the Government dropped the case against Gongole. Members of the security forces, David Moore and James Kollie, were charged with assault in the case of Gongole, and their trial was pending at year's end.

In July Dixon Gbalh, the director of the nongovernmental organization (NGO) Liberia Prisons Watch, was arrested and beaten for allegedly spreading false information. He fled from the country after his release.

Law enforcement personnel, including the security forces, were implicated in numerous reports of harassment, intimidation, and looting (*see* Section 1.f.). For example, on March 10, six armed AFL soldiers harassed and robbed civilians at an agricultural project in Clean Town, Bomi County. The soldiers also captured the project's Agricultural Manager, John Nizan, whom they forced into 3 weeks of menial labor. Nizan escaped when LURD dissidents attacked the town. Clean Town subsequently vacated and its residents became internally displaced persons (IDPs).

On several occasions, government security personnel harassed, assaulted, and arrested journalists (*see* Section 2.a.).

Security forces targeted and abused critics of the Government, including students and human rights activists (*see* Sections 1.d. and 1.f.).

There were credible reports that government forces as well as members of the Lorma ethnic group continued to harass, intimidate, detain, and, on occasion, kill members of the Mandingo ethnic group in Lofa County (*see* Sections 1.a. and 1.d.).

21 There was no action taken against the responsible members of the security forces who fired on vehicles at roadblocks in May and June 2001, or in the August 2001 beating of Congresswoman Ellen King and Senator Armah Jalluh.

The six officials who in October 2001 tortured to death two Nigerian men accused of theft were tried and convicted of the killings (*see* Section 1.a.).

There was no known action taken, nor is any likely to be taken, against the members of the security forces responsible for shooting, harassing, injuring, assaulting, or otherwise abusing persons in the following cases from 2000: The February assault on a foreign diplomat; the February shooting of an LNP officer; the March beating of a local embassy security guard; and the June assault on a local embassy employee.

Despite official demands to improve training in 2001, the behavior of ATU personnel at checkpoints did not improve substantially during the year. There were many credible reports that security forces harassed returning refugees and displaced persons, especially in border areas. No police officers responsible for abuses were disciplined during the year.

In August President Taylor announced that government soldiers convicted of rape on the war front would be executed; however, there were no reports this punishment was carried out. The SSS and the Forces Operation Division also committed rapes.

In December 2001, soldiers reportedly attacked the northern town of Kolahun and gang-raped six women and girls, one of whom was 12 years old.

A panel appointed by University of Liberia (UL) officials completed an investigation into the March 2001 beatings of students by police when they forcibly dispersed a student demonstration. The panel suspended or expelled several students for their part in the confrontation; however, the panel recommended no actions against members of the security forces.

Violent clashes among rival security personnel at times resulted in civilian injuries (*see* Section 1.a.). For example, in September security forces shot and injured civilians during a battle over control of expropriated fuel near the port of Monrovia.

Clan chieftains continued to use the traditional practice of trial-by-ordeal to resolve criminal cases in rural areas. The Supreme Court ruled that trial-by-ordeal—commonly the placement of a heated metal object on a suspect's body in an attempt to determine whether the defendant is telling the truth—is unconstitutional; however, the practice continued under an executive order. A domestic human rights group urged that trial-by-ordeal be abolished throughout the country; however, no action was taken by year's end.

Prison conditions remained harsh and in some cases life threatening. There were credible reports of unofficial detention facilities, including one at the Executive Mansion, in which detainees were held without charge and in some cases tortured. The Government did not provide detainees or prisoners with adequate food or medical care. The National Human Rights Center reported on the "de-humanizing and deplorable conditions" detainees experienced at the Central Police Station. The Center reported that detainees sometimes were fed only a spoonful of rice per day and that police permitted prisoners to torture, humiliate, and flog detainees. Cells at Monrovia Central Prison were overcrowded, mostly with detainees awaiting trial. Only approximately 10 percent of the total prison population was convicted of criminal offenses. Similar conditions existed in the Barclay Training Center military

stockade. In some counties, the structure that serves as a jail is a container with bars at one end. There also were reports that local officials forced prisoners to work for them.

Women, who constituted approximately 5 percent of the prison population, were held in separate cells. Their conditions were comparable to those of the male prisoners and detainees. There were no separate facilities for juvenile offenders. Women and particularly juveniles were subject to abuse by guards or other inmates. Convicted prisoners and detainees awaiting trial were not held in separate facilities.

In September Minister of Justice Leveli Korbo Johnson identified 141 persons held in prisons, many for offenses that did not merit incarceration, and ordered them released. In a number of cases, human rights groups and interested persons obtained the release of detainees and prisoners; however, for the most part, these cases tended to be nonpolitical in nature.

The Government generally permitted the independent monitoring of prison conditions by local human rights groups, the media, and the International Committee of the Red Cross (ICRC). Although visits to unofficial detention centers often were denied, in June 2001, the Government allowed members of the U.N. Security Council Expert Panel on Liberia to visit Gbatata base, where victims have been detained and tortured. The Panel did not include any findings from Gbatata in its report. The ICRC often was allowed to visit persons held in prison facilities and police detention centers without third parties present and to make regular repeat visits; however, despite repeated requests the ICRC was not granted access to Gbatata Camp.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, security forces continued to arrest and detain persons arbitrarily. In September Justice Minister Koboi Johnson reported 141 persons unlawfully detained in prisons. Persons were abused and sometimes tortured while in detention (*see* Section 1.c.).

The Constitution provides for the rights of the accused, including warrants for arrests and the right of detainees either to be charged or released within 48 hours. Although the Government generally adhered to these standards, warrants were not always based on sufficient evidence, and detainees, especially those without the means to hire a lawyer, often were held for more than 48 hours without charge. The Constitution provides for the right of a person who is charged to receive an expeditious trial; however, lengthy pretrial and prearrest detention remained serious problems. In some cases, the length of the pretrial detention equaled or exceeded the length of sentence for the crime.

Security forces at times refused to produce suspects being held in detention without charge even after the courts issued writs of habeas corpus on the application of human rights organizations. Their disappearances often were the result of prolonged illegal detention at the Gbatata base (*see* Section 1.c.). In some cases, persons were detained secretly at unofficial detention centers, including one at the Executive Mansion (*see* Section 1.c.). In April as a result of the efforts of the NGO National Human Rights Center to file writs of habeas corpus on their behalf, the Government released 24 persons—some were detained as long as 4 years without charge.

In April police released 24 detainees who had been held without charge since February, when they were arrested during security sweeps against suspected “dissident collaborators.”

On June 24, security officials detained and held incommunicado Hassan Bility, the editor-in-chief of *The Analyst*, Abubakar Kamara, Mohamed Kamara, and Asumana Kamara reportedly on suspicion of links to LURD rebels. Although a civil court judge approved a writ of habeas corpus for the four individuals, it was refused by the Government and overturned by a higher court. The Government alleged that the four detainees were not civil prisoners entitled to constitutional rights, but rather “illegal combatants.” The Military Court Martial Board filed a second writ of habeas corpus, requesting that Bility and the others appear before a military court by August 7; however, the Ministry of National Defense declared the writ void, arguing that it had been filed “improperly.” Bility routinely was beaten in prison, sometimes severely, and often held in poor locations, including confinement for several weeks in an underground pit. He was denied access to lawyers, family, and other outside visitors. The other detainees were held at an undisclosed location without access to lawyers, family, or the Red Cross. Family members, who often bribed prison officers to communicate with the detainees, alleged the detainees were abused badly by their captors. On December 7, Bility was released and left the country.

On July 25, Sheikh K.M. Sackor also was detained as an “illegal combatant.” A writ of habeas corpus in favor of Sheikh Sackor was refused on the same grounds, citing the Bility case as precedent. Sackor remained incarcerated and denied all outside contact at year’s end. By year’s end, an unknown number of persons were detained during the state of emergency as “illegal combatants,” frequently without ac-

cess to lawyers or international humanitarian organizations, and denied habeas corpus.

In July and August, in connection with the Bility case, ATU forces seized and arrested alleged LURD conspirators, most of them ethnic Mandingos; they remained detained at unknown locations at year's end (*see* Section 1.b.). Many ethnic Mangingos subsequently fled to neighboring countries, primarily Guinea.

On September 14, Manasuah Kollison, a law student at UL, was arrested and detained at National Bureau of Investigation (NBI) headquarters without charge. The NBI did not respond to a writ of habeas corpus filed on his behalf. The whereabouts of Kollison was unknown at year's end.

Security forces arrested and detained a number of journalists, NGO members, and human rights activists during the year (*see* Sections 2.a., 2.c., and 4).

Government security forces and the LURD detained, tortured, and killed hundreds of civilians during the year (*see* Sections 1.a. and 1.c.).

The police only have limited logistics and forensic capabilities and cannot adequately investigate many crimes, including murder cases. When the courts released known criminals for lack of evidence, police officers often arrested them again on false charges.

On March 19, the Government released senior Ministry of Defense intelligence officer Colonel Aloysius Zayzay, who had been arrested in 2000 on treason charges. Auditor General Raleigh Seekie, also arrested in 2000 on treason charges, was released in December 2001.

The Government did not use forced exile; however, as a result of frequent harassment and threats by the security forces, a number of student activists, opposition figures, and human rights activists fled the country due to fear for their personal safety or that of their families. For example, Minister of Transportation Francis Carboh resigned his post from overseas and stayed in self-imposed exile. In August Mohamed Konneh, President of the Muslim Students Association at UL, feared for his life and fled to another country in the region. Journalist Hassan Bility left the country. Former Deputy Minister of Information and Presidential Media Advisor J. Milton Teahjay; leader of the UL Student Union Alphonse Nimene; prominent NGO Director Commany Wesseh; former president of the interim national government in the 1990s Amos Sawyer; human rights activist James Torh; and Muslim organization leader Lartin Konneh all remained outside the country at year's end.

The existence of the state of emergency deterred many opposition figures who resided abroad from returning to the country. In May Ellen Sirleaf-Johnson, runner-up in the 1997 presidential polls, spent several days in Monrovia. Although invited back in August for the Government-sponsored Reconciliation Conference, she and other overseas citizens declined to attend, citing personal safety concerns.

*e. Denial of Fair Public Trial.*—Although the Constitution provides for an independent judiciary, judges were subjected to political, social, familial, and financial pressures, and the judiciary was corrupt. Some judges and magistrates were not lawyers. The judiciary has determined that it was not feasible to retire all judicial personnel who were not legally trained but intended to replace those currently sitting with lawyers as they retire. By statute members of the bar must be graduates of a law school and pass the bar examination. The executive branch continued to exert strong influence on the judiciary. For example, the Government's assertion that persons identified as "illegal combatants" have no recourse to the civil courts appeared to have no basis in law; however, writs of habeas corpus for Bility and Sackor were refused on such grounds (*see* Section 1.d.).

The judiciary is divided into four levels, with the Supreme Court at the apex. All levels of the court system in Monrovia, including the Supreme Court, functioned sporadically. The Government's efforts to revitalize the court system outside of Monrovia continued to be hindered by a lack of trained personnel, a lack of infrastructure, and inadequate funding. Although judges were assigned throughout the country, in some cases they were unable to hold court due to lack of supplies and equipment. Traditional forms of justice administered by clan chieftains remained prevalent in some localities (*see* Section 1.c.).

Under the Constitution, defendants have due process rights; however, in practice these rights were not always observed. Defendants have the right to a public trial and timely consultation with an attorney; however, there was no effective system to provide public defenders, especially in rural areas. Some NGOs provided legal services to indigents and others who have no representation.

Courts regularly received bribes or other illegal gifts out of damages that they awarded in civil cases. Defense attorneys often suggested that their clients pay a gratuity to appease judges, prosecutors, and police officers to secure favorable rulings. In 2000 the Chief Justice of the Supreme Court stated publicly that delays in salary payments to judicial personnel contributed to corruption in the judiciary.



There continued to be long delays in deciding cases involving juveniles.

On March 12, President Taylor granted executive clemency to 24 ethnic Krahn political prisoners, including Armah Youlou, Professor Charles Breeze, Brigadier Joseph Jarlee, and Major Alphonso Dubar, who were released on the same day. The group included civilian prisoners convicted of treason and military officers convicted of sedition. All were detained following the 1998 fighting in Monrovia.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the right of privacy and the sanctity of the home; however, authorities regularly infringed on these rights. The Constitution provides that the police must obtain a warrant, or have a reasonable belief that a crime is in progress, or is about to be committed, before entering a private dwelling. In practice police and paramilitary officers frequently entered private homes and churches without warrants to carry out arrests and investigations. Police also raided the offices of newspapers and NGOs during the year, including *The Analyst* newspaper and the human rights group Liberia Prison Watch (see Sections 2.a. and 4).

The security forces harassed and threatened opposition figures and their families by conducting illegal surveillance. In some cases, they entered the homes of opposition figures. For example, on July 18, just prior to the start of the National Reconciliation Conference, the ATU searched the homes of opposition leaders Dr. Togba-Nah Tipoteh and former telecommunications minister Roosevelt Jayjay. Several student leaders remained under surveillance at year's end.

Some journalists and human rights activists resided in the homes of friends or relatives at times due to fear that the security forces might follow through with their threats against them. Incidents of harassment and threats increased with the continuing violence in the northwest.

In April police used so-called security sweeps to search for dissidents in the Paynesville area after LURD rebels allegedly distributed leaflets there, and several persons abandoned their homes and moved in with relatives.

In rural areas, particularly in remote parts of Lofa and Gbarpolu Counties, armed security forces illegally entered homes, most often to steal food, money, or other property. Members of the security forces in rural areas generally were paid and provisioned inadequately and often extorted money and goods from citizens. Local communities were compelled to provide food, shelter, and labor for members of the security forces stationed in their villages. Human Rights Watch reported that President Taylor's security services, the SSS and the SOD, both mobilized to combat LURD rebels, consisted of former NPFL rebels who were paid a one-time fee of \$150 (8,200 ld) and were expected to loot and pillage thereafter to support themselves.

On October 29, SOD police raided the home of human rights activist Aloysius Toe after Toe announced a week of solidarity for Hassan Bility and other detainees (see Section 4). Government officials said that e-mail documents were found in Toe's home that linked him with LURD rebels.

ATU members increasingly were involved in criminal activities such as theft, looting, and murder in Monrovia. More than in the past, the perpetrators were apprehended; however, cases against them remained unresolved at year's end. Two ATU members arrested in November 2001 after looting a private residence in Monrovia were released during the year.

Some persons believed that government security personnel monitored e-mail (see Section 2.a.).

There were reports that security forces and rebels forcibly conscripted men and boys to fight in the conflict in Lofa County (see Section 5).

The Government continued the occasional practice of arresting family members in order to persuade a suspect to turn himself in. For example, on October 29, armed police officers entered the house of human rights activist Aloysius Toe and abducted his wife, Vivian Toe. She was released after she contacted her husband and asked him to turn himself in for questioning.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government restricted these rights in practice, particularly during the months when the state of emergency was in force. Security agents threatened, detained, and assaulted journalists and intimidated many journalists into practicing self-censorship. Cabinet ministers periodically objected to critical articles and forced stories to be dropped or modified.

The Government arrested critics of the state of emergency in February, such as Councilor Morris (see Sections 1.d. and 4). In March New Deal Movement Chairman Nigba Wiaplal was harassed and arrested on charges of "inciting insurrection" for saying that conflict in the northwest arose from the Government's refusal to restruc-

ture the security forces. On April 2, Wiaplah filed a writ of habeas corpus and was released on bail; his trial was pending at year's end.

In Monrovia there were eight newspapers that published during the year; however, some published irregularly. Two were independent dailies and five usually appeared at least once a week. Their political orientation ranged between progovernment and critical of the Government. The Public Affairs Bureau of the Ministry of Information, Culture, and Tourism published one newspaper, and the communications network owned by the President published a weekly newspaper. The ruling party also published a newspaper.

With some notable exceptions, government officials reluctantly tolerated the press; however, they frequently criticized the media publicly for what they considered negative reporting. The Government's media advisory committee created in 2001 to reduce tensions between the Government and the press had little noticeable effect. Requirements for foreign journalists, including a minimum 72-hour advance notice of the intent to enter the country and a 24-hour waiting period for accreditation after arrival remained in force. The Government order that required local journalists to clear reporting on the insurgency prior to publication, generally was obeyed out of fear of government retribution.

Reporting that criticized the Government brought threats of violence, closure, or directives from powerful government officials to advertisers that they should discontinue business with that media outlet.

Newspaper availability fluctuated during the year. Management of the one printing facility capable of producing newspapers was subject to pressure from the Government. To meet the costs of production, the typical newspaper's eight pages included two or three pages of advertisements or paid announcements. Some articles were the result of gifts or money that supplemented reporters' meager salaries. The Press Union of Liberia, an independent association of journalists, secured a license to begin independent press operations, but internal problems prevented the actual start of operations.

In general journalists were outspoken and even provocative. In September the press printed stories alleging that the son of the President, Charles Taylor Jr., was involved in the death of his driver (*see* Section 1.a.). However, journalists also practiced self-censorship, especially in regard to information about the President and his immediate family members.

In March Jerome Dalieh and Bill Jarkloh, editor and news editor, respectively, of *The News* newspaper were detained in connection with a story that Police Director Mulbah deemed to be "anti-reconciliation." The two were released the same day.

In May the ATU detained Emmanuel Mondaye, a reporter of *The Inquirer* newspaper, for allegedly spying for a foreign embassy in the Gbarnga area. Mondaye was released after 4 days.

On April 26, the Government harassed and shut down *The Analyst* newspaper following its publication of a speech by human rights attorney Tiawan Gongole (*see* Section 1.c.). On June 5, *The Analyst* resumed publication. In June the editor-in-chief of *The Analyst*, Hassan Bility, who the Government had harassed for years, was arrested and accused of harboring LURD sympathies (*see* Section 1.d.). The Press Union of Liberia issued several well-publicized calls that demanded Bility be released or publicly charged and tried. Amnesty International (AI) conducted a global letter writing campaign on his behalf during the year.

On December 14, five armed ATU members severely beat Throble Suah, a journalist for the independent newspaper, *The Inquirer*. After being hospitalized for more 3 weeks, Suah was flown out of the country to receive better medical attention.

Security personnel sometimes interpreted criticism as a license to harass, threaten, arrest, and even assault targeted persons; the Government often required arrested journalists to apologize in writing prior to releasing them.

Due to the high price of newspapers, the high rate of illiteracy (estimated at 75 percent), high transportation costs, and the poor state of roads elsewhere in the country, newspaper distribution generally was limited to the Monrovia area. As a result, radio was the primary means of mass communication. There were several FM stations in Monrovia: Two private commercial stations (DC-101); and Radio Veritas, which operated under the Catholic Archdiocese. There also was the state-run national station (ELBC), a FM station operated by President Taylor's private Liberia Communications Network (LCN). ELBC, and Radio Veritas also broadcast on short-wave frequencies strong enough to reach all parts of the country. In 2001 President Taylor closed the short wave frequency of Radio Veritas, citing "illegal operation." In February the Government restored the station's short-wave license, and in April Radio Veritas resumed short-wave broadcasting. There was a French broadcast through the national radio facility, a religious station (with limited short-wave

capacity), and a growing number of small local stations in cities around the country. Media practitioners believed that the ruling party funded many of these stations.

Call-in radio talk shows were popular and frequently a forum for both government and opposition viewpoints. The number of objections and threats from the Government, party leaders, and security agents aimed at radio hosts and station managers regarding inappropriate commentary diminished to some extent. Interviews with prominent persons were broadcast frequently.

Due to the economic situation in the country and the dependence on generators requiring expensive fuel, most stations limited broadcast hours and in some cases ceased operation for short periods.

Television was limited to those who could purchase sets, the generators, and fuel to provide electricity. For those persons and businesses with satellite capability, the CNN was available. There were two television stations: The LCN, owned by President Taylor, and the Ducor Broadcasting Corporation, which was privately owned but assisted by President Taylor's generator.

Several Internet cafes operated in Monrovia, although access was limited by relatively high fees. The Government continued to charge that opponents used the Internet to wage a propaganda war. However, the Ministry of Information also maintained an unofficial website—*allaboutliberia.com*—that promoted a progovernment view of the country. Two Internet Service Providers (ISPs) operated in Monrovia and both were linked to prominent persons. Some people believed that government security personnel monitored the Internet, especially e-mail.

The Government did not restrict academic freedom. Unlike in the previous year, there were no violent demonstrations that resulted in suspensions and expulsions; however, UL did not open for the fall session. Alphonse Nimene, president of the Student Union, 15 student leaders, and numerous other students remained in self-imposed exile at year's end.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly; however, on April 26, Minister of Justice Eddington Varmah announced that all “public gatherings” were banned without prior approval of the Ministry. Requests for exemptions were denied. President Taylor defended the ban by arguing that dissidents might use mass rallies to incite insurrection. The annual May parade by journalists to commemorate World Press Freedom Day was not allowed; however, indoor sessions marking the occasion did take place. On September 14, President Taylor lifted the ban on political gatherings.

While announcing the state of emergency in February, President Taylor warned that antigovernment views would not be tolerated during the crisis.

On October 2, police forcibly dispersed high school students demonstrating before the Ministry of Education in support of striking teachers (*see* Section 6.b.). Dozens of students were flogged and beaten in the confrontation and were taken to police headquarters; however, they were released later that same day.

The Constitution provides for the right of association, and the Government generally respected this right in practice. There were 18 political parties registered by year's end. On July 23, the Election Commission certified the New Democratic Alternative for Liberia (New Deal Movement) as a fully registered political party, which operated freely during the year. Dozens of civil society organizations, organized around themes such as human rights, women's issues, development objectives, poverty alleviation, health concerns, and worker's associations were active.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, there were some exceptions.

All organizations, including religious groups, must register their articles of incorporation with the Government, along with a statement of the purpose of the organization; however, traditional indigenous religious groups were not required to register, and generally did not register. Registration was routine, and there have been no reports that the registration process was burdensome or discriminatory in its administration.

On December 28, security forces arrested David Kaizolu and Christopher Toe, the Secretary General and Assistant Secretary-General respectively, of the Inter-Religious Council of Liberia (IRC). The IRC is a well-known organization that has tried to coordinate peace efforts between the LURD and the Government. They faced treason charges as LURD collaborators for possessing e-mails written by LURD leaders. After 2 weeks in prison, both were released.

The law prohibits religious discrimination; however, Islamic leaders complained of discrimination against Muslims. Although there were some Muslims in senior government positions, many Muslims believed that they were bypassed for desirable jobs because of their religion. Many Muslim business proprietors believed that the

Government's decision to enforce an old statute prohibiting business on Sunday discriminated against them.

Lartin Konneh, a Muslim activist who fled the country in 2000, remained outside the country at year's end.

Some tensions existed between the major religious communities. The private sector in urban areas, particularly in the capital, gave preference to Christianity in civic ceremonies and observances, and discrimination against followers of other organized religions affected areas of individual opportunity and employment. There was an interfaith council that brought together leaders of the Christian and Islamic faiths.

Tensions continued in Lofa County between the predominantly Muslim Mandingo ethnic group and the Lorma ethnic group. There was no further action regarding the investigation into the burning of five mosques in Lofa County in 2000.

Little reliable information was readily available about traditions associated with ritual killings. Ritual killings, in which body parts used in traditional indigenous rituals were removed from the victim, continued to occur. The number of such killings was difficult to ascertain, since police often described deaths as accidents even when body parts were removed. Deaths that appeared to be natural or accidental sometimes were rumored to be the work of ritual killers. It was believed that practitioners of traditional indigenous religions among the Grebo and Krahn ethnic groups concentrated in the southeastern counties most commonly engaged in ritual killings. The victims were usually members of the religious group performing the ritual. Body parts of a member whom the group believed to be powerful were considered to be the most effective ritually. Body parts most frequently removed include the heart, liver, and genitals. The rituals involved have been reported in some cases to entail eating body parts, and the underlying religious beliefs may be related to incidents during the civil war in which faction leaders sometimes ate (and in which one faction leader had himself filmed eating) body parts of former leaders of rival factions. Removal of body parts for use in traditional rituals is believed to be the motive for ritual killings, rather than an abuse incidental to killings committed for other motives. Ritual murders for the purpose of obtaining body parts traditionally were committed by religious group members called "heart men"; however, since the civil war, common criminals inured to killing also may sell body parts. In 2001 the Government deployed units of the ATU to Maryland County to help stem a wave of ritual killings, which reportedly reduced the incidence of ritualistic killings in the region.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, the Government restricted them in practice. Security forces maintained checkpoints where travelers routinely were subjected to arbitrary searches and petty extortion. Security forces were also accused of beating and robbing IDPs fleeing fighting in the northwest. Security forces also extorted money from returning refugees. From July to September units of the ATU, citing security concerns related to foreign plotting and the National Reconciliation Conference, set up roadblocks that rerouted traffic within the city and prevented visitors to a foreign embassy in Monrovia.

Unlike in the previous year, the Government did not restrict the issuance of passports or require an exit visa; however, in October passport services were suspended due to fraud concerns and subsequent investigations. Passport services remained partially suspended at year's end.

In November relief agencies estimated there were nearly 130,000 IDPs in more than a dozen camps in 5 separate counties. The number of IDPs increased by approximately 70,000 during the year due to conflicts in Lofa, Bong, Bomi, Cape Mount, and Gbarpolu Counties. International and local NGOs had limited funding and resources to assist these IDPs. The U.N. High Commission for Refugees (UNHCR) reported from mid-year estimates that there were approximately 107,000 Liberian refugees in Guinea, 71,000 in Cote d'Ivoire, 38,000 in Sierra Leone, 11,000 in Ghana, and 3,000 in other countries.

On December 14, security forces detained 12 ethnic Krahn refugees on security grounds following their return from Cote d'Ivoire. On December 27, all were released.

AI reported that government radio announcements of impending attacks caused large-scale displacements; however, the places often were not attacked following the announcement, and security forces looted the abandoned homes (*see* Section 1.f.).

The law provides for the granting of asylum and refugee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government continued to provide first asylum to nearly

20,000 refugees, the vast majority of whom were from Sierra Leone. Approximately 55,000 refugees from Sierra Leone repatriated during the year. The Government generally cooperated with the UNHCR and other humanitarian organizations in assisting refugees; however, AFL and ATU units and LURD rebels were responsible for hundreds of cases of abuse against individual refugees (*see* Sections 1.a., 1.b., and 1.c.). In June LURD rebels attacked the camp at Sinje and abducted five Liberian nurses. In September the nurses were released just across the Guinean border. The violence forced 11,000 to 12,000 Sierra Leoneans, 8,000 IDPs, and several thousand Sinje residents to flee. Approximately 1,500 IDPs fled across the border into Sierra Leone.

Government spokesmen said on several occasions that RUF leader Sam Bockarie left the country in 2001. Spokesmen said the Government complied with U.N. sanctions and had severed ties with the RUF; however, it was believed widely that hundreds of RUF personnel remained in the country and had become part of the security forces in the conflicted northwest of the country.

There were allegations of sexual exploitation of refugee and IDP children. The U.N. office in Monrovia said that the reports of sexual exploitation largely were unsubstantiated; however, UNHCR and the humanitarian NGO community made efforts to lessen the problem. One UNHCR contracted worker was dismissed, and all other UNHCR employees were exonerated.

The whereabouts of seven returning refugees arrested in 2000 by security personnel remained unknown.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides for the right to vote in free and fair elections, and citizens exercised this right in 1997 in elections that international observers deemed administratively free and transparent; however, the elections were conducted in an atmosphere of intimidation, because most voters believed that military forces loyal to Charles Taylor would have resumed the civil war if Taylor lost the election. Since the legislative elections were held on the basis of proportional representation, Taylor's NPP won control of the legislature by the same 75 percent majority that he received in the popular vote for the presidency. The 1997 legislative and presidential elections were held under a special election law in accordance with the terms of the Abuja Peace Process.

On April 26, President Taylor suspended all political activity in line with the February 8 declaration of a state of emergency (*see* Section 2.b.). The suspension hindered party mobilization and awareness in preparation for the October 2003 elections. The ban was lifted on September 14.

The legislature did not exercise genuine independence from the executive branch. There were 16 opposition parties, most of which had little popular support outside of the capital, and opposition legislators, who held only one-quarter of the seats in the House of Representatives and in the Senate, generally were more passive than members of the ruling NPP. Congressional committees failed to develop expertise in their respective areas of responsibility. No major legislation was enacted during the year. In late September, following the death of the incumbent, the Senate elected NPP Senator Grace Minor as President Pro-Tempore of that body. She was the first woman to hold the position, which was fourth in succession to the presidency.

Constitutionally the Senate must approve presidential nominees; however, the confirmation process lagged substantially behind the appointments themselves and often appointees served months in their positions prior to confirmation. Unlike in the previous year, the executive branch did not confirm Ministers that the Senate had rejected.

The State is highly centralized. The President appoints the superintendents (governors) of the 15 counties. Municipalities and chieftaincies were supposed to elect their own officials; however, elections—postponed in 1998 due to lack of funds and disorganization—were scheduled to be held in 2003. Local governments at all levels had no independent revenue base and relied entirely on the central government for funds. Education, health services, and public works were provided by the central government. Local officials served mainly to lobby the central government.

There were no restrictions on the participation of women in politics, and several women held ranking positions in the Government. There were 5 women in the 26-seat Senate and 5 women in the 64-member House of Representatives. There were 3 women ministers in the 20-member Cabinet, including the Minister for Gender and Development. A woman served as Chief Justice of the Supreme Court, and an-

other chaired the National Reconciliation Commission. There were no woman's caucuses; however, the ruling party has a woman's organization.

There were 2 Muslims in the 26-seat Senate, and there were 5 Muslims in the 64-seat House of Representatives. There was one Muslim minister in the Cabinet.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases; however, members of the security forces frequently harassed NGO members and democracy and human rights activists.

Domestic human rights organizations were underfunded and understaffed, and their personnel lacked adequate training. There are three coalitions of human rights groups: The National Human Rights Center of Liberia had nine member organizations; eight other groups comprised the Network of Human Rights Chapters; and four belonged to the Federation of Human Rights Organizations. All of these organizations sought to increase public discussion of human rights problems.

Some human rights groups paid regular visits to detainees at police headquarters and prisoners at the Monrovia Central Prison (*see* Section 1.c.). Several domestic human rights organizations established branches outside of the capital and perform similar monitoring functions there. There was no pattern of government interference with these activities.

Members of the security forces frequently harassed members of NGOs and democracy and human rights activists. For example, in February Counselor Francis Johnson Morris, a former justice of the Supreme Court and the head of the Catholic Church's Peace and Justice Commission (JPC) was arrested and taken to Police Headquarters for objecting to the imposition of the state of emergency. She was released the same day.

In March five human rights activists—Tunny Zeogar, Peter Nicholson, John Okai, Sam Nimely, and Aloysius Toe—were detained for protesting the arrest of New Deal Movement leader Nigba Wiaplah. On June 13, the charges against four were dropped and they were released. Toe was held longer but too was released when charges against him were dropped. However, following the October arrest of his wife (*see* Section 1.f.), Toe turned himself in to police and was rearrested and charged with treason for having announced a week of solidarity for Hassan Bility and other detainees. Toe was detained at Monrovia's Central Prison and awaited trial at year's end.

In July two experts with the International Crisis Group were detained briefly and harassed at the airport as they were preparing to depart.

In October police arrested Blamoh Sieh, Director of the National Human Rights Center, and three staff members from the Center for the Protection of Human Rights. They were released after questioning. Following the arrests, the National Human Rights Center closed and its staff went into hiding for fear of being arrested by government security forces.

There were no further developments, nor are any likely, in the prosecution of eight former civil war combatants who were arrested after the 2000 ransacking of the offices of the Center for Democratic Empowerment (CEDE) and the beating of former interim president and human rights defender Amos Sawyer and the organization's executive director, Conmany Wesseh. Both Sawyer and Wessen now reside overseas.

The Government permitted international NGOs and human rights organizations to operate in the country, and a few international organizations did so during the year. Visiting observers and local employees monitored the situation and reported their findings openly. The Government strongly criticized AI's objections to the imposition of the state of emergency in February. The Carter Center still had not received a formal invitation to return to the country by year's end.

The National Human Rights Commission remained inactive during the year. The Government did not fund it, and the Senate still did not act on the appointments of three of its five commissioners.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination based on ethnic background, race, sex, creed, place of origin, or political opinion; however, discrimination existed. There were no laws against gender discrimination, ethnic discrimination, or FGM. Differences involving ethnic groups, notably the Krahn and Mandingo ethnic groups, continued to contribute to serious political violence and abuses.

*Women.*—Domestic violence against women was widespread; however, it was not addressed seriously as a problem by the Government, the courts, or the media. Sev-

eral NGOs in Monrovia and Buchanan continued programs to treat abused women and girls and increase awareness of their rights.

FGM traditionally was performed on young girls in northern, western, and central ethnic groups, particularly in rural areas. Prior to the onset of the civil war in 1989, approximately 50 percent of women in rural areas between the ages of 8 and 18 were subjected to FGM. A local organization, Human Rights Watch Women and Children, launched a campaign in 2001 to eradicate FGM, but no results were reported. The Association of Female Lawyers in Liberia (AFELL) also spoke out against FGM.

Social structures and traditional institutions, such as the secret societies that often performed FGM as an initiation rite, were undermined by the war. While many experts believed that the incidence of FGM dropped to as low as 10 percent by the end of the war, traditional societies were reestablishing themselves throughout the country, and the practice of FGM continued. The most extreme form of FGM, infibulation, was not practiced. The Government took no action against FGM during the year.

The status of women varied by region, ethnic group, and religion. Before the outbreak of the civil war, women held one-fourth of the professional and technical jobs in Monrovia. On the whole, women have not recovered from the setbacks caused by the civil war, when most schools were closed, and they were prevented from carrying out their traditional roles in the production, allocation, and sale of food.

Women married under civil law can inherit land and property; however, women married under traditional laws were considered the properties of their husbands and were not entitled to inherit from their husbands or retain custody of their children if their husbands die. The Government prohibits polygyny; however, traditional laws permit men to have more than one wife. Women's organizations, especially AFELL, continued to press for legislation on behalf of inheritance rights in traditional marriages. There continued to be few programs to help former combatants reintegrate into society, and there were none specifically to benefit former female combatants; however, several women's organizations advanced family welfare issues, helped promote political reconciliation, and assisted in rehabilitating both former female combatants and women who were victims of the civil war. The Liberian chapter of the Mano River Women's Peace Network visited neighboring countries during the year to promote regional peace and stability.

During the year, professional women's groups—including lawyers, market women, and businesswomen—remained vocal about their concerns regarding government corruption, the economy, security abuses, rape, domestic violence, and children's rights. Government officials often responded negatively to public criticism. Outspoken critics such as JPC chief Morris were harassed (see Section 4). In 2001 the Government created the Ministry for Gender and Development, whose mandate included the promotion of the wellbeing of women and girls.

*Children.*—The Government generally was unable to provide for the education and health of children; however, it intensified the nationwide anti-polio vaccination campaign during the year. Due to the poor condition of government schools, many children, who attended school particularly in Monrovia, went to private institutions. Since many private schools still needed to be refurbished due to wartime damage, school fees remained relatively high, thereby making education unattainable for many school-age children. In both public and private schools, families of children often were asked to provide their own books, pencils, paper, and even desks. In 2001 1.05 million out of an estimated 1.7 million school-age children, less than half of whom were girls, were enrolled in primary and secondary schools. Expenditures on education were estimated at \$2.4 million (167 million ld). In 1995 the literacy rate was 53.9 percent for boys and 22.4 percent for girls.

Young persons were victimized during the civil war of the mid-1990s. An estimated 50,000 children were killed; many more were injured, orphaned, or abandoned. Approximately 100 underfunded orphanages operated in and around Monrovia; however, many orphans lived outside these institutions. The National Military Families Association of Liberia (NAMFA) tried to provide for orphaned military children; it registered hundreds of street children. These institutions did not receive any government funding, but relied on private donations. Nearly all youths witnessed terrible atrocities, and some committed atrocities themselves. Approximately 21 percent (4,306) of the combatants who were disarmed under the provisions of the Abuja Peace Accords were child soldiers under the age of 17. Many youths remained traumatized, and some still were addicted to drugs. The number of street children in Monrovia and the number of abandoned infants increased significantly following disarmament. Although pressured by the Government to cease their programs, international NGOs and UNICEF continued retraining and rehabilitation programs

for a limited number of former child fighters. These children were vulnerable to being recruited in subregional conflicts, since most had no other means of support.

The various armed militias continued to recruit forcibly underage soldiers. During the LURD offensive in May, government troops forcefully conscripted several dozen young men from the streets of Monrovia, took them to military camps where they were armed, and sent them to the battle zone. Secondary school boys were targeted for such operations in the Red Light and Duala neighborhoods of the capital. Families in rural areas claimed that their missing sons also returned after several months and reported that they had been seized and forced to fight LURD rebels. There were credible reports that the LURD engaged in similar forced recruitment tactics.

FGM was performed primarily on young girls (*see* Section 5, Women).

*Persons with Disabilities.*—As a result of the civil war, a large number of persons had permanent disabilities, in addition to those disabled by accident or illness. It is illegal to discriminate against persons with disabilities; however, in practice they did not enjoy equal access to public buildings or government services. No laws mandate accessibility to public buildings or services. Persons with disabilities faced discrimination, particularly in rural areas. Babies with deformities often were abandoned. Some NGOs provided services to persons with disabilities.

*National/Racial/Ethnic Minorities.*—Although the Constitution bans ethnic discrimination, it also provides that only “persons who are Negroes or of Negro descent” may be citizens or own land. Many persons of Lebanese and Asian descent who were born or have lived most of their lives in the country were denied full rights as a result of this racial distinction.

The country was ethnically diverse. The population was made up of 16 indigenous ethnic groups. The indigenous ethnic groups generally spoke distinct primary languages and were concentrated regionally. No ethnic group constituted a majority of the population.

Many members of the predominantly Muslim Mandingo minority encountered hostility when they sought to return, after the end of the civil war, to their villages in Lofa, Bong, and Nimba counties. Many Mandingos were unable to reoccupy their homes, which had been taken over by squatters. Members of the Lorma, Gio, and Mano minorities generally held all Mandingos responsible for atrocities committed by the ULIMO-K faction during the civil war. The lack of competent security forces and a fully functioning judiciary in these areas prevented many Mandingos from seeking redress. Mandingo citizens faced growing discrimination, arbitrary arrests, and violence based on their ethnicity (*see* Section 1.a.); many ethnic Mandingos sought refuge in Guinea after the Government increased arrests following the detention of journalist Hassan Bility (*see* Section 1.d.).

The LURD was a coalition of ethnic Mandingos and Krahn, although many ethnic Lorma were members of the rebel group as well. The continuing violence in Lofa County exacerbated ethnic tensions between the Mandingos and the Lormas (*see* Section 1.a.).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides workers, except members of the military and police, the right to associate in trade unions, and workers were allowed to join unions in practice. The Constitution also provides that unions are prohibited from engaging in partisan political activity. However, government interference in union activities, especially union elections and leaderships struggles, was common both before and during the civil war.

Although most economic activity was interrupted by the war, unions proliferated. There were approximately 30 functioning unions organized loosely under two umbrella groups, the Liberian Federation of Labor Unions (LFLU) and the Congress of Liberian Trade Unions (CLTU), with the common objective of protecting the rights of their 60,000 members, who largely were unemployed. The actual power that the unions exercised was extremely limited. Since the country’s work force largely was illiterate, economic activities beyond the subsistence level were very limited, and the labor laws tended to favor management.

During the year, the Government strictly enforced the union registration requirements that fell into disuse during the war. Applicants needed to register at two different ministries, and processing time was arbitrary, taking only a few days for some and never being issued for others.

Labor unions traditionally have been affiliated with international labor groups such as the International Confederation of Free Trade Unions.

*b. The Right to Organize and Bargain Collectively.*—With the exception of civil servants, workers (including employees of public corporations and autonomous agen-



cies) have the right to organize and bargain collectively. In the past, agreements were negotiated freely between workers and their employers without government interference; however, these rights largely were unused during the year because of the lack of economic activity.

Labor laws provide for the right to strike. The laws were nullified by a People's Redemption Council decree in 1984 that outlawed strikes, but that decree has not been enforced for years. Due to the destruction of the economy and the estimated 85 percent unemployment rate, strikes were infrequent; however, in September teachers in the greater Monrovia school system struck and refused to begin the fall term without some salary payment, which was 9 months in arrears. In October the Minister of Education announced that 1 month's salary and a bag of rice would be paid to teachers so that classes could begin. The teachers accepted the offer and returned to work after receiving the promise that all back wages would be paid in January 2003.

On June 10, workers at the Oriental Timber Company (OTC) held the company's legal and labor consultants hostage at a logging camp in River Cess County. The workers complained that they had been fired after they had refused to eat stale lunch food served by the company. The OTC resolved the crisis when it reinstated the workers.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, including by children; however, this prohibition was ignored widely in many parts of the country. In some rural areas, farmers were pressured into providing free labor on “community projects” that often benefited only local leaders. There were allegations that large logging companies in the southeast forcibly recruited workers. There also were reports that local officials forced convicts to work for them. There were reports during the year that local government officials forced persons to work without compensation on President Taylor's farm. During the year, AFL soldiers forced the manager of an agricultural project to do menial labor for 3 weeks (*see* Section 1.c.).

There were reports that commanders of security forces forced persons to dig for diamonds and gold in the west and southeast part of the country.

Some former combatants, including some in the security forces, were accused of forcing children to work in the mining industry. Human rights groups reported instances of forced child labor in some rural areas, particularly in artisanal diamond mining. A child rights advocacy group's report on child labor in the southeastern counties and that of another prominent human rights group contradicted a government report, which concluded that there was no conclusive evidence of forced child labor. Subsequently legislators from three counties sued the child rights advocacy group for defaming the counties' reputations. At year's end, the case still was pending.

There also were reports that LURD rebels forced civilians into service as porters for LURD ammunition and supplies in Lofa and Gbarpolu Counties.

LURD rebels also forcibly conscripted children to fight as child soldiers (*see* Section 5).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits the employment of children under the age of 16 during school hours in the wage sector, but enforcement was lax. The Ministry of Labor frequently lacked the resources to carry out its mandate. In May it dispatched a team to investigate reported abuses at the OTC in Buchanan; however, the team did not report its findings during the year. Throughout rural areas, particularly where there were no schools, small children continued to assist their parents as vendors in local markets or on the streets, to take care of younger brothers and sisters, and to work on family subsistence farms.

On June 4, President Taylor ratified ILO Convention 182 on the Worst Forms of Child Labor.

There were reports that forced and bonded labor by children occurred (*see* Section 6.c.).

*e. Acceptable Conditions of Work.*—The law provides for a minimum wage, paid leave, severance benefits, and safety standards, but enforcement was targeted solely against profitable firms that generally observed these standards. Due to the country's continued economic problems, most citizens were forced to accept any work they could find regardless of wages or working conditions. The Ministry of Labor claimed it lacked the resources to monitor compliance with labor laws.

The law requires a minimum wage of approximately \$0.25 (10 ld) per hour not exceeding 8 hours per day, excluding benefits, for unskilled laborers. The law requires that agricultural workers be paid \$1.00 (60 ld) for an 8-hour day, excluding

benefits. Skilled labor has no minimum fixed wage, but industrial workers usually received three or four times the wage paid to agricultural workers. The highly competitive minimum wage jobs provided a minimal standard of living for a worker and family; however, there were very few such jobs. Families dependent on minimum wage incomes also engaged in subsistence farming, small-scale marketing, petty extortion, and begging. By October the Government owed civil servants 10 months of salary arrears. Except for payment of 1 month's salary, no other provisions were undertaken to pay the arrears during the year.

The law provides for a 48-hour, 6-day regular workweek with a 30-minute rest period per 5 hours of work. The 6-day workweek may extend to 56 hours for service occupations and to 72 hours for miners, with overtime pay beyond 48 hours.

There were government-established health and safety standards, enforced theoretically by the Ministry of Labor. Even under the law, workers did not have a specific right to remove themselves from dangerous situations without risking loss of employment.

The law protects legal, but not illegal, foreign workers.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons, and there were reports that persons were trafficked within the country. There were reports of forced labor, including by children, and the recruitment of child soldiers (see Sections 5 and 6.c.).

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## MADAGASCAR

Madagascar is a multiparty democracy in which the President and a bicameral legislature shared power. The country's Constitution was amended in 1996 and 1998. These amendments significantly strengthened the executive, weakened the National Assembly, and gave the President the right to name one-third of the senators. Although 160 political parties were active throughout the country, the ruling President and his party dominated political life, as did former president Didier Ratsiraka and his AREMA party in the previous quarter century. The new President, Marc Ravalomanana, relied on a coalition of political parties, Coalition of Marc Ravalomanana Supporters (KMMR), and his own organization Tiako-i-Madagasikara (TIM), "I love Madagascar" (which became a political party in July), to spearhead his challenge to former President Ratsiraka. Presidential elections were held in December 2001, and the results were disputed. Between January and June, both Ravalomanana in Antananarivo and Ratsiraka in the port city of Toamasina claimed to be the legitimate head of state. There was widespread, politically motivated conflict that led to approximately 100 deaths. In May Ravalomanana was declared President, and by June the Ravalomanana government gained control of the country. The December 15 legislative elections, which international observers judged as generally free and fair, resulted in a substantial majority (124 of 156 deputies) for the TIM (102) and the pro-Ravalomanana National Alliance (22) in the new National Assembly. At year's end, four district elections were expected to be run again following the voiding of results by the High Constitutional Court. The judiciary was subject to executive influence and at times susceptible to corruption.

The Minister for Public Security (formerly a State Secretary at the Ministry of the Interior) headed the national police and was responsible for law and order in urban areas. The Gendarmerie Nationale, part of the Ministry of National Defense, insured security in all other areas of the island. Regular army units and reservists at times assumed law enforcement roles in matters that make large-scale logistical demands, such as cattle theft. Gendarmerie, regular army, and reservist units committed serious human rights abuses.

The country was very poor with a population of 16 million. Although the Government made the consolidation of a market-based economy a priority, the economy remained mixed. Agriculture was the largest sector of the economy, and shrimp and vanilla were the leading exports. More than 70 percent of the population fall below the Government's own poverty level of approximately 45 cents a day in income. In the first half of the year, trade declined by 50 percent and textile exports dropped 90 percent. Inflation was approximately 6 percent in 2001, peaked at a 60 percent annual rate during the political crisis, and fell to 12 percent by the end of the year.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Between January and June, the human rights situation worsened as both Ravalomanana and Ratsiraka fought for control of the Government, and both sides committed serious human rights abuses. After Ravalomanana achieved control of the country, the human rights situation improved; however, problems remained in some areas. Conflict between supporters of

both sides was widespread and led to approximately 100 deaths. There were reports of brutality and abuse by security forces, particularly by armed irregulars (reservists) that the Government had recruited at the height of the conflict. Groups affiliated with both sides of the crisis abducted persons. Police or other security forces physically abused prisoners or detainees. Prison conditions were harsh and life threatening. In some prisons, women experienced physical abuse, including rape. The Government allowed the International Committee of the Red Cross (ICRC) to establish a permanent office in the country and to conduct inspections of detention facilities throughout the island. Arbitrary arrests and detentions of some supporters of the previous government occurred and some high-profile arrests were made months after the resolution of the political crisis. Suspects often were held for periods that exceeded the maximum sentence for the alleged offenses and lengthy pre-trial detention remained a serious problem. Dina (local traditional) authorities imposed summary justice in rural areas where the Government's presence was weak. The Government limited freedom of speech and of the press. Journalists practiced self-censorship. The Government at times partially limited freedom of assembly. During the political crisis, both sides restricted freedom of movement. Women continued to face some societal discrimination. Child labor remained a problem. Workers' rights were limited in the export processing zones (EPZs). There were reports of trafficking in women and girls. Madagascar was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as an observer.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—During the political crisis of the first half of the year, supporters of both Ravalomanana and Ratsiraka committed an estimated 100 politically motivated killings. For example, on February 2, an armed group led by Lt. Col. Assolant Coutiti killed the Director of the BTM-BAO bank, who was a Ravalomanana supporter, in Nosy Be. Coutiti, the security coordinator for the Governor of Antsiranana Province, Jean Robert Gara, and Antsiranana Deputy Soaline were believed to have been responsible for numerous other politically motivated killings in Antsiranana Province. In September government authorities arrested Coutiti; his trial was pending at year's end.

On March 19, a group of 10 men who allegedly were members of the Gendarmerie associated with Ratsiraka killed the Regional Director of the Office of Copyrights, who was a well-known KMMR member in his home in Fianaranstoa Province. There was no investigation or action taken by year's end.

On April 9, security officers assigned to Prime Minister Jacques Sylla arrested Roland Ravalomasoa, a Ratsiraka supporter, in Antananarivo. He died the same day of injuries sustained during interrogations. There was no investigation or action taken by year's end.

During the year, security forces used lethal force to disperse demonstrations (*see* Section 2.b.).

On February 27, a number of Ravalomanana supporters attacked a group of Ratsiraka supporters outside the Palais de la Justice in Antananarivo. In the ensuing fight, one of the Ratsiraka supporters was killed. There was no investigation or action taken by year's end.

In April a Canadian missionary watching a demonstration in Fianarantsoa from his window was killed by gunfire. Circumstantial evidence suggested that pro-Ratsiraka militias targeted the man specifically. There reportedly was an investigation; however, there was no findings released by year's end.

After the crisis ended, there were no reports of unlawful killings; however, at least one prisoner detained on charges related to the political crisis died while in custody due to his poor health and the harsh prison conditions. The Government had not investigated or explained this incident by year's end (*see* Section 1.c.).

During the year, there were several high-profile killings of "Karana" (persons of Indo-Pakistani origin living in the country); however, these killings appeared to have criminal rather than political motives (*see* Section 5). In September the authorities arrested three individuals in connection with one of these killings; however, there was no further action taken by year's end.

*b. Disappearance.*—There were widespread, credible reports of abductions of persons for political reasons by groups affiliated with both sides during the political crisis; in some cases persons allegedly were tortured. These abductions generally were temporary in nature, the victims were released, and the perpetrators were identified. Supporters of the Ratsiraka government abducted numerous persons for political reasons, particularly in Antsiranana and Toamasina provinces, including sev-

eral officials of the Church of Jesus Christ in Madagascar (FJKM), the Presbyterian Church of which President Ravalomanana is a Vice President and other known supporters of Ravalomanana (see Section 2.c.). Those abducted often were transferred to detention centers in other regions, sometimes using aircraft that belonged to a company owned by President Ratsiraka's son. Evidence provided by the nongovernmental organization (NGO) SOS to Victims of Illegality (SOSVND) indicated that the Pardes military camp in the middle of Antsiranana was the destination for the abductees.

On April 17, in the northern part of the island, Ratsiraka militias acting at the command of the local AREMA party Deputy Madame Soaline abducted an FJKM pastor named Ndriamisaina at his home. At the time of his arrest he was allegedly beaten with rifle butts. After spending 3 days in the Ambolimadinika military camp in the Sambava region of the country, he was transferred by aircraft to the Pardes detention camp in Antsiranana (see Section 2.c.).

In Fianarantsoa, Ravalomanana supporters abducted the state's prosecutor to the Court of Appeals after vandalizing his home and automobile. The Government made no effort to investigate or punish those responsible for the abductions of Ratsiraka supporters by year's end.

There were several kidnappings of members of the Karana community. Despite reports of ethnic friction between Karana and Malagasy citizens, these crimes were not considered to be ethnically motivated but to be caused, in part, by intra-Karana rivalry (see Section 1.a.). In September authorities arrested and charged 17 persons in connection with these crimes.

There were no arrests or other action taken in the following 2001 cases: The kidnapping of a girl in Antananarivo; the February kidnapping of a manager of a large automotive company in Antananarivo; and the August attempted kidnapping and killing of the victim in the Ivandry section of Antananarivo.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution provides for the inviolability of the person; however, there were numerous, credible reports that both sides in the political crisis engaged in torture. The most common form of torture was the severe beating of detainees, usually with rifle butts. Prisoners also were burned with lighted cigarettes. The Ravalomanana government used reservists who operated outside the normal armed forces chain of command and did not respect due process safeguards. Certain NGOs, such as the Association of Families of Persons Detained in the Context of the Political Crisis (OFPACPA), alleged that reservists engaged in numerous acts of violence, theft, and vandalism. For example, in June during their occupation of the city of Mahajanga on the country's west coast, pro-Ravalomanana reservists arrested Doctor Noel Randrianaivojaona, a prominent Ratsiraka supporter. He was publicly forced to walk on his knees over pavement for long distances. He then was incarcerated for several months before being tried on charges of "threatening the internal security of the state." He was acquitted in November.

In March in Diego Suarez, 16 resident members of KMMR were arbitrarily arrested, beaten, and tortured by pro-Ratsiraka militias and security forces. On April 20, pro-Ratsiraka forces arrested at least 10 persons and reportedly tortured some in Sambava. The detainees later were transferred to a military camp in the city of Antsiranana.

The political crisis exacerbated already harsh and life-threatening prison conditions. Prisoners' diets were considered inadequate, and families had to supplement daily rations. Prisoners without relatives went for days without food. Prison cells averaged less than one square yard of space per inmate. Adequate medical care also was a serious concern. These conditions caused a high incidence of malnutrition, malaria, tuberculosis, pneumonia, and a host of infections that resulted in an unknown number of deaths during the year. According to a Catholic Relief Services' (CRS) report, many prison health problems could be alleviated with adequate food. The Government maintained that harsh prison conditions reflected the country's low level of economic development, inadequate infrastructure, and a lack of resources. The Government was candid about the condition of prisons and generally open to requests for independent monitoring.

In the case of former Gendarmerie General Bory, the Ravalomanana government temporarily denied family visitation and necessary medical care.

Prisoners can be used as forced labor, and there were reports that this occurred during the year. The Government was aware of the problem and said it would address it.

Pretrial detainees were not always kept separate from the general prison population. Women in prisons were abused, as were children who sometimes were confined with them. Women were not always held separately from men, and there were reports of rapes committed by other prisoners. Due to severe overcrowding, juveniles

were not always held separately from the adult prison population. The 2002 CRS report indicated that prison facilities for minors adequately accommodated those detained.

In August Amnesty International (AI) visited the country for a “fact-finding and familiarization tour.” AI attributed human rights abuses to both sides during and after the political crisis. AI alleged that in the post-political crisis environment in the country that nearly all of the proceedings for crimes stemming from the political crisis implicated officials or supporters of the former regime and that among those arrested and facing charges were persons arrested “arbitrarily, solely for having expressed, in a nonviolent manner, opinions critical of the current government.” Amnesty also spoke of quasi-systematic arrests of persons associated with the previous regime. Amnesty concluded the Ravalomanana government record on human rights was deficient. Among AI’s recommendations were that all crimes committed during the political crisis be impartially and independently investigated and that those who committed them brought to justice. There also were numerous recommendations touching on procedural issues such as the rights of the accused to be informed of the charges, to the assistance of counsel, and to the setting of reasonable bail. AI also called for reforms and upgrades of the penitentiary system.

Also in August, the Ravalomanana government signed an agreement with the International Committee of the Red Cross (ICRC) that provided the ICRC with permanent offices and access to detention centers throughout the country. It also permitted the ICRC to interview detainees without a third party. The ICRC presented its findings directly to the Government. The ICRC representatives indicated that the Government was meeting its obligations under the agreement (*see* Section 4). In October the CRS presented to Justice Minister Alice Rajonah its Analysis of the Penitentiary System in Madagascar. CRS representatives noted that the Government expressed a desire to improve the conditions in its 97 prisons countrywide.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution provides for due process for persons accused of crimes and prohibits arbitrary arrest and detention; however, the Government frequently ignored these provisions in practice. The law mandates that a criminal suspect must be charged or released within 48 hours of arrest. Ravalomanana government authorities admitted to detaining persons in connection with the political crisis for whatever length of time necessary for state prosecutors to develop a strong case. The Ravalomanana government used reservists who operated outside the normal armed forces chain of command to make many of the arrests. These forces did not respect due process safeguards and were alleged by certain NGOs to have committed numerous abuses (*see* Section 1.c.).

Arrest warrants may be obtained but are not mandated strictly by law. Often a person was detained and jailed on no more than an accusation by another person. The law provides defendants in criminal cases the right to be informed of the charges against them and the right to a counsel when the charges formally are brought. The State provided counsel only in cases in which indigent defendants faced charges with sentences, if convicted, of greater than 5 years. Detainees, particularly those held in connection with the political crisis, were not always allowed family visitation or access to counsel (*see* Section 1.c.). A system of bail existed; however, in practice it was not extended to defendants accused of crimes related to the political crisis. Rather than grant bail, magistrates sometimes resorted to an instrument known as a retaining writ (*mandat de depot*) by which defendants were held in detention for the entire pretrial period or for periods longer than the maximum sentence on the charges faced.

Poor record keeping, lack of resources, and the difficulty of access to more remote parts of the island made it difficult to monitor pretrial detainees. According to CRS, 67 percent of the approximately 18,370 persons held in custody nationwide were in pretrial detention; however, only a small percentage of these were incarcerated on political crisis-related charges. Despite legal protections, investigative detentions often exceed 1 year. Many detainees spend a longer period in investigative detention than they would have spent incarcerated following a maximum sentence on the charges faced. An August amnesty declared by the Ravalomanana government was a traditional, proforma gesture affecting 400 prisoners that did little to alleviate the problem of overcrowding and harsh conditions in prisons.

On June 24, pro-Ratsiraka militia in Antsiranana detained a group of 73 persons, many of highland origin, and chained them to the gate surrounding the governor’s mansion apparently as a warning sign to approaching Ravalomanana forces that these hostages would be used as human shields in the event of an attack. No attack came, and the hostages were unshackled within a few hours, but some remained in detention until June 29.

The Ravalomanana government used house arrest only in the case of former Prime Minister Tantely Andrianarivo. The former Prime Minister spent more than

5 months under house arrest and in October was relocated to Antanimora prison. He was charged with embezzling public funds, harboring known criminals, compromising national security, and abusing the public trust. The proceedings were mired in disputes over jurisdictional issues. The former Prime Minister's lawyers claimed that his appointment was never officially abrogated, and that he remained Prime Minister and must be tried in a special venue (la Haute Cour de Justice—the High Court of Justice) reserved for ministers, rather than in the court of general jurisdiction. By year's end no trial date had been set.

The Government did not use forced exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for an autonomous judiciary; however, at all levels, the judiciary was susceptible to the influence of the executive and at times susceptible to corruption.

The judiciary had four levels. Courts of First Instance hear civil cases and criminal cases carrying limited fines and sentences. The Court of Appeals included a criminal court of first instance for more serious cases—those carrying sentences greater than 5 years. The Supreme Court of Appeals heard cases on appeal from the Court of Appeals. The High Constitutional Court (HCC) reviewed the constitutionality of laws, decrees, and ordinances and certified election results. The judiciary also included specialized courts designed to handle specific matters such as cattle theft.

The judiciary was under the control of the Ministry of Justice and, as with many other branches of government, reports of corruption persisted. In its public statements, the Ravalomanana government made the fight against corruption a top priority; however, there were no specific actions taken by year's end. The Constitution provides defendants with the right to a full defense at every stage of the proceedings, and trials were public. Defendants had a right to be present at their trial, to confront witnesses, and to present evidence. The law provides for a presumption of innocence; however, as CRS noted, "there was a large gap between the laws that served to protect the rights of the accused and the implementation of these laws in fact. The human rights of a person accused of a crime were often transgressed."

State prosecutors sought relatively lenient sentences for those convicted of crimes committed during the political crisis; however, some sentences provoked criticism from members of the public who were seeking greater retribution.

The Mayor of Toamasina, Roland Ratsiraka, nephew of former President Ratsiraka, was arrested on seven charges that included: inciting ethnic violence; violation of the Constitution by not accepting Ravalomanana as President of the Republic; firing of three municipal police officers; aiding and abetting militias; ordering the blockade of Toamasina Airport thereby preventing Prime Minister Sylla's visit; neglecting municipal finances; and absconding with \$5 million (approximately 34 billion FMG). The local press widely criticized this action as arbitrary, particularly given Ratsiraka's known opposition to his uncle, his failure to sign the act of secession of Toamasina Province, and his advocacy during the political crisis of dismantling blockades erected throughout the country (see Section 2.d.). In Toamasina Province, his arrest provoked widespread anger, the circulation of petitions, and calls for a general strike. He was released 4 days after his arrest pending a hearing on the charges; however, there were no further developments by year's end.

The right of traditional village institutions to protect property and public order was codified in the Constitution as well as in earlier laws. Local traditional laws called Dina sometimes were used to resolve civil disputes between villages, and on occasion were used in urban areas. Because of the rise in crime, the uneven effectiveness of the judiciary, and the corruption of law enforcement, Dina jurisdiction sometimes was extended to criminal cases. Dina-based punishment could be severe and in the past had included death sentences; however, there were no reports of executions during the year. The less formal Dina process did not ensure internationally recognized standards of due process. Decisions based on Dina were not subject to codified safeguards for the accused; however, in some instances they could be challenged at the Appeals Court level. Cases also could be referred to the Office of the Mediator, which investigated and sought redress through formal judicial authorities.

Military courts were for the trial of military personnel only, were integrated into the civil judicial system, and differed only in the inclusion of military officers on jury panels. Defendants in military cases, as in civil cases, had access to an appeals process that reexamined points of law rather than questions of fact. A civilian magistrate, usually joined on the bench by a panel of military officers, presided over military trials.

The status of prisoners detained for their role in the political crisis was a major concern in the post-crisis period. The Ravalomanana government pursued those associated with the former government and in particular those who were known to

be behind the blockades placed on the roads linking the rest of the country with Antananarivo (see Section 2.d.). Those incarcerated, particularly those who served in the Gendarmerie or the Armed Forces at the time, continued to request, through their families, classification as political prisoners. Most were charged with treason; however, the detainees claimed they could not have committed treason because executive and governmental legitimacy were in question during the period, and they maintained their imprisonment was politically motivated. The NGO OFPACPA claimed the reprisals disproportionately targeted citizens of non-Merina ethnicity and thus added an ethnic factor to the political (see Section 5). Initially the Ravalomanana government did not allow access either by counsel or by families to these prisoners; however, prisoners were allowed visitors and counsel by year's end.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the inviolability of the individual, his abode, and for the confidentiality of his correspondence; however, these provisions were not always respected. For example, on April 8, Ravalomanana supporters sympathizers looted and burned the homes of Jean Emile Tsaranazy and Gerard Andriamileravoson, respectively, Minister of the Ratsiraka government and Director General (Chief of Staff) in the office of the Presidency.

Militia members also arrested Dr. Roger Randriamihaja, another Ravalomanana supporter, as he emerged from the forest where he sought refuge after abandoning his home for fear of bands of pro-Ratsiraka militias. In these, as in approximately 50 similar cases catalogued by NGOs and foreign missionaries, forces on both sides disregarded constitutional provisions protecting the inviolability of the home and the person.

There were widespread reports that the Ravalomanana government initiated a write-in informer system in Toamasina Province.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, however, both the Ratsiraka and Ravalomanana governments limited those rights. During the early stages of the political crisis, the Ratsiraka government pressured private and state-owned media to curb or alter coverage of certain political developments. Journalists practiced self-censorship. At times the Government pressured the media to curb its coverage of certain events and topics, and there were reports that government personnel intimidated journalists.

There were four privately owned national daily newspapers and many other privately owned national and local news publications that published less frequently; however, in a country with a literacy rate of approximately 54 percent, the influence of print media was minimal.

After the post-crisis period, freedom of expression and critical political expression were permitted. In October the leadership of former president Ratsiraka's AREMA party took out a full-page advertisement in one of the country's main daily newspapers that was critical of President Ravalomanana's decision to dissolve the National Assembly. In August critical opinions of President Ravalomanana's decision to acquire an aircraft for presidential use was disseminated widely in the media, which prompted the Government to provide an official explanation on the decision through the Vice Prime Minister.

During the political crisis, there were widespread, credible reports of intimidation of journalists and employees of media outlets, especially by pro-Ratsiraka militias. For example, in May pro-Ratsiraka militia in Sambava arrested and transferred to the Pardes camp in Antsiranana, Tantelimalala Randriamanantsoa and Vola Julson Rafaralahy, both employees of a radio station called Tiako-I-Andapa (see Section 1.b.). According to SOSVN, each suffered physical abuse. They were charged with "broadcasting false news reports." After detaining the pair for 1 month, the Ratsiraka authorities dropped the charges.

The Government owned the only nationwide television and radio networks. There were more than 175 privately owned radio and television stations at the end of 2001; however, federal regulations restricted them from providing nationwide coverage.

In February the former Minister of Information cut off all transmissions from the state-owned Television Malagasy (TVM) and the state-owned national radio (RNM) after some of their commentators broadcast news of President Ravalomanana's first inauguration. The state-owned media stayed off the air for several weeks and then reopened. Some provincial affiliates preferred not to broadcast for fear of local reprisals.

During the crisis period, a number of private radio stations were ransacked, burned, or forced off the air. The Ravalomanana-owned Madagascar Broadcasting System (MBS) and its regional affiliates were the targets of attacks in Antsiranana

Province and elsewhere. In Antananarivo fires set by a mob forced the pro-Ratsiraka Tsiokavo radio station off the air. It was not clear if the mob was composed of Ravalomanana supporters or Ratsiraka supporters.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government at times limited the right in practice. The Government routinely issued permits for public meetings and demonstrations.

On January 25, a HCC decision calling for a second round of voting led Ravalomanana supporters to call a general strike. Beginning January 28, large crowds (up to several hundred thousand) of peaceful demonstrators gathered daily in Antananarivo for several months. The municipal government that was headed by Marc Ravalomanana permitted these demonstrations.

Despite being largely peaceful, some persons were killed when police used forces to disperse demonstrations. For example, on January 7, police in Antananarivo killed a young child with a tear gas canister they fired to disperse a peaceful pro-Ravalomanana demonstration.

In late February, President Ratsiraka declared a state of national emergency and martial law, which forbade most public gatherings and permitted government monitoring of suspicious individuals and groups; however, the monitoring was not effective in practice.

On March 15, 2 persons were killed and more than 40 injured when a group of Ravalomanana supporters, who accompanied Prime Minister-designate Jacques Sylla's attempt to take over the prime minister's offices in Antananarivo, clashed with elements of the military loyal to President Ratsiraka. There was no investigation or action taken by year's end.

The Constitution provides for the right of association and permits citizens to organize political parties and associations; however, the Constitution also explicitly forbids associations that "call into question the unity of the Nation, and those that advocate totalitarianism or ethnic, tribal, or religious segregation." There were 160 political parties throughout the island.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and both governments of the crisis period and the Ravalomanana government generally respected this right in practice.

Religious groups must register and obtain authorization from the Ministry of Interior; however, there were no reports that any group was denied registration during the year.

President Ravalomanana is a Vice President of the FJKM. The church, along with its Catholic, Anglican, and Lutheran counterparts (collectively known as FFKM) actively supported his candidacy for President and his policies during the political crisis. Members and facilities of the FJKM were frequent targets of pro-Ratsiraka forces (see Section 1.b.).

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, during the political crisis both governments restricted these rights. The fear of crime effectively restricted travel in some areas, especially at night.

During the period of political crisis, militias and provincial governors loyal to President Ratsiraka restricted freedom of movement. In response to rising insecurity during the political crisis, roadblocks were erected and curfews were imposed in the capital. In Antananarivo security forces and citizen supporters of Ravalomanana established nighttime roadblocks to control movement. Curfews and restrictions of movement tied to the state of martial law declared by Ratsiraka never were enforced.

In February student activists, militia, and security forces loyal to President Ratsiraka erected a barricade at Brickaville, a key junction leading to Toamasina, the country's principal port, and effectively blocked the flow of goods and people to and from Antananarivo until early August. Other national arteries similarly were blocked with varying degrees of success. There were reports of restrictions on the inter-provincial travel of vehicles and individuals from certain provinces and ethnic groups.

The country was a signatory to the 1951 U.N. Convention Relating to the Status of Refugees, although the Government has not signed the 1967 Protocol to the Convention. The law does not provide for the granting of asylum or refugee status; however, the Government cooperated closely with the U.N. High Commissioner for Refugees (UNHCR) in processing the small number of refugees or asylum seekers in the



country. The issue of provision of first asylum never has arisen. There were no reports of the forced return of persons to a country where they fear persecution.

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

The Constitution provides citizens the right to change their government peacefully; however, some degree of turmoil accompanied the three changes of government that occurred over the last 12 years.

The country nominally was a multiparty democracy in which power was divided between the executive, a bicameral assembly, an independent judiciary, and six autonomous provinces. Political and business leaders disproportionately influenced the administration of the country. Political parties coalesced around the single most powerful person, usually the President. "Pensee Unique," a national belief in which dissent was viewed as an attack on societal harmony, made a loyal opposition difficult in practice. Representatives of the President's political party usually controlled the National Assembly; however, that was not the case from May to October, and on October 16, the President decided to dissolve the National Assembly. The December 15 legislative elections resulted in a substantial majority (124 of 156) deputies declared elected for the President's TIM party and the pro-Ravalomanana National Alliance. International observer teams from the European Union and La Francophonie found the election process to be transparent and the results credible, despite some organizational and local problems. Elections are scheduled to be held in early 2003 in the four districts in which the HCC voided the December 15 results.

The Constitution stipulates that in a presidential election only a candidate who carries more than 50 percent of the popular vote in the first round may be declared the winner. If no candidate receive a majority, a second round is held between the two leading vote gainers. The candidate receiving the majority of second round votes is declared the winner.

Presidential elections were held in December 2001 amid widespread allegations that voter list tampering prevented a significant number of eligible voters from exercising their right to vote. Prior to the elections former President Ratsiraka reorganized the HCC and packed it with known supporters in a bid to control the outcome of the election.

According to the unofficial tally of the Ministry of the Interior, President Ratsiraka received 40.69 percent of the vote, while his main challenger, Mayor of Antananarivo Marc Ravalomanana received 46.49 percent. Rather than await a second round, the Ravalomanana camp demanded a recount and, with the support of civil society groups, performed a recount the results of which gave Ravalomanana slightly more than the 50 percent required. Amid increasing tensions, particularly in the capital, the HCC made an official recount, and in January the HCC confirmed the unofficial first round results with very slight variation.

Alleging fraud, Ravalomanana immediately disavowed the HCC's official count and called for a general strike. During the following month, the situation deteriorated amid growing demonstrations in the capital and ineffective mediation efforts between the principals. On February 22, Ravalomanana declared himself President and appointed Jacques Sylla as his Prime Minister. Within a week, Sylla announced the composition of his cabinet. In response President Ratsiraka declared martial law in Antananarivo and appointed a military governor for the province. On March 4, the five governors of the country's other provinces announced that the national capital had been transferred to Toamasina. On March 14, the symbolic occupation of the Prime Minister's offices by Jacques Sylla led to an armed clash that left two dead and many injured. Later in March, pro-Ratsiraka forces began a systematic campaign targeting the infrastructure of Antananarivo by destroying a bridge at Fatihita. Roadblocks were erected along all the arteries supplying the city, severely reducing the flow of goods and persons both in and out of the capital with severe economic and serious humanitarian consequences for the entire country (*see* Section 2.d.).

On April 16, the Administrative Chamber of the Supreme Court declared the reorganized HCC was established illegally by President Ratsiraka and ordered its pre-November 2001 members reinstated. This reconstituted HCC was charged with review of the returns from the December 2001 elections.

On April 18, Ravalomanana and Ratsiraka met in Dakar, Senegal, under the auspices of the African Union (AU) and signed the first of two agreements (Dakar I) designed to end the deepening political crisis. The agreement reflected the Administrative Chamber's ruling and called for a recount of first-round ballots. It also outlined, in some detail, a framework to be implemented should, in that recount, neither of the two candidates received the required 50 percent of the popular vote. On April 29, 11 days after Dakar I was signed, the HCC announced the results of it

recount, awarding Marc Ravalomanana 51.46 percent of ballots cast and declared him the first-round winner of the presidential election.

In response to that ruling, President Ratsiraka, with the support of five provincial governors, tightened the blockade of Antananarivo and increased attacks on the bridges leading to the capital and the nation's electrical infrastructure. On May 6, President Ravalomanana was sworn in a second time as President in Mahamasina Stadium in Antananarivo. In June the armed forces and the Gendarmerie Nationale pledged their support to the Ravalomanana government. After a second, failed AU-brokered attempt to resolve the crisis (Dakar II), the Ravalomanana government decided to use force to dismantle the blockades and seize control of the whole country. Within 2 weeks the major coastal cities of Tulear, Mahajanga, and Antsiranana were retaken with only token resistance from President Ratsiraka's forces. On July 8, government forces entered the Ratsiraka stronghold of Toamasina 1 day after President Ratsiraka left the country for France.

There were 11 women in the 150-member National Assembly dissolved in October and 9 women in the 90-member Senate at year's end. There were 8 women in the 160-member National Assembly elected in December.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of local and international human rights groups, including SOSVN, OFPACPA, the ICRC, and CRS operated without government restrictions, and freely investigated, published, and otherwise disseminated their findings on human rights issues. These organizations reported that Ravalomanana government officials cooperated with their requests and were responsive to their views.

The Constitution requires the Government to create organizations that promote and protect human rights. The National Commission for Human Rights (CNDH) undertook public awareness campaigns and workshops with international NGOs that nevertheless were limited in their overall impact. The CNDH was apolitical and in practice generally remained separate from partisan politics. During the political crisis, the CNDH suspended its work in part because its meetings had become forums for political invective. The CNDH resumed work in the second half of the year and tentatively planned to publish its report in early 2003.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits all forms of discrimination. No specific government institutions were designated to enforce these antidiscrimination provisions.

*Women.*—Domestic violence against women was not widespread. Police and legal authorities generally intervened when physical abuse was reported. The prohibition against rape was the only statute specifically to address violence against women. Spouses can be tried for nonrape abuses, generally under civil law. There were reports in media and public acknowledgements of a domestic violence problem, including reports of battered women. In December the Government launched the first national campaign highlighting domestic violence.

Prostitution is not a crime; however, related activities, such as pandering, are criminal. Incitement of minors to debauchery is a crime. The Ratsiraka government acknowledged the existence of sexual tourism and undertook an awareness campaign; however, the political crisis and lack of resources precluded the Ravalomanana government from addressing the problem.

Under the law, wives have an equal voice in selecting the location of the couple's residence, and they generally receive an equitable share of common property on divorce. Widows with children inherit half of joint marital property. A tradition known as "the customary third" occasionally was observed in some areas. Under this custom, the wife had the right only to one third of a couple's joint holdings; however, a widow received a government-provided pension, while a widower did not.

There was relatively little societal discrimination against women in urban areas, where many women owned or managed businesses and held management positions in state-owned companies. The latest information from the Ministry of Labor indicated that women owned 30 percent of formal sector companies and 53 percent of informal sector companies. A number of NGOs focused on the civic education of women and girls and publicized and explained their specific legal protections; however, due to cultural traditions, few women lodged official complaints or sought redress when their legal rights were compromised.

*Children.*—The Ministry of Health, the Ministry of Education, and the Ministry for Population and the Condition of Women and Children were responsible for various aspects of child welfare. Lack of funds insured that public services in this area remained inadequate. Lack of funding also precluded the compilation of reliable statistics.

The Constitution provides for free public education for all citizen children and makes primary education compulsory for all. According to the Government's Interim Poverty Reduction Strategy Paper (IPRSP) prepared in 2000, only 50 percent of primary school-age children were enrolled (*see* Section 6.d.).

There were no reports of societal patterns of child abuse. There were reports that in 2001 children charged with crimes were incarcerated with the general prison population (*see* Section 1.c.).

*Persons with Disabilities.*—There was no official discrimination against persons with disabilities in employment, education, or in access to state services. The law broadly defines the rights of persons with disabilities. Handicap International Madagascar, an NGO advocate for persons with disabilities, led the fight for legislation mandating equal access for persons with disabilities and the establishment of the National Commission to Safeguard and Promote the Rights of Disabled Persons.

*National/Racial/Ethnic Minorities.*—The Malagasy, of mixed Malay-Polynesian, African, and Arab descent, were divided into 18 tribes, a term without pejorative overtones in the country. The vast majority of Malagasy spoke a single Malagasy language, albeit with certain regional idiosyncrasies. None of the 18 tribes constituted a majority and there were large minorities of Indo-Pakistani and Chinese heritage.

A long history of military conquest and political dominance raised the status of highland ethnic groups of Asian origin, particularly the Merina, above that of coastal groups of African ancestry. The imbalance persisted to this day and fueled an undercurrent of tension between Malagasy of highland and coastal descents. Ethnicity, caste, and regional solidarity often were factors in hiring practices.

A significant Indo-Pakistani (Karana) community has been present for over a century. Traditionally engaged in commerce, the Karana numbered approximately 20,000 persons. Few of them held Malagasy citizenship, which was acquired through a native-born Malagasy mother. Indo-Pakistani merchants were mistrusted widely. During the political crisis, Karana businesses were vandalized on numerous occasions, and the authorities generally were slow to respond to these disturbances. In October President Ravalomanana met with Karana business leaders and expressed a willingness to look into citizenship issues raised by their community.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and the Labor Code provide workers in the public and private sectors with the legal right to establish and join labor unions of their choosing without prior authorization; however, essential service workers, including police and military personnel, may not form unions. Unions were required to register with the Government, and registration was granted routinely. Ministry of Labor statistics indicate that less than 5 percent of workers in export processing zone (EPZ) companies and less than 10 percent of all workers were unionized. There were a number of trade union federations, many of which were affiliated formally with political parties. During the political crisis, union participation was evident in numerous mass demonstrations throughout the country, particularly in those held in Antananarivo in support of President Ravalomanana.

The Labor Code prohibits discrimination by employers against labor organizers, union members, and unions. In the event of antiunion activity, unions or their members may file suit against the employer in civil court. Labor laws apply uniformly throughout the country; however, the Government's enforcement of labor laws and regulations was hampered by a lack of staff and financial resources.

In 2001 the International Labor Organization (ILO) noted a number of instances in which the Government failed to bring law and regulation into conformity with existing conventions or otherwise submit texts for ILO review, including those addressing forced labor, freedom of association, safeguarding of machinery, hygiene in commerce and offices, and weight limits. The political crisis prevented these issues being addressed during the year.

Unions may join international labor organizations and may form federations or confederations.

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides for the right of workers to bargain collectively. The Labor Code states that either management or labor may initiate collective bargaining. In practice the condition of the economy insured that collective bargaining agreements remained rare. Despite the existence of several public employees unions, few public employees were union members; however, during the year, public employees demonstrated a significant capacity to act in concert, particularly with respect to political matters.

The Constitution provides for the right to strike, within parameters fixed by law. This right extended to the EPZs, where several politically motivated strikes oc-

curred during the year, even in the absence of organized unions. These strikes were primarily driven by political considerations; however, work-related issues emerged, such as demands for wage increases.

Workers in essential services have a recognized but restricted right to strike and exercised this right in the past. The Labor Code calls for workers to exhaust all options including conciliation, mediation, and arbitration before resorting to strikes. These provisions were not always observed. During the year, there was a short, non-disruptive strike over compensation by teachers grading middle school examinations. The strike ended with the examiners receiving a 50 percent—approximately \$7 to \$11 (50,000 to 79,000 FMG)—increase in the compensation they received to grade the exams.

There were reports that union members working in EPZs were mistreated and sometimes fired. Workers had recourse through the Ministry of Civil Service, Labor, and Social Laws' Office of Work for Dismissals and the Office of Social Protection for mistreatment. There were many EPZs that in practice were firms operating under special import and export rules. Such firms were required to follow all pertinent labor laws and regulations, including minimum wage laws; however, the Government allegedly did not enforce its labor laws adequately in the EPZs due to inadequate resources. The EPZs generally used worker representation councils whose members were elected by the employees but were not necessarily union representatives. These representatives frequently were perceived to be subject to pressure from management and to lack autonomy.

*c. Prohibition of Forced or Bonded Labor.*—The Labor Code prohibits forced or bonded labor, including by children; however, at times the Government did not respect this prohibition. For example, in the past there were reports that prisoners were used in private industry or for domestic functions; however, there were no reports that officials of the Ravalomanana government engaged in these practices.

Some press reports indicated workers at times were compelled under threat of loss of employment to work beyond the legal limits (see Section 6.e.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Code defines a child as any person under the age of 18 years. The legal minimum age for employment was 15 years, and work by persons under the age of 18 statutorily was prohibited at sites where there was an apparent and imminent danger to health, safety, or morals. Individuals under 18 years of age also were forbidden from performing night work. The Government enforced child labor laws in the formal economic sector by means of inspectors from the Ministry of Civil Services. Enforcement in the much larger informal sector remained a serious problem. Child labor was a problem. Nearly 20 percent of urban children and 60 percent of rural children between the ages of 7 and 14 were employed. Children in rural areas generally dropped out of school to help on family farms and urban children often worked as domestic laborers and servants. In the agricultural sector, work for children on the family subsistence farm may begin at an even younger age. In cities many children worked in occupations such as transport of goods by rickshaw and petty trading. Effective implementation of the provisions of ILO Convention 182 on the worst forms of child labor was hampered by a lack of financial resources and the political crisis.

*e. Acceptable Conditions of Work.*—The Labor Code and its implementing legislation prescribe working conditions and wages, which were enforced by the Ministry of Civil Service, Labor, and Social Laws. The law makes separate provisions for agricultural and nonagricultural work.

The Government set the minimum wage at approximately \$25 (180,000 FMG) per month for the nonagricultural private sector. The national minimum wage did not provide a decent standard of living for a worker and family, particularly in urban areas. Although most employees know what the legal minimum wages were, in practice those rates were not always paid. High unemployment and widespread poverty led workers to accept lower wages.

The standard workweek was 40 hours in nonagricultural and service industries and 42½ hours in the agricultural sector. Although labor legislation limits workers to 20 hours of overtime per week, employees often were required to stay on until production targets were met. In some cases, this overtime was unrecorded and unpaid.

The Labor Code sets rules and standards for workers safety and worksite conditions. Women and minors may not work in positions that might endanger their health, safety, or morals. Inspectors from the Ministry of Civil Service, Labor, and Social Laws monitored labor conditions; however, they usually were able to cover only the capital region effectively. In the past, the cost of protective clothing and other safety devices often led firms to forego their use. If violators do not remedy

cited violations within the time allowed, they may be sanctioned legally or assessed administrative penalties. CNAPS, the country's equivalent of the Social Security Administration, published reports on workplace conditions, occupational health hazards, and workplace accident trends. Workers did not have an explicit right to leave a dangerous workplace without jeopardizing their employment. The Labor Code applies to all workers; however, foreign workers must have a valid visa to be protected.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however, in the past, there were reports of trafficking in women and girls for prostitution between Madagascar and the neighboring islands of Mauritius and Reunion. The number of persons involved was difficult to determine. There were no reports of arrests for trafficking. While the Government has expressed concern about trafficking, it lacked the resources to address it effectively.

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## MALAWI

President Bakili Muluzi of the United Democratic Front (UDF) party led the Republic of Malawi, which in 1999 held its second democratic multi-party presidential and parliamentary elections since independence in 1964. Independent observers concluded that the elections were free and substantially fair; however, there was limited opposition access to media and problems in voter registration, and the opposition lost appeals of the results in the courts. The 10 parliamentary by-elections held since 1999 have been marred by increasing violence, allegations of vote fraud, and contested results. Constitutional power was shared between a popularly elected president and the 193-member National Assembly. The UDF had 96 seats in the National Assembly; the Malawi Congress Party (MCP) had 61 seats; Alliance for Democracy (AFORD) had 30 seats; and there were 6 independent members. There was no clear-cut ideological difference among the three political parties. The Government respected the constitutional provisions for an independent judiciary; however, the judicial system was inefficient and lacked resources.

The National Police, headed by the Inspector General of Police under the Ministry of Home Affairs, were responsible for internal security. The police occasionally called on the army for support. Some members of the security forces committed serious human rights abuses.

The country was very poor, with a narrow economic base characterized by a small and highly concentrated industrial sector, low levels of foreign and domestic investment, and few mineral resources. The country's population was estimated to be 10,386,000, and agriculture dominated the economy, employing more than 80 percent of the labor force. The Government continued to move forward with its multi-sector privatization program and endorsed private sector participation in infrastructure. Wealth remained highly concentrated in the hands of a small elite. Annual per capita income was approximately \$178.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Police use of excessive force or negligence resulted in some unlawful killings, including deaths of detainees while in, or shortly after release from, police custody. The police continued to beat and otherwise abuse detainees and to use excessive force in handling criminal suspects. Prison conditions remained harsh and life threatening and resulted in a large number of deaths. Arbitrary arrest and detention were common, and lengthy pretrial detention was a serious problem. An inefficient, understaffed, and underfunded judicial system limited the ability of defendants to receive a timely, and in some cases, fair trial. Security forces at times infringed on some privacy rights. The Government generally respected freedom of speech and the press; however, there were some exceptions. Limited self-censorship existed. At times police used force against demonstrators. Violence against women was common, and women continued to experience severe societal discrimination. Abuse of children remained a problem. Child labor, including instances of forced child labor, also was a problem. There were reports of trafficking in persons. Mob violence triggered by anger over high levels of common crime resulted in mob executions of alleged criminals. Malawi was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings; however, there were unlawful killings, including deaths of detainees while in, or shortly after release from, police custody. These deaths involved possible use of excessive force or possible negligence. A large number of prisoners died largely due to harsh prison conditions (*see* Section 1.c.). Inquests into deaths in custody were not routine.

In November 2001, Evison Matafale, a popular reggae star who was arrested for allegedly distributing seditious documents, died while in police custody. An investigation by the Human Rights Commission (HRC) concluded that the police were not at fault and that he died of illness; however, his time in prison may have hastened his death.

In December 2001, police forcibly dispersed a student demonstration and shot and killed a student demonstrator in Zomba. The HRC determined that indiscriminate shots fired by police officers led to the death of the student and injury to a bystander. The HRC recommended that the Inspector General of Police prosecute the officers responsible for the shooting; however, it subsequently complained publicly of the lack of cooperation from the Inspector General. In September the student's family initiated a lawsuit against the Attorney General to seek compensation for loss of his life.

In August violent clashes between supporters of the ruling United Democratic Front (UDF) and National Democratic Alliance (NDA) pressure group resulted in the death of a UDF party official (*see* Section 2.b.).

Frustrated by inadequate law enforcement and rising crime, angry mobs sometimes resorted to vigilante justice in beating, stoning, or burning suspected criminals to death. For example, on September 23, an angry mob in Mulanje beat to death a boy for stealing a bicycle. No arrests were made; however, the police were conducting investigations. In March the Minister of Home Affairs acknowledged that reports of mob justice were increasing with the rise in thefts due to the food shortage. Between January and March, citizens in several communities killed more than 80 suspected thieves caught stealing maize. There was no action taken by authorities in these cases by year's end.

No action was likely to be taken against the members of a mob who in March 2001 in the town of Mulanje beat to death a man charged with armed robbery.

There was one person tried, convicted, and sentenced to death for serial killings in 2000; however, the death penalty still had not been carried out by year's end. The President stated publicly that the death penalty would not be used while he was in office.

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

*c. Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, police continued to beat and otherwise abuse detainees and to use excessive force in handling criminal suspects. The Inspectorate of Prisons was an investigative body mandated by the Constitution, and the findings of its 2000 report were considered indicative of prison conditions by domestic and international nongovernmental organizations (NGOs). The report noted that techniques used by police included beatings, physical assault, and the use of wire instead of handcuffs to restrain prisoners and to force confessions. Police sometimes hid these abuses by keeping prisoners in police custody until wounds healed before turning them over to the prison system for remand. The mistreatment partly was due to the mistaken belief of many police officers that the law required them to present a case (not just charges) to the court within 48 hours of arrest. Lack of financial resources for appropriate equipment, facilities, and training also contributed to mistreatment.

Police forcibly dispersed demonstrations during the year (*see* Section 2.b.).

Police continued efforts to improve investigative skills and to introduce the concept of victims' rights through workshops and other training exercises, particularly in the areas of sexual abuse and domestic violence (*see* Section 5). While higher-ranking officials demonstrated familiarity with new standards for the humane treatment of prisoners, their subordinates commonly employed unacceptable techniques. The Government continued to seek community involvement in its comprehensive reform of the police. The four pilot programs that provided community service alternative for some offenders and were initiated in 2000 had been introduced to all parts of the country by year's end. A refresher course on community service was conducted for lower ranking magistrates in October.

Prison conditions remained harsh and life threatening. The overcrowding, inadequate nutrition, substandard sanitation, and poor health facilities remained serious problems.

In October inmates at Zomba central prison rioted to protest inadequate food supplies. One inmate was shot and killed and four others were injured. During the year, a total of 29 inmates died in prison, mostly due to HIV/AIDS.

Although women were not kept in separate facilities, they were segregated within the prison compound and watched over by female guards. Although four prisons were supposed to have separate facilities for juveniles, the separation was inadequate in practice. In the other prisons, juveniles were incarcerated with adults. The law requires pretrial detainees to be held separately from convicted prisoners; however, many prisons could not comply with this law due to lack of space and inadequate facilities.

The Inspectorate of Prisons, domestic NGOs, and international NGOs were permitted to make visits to monitor prison conditions without government interference. NGOs reported good collaboration with prison authorities. During the year, NGOs visited many of the prisons; however, unlike in the previous year, there were no formal visits by the Prison Reform Committee.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution provides the accused the rights to challenge the legality of detention, to have access to legal counsel, and to be released on bail or informed of charges by a court of law within 48 hours; however, these rights seldom were respected in practice. The use of temporary remand warrants was widespread and used to circumvent the 48-hour rule. Police often resorted to beatings to obtain information deemed necessary to their cases (*see* Section 1.c.). In cases where the court determined that a defendant could not afford to supply his own counsel, legal services were provided by the Government. With few persons able to afford legal counsel, the country's seven public defenders could not represent all indigent detainees in a timely manner. Bail frequently was granted to reduce prison overcrowding. Its use often bore only a tenuous relationship to the merits of an individual's situation.

The prison system was meant to accommodate 4,500 inmates; however, during the year, there were 8,784 inmates, of whom 2,608 were pretrial detainees. There were 396 juveniles among the inmates of whom 163 were pretrial detainees. There were 89 women in prison and 39 were pretrial detainees. In July President Muluzi pardoned a woman who gave birth in prison after her story was highlighted in the press. Police were accused of arbitrary arrests due to political motives.

During the year, a priest was arrested for possession of seditious material (*see* Section 2.a.)

In September police arrested the regional governor for the Malawi Forum for Unity and Development (MAFUNDE) opposition party for honking his car horn in protest of a constitutional amendment to allow for three consecutive presidential terms (*see* Section 2.b.).

The Government did not use forced exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, the judicial system was inefficient and was handicapped by serious weaknesses, including poor record keeping, a shortage of attorneys and trained personnel, a heavy caseload, and a lack of resources. In August court operations were affected by a judicial support staff strike demanding better working conditions (*see* Section 6.b.). Human rights organizations widely criticized the strike because it increased prison congestion and denied many persons access to the courts.

The Constitution provides for a High Court, a Supreme Court of Appeal, and subordinate magistrate courts. The Chief Justice is appointed by the President and confirmed by the National Assembly. The President appoints other justices, following a recommendation by the Judicial Service Commission. All justices are appointed until the age of 65 and may be removed only for reasons of incompetence or misbehavior, as determined by the President and a majority of the Parliament.

In November 2001, members of the UDF ruling party submitted motions in the National Assembly to impeach three High Court justices on allegations of judicial misconduct and incompetence. The National Assembly curtailed the Judicial Service Commission investigation into the cases and voted in favor of removal of the three justices. In December 2001, the President dropped all charges against one justice and ordered the Judicial Service Commission to reconvene to complete its assessment of the allegations against the remaining two justices. On May 7, President Muluzi pardoned the remaining two justices.

By law defendants have the right to a public trial but not to a trial by jury; however, in murder cases, the High Court used juries of 12 persons from the defendant's

home district. Defendants also were entitled to an attorney, the right to present and challenge evidence and witnesses, and the right of appeal. However, the judiciary's budgetary and administrative problems effectively denied expeditious trials for most defendants. During the year, the Department of Public Prosecutions had 7 prosecuting attorneys and 11 paralegals. The paralegals served as lay prosecutors and prosecuted minor cases in the magistrate courts. Lack of funding and a shortage of attorneys created a backlog mainly in murder cases. In September, with funding from donors, the Director of Public Prosecution (DPP) stated that his office would prosecute 200 murder cases by December, and a total of 103 cases had been completed by year's end.

In April the High Court conducted a weeklong workshop for magistrates on laws related to corrupt practices. In June another training workshop was held on gender sensitization for magistrates and led to the drafting and publication of a manual for use by magistrate courts.

The 2000 amendment to the law provided for an expansion of the civil jurisdiction of magistrates, simplified small claims procedures, and gave magistrate courts jurisdiction over customary marriages. The amended law permitted more cases to be handled by magistrate courts that in the past had been referred to the High Court.

Juvenile offenders have special rights under the Constitution, including the right to be separated in custody from adults, to be treated in a manner that recognizes their age and the possibility for rehabilitation, and to be exempt from the punishment of life imprisonment without the possibility of release. However, the protections they are accorded in principle often were denied in practice, and many juvenile offenders were incarcerated with adults (*see* Section 1.c.).

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, the Government at times infringed on these rights. Army and police forces, in carrying out sweeps for illegal weapons, did not always obtain search warrants as required by law.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, there were some exceptions. Limited self-censorship existed.

In September the President publicly criticized two opposition newspapers during a political rally for "irresponsible journalism." He criticized the Daily Times for reporting the comments of a local NGO representative that contradicted statements made by the President. The Chronicle was also criticized for attempting to incite civil unrest after an article was published quoting a letter by a group in the Malawi Muslim community that threatened "jihad" against Christians.

In October a ruling UDF parliamentarian assaulted a journalist on the premises of the National Assembly. The Speaker of the National Assembly announced his office would launch a formal inquiry on the matter; however, there were no results reported by year's end.

There were no further developments since the completion in August 2001 of a 2-year review of the Censorship Act by the Law Commission.

In June a Catholic priest was arrested in Kasungu for possession of seditious material. The priest had documents opposing the constitutional amendment to eliminate presidential term limits that he was translating into the local language. On June 17, he was released on bail, and there was no new information regarding the case by year's end.

In December 2001, a prominent businessman who is a member of "Concerned Citizens of Malawi" and the opposition pressure group NDA was arrested on charges of sedition. He reportedly wrote more than 100 letters criticizing government policy, the President's alleged shortcomings, and deteriorating democratic standards in the country. In April the High Court acquitted the businessman.

A broad spectrum of political and ideological opinion was available in the country's two dozen newspapers and usually without government interference. However, the Government continued to threaten and harass members of the media. For example, on May 20, the then Minister of State Responsible for Presidential Affairs, Dr. Dumbo Lemani, led a march by ruling UDF supporters to the Blantyre Newspapers Company, publishers of the two independent newspapers, The Daily Times and weekly Malawi News. The marchers threatened journalists who had written articles that opposed a bill to amend the Constitution to abolish term limits for the President.

The May 2001 case against a journalist, a printer, and four newspaper vendors who were arrested for distributing an edition of The Dispatch newspaper, which contained articles that the Government stated would "cause public fear and alarm,"



still was pending at year's end. The Dispatch newspaper has not published since the arrests.

The state-owned Malawi Broadcasting Corporation (MBC) dominated the radio market with its two stations, transmitting in major population centers throughout the country. News coverage and editorial content clearly were progovernment. In 2000 four employees of MBC allegedly were suspended due to insufficient loyalty to the ruling party. The Office of the Ombudsman began an investigation of the incident; however, the High Court ruled that the Ombudsman had no jurisdiction on labor related matters. The Ombudsman appealed to the Supreme Court, and in April the Supreme Court ruled in favor of the Ombudsman to proceed with the investigations. The investigation was ongoing at year's end.

There were 10 private radio stations; all broadcasting on FM frequencies with limited coverage and only in urban areas. There were two commercial stations broadcasting in Blantyre. There was a rural community radio station run by local women with the help of the Malawi Media Women's Association. In May 2001, the Malawi Institute of Journalism opened a private training-commercial radio station. Six religious stations broadcast in the capital and other major cities. Government-owned Television Malawi (MBC-TV) was the country's sole television broadcaster.

In violation of the law, the MBC consistently denied opposition candidates equal access to the media during the 1999 presidential and parliamentary election campaigns and the 2000 local government campaigns. In contrast slogans and songs of the ruling UDF party advertising upcoming political rallies were broadcast throughout the year. The Government limited television broadcasting with editorial control similar to that on MBC radio.

The Malawi Communication Regulatory Authority, an independent regulatory body, issued broadcasting licenses for radio, television, and Internet service providers (ISP). The Government split the state-owned Malawi Posts and Telecommunication Corporation into the Malawi Posts Corporation and the Malawi Telecommunications Limited in preparation for the privatization of MTL. There were two cellular telephone service providers and nine ISPs. On September 13, a third cellular telephone license was awarded.

The Government did not restrict academic freedom. In November 2001, police officers searched the home of a Chancellor College Professor on suspicion that he was in possession of documents that were "likely to cause a breach of peace." No documents were found, and no action was taken against the responsible police officers by year's end.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, there were instances in which police limited this right.

Authorities routinely granted official permits, which are required by law for large meetings; however, in August police reportedly refused to grant opposition leaders permission to hold political rallies. Police cancelled the opposition MAFUNDE rallies in the southern region of the country citing potential violence between MAFUNDE and UDF party supporters. There were reports that police also cancelled rallies by the Malawi Congress Party.

In May President Muluzi issued a ban on all demonstrations related to a constitutional amendment bill to abolish presidential term limits. In June armed police in Blantyre stopped a public debate about the bill. On September 15, President Muluzi renewed the ban; however, on September 24, ruling UDF supporters demonstrated in the streets of Blantyre in support of President Muluzi's third-term bid despite the ban. No police action was taken against the demonstrators. On September 17, a member of MAFUNDE was arrested in Mzuzu for sounding his car horn in opposition to the constitutional amendment bill. He was charged with "conduct likely to cause breach of peace." On September 19, he was granted bail; however, when his trial began on October 29, the charges had been amended to a traffic violation for "excessive use of a car horn." He was acquitted of all charges on November 21. On October 22, the High Court ruled the President's ban on demonstrations unconstitutional.

In November police used tear gas to disperse forcibly a demonstration in Blantyre organized by the Forum for the Defense of the Constitution (FDC) to protest a constitutional amendment to allow for three consecutive presidential terms. Violence erupted when members of the ruling UDF party attacked the FDC demonstrators.

In August violent clashes between supporters of the UDF and NDA resulted in the death of a UDF party official. On August 28, the Government issued an ultimatum to the NDA to register as a political party or risk an official government ban as an organization that promotes violence and subversion under section 64 of the Penal Code. The NDA contested the constitutionality of ultimatum in the High Court, and on September 15, the President extended the deadline for complying

with the ultimatum to December. The High Court would not rule on the case until the deadline for registration had been missed by the NDA, and NDA representatives have publicly said that they plan to register the NDA as a party in January 2003.

In December 2001, police forcibly dispersed a student demonstration at Chancellor College in Zomba, which resulted in one death and one injury. The Joint Commission established by police and college representatives in December 2001 investigated the incident and in January referred a report to the University of Malawi's central office for review. No further actions were reported by year's end.

The Constitution provides for freedom of association, and the Government respected this right in practice. The Government required organizations, including political parties, to register with the Registrar General in the Ministry of Justice. Although no political party has been denied registration, the Government threatened to deregister the Malawi Forum for Unity and Development for using Malawi in its official name, which is a protected word under the law. However, on September 2, the Government granted approval of the use of Malawi in the party's name.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

There were no separate requirements for the recognition of religions, but religious groups must register with the Government. There were no reports that the Government refused to register any religious group during the year.

Some opposition politicians and clerics have raised Islam as a political issue. Citing the President's adherence to Islam, his contact with Islamic countries such as Libya, Iran, and Sudan, and the building of new mosques, some opposition politicians and clerics have accused the UDF of attempting to "Islamicize" the country.

Foreign Christian missionaries experienced occasional delays in renewing employment permits; however, this appeared to be the result of bureaucratic inefficiency rather than a deliberate government policy against foreign missionaries. Missionaries and charitable workers pay lower fees for employment permits than do other professionals.

There were generally amicable relations between the various religious communities; however, there were a small number of reports of clashes between Muslims and Christians.

In February the Muslim Association of Malawi (MAM) filed a complaint with the Religious Affairs Coordinator for the Office of President and Cabinet regarding the activities of a Christian missionary group in Mangochi district. The MAM accused the Christian group of entering mosques to convert Muslims to Christianity and of disseminating inflammatory publications about Islam. On February 22, the Religious Affairs Coordinator attempted to convene a forum with MAM, the Malawi Council of Churches, and leaders of the missionary group to discuss a peaceful resolution to the problem; however, the meeting was cancelled due to a lack of funding. In April the same missionary group contacted the Religious Affairs Coordinator, the Deputy Inspector General of Police, and the local Mangochi district police to report that they heard that the Muslim community in Mangochi district planned to harm them; however, there were no reports that any violence occurred.

On December 18, police arrested four members of the Seventh-Day Apostolic Church in Blantyre for allegedly instigating a clash with local Muslims. On December 15, a violent dispute occurred when church members began comparing Christianity and Jesus with Islam and Mohammed in a market square. Three persons were injured and property was damaged in the clash; however, there was no further action taken by year's end."

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, there were long delays in the process. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) in providing protection and assistance to refugees. According to the UNHCR, the country hosted 9,674 refugees, primarily from the Democratic Republic of the Congo, Rwanda, and Burundi, at the country's refugee center in Dowa. The majority of refugees resided at the Dzaleka camp, and the UNHCR estimated that approximately 200 new refugees arrived each month. Although the Government granted refugee status, the law does not accept refugees for permanent resettlement and does not permit them to work or study; however, while no legal framework existed, the Government allowed refugees to seek both employment and educational opportunities. UNHCR, NGOs,

and the Government collaborated to provide children in refugee camps with access to education. A new school was completed at the Dowa refugee camp in 2001.

The country has provided first asylum to numerous refugees and continued to provide first asylum to new refugees as required. Asylum applicants were granted hearings to make their case for asylum status. The Government denied asylum to many of the Rwandans and Congolese who either had requested asylum in another country or had the opportunity to do so.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for citizens 18 years of age and older. International election observers found the 1999 presidential and parliamentary elections to be free and substantially fair; however, the electoral process was flawed, as opposition access to the broadcast media was limited; there were voter registration problems in some areas of the country; and the Electoral Commission at times displayed bias in favor of the ruling party. President Muluzi was reelected to serve a second 5-year term, defeating Gwanda Chakuamba, the joint presidential candidate of the two leading opposition parties, the MCP and AFORD. The opposition challenged the outcome of the presidential vote, and in May 2000, the High Court ruled in favor of the President. In October 2000, the Supreme Court of Appeal upheld the High Court ruling in favor of the President.

President Muluzi, First Vice President Justin Malewezi, and a 38-member cabinet exercise executive authority. The second vice-presidency remained vacant. The executive exerted considerable influence over the legislature; the legislature followed a hybrid parliamentary system, and consequently a number of Cabinet ministers also sit as Members of Parliament (M.P.'s).

On August 27, senior UDF officials stated that a constitutional amendment bill to allow the President to seek three consecutive terms would be introduced in the October session of Parliament. On September 6, the Government announced officially that it would introduce the bill in Parliament; however, the bill was neither introduced nor withdrawn in its entirety, and there was no action taken on the bill by year's end. President Muluzi banned all demonstrations relating to this amendment (*see* Section 2.b.).

Local government elections to select councilors and mayors, as mandated under the law, were held in November 2000, and were conducted in an open and transparent manner according to local and international observers; however, they were marked by low voter turnout, allegations of voter and candidate intimidation, and unequal access to the media. The ruling UDF won more than 70 percent of the seats; opposition parties and some NGOs criticized the Government for manipulating the process.

Although the Government did not prevent the operation of opposition political parties, the parties continued to allege that the Government used bribery and other inducements, including violence, to encourage opposition party divisions and defections of key personnel to the ruling party. In July the Anti-Corruption Bureau (ACB) began investigations of some opposition M.P.'s who allegedly were bribed to vote in favor of the constitutional amendment bill to abolish presidential term limits. The investigations were ongoing, and no indictments had been made against any political figures at year's end.

During the year, the authorities were accused of refusing to grant opposition leaders permission to hold political rallies (*see* Section 2.b.).

There were no laws that restricted the participation of women or ethnic minorities in the political process. There were 17 women in the 193-seat National Assembly, and there were 8 women in the 38-member Cabinet. Women were approximately 25 percent of the civil service. There were 2 women justices among the 22 Supreme and High Court justices. During the 1999 presidential and parliamentary elections, approximately 55 percent of registered voters were women.

A citizen of European origin, several citizens of mixed ethnicity, and one citizen of Asian origin were members of the National Assembly.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups operated without government restriction, training civic educators, advocating changes to existing laws and cultural practices, and investigating and publishing their findings on

human rights cases. Government officials generally were cooperative and responsive to their views.

The Ombudsman was mandated by the Constitution to investigate and take legal action against government officials responsible for human rights violations and other abuses. The Ombudsman's freedom of action was circumscribed by legislation that requires a warrant and a 3-day waiting period to gain access to certain government records. The activities of the Ombudsman were subject to judicial review, and in a 2000 case involving MBC employees allegedly dismissed on political grounds, the Supreme Court upheld a constitutional provision that granted the Ombudsman discretionary authority to investigate any and all cases where it was alleged that a person has suffered injustices, except when there was a judicial remedy available (*see* Section 2.a.).

The Constitution provides for a National Compensation Tribunal (NCT) to adjudicate claims of criminal and civil liability against the former government. As of September, the NCT had registered more than 23,000 claims, of which 600 had been compensated fully and 7,000 had been awarded interim compensation payments. The NCT's original constitutional mandate did not permit the registration of new claimants after December 31, 2001 deadline; however, during the year, the registration deadline was extended until July 13, 2003. The extension of the deadline for registration could impact seriously NCT's estimated \$300 million (MK 24 billion) budget to cover 16,000 claims for 10 years. The NCT's lack of funds limited its ability to settle claims.

The constitutionally mandated HRC was charged to monitor, audit, and promote human rights provided for under the Constitution, and to carry out investigations regarding violations of any human rights. Despite limited resources, in September 2001, the HRC issued its 2000 Human Rights Report, which described 172 complaints of human rights violations such as overcrowding and poor sanitation in prisons, lack of proper medical attention to sick prisoners, political violence during the Kasungu by-elections, long periods of pretrial detention, and the lack of opposition access to the media during elections. The Government has refuted publicly the report's findings. In August and September, HRC conducted public hearings in major cities on political and religious intolerance. Both human rights groups and political leaders acknowledged that political violence had increased during the year. The 2001 HRC report was still in draft form at year's end.

#### *Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution specifically provides for equal rights for women, forbids discrimination based on language or culture, and provides for equality and recognition before the law for every citizen; however, in practice the capacity of government institutions to assure equal rights for all citizens was limited.

*Women.*—Domestic violence, especially wife beating, was common. Society has begun to take the problem of violence against women seriously. The press published frequent accounts of rape and abuse, and the judiciary continued to impose heavier penalties on those convicted of rape. However, domestic violence seldom was discussed openly by women. In April 2001, an NGO in Lilongwe established the country's first confidential shelter for women who were victims of physical or sexual abuse. Between April and December 2001, 72 women sought protection at the shelter. Police did not normally intervene in domestic disputes.

Press coverage of domestic violence increased substantially following a November 2001 conference called "Sixteen Days of Activism" sponsored by NGOs in cooperation with the Ministry of Gender and Community Service. NGOs sponsored subsequent workshops to inform local tribal leaders and journalists of the importance of legislation against domestic violence with a specific focus on spousal rape.

There was anecdotal evidence that a few small ethnic groups practiced female genital mutilation (FGM).

Trafficking in women and girls was a problem (*see* Section 6.f.).

Under the Constitution, women have the right to full and equal protection by law and may not be discriminated against on the basis of gender or marital status; however, in practice discrimination against women was pervasive, and women did not have opportunities equal to those available to men. Women had significantly lower levels of literacy, education, formal and nontraditional employment opportunities, and access to resources to increase agricultural productivity. The literacy rate among women between the ages of 15 and 45 was less than 37 percent. Male literacy in the same age group was approximately 45 percent.

Women often had less access to legal and financial assistance, and wives often were victims of discriminatory inheritance practices in which the majority of the estate was taken unlawfully by the deceased husband's family. Women usually were at a disadvantage in marriage, family, and property rights, but they have begun to

speak out against abuse and discrimination. Households headed by women were represented disproportionately in the lowest quarter of income distribution. In a country where 85 percent of the population was rural, the majority of farmers were women; 70 percent of the rural female population farm full time. Typically women worked more hours than men to complete the same farm tasks because they rarely had comparable tools and equipment, and they remained responsible for all household tasks. Women had limited access to agricultural extension services, training, and credit. Some progress has been made in all of these areas with gender training for agricultural extension workers and the gradual introduction of rural credit programs for women. The participation of women in the limited formal labor market was particularly constrained; they constituted less than 5 percent of managerial and administrative staff.

The law provides for a minimum level of child support, widows' rights, and the right to maternity leave; however, only individuals who utilized the formal legal system benefited from these legal protections.

In 2000 women joined the army for the first time in noncombatant positions as a result of a 1994 revision in the Government directive that previously had prohibited women from military service. The Government commissioned a female officer in August 2001, and during the year, there were new recruit classes of women, who were serving both as officers and as enlisted personnel in the armed forces. Female soldiers may only be deployed in combat as support personnel, such as in the communications field.

The Government addressed women's concerns through the Ministry of Gender and Community Services.

*Children.*—The Constitution provides for equal treatment of children under the law, and during the year, the Government continued a high level of spending on children's health and welfare. The Government provided free primary education for all children, although education was not compulsory. Girls dropped out of school more frequently than boys did, and in the final year of primary school, 42 percent of students were girls. Despite recent significant gains in girls' access to education, large gaps remained between girls' and boys' achievement levels. Girls, especially in rural areas, historically had been unable to complete even a primary education and were therefore at a serious disadvantage in finding employment. Accepted economic and social practice hampered the ability of women and girls to gain an education. However, there were signs of improvement in education for girls. The 2002 Malawi Demographic Household and Education Data Survey's preliminary report indicated that there was not a large gender gap in primary school attendance between boys and girls; however, in secondary school the boys were more likely to attend than girls.

Well over half of the country's children live in poverty, mostly in rural areas. Children in rural households headed by women were among the poorest. Only one-third of children had easy access to safe drinking water. Infant mortality was high, and child malnutrition was a serious problem. A few charitable organizations attempted to reduce the number of child beggars in urban areas and find alternative care for them. The problem of street children worsened as the number of orphans whose parents died from HIV/AIDS increased. According to the National Statistic Office's Demographic and Health Survey of 2000, only 60 percent of children under age 15 lived with both of their biological parents; 23 percent of children under age 15 lived with only one parent, while 16 percent were orphans. Extended family members normally cared for such children and other orphans.

FGM was performed on girls (*see* Section 5, Women).

There were societal patterns of abuse of children. The media also reported on the sexual abuse of children, especially in relation to traditional practices of initiation. While rites to initiate girls into their future adult roles still were secret, information suggested that abusive practices were widespread and quite damaging.

Child prostitution occurred (*see* Section 6.f.).

*Persons with Disabilities.*—The Government has not mandated accessibility to buildings and services for persons with disabilities, but one of the national goals in the Constitution is to support persons with disabilities through greater access to public places, fair opportunities in employment, and full participation in all spheres of society. There were both public and privately supported schools and training centers, which assisted persons with disabilities. There also were several self-supporting businesses run by and for persons with disabilities. The Minister of State responsible for persons with disabilities was a cabinet-level position, which was held by a person with disabilities.

In December 2001, the Ministry responsible for persons with disabilities held a consultative workshop with representatives from NGOs and U.N. agencies to create

a taskforce for the formulation of a new National Disability Policy (NDP). The draft NDP incorporated the views of interested parties and was awaiting review by various government ministries. The taskforce was charged with the development of a new NDP that addressed issues of equal opportunity and access for persons with disabilities.

*Section 6. Worker Rights*

*a. The Right of Association.*—The law governs labor-management relations. Workers have the legal right to form and join trade unions; however, union membership was low due to the small percentage of the work force in the formal sector, the lack of awareness of worker rights and benefits, and a resistance on the part of many employees to join unions. Army personnel and police could not belong to trade unions, but other civil servants were allowed to form unions. Union leaders estimated that 12 percent of the formal sector workforce belonged to unions; however, accurate statistics on the numbers of union members were not available. Trade union rights have existed for 9 years, and labor relations still were evolving. Employers, labor unions, and the Government lacked sufficient knowledge of their legitimate roles in labor relations and disputes, which limited the effectiveness in the implementation and enforcement of the law; however the International Confederation of Free Trade Unions (ICFTU) charged that trade union rights were also limited by the resistance of some employers, including the Government, to respect these rights.

Unions must register with the Registrar of Trade Unions and Employers' Organizations in the Ministry of Labor and Vocational Training (MOLVT). At year's end, 22 unions were registered. There were no unusually difficult registration procedures. Unions were independent of the Government, parties, and other political forces.

The law prohibits antiunion discrimination by employers and requires that employers reinstate workers dismissed because of union activities. However, the ICFTU 2002 Annual Survey stated that District Education Officers were fired for their membership in the Teachers' Union of Malawi. The same survey said companies in the export processing zones (EPZs) were also resistant to union activity and that unions said they have little access to workers in the zones. Enforcement of legislation protecting the freedom of association by the Ministry of Labor was ineffective.

Unions may form or join federations and have the right to affiliate with and participate in international workers' organizations, with the permission of the Government. There were no restrictions on the number of union federations. There were two federations in the country: The Malawi Congress of Trade Unions (MCTU), with 19 affiliates; and the Congress of Malawi Trade Unions (COMATU), with 3 affiliates.

*b. The Right to Organize and Bargain Collectively.*—Unions have the right to organize and bargain collectively. The law requires that at least 20 percent of employees (excluding senior managerial staff) belong to a union before such a union can engage in collective bargaining at the enterprise level. The law requires at least 15 percent union membership for collective bargaining at the sector level. The law provides for the establishment of industrial councils in the absence of collective agreements for sector-level bargaining. Industrial council functions included wage negotiation, dispute resolution, and industry-specific labor policy development. The law was not implemented effectively in practice due to the lack of sufficient knowledge of the law by employers, trade unions, and government officials (*see* Section 6.a.). In 2001 the National Bank of Malawi unilaterally abrogated an agreement with the Commercial, Industrial and Allied Workers' Union. Collective agreements were binding legally, and both parties must deposit them with the Registrar of Trade Unions.

The law allows members of a registered union to strike or go through a formal mediation process overseen by the MOLVT. A registered union must attempt to resolve the issue through mediation. A strike can only occur after all settlement procedures established in a collective agreement (an understanding, not necessarily signed, reached by both parties to attempt mediation) and conciliation efforts have failed. The law requires a notice in writing to the employer and the MOLVT at least 7 days before a strike. The law also forbids the temporary replacement of labor and allows peaceful picketing during strikes. Members of a registered union in "essential services" only have a limited right to strike. Essential services were specified as services whose interruption would endanger the life, health, or personal safety of the whole or part of the population; they were determined by the Industrial Relations Court (IRC) upon application by the Minister of Labor. The law provides similar procedures for lockouts. Laws do not prohibit specifically retaliation against

strikers. There was no prohibition on actions against unions that were not registered legally. Arbitration rulings were enforceable legally. However, due to the lack of funding and 2-year case backlog, the IRC could not monitor cases and enforce the laws in practice adequately. During the year, the IRC conducted several sensitization workshops on labor laws. The IRC also established complaint centers throughout the country to facilitate access to its services.

In August judiciary support staff began a general strike that lasted 5 weeks. The strikers called for salary and benefits increases approved by Parliament in 2000. In September an interim agreement was reached between the support staff and the judiciary to end the strike; however, negotiations between the Judiciary and Treasury were ongoing on how to fund the agreement at year's end.

In May 2001, workers at the Lilongwe Water Board went on strike over pay and management corruption. Since water is an essential service, the Government could legally requisition a core workforce to maintain service; however, the Government declared the strike illegal and instructed the Water Board to fire all 350 employees. To be reinstated, workers were required to sign a statement saying they would not strike again and to accept their existing pay and working conditions. By August 2001, most of the employees had been reinstated; however, all the elected officers of the Water Employees Trade Union of Malawi remained suspended. The employer also stopped the allotment.

In September 2001, medical workers from Queen Elizabeth Central Hospital in Blantyre went on strike after the hospital failed to grant salary increases that it promised to begin in July 2001. The hospital negotiated an initial settlement for a risk premium increase, and the 28 leaders of the strike were suspended and restricted from travel outside the country pending prosecution for endangering the health and welfare of patients. During the year, a total of 15 employees were indicted for conducting an illegal strike. In May the Office of the Ombudsman intervened in the case, and the case concluded in November when 10 employees were terminated for an illegal strike while 5 were permitted to return to their previous positions. All travel restrictions were lifted.

In October 2001, teachers began a series of sporadic strikes and work stoppages because of the differences between rural and urban salaries and benefits. During the year, differences in allowances were corrected. In January the Minister of Education threatened to punish any teacher who instigated a strike since the Government implemented the new allowances. There were reports that up to 50,000 teachers participated in the 2001 strikes in the rural areas.

At year's end, 20 firms held licenses to operate under EPZ status, and all were operational. The full range of labor regulations applied to the EPZs; however union organizers said they had little access to workers in the zones. According to the ICFTU, workers in EPZs were not able to exercise their trade union rights.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, including by children; however, there were allegations that some large agricultural estates engaged in the practice, and one local NGO reported that in urban areas, it was common to find young girls working outside of their family as domestic servants, receiving little or no wages, and living in a state of indentured servitude (see Section 6.d.). According to the ICFTU, bonded labor involving entire families was widespread on tobacco plantations. Tobacco tenants have exclusive arrangements, often unwritten with the estate owners to sell their crop and to buy inputs such as fertilizer, seed, and often food. These costs, in addition to rent charges, often were greater the artificially low price received for the tobacco crop, leading to a situation of debt and bonded labor to repay the input and other costs.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution defines children as persons under 16 years of age, and the law prohibits the employment of persons less than 14 years of age. It also prohibits the employment of children less than 18 years of age in work that was hazardous, harmful, or interferes with their education. Significant child labor in agricultural work and domestic service occurred largely as a result of extreme poverty and longstanding cultural traditions. Budgetary constraints largely precluded minimum work age and child labor law enforcement by police and MOLVT inspectors. There was significant child labor on tobacco and tea farms, subsistence farms, and in domestic service. There was no special legal restriction on children's work hours.

In 2000 the Ministry of Labor began a 12-month International Labor Organization (ILO) funded study to establish the magnitude of child labor and to use the results as a basis for drafting an action plan to implement ILO Convention 182 on the worst forms of child labor. In 2001 MOLVT conducted a pilot study and trained evaluators for the full study, which started in May. The study was expected to be finished by the first quarter of 2003.

During the year, there was at least one report of forced child labor.

*e. Acceptable Conditions of Work.*—The MOLVT set separate urban and rural minimum wage rates based on recommendations of the Tripartite Wage Advisory Board (TWAB) composed of representatives of labor, government, and the private sector. However, the TWAB encountered problems due to inefficient organizational structure and inadequate funding, which hindered timely and accurate revision of the wage rate recommendations. The urban minimum wage amounted to approximately \$0.70 (MK 56) per day; in all other areas, it was approximately \$0.50 (MK 40) per day. Although minimum wage rates were raised in 2000, they did not provide a worker and family with a decent standard of living. Wage earners tended to supplement their incomes through farming activities. The MOLVT lacked the resources to enforce the minimum wage effectively. However, the minimum wage largely was irrelevant for the great majority of citizens, who earned their livelihood outside the formal wage sector.

The maximum legal workweek was 48 hours, with a mandatory weekly 24-hour rest period. The laws require payment for overtime work and prohibit compulsory overtime. In practice employers frequently violated statutory time restrictions.

The law includes extensive occupational health and safety standards. Enforcement of these standards by the MOLVT was erratic. Workers—particularly in industrial jobs—often worked without basic safety clothing and equipment. Workers dismissed for filing complaints about workplace conditions have the right to file a complaint at the labor office or sue the employer for wrongful dismissal. Workers have the right to remove themselves from dangerous work situations without jeopardy to continued employment; however, given the low level of education of most workers and the high level of unemployment, they were unlikely to exercise this right.

Mechanisms for protecting internationally recognized worker rights were weak. There were serious manpower shortages at the Ministry of Labor; as a result, there were almost no labor standards inspections.

The law protects foreign workers in correct legal status. Illegal foreign workers were subject to deportation.

According to the Government “policy statement and new guidelines” for the issuance and renewal of employment permits (the temporary employment permit or “TEP”), foreign investors may employ foreign personnel in areas where there was a shortage of “suitable and qualified” citizens. The guidelines also mandated that processing times for TEP applications shall not exceed 40 working days. Although the TEP program appeared to function smoothly, the press reported delays in application processing for at least one major company.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons specifically, and there were reports of trafficking. The Penal Code contains several provisions relating to prostitution and indecency that could be used to prosecute traffickers; however, there were no arrests or prosecutions of suspected traffickers during the year.

Although the age of sexual consent is 14, there was no age specified for the protection of minors from sexual exploitation, child prostitution, or child pornography. The belief that children were unlikely to be HIV positive and the widespread belief that sexual intercourse with virgins can cleanse an individual of sexually transmitted diseases, including HIV/AIDS, contributed to the sexual exploitation of minors. Child prostitution occurred, but it was not considered a significant problem.

In October 2001, a bill was introduced in the National Assembly that proposed 14-year sentences for anyone convicted of promoting, managing, or transporting any person into or out of the country with the purpose of engaging that person in prostitution. The National Assembly deferred the bill during the October session for further review.

It was believed that Malawian women were trafficked to South Africa and Europe. For example, in 2001 the Ministry of Gender, Youth, and Community Services, the lead ministry on trafficking issues, reported seven cases of women being trafficked to South Africa and Netherlands to engage in prostitution after being lured by false job offers. Efforts to repatriate the seven women were unsuccessful due to a lack of resources. There was no indication of any police investigation of trafficking cases during the year.

The extent of the trafficking problem was undocumented, and neither the Government nor NGOs viewed it as a significant problem. There was scant media attention, and there was only one NGO focusing education campaigns on the problem of trafficking during the year. The police and the Ministry of Gender and Community Services handled any cases that arose.



There was no government funding for NGO services to victims of trafficking, and there was no training for government officials on how to provide assistance to trafficking victims.

## MALI

Mali is a constitutional democracy that continued to implement a decentralized form of government. In May General Amadou Toumani Toure, former head of state during the 1991 to 1992 transition government, was elected to a 5-year term as President. The presidential and legislative elections were judged generally free and fair by international and domestic observers; however, there were some administrative irregularities. The former ruling party, Alliance for Democracy in Mali (ADEMA), lost its majority in the National Assembly, and no party held a clear majority. The Constitution provides for an independent judiciary; however, in practice the executive branch continued to influence the judiciary.

Security forces were composed of the army, air force, Gendarmerie, the National Guard, and the police. While civilian authorities generally maintained effective control of the security forces, there were a few instances in which elements of the security forces acted independently of government authority. The army and air force were under the control of the civilian Minister of Defense, as were the Gendarmerie and the National Guard. The police were under the Ministry of Internal Security and Civil Protection. The police and gendarmes shared responsibility for internal security; the police were in charge of urban areas only. There were no reports that security forces committed human rights abuses.

The country was very poor with a market-based economy, and its population was approximately 11 million. Most of the work force was employed in the agricultural sector, particularly farming and animal husbandry. The gross national product was approximately \$300 per capita, which provided most of the population with a low standard of living, although there was a sizable middle class. The economy depended heavily upon foreign assistance. Desertification, deforestation, soil degradation, and social limitations, including a current estimated literacy rate of approximately 30 percent (48 percent for men and 12 percent for women) and a high population growth rate (2.4 percent), contributed to poverty. The inflation rate remained low, and public sector wages were adjusted to keep pace with inflation. Poor infrastructure, minimal foreign investment, administrative inefficiency, and corruption also were important factors in limiting economic growth.

The Government generally respected its citizens' human rights; however, there were problems in some areas. Prison conditions remained poor. Occasionally police arbitrarily arrested and detained persons. Prolonged pretrial detention was a problem. The judicial system's large case backlog resulted in long periods of pretrial detention and lengthy delays in trials. The judiciary continued to be subject to executive influence, and there were reports of corruption in the courts. Domestic violence against women was widespread. Discrimination against women persisted, and social and cultural factors continued to limit sharply economic and educational opportunities for most women. Female genital mutilation (FGM) was widespread, although educational campaigns against FGM were ongoing. Hereditary servitude relationships continued to link different ethnic groups. Child labor was common in the agricultural and domestic help sectors. Children were trafficked into forced labor in Cote d'Ivoire; the Government returned a number of these children to their families during the year. Mali was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

No action was taken, nor was any likely to be taken, against the soldiers accused of the torture and killing of two persons suspected in the 2000 killing of three tourists. The three other suspects remained in detention at year's end, and the investigation continued.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that government officials employed them.

There were no new developments in the following 2001 incidents: The January attack on the Gendarmerie Headquarters in Tarkint in which two gendarmes were injured; and the June death of a bus driver, who fell or jumped to his death from a bridge while being pursued by the police.

Prison conditions were poor. Prisons continued to be overcrowded, medical facilities were inadequate, and food supplies were limited. In 2001 a new prison facility for women and juveniles was built in Bamako. The new prison allowed for some separation of prison populations in Bamako; however, the situation remained unchanged outside the capital, where men and women were housed in the same building but in separate cells. In Bamako juvenile offenders usually were held in the same prison as adult offenders, but they were kept in separate cells. There were no reports that women or juveniles were abused by other inmates or by guards. Pretrial detainees were held with convicted prisoners.

The Government permitted prison visits by human rights monitors. Several organizations, including the Malian Association of Human Rights, the Malian Association of Women Lawyers, and other nongovernmental organizations (NGOs) visited prisoners and worked with women and juvenile prisoners to improve their conditions. The International Committee of the Red Cross (ICRC) continued to visit former President Traore and his wife Mariam until they were pardoned and released in June (see Section 1.e.).

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions; however, on occasion police arrested and detained persons arbitrarily.

Judicial warrants were required for arrest. The normal procedure was for the complainant to deliver the warrant, which stipulated when the person was to appear at the police station. In some cases, the police served the warrant. This normally was done at the request of a relative or in the event of a bribe. Frequently in cases where money was involved, the arrested person agreed to resolve the case at the police precinct, and the police received a portion of the recovered money.

The Constitution provides that suspects must be charged or released within 48 hours and that they are entitled to counsel; however, in practice detainees were not always charged within the 48-hour period.

Limited rights of bail or the granting of conditional liberty existed, particularly for minor crimes and civil matters. On occasion the authorities released defendants on their own recognizance.

One of the 36 Pakistani preachers who the police arrested and detained in October 2001 for allegedly entering the country illegally remained in custody at year's end. The Government did not release a report on the Pakistani preachers by year's end.

Administrative backlogs and insufficient lawyers, judges, and courts often caused lengthy delays in bringing persons to trial. In extreme cases, individuals remained in prison for several years before coming to trial. Local lawyers estimated that approximately half of prison inmates were pretrial detainees.

The Government did not use forced exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the executive branch continued to exert influence over the judicial system. The Ministry of Justice appointed and had the power to suspend judges; it supervised both law enforcement and judicial functions. The President headed the Superior Judicial Council, which oversaw judicial activity. Domestic human rights groups alleged that there were instances of bribery and influence peddling in the courts. In 2000 the Government launched a campaign against corruption that led to the detention of many senior civil servants, businessmen, and political leaders from all parties. They subsequently were released; however, they were not permitted to leave the country and still were under investigation at year's end.

The Supreme Court has both judicial and administrative powers. The Constitution provides for a separate Constitutional Court that oversees issues of constitutionality and acts as an election arbiter. The Constitution also provides for the convening of a High Court of Justice with the power to try senior government officials in cases of treason.

Except in the case of minors, trials were public, and defendants had the right to be present and have an attorney of their choice. Defendants and attorneys had access to government evidence relevant to their cases. Defendants were presumed innocent and had the right to confront witnesses and to appeal decisions to the Supreme Court. Court-appointed attorneys were provided for the indigent without charge. The village chief, in consultation with the elders, decided the majority of disputes in rural areas. If these decisions were challenged in court, only those found to have legal merit were upheld.

In June President Konare pardoned and released former President Traore and his wife, Mariam, who were the last members of the Traore regime still in prison. They remained in the country at year's end.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice. Police searches were infrequent and required judicial warrants. However, security forces maintained physical and technical surveillance of individuals and groups believed to be threats to internal security, including surveillance of telephone and written correspondence of individuals deemed by a magistrate to be a threat to national security. There were no reports of such government surveillance during the year.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

The Superior Council of Communication's (CSC) primary function was to regulate the media, both protecting and controlling journalists. The Committee of Equal Access to State Media was activated during election campaigns. Mandated by the Constitution, it oversaw equal access to the Government-controlled media for all political parties.

There were more than 30 private newspapers and journals in French, Arabic, and local languages throughout the country, and there were as many as 20 newspapers in Bamako. There were 10 or more daily newspapers and many others were biweeklies; 6 were privately owned of which one, *Les Echos*, was allied with the former ruling party and one was government-controlled *L'Essor*. All newspapers were required to register with the Ministry of Communications; however, registration was not complicated and could be completed quickly.

The law regulates the press and provides for substantial criminal penalties, including imprisonment, for libel and for public injury to the Head of State, other officials, and foreign diplomats; these laws leave injury undefined and subject to judicial interpretation. However, the Government never has prosecuted journalists on criminal libel charges. No journalists were arrested on libel charges during the year.

The Minister of Territorial Administration and Local Collectivities could prohibit religious publications that he concluded defamed another religion; however, there were no reports of instances in which publications were prohibited.

The Government controlled the only television station and 1 of more than 130 radio stations; however, all presented a wide range of views, including those critical of the Government, the President, the Prime Minister, and other politicians. The relative expense of newspapers and television, coupled with a low literacy rate, made radio the most prevalent medium of mass information and communication. There were as many as 15 private radio stations in Bamako, and there were approximately 117 additional stations throughout the country. In addition to commercial radio stations, private or community radio broadcasters included those run by associations and others directed toward smaller villages (the latter two radio services enjoyed special tax advantages).

A number of foreign broadcasters operated in Bamako through local media. These included Radio France Internationale, Africa No. 1, and the British Broadcasting Corporation; all had frequency modulation (FM) frequencies. Voice of America had a local FM affiliate.

Domestic reception and distribution of foreign satellite and cable television were permitted and fairly widespread, especially in Bamako. There were no private television stations that broadcast domestically produced programs.

There were 30 domestic servers providing access to the Internet. Licenses to operate Internet servers were granted freely and were not prohibitively expensive.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. The law requires groups that wish to hold public meetings to obtain the mayor's permission; however, such permission was granted routinely during the year.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Government required that all public associations, including religious associations, register with the Government. However, registration conferred no tax preference and no other legal benefits, and failure to register was not penalized in prac-

tice. The registration process was routine and was not burdensome. Traditional indigenous religions were not required to register.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice. Police routinely stopped and checked both citizens and foreigners to restrict the movement of contraband and to verify vehicle registrations. Some police and gendarmes used the occasion to extort bribes.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. A national committee in charge of refugees operated with institutional assistance from the office of the U.N. High Commissioner for Refugees (UNHCR). The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees. The Government provided first asylum for refugees.

According to both UNHCR and government estimates, there were approximately 11,000 Mauritanian refugees, mostly Fulani herders, living in the Kayes region in the western part of the country at year's end. However, the UNHCR, the Government of Mauritania, and the Government of Mali never have agreed on recognition of the refugee status of these persons, who have lived in the country for more than a decade; members of these pastoralist border groups historically have made cross-border migrations. Mauritians could register for refugee status, although few actually did.

At year's end, the country hosted approximately 1,900 urban refugees: 80 percent were from Sierra Leone, and 90 percent were living in Bamako. The Government had a transit center located 120 miles from Bamako, where it hosted approximately 100 of the most vulnerable refugee and asylum applicants. The center had a capacity of approximately 300 persons and could be expanded to hold 900.

There were no reports of the forced return of persons to a country where they feared persecution.

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

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

Under the Constitution, the President is Chief of State and Commander in Chief of the armed forces and is elected for a term of 5 years with a limit of two terms. The President appoints the Prime Minister. Additionally, the President appoints other members of the Government and sets limits on their powers. He names civil servants (national directors, regional government delegates, and others) and high military officers as mandated by the Constitution. The President promulgates laws within 15 days, following transmission to the Council of Ministers of a final adopted text. He can veto and return legislation to the National Assembly for reconsideration. There is no provision for the National Assembly to override a presidential veto. The President may submit any question of national interest to a referendum after consultation with the Constitutional Court. He exercises the power of pardon and can grant amnesty. The President may dissolve the National Assembly and call for new elections, although not in the year following legislative elections. Theoretically the President can declare a state of emergency and rule by decree, although no president has ever done so since the fall of the Traore regime.

In May presidential elections were held, and General Amadou Toumani Toure, former Head of State during the 1991 to 1992 transition, won more than 60 percent of the vote even without the support of a political party. Independent international and domestic observers judged the elections to be generally free and fair and without evident fraud; however, there were some administrative irregularities. There were reports of abuses of the proxy voting system, problems in verifying identification of some voters, and efforts to influence some voters. Voter turnout reportedly was 30 to 35 percent. Unlike the 1997 elections, none of the opposition parties boycotted the election. The Government and opposition parties reviewed and revised the electoral lists during 2001, and new electoral lists were released early in the year.

In July legislative elections were held that most independent observers considered to be generally free and without evident fraud; however, there were some administrative irregularities. Voter turnout was 20 to 25 percent, lower than for the presidential elections. The former majority party ADEMA and its allies held 56 of 147 seats in the National Assembly; Rally for Mali (RPM) and its allies held 65; and the remaining 26 seats were held by other smaller political parties and independents. No one party or coalition held a majority.

Governing authority was shared between elected mayors in the 701 communes (including the 19 cities) and appointed officials (“commissaires du gouvernement”) who were the representatives of the central government in the District of Bamako, the regions, and the cercles (districts roughly equivalent to counties). Local governments benefited from central government subsidies, but they also were able to collect local taxes to support their operations. Decentralization still was a controversial issue. The process has changed traditional power relationships between government and the governed and has relieved formerly powerful civil servants of their authority. The new administrators often were inexperienced and undereducated. Administrators lacked adequate funding to govern effectively.

The process of amending the Constitution, the electoral law, and other texts began during a National Political Forum in 2000 that involved political parties, civil society, and the Government. In August 2000, the National Assembly approved changes to the Constitution and to the electoral law; however, the constitutional and electoral revisions did not become law because they were not approved by referendum. A referendum scheduled for December 2001 was postponed indefinitely in November 2001, due to increasing criticism and opposition from civil society and opposition parties and a failure to achieve an acceptable consensus. The referendum was not rescheduled by year’s end.

There were no restrictions, legal or otherwise, on voting or running for office by women or minorities. A total of 13 women held seats in the 147-member National Assembly. There were 4 female cabinet members of a total of 28. Five women served on the Supreme Court out of 33 justices, and 3 women served on the Constitutional Court out of 9 justices.

Members of historically marginalized pastoralist ethnic minorities, including the Fulani and the Tuaregs, occupied seats in both the Cabinet and National Assembly. The Prime Minister was Tuareg.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Several independent domestic human rights organizations, such as the Malian Association for Human Rights (AMDH), a smaller Malian League of Human Rights, and a local chapter of Amnesty International, generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views. The ICRC had offices in Bamako, Tombouctou, and Gao.

From 1994 to 2001, the Government held an annual Democracy and Human Rights Forum at which citizens voiced publicly their discontent and grievances against the Government in the presence of the media and international human rights observers. Each year before the Forum, the Government published a report to assess implementation of the previous year’s Forum recommendations; the Forum then convened to review the previous year’s work and to make recommendations to the Government. The topics for discussion during the 2001 Forum included women’s rights, access to government services, and judicial reform. The events were well attended by local citizens, and discussion was free and open. The 2001 Forum called on the Government to make these issues a priority in 2002. The Government cancelled the 2002 Forum and replaced it with a meeting intended to restructure the Forum in response to its decreasing attendance over the years; there was no information available on the outcome of the meeting.

#### *Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination based on social origin, color, language, sex, or race, and the Government generally respected these provisions in practice; however, social and cultural factors gave men a dominant role.

*Women.*—Domestic violence against women, including spousal abuse, was tolerated and common; however, no statistics were available on the extent of the problem. Assault in marriage was a crime; however, police were reluctant to enforce laws against or intervene in cases of domestic violence. Many women in turn were reluctant to file complaints against their husbands because they were unable to support themselves financially.

FGM was common, especially in rural areas, and was performed on girls at an early age. According to domestic NGOs, approximately 95 percent of adult women had undergone FGM. The practice was widespread among most regions and ethnic groups, was not subject to class boundaries, and was not religiously based. There were no laws against FGM, and the Government did not propose legislation prohibiting FGM. The Government pursued a program of public awareness rather than legal prosecution of women involved in the practice. It supported educational efforts to eliminate the practice through seminars and conferences and provided media ac-

cess to proponents of its elimination. The National Committee Against Violence Towards Women linked all the NGOs active in preventing FGM. During the year, various NGOs campaigned against FGM. In 1999 the Government instituted a two-phased plan to eliminate all forms of FGM by 2008. The first phase, scheduled for 1999–2004, is intended to be one of education and dissemination of information. There was some public dissemination of information in urban areas, but the program continued to develop slowly.

Women had very limited access to legal services due to their lack of education and information, and because family law favored men. Women particularly were vulnerable in cases of divorce, child custody, and inheritance rights, as well as in the general protection of civil rights.

Despite legislation giving women equal rights regarding property, traditional practice and ignorance of the law prevented women from taking full advantage of the law. Prospective spouses chose between polygynous and monogamous marriages; a marriage could not take place without both parties' consent. However, when no preference was specified in the marriage certificate, judges assumed that the marriage was polygynous. A community property marriage had to be specified in the marriage contract. Traditional practice discriminated against women in inheritance matters. For example, men inherited most of the family wealth, and women received a much smaller portion of estates.

Women's access to employment in the professions and government, and to economic and educational opportunities, was limited. A 1995–96 national demographic and health survey found that 81 percent of women (compared with 69.3 percent of men) between the ages of 15 and 49 received no education. A 1998 report indicated that the national literacy rate was 12 percent for women more than 15 years of age. Women constituted approximately 15 percent of the labor force. The Government, the country's major employer, paid women the same as men for similar work. Women often lived under harsh conditions, especially in rural areas, where they performed difficult farm work and did most of the childrearing.

The first 4-year national plan of action for the promotion of women was completed in 2001; however, the results of the plan were not available by year's end. The plan, financed by national, regional, and local community budgets, sought to reduce inequalities between men and women in six target areas, including education, health, and legal rights. The Ministry for the Promotion of Women, Children, and the Family started on a second 4-year action plan that was intended to continue programs started during the first action plan.

There were numerous active women's groups that promoted the rights of women and children.

*Children.*—Education was free and, in principle, open to all, although the majority of students left school by the age of 12. Students had to provide their own uniforms and school supplies to attend public schools. While primary school was compulsory up to the age of 12, only 56 percent of children (46 percent of girls) received a basic education owing to a lack of primary schools, especially in rural areas where 80 percent of the population lived; shortages of teachers and materials; poverty; and cultural tendencies to place less emphasis on education of girls. Literacy rates among girls remained significantly lower than for boys.

On June 5, the Government enacted a new ordinance enumerating the rights of children and establishing new government positions in each region, that of child "delegates," whose role would be to safeguard the rights and interests of children. The new law also created special courts for children and specified protections for children in the legal system. There was no juvenile court system. The Social Services Department investigated and intervened in cases of reported child abuse or neglect. According to local human rights organizations, reported cases were rare; however, statistics were unreliable.

FGM was performed commonly on young girls (*see* Section 5, Women).

There were credible reports that children were sold and trafficked into forced labor in Cote d'Ivoire (*see* Section 6.f.).

*Persons with Disabilities.*—There was no specific legislation protecting the rights of persons with physical or mental disabilities or mandating accessibility. The Government did not discriminate against persons with physical disabilities in regard to employment, education, and other state services; however, the Government has not made provision for persons with disabilities in these areas. There was no societal discrimination against persons with disabilities; however, in view of the high unemployment rate, persons with physical disabilities often were unable to find work.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and the Labor Code specifically provide for the freedom of workers to form or join unions and protect freedom of association. Only the military, the Gendarmerie, and the National Guard were excluded from forming unions. Virtually all salaried employees were organized. Workers have established independent unions for teachers, magistrates, health workers, and senior civil servants, and most were affiliated with the National Union of Malian Workers (UNTM) federation. The UNTM has maintained its autonomy from the Government. There were two major labor federations, the UNTM and the Syndicated Confederation of Malian Workers.

Neither the Constitution nor the Labor Code prohibits antiunion discrimination, but there were no reports or complaints of antiunion behavior or activities during the year. If the parties could not come to agreement, the dispute went to the Labor Court for decision.

Unions were free to associate with and participate in international bodies. The union representing salaried employees regularly participated in programs sponsored by French labor unions. Other unions participated in training programs on worker's rights.

*b. The Right to Organize and Bargain Collectively.*—The growth of independent unions led to more direct bargaining between these unions and their employers. However, wages and salaries for workers belonging to the UNTM unions were set by tripartite negotiations between the Ministry of Labor, labor unions, and representatives of the federation of employers of the sector to which the wages applied. Civil service salary levels were pegged nationally to an index established by the Government. These negotiations usually set the pattern for unions outside the UNTM. The Ministry of Labor acted as a mediator in labor disputes.

The Constitution provides for the right to strike, although there were restrictions in some areas. For example, civil servants and workers in state-owned enterprises were required to give 2 weeks' notice of a planned strike and enter into mediation and negotiations with the employer and a third party, usually the Ministry of Labor. The Labor Code prohibits retribution against strikers, and the Government respected this requirement in practice.

During the year, two teachers' strikes occurred, one by university teachers and another by elementary teachers. These strikes were settled within a few days.

In 2001 the Government negotiated with all labor unions a social pact intended to encourage more discussions between workers and employers, thus lessening the risk of strikes.

In 2000 the International Labor Organization (ILO) requested that the Government amend Section 229 of the 1992 Labor Code to restrict the Minister of Labor's authority to impose arbitration to end strikes that were liable to cause an acute national crisis. The Government noted in its report to the ILO that it was undertaking an in-depth, tripartite discussion on Section 229 to make the legislation fully consistent with the principles of freedom of association; at year's end, the review was ongoing.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, including by children; however, there were reports that such practices occurred.

The law prohibits the contractual use of persons without their consent; penalties included a fine and hard labor. The penalties increased significantly if a minor, defined as someone under 15 years of age, was involved.

There were some reports that the de facto slavery long reported to have existed in northern salt mining communities has evolved to wage labor in recent years; however, reliable current evidence about labor conditions in those remote facilities remained unavailable. Hereditary servitude relationships continued to link different ethnic groups, particularly in the north. For example, there was a hereditary service relationship between members of the Bellah ethnic group and other Tuareg populations.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Code has specific policies that pertain to child labor; however, these regulations often were ignored in practice. The Labor Code permits children between the ages of 12 and 14 to work up to 2 hours per day during school vacations with parental approval. Children between the ages of 14 and 16 may work up to 4½ hours per day with the permission of a labor inspector, but not during nights, on Sundays, or on holidays. Children between the ages of 16 and 18 could work in jobs that physically were not demanding; boys could work up to 8 hours per day and girls up to 6 hours per day.

The Labor Code had no effect on the vast number of children who worked in rural areas, helping with family farms and herds, and on those who worked in the informal sector, for example, as street vendors. These children were not protected by laws against unjust compensation, excessive hours, or capricious discharge.

Child labor predominated in the agricultural and domestic help sectors and, to a lesser degree, in craft and trade apprenticeships, and cottage industries. Apprenticeship, often in a family member's or a parent's vocation, began at an early age, especially for children unable to attend school.

The authorities enforced the Labor Code provisions through the use of labor inspectors from the Ministry of Employment and Civil Service, who conducted surprise inspections and complaint-based inspections; however, resource limitations restricted the frequency and effectiveness of oversight by the Labor Inspection Service, and the Service operated only in the modern sector.

The National Campaign against Child Labor in Mali (Programme National de Lutte contre le Travail des Enfants au Mali), led by the International Program for the Elimination of Child Labor (IPEC)-Mali, was responsible for investigating abusive forms of child labor. IPEC relied on labor inspectors appointed by the Government in Bamako and in regional offices throughout the country. IPEC also was assisted by NGOs combating child labor and by government regional offices in charge of the promotion of women and children. Government resources included inspectors, NGOs, and IPEC funding. There was no predetermined number of inspections per year; however, investigations were held when information was provided by NGOs or the media that there was an instance of abusive child labor.

There were reports that children were kidnaped, sold into effective slavery, and made to work on coffee and cocoa plantations in Cote d'Ivoire. Some children were sold into forced labor by their parents; reportedly the children were beaten if they tried to escape. In August 2001, the Government introduced travel passes for children to try to prevent their being taken abroad to work illegally; however, the measure was criticized for leading to interference with legitimate travel.

*e. Acceptable Conditions of Work.*—The Labor Code specifies conditions of employment, including hours, wages, and social security; however, in practice many employers either ignored or did not comply completely with the regulations. The national minimum wage rate, set in 1994, was approximately \$42 (26,000 CFA francs) per month. Workers had to be paid overtime for additional hours. The minimum wage did not provide a decent standard of living for a worker and family. The minimum wage was supplemented by a required package of benefits, including social security and health care. While this total package could provide a minimum standard of living for one person, in practice most wage earners supported large extended families and supplemented their income by subsistence farming or employment in the informal sector.

The normal legal workweek was 40 hours (45 hours for agricultural employees), with a requirement for at least one 24-hour rest period. The Social Security Code provides a broad range of legal protections against hazards in the workplace, and workers' groups brought pressure on employers to respect parts of the regulations, particularly those affecting personal hygiene. However, with high unemployment, workers often were reluctant to report violations of occupational safety regulations. The Labor Inspection Service of the Ministry of Labor oversaw these standards but limited enforcement to the modern, formal sector. It was not effective in investigating and enforcing workers' safety and was funded insufficiently for its responsibilities. Workers had the right to remove themselves from dangerous work situations and request an investigation by the Social Security Department, which was responsible for recommending remedial action where deemed necessary; it was not known if any worker had done so.

The law protects legal and illegal foreign workers. Persons illegally in the country were not allowed to work; however, if they were given a job, they had the same protections as legal workers.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons but does specifically prohibit trafficking in children; however, children were trafficked for forced labor in Cote d'Ivoire. In August 2001, a new law was promulgated that made child trafficking punishable by 5 to 20 years in prison. There also were laws that prohibited the contractual use of persons without their consent.

Penalties for violations of the law prohibiting forced contractual labor included a fine or hard labor. Penalties increased if a minor was involved; however, these penalties were not imposed during the year. The problem of trafficking was handled by both the Ministry for the Promotion of Women, Children, and the Family and the Ministry of Employment and Civil Service. Both ministries, in cooperation with the Ministry of Foreign Affairs and the Ministry of Territorial Administration, have de-



veloped a program to identify and rehabilitate victims, educate the population, and strengthen the legal system with regard to the movement and trafficking of minors. Welcome centers in Mopti, Sikasso, and Bamako assisted child trafficking victims in returning to their families. In 2001 the Ministry of Labor selected a coordinator, Almoustapha Toure, specifically to handle child trafficking issues, as opposed to general child labor issues; however, there was no information available on his efforts by year's end.

An estimated 15,000 Malian children between the ages of 9 and 12 have been sold into forced labor on cotton, coffee, and cocoa farms in northern Cote d'Ivoire over the past few years; an even greater number were forced into domestic service. Organized networks of traffickers deceived the children and their families into believing that they would be given paid jobs outside of their villages. They then were sold to plantation owners for sums ranging between \$20 and \$40 (14,500 and 29,000 CFA francs). The children reportedly were forced to work 12 hours per day without pay, and often they were abused physically.

The Government took some steps to halt child trafficking and repatriate children to the country from Cote d'Ivoire; however, there was no estimate of the number of children in Cote d'Ivoire. In 2001 more than 300 children were returned to their families from Cote d'Ivoire. This figure represented the number of children who were assisted at the Malian welcome centers; children who returned home without first going through a welcome center were not counted. At year's end, approximately 10 traffickers arrested in Sikasso in 2001 had been charged, but no information on trial dates was available.

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## MAURITANIA

Mauritania is a highly centralized Islamic Republic dominated by a strong presidency. The Constitution provides for a civilian government composed of a dominant executive branch, a senate, and a national assembly. President Maaouya Ould Sid'Ahmed Taya has governed since 1984, first as head of a military junta, and since 1992 as head of an elected civilian government. The President heads the ruling Republican Social Democrat (PRDS) party. Taya was reelected President with more than 90 percent of the vote in 1997 elections widely regarded as fraudulent. The next presidential elections are scheduled for 2003. The banning of two opposition parties during the year diminished the opposition's gains in the 2001 municipal and National Assembly elections, considered generally fair and transparent following the introduction of hard-to-falsify voter identification cards and published, revised voter lists. Under the Constitution's indirect electoral process, one opposition candidate succeeded in the April Senate elections. The Constitution provides for an independent judiciary; however, the judiciary was subject to significant pressure from the executive through its ability to influence judges.

The civilian authorities maintained effective control of the security forces, which included the regular armed forces, the National Guard, the Gendarmerie, and the police. The Ministry of Defense directed the armed forces and Gendarmerie; the Ministry of Interior directed the National Guard and police. The armed forces were responsible for national defense. The National Guard performed police functions throughout the country in areas in which city police were not present. The Gendarmerie was a specialized paramilitary group responsible for maintenance of civil order in and outside metropolitan areas. Some members of the security forces committed human rights abuses.

The country had an estimated population of 2.7 million and had a market-oriented economy. Drought, desertification, and insect infestation have contributed to rapid urbanization, extensive unemployment, pervasive poverty, and a burdensome foreign debt. The Government was slow in implementing social programs identified in a 2000 Poverty Reduction Strategy Paper, which set targets for using debt relief proceeds to generate private sector development and improved access to education and health care for all segments of society in all parts of the country. The concentration of much of the country's wealth in the hands of a small elite, including the President's tribe and related Moor tribes, as well as a lack of transparency and accountability in certain areas of governance, impeded economic growth. The country received foreign assistance from bilateral and multilateral sources.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. Democratic institutions remained rudimentary, and the Government circumscribed citizens' ability to change their government. There were fewer reports that police used undue force in controlling crowds or demonstrations. Some members of the security forces used excessive force, beat, or otherwise abused detainees, and used arbitrary arrest and de-

tention and illegal searches; however, there were no reports of killing by security forces. The Government failed to bring to justice officials who committed abuses, and impunity remained a problem. Prison conditions were harsh. Pretrial detention continued; however, the length of pretrial detentions was shorter due to improved organization of the courts. The Government continued its program of judicial reform and training; however, the right to a fair trial was not always realized. At times the Government restricted freedom of speech and of the press. The Government restricted freedom of assembly, and limited the freedoms of association and religion. The Government banned two political parties. The Government continued to refuse to recognize officially some nongovernmental organizations (NGOs) and human rights organizations. Discrimination against women continued, and female genital mutilation (FGM) remained a serious problem despite government efforts to halt the practice. Ethnic tensions continued to ease, but the largely southern-based ethnic groups, including the Halpulaar (also called Fulani or Peuhl), Soninke, and Wolof, remained underrepresented in political life and some of their members felt excluded from effective political representation. Child labor in the informal sector was common. There continued to be reports that slavery in the form of forced and involuntary servitude persisted in some isolated areas, that unofficial, voluntary servitude persisted, and that former slaves continued to work for former masters or others.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

There was no development in the case of the 2001 killing of a Senegalese fisherman.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture and other forms of cruel or inhuman punishment; however, there were reports that police beat criminal suspects in custody. There were fewer reports that police used undue force in controlling public crowds or breaking up demonstrations that took place (*see* Section 2.b.).

In April police detained for several days, but eventually released uncharged Mohamed Baba Ould Said, Bechir Ould Moulaye El Hassen, Mohamed Fall Ould Oumer, and Mohamed Salem Ould Ahlou Ould Sidi Yaaraf primarily for conducting activities on behalf of the overseas-based organization “Conscience and Resistance” that opposed the Government. In June Ould Said filed a complaint in French courts alleging police tortured him during his detention. Within days of release Ould Sidi Yaaraf, in a conversation with leader of the NGO SOS Esclaves, Boubacar Ould Messaoud, and others alleged that police had tortured him. Ould Messaoud publicized the allegation and was arrested but released unharmed (*see* Section 1.d.). The Government produced a document Yaaraf signed denying the allegation; however, reliable reports indicated that Yaaraf signed the document under duress. Based on the document and a doctor’s statement, the Government denied torturing Yaaraf; however, it did not conduct an investigation by year’s end.

There were no developments in the July 2001 beating of two persons detained in Aioun.

In October a French court refused a motion to dismiss judicial proceedings that continued in absentia against Captain Ely Ould Dah, a Black Moor charged with torturing in Mauritania in 1990 and 1991 two Halpulaar who later gained political refugee status in France.

Prison conditions remained harsh; however, serious overcrowding in Nouakchott’s prison no longer was a problem. In other prisons, serious overcrowding persisted and sanitation facilities remained inadequate and reportedly contributed to diseases such as tuberculosis, diarrhea, and dermatological ailments. Medical supplies, mainly provided by an international NGO, remained insufficient in all prisons. Prisoners with high-level government connections and families to bring them food, medicines, and reading material fared better than the less privileged or citizens from other countries. Budget allocations to improve food and nutrition, medical services and supplies, and new bedding and cleaning supplies were not sufficient, and there were no improvements to prison food, health, hygiene, and family contacts during the year. New guard force management continued to enforce regulations against beatings and torture; however, there were reports of beatings of detainees at the Commissariat outside the Nouakchott prison. The overall prison capacity was 700 and the prison population was 1,397 in September. The prison population in Nouakchott

was 584 persons. There were 534 men, 26 women, and 24 minors; minors were held in separate facilities.

Female prisoners have separate facilities with a communal garden. Children of female prisoners remained with their mothers or the Ministry of Justice gave temporary custody of the children to another family member. The Noura Foundation, an NGO working in the prison, continued to provide a program of education and microenterprise projects to the female prisoners. UNICEF, in collaboration with the French organization CARITAS, provided increased services, including training and sports in the juvenile detention centers. The Government cooperated with an NGO to provide training for female guards who worked at the women's prison. A doctor and nurse assigned to the men's prison also provided medical care for the women's and children's prison, but the infirmary remained understaffed.

Pretrial detainees generally were held separately from convicted prisoners; however, at times they were held with prisoners.

The Government permitted prison visits by NGOs, diplomats, and international human rights observers. Foreign diplomats visited some prisons during the year. The International Committee of the Red Cross (ICRC) had access to prisons, but did not conduct prison visits during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, police arbitrarily arrested and detained citizens. The application of the constitutional safeguards continued to vary widely from case to case. The law requires that courts review the legality of a person's detention within 48 hours of arrest. The police may extend the period for another 48 hours, and a prosecutor or court can detain persons for up to 30 days in national security cases. Only after the prosecutor submitted charges did a suspect have the right to contact an attorney. There was a provision for granting bail, but it was used rarely.

Security forces continued to use arbitrary arrest, detention, and intimidation against opposition parties and others. In May police detained but released uncharged the leader of the unrecognized NGO SOS Esclaves after he publicized the alleged torture of Mohamed Salem Ould Ahlou Ould Sidi Yaaraf (*see* Section 1.c.).

In November security forces arbitrarily arrested, detained, and released uncharged seven persons who refused to allow a local businessman to drill a well on communal lands near Kaedi.

Unlike in the previous year there were no reports that police arrested members of the banned opposition party Union of Democratic Forces-New Era (UFD-A).

Human rights activists reported that police showed greater respect for legally mandated procedures and that prison administration continued to show improvement; however, pretrial detention after arraignment often was prolonged. An estimated 15 to 20 percent of those in prison had not yet been tried, or were awaiting sentencing following their trials. Some indicted detainees were released before trial without explanation; familial, tribal, or political connections could explain some of these cases.

There is no provision in the law regarding exile; however, there were no reports of forced exile during the year. The Government continued to welcome the return of any citizens who had been expelled or who had fled from 1989–91.

*e. Denial of Fair Public Trial.*—The Constitution provides for the independence of the judiciary; however, in practice the executive branch exercised significant influence over the judiciary through its ability to appoint and pressure judges. In addition, poorly educated and poorly trained judges who were susceptible to social, financial, tribal, and personal pressures limited the judicial system's fairness.

There was a single system of courts with a modernized legal system that conformed with the principles of Islamic law (Shari'a). Departmental, regional, and labor tribunals were the courts of first instance at the lower level. The 53 departmental tribunals, composed of a president and magistrates with traditional Islamic legal training, heard civil cases involving sums less than \$39 (10,000 ouguiya) and family issues, such as domestic, divorce, and inheritance cases. A total of 13 regional tribunals accepted appeals in commercial and civil matters from the departmental tribunals and heard misdemeanors. Three labor tribunals, composed of a president and two assessors (one who represented labor and one who represented employers), served as final arbiters for labor disputes. At the middle level, three courts of appeal, each with two chambers (a civil and commercial chamber, and a mixed chamber,) heard appeals from the regional courts and had original jurisdiction for felonies.

The Supreme Court nominally was independent and was headed by a magistrate appointed to a 5-year term by the President. The Supreme Court reviewed decisions and rulings made by the courts of appeal to determine their compliance with the law and procedure. Constitutional review was within the purview of a six-member

Constitutional Council, composed of three members named by the President, two by the National Assembly President, and one by the Senate President. Annual review of judicial decisions was undertaken by the Supreme Council of Magistrates, over which the President presided; the president and senior vice president of the Supreme Court, the Minister of Justice, three magistrates, and representatives from the Senate and National Assembly were members of this Council. The annual review was intended to determine whether courts applied the law correctly and followed proper procedures. Reviews also served as a basis for evaluating the reform process and reassigning judges based on their qualifications.

The minimum age for children to be tried was 12. Those between the ages of 12 and 18 were tried and sentenced to the juvenile detention center (*see* Section 1.c.). There was a special court to hear the cases of children under the age of 18. Children appearing before the court received more lenient sentences than did adults, and extenuating circumstances received greater consideration in juvenile cases.

With international assistance, the Government continued a program to improve judicial performance and independence, which consisted of organizing all laws and statutes into a single reference text and training officials throughout the justice system. Separate tribunals for specific types of disputes held court sessions more frequently. The Government continued to hold security officials accountable and prosecuted officials for abuses, which has improved the public perception of the judicial system.

The Constitution provides for due process and the presumption of innocence until proven guilty by an established tribunal. All defendants, regardless of the court or their ability to pay, had the legal right to representation by counsel during the proceedings, which were open to the public. If defendants lacked the ability to pay for counsel, the court appointed an attorney from a list prepared by the National Order of Lawyers, which provided a defense free of charge. The law provides that defendants may confront witnesses, present evidence, and appeal their sentences, and these rights generally were observed in practice.

Shari'a provides the legal principles upon which the law and legal procedure are based, and because of the manner in which Shari'a was implemented in the country, courts did not treat women as the equals of men in all cases (*see* Section 5).

Members of the opposition party FP claimed that party leader Mohamed Lemine Ch'bih Ould Cheikh Malainine was a political prisoner and that his June 2001 conviction for conspiracy was a charade (*see* Section 1.d.).

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law requires judicial warrants in order to execute home searches; however, the authorities reportedly often ignored this requirement.

Government surveillance of dissidents and the political opposition was believed to continue; however, the extent to which the Government used informants was unknown.

There were a number of reports that some government officials misappropriated land under the land reform system, confiscating the land of southern ethnic groups or the land traditionally held by Haratines and distributing it to their own friends and family (*see* Section 6.c.). The land reform law was to provide land for rural landless persons, including White and Black Moor victims of desertification in the northern and central regions and for returning southerners who had been expelled from 1989 to 1991. The reform aimed to increase the amount of land under cultivation by leasing uncultivated land to those with the means to cultivate it. However, there may have been a net redistribution of land from southerners and Haratines to White Moors under that program, since the south has been affected less by desertification than the more northerly regions historically inhabited by the Moors. Anecdotal evidence suggested that no more than 20 percent have received land.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government continued to restrict these rights through prepublication press censorship by the Interior Ministry. Two daily newspapers, Horizons and Chaab, and all broadcast media (radio and television) were government-owned and operated. NGOs and the privately owned press openly criticized the Government and its leaders. Antigovernment tracts, newsletters, and petitions circulated widely in Nouakchott and other towns.

All newspapers must register with the Ministry of the Interior. There were more than 300 journals and newspapers registered with the Ministry of the Interior, more than 200 of which did not publish regularly, including some that never have published an edition. There only were approximately 25 privately owned newspapers that published on a regular basis. These journals were weeklies and reached limited audiences, printing at most 3,000 copies of any 1 edition. The Government issued

press cards to journalists and required that they show this identification for participation in official press events. Publications were exempt from all taxes on materials used to produce newspapers, journals, or books for the private press.

The Press Law requires publishers to submit copies of newspapers to the Ministries of Interior and Justice before distributing them. The Ministry of the Interior reviewed all newspaper copy prior to publication and usually authorized sales and distribution within 2 to 3 days. However, the Press Law provides that the Minister of the Interior can stop publication of material that discredits Islam or threatens national security. During the year, the authorities seized 11 issues of different journals.

There were no developments in the 2000 cases of the banning of the weekly newspaper *Al Alam* or the Government's suspension of the accreditation of a Middle East Information Agency representative.

Radio was the most important medium in reaching the public, and the official media strongly supported government policies. The Government continued to deny private applications to establish domestic radio stations. During the October 2001 legislative and municipal election campaign, the Government provided all candidates with equal access to its two newspapers and to the electronic media, allowing citizens to hear and read criticism of the Government in these media, as well as in the private press. Opposition parties' access to government radio broadcast facilities at other times was limited.

Using satellite receivers and dish antennas, citizens could receive worldwide television broadcasts.

There were three domestic Internet service providers, which operated without governmental restrictions. Internet connections existed in Nouadhibou, the major commercial center, and ten other regional capitals. Some private newspapers also maintained websites, which the Government did not censor.

The Government did not restrict academic freedom, and there were no cases in which the Government prevented research or publication or censored lectures. The country's one university was government-funded and operated.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government restricted this right in practice. The law requires that all recognized political parties and NGOs apply to the local prefect for permission for large meetings or assemblies. In April the Government temporarily banned all public demonstrations and refused to grant permits to demonstrators in response to widespread demonstrations on the situation in the Middle East.

There was no action taken against authorities who used force to disperse demonstrations in April 2001, July 2001, April 2000, November 2000, and December 2000.

The Constitution provides for freedom of association; however, the Government limited this right in practice and circumscribed the efforts of some groups by denying them official recognition. All political parties must register with the Ministry of the Interior. The number of political parties and labor unions remained the same. At least 15 political parties and a wide array of NGOs, many of them highly critical of the Government, functioned openly, issued public statements, and chose their own leadership; however, the Government has banned or refused to authorize several parties. The Government did not recognize any new NGOs or associations during the year; however, there were more than 600 such organizations in the country. The Government has not yet granted some NGOs official standing but did not prevent them from functioning. Among these were the Mauritanian Association for Human Rights (AMDH) and SOS-Eslaves (an antislavery NGO), which the Government claimed potentially were divisive in that they appealed to specific ethnic groups, namely the southern and Black Moor communities.

In January the Government banned the Action for Change (AC) party, claiming it incited racism and violence and attempted to disrupt national unity; however, the four AC deputies elected in October 2001 retained their seats as independents. In August the Government refused to authorize the new Convention for Change (CC) party, citing constitutional prohibitions against ethnic-based parties; CC organizers asserted the party was not ethnic-based. The UFD-A, the major opposition party remained banned at year's end.

The Taliaa (Vanguard) party also remained banned at year's end because of "cooperation with a foreign party, accepting foreign funds for political propaganda, and carrying out illegal acts."

In June the Government interfered in the election of the head of the National Order of Lawyers by manipulating procedures, exerting influence on certain members of the organization, and using police to restrict access to the organization's meetings.

In October the Government pressured the management of a Nouakchott hotel to deny accommodations for a meeting of opposition parties; the meeting took place at a different location.

In December the Government prevented a lawyer opposed to the Government's interference in these activities from holding a press conference at a Nouakchott hotel.

*c. Freedom of Religion.*—The Constitution establishes the country as an Islamic republic and decrees that Islam is the religion of its citizens and the State; the Government limited freedom of religion. However, Christians in the foreign community and the few Christian citizens practiced their religion openly and freely.

The Government did not register religious groups; however, NGOs had to register with the Ministry of the Interior (*see* Section 2.b.); this included humanitarian and development NGOs affiliated with religious groups.

Although there is no specific legal prohibition against proselytizing by non-Muslims, in practice the Government prohibited proselytizing by non-Muslims through the use of Article 11 of the Press Act, which bans the publication of any material that is against Islam or contradicts or otherwise threatens Islam. However, there were no reports that the Government punished persons for violating Article 11 during the year. The Government views any attempts by Christians to convert Muslims as undermining society; however, the Government also restricted suspected Islamic extremists. In November and December, the Government attempted to identify the authors of tracts warning possible proselytizers to stop their activities, and halted the circulation of the tracts. There were no known non-Muslim groups engaging in proselytizing, and foreign Christian NGOs limited their activities to humanitarian and development assistance.

Under Article 11, the Government may restrict the importation, printing, or public distribution of Bibles or other non-Islamic religious literature, and in practice Bibles neither were printed nor publicly sold in the country. However, the possession of Bibles and other Christian religious materials in private homes was not illegal, and Bibles and other religious publications were available among the small Christian community.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice; however, in some regions, persons lacking identity cards could not travel freely.

For several years, the Government set up roadblocks where gendarmerie, police, or customs officials checked the papers of travelers and often demanded bribes. During the year, the Government generally maintained fewer roadblocks than in previous years, and reduced the time taken in questioning and conducting vehicle searches. There were fewer reports of more stringent searches in the southern border areas. However, the number of roadblocks throughout the country increased temporarily in December without explanation.

Of the approximately 70,000 members of largely southern-based ethnic groups who were expelled by the Government or fled to Senegal and Mali during the 1989–91 crisis, almost all have returned or resettled in those countries. The Government has stated since 1993 that any citizen outside the country may return; however, the Government, the countries of asylum, and the U.N. High Commissioner for Refugees (UNHCR) have signed no tripartite repatriation agreements. The UNHCR estimated that there were between 15,000 and 20,000 refugees remaining in Senegal, although refugees have continued to return independently in small numbers and have benefited from small-scale agroforestry, health, and sanitation projects continued by NGOs and humanitarian workers.

Cooperation by local authorities in addressing restitution and citizenship matters varied greatly, depending on individual officials and the returnee's region. Repatriation efforts achieved greater results in the Trarza and Brakna regions than in Gorgol and Guidimaka to the east; however, observers noted that the situation in Gorgol improved considerably. Many returnees received their original homes, some property, and all or a portion of their land (*see* Section 1.f.). Timely restoration of identity papers varied, and some of those who returned in 1995 have not yet received identification cards. In some regions, persons lacking identity cards could not travel freely.

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, in practice the Government accepted the UNHCR recommendations on the granting of asylum and refugee status. The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees. In re-

cent years, the Government has provided first asylum to refugees from neighboring countries including Liberia, Sierra Leone, Senegal, Cote d'Ivoire, Mali, and Guinea-Bissau. The Government also has accepted the UNHCR's registration of approximately 200 asylum seekers, mostly from Sierra Leone and Liberia.

The country hosted more than 50,000 nationals of other West African countries who sought refuge and employment, primarily in Nouakchott and Nouadhibou. An estimated 60 percent of the country's small craft fishermen were Senegalese. There was a population of approximately 300 Sierra Leoneans living in Nouakchott. Some arrived more than 10 years ago and were employed fully. Approximately 225 of these have been granted refugee status and received UNHCR assistance.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government; however, the Government restricted this right in practice. Although civilians occupied all ministerial-level positions, some members of the Military Council that ruled from 1984 to 1992, in addition to President Taya, remained in positions of power within the executive branch, the National Assembly, the armed forces, and government-owned enterprises.

President Taya won an overwhelming victory in the 1997 presidential election, although his opponents did better in the cities than in the rural areas. The official turnout of 75 percent and the winning percentage of 90 percent were inflated, because many individuals voted more than once. The Government distributed four voter registration cards to some persons, including government employees, instructing them to vote repeatedly for the incumbent. The opposition also distributed multiple voter registration cards to some persons, instructing them to vote repeatedly. The outcome of the election was marred by fraud on all sides, including pervasive government intervention to support candidates from the ruling party. The election was boycotted by a coalition of four opposition parties that had demanded enhanced media access, an opposition role in election preparation, creation of an independent electoral commission, enlargement of the commission charged with revision of the electoral list, and provision of official copies of the voting report from each polling station to representatives of each candidate. During the election campaign, the Government granted the opposition access to the official media, but did not meet the other demands. The next presidential elections are scheduled for 2003.

One-third of the Senate was elected by the indirect balloting of municipal councils every 2 years; the latest elections were held in April for 19 of the 56 seats. The elections generally were well organized; however, international observers noted that government manipulations weakened the chances for opposition candidates. In contrast to the boycotts and limited participation in the 2000 Senate elections, six opposition parties ran candidates, and no parties boycotted the April elections. For the first time, an opposition (Rally for Democracy-RFD) candidate was elected to the Senate. In addition, two women also were elected to the Senate.

In October 2001 legislative and municipal elections, 15 opposition parties presented candidates for election. The Government introduced a hard-to-falsify voter identification card, revised and published all voter registration lists, used transparent ballot boxes, and allowed full access for a representative of each party to observe the entire voting process, including ballot counting, in every precinct. However, due to resource constraints, not all parties sent observers to all polling stations. No visiting international groups observed the elections, but foreign diplomats and local observers noted that the elections generally were fair and transparent with some irregularities, such as voters casting ballots at two different polling stations in a small number of precincts. Security forces avoided involvement in politics; by law members of the military must resign if they wish to participate in partisan politics. Except during the election campaign, the Government denied the political opposition full access to government media or the ability to compete on an equal footing (see Section 2.a.). The FP party, which opposes diplomatic relations between the country and Israel, gained one seat in the legislative elections, and eight municipal council seats either outright or in coalition with other parties.

The country is divided into 13 provinces, including the capital district of Nouakchott; each province is divided into prefectures. The Government appointed the Walis (governors) and Hakems (prefects). Municipal councils were elected by general ballot, and they elected their mayors, usually the lead candidate of the majority party's list. Most government services were provided by the central government. The elected councils were responsible for some public services such as sanita-

tion and had fiscal autonomy and taxing authority. Their administrative staff was independent of the Government. The councils elected the national Senate.

Women have the right to vote and formed the majority of voters in the October 2001 elections. Women occupied some senior government positions: Four cabinet-level posts including the cabinet-level post in charge of information, one secretary-general post, and two senior presidential advisors (including a Haratine). In addition, for women served as senior advisors to ministers. Women were well represented in the Secretariat of Women's Affairs, including a number from minority ethnic groups. There were 4 women in the 81-seat National Assembly and 3 women in the 56-seat Senate. A total of 3 of the 14 members of the Executive Bureau of the ruling PRDS were women, and a woman headed the UDP party, a part of the ruling coalition.

Minorities such as the Haratines, Halpulaars, Soninkes, and Wolofs were under-represented in senior government positions. Of the Government's 20 ministerial posts, 2 incumbents were Haratine, 2 were Halpulaar, and 1 was Soninke; the remaining 15 were of either White Moor or mixed White Moor/Haratine ethnicity (*see* Section 5). The full 27-member Cabinet, including secretaries of state, had 3 Haratines, 3 Halpulaars, and 1 Soninke. The 56-member Senate had 3 Haratines, 4 Halpulaars, 3 Soninkes, and the remaining 46 were of either White Moor or mixed White Moor/Haratine heritage. The 81-member National Assembly had 9 Haratines, 8 Halpulaars, 2 Soninkes, and 2 Wolof.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were three human rights organizations concerned with overall human rights issues. The oldest was the Mauritanian League for Human Rights (LMDH), an independent, government-recognized body. A second organization, the AMDH, still was unrecognized (*see* Section 2.b.). While not affiliated with the opposition, the AMDH had many opposition members. The AMDH was more critical of the Government than the LMDH, particularly on the unresolved abuses of the 1989–91 period. The International Study and Research Group on Democracy and Economic and Social Development in Africa (GERDDES-Africa) has not been recognized officially. The Government has not responded to the applications of these organizations on the grounds that they were ethnically based organizations that were divisive and in violation of the law; however, the unrecognized organizations continued to carry out their activities unimpeded. The Government was responsive to NGOs.

Other organizations, including 14 unregistered associations, also addressed human rights issues. Two groups, SOS-Esclaves and the National Committee for the Struggle Against the Vestiges of Slavery in Mauritania, focussed their efforts on overcoming the country's vestiges of slavery (*see* Section 6.c.). SOS-Esclaves particularly was active in claiming that slavery remained pervasive and appealing to national and international audiences to contribute to its eradication. SOS-Esclaves leader Boubacar Ould Messaoud and other SOS-Esclaves members traveled abroad freely during the year and made such claims during speaking tours. In November Amnesty International published a report urging the Government to implement more practical measures to counteract the vestiges of slavery.

The Committee of Solidarity with the Victims of Repression in Mauritania was concerned with the plight of the 1989 expellees. The Consultative Group for the Return of the Refugees was founded to promote the return of the remaining refugees in Senegal. The Collective of Worker Victims of the 1989 Events sought redress for government employees who lost their jobs in the events of 1989. The Committee of the Widows and the Collective of Survivors focused on the sufferings of the victims of the 1990–91 military purge and their families. The Collective of Survivors of Political Detention and Torture sought redress for abuses committed during the 1986–87 period. These groups and other groups of individuals with common concerns functioned openly and actively, but their efforts were circumscribed somewhat because they were not recognized officially (*see* Section 2.b.). The Coalition of Human Rights NGOs was an umbrella organization for 12 of these organizations; it represented the group in various forums, including representations to foreign embassies.

The only international association concerned with human rights to visit the country during the year was the ICRC, which makes routine annual visits. The Executive signed the legislation in July 2000 governing the procedures and conditions under which international NGOs could conduct business in the country; however, regulations still were not implemented by year's end. This legislation would facilitate the legal right for NGOs to conduct their work by providing for duty free imports, licensing of vehicles, and other provisions. Some international development NGOs operated under direct agreements with the Government, but most have been working without governing regulations.



*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution provides for equality before the law for all citizens, regardless of race, national origin, sex, or social status, and prohibits racial or ethnic propaganda. In practice the Government often favored individuals on the basis of ethnic and tribal affiliation, social status, and political ties. Societal discrimination against women, strongly rooted in traditional society, was endemic, although the situation continued to improve.

*Women.*—Abuse and domestic violence is illegal, and, human rights monitors and female lawyers reported that domestic violence was rare, particularly among the Moor population. The police and judiciary occasionally intervened in domestic abuse cases, but women in traditional society rarely sought legal redress, relying instead upon family and ethnic group members to resolve domestic disputes. Rape, including spousal rape, is illegal, but there were no known arrests or convictions under this law. The incidence of reported rape was low; it occurred, but newspaper accounts of attacks were rare.

Traditional forms of mistreatment of women continued, mostly in isolated rural communities, but these practices appeared to be on the decline. One form of such mistreatment was the forced feeding of adolescent girls (gavage), which was practiced only among the Moors. While there was no law prohibiting gavage, the Government made it a policy to end the practice. Experts previously estimated that between 60 and 70 percent of women experienced gavage but concluded that very few Moor women continued to experience gavage.

FGM was practiced among all ethnic groups except the Wolof. It was performed most often on young girls, often on the 7th day after birth and almost always before the age of 6 months. Among Halpulaar women, more than 95 percent underwent FGM. Results of a foreign-funded study indicated that 66 percent of those who performed FGM recognized that the practice was detrimental to women's health, and 54 percent of imams agreed that the practice was dangerous. Local experts agreed that the least severe form of excision was practiced, and not infibulation, the most severe form of FGM. The practice of FGM has decreased in the modern urban sector.

The Government continued intensive media and educational campaigns against FGM during the year. It was a clear public policy of the Government, through the Secretariat of Women's Affairs, that FGM should be eliminated, and the Government barred hospitals from performing it. Public health workers and NGOs educated women on the dangers of FGM, emphasizing FGM was not a requirement of Islam. According to several women's rights experts, the campaign against FGM appeared to be changing attitudes towards the practice.

Women have legal rights to property and child custody, and, among the more modern and urbanized population, these rights were recognized. By local tradition, a woman's first marriage, but not subsequent marriages, required parental consent. In accordance with Shari'a as applied in the country (*see* Section 1.e.), marriage and divorce did not require the woman's consent, polygyny was allowed, and a woman did not have the right to refuse her husband's wish to marry additional wives. In practice polygyny was very rare among Moors but was common among other ethnic groups. Arranged marriages also increasingly were rare, particularly among the Moor population. Women frequently initiated the termination of a marriage, which most often was done by repudiation of husband or wife rather than divorce. It also was common in Moor society for a woman to obtain, at the time of marriage, a contractual agreement that stipulated that her husband must agree to end their marriage if he chose an additional wife. The rate of divorce among Moors was 37 percent, and the remarriage rate after divorce was 72.5 percent.

Women still faced legal discrimination (*see* Section 1.e.). The testimony of two women was necessary to equal that of one man. In addition to awarding an indemnity to the family of a woman who has been killed, the courts would grant only half the amount that they would award for a man's death. For commercial and other modern issues not addressed specifically by Shari'a, the law and courts treated women and men equally. The Personal Status code provides a framework to regularize the prevailing Shari'a-based family law, which without defining legislation had been applied unfairly. For example, formulas applied to property distribution varied widely from case to case. In addition, the validity of and right to establish prenuptial agreements was not respected always. However, women did not face legal discrimination in areas not addressed specifically by Shari'a. The law provides that men and women receive equal pay for equal work. While not applied universally in practice, the two largest employers, the civil service and the state mining company, respected this law. In the modern wage sector, women also received family benefits, including 3 months of maternity leave.

The Government sought to open new employment opportunities for women in areas that traditionally were filled by men, such as health care, communications, police, and customs services. Women became more involved in the fishing industry and established several women's fishing cooperatives. In 2000 the first female Acting Police Commissioner was appointed in the capital and also began serving as Chief Investigator in the same police station. In 2000 approximately 70 jurists and female lawyers established an association of female jurists.

The Secretariat for Women's Affairs worked with many NGOs and cooperatives to improve the status of women. The Government, women's groups, and national and international NGOs organized meetings, seminars, and workshops throughout the year to publicize women's rights.

*Children.*—The law makes special provision for the protection of children's welfare, and the Government had programs to care for abandoned children; however, these programs were hampered by inadequate funding. The Government relied on foreign donors in such areas as child immunization.

The Government required attendance at school for 6 years, but full implementation of universal primary education was not scheduled to be completed until at least 2007, primarily because the Government lacked the financial resources to provide educational facilities and teachers throughout the country, especially in remote areas. Education received the largest share of the national budget at 13.5 percent. There only was a slight increase in attendance from the previous year, in which the school enrollment rate was 86.5 percent. There were no legal restrictions on the education of girls. Girls constituted 48.8 percent of all children enrolled in school in 1998. An estimated 84 percent of school-age girls attended elementary school in 1998 and 1999 compared with 88 percent for boys. At the secondary level, female students constituted 37.4 percent of those enrolled. Despite these increases, enrollment in the eastern part of the country, the Brakna, and along the Senegal River remained at a lower level. Female students made up 17 percent of the university's 1998–99 enrollment. Female students also constituted 30.5 percent of students enrolled in technical schools. The literacy rate for women was 36 percent, compared with 50 percent for men. Almost all children, regardless of sex or ethnic group, attended Koranic school between the ages of 5 and 7 and gained at least rudimentary skills in reading and writing Arabic (*see* Section 2.c.).

FGM was performed commonly on young girls (*see* Section 5, Women).

Local NGOs estimated that there were more than 250 street children; however, the Government has implemented a program to assist families with street children and to encourage their school attendance.

*Persons with Disabilities.*—The law does not provide specifically for persons with disabilities, and the Government does not mandate preference in employment or education or public accessibility for persons with disabilities; however, it did provide some rehabilitation and other assistance for persons with disabilities. NGOs increasingly have become active in raising public awareness of issues affecting persons with disabilities. The school for the deaf and the blind in Nouakchott operated 6 classrooms and enrolled 31 students (18 girls and 13 boys) during the year; however, the school lacked sufficient trained staff.

There was no societal discrimination against persons with disabilities.

*National/Racial/Ethnic Minorities.*—Ethnic minorities and low-caste individuals—such as members of the blacksmith and musician castes—among all ethnic groups faced societal discrimination. Ethnic and cultural tension and discrimination arose from the geographic and cultural line between traditionally nomadic Arabic-speaking (Hassaniya) Moor herders and Peuhl herders of the Halpulaar group in the north and center, and sedentary cultivators of the Halpulaar (Toucouleur), Soninke, and Wolof ethnic groups in the south. Although culturally homogeneous, the Moors were divided among numerous ethno-linguistic clan groups and were distinguished racially as Beydane and Haratine, or White Moors and Black Moors, although it often was difficult to distinguish between the two groups by skin color. The majority of those known as Black Moors were Haratine, literally meaning “one who has been freed,” although some Black Moor families never were enslaved. “White” Moors, large numbers of whom were dark-skinned after centuries of intermarriage with members of sub-Saharan African groups, dominated positions in government and business. The Haratine have remained politically weak and disorganized; poverty, migrations, and isolation of their communities have prevented the Haratine from realizing the political power inherent in their numbers. The Halpulaar (the largest non-Moor group), the Wolof, and the Soninke ethnic groups were concentrated in the south and were underrepresented in the military and security sectors.

The Constitution designates Arabic, Pulaar, Soninke, and Wolof as the country's national languages; however, successive governments—both civil and military—have

pursued various policies of “Arabization” in the schools and in the workplace. Non-Arabic-speaking ethnic groups have protested this policy, as have Arabic-speaking groups that want their children to obtain a bilingual Arabic-French education.

A number of accounts indicated that redistribution of southern farmland to Moors since the acceleration of desertification in the 1970’s has contributed to tensions between Moors and southern-based ethnic groups. Although much of the Government’s redistribution of land has been from southerners to southerners, some Moors have been resettled in the south (*see* Section 1.f.). Ethnic tensions surfaced dramatically in the mass expulsions of southern-based ethnic groups—mostly Halpulaars—in 1989 and 1990 and the purge of Halpulaars from the military in 1991. An upsurge of Arab nationalism among White Moors during the 1980s contributed to ethnic violence precipitated by a dispute with Senegal during 1989–91; this violence entailed the expulsion or flight of many non-Moors living in the south and occupation of much of their land by Moors, including Black Moors. Interethnic bitterness and hostility persisted, and continued to be aggravated by climatic, land, and population pressures.

Ethnic rivalry significantly contributed to political divisions and tensions. Some political parties tended to have readily identifiable ethnic bases, although political coalitions among them increasingly were important.

A number of accounts suggest that some members of the long-dominant White Moor community, which traditionally enslaved darker skinned groups, may continue to expect or desire servitude on the part of members of the generally darker-skinned Black Moors and southern ethnic groups, and that such attitudes may impede efforts to build a nondiscriminatory society and to eliminate the vestiges of slavery and consequences of slavery, goals to which both the Government and major opposition parties were committed. There were indications that racism on the part of some White Moors may have contributed both to the persistence of such vestiges and consequences of past White Moor enslavement of Black Moors, and to the expulsions and reported dispossession of members of darker southern ethnic groups with no tradition of servitude to the White Moors. However, southern-based ethnic groups and Black Moors have manifested little racial solidarity socially or politically, and racial differences did not contribute either to historical slavery or to the persistence of its vestiges and consequences among southern-based ethnic groups.

The legacy of caste distinctions continued to affect the status and opportunities available to various groups. For example, in some groups, individuals of a higher caste who sought to marry someone of a lower caste could be barred by their families or by the community, and in Soninke communities members of the slave caste could not be buried in the same cemetery as other castes.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for freedom of association and the right of citizens to join any labor organization. All workers except members of the military and police were free to associate in and establish unions at the local and national levels. The majority of the labor force was in the informal sector, with most workers engaged in subsistence agriculture and animal husbandry; only 25 percent were employed in the wage sector. However, nearly 90 percent of industrial and commercial workers were organized.

The Labor Code does not restrict trade union pluralism, and there were four labor confederations: The Union of Mauritanian Workers (UTM), the General Confederation of Mauritanian Workers (CGTM), the Free Confederation of Mauritanian Workers (CLTM), and the General Union of Mauritanian Workers (UGTM). The UGTM was the newest, founded in September, and was the most closely allied with the ruling PRDS. Many workers still viewed UTM, the oldest confederation, as also closely allied with the Government and the ruling PRDS. It has lost ground to the CGTM and the CLTM. The CGTM was not affiliated with any party, although most of its members tend to favor the opposition. The CLTM was associated with the AC opposition party. There also were four unaffiliated professionally based labor unions.

The Government provides funds to the confederations in proportion to their memberships. All confederations supplied representatives to the country’s four labor tribunals and were included in most government deliberative or consultative bodies. Several independent trade unions, in particular three for teachers at the elementary, secondary, and university levels, also were active.

International trade union activity continued. The Government included CGTM, UTM, and CLTM representatives in its delegation to the International Labor Organization (ILO) in June 2000. The national federations continued to organize training workshops for their memberships throughout the country. In November the CGTM organized ILO-funded training to educate its members on the fundamental rights

of workers, and to reinforce dialog between the Government, trade unions, and employers.

Laws provide workers with protection against antiunion discrimination and employees or employers may bring labor disputes to three-person labor tribunals administered jointly by the Ministries of Justice and Labor with the participation of union and employer representatives.

Unions were free to affiliate internationally. The UTM participated in regional labor organizations. The CGTM and UTM were both members of the International Confederation of Free Trade Unions (ICFTU). The UTM was a member of the Organization of African Trade Union Unity (OATUU), but the CGTM's application was not accepted, as the OATUU only accepts one member federation from each country.

*b. The Right to Organize and Bargain Collectively.*—The law provides that unions may organize workers freely without government or employer interference, although to be legally recognized a union was required to have the authorization of the Public Prosecutor. General or sector agreements on wages, working conditions, and social and medical benefits were negotiated in tripartite discussion and formalized by government decree. Wages and other benefits also could be negotiated bilaterally between employer and union and the results of such negotiations were filed with the Directorate of Labor. Although the Directorate had the ability to change the negotiated settlement between labor and business, there were no known cases of such action during the year.

The law provides workers with the right to strike. Once all parties agree to arbitration, the tripartite arbitration committee may impose binding arbitration that automatically terminates any strike. Strikes in the private sector had to be preceded by submission of a nonconciliation or negotiation-breakdown report. Some trade union representatives state that there was little social dialog except in response to worker actions in a dispute. In October and November, the CLTM and CGTM supported a strike by stevedores at ports and warehouses. The strike ended after negotiations produced a 45 percent wage increase.

The Government in theory can dissolve a union for what it considered an “illegal” or “politically motivated” strike; however, there were no instances in which the Government did this. No unions were disbanded during the year.

The ILO Committee of Experts noted that compulsory arbitration effectively prohibited strikes and asked the Government to bring its legislation into compliance with the requirements of ILO Convention 87 on Freedom of Association and Protection of the Right to Organize; however, there was no government action by year's end.

There are no export processing zones (EPZs); however, the Investment Code approved by the National Assembly in December 2001 provides for the creation of EPZs.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children; however, the law only applies to the relations between employers and workers, and there were reports that such practices occurred. Although not legal, the country had not yet criminalized slavery, therefore there was no legal remedy to prosecute its occurrence. The ILO Committee of Experts has requested that the Government take measures to extend the prohibition to any form of forced labor and vestiges of forced labor.

Citizens continued to suffer the effects and consequences of the practice of slavery and of caste distinctions over generations including the traditional existence of a slave caste in both Moor and southern (black African) communities. Slavery has been abolished officially; however, widespread slavery also was traditional among ethnic groups of the largely nonpastoralist south, where it had no racial origins or overtones; masters and slaves both were black. The south has suffered less from desertification, and some reports identify it as the region in which vestiges and consequences of slavery persisted most strongly.

A system of officially sanctioned slavery in which government and society joined to force individuals to serve masters did not exist. There has been no open trading in slaves for many years; however, there continued to be unconfirmed reports that slavery in the form of forced and involuntary servitude persisted in some isolated areas. Unofficial voluntary servitude persisted, with some former slaves continuing to work for former masters in exchange for monetary or nonmonetary benefits such as lodging, food, or medical care. Many persons, including some from all ethnic groups, still used the designation of slave in referring to themselves or others. The reasons for the persistence of such practices appeared to be economic, psychological, and religious, although they varied widely between the different ethnic groups. Poverty, persistent drought, and a weak economy provided few economic alternatives for many and left some former slaves vulnerable to exploitation by former masters.

There were reports that some former slaves in some sedentary communities have continued to work for their former masters or others without remuneration in order to retain access to the land they traditionally farmed, although the law provides for distribution of land to the landless, including to former slaves, and this law has been enforced in many cases (*see* Section 1.f.). Deeply embedded psychological and tribal bonds also made it difficult for many individuals who had generations of forebears who were slaves to break their bonds with former masters or their tribes. Some persons continued to link themselves to former masters because of the belief that their slave status had been ordained religiously, and due to fear of religious sanction if that bond was broken.

Adults may not be obliged by law to remain with former masters nor could they be returned if they leave. However, adult females with children faced greater difficulties and could be compelled to remain in a condition of servitude. For example, in some cases, especially where the former master claimed to be the father, former masters refused to allow children to accompany their mothers when the mother left the master. In other cases, the greater economic responsibility of supporting a family may have been the principal impediment to a woman seeking a new life.

Problems related to the vestiges and consequences of slavery usually entered the public domain in judicial cases, most often in the form of child custody and inheritance disputes between former masters and former slaves or their descendants. In most cases involving custody disputes between former masters and former female slaves, the courts have been instructed by the Minister of Justice to rule in favor of the women, and virtually all custody cases that have been tried were decided in favor of the women; however, court adjudication of such cases has been rare. The determination of such cases was problematic because there was polygyny, "secret" marriages, no written records, and divorce by repudiation (*see* Section 5). In some cases involving land tenure, courts reportedly have not upheld the property rights of former slaves.

NGO positions on the existence of slavery were not uniform. The African Union's (AU) African Commission on Human and People's Rights concluded that slavery did not exist as an institution and that the persistence of vestiges of slavery was the more convincing explanation of social relations. Anti-Slavery International has stated that there was insufficient evidence to conclude whether or not slavery existed, and that an in-depth, long-term study was required to determine whether the practice continued; however, such a study has not been conducted or planned.

Three NGOs—SOS-Eslaves, the National Committee for the Struggle Against the Vestiges of Slavery in Mauritania, and the Initiative for the Support of the Activities of the President—focused on issues related to the history of slavery in the country. SOS-Eslaves particularly was active in bringing to public attention cases in which it found the rights of former slaves to have been abridged and in assisting former slaves in their difficulties with former masters. Other human rights and civic action NGOs also followed this issue closely. The independent press, which included journals that were published by Haratines and southern-based ethnic groups who emphasized issues of importance to these ethnic groups, also was quick to report any incident that came to its attention in which the rights of former slaves were not respected.

The Commissariat for Human Rights, Poverty Alleviation, and Integration's focus was to address the vestiges and consequences of slavery. The Government focused on education, literacy, and agrarian reform as the main means to eradicate the vestiges of slavery and address its consequences. Classes were integrated fully, including boys and girls from all social and ethnic groups. In recent years, the Government's record in cases in which an individual's civil rights were affected adversely because of status as a former slave was poor. When complaints were filed with the Government to remedy cases involving detention of individuals against their will, the Government intervened in accordance with the law, although sometimes only after considerable pressure and the passage of time.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law provides that children cannot be employed before the age of 14 in the non-agricultural sector unless the Minister of Labor grants an exception due to local circumstances. The Government had a functional labor inspectorate with the authority to refer violations directly to the appropriate judicial authorities; however, the Government lacked sufficient resources to enforce existing child labor laws.

The law specifies that no child under the age of 13 may be employed in the agricultural sector without the permission of the Minister of Labor. The law states that employed children between the ages of 14 and 16 should receive 70 percent of the minimum wage, and that those between the ages of 17 and 18 should receive 90 percent of the minimum wage. Young children in the countryside commonly were employed in herding, cultivation, fishing, and other significant labor in support of

their families' activities. In keeping with longstanding tradition, many children served apprenticeships in small industries and in the informal sector. There was no child labor in the modern industrial sector.

Children of slave families were allowed to attend school.

*e. Acceptable Conditions of Work.*—The minimum monthly wage for adults was \$38.71 (9,872 ouguiya). The national minimum monthly wage did not provide a decent standard of living for a worker and family.

The standard, legal, nonagricultural workweek could not exceed either 40 hours or 6 days without overtime compensation, which was paid at rates that were graduated according to the number of supplemental hours worked. Domestic workers and certain other categories worked 56 hours per week. The Labor Directorate of the Ministry of Labor was responsible for enforcement of the labor laws, but in practice inadequate funding limited the effectiveness of the Directorate's enforcement.

The Ministry of Labor also was responsible for enforcing safety standards but did so inconsistently, due to inadequate funding. In principle workers could remove themselves from hazardous conditions without risking loss of employment; however, in practice they could not.

The law protects legal but not illegal foreign workers, and foreign workers could join unions.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country.

## MAURITIUS

The Republic of Mauritius is a parliamentary democracy governed by a prime minister, a council of ministers, and a national assembly. The President, Karl Offman, who was nominated by the Prime Minister, Sir Anerood Jugnauth, and confirmed by the National Assembly, served as Head of State, with largely ceremonial powers. National and local elections, supervised by an independent commission, take place at regular intervals. According to international and local observers, the national elections, held in September 2000, were free and fair and resulted in a victory for an opposition coalition, the Mauritian Socialist Movement/Militant Mauritian Movement (MSM/MMM). There were numerous political parties, and partisan politics were open and robust. The judiciary was independent.

A paramilitary Special Mobile Force under civilian control was responsible for internal security. This force, commanded by the Commissioner of Police, was backed by a general duty police force. Both forces largely were apolitical, but were criticized for being inadequately trained to prevent and control rioting. Some members of the security forces committed serious human rights abuses.

The economy was based on labor-intensive, export-oriented manufacturing (mainly textiles), as well as sugar and tourism. The country's population was more than 1 million. The standard of living was high, with a per capita gross domestic product of \$3,900. The Government was diversifying the economy by promoting investment in new sectors such as information technology and financial services.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were reports that police abused suspects and detainees and delayed suspects' access to defense counsel. The Government's monopoly in broadcasting local news and programming ended with the establishment of three independent radio stations. The Government maintained control over the nation's television stations. At times police restricted freedom of assembly. Violence and discrimination against women and abuse of children continued to be problems. There were some restrictions on the rights of workers in the export processing zone (EPZ). Child labor, forced child prostitution, and trafficking were problems. Mauritius was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—During the year, there were two deaths in custody, one in April due to a reported hanging and one in September due to a reported neck injury.

The results of the inquiries into the 2001 death in custody of three persons were not released by year's end.

The investigation into the August 2001 beating to death of a man by prisoners and a prison guard was ongoing at year's end.

The results of the August 2001 judicial inquiry into the 2000 police killing of Rajen Sabapathee had not been released by year's end.

Investigations continued into the 2000 cases of two persons who died while in police custody, one from pneumonia and one from poisoning.

The judicial inquiry continued into the 1999 death in police custody of a popular Creole singer, Kaya, at year's end.

Trials of four Hizbullah suspects, particularly Hizbullah leader Mohammad Fakemeeah (also known as Cehl Meeah), for the 1996 killings of three rival Muslim political activists still were pending at year's end.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture and inhuman punishment, and authorities generally respected this prohibition; however, there continued to be complaints of abuses by the police. The most frequent form of alleged police abuse was the use of force to coerce a suspect to sign a confession.

The investigation into the 2000 alleged police mistreatment of arrested Hizbullah leader Cehl Meeah was pending at year's end.

In 2001 the National Human Rights Commission (NHRC), which supervised the Complaints Investigation Bureau received 195 human rights complaints, 71 of which were complaints of police brutality.

Prison conditions generally met international standards; however, there were some deaths in prison. Food, water, and medical care were available to all prisoners; sanitation was adequate. Women were held separately from men, and juveniles were held separately from adults. There were no reports of abuse of women or juveniles in prison. Pretrial detainees were held separately from convicted prisoners.

There continued to be reports of deaths in police custody (*see* Section 1.a.).

The Government permits prison visits by independent observers. During the year, the press, the NHRC, and international organizations made regular prison visits.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. The Dangerous Drugs Act allows law enforcement authorities to hold suspected drug traffickers for up to 36 hours without access to bail or legal counsel, and the law also permits a 36-hour detention of suspects without legal counsel. In most cases, suspects were provided prompt access to family and defense counsel; however, police in some cases delayed suspects' access to defense counsel. Minors and those who did not know their rights were more likely not to be provided prompt access. In March the Government passed the Prevention of Terrorism Act. Its passage generated a public outcry in some quarters over the expanded powers that it gives the police to combat terrorism. There were no arrests under the Prevention of Terrorism Act during the year.

The Constitution prohibits forced exile, and the Government did not use it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judicial system consisted of the Supreme Court, which has appellate powers, and a series of lower courts. Final appeal may be made to the Privy Council in the United Kingdom.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants had the right to private or court-appointed counsel.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

More than a dozen privately owned newspapers presented varying political viewpoints and expressed partisan views freely. The Government has the ability to counter press criticism by using strict libel laws; however, the Government has not invoked these measures to inhibit the press. Libel suits between private parties were common.

In March and April, the Government's monopoly in broadcasting local news and programming over the radio ended with the establishment of two independent radio stations. A third station received its license and began broadcasting in October.

A private news organization posted local news on the Internet, thereby circumventing the ban on private party television or radio local news broadcasts. Foreign international news services, such as the United Kingdom's Sky News, France's Canal Plus, and Cable News Network, were available to the public by subscription.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice; however, police permission is required for demonstrations and mass meetings, and such permission was refused in certain cases during the year. There is a right of judicial appeal. While groups had the right to challenge denials, they occasionally proceeded with their demonstrations without police permission; in such cases, police usually dispersed the demonstrators. The demonstration's leaders usually were warned verbally and sometimes briefly detained.

In September supporters of Hizbullah leader Cehl Meeah (see Section 1.a.) demonstrated in front of a courthouse after a hearing. Seven demonstrators subsequently were charged with threatening two of the prosecutors trying the case as they attempted to depart the courthouse. A trial began in November; there was no decision by year's end.

The Constitution provides for freedom of association, and the Government generally respected this right in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

Religious organizations and faiths that were present in the country prior to independence, such as the Roman Catholic Church, the Church of England, the Presbyterian Church, the Seventh-Day Adventists, Hindus, and Muslims, receive a lump-sum payment every year from the Ministry of Finance based upon the number of adherents, as determined by a 10-year census. Newer religious organizations (which must have a minimum of 7 members) were registered by the Registrar of Associations and were recognized as legal entities with tax-free privileges. No groups have been refused registration.

Tensions between the Hindu majority and Christian, Creole, and Muslim minorities persisted; however, there were no violent confrontations during the year. Some minorities, usually Creoles and Muslims, alleged that a glass ceiling existed within the upper echelons of the civil service that prevented them from reaching the highest levels.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign, Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

The Constitution does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government did not grant asylum to refugees in general on the grounds that the country was small, had limited resources, and did not wish to become a haven for large numbers of refugees. However, the Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR), provided first asylum on occasion, and allowed U.N. agencies to provide limited assistance to 14 individuals whom the UNHCR recognized as refugees.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. According to international and local observers, free and fair national elections were held in September 2000, and the opposition MSM/MMM federation defeated the governing Labor Party/Parti Mauricien Xavier Duval coalition. Suffrage was universal except for approximately 100 fishermen on 6- to 12-month contracts who were residents of the island of Saint Brandon. These fishermen may vote on the main island provided they were registered and physically present on election day.

In September the island of Rodrigues successfully held its first elections for a regional elected assembly. The creation of the Assembly was a first step towards a decentralized and autonomous island of Rodrigues. The Assembly will work with the central government in controlling funds for Rodrigues.



There were 4 women in the 70-seat National Assembly, and there was one female minister in the 25-member Cabinet.

Candidates for the National Assembly were required to identify themselves with one of four distinct ethnic groupings—Hindu, Muslim, Sino-Mauritian, or general population. For these purposes, “general population” was the category used to describe any citizen other than Hindu, Muslim, or Sino-Mauritian persons, which were primarily the Creole and Franco-Mauritian communities. Based on these four categories, there were 37 Hindus, 21 members of the General population, 11 Muslims, and 1 Sino-Mauritian in the 70-seat National Assembly, and there were 16 Hindus, 5 from the general population, 3 Muslims, and 1 Sino-Mauritian in the 25-member Cabinet.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights organizations, including Amnesty International, Transparency International, and SOS Femmes, generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

Prior to April 2001, the constitutionally mandated, autonomous Ombudsman investigated complaints of human rights abuses. Since the creation of the NHRC in April 2001, the Ombudsman no longer investigated human rights problems. The NHRC was composed of a president of the commission, who according to the law, must be a former Supreme Court judge and three other members, of whom one must be a lawyer or a judge with 10 years of experience, and the other two must have experience in the human rights field. The NHRC was authorized to investigate abuses by any public servant, but it could not investigate complaints that were already the subject of an inquiry by the Ombudsman, the Director of Public Prosecutions, the Public Service Commission, or the Disciplined Forces Service Commission. The NHRC had the authority to visit centers of detention or prisons and to assess and make recommendations on conditions. The NHRC first tried to resolve complaints through conciliation. If not successful, it can forward cases to the Director of Public Prosecutions (if criminal in nature), to the service commissions for disciplinary measures, or to the responsible authority in question. Between April and December 2001, the NHRC received 195 complaints, 71 of which were complaints of police brutality.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution specifically prohibits discrimination on the basis of race, caste, place of origin, political opinion, color, or sex, and the Government generally respected these provisions.

*Women.*—Domestic violence against women, particularly spousal abuse, was a problem, according to the Ministry of Women’s Rights, Child Development, and Family Welfare; attorneys; and nongovernmental organizations (NGOs). The Protection from Domestic Violence Act criminalizes domestic violence and provides the judicial system with greater powers to combat this problem. In March 2001, SOS Femmes, an NGO, published a study on domestic violence in the country in which 84 percent of the women surveyed reported being victims of physical abuse. Alcohol or drugs was a contributing factor in nearly 70 percent of these cases. According to the Ministry of Women’s Rights, Child Development, and Family Welfare, between January and July, 865 cases of domestic abuse were reported. According to officials, the number of reported spousal abuse cases has risen primarily due to a greater awareness of women’s rights and the Government’s readiness to enforce them. Nevertheless, many victims still chose not to prosecute or report their attacker, primarily due to cultural pressures. Although specific laws make rape illegal, including spousal rape, it was a problem. In August following a high profile case of an expatriate who was gang raped by two different groups in one evening in Curepipe, several hundred women held a demonstration to protest the proliferation of rape cases, both reported and unreported.

Since women often depended on their spouses for financial security, many remained in abusive situations for fear of being unable to provide for their children as single parents. While a magistrate can order a spouse to pay child support, some spouses have stopped working to avoid payment. The law criminalizes the abandonment of one’s family or pregnant spouse for more than 2 months, the nonpayment of court-ordered food support, and sexual harassment.

Traditionally women have played subordinate roles in society, and societal discrimination continued; however, women had access to education, employment, and government services.

*Children.*—The Government placed strong emphasis on the health and welfare of children and displayed a commitment to expand educational opportunities for children. Education was free and mandatory until the age of 12; attendance at the primary level was 100 percent, but only 60 percent of children attended school at the secondary level. In May 2001, the Government announced an education reform plan that would increase mandatory education to the age of 16 by 2003. The plan would eliminate the ranking of primary students based on their scores in a primary education certificate exam with the objective of making more students eligible to attend secondary school. As part of the plan, the Government announced that it would address the increase in secondary students by building new schools and converting some schools, including private schools, into a regional network of secondary schools. During the year, the Government started converting schools and building additional secondary schools, which were scheduled to be completed by 2003. The Government also started to build five new secondary schools that it planned to open in January 2003. Four colleges also were being extended, and four vocational colleges were being converted.

The Government provided full medical care for children.

Although incidents of child abuse were reported, private voluntary organizations claimed that the problem was more widespread than was acknowledged publicly. Most government programs were administered by the state-funded National Children's Council and the Ministry of Women's Rights, Family Welfare, and Child Development, which provided counseling, investigated reports of child abuse, and took remedial action to protect affected children.

Under the law, certain acts compromising the health, security, or morality of a child were crimes.

Child prostitution is a criminal act, but only the adult was an offender, while the child involved was given social assistance. Trafficking of children for prostitution was a problem (*see* Section 6.f.). Child pornography also is a crime, and the child was offered social aid while the adult offender was prosecuted.

*Persons with Disabilities.*—There was no discrimination in employment, education, or in the provision of other state services against persons with disabilities, including mental illness. The law requires organizations that employed more than 10 persons to set aside at least 3 percent of their positions for persons with disabilities. There was no law mandating access to public buildings or facilities. The law did not require that work sites be accessible to persons with disabilities, making it difficult for persons with disabilities to fill many jobs.

*National/Racial/Ethnic Minorities.*—Tensions among the Hindu, Creole, Muslim, European, and Chinese communities persisted; however, there were no violent confrontations during the year.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution explicitly protects the right of workers to associate in trade unions, and there was an active trade union movement. Approximately 335 unions represent 111,231 workers, or 21.5 percent of the work force. Many unions were small, having fewer than 1,000 members. Ten major labor federations served as umbrella organizations for these smaller unions. With the exception of members of the “disciplined force,” namely, the police and the Special Mobile Force, and persons in government services who were not public officers such as contractors, workers were free to form and join unions and to organize in all sectors, including in the export processing zone (EPZ). Labor unions were independent of the Government, and they had established ties to domestic political parties and addressed political issues.

The Industrial Relations Act (IRA) prohibits antiunion discrimination, and there were no reports of antiunion activity by employers during the year. There was an arbitration tribunal that handled any such complaints, and three such complaints were filed during the year. The International Confederation of Free Trade Unions (ICFTU) reported that the law did not protect trade unions adequately against acts of interference by employers. The Mauritian Labor Congress asserted that union membership was low in the EPZ in part because employers in the EPZ intimidated employees and restricted access to union organizers.

Under the law, unions may establish ties with international labor bodies, and some unions have done so.

*b. The Right to Organize and Bargain Collectively.*—The law protects the right of employees to bargain collectively with their employers. The International Labor Organization (ILO) reported that the Government began a labor law reform project with ILO technical assistance in 1997; however, new legislation still was pending at the State Law Office level at year's end. Minimum wages for nonmanagerial level

workers were set by the National Remuneration Board (NRB), whose chairman was appointed by the Minister of Labor; however, most unions negotiated wages higher than those set by the NRB. Almost 13 percent of the labor force worked for national or local government.

Under the IRA, unions have the legal right to strike; however, the IRA requires a 21-day cooling-off period, followed by binding arbitration, which has the effect of making most strikes illegal. The Government has 21 days to respond to any labor dispute referred to the Ministry of Labor. If the Government does not respond within 21 days by referring the case either to the Permanent Arbitrary Tribunal (PAT) or to the Industrial Relations Commission (IRC), then the workers have the legal right to strike. The IRA states that worker participation in an unlawful strike is sufficient grounds for dismissal, but workers may seek remedy in court if they believe that their dismissals are unjustified. There were no strikes during the year. The IRA grants the Prime Minister the prerogative to declare any strike illegal if he considers that it “imperils the economy.”

In July 2001, the Government unveiled a plan for restructuring the sugar sector that included provisions for the early retirement of 9,200 sugar workers. In July 2001, several of the unions representing the sugar workers held demonstrations to protest the constitutionality of the plan and the details of the retirement package, which was decided without union input. Approximately 7,800 workers had been given early retirement under this plan by year's end.

Reportedly 87,607 persons work in the EPZ. Although only 10 percent of EPZ workers were unionized, these workers were covered by national labor laws; however, there are some EPZ-specific labor laws, including the provision for 10 hours per week of mandatory, paid overtime at a higher wage than for ordinary working hours. The ICFTU alleged that employers have established employer-controlled work councils for workers in the EPZ effectively blocking union efforts to organize at the enterprise level. The 2000 ICFTU report stated that there was very little collective bargaining in the EPZ and that the National Remuneration Board determined wages after representations by employers and workers' representatives, effectively hindering the collective bargaining process. The ILO has recommended that the Government utilize tripartite committees to negotiate and resolve disputes.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor outside the EPZ, including by children, and there were no reports that such practices occurred in the case of adults. Labor laws that cover the EPZ allow for 10 hours of compulsory overtime a week and compulsory work on public holidays, although at a higher hourly wage (*see* Sections 6.b. and 6.e.).

According to the ILO Committee of Experts, the Merchant Shipping Act contains provisions that were not compatible with international standards regarding forced labor. Certain breaches of discipline by seamen were punishable by imprisonment. The Government indicated that it proposed to amend the Merchant Shipping Act to make it compatible with ILO Convention 10; however, it took no action during the year.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits the employment of children under age 15 and limits the employment undertaken by youth between ages 15 and 18, and the Government generally respected this law in practice; however, child labor was a problem. According to Section 55 of the Labor Act, the penalties for employing a child are a fine of no more than \$66 (2,000 rupees) and a term of imprisonment not to exceed 1 year.

The legal minimum age for the employment of children was 15 years; however, children unable to attend secondary school often sought apprenticeships in the trades. Vocational schools trained students who failed the primary education certificate exam at the end of the sixth year of primary education.

The Ministry of Labor was responsible for the enforcement of child labor laws and conducted frequent inspections. According to the Ministry of Women's Rights, Child Development, and Family Welfare, 1,600 children between the ages of 12 and 14 were employed or looking for work in 2000. Child labor in homes, on farms, and in shops was common on the island of Rodrigues.

The Ministry of Labor was responsible for investigating reports of child labor abuses; 30 inspectors were employed by the Ministry to investigate all reports of labor abuses, including those of child labor. During 2001, the inspectors reported at least 20 cases of children labor.

*e. Acceptable Conditions of Work.*—The Government administratively established minimum wages, which varied according to the sector of employment, and it mandated minimum wage increases each year based on inflation. The minimum wage for an unskilled worker in the EPZ was \$13.30 (390 rupees) per week, while the minimum wage for an unskilled factory worker outside the EPZ was approximately

\$3.53 (106 rupees) per week; these sums did not provide a decent standard of living for a worker and family, but the actual market wage for most workers was much higher due to a labor shortage and collective bargaining. The standard legal workweek in the industrial sector was 45 hours. According to the Mauritian Labor Congress, 10 hours of overtime a week is mandatory at certain textile factories in the EPZ (*see* Section 6.b.).

The Government set health and safety standards, and Ministry of Labor officials inspected working conditions and ensured compliance with the law. Inspections were announced and unannounced. The small number of inspectors limited the Government's enforcement ability; however, through voluntary compliance by the employers, the number of occupational accidents was reduced. Company human resource or personnel managers reported on occupational health and safety matters; approximately 4,000 accidents were reported in 2001. Workers had the right to remove themselves from dangerous situations without jeopardizing their continued employment, and they did so in practice.

In August 2001, an international NGO conducted a study commissioned by the Ministry of Labor comparing working conditions between men and women, particularly in the area of wages. During the year, the study was released, and the Government reportedly planned to reform the labor laws to encourage greater gender equality; however, there were no reforms initiated by year's end.

Since foreign workers often did not speak English, French, or Creole, it was difficult for them to demand their rights, which were the same as those of citizen employees, including the right to belong to a union. In June 2001, it was reported that a Ministry of Labor investigation indicated that many foreign workers did not receive all of the overtime wages to which they were entitled; the companies at fault were instructed to remedy the situation or face legal action. Most of the companies complied; however, those that did not comply were prosecuted.

*f. Trafficking in Persons.*—The law prohibits trafficking in children, but does not specifically mention trafficking in adults; however, there were reports of trafficking in the country.

Child prostitution was a problem. A 1998 study reported that children entered into prostitution as early as age 13; their clientele included, industrialists, professionals, police officers, parliamentarians, and government ministers. The Government targeted child prostitution as a top law enforcement and prevention priority. In February 2001, the Ministry of Women, Child Development, and Family Welfare established a hotline for reporting cases of child prostitution, and 135 cases were registered in 2001. In July 2001, a task force on prostitution at the Ministry commissioned a quantitative study on the magnitude of the child prostitution problem in the country. In July 2001, police broke up a prostitution ring involving adolescents in the north of the main island. During 2001 both the Ministry and NGO's sponsored seminars on the dangers of prostitution for the public and schoolchildren. Some NGO's also have formed regional awareness networks and developed training materials for educators. During the year, the Government implemented a 5-year action plan with a series of recommendations to combat child prostitution. The plan was published in December.

Unlike in previous years, there were no reports of the trafficking of women and young girls from Madagascar to Reunion and Mauritius.

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## MOZAMBIQUE

Mozambique's constitutional government, headed by President Joaquim Chissano, held its second general multiparty elections in 1999. President Chissano was re-elected in generally free and fair elections that were marred by some irregularities that did not impact the results. His party, the Front for the Liberation of Mozambique (FRELIMO), won 133 seats in the 250-seat Assembly of the Republic, and the remaining 117 seats went to the opposition coalition of the Mozambique National Resistance-Electoral Union (RENAMO-UE). Chissano and the leadership of FRELIMO, which have ruled the country since independence in 1975, dominate policymaking and implementation. The Assembly is a multiparty parliament that provided useful debate on national policy issues and generated some proposals independently. During legislative sessions, the Assembly influenced the executive branch on some policy issues, and RENAMO had some limited influence on the executive. The Constitution provides for an independent judiciary; however, the executive branch dominated the judiciary, which lacked adequate resources, was chronically understaffed, was susceptible to corruption, and largely was ineffectual.

The forces responsible for internal security under the Ministry of Interior include: The Criminal Investigation Police (PIC), the Mozambican National Police (PRM), and the Rapid Intervention Police (PIR). The State Information and Security Service (SISE) reported directly to the President. The military continued to suffer from lack of funds and a long-term strategy. Many former military personnel of various ranks worked in other government security forces. The PIC, PRM, and PIR legally were under the control of the civilian government; however, at times local police acted in contravention of the guidelines established by the civilian authorities. The political opposition claimed that the PIR operated in support of the ruling party. Members of the security forces committed numerous serious human rights abuses.

The country is very poor; its population was an estimated 17 million according to the 1997 census. Approximately 80 percent of the population were employed in agriculture, mostly on a subsistence level, and approximately 75 percent of the population lived in poverty. The gross domestic product (GDP) was approximately \$4.84 billion in 2001, an increase of 14.8 percent from 2000. The economy and the Government budget remained heavily dependent on foreign aid. Annual per capita income was \$245. High unemployment and underemployment in the formal and informal sectors continued. Corruption continued to be a problem in the public and private sectors. Economic indicators for the second half of 2001 and the first half of the year showed some strengthening of the economy.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. Police continued to commit numerous abuses, including unlawful killings, excessive use of force, and other abuses. Occasional mob violence resulted in several deaths. Police officers beat persons in custody, and abused prostitutes and street children. During the year, the League of Human Rights (LDH), a local nongovernmental organization (NGO), noted that the human rights situation in general had improved in a few areas, such as unlawful killings; however, police corruption, brutality, and intimidation; labor strife, and other societal concerns continued. Prison conditions remained extremely harsh and life threatening; several prisoners died due to the harsh conditions. Police continued to use arbitrary arrest and detention, and lengthy pretrial detention was common. Fair and expeditious trials were problematic due to an inefficient, understaffed, and underfunded judiciary, which was dominated by the executive and subject to corruption. There were reports of some infringements on the right to privacy. The Government generally respected freedom of the press; however, news coverage by media outlets owned by the Government and state enterprises was influenced by members of the ruling party. An amended law provides for freedom of assembly with some restrictions; the Government forcibly dispersed at least one demonstration during the year. Both the Government and the law imposed some limits on freedom of association. The Government at times infringed on freedom of movement. Domestic violence against women, as well as widespread discrimination against women in employment and property rights, remained problems. The abuse and criminal exploitation of street children, including child prostitution, increased in urban areas. Discrimination against persons with disabilities and child labor remained problems. Unlike in the previous year, there were no confirmed reports that women or children were trafficked to South Africa or Swaziland for prostitution. Mozambique was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There continued to be reports of unlawful killings by security forces. For example, in February police officer Bernardo Parafino shot and killed Gildo Gerente, who was handcuffed, after attempting to flee from police. Reportedly Gerente did not have a valid driver's license and was driving his mother's vehicle without permission. The police force expelled Parafino, and he was detained on charges of murder.

Also in February, police killed teenager A. Matusse while firing their weapons at robbery suspects. Matusse was helping a couple that was being attacked by robbers when police fired their weapons killing her. The killing was attributed to the general poor training of the police. No charges were filed against the responsible officer.

In September rioting broke out in Nova Sofala when a police officer shot and killed a man over a small debt. The victim, Mr. Antonio Maquiqui, allegedly owed his servant \$9, and he reportedly evaded police on numerous occasions and did not respond to their summons. When confronted by police, Maquiqui reportedly resisted arrest and was shot and killed by a policeman; however, local residents insisted that

the killing was intentional and that there was no attempt by the victim to resist arrest. The policeman was beaten by the mob and was in a coma at year's end.

On October 12, Policeman Jose Fumo shot and killed a 17-year-old student, Mario Alfredo. Fumo had left his post at the Maputo City Police Command to investigate a group of students who were having a heated argument. He attempted to restore order by firing into the crowd and killed Alfredo. Fumo was in custody at year's end and was charged with manslaughter.

There was no developments, nor were any expected, in the following 2001 cases: The January police killing of Salomao Ubisse; the March killings of Edmundo Jaime and Neto Luis Neves by prison guards; the April death in custody of Caetano Joaquim Chapepa; and the October death in custody of Fernando Santos.

No action was taken, nor was any likely, against the members of the security forces responsible for the following 2000 cases: The police killing of six persons in Aube; and the alleged pattern of execution-style killings by police in Marracuene; RENAMO party officials Eduardo Foa, Ricardo Moaine, and Geraldo Carvalho; Tomas Paulo Nhacumba and Gildo Joaquim Bata; Emidio Raul Nhancume; and Eliseu Geraldo Muanga.

Extremely harsh prison conditions, often leading to serious illness, continued to result in the deaths of several persons in custody (*see* Section 1.c.). Unlike in the previous year, there were no reports that torture led to deaths in custody.

The Government continued to cooperate with international organizations in demining efforts during the year to remove the hundreds of thousands of mines planted between 1960 and 1990. According to the National Demining Institute (IND), 224 persons were killed in landmine accidents between 1997 and the end of the year. According to IND, landmine incidents continued to decline; eight persons were killed and seven were injured in landmine accidents during the year.

A local human rights organization, Association for Human Rights and Development (DHD), criticized the Government's failure to reveal publicly the names of more than 100 detainees in Montepuez who reportedly died of asphyxiation in their cells in 2000, which prevented relatives of the victims from seeking compensation (*see* Section 1.c.). According to DHD, this contravened Article 87 of the Constitution, which states that the "State shall be held accountable for the illegal acts committed by its agents in the exercise of their duties." Two jail officials were serving prison terms for homicide.

In 2000 as many as 54 persons were killed during violence related to rallies and marches held throughout the country to protest the outcome of the 1999 elections (*see* Sections 1.c., 1.d., 1.e., and 2.b.). The total number of persons killed remained in dispute among human rights groups, the opposition, and the National Assembly. The National Assembly established a bipartisan Parliamentary Commission of Inquiry to investigate the violence surrounding the demonstrations and the subsequent deaths in custody. The ad hoc parliamentary commission investigating the incidents concluded its work in September 2001. RENAMO raised a series of objections to the content of the report, which it did not regard as the result of a truthful fact-finding mission. The release of the report has been postponed indefinitely. An appeal of the 2001 convictions of five RENAMO leaders of the Montepuez demonstrations was pending at year's end.

No action was taken, nor is the Government likely to take any action, against police in Nampula province or Balama District, Cabo Delgado, who killed and injured unarmed demonstrators in 2000.

Occasional mob and vigilante killings continued in both urban and rural areas due to general public frustration with the rising incidence of crime. During the year, unconfirmed reports of mob violence resulting in the deaths of suspected criminals were widespread throughout the country.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution expressly prohibits such practices; however, the police continued to commit serious abuses, and torture, beatings, death threats, physical and mental abuse, and extortion remained problems. During the year, the LDH reported complaints of torture, including several instances involving the sexual abuse of women, beating, illegal detention, and death threats. In September the LDH reported that the number of reported abuses had declined again during the year.

Unlike in the previous year, there were no reports that persons were tortured to death in custody.

Corruption in the police forces extended throughout the ranks, and the PRM used violence and detention to intimidate persons from reporting abuses.

Journalists continued to report that police extorted money from street vendors, many of whom were widowed or divorced women, sometimes beating the women,

and often stealing their merchandise. There also were reports that police abused prostitutes and street children (*see* Section 5).

The national budget allocated more funding for the hiring and training of police, as well as for higher salaries. In 2000 a new 4-year police service academy opened, which provides college-level training to police officers in the mid-ranks and higher. Human rights training was provided for security officers, with human rights groups like the DHD teaching some of the courses; however, the training was not mandatory.

There was no investigation, nor was any likely, into the reported torture in custody of Tomas Paulo Nhacumba and Gildo Joaquim Bata in 2000 (*see* Section 1.a.).

The rapid intervention police used force to disperse demonstrations by former East German workers on at least one occasion (*see* Section 2.b.).

Unlike in the previous year, there were no reports of political violence between FRELIMO and RENAMO supporters.

In 2000 violence occurred in at least 15 of the more than 60 demonstrations held throughout the country by RENAMO to protest the outcome of the 1999 elections; approximately 200 persons were injured in the violence (*see* Section 1.a., 1.d., 1.e., and 2.b.).

The Government has not taken action, nor was it likely to take action, against the responsible police officers who tortured detainees in custody in previous years.

Prison conditions in most of the country were extremely harsh and life threatening. Most prisoners received only one meal per day, consisting of beans and flour. It has been customary for families to bring food to prisoners; however, there were sporadic reports that guards demanded bribes in return for allowing the delivery of food to the prisoners.

Prison facilities remained severely overcrowded, generally housing four to six times the number of prisoners that they were built to accommodate. During the year, the National Association for the Support and Protection of Prisoners (ANASCOPRI), a domestic NGO, stated that Beira Central Prison held 705 inmates in a prison built to hold 400; Manica held 608 in a prison built to hold 200; and Tete held 540 in a prison built to hold 150. Inhambane Provincial Prison held 199 in a prison built to hold 99; Nampula held 724 in a prison built for 100; Cabo Delgado held 338 in a prison built for 100; Gaza held 222 in a prison built for 100; Niassa held 356 in a prison built for 100; and Zambezia held 446 in a prison built for 150. Maputo Central Prison, built to hold 800 inmates, held 2,450 inmates. However, the Maputo Machava Maximum Security Prison, with a capacity of 600, held considerably less than that. Approximately 4,465 detainees were held in jails and prisons administered by the Ministry of Justice during the year, and approximately 2,681 sentenced prisoners were incarcerated. The Ministry of Interior did not provide any data on the number of prisoners held in their two facilities by year's end.

There continued to be many deaths in prison, the vast majority due to illness and disease.

Two National Directorates of Prisons (DNPs), one under the Ministry of Justice (MOJ) and the other under the Ministry of Interior (MOI), operated prisons in all the provincial capitals. The DNPs also hold prisoners at an agricultural penitentiary in Mabalane and industrial penitentiaries in Nampula and Maputo.

In MOI facilities, detainees who have not yet been charged were held with prisoners sentenced for serious offenses that specify maximum security. Detainees who have not been charged usually were held for longer periods than the 48 hours permitted under the law. In MOJ facilities, detainees who have been charged but not yet tried are held with prisoners who have been tried and sentenced to prison for relatively minor cases where moderate security imprisonment was deemed sufficient. Pretrial detainees usually were held for several months before trial, and delays of more than 1 year were common. MOI and MOJ facilities, while separate, often were connected physically. Military and civilian prisoners were held in the same prisons.

Women were held in separate areas of prisons from men. At times prisons house young children, usually infants, brought there by mothers sentenced for long periods; the children were allowed to stay with their mothers when no other caregivers were available.

Minors were incarcerated with adult inmates; however, there were fewer reports of minors held in detention than in previous years. According to a study by the MOJ and the U.N. Development Program (UNDP) in 2001, approximately 3 percent of prisoners were between the ages of 13 and 15, and more than 39 percent of prisoners were between the ages of 16 and 20.

International as well as domestic human rights groups may have access to prisoners at the discretion of the MOJ and MOI; however, officials sometimes cited unsanitary conditions or security risks as reasons to delay or cancel visits. During the

year, the LDH visited several jails and prisons in the Maputo area and in the provinces. ANASCOPRI also conducted several prison visits during the year, despite a lack of funding to carry out such programs. The LDH stated that while prison access and conditions had improved, the overall level of treatment was poor. The access of priests and imams into the prisons improved, and prisoners were able to practice their faith while incarcerated. During the year, the Government invited the LDH to conduct training for prison monitors who were expected to be in charge of finding out the legal needs of detainees. Dr. Cauio of the Bar Association stated that, during prison visits this year, there was an unacceptable level of overcrowding and most prisoners received only one meal per day.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution provides that the duration of investigative detention be set by law; however, the police continued arbitrarily to arrest and detain citizens in practice. Under the law, the maximum length of investigative detention is 48 hours, during which time a detainee has the right to have judicial authorities review his case, after which he can be detained up to another 60 days while the case is investigated by the PIC. In cases where a person is accused of a very serious crime carrying a sentence of more than 8 years, he may be detained up to 84 days without being charged formally. If a court approves, such detainees may be held for two more periods of 84 days each without charge while the police complete the investigative process. The law provides that if the prescribed period for investigation has been completed, and no charges have been brought, the detainee must be released. In many cases, the authorities either were unaware of these regulations or ignored them, often also ignoring a detainee's constitutional right to counsel and to contact relatives or friends.

The media reported and many persons complained that security officials often detained them for spurious reasons and demanded identification documents; many officers also extorted bribes to permit persons to continue their travel (*see* Section 2.d.). Many victims lived in areas where there was no notary public available to validate their documents. Many victims chose not to seek police assistance because of their usual demand for bribes or a lack of confidence that the police would help.

Most citizens also were unaware of the rights provided by the Constitution, the law, and the Penal Process Code. As a result, detainees could spend many weeks, months, and even years in pretrial status. The bail system remained poorly defined, and prisoners, their families, and NGOs continued to complain that police and prison officials demanded bribes to release prisoners.

Unlike in the previous year, there were no reports that police detained journalists (*see* Section 2.a.).

On May 1, police detained Mario Vitorino after forcibly dispersing a demonstration and held him for 4 months without charge (*see* Section 2.b.).

In 2000 police detained 457 RENAMO members and supporters during more than 60 rallies and marches to protest the outcome of the 1999 elections; there were reports that police beat and tortured detainees in custody (*see* Sections 1.a., 1.e., and 2.b.). FRELIMO and RENAMO established a working group to examine, among other matters, the cases of the detained demonstrators; the bipartisan working group on the demonstrations was disbanded in April 2001 when RENAMO leader Dhlakama withdrew from the RENAMO-Government dialog process (*see* Section 1.a.). The parliamentary commission investigating the 2000 demonstrations completed its work in September 2001; however, the release of the report was postponed indefinitely.

Under the Penal Process Code, only persons caught in the act of committing a crime can be held in detention. Justice Ministry officials noted that some police lacked adequate training and did not know how to charge a person properly. A detainee could be subjected to indefinite detention. In 2000 the Government created an interministerial review committee to continue the process of reviewing the cases of detainees who had served their time or were in detention illegally, and the committee periodically reviewed the status of detainees throughout the country to prevent unnecessary detentions. During the year, ANASCOPRI reported that one minor was released as a result of this review committee.

Drug cases were subject to a special regime. The law specifies that the legal period of investigative detention in drug trafficking cases is 10 days. The same law authorizes a long period of investigation—up to 9 months—in cases involving drug smuggling, drug production and transfer, and criminal association.

The Constitution prohibits exile, and the Government did not use forced exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however the executive, and by extension the FRELIMO party, continued to dominate the judiciary, which is understaffed and manned by inadequately trained appointees. The DHD report on human rights conditions released in June 2001 and



this year's draft report specifically emphasized problems of the judiciary (*see* Section 4).

The President appoints the president and vice president of the highest tribunal, the Supreme Court. Supreme Court nominations initially are prepared by the Higher Judicial Magistrate's Council (CSMJ), the body responsible for overseeing professional behavior among magistrates, then a list of qualified persons for the Supreme Court is submitted to the President. CSMJ members are elected by their peers, four are elected by the National Assembly and two are appointed by the President; members tended to be either FRELIMO members or FRELIMO-affiliated. No Assembly approval is needed for other judicial appointments, which are also appointed by the President.

There are two complementary formal justice systems: The civil/criminal system and the military system. Civilians are not under the jurisdiction of, or tried in, military courts. The law empowers the Supreme Court to administer the civil/criminal system; the court also hears appeals, including military cases, although the Ministry of National Defense administers the military courts. Below the Supreme Court there are provincial and district courts. There also are courts that exercise limited, specialized jurisdiction, such as the administrative court and customs court. Although the Constitution permits the establishment of a fiscal court, maritime court, and labor court, none have been established. The Constitution called for the creation of a constitutional court, but the Government has not yet passed implementing legislation. In the absence of this body, the Supreme Court is tasked with ruling on issues of constitutionality, as it did when assessing the eligibility of presidential candidates for the 1999 general elections. Persons 16 years and younger fall under the jurisdiction of a court system for minors. Through this legal channel, the Government can send minors to correctional, educational, or other institutions. As with the provincial and district courts, the specialized and minor court systems were ineffective due to a lack of qualified professionals.

Outside the formal court system, a number of local customary courts and traditional authorities adjudicated matters such as estate and divorce cases. These courts were staffed by respected local arbiters who had no formal training but who exercised a substantial judicial and executive role, particularly in the area of arbitration.

Persons accused of crimes against the Government were tried publicly in regular civilian courts under standard criminal judicial procedures. The law provides definitions of crimes against the state, such as treason, terrorism, and sabotage. The Supreme Court has original jurisdiction over members of Parliament and other persons who are immune from trial in the lower courts.

A judge may order a closed trial because of national security interests or to protect the privacy of the plaintiff in cases concerning sexual assault.

In regular courts, all accused persons in principle are presumed innocent and have the right to legal counsel and the right of appeal; however, authorities did not always respect these rights. The great majority of the population either was unaware of these rights or did not possess the means to obtain any form of legal counsel. Although the law specifically provides for public defenders, such assistance generally was not available in practice, particularly in rural areas. Some NGOs, such as the LDH, the Government's National Institute for Legal Assistance, and the Mozambican Association of Women in Judicial Careers, continued to offer limited legal counsel at little or no cost to both defendants and prisoners.

A lack of licensed attorneys exacerbated the judicial system's weakness. There were an estimated 240 licensed attorneys in the country; the vast majority worked in Maputo. The number of law school programs at public and private universities continued to increase. There continued to be a shortage of qualified judicial personnel, with only 163 judges nationwide. There are appeals courts in all provinces, but few of these courts were staffed by formally trained judges, despite the fact that the law requires a law degree. Some districts had no formal courts or judges at all.

DANIDA, a Danish NGO, worked with the Ministry of Justice and the Supreme Court on judicial legislation, as well as funding physical rehabilitation of courts throughout the provinces. During the year, the UNDP worked with LDH on legal reform and the training of prison personnel in proper procedures when handling prisoners.

Justice Mangaze presided over the CSMJ, which has expelled 27 judges for corruption since 1995. During the year, the CSMJ initiated disciplinary actions, which may include expulsion, against eight judges. A law allows for faster implementation of CSMJ decisions affecting judges who appeal charges of misconduct, thus removing them from the bench more swiftly. Bribe-taking, chronic absenteeism, unequal treatment, and deliberate delays and omissions in handling cases continued to be problems during the year.

The Penal Process Code contains legal guidelines for the judicial treatment of minors and forbids the imprisonment of minors below the age of 16; however, there were documented reports that some judges ordered the incarceration of minors in common prisons without trial and that minors under the age of 16 were housed with adults in the general population (*see* Section 1.c.). In most areas of the country, it is difficult to assess accurately age because the information was not well documented and many persons do not have identification cards.

There were no confirmed reports of political prisoners; however, RENAMO continued to claim that all persons held in connection with the 2000 nationwide demonstrations were political prisoners, and continued to consider those convicted and sentenced also to be political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice. By law police need a warrant to enter homes and businesses.

The Government did not take any action and was unlikely to take any action to discipline customs agents who allegedly conducted illegal searches in Maputo in 2000.

Opposition political groups claimed that government intelligence agencies monitored telephone calls, conducted surveillance of their offices, followed the movements of opposition members, used informants, and attempted to disrupt party activities. During the year, there were reports that the Rapid Intervention Police were employed to disrupt opposition gatherings in several provinces (*see* Section 2.b.).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, limitations on these rights were permitted if they related to the media's obligations to respect the Constitution, human dignity, the imperatives of foreign policy, or national defense.

There were four independent weekly newspapers published in Maputo, and six other independent weekly journals published in provincial capitals. According to the Panos Institute, the 10 weekly newspapers had a combined total circulation of 50,910. There were an additional 20 periodicals with a combined circulation of approximately 34,000. There were 6 periodicals that transmitted daily editions electronically, with a combined subscription of more than 1,500. The second oldest faxed daily, *Imparcial*, was owned by RENAMO. Several independent media had websites. Only a small minority of the population received news directly through the print media.

Media ownership was diverse. The U.N. Educational, Scientific, and Cultural Organization (UNESCO) Media Project estimated that 34 percent of the country's media were public (government-controlled), 36 percent were private commercial, and 28 percent were private nonprofit (church-affiliated); however, the public category included the country's only daily newspapers, the only Sunday newspaper, and the only weekly newsmagazine. Two progovernment newspapers—*Noticias* and *Domingo*—together with a third sports-oriented weekly were owned by a single corporation, *Noticias Limited*, in which state-owned enterprises and FRELIMO members hold majority shares. *Diario de Mocambique*, published in Beira, and *Noticias*, published in Maputo, were the only daily newspapers. *Diario de Mocambique* is owned by the Commercial News Society of Beira, in which FRELIMO officials owned majority shares. FRELIMO officials also owned *Noticias*, and it often was accused of being progovernment. All media evidenced consistent bias in favor of their shareholders. The newspapers continued pushing for reform of the justice system, for renewed efforts to fight corruption, and to reform public service.

*Noticias*, *Domingo*, and *Diario de Mocambique* largely reflected the views of individuals in the ruling party, but these media sources also carried significant criticism of government actions. During the year, several newspapers published articles that were critical of the Government, including *Domingo*, a weekly newspaper closely aligned with FRELIMO. In October *Domingo* openly criticized the Minister of the Interior and called for his removal due to remarks that he made regarding the prison escape of the prime suspect in the murder of journalist Carlos Cardoso. The suspect, known as Anabalzinho, was reported to have escaped from the Maximum Security Prison. The article also suggested that the escape might have happened with the knowledge of certain prison officials. Subsequent articles in several newspapers reported on allegations made by the defendants at their trial that President Chissano's son, Nhypine Chissano, was involved in the planning of the crime.

While the Government no longer owned most radio and television stations, government stations were the only broadcasters capable of countrywide transmission;

however, there were local and independent broadcasts in most urban areas. Government media were showing greater transparency in reporting and some independence of editorial content. Radio Mozambique, the public's most important source of information, was government-owned; however, its news coverage generally was considered unbiased and fair. Radio Mozambique received the largest single subsidy from the state budget of any public media company. It broadcast in Portuguese and 18 indigenous languages; its external service broadcast in English as well as in Portuguese for citizens in neighboring South Africa. Radio Mozambique regularly broadcast public debates that included a variety of participants with differing opinions.

In addition to Radio Mozambique, there were 14 community-based (supported by UNESCO and the Government), 4 religious, and 11 commercial private radio stations, most of which used local languages in addition to Portuguese and which cover most of the country. One station, Radio Terra Verde (RTV), was linked directly to RENAMO. RTV was second only to Radio Mozambique's youth-oriented Radio Cidade in popularity, outside of broadcast times for soccer matches. Foreign radio programs, including the British Broadcasting Corporation (BBC), Radio France International (RFI), Radio Diffusao Portugal (RDP) Africa, and the Voice Of America (VOA), reached all major population centers and reported local news via Mozambican-based part-time reporters; the BBC and the RFI carried news in Portuguese but broadcast most of the day in English and French, respectively.

TV Mozambique (TVM) continued to demonstrate strong bias towards the Government. Portuguese Television for Africa (RTP Africa), a station owned by the Government of Portugal, offered a second source of televised news to all parts of the country reached by TVM. Privately owned television transmission continued to be limited to Maputo. International television news was available via cable in Maputo and via satellite nationwide.

While criticism of the President was not prohibited, the law provides that in cases of defamation against the President, truth is not a sufficient defense against libel. This law was not tested in court and the provision was not invoked, despite considerable verbal and written criticism of the President during the year.

There were no developments in the 2001 case where Nhympine Chissano, President Chissano's son, filed libel charges against the fax newsheet *Metical*, effectively forcing its closure.

Unlike in the previous year, there were no reports that police detained journalists.

Unlike in the previous year, there were no reports that journalists were attacked.

Unknown persons continued to threaten journalists (*see* Section 2.a.).

There were no developments in the April 2001 beating of journalist Rui de Carvalho or the November 2001 theft from Fabio Mondlane.

No action was taken, nor was any likely to be taken, against the persons responsible for the April 2001 anonymous death threat against Radio Mozambique journalist Jose Joao.

No action was taken against the persons responsible for the following incidents in 2000: The attack on a radio journalist by unknown assailants in Beira; the beating of a radio journalist by unknown persons near Maputo; the anonymous bomb threat received by the news fax agency *Mediacoop*; and the telephone death threat received by the editor of the newspaper *Savana*. There was no significant investigation, nor is any likely, into these cases.

In 2000 two unknown assailants killed Carlos Cardoso, an investigative journalist who was the founder and editor of the news fax agency *Metical*, in an execution-style shooting. In the early months of the year, the Government detained 10 individuals in connection with the case. One detainee was released without charge after being held for 10 months. Both the Government and the family agreed that he had nothing to do with the crime. In September the judge presiding over the case ordered six of the defendants to be brought to trial on charges of homicide and accessories to homicide. In November five of the defendants were brought to trial. Although the trial was being held on the grounds of the maximum security prison, it was open to the public and broadcast on television, and it was ongoing at year's end.

A large number of periodicals and broadcasting entities have been licensed since 1992, and the independent media criticisms of government leaders and their families largely were tolerated.

Article 19, a British NGO, and the LDH monitored media coverage of the national electoral campaign. Radio Mozambique generally presented balanced coverage, whereas TVM was biased towards the ruling party. The newspapers *Noticias*, *Diario de Mocambique*, and *Domingo* demonstrated progovernment partisanship. The National Election Commission was criticized for categorizing these newspapers as private sector media, thereby exempting them from the electoral law's requirement

that public media provide fair and balanced treatment of all parties during the electoral campaign.

UNESCO has expressed concern about the strong concentration of national and local media in Maputo city and province, mirroring lopsided socioeconomic development nationwide. Furthermore a 1997 census revealed that 60 percent of citizens over the age of 15 were illiterate in any language, and 70 percent of the population over 5 years of age did not speak Portuguese, which further limited the reach of the media beyond Maputo.

The Prime Minister's ongoing weekly press conferences were important opportunities for journalists to discuss politics and government policies. The Prime Minister's Information Office sought to facilitate international press access to key government officials and to provide policy guidance on how news media should be regulated. The Prime Minister's Information Office continued to monitor press content informally.

The Government did not limit access to the Internet, and 10 Internet service providers operated during the year.

The Government did not restrict academic freedom. Private educational institutions, both church-related and secular, were well established and continued to expand in several cities.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the law was amended in April 2001 to remove restrictions on this right; however, authorities forcibly dispersed at least one demonstration during the year. The law regulates public demonstrations but does not apply to private gatherings held indoors and by individual invitation, nor does it affect religious gatherings or election campaigning.

In April 2001, the National Assembly amended the law on demonstrations. The new law removed restrictions on the times during which marches, parades, and processions were allowed, removed the prohibition on demonstrations likely to offend the honor of the Head of State or other government officials, and removed the right of local authorities to disrupt demonstrations whose objectives they deemed to be different from those initially stated. In addition, the new law simplified the approval process for demonstrations. Organizers simply were required to inform the district administrator of the planned demonstration rather than seek approval in advance from police and civil authorities. Local authorities may prohibit a demonstration from taking place only if it was likely to involve the occupation of public or private buildings. The new law prohibited the use of excessive force by the police to control or disrupt demonstrations; however, the Government used excessive force to disperse one demonstration during the year.

On May 1, a group of citizens who had worked in the former East Germany demonstrated at a rally held by President Chissano and reportedly shouted insults at him. Several hours after the incident with the President, the Rapid Intervention Police forcibly dispersed these demonstrators. One of these workers, Mario Vitorino, was taken into police custody and detained for 4 months. No charges were brought against him, and he later was released on the condition that he not leave Maputo.

In December 2001, riot police forcibly dispersed a demonstration and injured two citizens who had worked in the former East Germany. The demonstrators were protesting the Government's refusal to pay their pensions. Funds for such payment had been deducted from their salaries by the East German government that then provided them to a Mozambican government representative, who then embezzled the money. The police justified their actions on the basis that the demonstrators were violating the law by protesting on a weekday, and that their request for a permit for the demonstration had been denied; however, the law was repealed in July 2001 to remove both the time restriction and the requirement for prior authorization. The National Assembly discussed the demonstrations and the demonstrators' complaints in March; however, no action was taken. On September 20, the National Assembly decided that the issue was too complex and that it was necessary to consult with the German government; they suspended debate on the issue.

The Government continued to defend police actions in breaking up nationwide RENAMO demonstrations in 2000 as legal, stating that RENAMO had violated the time period allowed for such activities, a claim that was supported by several provincial courts. RENAMO continued to argue that it had filed for and received necessary permission.

The law provides for freedom of association; however, both the Government and the law imposed some limits on this right. Legislation sets forth the process for the registration of political parties. There are 34 registered, active political parties. A political party is required to demonstrate that it has no regional, racial, ethnic, or religious exclusiveness and must secure at least 2,000 signatures of citizens to be recognized (*see* Section 2.c.).

The Government required nonpolitical groups such as NGOs and religious organizations to register. A government decree regulates the registration and activities of foreign NGOs. Foreign NGOs must register their presence and scope of work with the Ministry of Foreign Affairs and Cooperation; the Ministry then issues permits to those NGOs whose programs the Government decided complement its priorities. Observers believed that the requirements worsened the already lengthy bureaucratic process that NGOs must follow to work in the country. Although the registration process was not always transparent and could take many months, the authorities rarely rejected applications from new associations.

*c. Freedom of Religion.*—The Constitution provides that all citizens have the freedom to practice or not to practice a religion and gives religious denominations the right to pursue their religious aims freely; the Government generally respected these rights in practice.

The law requires religious institutions and missionary organizations to register with the Ministry of Justice, reveal their principal source of funds, and provide the names of at least 500 followers in good standing. The Christian Council reported that not all religious groups register, but unregistered groups worshiped unhindered by the Government.

The law governing political parties specifically forbids religious parties from organizing, and any party from sponsoring religious propaganda. The Independent Party of Mozambique (PIMO), a predominantly Muslim group without representation in Parliament, has argued for the right of political parties to base their activities on religious principles. The Government has tolerated PIMO's activities, although it has criticized the group. PIMO and some members of the legislature argued that the Movimento Islamico, a parliamentary caucus of Muslims from the ruling FRELIMO party, was tantamount to a religious party.

Most places of worship nationalized by the Government have been returned to the respective religious organizations; however, the Catholic Church and certain Muslim communities complained that some other properties such as schools, health centers, and residences unjustly remained in state hands and continued to press for their return. The Directorate for Religious Affairs is mandated to address the issue of the return of church properties. Government sources stated that the majority of properties were returned, with a few cases still being examined on an individual basis, including two cases in Maputo that remained unresolved by year's end. Provincial governments have the final responsibility for establishing a process for property restoration. The return of church property is problematic when the facility is in use as a public school, health clinic, or police station, because funds for construction of new facilities are scarce.

After several decades of unsuccessful attempts to gain a building permit, the Islamic community constructed the Grand Mosque in downtown Maputo during the year. While services have started at the Mosque, there was no official opening by year's end. Previously the Government had refused to grant permission for mosques to be built in the center of major cities.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, at times the Government infringed upon these rights.

Police traffic checkpoints sometimes established for safety or security concerns occasionally affected freedom of movement. In an effort to reduce harassment and confiscation of travelers' possessions at the borders, customs supervisors levied disciplinary fines and fired abusive customs agents. In large cities, the police often stopped foreign pedestrians and ordered them to present original passports or resident papers, sometimes refused to accept notarized copies, and fined or detained those who failed to show proper documents (most persons do not carry the originals of documents due to the risk of theft). Police also detained local citizens routinely for failure to carry identity papers and extorted bribes (see Section 1.d.).

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In cooperation with the U.N. High Commissioner for Refugees (UNHCR), the Government offered shelter to refugees, the vast majority of whom came from other African countries. There was a reported increase in refugees in the country; between June and November 2001, the number of refugees in the country increased from 3,000 to an estimated 4,500. There were approximately 1,450 refugees in the Bobole camp near Maputo, 1,433 in the northern provincial capital of Nampula, and 200 in Lichinga. The largest percentage of refugees was from the Democratic Republic of the Congo (DRC), Burundi, and Rwanda, and there were small numbers of refu-

gees from Angola, Sudan, Somalia, Ethiopia, Kenya, Zimbabwe, and Uganda. The UNHCR had planned to phase out its operations in the country by the end of 2000; however, the increasing number of refugees, especially from the Great Lakes region of Africa, prevented this from happening. In June 2001, the Government opened a new refugee center near the northern provincial capital of Nampula and had planned to transfer refugees residing in Bobole to the new center by the end of 2001; however, by mid-2001 the new camp already was filled to capacity, which resulted in a delay in transferring refugees from Bobole. The transfer of refugees from Bobole began at the end of the year, and once the transfer is completed, Bobole camp was expected to be closed. Refugee camp conditions met minimal standards, although some refugees claimed to fear attack by fellow refugees on the basis of ethnicity. The UNHCR occasionally made alternative shelter available to those who felt threatened. The Government offered first asylum and provided it to 1,788 refugees during the year.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and in 1999 citizens freely exercised their right to vote in the country's second multiparty general elections, which international observers considered to be generally free and fair. The elections were marred by allegations of vote-counting irregularities; however, international observers determined that this did not impact the results. President Chissano was returned to office with approximately 52 percent of the vote, and the ruling FRELIMO party won 133 of the 250 assembly seats. The largest opposition group, RENAMO-UE, made a strong showing in the elections, winning 117 seats in the Assembly and 48 percent of the presidential vote. In 2000 the President appointed a new Cabinet, the new National Assembly took its oath of office, and the President announced new provincial governors. All ministers and governors, and most vice ministers, are FRELIMO members.

According to international and domestic observers, the voting process was transparent, peaceful, and orderly with approximately 75 percent of the registered voters participating; however, international and domestic observers complained of a lack of full access to the vote count, and the opposition coalition RENAMO-UE charged that there was fraud in the vote-counting process. Due to a large number of illiterate voters, there were a significant number of ballots on which preferences were unclear and which required interpretation by the National Electoral Commission. The Commission also did not count tally sheets from several hundred polling stations at both the provincial or national level due to mathematical errors, omissions, and other problems.

International observers were not given full access to the process of examining the contested ballots and tally sheets, or to the vote counting. RENAMO-UE charged that this affected them disproportionately because tally sheets were discarded from provinces where RENAMO-UE support was strong. RENAMO-UE took this issue and several others to the Supreme Court, and in 2000 the Court unanimously rejected RENAMO-UE's complaints; the Court acknowledged that there were some minor irregularities but concluded that these did not change the results of the elections.

The opposition coalition continued to refuse to accept the election results or the Supreme Court's decision; however, the coalition participated in Parliament and worked with FRELIMO on a number of ad hoc and standing committees to draft and approve consensus legislation. Direct dialog between President Chissano and RENAMO leader Dhlakama took place in December 2000, January 2001, and March 2001. In March 2001, Dhlakama withdrew from the discussions, citing a lack of progress, and canceled his party's participation in bipartisan working groups on constitutional, judicial, defense, security, economic, civil service, and local government matters, as well as on the 2000 RENAMO demonstrations.

Article 19 and the LDH monitored media coverage of the national electoral campaign. The National Election Commission was criticized for categorizing newspapers in which state-owned enterprises and FRELIMO party members hold majority shares as private sector media, thereby exempting them from the electoral law's requirement that public media provide fair and balanced treatment of all parties during the electoral campaign (*see* Section 2.a.).

There were 102 women in the 250-member National Assembly (two died during the year), and there were 3 female ministers and 5 female vice ministers in the Cabinet. FRELIMO's policy mandated that at least 30 percent of the party's two governing bodies must be women. During the year, the Political Commission and Cen-

tral Committee fulfilled this mandate. Nevertheless cultural factors inhibited women's effectiveness in public life (see Section 5).

Persons representing many ethnic groups participated in the executive, judicial, and legislative branches of the Government. Leadership positions within FRELIMO traditionally have been dominated by the Shangaan ethnic group, while those in RENAMO traditionally have been dominated by the Ndau ethnic group.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were no legal obstacles to the formation of domestic human rights groups, although registration procedures for NGOs were onerous and expensive (see Section 2.b.). While the Government did cooperate with NGOs, many NGOs believed that the Government was slow to respond to their requests for information and prison visits (see Section 1.c.). The Government responded to human rights-related inquiries from the LDH and the DHD on a case-by-case basis. During the year, the Government did not respond formally to the LDH and DHD reports on the 2000 nationwide demonstrations and Montepuez deaths in custody (see Sections 1.a., 1.c., 1.d., 1.e., and 2.b.).

In 2000 the DHD published a second report on human rights in the country and planned to continue to report regularly on human rights. The report's critical assessment gave particular emphasis to problems in the judiciary, conditions in prisons, freedom of the press, and arbitrary arrest and detention of citizens. Among the complaints were alleged police killings, domestic violence, labor disputes, and land title conflicts. The 2002 report had not been made public by year's end. The DHD and the LDH conducted human rights education seminars and workshops during the year for a wide range of audiences including political parties, security agencies, businesses, and NGOs.

International NGOs and human rights groups were permitted to visit and work in the country.

The Government permitted visits by U.N. representatives; however, no human rights-oriented representatives visited the country during the year.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution forbids discrimination based on race, sex, or disability; however, in practice discrimination against women and persons with disabilities persisted.

*Women.*—Although official statistics were not kept, according to health officials, women's groups, and other sources, domestic violence against women—particularly spousal rape and beating—was widespread. Many women believed that their spouses had the right to beat them, and cultural pressures discouraged women from taking legal action against abusive spouses. There is no law that defines domestic violence as a crime; however, laws prohibiting rape, battery, and assault can be used to prosecute domestic violence. During the year, All Against Violence (TCV), an NGO, registered 893 cases of domestic violence, and 16 of these cases were prosecuted. A group of women's NGOs lobbied members of the National Assembly during the year to criminalize domestic violence. In addition, the Government worked with the Southern African Development Community (SADC) to increase female participation in legislatures. Hospitals usually did not attribute evidence of physical abuse to domestic violence.

A group of women's NGOs, including Women in Law and Development, Mozambican Women in Education, Women in Judicial Careers, and the FRELIMO-sponsored Mozambican Women's Organization, support the organization TCV, which serves as a monitoring and educational group for problems of domestic violence and sexual abuse of women and children, including counseling of victims and mediating within families. The organization continued to expand during the year. All NGOs actively opposing domestic violence worked to involve police in education, enforcement, and identifying domestic violence as a criminal problem.

Local NGOs reported that rape was a widespread and serious problem. Sexual harassment was regarded as pervasive in business, government, and education, although no formal data existed. Prostitution was widespread in most cities and towns and especially was prevalent along major transportation corridors and border towns where long-distance truckers stayed overnight.

Despite constitutional provisions for the equality of men and women in all aspects of political, economic, social, and cultural life, the civil and commercial legal codes contradict one another and the Constitution. Under the law of the Family and Inheritance, the husband or father is the head of household, and both wives and daughters must obtain male approval for all legal undertakings. For example, a woman must have the written approval of her husband, father, or closest male relative in order to start a business. Without such approval, a woman cannot lease

property, obtain a loan, or contract for goods and services. The legal domicile of a married woman is her husband's house, and she may work outside the home only with the express consent of her husband. While it appeared that these legal restrictions on women's freedom were not enforced, they left women open to extortion and other pressures.

Family law provides that a married couple's assets belong to the husband, who has full authority to decide on their disposition. When a husband dies, his widow is only fourth in line (after sons, father, and brothers) to inherit the household goods. A contradictory provision of the law states that a widow is entitled to one-half of those goods that are acquired during the marriage, but in practice women rarely knew of or demanded this right.

Customary law varied within the country. In some places, it appeared to provide women less protection than family law, and unless a marriage is registered, a woman has no recourse to the judicial branch for enforcement of the rights provided her by the civil codes. Women were the primary cultivators of family land in the country. Under customary law, they often have no rights to the disposition of the land. The law specifically permits women to exercise rights over community land held through customary rights. Anecdotal evidence indicated that the land law had only a minimal effect on women's rights; the law appeared to formalize existing practice. However, domestic NGOs such as the Rural Women's Development Association and Rural Mutual Assistance Association have cautioned that much time and education would be necessary before the new rights granted to women would supersede traditional practice.

The Constitution grants citizenship to the foreign-born wife of a male citizen, but not to the foreign-born husband of a female citizen.

Women continued to experience economic discrimination in practice. Women constituted slightly more than half the population but were responsible for two-thirds of economic production. Women in the workplace received lower pay than men for the same work. According to parliamentarians who debated the proposed revision of the law, women were subject to sexual harassment and to discrimination in hiring because of potential absences on maternity leave; although the Labor Law entitles a woman to 60 days of maternity leave, employers often violated this right.

The Government continued to target maternal and child health problems and focused on immunizations for women of childbearing age and for young children. The estimated maternal mortality rate was 1,100 per 100,000, a significant improvement over 2001. Numerous development organizations and health-oriented NGOs also emphasized programs to improve women's health and increasingly focused resources on combating the spread of HIV/AIDS and sexually transmitted diseases.

The law permits the entry of women into the military; however, there were few women in the armed forces, and the highest ranking woman in the army was a major. In 2000 the military began to recruit women for the first time since the institution of the compulsory service law, and of the 93 women registered, 20 to 30 were selected to undergo military training. However, due to a lack of facilities to accommodate male and female training, the female recruits did not receive military training by year's end and are unlikely to do so in the near future.

*Children.*—The Government has made children's rights and welfare a priority, but admitted that there were some significant problems. Primary education was free; however, a matriculation fee was charged for each child, which was a significant financial burden for many families, and children were required to purchase books and school supplies. Primary education was compulsory through the fifth year; however, there were few educational facilities, which limited enrollment. A few new primary schools opened during the year throughout the country; however, schools were overcrowded, and there was much corruption in the school system. Newspapers frequently reported that the parents of school children had to bribe teachers or officials to enroll their children in school, and that girls exchanged or were forced to exchange sex with teachers for passing grades. The 1997 census estimated that approximately 50 percent of children ages 6 through 10 were in primary school; however, only a fraction of children continued with secondary studies.

Girls continued to have less access to education than boys above the primary level: 42 percent of students in grades 1 through 5 were girls, and 40 percent of students in grades 6 through 10 were girls. The percentage increased to 48 percent for grades 11 and 12. However, there were only 105 public secondary schools nationwide, of which only 23 offered classes through grade 12. Approximately 76 percent of females over 15 years of age were illiterate. Outside the main cities where there were fewer secondary schools, and where boarding was required for attendance, the number of female students dropped significantly. Unlike in previous years, there were no reports that girls were forcibly expelled from school dormitories.



An NGO, the Association to Support Mozambican Children (ASEM), operated 2 alternative-learning centers in Beira for more than 900 children who were not able to return to their regular schools after being expelled from their homes or because they had left school to work.

During the year, the Government continued a vaccine initiative and a program to manage childhood illnesses. It was estimated that 55 percent of child deaths in the country resulted from malnutrition or related illnesses.

Due largely to the work of some 10 NGOs concerned with helping street children in 2001, the number of street children was estimated to be approximately 400 in the Maputo metropolitan area, compared with 3,000 in previous years. Street children sometimes were beaten by police and frequently were victims of sexual abuse. Some remedial government programs continued, including programs on education, information dissemination, health care, and family reunification. The mortality rate for infants was 126 per 1,000, and for children under the age of 5 it was 201 per 1,000. The Maputo City Women and Social Action Coordination Office continued its program of rescuing abandoned orphans and assisting single mothers who head families of three or more persons. The same group offered special classes to children of broken homes in local schools. Other NGO groups sponsored food, shelter, and education programs in all major cities. ASEM, in Beira, also provided counseling to parents who had expelled children from their homes, which usually happened when a wife has children who were unacceptable to a new husband.

Child prostitution remained a problem (*see* Section 6.f.).

There were reports that children in rural areas were used to settle financial and other disputes (*see* Sections 6.c. and 6.f.). Families delegated the children to work for limited periods of time to settle debts.

*Persons with Disabilities.*—The Constitution states that “disabled citizens shall enjoy fully the rights” that it provides for; however, the Government provided few resources to implement this provision. Representatives of disabled groups and injured veterans frequently protested that societal discrimination continues against persons with disabilities. Approximately 1.9 percent of citizens have physical or mental disabilities.

The Government only provided four schools nationwide for the hearing and vision impaired and for persons with physical and mental disabilities. There were few job opportunities for persons with disabilities in the formal sector, although the 1997 census reported that 55 percent of such persons worked or held a job.

Social workers found that some parents of children with disabilities in several districts, including the towns of Gorongosa and Dondo, did not permit their children to leave their homes. Provincial Ministry of Women and Coordination of Social Action officials continued their educational campaign to reverse traditional attitudes toward children with disabilities.

The Government continued to rely on NGOs to assist persons with disabilities. The Association of Disabled Mozambicans (ADEMO) addressed social and economic needs of persons with disabilities. ADEMO’s effectiveness during the year was hindered by internal conflicts. Smaller NGOs also have formed, including the Association of Handicapped Military and Paramilitary Mozambicans, the Association of Blind and Visually Impaired Mozambicans (ACDVM), the Association of Mozambican Disabled Soldiers (ADEMIMO), the Association of Deaf Mozambicans (ASUMO), the Association of Demobilized War Veterans (AMODEC), and the Association of Disabled Divorced Women (AMODD).

Concerns of persons with disabilities included access to socioeconomic opportunities and employment, accessibility to buildings and transportation, and a lack of wheelchairs. The only provisions that the Government has enacted for accessibility to buildings and transportation for persons with disabilities were in the electoral law governing the country’s first multiparty elections, which addressed the needs of voters with disabilities in the polling booths. Special access facilities were rare.

*National/Racial/Ethnic Minorities.*—There was no systematic mistreatment or discrimination on the basis of race or ethnicity; however, the FRELIMO government traditionally has included at all levels a large number of southerners, mostly from the Shangaan ethnic group, which has engendered complaints from residents of other parts of the country. There also were complaints that the Government favored economic development in the southern part of the country over other areas. The Government has taken several steps to address such concerns; the central and northern provinces have been included in the Government’s 5-year development plan, economic and social plan, poverty alleviation strategy, and investment incentive program. In addition, the President, Prime Minister, and Cabinet members continued to spend a significant amount of time in the provinces during the year. The

executive, judicial, and legislative branches included officials from central and northern parts of the country in senior positions.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides that all workers are free to join or refrain from joining a trade union, and workers enjoyed these rights in practice. The revised Labor Law regulated labor relations. It expressly prohibits discrimination against organized labor. Trade unions remained concerned that large-scale layoffs due to privatization and free trade zones created under the revised law would result in less favorable labor rights due to government incentives offered to foreign investors. The percentage of workers belonging to labor unions was very small; it was estimated to be less than 1 percent. The majority of union members were in the larger cities where industries were located.

There were two trade union federations in the country: The Organization of Mozambican Workers (OTM), which formerly was affiliated with the FRELIMO party, and the Confederation of Free and Independent Unions of Mozambique (CONSILMO), which was formed by three unions that broke away from the OTM. CONSILMO was permitted to participate in national negotiations on the minimum wage with the Consultative Labor Commission, a body including representatives from labor, private employers, and government. CONSILMO maintained a working relationship with the OTM, and includes the powerful 28,000-member Union of Industrial Construction Workers of Mozambique (SINTICIM) construction trades union, an early promoter of the rights of female workers. In August 2001, civil servants formed a new union, the Public Servants Union (SFP), which was recognized by the Ministry of Justice. However, the union could not operate because the law did not yet provide for its existence. The union formed an ad hoc committee, which worked with the Government to produce the legislation governing its existence and operation. There were an estimated 100,000 civil servants, making this potentially the largest union in the country.

The OTM has declared itself free of commitments to any political party, companies, or religious groups, and its regulations prohibited persons holding high ranks within any political party from simultaneously holding top positions in the trade union; however, other labor unions maintained that the OTM is not independent of FRELIMO. During the year, Soares Nhaca, a former OTM President, was named Governor of Manica Province by the Government.

The Constitution and labor legislation give unions the right to join and participate in international bodies. The OTM was a member of the Organization of African Trade Union Unity and the Southern African Trade Union Coordinating Council.

*b. The Right to Organize and Bargain Collectively.*—The law protects the right of workers to organize and engage in collective bargaining. On February 5, the Center for Arbitration, Conciliation, and Mediation officially opened, and its purpose is to help settle business-to-business problems through arbitration. The Government did not set private sector salaries; existing unions were responsible for negotiating wage increases. The Consultative Commission on Labor met periodically to negotiate changes in the minimum wage.

The Constitution explicitly provides for the right to strike, with the exception of civil servants, police, military personnel, and other essential services (which include sanitation, fire fighting, air traffic control, health care, water, electricity, fuel, post office, telecommunications, and funeral services). The ILO has cited the Government's definition of essential services as overly broad, noting that only public servants engaged in the administration of the State should be excluded. The law specifies that strikers must notify police, the Government, union, and employers 48 hours in advance of intended strikes.

During the year, there were number of work actions. One strike occurred at MABOR, a company that exported agricultural tires. Company executives indicated that this work action could result in the permanent closure of the plant and the loss of 500 jobs. There appeared to be a trend toward work actions and strikes in the country.

In October 2001, two-thirds of the operators and maintenance workers at the MOZAL aluminum plant in Matola engaged in a walk-out, seeking to reopen negotiations for wages and benefits for their contract. After 3 weeks, the majority of workers returned to work; however, 40 were fired and disciplinary actions were applied to those who left work without permission. Those workers who were dismissed were paid an indemnity during the year.

In 2000 the OTM and other unions threatened a general strike following a lack of progress in resetting the minimum wage level in tripartite negotiations involving the unions, the Government, and employers' organizations (*see* Section 6.e.). After negotiations came to a standstill, the Council of Ministers implemented a minimum

wage increase of 26 percent in 2000 and agreed to an additional 4 percent increase, which was implemented in May 2001, as part of another 17 percent minimum wage increase. In May the minimum wage increase was 18 percent.

Provisions of the Labor Law forbid retribution against strikers, the hiring of substitute workers, and lockouts by employers. Specific labor disputes generally were arbitrated through special workers' committees, formally recognized by the Government.

The law provides for the creation of export processing zones (EPZs), and the Government was authorized to confer EPZ benefits to any export-oriented company that met the criteria. There was an EPZ in Maputo and one in Beira. Workers in EPZs were subject to the same labor regulations as other workers, and worker rights were respected in practice.

*c. Prohibition of Forced or Bonded Labor.*—The Government prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred in the formal economy; however, children in rural areas were used as labor to settle financial and other disputes, with their families delegating the children to work for limited periods of time to settle debts (*see* Section 5).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Child labor is regulated by the labor law. In the wage economy, the working age without restrictions is 18 years of age. The labor law permits children between the ages of 15 and 18 to work subject to certain restrictions. Children between the ages of 12 and 15 are permitted to work under special conditions authorized jointly by the Ministries of Labor, Health, and Education. For children between 15 and 18 years of age, the employer is required to provide for their education and professional training and to ensure conditions of work that are not damaging to their physical and moral development. For minors under 18 years, the maximum workweek is 38 hours, and the maximum workday is 7 hours. Minors under 18 years of age are not permitted to work in unhealthy or dangerous occupations or those requiring significant physical effort. Children must undergo a medical examination before beginning work. By law children must be paid at least the minimum wage or a minimum of two-thirds of the adult salary, whichever is higher. The Ministry of Labor is authorized to regulate child labor in both the informal and formal sectors.

Child labor remained a problem in the country, especially in rural areas where children sometimes worked alongside their parents or independently in seasonal harvests or commercial plantations. Employers normally paid children on a piece-work basis for such work, which principally involved picking cotton or tea leaves.

Because of high adult unemployment in the formal sector, estimated at around 50 percent, few children were employed in regular wage positions; however, children, including those under the age of 15, commonly worked on family farms or in the urban informal sector, where they performed such tasks as “guarding” cars, collecting scrap metal, working as vendors, and selling trinkets and food in the streets. Regulations on the informal labor sector were not enforced. Children also were employed in domestic positions and the number appeared to be rising.

Children orphaned by HIV/AIDS often were forced to work because they were left without any adult family members or with only extended family members who were unable to support them.

Violations of child labor provisions were punishable with fines. Persons engaged in child prostitution, use of children for illicit activities, child pornography, child trafficking, or forced or bonded labor may be punished by prison sentences and fines; however, perpetrators of these crimes rarely were identified and prosecuted. Punishments for such crimes were not commensurate with that of a serious crime. Labor inspectors were authorized to obtain court orders and use police to enforce compliance with child labor provisions.

Enforcement remedies generally were adequate in the formal sectors but remained inadequate in the regulation of informal child labor. The Labor Inspectorate and police force lacked adequate staff, funds, and training to investigate child labor cases, especially in areas outside of the capital. The Government provided training for police on child prostitution and abuse (including pornography); however, there was no specialized child labor training for the Labor Inspectorate. The Government has disseminated information and provided education about the dangers of child labor.

The Government had not ratified the ILO Convention 182 on the worst form of child labor by year's end. In July 2001, the Ministry of Labor and UNICEF jointly held a conference on child labor and designed an action plan to address the worst forms of child labor through prevention, protection, and rehabilitation; however, no significant actions were taken on the action plan by year's end.

Forced child labor was a problem (*see* Section 6.c.).

*e. Acceptable Conditions of Work.*—The industrial minimum wage of approximately \$34 (812,163 meticais) per month was set by ministerial decree, although the level was recommended through an administrative process that consisted of a tripartite commission composed of labor unions, government representatives, and employer groups. There also was an agricultural minimum wage of approximately \$24 (560,310 meticais) per month, which was established through the same tripartite process. Neither minimum wage was considered sufficient to provide a decent standard of living for an average worker and family, and many workers turned to a second job, if available, maintained their own gardens, or depended on the income of other family members to survive. Only a small percentage of laborers worked at the minimum wage level. Less than 10 percent of workers were in salaried positions, and the majority of the labor force was employed in subsistence farming and the informal sector. Although the industrial sector frequently paid above minimum wage, there was little industry outside of the Maputo area. In May the Government increased both minimum wages by 18 percent following tripartite negotiations between the Government, employers, and labor unions.

The Ministry of Labor was responsible for enforcing the minimum wage rates in the private sector, and the Ministry of Planning and Finance in the public sector. Violations of minimum wage rates usually were investigated only after workers registered a complaint. It was customary for workers to receive benefits such as transportation and food in addition to wages. There was an obligation for workers or employers to participate in a social security scheme, although they voluntarily may create and contribute to private accounts or plans with the National Institute of Social Security to cover retirement, unemployment compensation, and emergency benefits. Worker complaints about employers deducting social security contributions from wages but failing to pay them into accounts and lack of access to the Social Security system increased during the year.

During the year, many workers were unable to claim unemployment benefits. Workers who previously had worked in East Germany had requested sums that were set aside from their wages to serve as pensions at a later date. The East German government had provided these funds to a Mozambican civil servant who later was accused of embezzling the money. The Government promised to reimburse the workers, but according to many of the workers, the amounts the Government offered did not represent the amount of the funds stolen from their accounts. Throughout the year, hundreds of persons who had worked in East Germany held demonstrations in front of the Ministry of Labor and the Parliament, and in May police forcibly dispersed demonstrators after they attempted to hand the President a formal letter of complaint (see Section 2.b.). The Ministry of Planning and Finance and the Ministry of Labor paid the former workers and continued to discuss the situation with those still unhappy with the amounts being offered.

The standard legal workweek is 40 hours.

In the small formal sector, the Government has enacted health and environmental laws to protect workers; however, the Ministry of Labor enforced these laws ineffectively, and the Government only occasionally closed firms for noncompliance. The Labor Ministry estimated that there were 97 industrial accidents during the year, with 8 causing permanent incapacity and 3 resulting in death. Most of these accidents were blamed on unsafe practices or the lack of safety equipment. There continued to be significant violations of labor legislation in many companies and services. Workers have the right to remove themselves from work situations that endanger their health or safety without jeopardy to their continued employment, although this right was restricted in practice by threats of dismissal and peer pressure. Foreign workers are protected under the law.

*f. Trafficking in Persons.*—There are no specific laws that prohibit trafficking in persons, and there were reports of trafficking in persons. Trafficking can be addressed under labor, immigration, and child welfare laws.

The law does not provide specifically an age of sexual consent; however, offering or procuring of prostitution and pornography of any form, including that of children, were illegal under the Penal Code. Sexual abuse of a child under 16 also was illegal under the Penal Code. Exploitation of children below the age of 15 continued, and child prostitution remained a problem. However, authorities in several provinces took steps to combat child prostitution. Child prostitution appeared to be most prevalent in Maputo and Beira, and at border towns and overnight stopping points along key transportation routes. There was no evidence that it exists in other rural areas. Child prostitution reportedly was growing in the Maputo, Beira, and Nacala areas, which have highly mobile populations and a large number of transport workers. According to the Child Network, a domestic NGO, some members of the U.N. peacekeeping force that was in the country between 1992 and 1994 may have initiated

child prostitution in Manica Province. In addition, many child prostitutes have been infected with HIV/AIDS.

In Sofala province, where child prostitution existed along the Beira development corridor (frequented by truck drivers and businessmen), the Government operated information centers in affected areas to provide information to families and friends of children who were raped and exploited, and counseled them on how to deal with the police, public prosecutors, and judges. To address child prostitution, a 1999 law prohibits the access of minors to bars and clubs; however, the Government did not have adequate resources to enforce the law effectively. In 2000 the Ministry of Women and Coordination of Social Action launched a campaign against the sexual exploitation of children and was working to educate hotels about the problem of child prostitution. The UNDP assisted the Government with training police to aid child prostitutes; however, there was a lack of accommodation centers, and the Government was unable to offer safe shelter to child prostitutes when they were removed from danger.

Unlike in the previous year, there were no reports that children were trafficked to South Africa and Swaziland for prostitution.

Many citizens working illegally in South Africa and Swaziland were subject to abuses there. Children's advocates reported that there were indications that a small number of children were trafficked to South Africa and Swaziland for prostitution; however, there were no confirmed cases during the year.

Unlike in previous years, there were no reports that women were lured into South Africa by international organized crime syndicates with the promise of jobs and decent wages, and then forced to work as prostitutes.

The LDH investigated a case of a 17-year-old girl kidnaped by her neighbors in late 2000 and taken to South Africa for unknown purposes. She was held for 2 months in the Johannesburg area, and may have been abused sexually. The girl was freed by police; the perpetrators were held briefly then released due to lack of enough evidence to prosecute.

The Government has not devoted resources to combat trafficking, and there was no specific protection offered by either the Government or NGOs for trafficking victims. The Government did not take any specific actions to combat trafficking during the year.

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## NAMIBIA

Namibia is a multiparty, multiracial democracy. President Sam Nujoma, leader of the South West Africa People's Organization (SWAPO), was reelected in 1999 general elections, which international and domestic observers agreed were free, but included some instances of government harassment of the opposition and unequal access to media coverage and campaign financing. In the 1999 elections, SWAPO won three-quarters of the seats in the National Assembly. In 2001 President Nujoma announced that he planned to step down at the end of his term. The judiciary was independent.

The police, including the paramilitary Special Field Force (SFF), supervised by the Ministry of Home Affairs, and the Namibian Defense Force (NDF), supervised by the Ministry of Defense, shared responsibility for internal security. The Namibian Central Intelligence Service (NCIS) has responsibility for national security-related intelligence inside and outside the country. Abuses by security forces in the Kavango and Caprivi regions decreased significantly when crossborder fighting from and in Angola came to an end. All NDF soldiers who were sent to the Democratic Republic of the Congo (DRC) in 1998 have been withdrawn. Members of the police force and the NDF were under the full control of, and were responsive to, the civilian government. Members of the security forces committed serious human rights abuses during the year.

The country's modern private sector produced most of its wealth, while a traditional subsistence agricultural sector (mainly in the north) supported most of its labor force. The population was approximately 1.8 million. Ranching still was controlled largely by white citizens and foreign interests. In other industries, including the important mining, fishing, and tourism sectors, the participation of indigenous entrepreneurs has increased and provided growing opportunities for black citizens. Although there was an extreme disparity between the income levels of black citizens and white citizens, the living standards of black citizens continued to improve, and the major economic resources in the country no longer were controlled exclusively by white citizens. Unemployment was nearly 40 percent and affected primarily the black majority.

The Government generally respected the human rights of its citizens; however, there were serious problems in several areas. During the year, members of both the Namibian and Angolan security forces killed civilians in the country. There were deaths in custody. The Government did not account for the whereabouts of several persons detained by the security forces. Security forces mistreated and reportedly tortured citizens during arrests and detentions. Unlike in the previous year, there were no reports that refugees were denied legal protections during detention. Some security force members who committed abuses were arrested and tried; however, the Government did not take action in other cases. Prison conditions and conditions in military detention were Spartan. Problems with arbitrary arrest and lengthy pre-trial detention continued. A large court backlog, due primarily to resource constraints, continued to lead to lengthy delays of trials. High-level government officials continued to respond to criticism of ruling party and government policies with verbal abuse. There continued to be pressure on journalists who worked for government-owned media outlets not to criticize the Government. Unlike in the previous year, there were no reports that the Government restricted freedom of movement. Violence against women and children, including rape and child abuse, continued to be serious problems; however, the Government took some steps during the year to address these problems. Women continued to experience serious legal and cultural discrimination. Racial and ethnic discrimination and serious disparities in education, health, employment, and working conditions continued. Discrimination against indigenous persons persisted, especially in remote rural areas where indigenous people often were unaware of their rights. There were reports of forced labor, including by children. The Government took steps to end child labor, and the problem of child labor declined. Trafficking in persons occurred. Namibia was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

After the April cease-fire, crossborder fighting in the northern part of the country ceased, and human rights abuses by Angolan Armed Forces (FAA) and the National Union for the Total Independence of Angola (UNITA) forces decreased significantly. Prior to the April cease-fire, Angolan forces committed unlawful killings and assaulted civilians.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Security forces committed several unlawful killings during the year, including in the Kavango and Caprivi regions. During the year, an Amnesty International report named the police and the paramilitary SFF as the worst human rights abusers in the country. For example, in February a member of the SFF shot and killed Kangere Kanjenje in eastern Kavango. Reports alleged that Kanjenje was wearing a South West Africa Territorial Force (SWATF) T-shirt at the time of the shooting. The SWATF fought alongside South African troops against the People's Liberation Army of Namibia, the force from which most current SFF members were recruited. The SFF members allegedly pulled Kanjenje aside at a gathering, told him they had warned him about wearing the shirt, then one member shot and killed him. A SFF member was in custody pending trial for murder at year's end.

On February 18, a SFF member shot and killed Wilhelm Hafeni Hamuteta at Ondajbayala village. Hamuteta reportedly was an escapee from Oshakati police custody. The SFF member allegedly first shot Hamuteta in the hand, then three times in the chest at close range when Hamuteta stopped and surrendered. The case was under investigation at year's end.

On November 4, NDF soldiers shot and killed five men on Situngu Island in the Caprivi region. The NDF alleged that the men were affiliated with the secessionist rebel group, the Caprivi Liberation Army (CLA). Police began an investigation into the case, and three homicide charges were filed against the responsible NDF officers by year's end.

Unlike in the previous year, security forces did not kill Angolan citizens.

There were no developments in the following 2001 cases: The June killing of a woman in a Catholic Church by NDF soldiers; the June killing of Heblonia Maliro Tjiti by an SFF soldier; and the September killing of Marian Muyeghu and Poroto Kakuru by SFF soldiers.

The trial of an NDF soldier for the 2001 killing of Libwere Shampapi was pending in the Regional Court of Rundu at year's end.

During the year, NDF officers were charged with the 2000 murder of Felizberto Toto; police completed an investigation and the case was with the Prosecutor General at year's end.

There was no further information available on any actions taken against responsible members of the security forces in the following 2000 cases: The January killing of a 6-year-old girl by a SFF member who was charged with murder; the January killing of Mpengu Haininga by SFF members who were charged with murder; and the March case of a SFF member who was arrested and charged with killing Mapeu Moroshi.

During the year, several persons died in custody. For example, on August 7, Joseph Siboyili died at Grootfontein, and on September 26, Walubita Erasmus Chika died at Grootfontein. According to press reports, both men died of natural causes. On October 26, Cassius Pekelezo died of unknown causes at Katima Mulilo State Hospital after SFF forces took him there under heavy guard. Human rights groups alleged that Pekelezo was tortured in detention. Siboyili, Chika, and Pekelezo all were detained as high treason suspects connected with the 1999 secessionist attacks in Caprivi (*see* Section 1.d.).

The 2001 death in custody of Ismael Mohamed remained under investigation at year's end, and no further action was taken in the 2001 death in custody of Hans Dikua.

During the year, the Government completed an investigation of the 1999 case in which a police officer in Okahandja beat to death a student who was arrested and in custody for disorderly conduct. The police officer immediately was suspended, charged, and released on bail; his case was with the Prosecutor General at year's end.

At times the Government took action against security forces responsible for deaths; however, in other cases, the Government did not take action against security force members responsible for killings.

Crossborder fighting related to the conflict in Angola ceased during the year, which resulted in significantly fewer civilian deaths. The media last reported crossborder fighting in January. Fighting ceased completely after the February assassination of UNITA leader Jonas Savimbi and the April signing of a ceasefire agreement between the FAA and UNITA rebels. After the April ceasefire, Namibian security forces helped to demobilize UNITA rebel forces. Human rights groups, NGOs, and the U.N. noted that the Namibian police and security forces provided assistance to refugees and civilians immediately after the ceasefire. Unlike in previous years, there were no reports of Angolan government soldiers killing Namibian civilians. On March 3, armed men shot and killed Kavango villager Sakaria Haundjange Stephanus. Media and human rights groups reported that the armed men were thought to be UNITA soldiers. There was no further information about the report by year's end.

There were no developments in the following cases: The April 2001 death of Nghihangwa Kandume after being in the company of FAA soldiers; the 2000 case in which an FAA soldier killed Thaddeus Vili; or in the 2000 case of Thadeus Mubili who was killed by FAA soldiers.

After the April ceasefire in Angola, FAA and UNITA forces ceased using landmines; however, landmines killed and injured several persons during the year. For example, on May 10, the National Society of Human Rights (NSHR) reported that an ordinance explosion killed Jonas Musongo. During the year, residents in northern regions such as Onamunama and Utomba continued to report landmines.

The Ministry of Defense, national police, and a team of investigators from France determined that UNITA rebels were responsible in the 2000 case of a family of foreign tourists who were killed by unknown armed men.

*b. Disappearance.*—There were several reports of disappearances perpetrated by the security forces during the year. The Government did not account for the whereabouts of some persons detained by the security forces. Human rights groups alleged that in February NDF soldiers arrested and detained Fransisco Chivela on suspicion of being a "UNITA bandit." Chivela was held in the Katima Mulilo police precinct; however, his whereabouts were unknown at year's end.

There was no new information in the April 2001 case of Corporal Musenge Chipoya. The NDF considered Chipoya AWOL, and a NDF Board of Inquiry formed to investigate the case has recommended his discharge in conformity with the Military Discipline Code.

The NSHR reported that Joao Vinevale, arrested in June 2001 on suspicion of weapons possession, was transported to the Angolan border town of Calai; his whereabouts remained unknown at year's end.

There were no developments in the 2000 disappearance of Cesar Domingos, an Angolan citizen, who reportedly has been missing since his arrest in Mohopi village by NDF soldiers.

Unlike in previous years, there were no reports that UNITA or FAA forces kidnaped Namibian citizens and took them to Angola during crossborder attacks.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution provides that no persons shall be subject to such practices; however, police, especially members of the SFF, beat or otherwise mistreated prisoners in practice. The majority of serious abuses took place in the Kavango and Caprivi regions along the northern border, where fighting between FAA and UNITA forces spilled into the country. With the end of hostilities in Angola, the reports of mistreatment by security forces decreased markedly.

Security forces and police beat and reportedly tortured several persons they held in custody. For example, in October officers at Swakopmund police cells beat Joey Yon after he argued with and assaulted a police officer. Assault charges were filed against Yon and his case was awaiting trial at year's end. The officers' case was pending with the Prosecutor General at year's end.

In 2001 SFF members beat five farm workers, and one of the five workers, Kambinda Ndara, who was beaten severely and bayoneted, filed a civil claim against the Government. The Government secretly deported Ndara to Angola in February (*see* Section 2.d.); however, Angolan authorities reportedly helped him return. There was no further information on this case by year's end.

In the 2001 case of Masati Muyenga, who reportedly had been hung upside down and beaten by NDF soldiers, a civil case against the Minister of Defense and the President was pending before the High Court at year's end.

There were no developments in the following 2001 cases of NDF soldiers torturing of Johannes Sondaha Kampumburu, Peter Mukonda, Paulus Shifure, Petrus Kalimbwe, and Joseph Simbinde Muvundu.

Unlike in the previous year, there were no reports that security forces shot and injured persons during the year.

There were no developments in the 2001 case in which SFF soldiers at the Daan Viljoen roadblock shot at and missed the vehicle of Cornelius Grimbeeck and instead shot into Frederick Namaseb's vehicle, hitting him in the back. There was no further information on the case at year's end.

A NDF soldier was charged with "negligent handling of a firearm" in the 2001 case in which Ralph Nairenge, a 17-year-old student at the Bunya Junior Secondary School was shot and injured. There was no further information on the case at year's end.

No action reported was taken against the members of the security forces responsible for beating, shooting, or otherwise abusing persons in the following cases from 2000: The February beating of Kamungwe Ngondo; the February shooting of Muyeve Thadeus Munango; the February beating of Homba Anton; the January beating of Erkki Fiderato; the January shooting of Kandepwe Kapama; the January shooting of Kathumbi Diyeve; the January beating of Lucas Kavura and his father, Daniel Nyambe; and the January beatings of Kapindi Mpepo, Haupindi Hamuyera, and Petrus Paulus.

There were reports that SFF members harassed persons who they stopped for identification checks. For example, in July SFF members reportedly searched and harassed an Angolan businessmen at Oshikango.

Unlike in previous years, and even though senior government officials continued to criticize homosexuality, there were no reports that security forces harassed homosexuals (*see* Section 5). The SFF disciplined the two members who ripped earrings from the ears of Katutura men in 2001, and the case was closed. There was no further information about any action in the case of the SFF members who beat two homosexual men in June 2001.

Unlike in previous years, there were no confirmed reports that security forces targeted members of the Mafwe or Kxoe ethnic groups for harassment; however, rumors persisted of tension between the groups and security forces (*see* Section 5).

At times security force members who committed abuses were arrested and tried in military courts or the civilian criminal justice system; however, in other cases, the Government did not take any action against those responsible for abuses.

During the year, media and human rights groups continued to report on the ongoing court cases that resulted from security forces responding with violence to secessionist attacks in 1999. The Legal Assistance Centre (LAC) represented former parliamentarian Geoffrey Mwilima in a civil suit against the Government for damages due to mistreatment by police after the 1999 CLA attack at Katima Mulilo. The SFF members involved in the incidents were charged with assault, and the victims brought individual civil suits against the Government; both the criminal and civil suits still were pending at year's end. The LAC reported that 128 civil suits had been filed relating to the 1999 state of emergency in Caprivi. The criminal cases were scheduled to begin in February but were postponed because none of the defendants had legal representation. Some of the defendants applied for legal aid; however, the Government refused to provide it. The Supreme Court postponed the



hearing challenging the refusal twice during the year. In May the Supreme Court ruled in favor of the defendants, requiring the Government to provide legal aid. The criminal cases were postponed further, as the state-provided counsel needed time to prepare the cases. In November the Government announced that the cases would go to trial in February 2003. The defendants remained in detention at year's end (*see* Section 1.d.).

The police continued to make use of a human rights training course and a human rights manual designed by the LAC. A directive that prohibited the use of sjamboks (heavy leather whips) by police continued to be in force during the year; however, police did not always observe the directive in practice. Police officers who used sjamboks were disciplined and some were charged with assault.

There were reports of intimidation and abuse of civilians by the FAA soldiers, including rape, sexual harassment, threatening behavior by drunken soldiers, and indiscriminate use of firearms (*see* Section 5). For example, on September 30, two FAA soldiers raped Bertha Nankali, a citizen with disabilities. Senior FAA members reportedly attempted to bribe Nankali's family to drop the charges against them. The family did not drop the charges, and the case was pending at year's end.

Unlike in the previous year, there were no reports that UNITA forces raped female citizens.

Landmines continued to injure persons (*see* Section 1.a.).

Prison conditions and conditions in military detention facilities were Spartan; however, the conditions generally met international standards. Visits by international organizations, as well as by a government-sponsored commission, found incidents of overcrowding, poor maintenance, and some abuse of vulnerable groups such as women. Victims of abuse were able to pursue legal remedies. The Ministry of Prisons and Correctional Services administered the country's prisons and jails and continued to work to improve conditions.

Female prisoners were held separately from male prisoners. The Government also made efforts to separate youthful offenders from adult criminals, although in many rural areas, juveniles continued to be held with adults. Separate facilities for child offenders were established in Windhoek and Mariental. There were several pilot programs that provided alternatives to incarceration for juvenile offenders. Pretrial detainees were not held separately from convicted prisoners.

The Government continued to grant nongovernmental organizations (NGOs) regular access to prisons and prisoners. The ICRC requested and received prison access, including access to the high security Dorbabis detention facility.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution forbids arbitrary arrest or detention except in situations of national emergency; however, security forces at times used arbitrary arrest and detention in practice. Persons who are arrested must be informed of the reason for their arrest and must be brought before a magistrate within 48 hours of their detention. Those accused are entitled to defense by legal counsel of their choice, and those who cannot afford a lawyer are entitled to state-provided counsel; however, in practice many accused persons in remote and rural areas were not represented by counsel, primarily due to the lack of resources. Prisoners generally had access to legal counsel and family during regular visiting hours. Detainees had access to their lawyers prior to trial. There was a functioning bail system in place, and the LAC reported that it generally was observed except in rural areas, where persons often were unaware of their legal rights.

A trial must take place within "a reasonable time," or the accused must be released. Human rights organizations have criticized the length of time that pretrial detainees were held, which have extended beyond 1 year in some cases (*see* Section 1.e.). Under a state of emergency, the Constitution permits detention without trial, although the names of detainees must be published in the Government's gazette within 14 days, and their cases must be reviewed within 1 month by an advisory board appointed by the President.

Citizens who were arrested arbitrarily used civil suits as legal recourse in many cases. For example, Matheus Dawid sued the Government after police arrested and assaulted him twice in 2001. In both instances, the police mistook Dawid for Bakondja Katijuongua, an escapee from police custody. In October the Magistrate's Court ruled in favor of Dawid and awarded him approximately \$1,250 (N\$12,500). Luiza Lomba sued the Government, claiming she was arrested and detained as an illegal immigrant in 2000. Immigration and police officers arrested Lomba and detained her for several hours before allowing her to search for and present her birth certificate. When she presented the document, officers released her without charge. In July the Windhoek Magistrate's Court awarded Lomba approximately \$1,500 (N\$15,000) in damages.

Security forces arrested and continued to detain persons suspected of involvement in or collaboration with rebels. For example, in January police arrested two broth-

ers, Paulus Ndumba and Markus Vihemba, after their relative accused them of being "UNITA bandits." There was no further information available on the case at year's end. In July SFF members arrested three persons in Chinchimane village on suspicion that they were members or supporters of the CLA. They were detained at the Katima Mulilo police precinct, and their cases still were pending at year's end.

In 2001 NDF soldiers arrested Andreas Munango for being a UNITA collaborator. Munango was held secretly at Rundu Military Base for 2 months, and then was transferred to Oshakati police custody for 2 months. He eventually was transferred back to Rundu Military Base. Human rights groups reported that Munango was released in May.

The 2001 cases of suspected rebel collaborators Rassen Lutambo and Corporal Musenge Chipoya (*see* Section 1.b.) remained under investigation, and no action was taken by year's end.

There were no new developments in the case of Frans Hamberera Kanyeve, who was arrested on suspicion of UNITA involvement and forcibly deported; however, in 2001 human rights groups reported that Kanyeve had returned to the country.

There was no new information on the 2000 case in which security forces reportedly arrested and detained 3 senior headmen from the Kxoe minority group. In 2001 a court ruled against a LAC request for a writ of habeas corpus in the continued detention of approximately 15 Kxoe men during a 2000 security sweep in western Caprivi.

Unlike in previous years, there were no reports that security forces arrested persons for the alleged possession of weapons; however, the whereabouts of some persons arrested in previous years remained unknown (*see* Section 1.b.).

Police sometimes arrested persons for not having identification cards. These persons included illegal aliens and sometimes citizens, especially with nontraditional names. Persons generally were released after their families brought proof of identification to the police.

Unlike in the previous year, police did not arrest journalists (*see* Section 2.a.).

There was no known action in the 2001 case of police arresting members of the Hai/Om San ethnic group for not having national identification cards, and it was unknown if they remained in detention at year's end.

In December the Government, in cooperation with representatives of the ICRC, repatriated 74 of the 82 alleged Angolan illegal immigrants arrested in 2000. During 2 years at the Dordabis detention facility, two of the aliens died of natural causes, two proved citizenship and were released, and two were deported to Angola. Two persons remained in detention with pending cases at year's end after they decided against returning to Angola.

During the 1999 state of emergency declared in response to CLA attacks in Katima Mulilo, the security forces detained several hundred suspected CLA members and sympathizers. Most of the detained were held incommunicado for 2 weeks, which the Constitution allows during states of emergency, before the Government provided public notice of the detentions. All of the detainees were arraigned on charges but were denied bail, and 126 remained in detention at year's end; their trials were postponed repeatedly (*see* Section 1.c.). In October two defendants, Geoffrey Mwilima and Bernard Mucheka, filed a new bail applications based on poor health; the Government approved the applications, but in December ruled against granting bail. During the year, three defendants in the case died in custody, reportedly of natural causes (*see* Section 1.a.). Since 1999 eight defendants in the case have died in detention.

In 2001 NDF soldiers arrested Liep Kamba and Riemi John in Bagani near the border between the Kavango and Caprivi regions for allegedly planting a landmine that killed three persons; they were released without charge after 3 days. The LAC brought a civil suit against the Government on their behalf; the suit was pending before the High Court at year's end.

Some traditional leaders reportedly continued to detain and imprison persons accused of minor offenses without recourse to police or judicial review. For example, in January a traditional court sentenced Anna Shingenge to pay a fine of approximately \$350 (N\$3500) for allegedly poisoning a villager in 1999. When Shingenge could not pay the fine, she was detained in the king's palace and forced to work unpaid until her family raised funds to pay the fine. In August Shingenge's daughter asked the LAC to represent her mother's case. The LAC asked the court to declare unconstitutional the decision of the traditional authority and challenged an old apartheid government law, which gave authority to traditional leaders to have courts. The court ordered Shingenge's immediate release, and the case challenging traditional courts is expected to continue in May 2003. A related civil suit, in which

Shingenge asked for approximately \$55,000 (N\$550,000) in damages for unlawful detention and being subjected to slavery, was pending at year's end.

The Government generally did not use forced exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The formal court system had three levels: 30 magistrates' courts; the High Court; and the Supreme Court. The latter also served as a court of appeals and as a constitutional review court.

Most rural citizens first encountered the legal system through the traditional courts, which dealt with minor criminal offenses such as petty theft and infractions of local customs among members of the same ethnic group. The law delineates which offenses may be dealt with under the traditional system. The law defines the role, duties, and powers of traditional leaders and provides that customary law is invalid if it is inconsistent with provisions of the Constitution.

The constitutional right to a fair trial with a presumption of innocence until proven guilty generally was provided by the judiciary; however, this right was limited somewhat in practice by long delays in hearing cases in the regular courts and the uneven application of constitutional protections in the traditional system.

The lack of qualified magistrates, other court officials, and private attorneys resulted in a serious backlog of criminal cases, which often translated into delays of up to 1 year or more between arrest and trial, contravening constitutional provisions for the right to a speedy trial. Many of those awaiting trial were treated as convicted criminals.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides all citizens with the right to privacy and requires arresting officers to secure a judicial warrant before conducting a search, except in situations of national emergency; government authorities generally respected these rights in practice. In general violations were subject to legal action.

Under the law, the NCIS is authorized to conduct wiretaps, intercept mail, and engage in other covert activities, both inside and outside the country, to protect national security; however, wiretaps and covert surveillance required the consent of a judge.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, subject to reasonable restrictions in situations such as a state of emergency, and the Government generally respected these rights; however, at times high-level government officials responded to criticism of the ruling party and government policies with verbal abuse. There also were reports of government pressure on reporters who worked for the Government-owned media.

The Government owned one newspaper, the biweekly *New Era*, and one magazine, *Namibia Review*, and the Government also ran the Namibia Press Agency (NAMPA). The ruling SWAPO party owned one publication, *Namibia Today*. There were six independent newspapers. Reporters for independent newspapers continued to criticize the Government openly and did not engage in self-censorship.

During the year, high-level government officials sharply and publicly criticized journalists, human rights groups, and opposition politicians in response to perceived criticism of the Government or ruling party (see Section 4). Such verbal attacks did not appear to have affected significantly the aggressive style of the independent media or the work of human rights groups or opposition political parties. The *New Era* sometimes covered opposition party activities and views that were critical of the Government; however, NGOs involved in media issues maintained that reporters working for the *New Era* newspaper were subjected to direct and indirect pressure not to report on certain controversial topics.

Government departments continued not buying *The Namibian* newspaper with state funds due to its critical coverage of the President and the Government. The Cabinet did not allow government advertising in *The Namibian*, including public notices on the census and other government activities; however, the Government continued to advertise in other newspapers, particularly *Namibia Today*. Local and international press freedom organizations criticized the Government's ban. During the year, the SWAPO Youth League called for parastatals to stop advertising in *The Namibian* without results.

Unlike in the previous year, the Government did not purchase the majority of copies of *Namibia Today*.

Unlike in the previous year, there were no reports that journalists were subjected to harassment or violence by police.

The Government owned and operated the Namibian Broadcasting Corporation (NBC) Radio and Television. NBC television and nine radio services that broadcast in English and indigenous languages were the most widely heard and influential media in the country. During the year, there were reports of government influence on and self-censorship by the staff of the operations and editorial content of NBC. In August President Nujoma shifted ministerial responsibility for information and broadcasting from the Ministry of Foreign Affairs to State House, where it nominally was under his direct control. The Director General of NBC, appointed in 2001 and criticized for enforcing ideological compliance with the Government, resigned in September. For a short time, the President insisted that some foreign programming be removed from NBC television; however, some foreign-produced shows were restored after viewers complained.

There were eight private radio stations, two private television stations, and a private cable and satellite television service that broadcast the Cable News Network, the British Broadcasting Corporation, and a range of South African and international news and entertainment programs. The ruling SWAPO party owned 51 percent of this cable service. There were no restrictions on the private ownership of satellite dishes, and the use of satellite dishes and cable television was growing.

Government regulations required foreign journalists who sought to visit the country to apply for a temporary work permit from the Ministry of Home Affairs. No prior notice of their intended visit was necessary.

There were no restrictions on Internet access or use. There were growing numbers of domestic web pages, and three of the independent newspapers had popular websites.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, except in situations of national emergency, and freedom of association, even in times of national emergency, and the Government generally respected these rights in practice. Organizers of public meetings were required to obtain prior police approval, but many public gatherings took place without such approval and without interference by the Government.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, except in situations of national emergency; however, on occasion the Government restricted these rights in practice.

Unlike in the previous year, there were no reports that SFF members beat persons whom they stopped for identification checks; however, there continued to be reports that they harassed persons (see Section 1.c.).

In June the Government lifted the dusk-to-dawn curfew in the Kavango region and in the western Caprivi. The curfew was in response to the war in Angola and the spillover effects in the country.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) on the granting of refugee status to asylum seekers. The Government's eligibility committee continued to meet on a regular basis to consider asylum requests, and the UNHCR was permitted to intervene in those cases where immigrants would qualify for refugee status. During the year, the Government reportedly began to require individual status determination for asylum cases; however, in practice the Government generally granted Angolans refugee status based solely on their country of origin. Illegal immigrants were detained for short periods prior to their deportation proceedings. In cases where illegal immigrants posed a security threat, they could be detained for longer periods.

The Government continued to permit asylum seekers to enter the country. Asylum seekers received full UNHCR assistance at the Osire Refugee Camp pending the outcome of their cases; however, because of a lack of government resources, cases could go several years without refugee status determination. At year's end, the UNHCR estimated the population at the Osire Refugee Camp to be 18,500. Approximately 96 percent of this population was from Angola. The remaining refugees were from DRC, Burundi, Rwanda, and other African countries. The Government generally did not permit refugees and asylum seekers to work or live outside the Osire refugee camp. Primary education was available to all refugees at the camp. The Government facilitated the refugees' secondary education at schools outside the

camp. Unlike in previous years, the Osire camp did not experience problems with overcrowding, shelter, or water quality. Over the past several years, the camp expanded from its initial capacity of 5,000 persons. During the year, new shipments of tents and the construction of permanent shelters eased overcrowding. Drinking water remained in ample supply, and a new treatment system effectively improved water quality. Malnutrition continued to be a problem with new arrivals at the camp. Some tension with local farmers persisted; farmers accused some refugees of poaching, and refugees claimed they were not paid for informal labor.

The Government continued to maintain strict control over civilian access to the Osire refugee camp; however, the Namibian Red Cross Society (NRCS) and the UNHCR had access to the camp. In 2001 the UNHCR administered two feasibility studies on a government proposal to move the Osire camp to Mkata. During the year, the Government took no further action on the relocation of the camp.

A reported 1,010 Namibian refugees voluntarily returned home from the Dukwe refugee camp in Botswana under a tripartite agreement between Namibia, Botswana, and the UNHCR. UNHCR-Namibia monitored the return closely and was satisfied with the Government's cooperation. There were no reports of harassment of the returned refugees.

Unlike in previous year, there were no reports that Namibian and Angolan security forces forcibly returned Angolan refugees entering the Kavango region. Such deportations were a problem on several occasions starting in 2000, but appeared to have ceased with the end of the conflict in Angola. Also unlike previous years, there were no allegations that young males were separated from their families, arrested, returned to Angola, or forcibly conscripted into the Angolan army. During the year, the UNHCR again requested and was granted access to immigration tribunal proceedings.

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

Citizens exercised their right to change their government by electing a President and National Assembly for the second time since independence during the 1999 general election, which international and domestic observers agreed was generally free and well-administered despite some irregularities. Observers noted instances of harassment of opposition members during the campaign, and unequal access to media coverage and campaign financing were problems. Nevertheless voter turnout was more than 60 percent, and the election proceeded peacefully. Sam Nujoma, leader of the ruling party SWAPO, was reelected for another 5-year term. Although the Constitution formerly limited the President to two terms in office, in 1998 the National Assembly amended the Constitution to permit President Nujoma to run for a third term. President Nujoma won 77 percent of the vote and SWAPO won 55 of 72 elected National Assembly seats. In the National Assembly, 4 opposition parties won a total of 17 seats, including the COD party, which won the largest number of opposition votes; the Democratic Turnhalle Alliance (DTA); the United Democratic Front; and the Monitor Action Group. Presidential and legislative elections were expected to take place in 2004.

The Constitution establishes a bicameral Parliament and provides for general elections every 5 years and regional elections every 6 years. Members of the National Assembly were elected on a party list system on a proportional basis.

Opposition parties generally were able to undertake political activities such as advertising and holding party conferences and public rallies.

Women held 18 seats in the 78-seat National Assembly. There was a Women's Caucus in parliament that reviewed legislation for gender sensitivity. There were 3 female ministers and 4 female deputy ministers among the 42 ministerial and deputy ministerial positions. In addition, one woman held a cabinet-level position as Director of the National Planning Commission. Women served as the Ombudswoman and as the Government Attorney.

Historic economic and educational disadvantages have served to limit the participation of the indigenous San ethnic group in politics; however, a member of the San community representing the SWAPO party was elected to the National Assembly in the 1999 general elections. Virtually all of the country's other ethnic minorities were represented in parliament and in senior positions in the Cabinet. Members of smaller ethnic groups hold the offices of Prime Minister, Deputy Prime Minister, and Speaker of the National Assembly.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

During the year, high-level government officials continued to use harsh language in responding to criticisms of the ruling party and government policies by NGOs.

Government officials continued to attack verbally the NSHR. Unlike in the previous year, the Government did not attack verbally the Breaking the Wall of Silence (BWS) Movement, which acted as an advocate for former detainees imprisoned by SWAPO prior to independence. However, despite verbal attacks, local NGOs such as the LAC, the NSHR, the BWS Movement, and those working with indigenous groups continued to criticize government policies freely. Both the NSHR and the Namibia Institute for Democracy (NID) maintained field offices in the Kavango region. Human rights organizations generally were free to investigate reports of abuses in the region and to release reports.

In addition, human rights organizations and academic organizations, such as the Media Institute for Southern Africa (MISA), the Centre for Applied Social Sciences, and the Human Rights Documentation Centre, worked openly on a variety of human rights problems affecting the press, women, ethnic minorities, and other groups. The MISA, which is based in Windhoek, periodically issued reports criticizing the Government.

There were no developments in the 2000 deportation of Moses Nasileli, the Katima Mulilo-based head of NSHR's Caprivi office during the year.

During the year, representatives of international human rights organizations, including Amnesty International (AI), visited the country to investigate allegations of human rights abuses. AI representatives investigated the possibility of providing legal aid to the alleged Caprivi secessionists in detention since 1999 (*see* Section 1.d.).

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination based on race, creed, gender, or religion, and specifically prohibits "the practice and ideology of apartheid"; the Government generally respected these provisions. During the year, there was continued improvement in the attention paid to women's issues and the rights of persons with disabilities. The country has a law protecting homosexuals from employment discrimination; however, during the year, senior government officials, including President Nujoma, continued to make disparaging public remarks about homosexuals. For example, in an August address to the Congress of the Namibia Public Workers Union (NAPWU), the President called homosexuality a "shameful thing," and told workers to denounce the practice. Unlike in the previous year, there were no reports that SFF members harassed and abused persons whom they suspected were homosexual.

*Women.*—Domestic violence against women, including beating and rape, was widespread. Traditional attitudes regarding the subordination of women exacerbated problems of sexual and domestic violence. However, there continued to be an improvement in the attention paid to the problems of rape and domestic violence. Government ministers joined in public protests against domestic violence, and the President, members of his Cabinet, and parliamentarians continued to speak out against it. In 2001 convicted rapists and abusers received longer prison sentences in many cases than in previous years. NGOs continued to express concern that the court system did not have mechanisms to protect vulnerable witnesses from open testimony. During the year, the Government worked on establishing judicial procedures to address the problem, including the use of mechanisms such as one-way mirrors and closed-circuit television, but the authorizing legislation for these procedures was stalled in the Ministry of Justice. Police stated that more women came forward to report cases of rape and domestic violence. The law defines rape in broad terms and allows for the prosecution of spousal rape.

In 2001 the police had a special training course on gender sensitivity. Centers for abused women and children in Oshakati, Windhoek, Keetmanshoop, Walvis Bay, and Rehoboth were staffed with specially trained female police officers to assist victims of sexual assaults. There were sanctuaries for victims of sexual assaults in Mariental, Swakopmund, and Tsumeb.

Unlike in previous years, there were no reports that women were kidnaped by armed men along the border with Angola in the Kavango and Caprivi regions; however, there were several reports that women in those regions were raped or otherwise abused (*see* Section 1.c.). In previous years, the Government claimed that UNITA rebels perpetrated these abuses; however, human rights groups reported that some of the incidents were perpetrated by FAA soldiers. Abuses lessened after the April ceasefire in Angola; however, they did not cease entirely. For example, on July 10, press and human rights groups reported that an NDF soldier was arrested for raping a woman near Kongola. On September 30, two FAA soldiers raped speech-impaired Bertha Nankali (*see* Section 1.c.).

The Constitution prohibits discrimination against women, including employment discrimination. The law prohibits discriminatory practices against women married under civil law. Women married under customary (traditional) law continued to face

legal and cultural discrimination. Traditional practices that permitted family members to confiscate the property of deceased men from their widows and children still existed; however, the frequency of such cases lessened considerably during the year.

*Children.*—The Constitution enumerates children's rights, including those in the area of education and health. During the year, 24 percent of government expenditures were designated for education and 15 percent for health care, only a slight decrease from previous years; however, in practice outmoded policies and laws and an untrained work force led to inadequate attention to child welfare.

The Constitution provides children with the right to primary and junior secondary education (grades 1 to 10); however, the numerous fees, which included fees for uniforms, books, boarding costs, and school improvement, placed a heavy burden on students' families. The inability of poorer families to pay the fees, which varied greatly between regions, precluded some children from attending school. In general more girls were enrolled than boys in secondary schools. Many San children did not attend school.

A decline in refugees due to the end of the Angola conflict and the provision of additional tents, clinics, and schools improved conditions at the Osire Refugee Camp. Primary education was available to all refugee children in the camp; however, there was a shortage of classrooms (*see* Section 2.d.). The UNHCR reported that it needed 72 new classrooms at year's end.

Child abuse was a serious and increasingly acknowledged problem. The authorities vigorously prosecuted crimes against children, particularly rape and incest. The law protects children under 18 years of age by criminalizing sexual exploitation, child pornography, and child prostitution. The age of sexual consent was 16 years. During the year, courts handed down longer sentences against child rapists than in previous years, and the Government provided training for police officials to improve the handling of child sex abuse cases. Centers for abused women and children were working actively to reduce the trauma suffered by abused children. Child prostitution existed (*see* Section 6.f.).

Unlike in the previous year, there were no reports that the Angolan armed forces were recruiting persons under 18 years of age in the northern part of the country to fight in southern Angola against UNITA.

*Persons with Disabilities.*—While discrimination on the basis of disability is not addressed in the Constitution, the Labor Act prohibits discrimination against persons with disabilities in employment; however, enforcement in this area was ineffective. Although there was no legal discrimination against persons with disabilities, societal discrimination persisted. The Government legally does not require special access to public buildings for persons with disabilities, and many ministries remained inaccessible to them. Although some municipal governments have installed ramps and special curbing for persons with disabilities at street crossings, physical access for those with disabilities remained a problem due to resource constraints. Disability issues continued to receive greater public attention than in previous years, with wider press coverage of the human rights problems that confront persons with disabilities.

*Indigenous Persons.*—The San, the country's earliest known inhabitants, historically have been exploited by other ethnic groups. The Government has taken numerous measures to end societal discrimination against the San, including seeking their advice about proposed legislation on communally held lands and increasing their access to primary education; however, many San children did not attend school. Unlike in the previous year, there were no reports from the NSHR or in the press that claimed that civilians from the Mafwe and Kxoe San ethnic groups were targeted by police for harassment, and there were no substantiated reports of harassment.

By law all indigenous groups participate equally in decisions affecting their lands, cultures, traditions, and allocations of natural resources; however, San and other indigenous citizens have been unable to exercise fully these rights as a result of minimal access to education, limited economic opportunities under colonial rule, and their relative isolation.

The Government's authority to confer recognition or withhold it from traditional leaders, even in opposition to local preference, especially was controversial because of the leaders' influence on local events, including local police powers. In some cases, the Government withheld recognition from genuine traditional leaders who agreed with the political opposition. This has been especially true in the Khoe San and Mafwe communities in the Caprivi and in the Herero community.

*National/Racial/Ethnic Minorities.*—The Constitution prohibits discrimination based on race and other factors and specifically prohibits "the practice and ideology of apartheid." The law codifies certain protections for those who cite racial discrimination in the course of research (including academic and press reporting) or in try-

ing to reduce racial disharmony. Nevertheless as a result of more than 70 years of South African administration, societal, racial, and ethnic discrimination persisted. There were several reported cases of black farm workers suffering discrimination in remote areas at the hands of white farm owners. Many nonwhites continued to complain that the Government was not moving quickly enough in education, health, housing, employment, and access to land.

As in previous years, some citizens complained that the SWAPO-led government provided more development assistance to the numerically dominant Ovambo ethnic group of the far north than to other groups or regions of the country.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for freedom of association, including freedom to form and join trade unions, and the Government generally respected this right in practice. Public servants, farm workers, and domestic employees also have this right; however, farm workers and domestic servants working on rural and remote farms often were ignorant of their rights, and unions experienced obstacles in attempting to organize these workers; as a result, they reportedly suffered abuse by employers. Trade unions had no difficulty registering, and there were no government restrictions on who may serve as a union official. The law provides a process for employer recognition of trade unions and protection for members and organizers.

Less than 20 percent of full-time wage earners were organized. Trade unions lacked resources.

Unions were independent of the Government and could form federations. The two principal trade union organizations were the National Union of Namibian Workers (NUNW) and the Trade Union Congress of Namibia (TUCNA). The NUNW and SWAPO were affiliated. In May the TUCNA formed when the Namibia Federation of Trade Unions (NAFTU) merged with the Namibia People's Socialist Movement (NPSM). The Government recognized the non-SWAPO aligned TUCNA, and treated it professionally; however, the TUCNA did not appear to have the same level of access that government officials accorded to the NUNW. In previous years, the Mine Workers Union Investment Company, which consisted of several large public service, teachers, mining, and maritime unions, was critical of the Government.

Employers were required to give a registered union access to its members and to recognize the exclusive collective bargaining power of the union when a majority of the employer's workers were members of that union. This provision of the law has been implemented effectively.

Laws specifically protect both union organizers and striking workers from employer retaliation, and there appeared to be only isolated cases of retaliation. However, the scarcity of judges and lack of expertise in labor law caused lengthy and unnecessary delays. The new labor act, which has not yet been promulgated, includes provisions for binding arbitration to resolve most labor disputes. The labor law does not prohibit labor by nonunion replacement workers, but most companies sought negotiated settlements rather than employing nonunion replacement workers.

The law empowers the Labor Court to remedy unfair labor practices and explicitly forbids unfair dismissals. Unfair dismissals occurred when employers terminated employment without following correct procedures and a substantially fair process. Unfair dismissals may be appealed to the Labor Court, and remedies include fines, compensation, and reinstatement, as determined by a labor court judge; however, there were not enough judges to address the backlog of cases.

Trade unions were free to exchange visits with foreign trade unions and to affiliate with international trade union organizations. Unions exercised this right without interference and were affiliated with the Southern Africa Trade Union Coordination Council, the Organization of African Trade Union Unity, and the International Congress Federation of Trade Unions.

*b. The Right to Organize and Bargain Collectively.*—The law provides employees with the right to bargain individually or collectively. Collective bargaining was not practiced widely outside the mining and construction industries, which had centralized, industry-wide bargaining. Almost all collective bargaining was at the workplace and company level. However, as unions became more active, informal collective bargaining became more common. The Ministry of Labor cited lack of information and basic negotiation skills as factors hampering workers' ability to bargain with employers successfully.

Except for workers providing essential services such as jobs related to public health and safety, workers had the right to strike once conciliation procedures had been exhausted, and 48-hour notice had been given to the employer and labor commissioner. During the year, a 5-year prohibition on strikes in the export processing



zones (EPZs) expired. Under the law, strike action could be used only in disputes involving specific worker interests, such as pay raises. Disputes over worker rights, including dismissals, must be referred to a labor court for arbitration (*see* Section 6.a.). The law protects workers engaged in legal strikes from unfair dismissal. Strikes were rare in the country. During the year, the Ministry of Labor worked proactively to resolve wage disputes at a new Malaysian textile plant. In August there was an unsanctioned strike over wages at the Skorpion Zinc Mine, owned by Anglo-American. Police intervened when the striking workers became violent and set a mine vehicle on fire. Skorpion management negotiated a peaceful settlement with the workers, and most returned to their jobs.

There were EPZs at the Walvis Bay and Oshikango industrial parks and a number of single-factory EPZs outside of these parks. The law applies to EPZs; however, in previous year, workers in EPZs were prohibited from striking, and employers were prohibited from engaging in lockouts; however, these prohibitions expired during the year. Nevertheless, unions have been active in the EPZs since their establishment.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced and bonded labor, including by children; however, there continued to be media reports during the year that farm workers (including some children on family-owned commercial farms) and domestic workers often received inadequate compensation for their labor and were subject to strict control by employers. Given the country's vast distances and the Ministry of Labor's resource constraints, labor inspectors sometimes encountered problems in gaining access to the country's large, family-owned, commercial farms in order to investigate possible labor code violations. To address this problem, the Ministry of Labor added inspectors to its payroll during the year.

Unlike in previous years, there were no reports that UNITA forces kidnaped citizens and forced them to serve as combatants and porters in Angola. In 2001 there was a report that the Angolan armed forces were recruiting persons under 18 years of age in the northern part of the country to fight in southern Angola against UNITA. With the February end of the conflict in Angola and related crossborder raids, this problem ceased.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Under the law, the minimum age for employment is 14 years, with higher age requirements for night work and in certain sectors such as mining and construction. Children below the age of 14 often worked on family-owned commercial farms and in the informal sector, and some also worked in communal areas. In 1999 the Namibia Child Activities Survey reported that of 444,751 children ages 6 to 18 in the country, 72,405 (16.3 percent) worked. The survey defined work as "for pay, profit, or family gain, even for 1 hour per day within the 7 days preceding the survey." More than 95 percent of those children classified as working lived in rural areas, which indicated that the majority of child labor occurred on farms. The survey also documented that of those children classified as working, 80 percent continued to attend school.

The Government has taken steps to end child labor abuses. During the year, the Ministry of Labor improved their capability to enforce minimum age regulations; the Ministry hired additional inspectors and revised inspection checklists to include specific inquiries on ILO Convention 182 concerns. The Ministry also held a series of workshops in several rural areas to raise awareness of child labor.

Criminal penalties and court orders were available to the Government to enforce child labor laws; however, such action involved a complicated procedure that must be initiated through a civil legal process.

The Labor Advisory Council, a tripartite board which included government, union, and private sector representatives, sponsored a series of workshops during the year to sensitize and inform employers about child labor regulations.

*e. Acceptable Conditions of Work.*—There was no statutory minimum wage law; however, the mining and construction sectors had set basic levels of pay. During the year, representatives of farm owners and managers and the Ministry of Labor agreed upon a minimum wage for farm workers. In Windhoek's historically disadvantaged high-population density areas, minimum wages for workers did not provide a decent standard of living for a worker and family. Wage levels for the less educated majority remained largely unchanged since independence.

The standard legal workweek is 45 hours, and requires at least one 24-hour rest period per week. An employer may require no more than 10 hours per week of overtime. The law mandates 24 consecutive days of annual leave, at least 30 workdays of sick leave per year, and 3 months of unpaid maternity leave. However, in practice these provisions were not observed or enforced rigorously by the Ministry of Labor.

The Government mandates occupational health and safety standards. The Labor Act empowers the President to enforce these standards through inspections and criminal penalties. Labor laws generally were implemented efficiently, and during the year, the Ministry of Labor added several inspectors to its payroll; however, it still lacked an adequate number of trained inspectors to monitor adherence to such labor regulations as providing overtime pay and social security by some companies, especially small, family-owned operations. The law requires employers to ensure the health, safety, and welfare of their employees. It provides employees with the right to remove themselves from dangerous work situations; however, some workers did not have this right in practice.

The law accords the same rights to legal foreign workers as it accords to citizens.

*f. Trafficking in Persons.*—Although the law does not specifically prohibit trafficking in persons, it does prohibit slavery, kidnaping, forced labor, including forced prostitution, child labor, and alien smuggling; however, there were reports of trafficking.

There were a few reports of child prostitution. In such cases, police prosecuted parents as well as the perpetrators. In April the Government signed and ratified the Optional Protocol to the Convention on the Rights of the Child, On the Sale of Children, Child Prostitution, and Child Pornography.

There also were reports that Namibia was a transit country for persons trafficked to and from South Africa.

Unlike in previous years, there were no reports that UNITA forces kidnaped citizens and forced them to serve as combatants and porters in Angola.

During the year, there were no information campaigns specifically devoted to antitrafficking themes. The Government encouraged its embassies and consulates to maintain relations with NGOs that followed trafficking issues. In 2001 police and immigration officials received training in combating trafficking in persons.

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## NIGER

Niger returned to democracy in 1999, following coups d'etat in 1996 and 1999, and continued efforts to consolidate a democratic system and a constitutional government. Tandja Mamadou was elected president in 1999 with 60 percent of the vote in an election that international observers called generally free and fair. The National Movement for the Development of Society and the Democratic and Socialist Convention (MNSD/CDS) coalition, which backed Tandja, won 55 of the 83 seats in the National Assembly. In 2000 Tandja appointed MNSD member Hama Amadou as Prime Minister. The Government continued to make some progress toward democratization and political modernization, including instituting a transparent budget process and auditing the military budget. In August soldiers stationed in Diffa mutinied and took several of their commanding officers hostage, and soldiers in Niamey mutinied briefly, staging an unsuccessful raid on an armory. Both mutinies ended after loyalist forces intervened and negotiations ensued. The judiciary continued to show signs of independence; however, family and business ties could influence lower court decisions.

Security forces consisted of the army, the Republican Guard, the gendarmerie (paramilitary police), and the national police. The police and gendarmerie traditionally have primary responsibility for internal security. Civilian authorities generally maintained effective control of the security forces. In a 2000 statement, the armed forces publicly pledged to abide by the rules of democracy and stay out of politics, and during the year, the armed forces abided by their pledge. Some members of the security forces committed human rights abuses.

The country's population was approximately 11.2 million. The economy was based mainly on subsistence farming, herding, small trading, and informal markets. Approximately 15 percent of the economy was in the formal sector, primarily in light industry and government services. Approximately 63 percent of the population lived on less than a \$1 a day and the country's per capita income was less than \$200 a year. Drought, deforestation, soil degradation, and exceedingly low literacy were problems. The economy remained severely depressed.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. Security forces killed one person while forcibly dispersing a demonstration. There were reports that members of the security forces tortured, beat, and otherwise abused persons. Prison conditions remained poor, and arbitrary arrest and detention remained problems. Delays in trials resulted in long periods of pretrial confinement. The judiciary also was subject to executive and other influence. The Government limited at times the freedom

of movement for security reasons. Security forces infringed on citizens' privacy rights. The Government limited freedom of the press. Security forces forcibly dispersed several demonstrations during the year. The Government generally respected the right to association; however, several Islamist organizations that engaged in or threatened violence remained banned. Domestic violence and societal discrimination against women continued to be serious problems. Female genital mutilation (FGM) persisted, despite government efforts to combat it. There was societal discrimination against persons with disabilities and ethnic and religious minorities. Worker rights generally were respected; however, there were reports that a form of slavery or servitude was practiced. Child labor occurred, including child prostitution. There were reports of trafficking in persons. Niger was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings; however, in early February, security forces killed one person and injured several others when they shot into a crowd of protesters (*see* Section 2.b.). During the military's intervention in the August mutinies, two soldiers were killed (*see* Section 3).

There were no developments, nor are any likely, in the March 2001 attempt to reopen an investigation of the 1999 assassination of President Ibrahim Mainassara Bare.

The Lake Chad area continued to be patrolled by a Nigerian-Nigerien-Chadian joint military force. During the year, with the exception of the August mutinies (*see* Section 3) and two incidents in N'Guigmi, the overall area became more secure, and intercommunal conflict continued to decline. The integration of former combatants continued, although some tensions remained. Security along the border still was a concern due to the Toubou rebellion in Chad, highway crime in northern Nigeria, the long history of clan rivalries, armed robberies, and the trafficking of weapons and narcotics through the area.

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

There were no developments, nor are any likely, in the 2000 case of the disappearance of two army sergeants, who allegedly were involved in the kidnaping of Major Djibrilla Hima.

The mutineers briefly held hostage officers assigned to their unit in Diffa; however, during negotiations to resolve the mutinies, the mutineers released their hostages unharmed (*see* Section 3).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, police occasionally tortured, beat, and otherwise abused persons.

In February there were reports of police torture in N'Guigmi (*see* Section 1.d.). By year's end, the Government had not investigated these reports of torture; however, it reassigned several police officers from this region to the Criminal Investigation Unit in Niamey during the year.

Three gendarmes from Torodi were arrested for excessive use of force during the investigation in late April of four persons suspected of armed assault on a Dogona villager. During the interrogation, the gendarmes tortured two of the detainees so badly that they were evacuated to the Say District Hospital on May 7. Subsequently, the Minister of Justice issued a statement that called for those in positions of public authority to respect the rights and liberties of citizens. The gendarmes were awaiting trial at year's end.

On several occasions during the year, police used tear gas and water cannons to disperse student protests. There were reports of several injuries (*see* Section 2.b.).

No action was taken against the police officers that allegedly beat students in detention after forcibly dispersing a February 2001 demonstration.

Conditions in all 35 of the country's prisons were poor and life threatening. Prisons were underfunded, understaffed, and overcrowded. For example, in Niamey's Civil Prison, there were approximately 550 prisoners in a facility built for 350; 445 of these were awaiting trial at year's end. Family visits were allowed, and prisoners could receive supplemental food and other necessities from their families. Prisoners were segregated by gender, and minors and adults were incarcerated separately. Pretrial detainees were housed with convicted prisoners. The Government did not put significant resources into guard training, and prison conditions did not improve despite a promise from the Minister of Justice to reform the prison system after a

1999 incident in which 29 prisoners died in Niamey Central Prison. Nutrition and health conditions improved slightly due to nongovernmental organizations' (NGOs) access to prisons.

Corruption among prison staff was rampant. There were credible reports that prisoners could bribe officials to leave prison for the day and serve their sentences in the evenings. Prisoners also could claim illness and serve their sentences in the national hospital.

Human rights observers, including the International Committee of the Red Cross (ICRC), were granted unrestricted access to prisons and detention centers and visited them during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the law prohibits detention without charge in excess of 48 hours; however, police at times violated these provisions, and arbitrary arrest and detention were problems. If police failed to gather sufficient evidence within the detention period, the prosecutor can give the case to another officer, and a new 48-hour detention period began. The law provides for a right to counsel, although there was only one defense attorney known to have a private practice outside the capital. A defendant had the right to a lawyer immediately upon detention. The Government provided a defense attorney for all indigents in felony cases, including minors. Bail was available for crimes carrying a penalty of less than 10 years' imprisonment. Widespread ignorance of the law and lack of financial means prevented the accused from taking full advantage of these rights. Police, acting under authority given them by the Security Law, occasionally conducted sweeps to detain suspected criminals.

In February police arrested and detained for investigation 21 persons in N'Guimbi for 27 days. By law temporary custody should not exceed 48 hours. Police arrests for investigation were not uncommon in this area of the country. Due to the unstable security situation in the area, security forces at times abused civilians or committed other violations (*see* Section 1.c.).

There were several reports that journalists were arrested during the year (*see* Section 2.a.).

Following the August mutinies, gendarmes arrested 272 persons (*see* Section 3). Three of the military officers arrested and later released in connection with the 2000 kidnaping of a senior military officer, Major Djibrilla Hima, were rearrested for alleged involvement in the August mutiny (*see* Section 3). Of the 272 detainees, 124 were detained in Zinder, the rest were in Niamey. At the year's end, most were detained under the "preventative detention" provisions of the law.

The two students detained in February 2001 went on a hunger strike and on July 24 were transferred to Niamey National Hospital; however, after receiving care and ending their hunger strike, they were sent back to prison in Tillaberi, and they remained in detention without charge at year's end.

Following the 2000 Maradi riots, police arrested approximately 100 persons in Maradi and others in Niamey. In May 2001, the prisoners held in Niamey were released, and the one person in Maradi charged with unauthorized demonstration and threatening public order was released by year's end.

The judicial system faced a serious problem of overload. There were legal limits to the pretrial confinement period of indicted persons; however, detention frequently lasted months or years; some persons have been waiting as long as 6 years to be charged. The Justice Ministry has made efforts to accelerate the trial process that included proposed reforms of the justice system, which were expected to be debated in the 2003 National Assembly session. Of the 550 inmates in Niamey's Civil Prison, approximately 445 were detainees awaiting trial or charges.

The Constitution prohibits forced exile, and there were no reports of its use.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary occasionally was subject to executive interference. Although the Supreme Court on occasion has asserted its independence, human rights groups claimed that family and business ties influenced lower courts. Judges sometimes feared reassignment or having their financial benefits reduced if they rendered a decision unfavorable to the Government. However, there was evidence of increased judicial independence during the year, including three cases in which the courts ruled against the Government: A libel case in which the courts ruled against the Prime Minister; a declaration that a presidential decree after the August mutinies was unconstitutional (*see* Section 3); and a ruling that the Government did not have the right to remove the Sultan of Zinder from his position and that only a traditional council of sultans could make such a decision. Although he won the court case, the former sultan was still being held by the Government on various criminal charges and faced trial on those charges at year's end.

Defendants and prosecutors could appeal a verdict, first to the Court of Appeals, then to the Supreme Court. The Court of Appeals reviewed questions of fact and law, while the Supreme Court reviewed only the application of the law and constitutional questions. There also were customary courts.

Traditional chiefs could act as mediators and counselors and had authority in customary law cases as well as status under national law where they were designated as auxiliaries to local officials. Chiefs collected local taxes and received stipends from the Government, but they had no police or judicial powers and could only mediate, not arbitrate, customary law disputes. Customary courts, located only in large towns and cities, tried cases involving divorce or inheritance. They were headed by a legal practitioner with basic legal training who was advised by an assessor knowledgeable in the society's traditions. The judicial actions of chiefs and customary courts were not regulated by law, and defendants could appeal a verdict to the formal court system. Women did not have equal legal status with men and did not enjoy the same access to legal redress (*see* Section 5).

Defendants had the right to counsel, to be present at trial, to confront witnesses, to examine the evidence against them, and to appeal verdicts. The Constitution affirms the presumption of innocence. The law provides for counsel at public expense for minors and indigent defendants charged with crimes carrying a sentence of 10 years or more. Although lawyers complied with government requests to provide counsel, the Government generally did not remunerate them. Widespread ignorance of the law prevented the accused from taking full advantage of these rights. There was only one defense attorney known to have a private practice outside the capital.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law generally requires that police conducting a search have a warrant, normally issued by a judge; however, human rights organizations reported that police often conducted routine searches without warrants. Police may conduct searches without warrants when they have strong suspicion that a house shelters criminals or stolen property. The State Security Law also provides for warrantless searches.

Following the August mutinies and before the presidential decree, gendarmes conducted searches of the houses of former military officers without a warrant and arrested several persons (*see* Section 3). Five officers and one civilian were arrested in connection with the August mutinies. Three were the officers who had previously been arrested for alleged involvement in Djibrilla's 2000 kidnaping (*see* Section 1.b.). They were rearrested after the August mutinies and remained in investigative detention at year's end.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, on several occasions the Government limited these rights in practice. On numerous occasions during the year, government officials initiated lawsuits against journalists for articles that either criticized them personally or criticized the armed forces or for complicity in libelous comments.

The Government published a French-language daily newspaper, *Le Sahel*, and its weekend edition. There were approximately 12 private French-language weekly or monthly newspapers, some of which were affiliated loosely with political parties. The private press remained relatively assertive in criticizing government actions. Foreign journals circulated and reported freely. Strict accreditation requirements were imposed on domestic and foreign journalists; however, there were no reports that any journalists have been denied accreditation. In November 2001, the Government eliminated the subsidies and preferential tax treatment on newsprint and other supplies.

The Government continued to use existing law to criminalize slander and libel and to prosecute, convict, and sentence to prison critics who infringe those laws in the judgment of the courts. Following the August mutinies, the Government issued a presidential decree banning press comment on military and security issues related to the August mutinies. Although the Government subsequently suspended the decree after the Supreme Court ruled it unconstitutional, several reporters and one human rights advocate were detained for statements that allegedly violated the decree. The charges included "disseminating false news" and "propagating information that could jeopardize national defense operations." In September the 75-year-old human rights activist, Bagnou Bonkoukou, was tried and sentenced to 1 year in prison for issuing a press release that disputed the Government's version of the August mutinies. The press release alleged that several persons were killed during the August mutiny in Diffa and called for an independent international investigation of the mutinies. After serving only 6 weeks of his sentence, Bonkoukou was released

under a Presidential Decree that granted amnesty to pregnant women, the ill, and the elderly.

There were two cases pending for a *Canard Libere* journalist who was charged with libel against the Minister of Agriculture and the Prime Minister. The case by the Minister of Agriculture was dropped; however, the journalist went to prison for 3 months for libel against the Prime Minister and was fined approximately \$143 (100,000 CFA). On August 12, an appeal was heard; however, the court confirmed the conviction.

Since literacy and personal incomes were both very low, radio was the most important medium of public communication. The Government-owned Radio Voix du Sahel transmits 14 hours per day, providing news and other programs in French and several local languages. There were several private radio stations, including Radio France International, Africa Number One, Radio et Musique, Radio Souda, Radio Tenere, Radio Anfani, and Radio Tambara; the last five were owned locally and feature popular news programs in local languages, including Djerma and Hausa. These private radio stations generally were less critical of government actions than were the private newspapers. Radio Anfani and Radio et Musique presented news coverage that included a variety of points of view. The other private domestic radio stations were smaller and offered little domestic news programming. The Government-operated multilingual national radio service provided equitable broadcasting time for all political parties during the year.

During the year, the Government's Superior Council on Communication continued to allow domestic broadcasting services to rebroadcast programs of foreign origin, such as Voice of America (VOA), British Broadcasting Corporation (BBC), Deutsche Welle programs, and Radio France International (RFI).

Television was a far less important medium than radio. The Government-owned Tele-Sahel broadcast approximately 4 hours every evening, with programming emphasizing news in French and other major national languages. On weekends Tele-Sahel broadcast approximately 7 hours a day, with additional time devoted to sports and entertainment. The Government-owned TAL-TV had a similar broadcast schedule. A private television station, TV Tenere, broadcast approximately 7 hours a day on weekdays and 12 hours a day on weekends. In addition to entertainment programs, TV Tenere transmitted its own evening news program, which included reports from French and Swiss sources, as well as other French language European news programs in their entirety. The director of a private radio station operated a wireless cable television service for the capital, offering access to international channels.

The news coverage of the state-owned media reflected government priorities. Presidential activities and conferences dealing with development issues always were reported. Analysis or investigative reporting on domestic topics was extremely rare.

SONITEL, the state-owned telephone company that was privatized partially in 2001, was the country's only Internet service provider (ISP). There were no private ISP's because telecommunications regulations set rates at prohibitive levels. The Government does not restrict access to the Internet through SONITEL, although service frequently had technical difficulties.

The Government did not restrict academic freedom. As a result of financial problems and student strikes, the 2001–2002 academic year was interrupted and started several months late. During the 2002–2003 academic year, some faculties started on time; however, others still were in the process of finishing the previous academic year and started late again.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government retained the authority to prohibit gatherings either under tense social conditions or if advance notice (48 hours) was not provided. Political parties legally were permitted to hold demonstrations within a defined area. There were reports that the Government delayed approving the requests to demonstrate by political parties; however, there were no reports of political parties being denied permission for demonstrations during the year.

During the year, police used tear gas and water cannons to forcibly disperse several student protests against scholarship arrears and education austerity measures.

In early February, security forces forcibly dispersed a demonstration by truckers in N'Guigmi to protest against police harassment at security checkpoints. One person was killed and several others injured when security forces shot into the crowd of protesters. The Minister of the Interior visited the area to meet with civil society groups and representatives of the security forces and convey the Government's condolences to the victim's family. He ordered an investigation; however, there were no further developments by year's end.

Two students arrested following a demonstration in February 2001 remained in custody (*see* Section 1.d.).

The Constitution provides for freedom of association; however, citizens may not form political parties based on ethnicity, religion, or region. In reaction to rioting led by militant Islamic groups that engaged in or threatened violence in 2000, the Government banned six such organizations, and in September 2001, the Government banned two additional militant Islamic organizations; the eight organizations remained banned at year's end (*see* Section 2.c.). In June two representatives from one of these banned organizations were arrested for having engaged in political activity inappropriate for a religious organization by publishing pamphlets calling for Jihad against the West, and they remained detained in prison at year's end. There were 26 political parties.

*c. Freedom of Religion.*—The Constitution provides for “the right of the free development of each individual in their—spiritual, cultural, and religious dimensions,” and the Government generally respected the freedom to practice religious beliefs, as long as persons respect public order, social peace, and national unity.

No religious group was subsidized, although the Islamic Association, which acts as an official advisory committee on religious matters to the Government, had bi-weekly broadcasts on the Government-controlled television station.

Religious organizations must register with the Interior Ministry. This registration was a formality, and there was no evidence that the Government has ever refused to register a religious organization. The Government must authorize construction of any place of worship; however, there were no reports that the Government refused such construction during the year. Foreign missionaries worked freely, but their organizations must be registered officially as associations.

The Government has banned eight Islamic organizations on the grounds that these organizations were responsible for “disturbing the peace” (*see* Section 2.b.). No mainstream Islamic organizations or human rights organizations have challenged the legality of the bans, which still were in effect at year's end.

There generally were amicable relations between the various religious communities; however, there have been instances when members of the majority religion (Islam) were not tolerant of the rights of members of minority religions to practice their faith. The cities of Say, Kiota, Agadez, and Madarounfa are considered holy by the local Islamic communities, and the practice of other religions in those cities was not as well tolerated as in other areas. Unlike in the previous year, there were no reports of riots by Muslims against Christians and no reports of arrests or beatings of Christians or persons who had worked with Southern Baptists.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for freedom of movement and restricts neither emigration nor repatriation; however, authorities imposed some restrictions on these rights for security reasons. Security forces at checkpoints monitored the travel of persons and the circulation of goods, particularly near major population centers, and sometimes demanded payments or bribes. Attacks by bandits on major routes to the north have declined considerably since 1996, but there have been regular reports of banditry, sometimes violent, over the past year.

The law does not provide for granting asylum or refugee status in accordance with the standards of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, although the country is a signatory to the Convention; however, the Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The UNHCR office in the country closed at the end of 2001; during the year, the UNHCR's regional office in Benin was responsible for the refugee assistance and protection in the country. The Government's interministerial National Refugee Eligibility Committee took over the UNHCR's refugee prescreening duties. The Government offers first asylum and has offered asylum to several thousand persons primarily from Mali and Chad. A few Chadian refugee families remained in the country.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides for the right of citizens to change their government, and citizens were able to exercise that right during the November 1999 election. However, this has not always been the case; the January 1996 coup, the fraudulent 1996 presidential election, the disruption of local elections in February 1999, and the April 1999 coup effectively disenfranchised citizens in previous years. The 1999 coup led to the installation of a military-led government, which instituted a 9-month

transition to a democracy. A 1999 referendum approved a new Constitution that provided for a power-sharing presidential system and granted amnesty to perpetrators of the 1996 and 1999 coups. The Constitution also allowed governmental authorities to remain in place until new elections were held. In late 1999, the first round of presidential elections, a presidential runoff, and legislative elections were held. In November 1999, Tandja Mamadou was elected president with 60 percent of the vote in an election that was considered by international observers to be generally free and fair. Reportedly 39 percent of the country's population participated in the election. In the November 1999 National Assembly elections, the National Movement for the Development of Society and the Democratic and Social Convention (MNSD/CDS) coalition, which backed Tandja, won 55 of the 83 seats in the assembly. Five of the country's 11 active political parties are represented in the National Assembly.

Pursuant to the Constitution, the country has a power sharing presidential system with the President as head of state and the Prime Minister as head of government. The President must choose the Prime Minister from a list of three persons presented by the majority party or coalition in the National Assembly. In 2000 Tandja appointed Hama Amadou as Prime Minister.

The Constitution provides for a representative one-chamber National Assembly, and an independent judiciary. Citizens 18 years of age and over can vote, and voting is by secret ballot.

In August soldiers stationed in Diffa, the remote eastern part of the country, took several of their commanding officers hostage. The dispute reportedly was over claims for increased pay and benefits. Several days later, there also was an attempt by soldiers to raid an armory in Niamey. Both mutinies ended after loyalist forces intervened and negotiations ensued. The initial intervention by loyalist forces led to a skirmish that resulted in the death of two soldiers in Diffa, one mutineer and one loyalist. The Government arrested 272 persons in connection with the mutinies (*see* Sections 1.d. and 2.a.).

Women traditionally play a subordinate role in politics. The societal practice of husbands' voting their wives' proxy ballots effectively disenfranchised many women. This practice was used widely in the 1999 presidential and National Assembly elections. There was 1 woman in the 83-seat National Assembly; there were 4 female ministers in the Cabinet. The mayor of the city of Agadez, the capital of a district that included one-third of the country, is a woman. A 2000 law mandates that women receive 25 percent of government positions; however, by year's end, women still did not fill that percentage of government positions.

All major ethnic groups are represented at all levels of government. The Government supported greater minority representation in the National Assembly. There were eight seats at the National Assembly designated for representatives of "special constituencies," specifically ethnic minorities and nomadic populations. President Tandja, who reportedly is half Peul and half Kanouri, is the country's first president who is not from either the Hausa or the Djerma ethnic groups, which make up approximately 56 percent and 22 percent, respectively, of the country's population (*see* Section 5).

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Several independent human rights groups and associations generally operated without government restriction, investigating and publishing their findings and conclusions that often were highly critical of the Government in their own publications and in the small independent press. Notable among the associations were the Nigerien Association for the Defense of Human Rights (ANDDH); Democracy, Liberty, and Development (DLD); the Nigerien League for the Defense of Human Rights (LNDH); the Association for the Protection and Defense of Nigerien Human Rights (ADALCI); the Network for the Integration and Diffusion of the Rights in the Rural Milieu (RIDD-FITLA); the Niger Independent Magistrates Association (SAMAN); and the Association of Women Jurists of Niger. There were several other women's rights groups. The ICRC was active in the country.

In March 2001, the Government began funding the National Commission on Human Rights and Fundamental Liberties, which it had created in 2000. The Commission's mandate included communication, advocacy, and investigation of human rights abuses, and it has shown signs of independence since its creation. During the year, it produced reports on the 2000 kidnaping of a senior military officer, Major Djibrilla Hima, and the removal of the Sultan of Zinder. Elements of civil society successfully opposed a government attempt to alter the composition of the Commission in 2001; however, following the mutinies in August, the chairman of the Commission was removed from office. Some members claimed he was dismissed for mis-



management. The Commission promptly was restructured, and the Government added additional personnel to the Commission. Civil society members feared that the restructuring would influence any investigation into the mutinies; however, the Commission decided not to investigate and instead planned to carry out training of the military to increase its awareness of basic human rights.

The Commission was made up of several subcommittees, including, Women and Children; Racial, Ethnic, and Religious Discrimination; Detention and Torture; and Protection of Human Rights. The Commission worked with local human rights groups and international organizations and was a member of the African Human Rights Commission as well as Francophone organizations. Commission projects included the drafting of legislation to ban discrimination against persons with HIV/AIDS, community outreach and education across the nation, translation of the Constitution into local languages, and the planning of a nationwide celebration for International Human Rights Day in December.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination based on sex, social origin, race, ethnicity, or religion. However, in practice there were instances of discrimination against women, children, ethnic minorities, and persons with disabilities, including, but not limited to, limited economic and political opportunities.

*Women.*—Domestic violence against women was widespread, although reliable statistics were not available. Wife beating reportedly was common, even in upper social classes. Families often intervened to prevent the worst abuses, and women may (and did) divorce because of physical abuse. While women have the right to seek redress in the customary or modern courts, few did so due to ignorance of the legal system, fear of social stigma, or fear of repudiation. Women's rights organizations reported that prostitution often was the only economic alternative for a woman who wanted to leave her husband.

FGM was practiced by several ethnic groups in the western department of Tillaberi (which includes Niamey and the towns of Say, Torodi, and Ayorou) and the eastern department of Diffa. Health care workers also have noted a high prevalence of cases in Agadez and Maradi. In July 2001, the National Assembly passed a law to prohibit FGM that would have carried a prison sentence of 3 to 20 years; however, the law was rescinded and put under review to ensure that it complied with international standards. It was expected to be considered by the March to June 2003 session of the National Assembly as part of a reform of the justice system.

A 1998 study by CARE International indicated that 5 percent of women between 15 and 49 years of age had undergone FGM, and a 1998 national Demographic and Health Survey of 7,577 women cited the incidence of FGM as 4.5 percent; however, a 1999 symposium cited a World Health Organization global study of 20 percent. Clitoridectomy was the most common form of FGM. The Government took an active role in combating FGM and worked closely with a local NGO, UNICEF, and other donors to develop and distribute educational materials at government clinics and maternal health centers and participated in information seminars and publicity.

Prostitution, which is illegal and hidden, was more prevalent near major mining and military sites.

Despite the Constitution's provisions for women's rights, the deep-seated traditional belief in the submission of women to men resulted in discrimination in education, employment, and property rights. Discrimination was worse in rural areas, where women did much of the subsistence farming as well as childrearing, water- and wood-gathering, and other work. Despite constituting 47 percent of the work force, women have made only modest inroads in civil service and professional employment and remained underrepresented in these areas.

Women's inferior legal status was evident, for example, in head of household status: A male head of household has certain legal rights, but divorced or widowed women, even with children, were not considered to be heads of households. Among the Hausa and Peul ethnic groups in the east, some women were cloistered and could leave their homes only if escorted by a male and usually only after dark.

National service was mandatory for all young women who have completed university studies or professional training. National service lasted from 18 months to 2 years, and women could serve as teachers, health service workers, or technical specialists; however, military service was not permitted.

*Children.*—Although the Constitution provides that the Government should promote children's welfare, financial resources for this purpose were extremely limited. The minimum period of compulsory education was 6 years; however, only approximately 32 percent of children of primary school age attended school, and approximately 60 percent of those who finished primary schools were boys. The majority of young girls were kept at home to work and were married at a young age, rarely

attending school for more than a few years, resulting in a female literacy rate of 7 percent compared with 21 percent for men. Literacy rates, particularly for girls, were even lower in rural areas.

Some ethnic groups allowed families to enter into marriage agreements under which young girls from rural areas were sent by the age of 10 or 12 and sometimes younger to join their husband's family under the tutelage of their mother-in-law. In 2000 the Minister of Justice formed a commission to examine the problem of child brides; the commission's work still was ongoing at year's end. In 2001 the National Assembly considered changing the law to prohibit this practice and establish a minimum age for marriage; however, no legislation was passed by year's end.

FGM was performed on young girls in many parts of the country (*see* Section 5, Women).

Child prostitution was a problem (*see* Section 6.f.).

*Persons with Disabilities.*—The Constitution mandates that the State provide for persons with disabilities; however, the Government had not implemented regulations to mandate accessibility to buildings and education for those with special needs. Regulations do not mandate accessibility to public transport, of which there was little. Societal discrimination against persons with disabilities existed.

In August 2001, the mayor of Niamey reportedly established a program to locate, register, and put in psychiatric care persons with mental disabilities wandering the streets; however, by year's end, there was no evidence that this program was made operational. Observers reported that many persons with mental disabilities were rejected by their families due to the stigma surrounding mental illness in the country.

*National/Racial/Ethnic Minorities.*—The Hausa and Djerma ethnic groups made up approximately 56 percent and 22 percent, respectively, of the country's population. These two groups also dominated government and business. Tandja Mamadou was the country's first president who is neither Hausa nor Djerma; however, Tuaregs, Arabs, Peuls, Toubous, and Kanouris had few representatives in the Government, and many of these ethnic groups asserted that the Hausa and Djerma groups discriminated against them. The Government increased education for ethnic minorities; health care for minorities was at the same level as the rest of the population. However, nomadic persons, such as Tuaregs and many Peul, continued to have less access to government services and continued to be dissatisfied with the Government. In July former Tuareg rebels protested that the Government was not implementing the 1995 peace accords. During the year, there was an increase in reports of banditry in the north that may have involved former Tuareg rebels turned criminals.

Limited security issues existed in the northern areas as a result of continued conflict over land use between farming and herding ethnic groups. In recent years, the Government undertook various educational and conciliation activities in the region. Occasionally tensions increased in limited areas, but no serious problems were reported during the year.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides formal recognition of workers' right to establish and join trade unions; however, more than 95 percent of the work force was employed in the nonunionized subsistence agricultural and small trading sectors.

The National Union of Nigerien Workers (USTN), a federation consisting of 38 unions, represents the majority of salary earners; most were government employees, such as civil servants, teachers, and employees in state-owned corporations. The USTN and affiliated National Union of Nigerien Teachers (SNEN) professed political autonomy, but they had informal ties to political parties. There were several breakaway union confederations and independent teachers' and magistrates' unions, including the Confederation of Forces of Democratic Workers (CFDT) and the Nigerien General Workers Union (UGTN), a new confederation of unions founded during the year. In January 2001, breakaway members of the USTN founded the Democratic Confederation of Niger's Workers (CDTN). The police union remained suspended.

The Labor code prohibited antiunion discrimination by employers, and labor unions reported no such discrimination.

The USTN was a member of the Organization of African Trade Union Unity and was affiliated with the International Confederation of Free Trade Unions; it received assistance from some international unions. Individual unions such as the teachers union were affiliated with international trade union secretariats.

*b. The Right to Organize and Bargain Collectively.*—In addition to the Constitution and the Labor Code, there is a basic framework agreement between the USTN,

employers, and the Government that defines all classes and categories of work, establishes basic conditions of work, and defines union activities. The Labor Code is based on International Labor Organization (ILO) principles, and it protects the right to organize. In private and state-owned enterprises, unions widely used their right to bargain collectively with management without government interference for wages greater than the statutory minimum as well as for more favorable work conditions. Collective bargaining also existed in the public sector. The USTN represented civil servants in bargaining with the Government. Agreements between labor and management applied uniformly to all employees.

The Constitution provides for the right to strike, except for security forces and police. The law specifies that labor must give notice and begin negotiations before work is stopped; public workers must maintain a minimum level of service during a strike; the Government can requisition workers to provide minimum service; and striking public sector workers may not be paid for the time they are on strike. The latter condition already prevailed in the private sector. The ILO has criticized a 1996 legal order that says striking state employees can be requisitioned in exceptional cases arising as a result of the need to preserve the general interest.

During the year, there were several strikes by education and health care workers, generally relating to fringe benefits and lack of good working conditions.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Labor Code prohibits forced or bonded labor, except by legally convicted prisoners; however, although slavery is prohibited by the Constitution, a traditional form of slavery or servitude still was practiced by the Tuareg and Arab ethnic minorities, particularly in remote northern regions and along the border with Nigeria. In July 2001, the National Assembly passed revisions to the Penal Code to include new punishable offenses for crimes related to the practice of slavery; however, because of a review of the revisions for their compliance with international standards, a presidential decree to implement the new revisions was not issued by year's end. Persons were born into a traditionally subordinate caste and were expected to work without pay for those above them in the traditional social structure. None of these individuals appeared to have been forced into slavery or servitude. Individuals can change their situations and were not pursued if they left their positions; however, most did not and accepted their circumstances as natural. A local NGO, Timidria, worked actively against this practice.

The Labor Code does not prohibit specifically forced and bonded labor by children, and there were credible reports of underage girls being drawn into prostitution, sometimes with the complicity of the family.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law permits child labor in nonindustrialized enterprises under certain conditions; however, law and practice prohibit child labor in industrial work. Children under the age of 14 must obtain special authorization to work, and those 14 to 18 years of age were limited to a maximum of 4-and-a-half hours per day and certain types of employment so schooling may continue.

The law requires employers to ensure minimum sanitary working conditions for children. Ministry of Labor inspectors enforced child labor laws.

Child labor practically was nonexistent in the formal (wage) sector, and there were no known instances of the use of child labor in factories; however, children worked in the unregulated agricultural, commercial, and artisan sectors, and some—especially foreign—youths were hired in homes as general helpers and baby sitters for very low pay. The majority of rural children regularly worked with their families from a very early age—helping in the fields, pounding grain, tending animals, getting firewood and water, and other similar tasks. Some children were kept out of school to guide a blind relative on begging rounds. Others sometimes were employed by marabouts (Koranic teachers) to beg in the streets (*see* Section 6.f.). There was no official recognition of this labor.

The Ministry of Labor, which was responsible for implementing ILO Convention 182 on the Worst Forms of Child Labor, was working with UNICEF and the International Program on the Elimination of Child Labor to determine the extent of the problem in the country. The Ministry of Labor did not provide a report by year's end.

There were reports that forced and bonded labor by children occurred (*see* Section 6.c.).

*e. Acceptable Conditions of Work.*—The Labor Code establishes a minimum wage for salaried workers of each class and category within the formal sector; however, minimum wages were not sufficient to provide a decent standard of living for workers and their families. The lowest minimum wage was \$27 (18,898 CFA francs) per

month. Additional salary was granted at \$1.43 (1,000 CFA francs) per month per child. Government salaries substantially were in arrears. Most households had multiple earners (largely in informal commerce) and relied on the extended family for support.

The legal workweek was 40 hours with a minimum of one 24-hour rest period; however, for certain occupations the Ministry of Labor authorized longer workweeks of up to 72 hours. There were no reports of violations at year's end.

The Labor Code also establishes occupational safety and health standards; however, due to staff shortages, inspectors focused on safety violations only in the most dangerous industries: Mining, building, and manufacturing. Although generally satisfied with the safety equipment provided by employers, citing in particular adequate protection from radiation in the uranium mines, union workers in many cases were not well informed of the risks posed by their jobs. Workers have the right to remove themselves from hazardous conditions without fear of losing their jobs; however, in most cases this did not occur in practice.

The Labor Code protects both legal and illegal foreign workers and entitles them to remuneration from the employer even in the case of a labor dispute in the informal sector; however, claims by illegal workers were rare.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons, and there were reports of trafficking. There also was evidence that the country is a transit point and destination for a small number of trafficked persons. Internal trafficking occurred, and there was anecdotal evidence that clandestine networks victimized young girls who come to work as household helpers.

Internal trafficking of young boys for labor and young girls for prostitution was more common from rural to urban areas. There were credible reports of underage girls being drawn into prostitution, sometimes with the complicity of the family. Child prostitution is not criminalized specifically, and there was no precise age of consent; however, the law prohibits "indecent" acts towards minors. It was left to a judge to determine what constituted an indecent act. Such activity and a corollary statute against "the incitement of minors to wrongdoing" were punishable by 3 to 5 years in prison.

Trafficking in persons generally was conducted by small-time operators who promised well-paid employment in the country. Victims, primarily from Benin, Togo, Nigeria, and Ghana, were escorted through the formalities of entering the country, where they found that their employment options were restricted to poorly paid domestic work or prostitution. Victims also must use a substantial portion of their income to reimburse the persons who brought them to the country for the cost of the trip. Compliance was enforced by "contracts," which were signed by illiterate victims before they departed their countries of origin; alternatively, the victim's travel document simply was seized. A local NGO also reported that some rural citizen children were victims of domestic trafficking in which the victim (or his/her family) was promised a relatively decent job only to be placed in a home to work as a servant. The victims must use their earnings to reimburse the persons who brought them to the city.

Internal trafficking, which was rooted in the traditions and poverty that underlie the country's largely informal economy, included the child marriages of girls and the indenturing of boys to Koranic teachers (*see* Section 6.d.). In response to economic hardship, some parents arranged for their young daughters to marry older men, presumably without their consent, and then sent them to join their husband's families. Similarly some rural parents sent their sons to learn the Koran in the cities where, in return for their education, the boys supported their teachers by begging on the streets.

In August 2001, a Nigerian national was arrested for attempting to escort eight young women from Nigeria through the country on their way to Italy, allegedly for prostitution. There was no available information on this case at year's end.

In September 2001, a 17-year-old former slave from Niger addressed the U.N. Conference Against Racism in South Africa. She told the conference she had been brought up in slavery, like her mother and grandmother (*see* Section 6.c.). At the age of 15, the Tuareg clan sold her for \$300 (223,500 CFA francs) to a trader in Nigeria, from whom she escaped. Although slavery and slave trading is illegal, there were media reports that black slaves continued to be held and traded by some Tuareg clans, particularly in remote areas of the north and along the border with Nigeria.

In 2000 the Justice Minister stated that the Government intended to study the issue of trafficking as part of the more comprehensive legal modernization effort launched by a commission of legal experts (*see* Section 1.e.). There still was no report by the commission by year's end.

## NIGERIA

Nigeria is a federal republic composed of 36 states and a capital territory, with an elected president and a bicameral legislature. In May 1999, President Olusegun Obasanjo of the Peoples Democratic Party (PDP) was inaugurated to a 4-year term after winning elections in February 1999 that were marred by fraud and irregularities perpetrated by all contesting parties. However, most observers agreed the elections reflected the will of the majority of voters. These elections marked the end of 16 years of military-led regimes. The Constitution provides for an independent judiciary. Although the judicial branch remained susceptible to executive and legislative branch pressures, the performance of the Supreme Court and decisions at the federal appellate level were indicative of growing independence. State and local judiciary were influenced by political leaders and suffered from corruption and inefficiency more so than the federal court system.

The Federal Nigeria Police Force (NPF) was tasked with law enforcement. The Constitution prohibits local and state police forces. Internal security was the duty of the State Security Service (SSS). "Rapid Response Teams," staffed by police, remained intact in most states, but these teams had a reduced role and a less menacing presence than in previous years. In response to increased incidents of armed robbery and other violent crime, the National Police instituted an aggressive anticrime campaign dubbed Operation Fire for Fire, which was responsible for human rights abuses. The police were unable to control ethno-religious violence on numerous occasions during the year, and the Government continued its reliance on the army to quell many instances of communal violence. The degree of government control over the Rapid Response Teams and the national police force continued to improve during the course of the year. The police and members of other security forces, military, and anticrime squads committed serious human rights abuses.

The economy, which had been in decline for much of the last three decades, grew 3.9 percent in real terms in 2001, and most credible estimates project a slight decline this year. Inadequate infrastructure, endemic corruption, and general economic mismanagement hindered economic growth. Most of the population of approximately 120 million was rural and engaged in small-scale agriculture. The agricultural sector employed more than 65 percent of the population, but accounted for only 42 percent of gross domestic product (GDP). The agricultural sector deteriorated considerably during the oil boom decades and years of military rule, which contributed significantly to the country's urbanization and increased unemployment. The majority of economic activity was outside the formal sector. Much of the country's wealth remained concentrated in the hands of a small elite. Corruption, nontransparent government contracting practices, and other systems favored the wealthy and politically influential, including a banking system that impeded small and medium investors and regulatory and tax regimes that were not always enforced impartially. Infrastructure remained a problem and negatively affected the economy. A significant percentage of the country's population lived in poverty and were subject to malnutrition and disease.

The Government's human rights record remained poor; although there were improvements in several areas, serious problems remained. The national police, military, and security forces committed extrajudicial killings and used excessive force to apprehend criminal suspects and to quell several incidents of ethno-religious violence. Police, military, and security forces sometimes beat protesters, criminal suspects, detainees, and convicted prisoners. The Government continued steps to curb torture and beatings of detainees and prisoners. In most cases, neither the state anticrime taskforces, the police, nor the military were held accountable for excessive force or the death of persons in custody. Shari'a courts sentenced persons to harsh punishments including amputations and death by stoning; however, no amputation or stoning sentences were carried out during the year. Prison conditions were harsh and life threatening, and the lack of sufficient food and adequate medical treatment contributed to the death of numerous inmates. Police and security forces continued to use arbitrary arrest and detention. Prolonged pretrial detention remained a serious problem. The judicial system often was incapable of providing criminal suspects with speedy and fair trials. Government authorities occasionally infringed on citizen's privacy rights. The Government generally respected freedom of speech and of the press; however, there were problems in some areas. The Government placed some limits on freedom of assembly and association, citing security concerns. There were governmental restrictions placed on freedom of religion. The Government occasionally restricted freedom of movement for security reasons in areas of unrest and used lethal force at checkpoints. The Human Rights Violations Investigation Panel (HRVIP) concluded its public hearings and in 2001 presented its findings and recommendations to the President, but the report has not been made public. In March

the Government convened the Commission of Inquiry into communal clashes in Benue, Nassarawa, Plateau, and Taraba to investigate communal conflict in these areas, including the massacre of civilians by the military in Benue in 2001.

Domestic violence against women remained widespread, and some forms were sanctioned by traditional, customary, or Shari'a law. Discrimination against women remained a problem. Female genital mutilation (FGM) remained widely practiced in some parts of the country, and child abuse and child prostitution were common. Localized discrimination and violence against religious minorities persisted. Ethnic and regional discrimination remained widespread; however, interethnic, religious, and regional tensions lessened during the year. Some members of the Ijaw ethnic group in the oil-producing Niger Delta region who sought greater local autonomy continued to commit serious abuses, including kidnappings; however, unlike in the previous year, there were no reports of unlawful killings by militant Ijaw groups. Some restrictions on worker rights continued; however, there were improvements during the year. Some persons, including children, were subjected to forced labor. Child labor continued to increase. Trafficking in persons for purposes of prostitution and forced labor was a problem, and collusion of government officials in trafficking was alleged. Vigilante violence continued throughout the country, particularly in Lagos, Onitsha, and other parts of the South, where suspected criminals were apprehended, beaten, and sometimes killed. Nigeria was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—National police, army, and security forces committed extrajudicial killings or used excessive force to apprehend criminals and to quell several incidents of ethno-religious violence during the year. The Government did not use lethal force to repress nonviolent, purely political activities; however, lethal force sometimes was used when protests or demonstrations were perceived as becoming violent. Multinational oil companies and domestic oil producing companies subcontracted police and soldiers from area units particularly to protect the oil facilities in the volatile Niger Delta region. Freelance security forces and former security forces accounted for a significant portion of the violent crime during the year. Police were instructed to use lethal force against suspected criminals, suspected vandals near oil pipelines in the Niger Delta Region, and the Odua Peoples Congress (OPC) vigilante group in Lagos State.

The Federal anticrime taskforce, also known as Operation Fire for Fire, was among the most frequent human rights offenders. Operation Fire for Fire was established in response to widespread public calls for the Government and police to address violent crime more vigorously. However, police and anticrime taskforce personnel committed extrajudicial killings in the apprehension and detention of suspected criminals. Police were instructed to use deadly force in order to subdue violent criminals. According to Inspector General of Police Tafa Balogun, more than 200 criminals were killed by police and more than 800 were arrested. He also admitted that 41 civilians were killed either accidentally by police or by the criminals; 80 civilians were injured. Complaints have come from all quarters that Operation Fire for Fire has given a largely untrained police force broad latitude in using deadly force. In most cases, police officers were not held accountable for excessive or deadly force or the deaths of persons in custody. They operated with impunity in the apprehension, illegal detention, and sometimes execution of criminal suspects (*see* Section 1.d.).

During the year, police, military, and anticrime personnel continued to use lethal force against suspected criminals. For example, on February 18, police in Obiaruku, Delta State, reportedly killed 15 youths suspected of armed robbery. The National Senate ordered its Police Affairs Committee to investigate the incident. Findings of the Senate Police Affairs Committee were not published by year's end, and no arrests were made.

On April 7, in Ondo State, police reportedly shot and killed Flight Sergeant Augustine Ogbolu. In August family members filed a lawsuit accusing the police of executing Ogbolu following an allegation that he was an armed robber; the case was pending at year's end.

On June 10, while reportedly firing at robbery suspects, a Lagos policeman shot and killed Ikenna Asikaburu, an 18-year-old student who was waiting for a vehicle at a local motor park. Asikaburu's family filed a petition with the police requesting compensation for wrongful death. No compensation was paid and no charges were filed.

Security forces committed other unlawful killings during the year. For example, in January military personnel raided the town of Liama in Bayelsa, killing 3 persons and burning at least 60 houses, leaving hundreds homeless. The attack was thought to be a reprisal against local youths who earlier had kidnaped nine oil company employees and stolen four boats.

In March unrest between police and residents of Danja Local government, Katsina State, claimed up to 25 lives and resulted in the destruction of many houses. According to the most credible reports, the incident arose after police arrested, tortured, and killed a water vendor. The death of the water vendor, combined with past incidents of police brutality, incited residents to demonstrate, which in turn led to the violent response by police. Police claimed that only six persons were killed in this incident. No police officers were arrested as a result of the incident.

In May in Lagos, police killed University of Lagos students Gbenga Akinmogan and Shakirat Owolabi. One police officer has been charged in the deaths, and charges were expected against seven other officers who were at the scene; one police officer fled the scene and was declared "wanted" in July.

In August in Edo State, a police sergeant was arrested and detained for the shooting death of John Osazuwa, a member of the State Committee on Forestry. The policeman allegedly shot Osazuwa for refusing to pay a \$153 (20,000 naira) bribe. The case was pending at year's end.

Violence and lethal force at police roadblocks and checkpoints continued during the year (*see* Section 2.d.). For example, in June in Lagos, customs officers reportedly shot and killed Agene Akinrinde, while attempting to extort money from motorists. A police investigation was pending at year's end, but no charges were filed.

On June 14, a policeman shot and killed Oluwatosin Adelugba, a 16-year-old student, at a Lagos checkpoint after the driver of a bus he was a passenger on refused to pay a bribe. The policeman was dismissed, arrested, and charged with the murder of the student; the case was pending at year's end.

In June in Lagos, police at a checkpoint shot and killed Nnamdi Francis Ekwuyasi and Akerele Marakinyo. Lagos State Police Commissioner Young Arebamen apologized to the victims' families following the incident. According to the Lagos State Police Command, the police officer involved in the shooting was arrested, detained, and charged with murder. The Center for Law Enforcement Education (CLEEN) acknowledged the police force for the dismissal and arraignment of the officer.

Police and military personnel used excessive force and sometimes deadly force in the suppression of civil unrest, property vandalization, and interethnic violence, primarily in the oil and gas areas of the States of the Niger Delta and in Plateau State (*see* Sections 2.b. and 5). Although less frequent than in previous years, there were occurrences of summary executions, assaults, and other abuses carried out by military personnel and paramilitary mobile police across the Niger Delta. In August there were unconfirmed reports that four women in Ondo were killed after they trespassed on oil production platforms; oil company officials denied the reports. The Ondo government set up a committee to investigate the allegations; by year's end, the report still was pending and no one had been charged formally. Confrontations between increasingly militant "youths" (generally unemployed males between the ages of 16 and 40), oil companies, and government authorities continued during the year.

The Government deployed the army numerous times during the year to restore order when ethno-religious conflicts became violent (*see* Section 5). There were no credible reports that soldiers used excessive force while attempting to restore order, in part because troops already were maintaining order in several areas of the country. In other instances, it was reported that the deployment of the army stopped the violence, saving lives and property. On October 13, a Joint Security Taskforce of soldiers and the police killed 6 civilians during a communal clash involving Fulani and the inhabitants of Kassa-Haipang, Plateau.

President Obasanjo preferred to let the police deal with civil disturbances, deploying military reinforcements only in situations where the police were unable to restore order. In response to public pressure or formal requests from state governments, the Federal government deployed the army on occasion to restore order after civil unrest, and units remained deployed in troubled areas for long periods during the year. There were reports that soldiers from some units committed serious abuses while performing this policing role, although the number of such incidents had decreased markedly from the previous year.

The Commission established in March to investigate the October 2001 killing of approximately 200 civilians in Benue State continued to gather evidence and hold hearings during the year. The Commission finished its public hearings by year's end

but its report and findings were not finalized. No action was taken against security forces that used excessive and lethal force to restore order in October 2001 in Kano.

No action was taken against security forces in the following 2001 cases: The February killing of 10 persons and destruction of the headquarters of the Movement for the Actualization of the Sovereign State of Biafra (MASSOB) in Okigwe; the June shooting of an Ogoni man; the July killing of a local youth in Bayelsa State; the August killing of four PDP members at a checkpoint in Ebonyi State; the September killing of 22 detainees in Jos; and the death of four Igbo traders during a police raid.

The death sentence of three policemen for crimes of theft and the killings of five persons in Kogi State had been not carried out by year's end.

There were no developments in the May 2000 alleged killing by security forces of a young woman who obstructed the motorcade of Lagos Deputy Governor. The case was still pending in court.

No action was taken against the members of the security forces in the following cases from 2000: The police in Lagos who reportedly killed 509 suspected armed robbers and injured 113 robbery suspects during the course of making 3,166 arrests during that year; the security forces responsible for the killing of 28 Delta youths in March and April; the June killing of 2 persons in Abuja; the June killing of 5 persons for suspected vandalization; the July killing of 1 person when a strike was dispersed forcibly; and the August killing of a Nnamdi Azikiwe University student.

Criminal suspects died from unnatural causes while in official custody, usually as the result of neglect and harsh treatment. Unlike in the previous year, there were no reports that police killed persons suspected of belonging to the OPC if they found ceremonial cuts or marking on the detainees' backs. There were only a few cases in which members of the police were held accountable for abuses. Harsh and life-threatening prison conditions and denial of proper medical treatment also contributed to the deaths of numerous inmates (*see* Section 1.c.).

Trials against Keniwer Imo Neweigha, Monday Diongoli, Timi Epengele, Onoriode David, Ebi Clifford Saibu, Derioteidou Aganaba, Timinepre Keren, Joshua Godspower, John Zitua, and Benson Odiwei for the alleged murder of 12 policemen and 6 civilians that sparked the 1999 leveling of Odi by federal troops, were ongoing at year's end. On May 6, a Lagos court determined that the prosecution had presented a prima facie case; although the trial was to begin May 27, there were no further developments during the year.

On July 11 charges against Mohammed Abacha, former President Abacha's son, for the 1996 murder of Kudirat Abiola, a prominent prodemocracy activist were dropped when the Supreme Court ruled that prosecutors failed to establish a prima facie case. Critics asserted that Supreme Court decision was erroneous and part of a deal between the Abacha family and the Government pursuant to which Abacha was released in exchange for the return of \$1.2 billion in stolen funds. On July 24, Abacha was granted bail while 111 lesser charges against him were still pending. On September 23, Abacha was released and was confined to Kano.

There were several killings by unknown persons that may have been politically motivated. For example, on June 11, Maria Theresa Nsa, a magistrate in Calabar, Cross River State, was found dead in her home after she denied bail to a group of murder suspects. Police said she had been hacked to death. There were no witnesses to the crime, but police vowed to hunt diligently for those responsible.

On August 29, in Enugu, Victor Nwankwo, managing director of a prominent publishing company, was killed near his home under questionable circumstances. Police concluded that Nwankwo was killed during an armed robbery, and on September 10, they arrested a man who allegedly had confessed to the crime. Nwankwo's brother Arthur, an outspoken author, activist, and political critic claimed Nwankwo was killed for political reasons and that an official conspiracy was underway to conceal the facts of the crime.

On October 15, in Enugu State, Professor Chimere Ikwkwu, former vice chancellor of the University of Nigeria Nsukka, was shot in his home and died hours later in a hospital. The hospital staff reportedly refused to treat Ikwkwu without first receiving a police report about the incident that caused his injuries. Police termed the killing an armed robbery and arrested 10 suspects the following day; however, civic groups alleged he may have been killed for political reasons.

There were no developments in the August 2001 incident in which unknown assailants shot and killed Rivers State Assemblyman Monday Ndor outside his residence.

In May 11 suspects were arraigned for the December 2001 killing of Osun State Representative Odunayo Olagbaju; in August 7 additional suspects were arrested but by year's end, the original 11 had been freed on bail. The incident remained under investigation.



At least 27 suspects were detained during the year in connection with the December 2001 killing of Justice Minister Bola Ige. In October 11 of the suspects were charged with the murder. No trial date had been set at year's end.

Killings carried out by organized gangs of armed robbers remained commonplace during the year. In most Southeastern states, state governments supported vigilante groups, the most well-known of which was the "Bakassi Boys," officially known as the Anambra State Vigilante Service. Like most vigilante groups, the Bakassi Boys killed suspected criminals rather than turn them over to police; in some cases, the Bakassi Boys mutilated alleged criminals, cutting off hands or arms, rather than killing the suspects. They also were accused of harassing and threatening political opponents of their sponsors.

CLEEN called on the Government to disband vigilante groups in a 45-page report released in May. CLEEN documented hundreds of cases in which the Bakassi Boys arbitrarily detained, tortured, and killed suspected criminals, church leaders, and political leaders. Vigilante groups reportedly set on fire and mutilated suspected criminals. The report also criticized the actions of the OPC, the Egbesu Boys of Africa, and MASSOB.

In April members of Amnesty International (AI) witnessed an attempted summary execution in Anambra. According to the report, members of the Bakassi Boys poured gasoline on the victim, who already was bleeding and appeared badly beaten. When the vigilantes realized they were being observed, they placed the victim in a van and drove away.

On May 29, Bakassi Boys reportedly killed 20 persons in Onitsha, Anambra State and, on May 30, they publicly executed 8 persons in the same city. There were reports that the Bakassi Boys killed 23 persons in other locations in Anambra between May 24 and May 26. Despite the Bakassi Boys egregious misconduct, on June 10, the Governor of Ebonyi State announced that he planned to enact a law officially recognizing the Bakassi Boys.

In August in Abia State, police raided alleged "torture chambers" operated by the Bakassi Boys. A police spokesman reported 11 police officers were injured during the raid, and 1 civilian was killed.

Other organized vigilante groups in large cities, particularly Lagos and Kano committed numerous killings of suspected criminals. These vigilante groups engaged in lengthy and well-organized attempts to apprehend criminals after the commission of the alleged offenses. In Lagos State, the vigilante group the OPC clashed repeatedly with the police. On January 11, in Owo, Ondo, suspected supporters of the OPC clashed with a group of rival local youths. Police officers also reportedly were involved in the fighting. Credible estimates indicate up to 35 persons were killed in the clashes. Police in Ondo State declared Ganiyu Adams a wanted man following the incident. Police were investigating the matter at year's end.

No action was taken against members of vigilante groups who killed or injured persons during the year.

There continued to be numerous reports of street mobs apprehending and killing suspected criminals during the year, but no developments in cases from previous years. The practice of "necklacing" criminals (placing a gasoline-soaked tire around a victim's neck or torso and then igniting it, burning the victim to death) caught in the act occurred in several cities.

Political primaries held in June and July by the ruling PDP to determine candidates for 2003 local government elections turned violent in several states. A number of states postponed the primaries in all or large portions of their territory in anticipation of trouble. Other states canceled primaries when clashes between party factions became too difficult to control.

On June 30, two persons were killed in Delta during a local PDP caucus. In July 4 to 8 persons were killed in primary-related violence in Bayelsa State. There were unconfirmed reports that 50 persons were killed in Nembe, Bayelsa, in violence between two rival gangs, the Tama Boys and the Isoungufuro Youths. In Taraba two persons reportedly were killed and 10 injured in election-related violence. In Kaduna State, 15 persons reportedly were killed during the PDP primaries.

In August unknown assailants fatally shot the Kwara PDP chairman. No arrests were made in the case.

In September unknown assailants killed Barnabas Igwe, the Chairman of the Anambra State branch of the Nigerian Bar Association and his wife. Igwe was a leading lawyer and outspoken critic of the Anambra State Governor.

There were no developments in the October 2000 incident in which 4 persons were killed and 19 were injured critically during violent clashes between supporters of the All People's Party (APP) and PDP in Gusau, Zamfara.

Lethal interethnic, intraethnic, and interreligious violence occurred during the year at diminished levels (*see* Section 5). Sporadic communal violence continued be-

tween Tivs, Jukuns, and other tribes in Taraba, Benue, Nassarawa, and Plateau States during the year, killing dozens of persons. Numerous persons were killed in frequent ethno-religious and communal violence throughout the year in Plateau.

During the year, members of student affinity groups, commonly known as cults, occasionally killed students from rival groups. Cultism in schools gradually was becoming a national issue. Rivalry and fighting between and among rival cultist groups in higher institutions has led to the killing of persons and destruction of property. University of Nigeria, Nsukka, in the east was closed when rival cultist groups engaged each other in a fight and three students reportedly were killed and property was destroyed. University of Calabar, University of Ibadan, and University of Ife in the south have been closed for the last 2 years due to violent cultist activities. At the Federal College of Education in Zaria in late September and early October, violence between Christian and Muslim students erupted over student elections. A dozen students reportedly were killed and more injured.

*b. Disappearance.*—There were no reports of politically motivated disappearances during the year. There were no developments in the charges made by the OPC in 2000 that the police were responsible for the disappearance of at least two of its members.

Members of ethnic groups in the oil-producing areas kidnaped foreign and local oil company employees to press their demands for more redistribution of wealth generated by joint ventures with the state-controlled petroleum corporation. In all instances, the victims were released unharmed after negotiations between the captors and the oil firms; the firms usually paid ransoms and promised improved conditions.

There also were numerous instances of strictly criminal kidnaping, in which the perpetrators' objective was to obtain ransom payments for the release of the victims. During the year, there were a greater number of kidnapings by criminals to extort money than for "political" reasons. Some kidnapings, particularly in the Delta, appear to have been part of longstanding ethnic disputes over resources. Due to limited manpower and resources, the police and armed forces rarely were able to confront the perpetrators of these acts, especially in the volatile Delta region. A lack of resources prevented judicial investigations from taking place so kidnapings routinely were not investigated.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits cruel and degrading treatment and punishment, and the law provides for punishment of such abuses; however, during the year, police, military and security force officers regularly beat protesters, criminal suspects, detainees, and convicted prisoners. Police regularly physically mistreated civilians in attempts to extort money from them. The law prohibits the introduction into trials of evidence and confessions obtained through torture.

Different versions of criminal Islamic Shari'a law were in place in 12 northern states (*see* Section 2.c.). Shari'a courts delivered "hadd" sentences such as amputation for theft, caning for fornication and public drunkenness, and death by stoning for adultery. Because no applicable case has reached the federal level, federal appellate courts have yet to decide whether such punishments represent impermissible "torture or . . . inhuman or degrading treatment" as defined by the Constitution. In both common law and Shari'a courts, indigent persons without legal representation were more likely to have their sentences carried out immediately upon being sentenced; all accused persons have the right to appeal. The Government has instituted a panel of legal scholars to draft a uniform Shari'a criminal statute for all northern states to replace divergent Shari'a statutes adopted by the states; however, states continued to apply their individual codes.

Convicted Muslim criminals in Shari'a law states were subjected to public caning for various offenses, such as petty theft, public consumption of alcohol, and engaging in prostitution. For example, in January a Shari'a judge was flogged publicly after being convicted of consuming alcohol. Caning as a punishment under common law, the Northern Nigerian Penal Code, and Shari'a law has not been challenged in the court system as a violation of the cruel and inhuman punishment clause in the Constitution.

Stoning and amputation sentences have been overturned on procedural or evidentiary grounds not on constitutional grounds. For example, Safiya Hussaini was convicted of adultery and sentenced to death by stoning by a Shari'a court in Sokoto in September 2001. She filed an appeal challenging her conviction on numerous procedural, substantive, and factual grounds. On March 25, accepting many of the defense team's arguments, the Sokoto Shari'a Appeals Court overturned Hussaini's conviction. However, the constitutionality of these sentences will most likely not be determined until one of these cases reaches the federal appellate court system.

The Constitution permits capital punishment. In January a Katsina man was hanged in Kaduna State after being convicted in a Shari'a court of fatally stabbing a woman and her two children. The defendant requested to defend himself and did not have legal representation during his trial. Although Shari'a courts sentenced other persons to death, this was the only death sentence carried out under Shari'a law.

In April in Katsina, Amina Lawal was sentenced to death by stoning for adultery. In August her first appeal was denied, but the sentence was stayed pending further appeals. The case was before the Katsina Shari'a Appeals court, but no new trial date had been set at year's end.

In May a Jigawa man was convicted and sentenced to death by stoning for raping a 9-year-old girl, who later died. The man pleaded guilty and waived his right to appeal, but an appeal subsequently was filed on his behalf by relatives. In October the man withdrew his confession, claiming police tortured him into making the confession and, at the time of the forced confession, he was unaware that rape was a capital offense.

In June a Shari'a court in Bauchi convicted Yunusa Rafin Chiyawa of adultery, sentencing him to death by stoning. He was the first man convicted of adultery under Shari'a law. Aisha Haruna, his alleged partner, was acquitted. It was unclear whether the defendant would appeal his conviction.

In September a couple in Niger were convicted of adultery and sentenced to be stoned to death. The Shari'a court initially denied bail but later granted bail in October. Defense attorneys for the couple planned to appeal.

In September in Port Harcourt, a nongovernmental organization (NGO) charged that 20 MASSOB activists were detained unlawfully and tortured in Owerri, Imo State.

During the year, security forces beat persons. For example, in May in Lagos, four police officers and two soldiers reportedly beat five commercial motorcycle operators.

In August in Warri, Delta State, security agents allegedly beat and injured 800 women who were trespassing on the grounds of the headquarters of Shell and Chevron-Texaco; the authorities denied the allegations.

Security forces beat journalists during the year (*see* Section 2.a.).

Allegations of the involvement of government officials in trafficking was widespread (*see* Section 6.f.).

Although there were numerous ethnic clashes during the year (*see* Section 5), the number of persons who were beaten or injured severely was lower than in previous years. Unlike in previous years, the military was able to respond more quickly, due largely to the fact that military units already were deployed in some areas when violence broke out. The police generally lacked the resources to control communal violence (*see* Section 1.a.).

In early March, a federal high court in Makurdi, Benue State, ordered the withdrawal of troops sent to the state to end a conflict between ethnic Tiv and Jukun in 2001. In April Human Rights Watch, with support from the Kaduna-based NGO Human Rights Monitor, published a report entitled "Nigeria: Military Revenge in Benue." The report, in addition to citing the October 2001 massacre of civilians by soldiers, also claimed that military forces stationed in the region until March were responsible for several cases of rape, extortion, and looting. The Benue Panel of Inquiry, convened in March, continued taking testimony and was investigating the incident at year's end.

Hamza Al Mustapha, Muhammed Rabo Lawal, Lateef Shofolahan, Mohammed Aminu, Colonel Yakubu, Ishaya Bamaiyi, James Danbaba, and Barnabas ("Rogers") Mshelia remained in detention under the secular criminal system as suspects in the 1996 attempted murder of Guardian newspaper publisher Alex Ibru; however, the trial was adjourned pending allegations by the defendants that the presiding judge demanded a bribe in exchange for releasing the defendants. The judge was cleared by an investigation panel, but the trial had not resumed by year's end.

There was no update in the June 2001 bombing in Bayelsa State.

Prison and detention conditions remained harsh and life threatening. Most prisons were built 70 to 80 years ago and lacked functioning basic facilities. Lack of potable water, inadequate sewage facilities, and severe overcrowding resulted in unhealthy and dangerous sanitary conditions. Some prisons held 200 to 300 percent more persons than their designed capacity. The Government acknowledged overcrowding as the main cause of the harsh conditions common in the prison system. According to government sources, approximately 45,000 inmates were held in a system of 148 prisons and 83 satellite prisons, with a maximum designed capacity of 33,348 prisoners. Some human rights groups estimated a higher number of inmates, perhaps as many as 47,000.

Disease was pervasive in the cramped, poorly ventilated facilities, and chronic shortages of medical supplies were reported. Prison inmates were allowed outside their cells for recreation or exercise only irregularly, and many inmates had to provide their own food. Only those with money or whose relatives brought food regularly had sufficient food; petty corruption among prison officials made it difficult for money provided for food to reach prisoners. Poor inmates often relied on handouts from others to survive. Beds or mattresses were not provided to many inmates, forcing them to sleep on concrete floors, often without a blanket. Prison officials, police, and security forces often denied inmates food and medical treatment as a form of punishment or to extort money from them. Harsh conditions and denial of proper medical treatment contributed to the deaths of numerous prisoners. According to the NGO Prisoners Rehabilitation and Welfare Action (PRAWA), dead inmates promptly were buried on the prison compounds, usually without notifying their families. A nationwide estimate of the number of inmates who die in the country's prisons was difficult to obtain because of poor record keeping by prison officials. PRAWA and other NGOs alleged that prison conditions were worse in rural areas than in urban districts.

In practice women and juveniles were held with male prisoners, especially in rural areas. The extent of abuse in these conditions was unknown. In most cases, women accused of minor offenses were released on bail; however, women accused of serious offenses were detained. Although the law stipulates that "no child shall be ordered to be imprisoned," juvenile offenders were incarcerated routinely along with adult criminals. There was no formalized procedure regarding the separation of detainees and convicted prisoners, and the method of confinement depended solely on the capacity of the facility; as a result, detainees often were housed with convicted prisoners.

According to the NHRC, 70 to 80 percent of the entire prison population was awaiting trial. Some had been waiting as long as 12 years, while many had approached the maximum length of their sentences. Multiple adjournments in some cases had led to serious delays (see Section 1.d.). In May in Lagos, hundreds of inmates awaiting trial filed suit with a Federal High Court in Lagos to challenge the constitutionality of the section of criminal procedure law invoked by magistrates to remand them to prison without standing trial. In October in Edo State, up to 100 prisoners reportedly were released unconditionally from 4 prisons after charges still had not been filed against them despite years in detention. Case files were missing for many of those released. The NHRC also reported it was able to secure the release of around 150 prisoners awaiting trial, most of whom had already exceeded the maximum sentence they could have received, had the case been tried. In December the Governor of Akwa Ibom State made a similar release of 17 prisoners.

The Ministry of Justice worked to create a judicial administration committee to address the questions of overcrowding, prison conditions, and rehabilitation. The NHRC began working with the Ministry of Justice and the Legal Resources Consortium in 2001 to draft a new prisons' bill to conform with minimum standard rules of prisons practice and provisions of the U.N. The NHRC also urged the Government and police not to detain persons in civil cases.

The Government allowed international and domestic NGOs, including PRAWA and the International Committee of the Red Cross (ICRC), regular access to prisons; however, it did not allow them continuous access to all prisons. PRAWA and the ICRC published newsletters on their work. The Government admitted that there were problems with its incarceration and rehabilitation programs and worked with groups such as these to address those problems. However, groups such as Rotary International have reported difficulties in the past at the local level in gaining access to prisons and jails to do rehabilitation programs.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, security forces generally did not observe these prohibitions. Police and security forces continued to use arbitrary arrest and detention.

Police and security forces were empowered to make arrests without warrants based on a reasonable suspicion that a person had committed an offense; they often abused this power. Under the Fundamental Rights Enforcement Procedures Rules of the Constitution, police may arrest and detain persons for 24 hours before charging them with an offense. The law requires an arresting officer to inform the accused of charges at the time of arrest and to take the accused persons to a police station for processing within a reasonable amount of time. By law police must provide suspects with the opportunity to engage counsel and post bail. However, police generally did not adhere to these procedures. Suspects routinely were detained without being informed of the charges, denied access to counsel and family members, and denied the opportunity to post bail for bailable offenses. Detainees often were kept incommunicado for long periods of time. The provision for bail often was arbi-

trary or subject to extrajudicial influence. In many parts of the country, there was no functioning system of bail, so many suspects were held in investigative detention for sustained periods of time. Numerous suspects alleged that police demanded payment before they were taken to court to have their cases heard. If family members attended court proceedings, police often demanded an additional payment.

Security forces detained journalists on a few occasions during the year (*see* Section 2.a.). Students in general no longer were singled out for arrest because of political activities; however, many students were detained during the year for allegedly taking part in cult or criminal activities on university campuses (*see* Section 1.a.).

During the year, police arrested labor leaders during strikes (*see* Section 6.b.). In February in Onitsha, attorney Olusoga Omotayo filed suit against the Anambra State Police Commissioner, alleging illegal arrest and detention. Omotayo charged that he was detained illegally in December 2001. The matter still was pending at year's end.

On March 2, the SSS detained and interrogated for 16 hours Pastor Tunde Bakare after he returned to the country from Ghana. Bakare allegedly prophesied the fall of the Obasanjo government. Media reports claiming that his passport was confiscated could not be verified.

In June Ibrahim Onuomada, PDP youth leader in Enugu, filed charges against five police officers and a traditional ruler, alleging unlawful detention, threat to life, and extortion after he was detained during the year.

In September mobile policemen reportedly raided MASSOB's headquarters and made arrests following allegations that MASSOB and Bakassi Boys were responsible for the murders of Barnabas and Abigail Igwe in Anambra State. The Constitutional Rights Project (CRP), the pan-Yoruba group Afenifere, and the Catholic Archbishop of Lagos publicly criticized the police tactics used to deal with MASSOB. MASSOB leader Ralph Uwazurike claimed that 1,000 MASSOB members remained in detention without charge in Umuahia, Abia State.

OPC members continued to be arrested and detained without trial. Others were charged as armed robbers and tried accordingly. In 2000 the Committee for the Defense of Human Rights reported that 302 OPC members were arrested following clashes with the police in Lagos. Of those detainees, 95 were released in 2000. The remaining detainees were not able to obtain legal representation and either could not make bail or were not eligible for bail due to the charges brought against them.

There were no new reports that IMO State prison officials worked with pretrial detainees to blackmail persons for bribes.

Lengthy pretrial detention remained a serious problem. According to the Constitution, persons charged with offenses have the right to an expeditious trial; however, in practice this right was not respected. Serious backlogs, endemic corruption, and undue political influence continued to hamper the judicial system (*see* Section 1.e.). The Controller-General of prisons estimated that two-thirds of prisoners were detainees awaiting trial who had not been charged, other sources placed the number as high as 80 percent (*see* Section 1.c.). The NHRC urged the courts, the Ministry of Justice, and the police to expedite cases awaiting trial. Police cited their inability to transport securely detainees to trial on their scheduled trial dates as one reason why so many were denied a trial. The NHRC reported that some detainees were held because their case files had been lost.

Persons who happened to be in the vicinity of a crime when it was committed normally were held for interrogation for periods ranging from a few hours to several months. After their release, those detained frequently were asked to return repeatedly for further questioning. Police continued the practice of placing relatives and friends of wanted suspects in detention without criminal charge to induce suspects to surrender.

In 2000 Ismaila Gwarzo, the national security advisor to former Head of State General Sani Abacha, was placed under house arrest without any charges being brought. He remained restricted to his hometown in Kano State at year's end.

The Constitution prohibits the expulsion of citizens, and the Government did not use forced exile. Many citizens who had lived abroad due to fear of persecution under previous military regimes continued to return to the country during the year.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary. Although the judicial branch remained susceptible to executive and legislative branch pressure, decisions at the federal level were indicative of greater independence. The judiciary was influenced by political leaders particularly at the state and local levels. Understaffing, underfunding, inefficiency, and corruption continued to prevent the judiciary from functioning adequately. Citizens encountered long delays and frequent requests from judicial officials for small bribes in order to expedite cases. In September President Obasanjo wrote to the Senate requesting that the recommendations of the 1993 Esho Panel, whose purpose was to investigate corruption

in the judiciary, that called for the “withdrawal” of 47 judicial officials be implemented.

Under the Constitution, the regular court system was composed of federal and state trial courts, state appeals courts, the Federal Court of Appeal, and the Federal Supreme Court. There also were Shari’a (Islamic) and customary (traditional) courts of appeal for each state and for the Federal Capital Territory (Abuja). Courts of the first instance include magistrate or district courts, customary or traditional courts, Shari’a courts, and for some specified cases, the state high courts. The Constitution also provides that the Government establish a Federal Shari’a Court of Appeal and Final Court of Appeal; however, the Government had not yet established such courts by year’s end. The nature of the case usually determined which court had jurisdiction. In principle customary and Shari’a courts had jurisdiction only if both plaintiff and defendant agree. However, in practice fear of legal costs, delays, distance to alternative venues, and individual preference caused many litigants to choose the customary and Shari’a courts over the regular venues (*see* Section 1.c.).

Criminal justice procedures call for trial within 3 months of arraignment for most categories of crimes; however, there were considerable delays, often stretching to several years, in bringing suspects to trial (*see* Section 1.d.). Trials in the regular court system were public and generally respected constitutionally protected individual rights in criminal cases, including a presumption of innocence, and the right to be present, to confront witnesses, to present evidence, and to be represented by legal counsel. However, there was a widespread perception that judges easily were bribed or “settled,” and that litigants could not rely on the courts to render impartial judgments. Most detainees were poor and could not afford to pay the costs associated with moving their trials forward, and as a result they remained in prison. Wealthier defendants employed numerous delaying tactics and in many cases used financial inducements to persuade judges to grant numerous continuances. Such practices clogged the court calendar and prevented trials from starting.

Many courts were understaffed, and personnel were paid poorly. Judges frequently failed to appear for trials, often because they were pursuing other means of income. In addition, court officials often lacked the proper equipment, training, and motivation to perform their duties, again primarily due to inadequate compensation.

There were no legal provisions barring women or other groups from testifying in civil court or giving their testimony less weight; however, the testimony of women and non-Muslims usually was accorded less weight in Shari’a courts.

In response to ongoing petitions by the Movement for the Survival of the Ogoni People (MOSOP) and the Saro-Wiwa family, the Oputa Human Rights panel submitted its recommendations to the Presidency regarding the possible reversal of the Auta Tribunal’s conviction Saro-Wiwa and the Ogoni-9 in October 1995. The appeal aimed to clear the names of Saro-Wiwa and the Ogoni activists, who were executed by the regime of Sani Abacha in November 1995. Final decisions on this and several other petition cases had not been published by year’s end. The nine MOSOP members executed by the Abacha regime, who had been buried in unmarked graves, reportedly were exhumed and reburied.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, authorities at times continued to infringe on these rights.

Police and security forces continued the practice of placing relatives and friends of wanted suspects in detention without criminal charge to induce suspects to surrender to arrest. Human rights groups called for the police to end the practice.

Purdah, the Islamic practice of keeping girls and women in seclusion from men outside the family, continued in parts of the country, which restricted the freedom of movement of women.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights; however, there were problems in some areas.

The Government owned and controlled numerous publications; however, there was a large and vibrant private domestic press that frequently was critical of the Government. There were two national, government-owned daily newspapers in English, the *New Nigerian* and the *Daily Times*. The *New Nigerian* published an additional Hausa edition. Several states owned daily or weekly newspapers that also were published in English. They tended to be produced poorly, have limited circulation, and required large state subsidies to continue operating. By year’s end, there were more

than 10 major daily newspapers, two newsmagazines, and several sensational evening newspapers and tabloid publications.

Decree 60 created the Press Council, which was charged with the enforcement of professional ethics and the sanctioning of journalists who violated these ethics. Decree 60 attempted to put control of journalism in the hands of journalists who were appointed by and received payment from the Government. Decree 60 gave the Press Council the power to accredit, register, and suspend journalists; required that publications be registered by the Council annually through a system entitled "Documentation of Newspapers"; and empowered the Council to approve a code of professional and ethical conduct to guide the press and to ensure compliance by journalists. The Press Council opened an office and hired staff in Abuja; however, it did not take any official action during the year. While the decree never has been used to sanction any journalists, many journalists fear that the existence of the decree and the Council could place significant limitations on freedom of the press in the future. On January 30, Senator Jonathan Zwingina, chairman of the Senate Committee on Information, told members of the National Broadcast Commission (NBC) that the National Assembly still was reviewing the Decree 60 press laws.

Editors reported that government security officers sometimes visited or called to demand information about a story or source; however, journalists and editors no longer feared suspension or imprisonment for their editorial decisions. Local NGOs suggested that actual human rights abuses and killings were underreported due in part to self-censorship by newspaper editors and owners. State broadcasters and journalists remained important tools for civilian governors; these officials used the state-owned media to showcase the state's accomplishments and to promote their own political goals.

During the year, there were few cases of threats against and attacks on the press. On February 14, ten policemen in Lagos allegedly beat journalist Adeyemi Adebajo.

A High Court in Kogi State ordered the arrest of the Daily Times' managing director and editor for contempt of court after the two ignored an order prohibiting them from publishing any further stories about Kogi State Governor Abubakar Audu. The arrest orders were not enforced by year's end, and the newspaper has stopped publishing similar stories.

The Deputy Governor of Zamfara State issued a "fatwah" death sentence on Isioma Daniels, one of the journalists responsible for an article about the Miss World Pageant that sparked violence in Kaduna (*see* Section 2.c.). The Government and most Islamic leaders criticized the Deputy Governor and declared the fatwah improper.

There were no further developments in the following 2001 cases: The beating of a photographer by police; the May burning of publications on MASSOB in Imo State; and the detention and charge of libel against Nnamdi Onyeuma.

There were no further developments in the 2000 detention of journalists Emmanuel Okike-ogah, Ogbonaya Okorie, and Ademola Adegbamigbe and his photographer.

Because newspapers and television were relatively expensive and literacy levels were low, radio remained the most important medium of mass communication and information. There was a national radio broadcaster, the Federal Radio Corporation of Nigeria, which broadcast in English, Hausa, Yoruba, Igbo, and other languages; 51 state radio stations broadcast in English and local languages. There were six private radio stations operating during the year. In February the NBC, the body responsible for the deregulation and monitoring of the broadcast media, licensed 16 new private radio stations, including Atlantic FM broadcasting in French, Spectrum FM mainly for news, Brilla FM for sports, and a University of Lagos station specializing in academic broadcasting.

International broadcasting, principally Voice of America and British Broadcasting Corporation, as well as Deutsche Welle and others, broadcast in English and Hausa and were an important source of news in the country. Several international broadcasting organizations reported that their accreditation renewals initially were denied but they later were allowed to reapply.

In March the Director-General of the Federal Radio Corporation of Nigeria (FRCN), Mr. Eddie Iroh, stopped the Kaduna branch of the FRCN from airing the political advertising of Presidential aspirant Alhaji Abubakar Rimi. FRCN reportedly refunded a portion of Rimi's payments. The Independent National Electoral Commission (INEC) and the NBC supported the decision, contending that it was too early to begin campaigning since INEC had yet to issue guidelines. However, reporting about events sponsored by persons and organizations supporting the re-election campaign of President Obasanjo was carried by government-owned broadcasters.

Igha Oghole, a journalist with Radio Benue, Makurdi, who was detained in January 2001, was released during the year.

The National Television Station, NTA, was federally owned, and 30 states also operated television stations. There were nine privately owned television stations that broadcast domestic news and political commentary. There were two private satellite television services. The law requires that local television stations limit programming from other countries to 40 percent and restricted the foreign content of satellite broadcasting to 20 percent; however, the Government did not restrict access to, or reception of, international cable or satellite television.

In 2001 the NBC threatened to take private television and radio stations off the air when the stations refused to pay 2.5 percent of their gross income to the NBC; the Independent Broadcasters Association of Nigeria (IBAN) challenged the fees in court. In October 2001, President Obasanjo set the annual fee for the broadcasters at \$1,300 (150,000 naira). In 2001 the NBC also prevented the commissioning of the Here and There television station in Oyo State, ruling that the original license had expired. The NBC also challenged expansion plans by African Independent Television (AIT), a part of Daar Communications, claiming that AIT's global and terrestrial licenses do not allow them to act as a network. AIT has been allowed to expand.

While private television and radio broadcasters remained economically viable on advertising revenues alone, despite the restrictions that the Government imposed on them, government-sponsored broadcasting companies complained that government funding and advertising were inadequate for their needs.

Foreign journalists who sought to enter the country to cover political developments generally have been able to obtain visas. In April the Government announced that Time (International) magazine reporter Stephen Faris was subject to arrest for publishing a "false" report alleging a bribery scandal in the country. The magazine accused Minister of Information and National Orientation, Professor Jerry Gana, of offering bribes of \$400 (50,000 naira) to foreign journalists to write more positive reports on the country. President Obasanjo established an investigative panel, which concluded that the magazine report was false and was intended to damage the nation's international image. At year's end, there had been no follow-up by the Government.

The Government did not restrict Internet access, although unreliable and costly telephone service limited access and hindered service providers. Government-owned NITEL operated an Internet Source Provider (ISP) that competed with dozens of privately owned ISPs.

The Government continued to take concrete steps to address the problems in the education sector and to restore academic freedom; however, the quality of secondary education remained poor. The Government identified a Coordinator for the U.N.'s Education for All program and began collecting baseline education data to identify deficiencies. Student groups alleged that numerous strikes, inadequate facilities, and the rise of cultism (or gangs) on campuses, particularly in the South, continued to hamper educational progress (*see* Section 1.a.). On several occasions during the year, protests by students resulted in harassment and arrest by police forces (*see* Section 1.d.).

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right, although some limits remained. In areas that experienced recent communal violence, police and security forces permitted public meetings and demonstrations on a case-by-case basis.

The Government continued nominally to require organizers of outdoor public functions to apply for permits, although both government authorities and those assembling often ignored this requirement. The Government retained legal provisions banning gatherings whose political, ethnic, or religious content might lead to unrest. Open-air religious services away from places of worship remained prohibited in many states due to fears that they might heighten inter-religious tensions. For example, various northern states, including Plateau, Kano, Zamfara, and Kaduna, banned public gatherings immediately following periods of ethno-religious violence, but they did so in consultation with a number of religious and traditional groups, as well as local governments, in order to prevent a recurrence of the violence. The Ondo State ban on open-air religious events remained in effect during the year. For most of the year, the September 2001 ban by the Kaduna State government on processions, rallies, demonstrations, and meetings in public places still was being enforced on a case-by-case basis.

A security forces committee ban on all political, cultural, and religious meetings in Plateau State following ethno-religious violence in Jos, the state capital, continued to be implemented on an ad hoc basis (*see* Section 5).



Police continued to disrupt meetings of the OPC and maintained a ban on the organization. Police also reportedly harassed members of the Bakassi Boys, Egbesu Boys, MASSOB, MOSOP, and other groups.

On March 7, in Enugu State, police raided a weekly religious crusade led by Catholic priest Father Ejike Mbaka. In the resulting melee, at least 14 persons were killed and several others seriously injured. The police later detained Enugu Catholic Vicar General Reverend Obiora Ike, allegedly for criticizing the State government's role in the incident. Enugu State Assembly Representative Nwabueze Ugwu filed a petition with the Human Rights Commission in Abuja accusing Governor Chimaroke Nnamani of killing his brother and of having ordered the raid on the crusade. There were other accusations from credible sources implicating Governor Nnamani in the attack on the worshippers. According to media reports, 2 persons were killed and 20 injured when police disrupted a March 14 protest of the March 7 incident.

On August 8, one person reportedly was killed and several others injured in Warri, Delta State when security forces disrupted a rally against the neglect and degradation of the region's environment (see Section 1.c.).

No action was taken against security forces who killed or injured persons while forcibly dispersing protests in 2001.

The Constitution provides for the right to associate freely with other persons in political parties, trade unions, or special interest associations, and the Government generally respected this right in practice; however, there were exceptions. The Constitution allows the free formation of political parties, and the number of parties registered with INEC doubled to six in June. INEC cited the constitutional requirement that political parties demonstrate Federal Character in order to determine which parties to register. Due to INEC's stringent interpretation of this requirement, more than 20 other parties were denied registration. The unsuccessful parties challenged INEC's standards, and in November the Supreme Court ruled that the INEC standards were too restrictive. In early December, INEC allowed the previously unregistered bodies to register.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, including freedom to change one's religion or belief, and freedom to manifest and propagate one's religion or belief in worship, teaching, practice, and observance; however, the Government restricted these rights in certain respects. The implementation of an expanded version of Shari'a law in 12 northern states continued during the year.

The Constitution prohibits state and local governments from adopting an official religion; however, some Christians alleged that Islam had been adopted as the de facto state religion of several northern states that have reintroduced Shari'a criminal law and continued to use of state resources to fund the construction of mosques, the teaching of Alkalis (Muslim judges), and pilgrimages to Mecca (Hajj). However, government funds also were used by some states to pay for Christian pilgrimages to Jerusalem. In general states with a Christian or Muslim majority favored the majority faith. For example, in January Governor Joshua Dariye declared that he would make Plateau State a center for Christianity. Both the federal and state governments were involved in religious matters, including the regulation of mandatory religious instruction in public schools, subsidized construction of churches and mosques, state-sponsored participation in the Hajj, and pilgrimages to Jerusalem. Muslims in some predominately Christian states complained about religious discrimination. Approximately half of the population was Muslim, approximately 40 percent Christian, and roughly 10 percent practiced traditional indigenous religions or no religion.

The Constitution provides that states may elect to use Islamic (Shari'a) customary law and courts. The Constitution states that a Shari'a court of appeal may exercise "such other jurisdiction as may be conferred upon it by the law of the State." States interpreted this language as granting them the right to expand the jurisdiction of their existing Shari'a courts to include criminal matters. After the adoption of Shari'a in Zamfara in 2000, other northern states implemented forms of expanded Shari'a. By the end of 2001, 12 northern states had adopted variations of Shari'a law—Zamfara, Sokoto, Kebbi, Niger, Kano, Katsina, Kaduna, Jigawa, Yobe, Bauchi, Borno, and Gombe. Adherence to Shari'a provisions was compulsory for Muslims in some states and optional in others and enforcement varied by locale.

In November 2001, Kaduna State established a modified version of Shari'a law. The criminal and procedural codes did not come into effect until July, and national human rights groups reported that the courts in Kaduna issued several sentences for minor offenses in September. These sentences did not include corporal punishment.

Christian and Islamic groups planning to build new churches or mosques were required to register with the Corporate Affairs Commission (CAC). The CAC did not

deny registration to any religious group during the year; however, some religious groups experienced delays in obtaining permission from local zoning boards to build houses of worship. Many nascent churches and Islamic congregations ignored the registration requirement, and a small number had their places of worship shut down because of enforcement of zoning laws. Some persons claimed that enforcement of these laws was selective. In August the Christian Association of Nigeria (CAN) issued a communique in which it criticized the destruction of churches in the North.

Christians in the predominantly Muslim northern states alleged that local government officials used zoning regulations to stop or slow the establishment of new churches. Officials responded that many of these new churches were being formed in residential neighborhoods not zoned for religious purposes. The CAN offices in Zamfara and Sokoto States alleged that local authorities delayed or denied to Christians certificates of occupancy (CO's), which were required to show title to land. Zamfara and Sokoto State officials denied that religious discrimination influenced the cases cited by CAN. State officials said the certification boards were dealing with a large backlog of cases for all persons, regardless of religious faith. Muslims complained that they were denied permission to build mosques in the predominantly Christian southern states of Abia and Akwa Ibom.

Although the Government does not prohibit or discourage conversion from or to a particular religion, there were media reports that in April two men were brought to trial by Zamfara State for converting from Islam to Christianity. Prosecutors sought the death penalty; however, the judge found that the Zamfara State Shari'a code did not explicitly criminalize apostasy and he determined there was no legal basis for the case. Nevertheless, he gave the men 3 days to reconsider their alleged conversion and for the Zamfara government to furnish a legal basis why he should hear the case. The men were accused of joining an evangelical church; however, they claimed they never were Muslims but were ethnic Magazawa, a Hausa subgroup that long has practiced Christianity. There was no further action in this case by year's end.

The law prohibits religious discrimination; however, reports were common that state and local government officials discriminated against persons practicing a religion different from their own, notably in hiring or awarding contracts, and private businesses frequently were guilty of informal religious and ethnic discrimination in their hiring practices and purchasing patterns.

Unlike in the previous year, there were no reports that political party members were suspended because of religious belief or adherence.

According to media reports, in July 21 nurses in the Federal Medical Center in Azare, Bauchi State were fired for not wearing "Shari'a compliant dresses," and the Zamfara State government required Muslim dress for secondary students.

As a result of ethno-religious violence related to the expansion of Shari'a criminal law in 2000 (see Section 5), several northern state governments continued to ban public proselytizing during the year, although it is permitted by the Constitution. The Katsina and Plateau State governments maintained a ban on public proselytizing for security reasons during the year; however, some groups were allowed to carry out activities despite these formal bans, which generally were enforced on a case-by-case basis. Unlike in the previous year, there were no reports that missionaries were harassed for proselytizing. Both Christian and Muslim organizations alleged that the Ministry of Foreign Affairs and the Immigration Department restricted the entry into the country of certain religious practitioners, particularly persons suspected of intending to proselytize. Proselytizing did not appear to be restricted in the southern part of the country.

The Government continued to enforce a ban on the existence of religious organizations on campuses of primary schools, although individual students retained the right to practice their religion in recognized places of worship. According to the Constitution, students were not required to receive instruction relating to a religion other than their own; however, public school students in parts of the country were subjected to mandatory Islamic or Christian religious instruction. State authorities claimed that students were permitted to decline to attend these classes or to request a teacher of their own religion to provide alternative instruction. However, there were no teachers of "Christian Religious Knowledge" in many northern schools. There were reports that in Enugu and Edo States Muslim students could not access "Islamic Religious Knowledge" in the public schools.

Although distribution of religious publications generally remained unrestricted, the Government periodically continued to enforce a ban on published religious advertisements. There were reports by Christians in Zamfara State that the state government restricted the distribution of Christian religious literature.

The Government acknowledged the legal authority of states to implement criminal Shari'a. Although expanded Shari'a laws technically do not apply to non-Muslims, some non-Muslims, especially in Zamfara State, have been affected by certain social provisions of the laws, such as the separation of the sexes in health facilities; bans on the sale of alcohol and alcohol consumption; and decisions by some entrepreneurs not to engage in certain activities because of concern for Shari'a restrictions. In some states, cases involving only Muslims must be heard by a Shari'a court. Other states with Shari'a law still permitted Muslims to choose common law courts for criminal cases; however, societal pressure forced most Muslims to use the Shari'a court system. There were no challenges to the constitutionality of Shari'a during the year.

A number of states sanctioned private vigilante Shari'a enforcement groups that formed in states with expanded Shari'a law. Zamfara State vested the local vigilante group with full powers of arrest and prosecution because the state believed police were not enforcing the new Shari'a laws. Jigawa State also mobilized a statewide Shari'a enforcement committee to arrest, detain, and prosecute Muslim offenders. Informal Shari'a enforcement groups may have been used for some law enforcement functions in other northern states as well.

On November 20, protesters destroyed the Kaduna office of ThisDay newspaper after the paper published an article about the Miss World Pageant that many Muslims felt insulted their religion. Fueled by looters and persons with political motives, the demonstration spread. More than 200 persons were killed and thousands fled their homes seeking protection at government facilities, mainly military installations. Two Christian clerics died and several churches reportedly were burned. More than 100 persons were arrested, and investigations into the violence were ongoing at year's end. Despite widespread calls from elements of society, the responsible journalists were not jailed nor was the newspaper shut down. In December the Zamfara State Deputy Governor pronounced a "fatwah" death sentence against Isioma Daniels, the journalist responsible for the November ThisDay article. Most Muslim leaders and the Government strongly criticized Deputy Governor Shinkafi's statement saying that the fatwah was wrong and that Shinkafi did not have the legal or religious authority to order it.

Religious differences often corresponded to regional and ethnic differences. For example, the northern region was predominately Muslim. Many southern ethnic groups were predominantly Christian, although the Yoruba were approximately 50 percent Muslim. Both Muslims and Christians were found in large numbers in the Middle Belt. In many areas of the Middle Belt, Muslim Fulani tended to be herders, while the Muslim Hausa and most Christian ethnic groups tended more toward farming or urban living. It often was difficult to distinguish religious discrimination and tension from ethnic, regional, economic, and land use competition. Often religious tensions underscored what were predominantly ethnic and economic confrontations during the year. The Middle Belt experienced recurring ethno-religious violence during the year but overall violence decreased markedly from the previous year's levels.

In February between 60 and 100 persons were killed when Yoruba youth clashed with Hausa residents in the Idi-Araba area of Lagos. The incident was caused by interethnic tensions but had some religious overtones.

There also were several incidents in which Muslim youths vandalized Christian churches. For example, in June there were unconfirmed reports that Muslim youths set fire to four churches in Dutse, Jigawa State.

Ethno-religious conflict continued in many parts of Plateau during the year. There was no single incident that matched the violence and destruction of the September 2001 fighting in and around Jos; however, repeated outbreaks of violence caused dozens of deaths and resulted in the destruction of places of worship, shops, and homes. According to local leaders and other observers, because of this violence, Muslims moved away from Langtang and Christians vacated the village of Wase by year's end.

Existing tensions between Christians and Muslims caused minor incidents, such as a traffic accident, to escalate into communal violence. For example, a dispute apparently began after a Muslim man proposed marriage to a Christian woman. The woman's brother beat her, and when her fiancée intervened, a fight ensued. What began as a family dispute quickly expanded to other parts of the community, assuming ethnic and religious overtones as it spread. The Plateau State government convened the Plateau State Peace Summit to address the problem of communal and religious violence in the state. An NGO that specialized in conflict resolution also was involved actively in the state.

There were no developments in the 2001 and 2000 incidents of interreligious violence.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them; however, police occasionally restricted freedom of movement by enforcing curfews in areas with ethno-religious violence. A curfew was imposed in Kaduna after the late November rioting that resulted in more than 200 deaths. Roadblocks and checkpoints routinely were used by law enforcement agencies to search for criminals and to prevent persons traveling from areas of conflict to other parts of the country where their presence might instigate retaliatory violence. There were no reports of government officials restricting mass movements of individuals fleeing ethnic unrest.

Security and law enforcement officials continued to use excessive force at checkpoints and roadblocks and engage in extortion and violence. Police claimed to have arrested more than 500 officers on charges of extortion between June and September (*see* Section 1.a.).

The Constitution prohibits the denial of exit or entry to any citizen, and the Government generally respected this law. The law also provides that women are required to obtain permission from a male family member before having an application for a passport processed; however, this provision was not enforced strictly. Some men take their wives' and children's passports and other identification documents with them while traveling abroad to prevent their family from leaving the country.

There were no reports that the Government denied passports to political figures or journalists or interrogated citizens who were issued visas to foreign countries; however, there continued to be sporadic but unconfirmed reports that persons were questioned upon entry or exit to the country at Murtala Mohammed international airport. These persons, all of whom had been opponents of the Abacha regime, remained in immigration computer systems as individuals to be questioned by immigration or security officers. The SSS arrested Dr. Tajudeen Abdul Raheem, Chairperson of the International government Council of the Centre for Democracy and Development (CDD), on December 3 at Murtala Mohammed Airport as he prepared to depart for England. Although the SSS released Dr. Raheem the following day, his passport was not returned. Authorities stated his name appeared on a watch list.

The Lagos office of the U.N. High Commissioner for Refugees (UNHCR) estimated that 20,000 Nigerian refugees, mostly ethnic Fulani herders, were in Cameroon at year's end. The refugees had fled eastern Benue and Taraba States following ethno-religious clashes between the Tiv and Jukun peoples in January. The organization also estimated up to 100 additional Ogoni refugees arrived in Benin, bringing the total number of Ogoni refugees in that country to approximately 1,000.

During periods of ethno-religious violence, numerous persons were displaced from their places of residence. For example, in September and October 2001, several hundred thousand persons were displaced due to the ethnic conflict in Benue, Taraba, and Nassarawa States (*see* Section 5). In April media reports stated that three persons were killed and an undisclosed number injured when unknown gunmen assaulted displaced Tivs attempting to return to Taraba State. No arrests were made during the year. Hundreds of Tiv attempting to return to their homes in Taraba and Nassarawa were forced to return to Benue after non-Tiv residents of these states attacked them. Officials in Benue estimated that as many as 6,000 Tiv internally displaced persons (IDPs) were unable to return to their homes in other states. Other observers estimated that fewer than 1,000 persons remained.

In October 2001, following ethno-religious violence in Kano, many Igbo and Yoruba residents sent their families south. Many have returned. After ethno-religious violence in Plateau and Bauchi States in September and October 2001, thousands of Hausa residents fled the city of Jos in Plateau and towns in Bauchi where they had been attacked, and many of these Hausa have not returned. Many persons fleeing ethno-religious violence first found refuge in military barracks, police compounds, and other public places; some persons still were living in such government buildings at year's end. In July President Obasanjo directed the National Commission for Refugees (NCR) to assist IDPs rendered homeless during communal crises; however, it was not evident if aid was provided by year's end.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the UNHCR and other humanitarian agencies in assisting refugees through the NCR and its Federal Commissioner. The Eligibility Committee, which governed the granting of refugee status, asylum, and resettlement, reviewed refugee and resettlement applications. A representative from the

UNHCR participated in this committee. The issue of the provision of first asylum has not arisen since the establishment of the NCR.

There were an estimated 7,000 recognized refugees living in the country. By October 299 refugees had been repatriated from Nigeria to Sierra Leone through UNHCR. Remaining refugees included others from Sierra Leone, Liberia, Chad, Rwanda, and the Democratic Republic of the Congo. UNHCR's census of the refugees in the country had not been published at year's end. The Government also provided residence in the country to 3 Cameroonians, 3 Chadians, 5 Sudanese, 13 Liberians, and 17 persons from other countries. The NCR reported that it provided education and health service programs to the refugees. The NCR reportedly also set up micro-credit programs for refugees in the areas of trading, poultry and fish farming, and cassava processing.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully through periodic free and fair elections held on the basis of universal suffrage. Citizens exercised this right in national elections for president and the National Assembly in February 1999. Voter apathy and widespread fraud marred the legislative elections; however, the turnout increased for the presidential race, which proceeded peacefully with reports of only a few violent incidents. Irregularities occurred at each stage of the electoral process. International observers confirmed the results and stated that, despite widespread fraud, Obasanjo's victory reflected the will of the majority of voters. Obasanjo, 109 senators, 360 members of the House of the National Assembly, and 36 governors and state assemblies assumed office in May 1999.

The President, Vice President, and other national and state officials serve 4-year terms. The next state and national elections are scheduled for 2003. Local government elections were scheduled for May but were postponed until the registration of new parties as well as voter registration were completed. Voter registration, originally scheduled for November 2001, was delayed until September. INEC claimed the lack of government funding was the major reason for the delay; however, INEC critics also strongly questioned INEC's expertise and independence from the Government. When the exercise was carried out in September, there was widespread dissatisfaction amid charges that millions of eligible voters were unable to register due to an apparent shortage of registration materials. In addition, there were allegations of improper hoarding of registration materials by politicians. Local elections were postponed twice during the year because of the delay in voter registration. In November INEC announced that local elections would take place in February 2003.

The Constitution outlaws the seizure of the Government by force and contains provisions for the removal of the President, Vice President, ministers, legislators, and state government officials for gross misconduct or medical reasons. Several public officials were scrutinized closely by the press, public, and legislative investigators. During the year, there were several attempts to impeach President Obasanjo, Senate President Anyim, and Speaker Na'Abba. In August the House of Representatives issued a "resign or be impeached ultimatum" to President Obasanjo. Most of the opposition to the President came from legislators within his own party. In addition to the impeachment threat, public criticism of the President has been frequent and, at times, harsh; the President did not resort to force or intimidation to stifle the impeachment threat or the public criticism against him.

The political system remained in transition. The three branches of the Government acted somewhat independently. Despite his party's substantial majority in the legislature, the President was not able to exercise authority without legislative oversight and inclusiveness. The Senate and the House of Representatives took legislative responsibilities such as budget review and oversight, the election reform initiative, and resource allocation seriously, however, legislative and executive ineffectiveness and inability to compromise resulted in little substantive legislation. President Obasanjo created several commissions to investigate official corruption and human rights abuses, and these commissions received numerous petitions to present evidence of wrongdoing (see Section 4).

The Constitution was promulgated in May 1999. The drafting of the Constitution was criticized for not being open to enough participants and for not being subjected to wider debate on the country's federal structure, revenue allocation, power-sharing formulas, and minority ethnic groups' rights. Complaints about the Constitution persisted, and there were continued calls for a national conference to reexamine the constitutional and political structure of the country.

In December 2001, the President signed an electoral law that extended the tenures of local governments by rescheduling local elections in 2003. State governors and state assemblies contested the provision as an infringement on the states' constitutional power to control local government. The President vetoed an amended bill that mandated all state and national elections must take place on the same day in 2003, but in September both houses overrode the President's veto. INEC filed a lawsuit, claiming the provisions to hold local and federal elections in one day was an unconstitutional interference with its authority.

In early December, the Supreme Court ruled that INEC's interpretation of an existing law was faulty, and new political parties would be allowed to participate at all levels in 2003.

During the year, the judiciary issued several important constitutional decisions that will help define federalism based on the rule of law, including that the National Assembly lacked the authority to extend the tenure of local governments and the decision that delimited the distribution of oil revenues.

There were no legal impediments to political participation or voting by women. Men continued to dominate the political arena, and NGOs continued to protest the limited representation of women in the political process. Although there were more than 500 ministerial and National Assembly positions, there were only 6 female ministers, 3 female senators, and 12 female representatives. Women's rights groups lobbied local and state governments, as well as the Government, to adopt a 30 percent affirmative action program; however, these efforts were unsuccessful. The PDP waived the party filing fees for women seeking PDP nominations for various political offices to encourage more female candidates.

There were no legal impediments to participation in government by members of any ethnic group. The Constitution requires that government appointments reflect the country's "federal character." However, there were more than 250 ethnic groups, and it was difficult to ensure representation of every group in the Government (see Section 5). The federal and state level ministers generally were selected to represent the country's and state's regional, ethnic, and religious makeup. President Obasanjo attempted to create an ethnically inclusive government. Despite this effort, many groups complained of insufficient representation. Middle Belt and Christian officers dominated the military hierarchy. Some persons in the North believe that the northern Hausa were underrepresented in the military.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views. Criticism of the Government's past human rights' record was abundant in various media. However, in October CLEEN claimed that more than 2,000 copies of the report "Hope Betrayed? A Report on Impunity and State-Sponsored Violence in Nigeria" were impounded at the customs office in Lagos, due to "alleged political undertones of a subversive nature within the report." CLEEN also claimed that security service agents harassed three drafters of the report.

Human rights activists continued to complain that President Obasanjo and members of his government did not meet with them as frequently as they did during the early years of his administration.

The Catholic Secretariat continued to hold a monthly open forum in Lagos on various subjects relating to past and present human rights issues. Discussion panels included a number of NGOs, media, and religious leaders. Each session ended with recommendations to the Government on how best to resolve these issues. The Government had not responded to any of these recommendations by year's end.

On May 27, the Gambia-based African Commission on Human and People's Rights (ACHPR) ruled that the past military governments violated the rights of Ogonis in the Delta region. The ACHPR found that military regime security forces had terrorized and killed Ogonis with impunity. In November the NCR visited Ogoniland with a UNHCR representative on a fact-finding mission to assess Ogoni living conditions. The Commissioner acknowledged the sacrifices made by the Ogoni people for the development of democracy and began a dialog on behalf of the Federal government. The mission's report was pending at year's end.

The ICRC was active, with offices in Abuja and Lagos under the direction of a regional delegate. Its primary human rights activities during the year involved the training of prison officials on human rights, sanitation, and prisoner health (see Section 1.c.).

A number of groups spoke out against the October 2001 killings of civilians in Benue by soldiers and called for a full investigation. The Commission of Inquiry into

Communal Clashes in Benue, Nassarawa, Plateau, and Taraba States began its investigation in March, and its proceedings continued at year's end.

The NHRC, which was tasked with monitoring and protecting human rights in the country, enjoyed greater recognition by and coordination with NGOs, and worked to establish its credibility as an independent monitoring body. The NHRC was chaired by retired Justice Uche Omo and included 15 other members. The NHRC established zonal affiliates in each of the country's six political regions during the year. Since its inception, the NHRC has been denied adequate funding to do its job properly. The NHRC created a strategic work plan for the year and inaugurated steering and coordinating committees for the national action plan to be deposited with the UNCHR on December 10. During the year, it assisted in obtaining release for more than 100 prisoners detained without charge.

The HRVIP, commonly known as the Oputa panel, was a one-time panel established in 1999 by President Obasanjo to investigate human rights abuses from 1966 to 1999. The Oputa Panel was authorized to recommend courses of action to the justice system for perpetrators of past abuses, something the NHRC did not do. According to Justice Oputa, the chair, the panel's primary goal was to provide the country with a systematic examination of past human rights abuses to develop a national consensus on the boundaries of acceptable behavior by government entities as well as individuals. The panel heard cases throughout 2001, mostly involving allegations of unlawful arrest, detention, and torture as far back as the 1966 Biafran War. The panel also heard cases in which the rights of groups were violated. The Oputa Panel held extensive hearings in Lagos, Abuja, Port Harcourt, and Kano during 2001, and took evidence in the claims of more than 10,000 petitioners. The panel presented its findings to the President in late May and recommended compensation for victims of the worst human rights abuses; no one was compensated by year's end. President Obasanjo appeared before the panel to explain his role in army actions during his tenure as military head of state in the late 1970s. The family of late musician Fela Kuti claimed that Obasanjo was involved in a 1979 army raid in which Kuti's mother was killed.

After he and other former Heads of State refused to appear before the Oputa Panel in 2001 to answer questions, in June former Head of State Ibrahim Babangida filed a lawsuit banning the implementation of the panel's findings. In October Minister of Information and National Orientation, Professor Jerry Gana, reported that the Government would wait for all pending lawsuits to be decided before determining whether to publish the panel's recommendations.

#### *Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution provides citizens with the right to freedom from discrimination based on community, place of origin, ethnic group, sex, religion, or political opinion. However, customary and religious discrimination against women persisted, social discrimination on the basis of both religion and ethnicity remained widespread, and ethnic and regional tensions continued to contribute to serious violence both between citizens and the security forces and between groups of citizens.

*Women.*—Domestic violence was a problem. Reports of spousal abuse were common, especially those of wife beating. Police normally did not intervene in domestic disputes, which seldom were discussed publicly. The Penal Code permits husbands to use physical means to chastise their wives as long as it does not result in "grievous harm," which is defined as loss of sight, hearing, power of speech, facial disfigurement, or other life threatening injuries. A women's rights group estimated that spousal abuse occurred in 20 percent of adult relationships. In more traditional areas of the country, courts and police were reluctant to intervene to protect women who accused their husbands formally if the level of alleged abuse did not exceed customary norms in the areas. Rape and sexual harassment continued to be problems. In March the Legislative Advocacy Commission on Violence Against Women submitted a bill on violence against women to the House of Representatives.

The Federal government publicly opposed FGM; however, it took no legal action to curb the practice. There were no federal laws banning FGM. Because of the considerable problems that anti-FGM groups faced at the federal level, most refocused their energies to combat FGM at the state and local government area (LGA) level. In October Bayelsa State enacted a law prohibiting FGM, and penalties for breaching the law were a monetary fine or prison term. In 2000 Edo, Ogun, Cross River, Osun, and Rivers States banned FGM. In Edo State, the punishment was a \$8 (1,000 naira) fine and 6 months' imprisonment. However, once a state legislature criminalized FGM, NGOs found that they had to convince the LGA authorities that state laws were applicable in their districts.

The Women's Center for Peace and Development (WOPED) estimated that at least 50 percent of women undergo FGM. Studies conducted by the U.N. develop-

ment systems and the World Health Organization estimated the FGM rate at approximately 60 percent among the nation's female population. However, according to local experts, the prevalence may be as high as 100 percent in some ethnic enclaves in the south. While practiced in all parts of the country, FGM was more predominant in the southern and eastern zones. Women from northern states were less likely to undergo FGM; however, those affected were more likely to undergo the severe type of FGM known as infibulation. The age at which women and girls were subjected to the practice varied from the first week of life until after a woman delivers her first child. WOPED believed that the practice was perpetuated because of a cultural belief that uncircumcised women were promiscuous, unclean, unsuitable for marriage, physically undesirable, and were potential health risks to themselves and their children, especially during childbirth. The Ministry of Health, women's groups, and many NGOs sponsored public awareness projects to educate communities about the health hazards of FGM. They worked to eradicate the practice, and trained health care workers on the medical effects of FGM; however, contact with health care workers remained limited. Nevertheless most observers agreed that the number of women and girls who underwent FGM declined each year.

Prostitution was a serious social problem, particularly in urban areas. A number of states began to enforce existing laws or to introduce new laws to combat prostitution. All states that have adopted Shari'a have criminalized prostitution, and this ban was enforced with varying degrees of success. Prostitution was not illegal in Lagos State; however, authorities used statutes that outlaw pandering as a justification to arrest prostitutes. Edo State outlawed prostitution in 2000.

There was an active market for trafficking in women (*see* Section 6.f.).

In some parts of the country, women continued to be harassed for social and religious reasons. Purdah continued in parts of the far north (*see* Section 1.f.).

Women also experienced considerable discrimination. There were no laws barring women from particular fields of employment; however, women often experienced discrimination because the Government tolerated customary and religious practices that adversely affected them. The Nigerian NGOs Coalition expressed concern about continued discrimination against women in the private sector, particularly in access to employment, promotion to higher professional positions, and in salary inequality. There were credible reports that several businesses operated with a "get pregnant, get fired" policy. Women remained underrepresented in the formal sector but played an active and vital role in the country's informal economy. While the number of women employed in the business sector increased every year, women did not receive equal pay for equal work and often found it extremely difficult to acquire commercial credit or to obtain tax deductions or rebates as heads of households. Unmarried women in particular endured many forms of discrimination.

While some women made considerable individual progress both in the academic and business world, women remained underprivileged. Although women were not barred legally from owning land, under some customary land tenure systems only men could own land, and women could gain access to land only through marriage or family. In addition, many customary practices did not recognize a woman's right to inherit her husband's property, and many widows were rendered destitute when their in-laws took virtually all of the deceased husband's property. Widows were subjected to unfavorable conditions as a result of discriminatory traditional customs and economic deprivation. "Confinement" was the most common rite of deprivation to which widows were subjected, and it occurred predominately in the East. Confined widows were under restrictions for as long as 1 year and usually were required to shave their heads and dress in black. In other areas, a widow was considered a part of her husband's property, to be "inherited" by his family. Shari'a personal law protects widows' property rights. Polygyny continued to be practiced widely among all ethnic and religious groups. Women were required by law to obtain permission from a male family member to get a passport (*see* Section 2.d.). In practice, the testimony of women was not given the same weight as that of men in many criminal courts (*see* Section 1.e.).

Women were affected to varying degrees by the adoption of various forms of Shari'a law in 12 northern states. In Zamfara State, local governments instituted laws requiring the separation of Muslim men and women in transportation and health care. In violation of mainstream Shari'a jurisprudence, some Alkali judges subjected women to harsh sentences for fornication or adultery based solely upon the fact of pregnancy, while men were not convicted without eyewitnesses unless they confessed (*see* Section 1.c.).

*Children.*—While the Government increased spending on children's health in recent years, it seldom enforced even the inadequate laws designed to protect the rights of children. Public schools continued to be inadequate, and limited facilities precluded access to education for many children. The Constitution calls for the Gov-



ernment, “when practical,” to provide free, compulsory, and universal primary education; however, despite the President’s commitment to compulsory education, compulsory primary education rarely was provided. In many parts of the country, girls were discriminated against in access to education for social and economic reasons. The literacy rate for men was 58 percent but only 41 percent for women. Rural girls were even more disadvantaged than their urban counterparts. Only 42 percent of rural girls were enrolled in school compared with 72 percent of urban girls. Many families favored boys over girls in deciding which children to enroll in secondary and elementary schools. When economic hardship restricted many families’ ability to send girls to school, many girls were directed into activities such as domestic work, trading, and street vending.

While most schools in the north traditionally have separated children by gender, it was required by law in Zamfara, Sokoto, and Kebbi State schools (*see* Section 2.c.).

Cases of child abuse, abandoned infants, child prostitution, and physically harmful child labor practices remained common throughout the country (*see* Sections 6.d. and 6.f.). The Government criticized child abuse and neglect but did not undertake any significant measures to stop customary practices harmful to children, such as the sale of young girls into marriage (*see* Section 6.f.). There were credible reports that poor families sold their daughters into marriage as a means of supplementing their incomes. Young girls sometimes were forced into marriage as soon as they reached puberty, regardless of age, in order to prevent the “indecency” associated with premarital sex.

FGM was performed commonly on girls (*see* Section 5, Women).

*Persons with Disabilities.*—While the Government called for private business to institute policies that ensured fair treatment for persons with disabilities, it did not enact during the year any laws requiring greater accessibility to buildings or public transportation, nor did it formulate any policy specifically ensuring the right of persons with disabilities to work. The Government established vocational training centers in Abuja to provide training to beggars with disabilities.

*National/Racial/Ethnic Minorities.*—The country’s population was ethnically diverse, and consisted of more than 250 groups, many of which spoke distinct primary languages and were concentrated geographically. There was no majority ethnic group. The four largest ethnic groups, which comprised two-thirds of the country’s population, were the Hausa and Fulani of the north, the Yoruba of the southwest, and the Igbos of the southeast. The Ijaw of the South Delta were the fifth largest group, followed by Kanuri in the far northeast, and the Tiv in the Middle Belt.

The Constitution prohibits ethnic discrimination by the Government. In addition, the Constitution mandates that the composition of the federal, state, and local governments and their agencies, as well as the conduct of their affairs, reflect the diverse character of the country in order to promote national unity and loyalty. This provision was designed as a safeguard against domination of the Government by persons from a few states or ethnic and sectional groups. The Government was an example of this diversity: President Obasanjo is a Yoruba from the southwest, the Vice President is a northerner, and the Senate President is an Igbo. The Government also attempted to balance other key positions among the different regions and ethnic groups. The Senate used its oversight role to reject many of Obasanjo’s ambassadorial appointments and insisted on three nominees from each state for each appointment. The political parties also engaged in “zoning,” the practice of rotating positions within the party among the different regions and ethnic groups to ensure that each region was given adequate representation. Nonetheless, claims of marginalization, particularly by members of southern minority groups and Igbos, continued; in particular, the ethnic groups of the Niger Delta continued their calls for high-level representation on petroleum issues and within the security forces. Northern Muslims, who lost previously held positions within the military hierarchy, accused the Government of favoring Yorubas or Christians from the Middle Belt for those positions. Traditional linkages continued to impose considerable pressure on individual government officials to favor their own ethnic groups for important positions and patronage.

Ethnic minorities, particularly in Delta, Rivers, Bayelsa, and Akwa Ibom States, have claimed environmental degradation and government indifference to their status in the Delta despite the fact that most of oil wealth comes from the Niger Delta region. Groups such as the Ijaw, Itsekiri, Urhobo, Isoko, and Ogoni continued to express their unhappiness about their perceived economic exploitation and the environmental destruction of their homelands, and incidents of ethnic conflict and confrontation with government forces continued in the delta area (*see* Sections 1.a. and 1.b.). Other ethnic groups saw the Kaiama Declaration, which claimed the entire

Delta the property of the Ijaw, as threatening their rights. Disparate organizations of youths from a variety of ethnic groups continued to take oil company personnel hostage in the Delta Region (see Section 1.b.). Many oil companies continued to employ local police and, in some cases, military troops to protect their facilities and personnel. Local youths claimed that the companies' security personnel engaged in unlawful killings and other human rights abuses (see Section 1.a.). According to Human Rights Watch, soldiers, naval personnel, and paramilitary Mobile Police deployed across the Niger Delta carried out summary executions, assaults, and other abuses on an ongoing basis.

In July approximately 150 Itsekiri women, protesting their perceived marginalization, occupied Chevron's Escravos oil export terminal. They vacated the facility 9 days later after negotiations with Chevron.

In 2000 the Niger Delta Development Commission (NDDC) was created to facilitate local development and to grant more local autonomy over the expenditure of resources derived from the Delta; however, the NDDC did very little during the year.

Competing economic aspirations among smaller ethnic groups related to the control of state and local governments led to violent conflicts during the year.

Societal discrimination on the basis of ethnicity was practiced widely by members of all ethnic groups and was evident in private sector hiring patterns, de facto ethnic segregation of urban neighborhoods, and a continuing paucity of marriages across major ethnic and regional lines. There was a long history of tension among some ethnic groups (see Section 2.c.).

Conflict over land rights and ownership continued among members of the Tiv, Kwalla, Jukun, and Azara ethnic groups; each of these groups resided at or near the convergence of Nassarawa, Benue, and Taraba States. The Tiv, who were thought to have migrated to the country later than other inhabitants of the disputed area, were regarded as interlopers by the "indigenous" ethnic groups despite the fact that they predominate in much of Benue and parts of other states.

In January in Nassarawa State, approximately 100 persons died in communal clashes. Also in January, clashes between Fulani herders and local farming communities resulted in the deaths of 40 persons in Taraba State.

In March in Cross River State, approximately 40 persons died in fighting between the Apiapum and Ufatura communities.

Communal violence occurred throughout the year in Plateau State. Dozens died as local communities continued to compete for scarce resources. The State government reported that criminals and hired mercenaries from other areas of Nigeria, Chad, and Niger added to the violence after being hired and induced by some communities to attack rival villages in the state. In October police reported that a team of military and police killed six attackers.

In September and October 2001, ethno-religious unrest in Jos resulted in the deaths of 2,300 persons and the internal displacement of approximately 15,000 persons. Approximately 80 percent of the victims in Jos were Hausa Muslims, who constituted a significant minority in Jos. The military was able to restore order, but thousands of Hausa fled Plateau for Kaduna, Kano, Jigawa, and Bauchi. This conflict appeared to have been primarily ethnic and secondarily religious. Christians of different ethnic groups reportedly attacked each other, and Yoruba Muslims joined in targeting their Hausa co-religionists. There were reports of some IDPs returning to Plateau, but numbers cannot be confirmed and by most credible estimates the majority of the IDPs have not returned.

The violent border dispute in the east between Cross River and Akwa Ibom States diminished during the year. Communal violence also abated between Jukun-Kuteb (Taraba State). There were no new reports of communal clashes between Aguleri-Umuleri, Anambra State or Ife-Modakeke, Osun State, by the year's end.

There were no developments in 2001 incidents of ethnoreligious violence.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides all citizens with the right to assemble freely and associate with other persons, and to form or belong to any trade union or other association for the protection of their interests; however, several statutory restrictions on the right of association and on trade unions remained in effect. Only a single central labor federation, the Nigerian Labor Congress (NLC), was permitted by law, and the Government recognized only 29 trade unions. Trade unions were required to be registered formally by the Government, and a minimum of 50 workers was required to form a trade union. Nonmanagement senior staff members were prevented from joining trade unions, and senior staff associations were denied a seat on the National Labor Advisory Council (NLAC). The International Labor Organization (ILO) Committee of Experts repeatedly has cited sev-

eral of these restrictions. The Government has not amended the laws, but it has conducted discussions with senior staff associations concerning formal recognition and their accession to the NLAC.

Workers, except members of the armed forces and employees designated as essential by the Government, may join trade unions. Essential workers included members of the armed forces and government employees in the police, customs, immigration, prisons, federal mint, central bank, and telecommunications sectors. Employees working in a designated export processing zone (EPZ) may not join a union until 10 years after the start-up of the enterprise (see Section 6.b.).

According to figures provided by the NLC, total union membership was approximately 4 million. Less than 10 percent of the total work force was organized. With the exception of a small number of workers engaged in commercial food processing, the agricultural sector, which employed the bulk of the work force, was not organized. The informal sector, and small and medium enterprises, largely remained unorganized.

The Government has mandated a single trade union structure with service and industrial unions grouped under the NLC. The trade union movement was composed of two groups consisting of junior and senior staff workers. The single trade union structure and segregation of junior from senior staff were intended to dilute the bargaining strength of workers. Junior staff workers, primarily blue-collar workers, were organized into the 29 industrial unions that were affiliated with the NLC; 21 associations make up the Trade Union Congress (TUC). The TUC has a claimed membership of approximately 400,000 to 600,000. The TUC, which was composed primarily of white-collar workers, has not been sanctioned officially by the Government, and was prohibited by statute from affiliating with the NLC. The TUC lacked a seat on the NLAC.

The Maritime Workers Union continued to challenge the Government's decertification during the year.

The ILO cited a number of restrictions on freedom of association, including requiring all registered labor unions to affiliate with a single central labor federation (the NLC); establishing a minimum of 50 workers to form a trade union; providing for the possibility of compulsory arbitration; giving the registrar broad powers to supervise trade union accounts; and giving the Government discretionary power to revoke the certification of a trade union due to overriding public interests. However, in August the Government ratified several ILO conventions.

Complaints of antiunion discrimination could be brought to the Ministry of Labor for mediation, conciliation, and resolution.

The NLC and labor unions were free to affiliate with international bodies; however, prior approval from the Minister was required. The NLC had affiliated with the Organization of African Trade Unions.

*b. The Right to Organize and Bargain Collectively.*—The labor laws provide for both the right to organize and the right to bargain collectively between management and trade unions. Collective bargaining occurred throughout the public sector and the organized private sector. The Labor Minister could refer unresolved disputes to the Industrial Arbitration Panel (IAP) and the Nigerian Industrial Court (NIC). Union officials questioned the effectiveness and independence of the NIC in view of its refusal in previous years to resolve various disputes stemming from the Government's failure to fulfill contract provisions for public sector employees. The NIC was reconstituted in 2001 with several new members, including a formerly imprisoned trade unionist, Milton Dabibi. Union leaders criticized the arbitration system's dependence on the Labor Minister's referrals. The Labor Minister made several referrals to the IAP during the year. The IAP and NIC were active following the Government's appointment of new members; however, both suffered from a lack of resources.

A worker under a collective bargaining agreement could not participate in a strike unless his union complied with the requirements of the law, which included provisions for mandatory mediation and for referral of the dispute to the Government. The law allows the Government discretion to refer the matter to a labor conciliator, arbitration panel, board of inquiry, or the National Industrial Court. The law forbids any employer from granting a general wage increase to its workers without prior government approval. However, in practice the law does not appear to be enforced; strikes, including in the public sector, were widespread and private sector wage increases generally were not submitted to the Government for prior approval.

Workers had the right to strike; however, certain essential workers were required to provide advance notice of a strike. On January 17, NLC President Adams Oshiomhole was arrested during a general strike to protest the Government's 15.3 percent fuel price hike. Oshiomhole and several supporters were charged with "unlawful assembly and inciting the general public against the Government." The Gov-

ernment and an Abuja court called the strike “illegal.” The NLC argued that it had exercised a legitimate right to strike. Oshiomhole was released on bail, and there was no further action in this case during the year.

On February 1, police in 14 states held a 1-day strike to demand payment of one-year’s wage arrears. The Government declared that striking police officers would be prosecuted for mutiny. In August it was reported that 64 officers had been dismissed in Akwa Ibom State for their participation in the strike. On March 6, the Government dismissed Police Inspector General Musiliu Smith, replacing him with Tafa Balogun. The Government pledged to triple the size of the police force and to speed promotions. There also were reports of a planned strike by junior officers in the military. Military leadership denied that a strike was being planned and also warned junior officers that to strike was mutiny and punishable by death. No such strike ever occurred.

In May the Nigerian Union of Railwaymen (NUR) struck over the nonpayment of 3 months’ salary. In July strikes were held by the Lagos State Truck Owners Association, Port Harcourt dockworkers, and Shell (SPDC) contract workers. Members of the Medical and Health Workers Union struck in August at teaching hospitals, including Lagos University State Hospital.

During the year, there were smaller strikes over the increased use of contract labor and the lack of indigenous workers in management positions in the oil sector, particularly in the Niger Delta. The National Union of Petroleum and Natural Gas Workers (NUPENG) and its senior staff counterpart Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN) were particularly concerned about the increasing use of contract labor and the number of indigenous workers in management positions. NUPENG and PENGASSAN staged a 2-day warning strike in September to protest the Government’s plan to privatize the four national refineries.

In Anambra State, teachers went on strike during the year to demand a year’s back pay. Despite several protests and labor disruptions, the Anambra State government still owed workers 7 months’ salaries by year’s end. The state civil service was nearly paralyzed as many workers declined to work until salary arrears were paid.

There were no new developments in the 2000 dispute over Lagos State government’s reluctance to pay a higher minimum wage to public sector workers. A compromise package offered by the state was accepted by the workers in 2001; however, the local union leadership pressed for more pay.

There were no laws prohibiting retribution against strikers and strike leaders, but strikers who believed they were victims of unfair retribution could submit their cases to IAP, with the approval of the Labor Ministry. The IAP’s decisions were binding on parties but could be appealed to the NIC. In practice the decisions of these bodies infrequently carried the force of law. Union representatives described the arbitration process as cumbersome and time-consuming, and an ineffective deterrent to retribution against strikers.

The Government retained broad legal authority over labor matters and often intervened in disputes seen to challenge key political or economic objectives. However, the labor movement increasingly was active on issues affecting workers. During the year, the NLC spoke out on economic reform, fuel price deregulation, privatization, globalization, tariffs, corruption, contract workers, and political issues.

EPZs in Calabar, Cross River State, and Onne Port, Rivers State, operated during the year. Workers and employers in these zones were subject to national labor laws, which provided for a 10-year amnesty on trade unions, strikes, or lockouts for a period of 10 years following the commencement of operations within a zone. In addition, the law allows the Export Processing Zones Authority to handle the resolution of disputes between employers and employees instead of workers’ organizations or unions. The Export Processing Zones Decree has been criticized by the ILO for not allowing any unauthorized person to enter any EPZ.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor; however, there were reports that it occurred (*see* Section 6.f.), and enforcement of the law was not effective.

The Government does not prohibit specifically forced and bonded labor by children; however, the prohibition on forced labor extends to children. There were occasional reports of forced child labor, including child slavery rings operating between Nigeria and neighboring countries (*see* Sections 5 and 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits employment of children less than 15 years of age in commerce and industry and restricts other child labor to home-based agricultural or domestic work. The law states that children may not be employed in agricultural or domestic work for

more than 8 hours per day. The Decree allows the apprenticeship of youths at the age of 13 under specific conditions.

Economic hardship resulted in high numbers of children in commercial activities aimed at enhancing meager family income. The ILO estimated that approximately 12 million children between the ages of 10 and 14 (25 percent of all children) were employed in some capacity. Children frequently were employed as beggars, hawkers, and bus conductors in urban areas. The use of children as domestic servants was common.

Private and government initiatives to stem the growing incidence of child employment continued but were ineffective. UNICEF operated programs that removed young girls from the street hawking trade and relocated them to informal educational settings. UNICEF reported that the program only began to address the problem during the year. In conjunction with the ILO, the Government formulated a national program of action in support of child rights, survival, protection, development, and participation. In August 2001, the ILO and the Labor Ministry signed a formal agreement establishing the program; however, the program had not shown any results by year's end due to logistical problems and changing personnel in the Ministry.

The Labor Ministry had an inspections department whose major responsibilities included enforcement of legal provisions relating to conditions of work and protection of workers. However, there were fewer than 50 inspectors for the entire country, and the Ministry conducted inspections only in the formal business sector, in which the incidence of child labor was not significant.

There were reports of forced child labor (*see* Section 6.f.).

*e. Acceptable Conditions of Work.*—The law sets a minimum wage, which was reviewed infrequently. Real private sector wages greatly exceeded the minimum wage. After a lapse of several months, police began receiving payment during the year. In September NLC president Adams Oshiomole announced that he had reached a compromise with the Government to implement a 25 percent pay raise over 2 years; however, The Government never formally acknowledged the agreement.

In 2000 the minimum wage increased to \$50 (7,500 naira) per month for federal workers and from \$40 to \$48 (5,000 to 6,500 naira) per month for state employees. Private employers in the formal sector tracked the public sector wage scale. Along with the many allowances that were paid, the increase appeared to be sufficient for a decent standard of living. However, many government agencies were slow to pay the new wage scale, and most federal salaries were frozen for 3 months, pending a census of government employees. Ghost workers (who appeared on the employment rolls but not on the job) remained a significant problem that was not addressed fully during the year. The Government directed each State administration to establish its own salary structure based on its ability to pay and in accord with the national minimum wage; however, the Government increased federal salaries in 2000 to \$48 (6,500 naira) without adequate consultations with state governments, whose employees demanded similar wages. As a result, several state governments maintained that they could not afford to pay this wage, without massive layoffs or the elimination of ghost workers. The issue of the minimum wage caused several labor disruptions throughout the year, and remained unresolved in several states (*see* Section 6.b.).

The law mandates a 40-hour workweek, 2 to 4 weeks annual leave, and overtime and holiday pay. There is no law prohibiting excessive compulsory overtime. The law also establishes general health and safety provisions, some of which were aimed specifically at young or female workers. It required that the factory division of the Ministry of Labor and Employment inspect factories for compliance with health and safety standards; however, this agency was greatly underfunded, lacked basic resources and training, and consequently neglected safety oversight of many enterprises, particularly construction sites and other non-factory work. The Ministry often failed to reimburse inspectors for expenses incurred in traveling to inspection sites, and safety oversight of many enterprises often were neglected. The law requires employers to compensate injured workers and dependent survivors of those killed in industrial accidents. The Labor Ministry, which was charged with enforcement of these laws, has been ineffective in identifying violators. The Government has failed to act on various ILO recommendations to update its program on inspection and accident reporting. The Labor Decree did not provide workers with the right to remove themselves from dangerous work situations without loss of employment.

*f. Trafficking in Persons.*—The law does not prohibit specifically trafficking in persons, and trafficking in persons (TIP) was a problem. Nigeria was a country of ori-

gin, transit, and destination for trafficked persons, with an active, growing market for trafficking in women and children within the region and to Europe.

Draft legislation was under review in the National Assembly that would make trafficking a crime; however, the legislation had not been passed by year's end.

The National police have an anti-trafficking unit, and anti-TIP units have been created in 11 trafficking-prone states.

Many states that arrest traffickers are forced to release them when victims and their families refuse to testify. The Government prosecuted only a few persons for trafficking during the year. Bisi Dan Musa, a prominent Lagos businesswoman and wife of a former presidential candidate, was arrested and charged with 19 counts of child stealing and slave dealing; 16 children between the ages of 1 and 4 reportedly were found in her custody. The trial was discontinued after most of the parents could not be found or were unwilling to testify, and she was released on bail.

In April the SSS intercepted 10 teenage girls being trafficked across the border and arrested the trafficker.

In Edo State, 30 trafficking cases were pending at year's end, including one against a high chief who since has been stripped of his title.

There were no developments in the trial of 15 Nigerian trafficking suspects, including the former police commissioner of Edo State, following their extradition in October 2001, or in the August 2001 detention of a Nigerian man in Sokoto State for the alleged trafficking of 10 girls between the ages of 10 and 16.

The full nature and scope of the trade remained unknown, but immigration and police officials throughout Europe continued to report a steady flow of Nigerian women lured and sold into prostitution in Europe, particularly Italy, the Netherlands, and Spain. In June 200 trafficking victims were deported to Nigeria; over the past 3 years, 1,098 persons were returned to the country from Europe and North America. Nigerian Interpol claimed that some women entered the sex trade independently, were not controlled by syndicates, and were economically motivated. However, several women's rights organizations reported that hundreds of women migrated to Europe in response to job offers as domestic workers or waitresses. Upon arrival many were forced into prostitution in order to pay off debts. In addition, there was evidence that Nigerian crime syndicates may use indebtedness, secret rituals, threats of beatings and rape, physical injury to the victim's family, arrest, and deportation to persuade those forced into sex work from attempting to escape or from contacting police and NGOs for assistance.

There were no further reports during the year that Nigerian girls were sold into sexual slavery and trafficked through England.

Incidents of child trafficking in Lagos and other major Nigerian cities during the year were suspected to be commonplace. There was evidence of trafficking of children to the U.S. and Europe, primarily to reunite children with their undocumented parents abroad. Child traffickers received a monthly payment from the employer, part of which was to be remitted to the parents of the indentured child servant. Traffickers took advantage of a cultural tradition of "fostering," under which it was acceptable to send a child to live and work with a more prosperous family in an urban center in return for educational and vocational advancement. Often the children in these situations only worked and did not receive any formal education; however, many families who employed children as domestic servants also paid their school fees. Other children were forced to serve as domestics or to become street hawkers selling nuts, fruits, or other items. There were credible reports that poor families sold their daughters into marriage as a means of supplementing their income (*see* Section 5).

According to ILO reports, there was an active and extensive trade in child laborers. Some were trafficked to Cameroon, Gabon, Benin, and Equatorial Guinea to work in agricultural enterprises. Other children were coerced into prostitution (*see* Section 5). Authorities also have identified a trade route for traffickers of children for labor through Katsina and Sokoto to the Middle East and East Africa. The eastern part of Nigeria and some southern states such as Cross Rivers and Akwa Ibom were the points of trafficking of children for labor and, in some cases, human sacrifice. The country remained a destination for the trafficking of Togolese children.

Children from neighboring countries also were trafficked to Nigeria for work as domestic servants.

The adoption of Shari'a-based legal systems by northern states resulted in the stronger enforcement of laws against child prostitution (*see* Section 2.c.).

The Government has conducted few investigations into the alleged involvement of government officials in trafficking; however, allegations of such involvement reportedly were widespread.

Some returnees have alleged that immigration officials actively connived with syndicates; however, there were no arrests of immigration officials for trafficking of-

fenses during the year. The Assistant Inspector General of Police was investigating allegations of the collusion of customs officials in trafficking. In November the Government announced it was investigating a former customs officer and two others suspected of trafficking children in Abuja.

There was federal and state government acknowledgement of trafficking and prevention efforts were underway at all levels. Awareness campaigns, undertaken by NGOs, prominent politicians, state governments, and members of the press were gaining widespread attention. The issue of trafficking in persons for commercial sexual exploitation to Europe initially raised the awareness of trafficking, and the awareness of child trafficking for forced labor was growing. For example, Imo State has a comprehensive anti-trafficking campaign.

Police attempts to stem the trafficking of persons were inadequate, and frequently the victims of trafficking were subjected to lengthy detention and public humiliation upon repatriation.

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## RWANDA

The largely Tutsi Rwandan Patriotic Front (RPF) took power in 1994 and declared a government of National Unity that has functioned during the transition period following the civil war and genocide. The RPF remained the principal political force that controlled the Government. President Paul Kagame was sworn in on April 22, 2000, in what was the first nonviolent presidential change in the country's history. While all political parties were represented within the Transitional National Assembly, it was influenced greatly by President Kagame and the RPF. Prime Minister Bernard Makuza, from the Democratic Republican Movement (MDR), ran the Government on a daily basis and was responsible for relations with the National Assembly. A new constitution was being written and national elections were scheduled for 2003. The judiciary was subject to presidential influence and suffered from a lack of resources, inefficiency, and some corruption.

The Minister of Defense was responsible for external security and national defense; the Minister of Internal Security was responsible for civilian security matters as well as supervision of the prisons and the national police. In October the Government announced a reorganization of the military establishment, providing for a smaller, heavier force more suitable for territorial defense than for expeditionary action abroad. The name of the Rwandan Patriotic Army (RPA) has been changed to the Rwandan Defense Forces (RDF). The RDF and the police comprised the security apparatus. Government authorities did not always maintain effective control of the security forces, and there were several instances, particularly within the Democratic Republic of the Congo (DRC), in which elements of the security forces acted independently of government authority. Volunteer armed civilian units serving as Local Defense Forces (LDF) with limited arrest powers also functioned throughout the country. In October, in accordance with an agreement with the DRC, government forces withdrew from DRC territory. Members of the security forces committed serious human rights abuses in the DRC; however, there were fewer reports of abuses committed within the country than in the previous year.

The country was very poor, and 60 percent of the population of 8.1 million lived in poverty. More than 90 percent of the labor force was engaged in subsistence agriculture. The 1994 genocide destroyed the country's social fabric, human resource base, institutional capacity, and economic and social infrastructure. Per capita annual income was \$230. Small-scale commercial activities increased, but the industrial base remained limited.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. The majority of human rights abuses committed by security forces were in the DRC. Citizens do not have the right to change their government. Unlike in the previous year, there were no reports of unlawful killings or disappearances within the country; however, there were credible reports that RDF units operating in the DRC committed deliberate unlawful killings and other serious abuses, and impunity remained a problem. Security forces beat suspects; however, unlike in the previous year, there were no reports that prisoners died of torture or abuse. Prison conditions remained life threatening, and prisoners died of disease and the cumulative effects of severe overcrowding. Arbitrary arrest and detention, and prolonged pretrial detention, remained serious problems. The judiciary was subject to executive influence and did not always ensure due process or expeditious trials. The Government continued to conduct genocide trials at a slow pace, and the first "Gacaca" courts began operation in July. The Government restricted freedom of speech and of the press and limited freedom of association and assembly. In some instances, local government officials restricted

the freedom of religion. The Government forcibly repatriated some refugees to unsafe areas in the DRC, and harassed others who refused to leave voluntarily. Societal violence and discrimination against women and ethnic minorities were problems, and some street children were forced into an inadequate and unsafe detention center. Child labor persisted in the agricultural sector.

Unlike in the previous year, there were no reports of killings by insurgents tied to those responsible for the 1994 genocide.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Unlike in the previous year, there were no reports that the RDF committed extrajudicial killings within the country, although RDF soldiers continued to resist incursions in the northwest and southwest by the Army for the Liberation of Rwanda (ALIR), a rebel Hutu group. Unlike in the previous year, there were no reports of civilian deaths as a result of this fighting. There also were no reports that some RDF forces summarily executed rebel soldiers.

In February 2001, in Kigali, a soldier in uniform killed RDF officer Alphonse Mbayire, a former military attache previously assigned to the Rwandan Embassy in Nairobi. The Government claimed the killing was the result of a personal dispute; however, there remained speculation of government involvement in the killing because of information Mbayire may have had concerning the 1999 murder of former Minister of Internal Affairs Seth Sendashonga in Nairobi. The Government reported that a warrant was out for the arrest of Private Manirakiza, a suspect in the killing.

Harsh prison conditions contributed to the deaths of an undetermined number of inmates during the year, mostly due to disease (*see* Section 1.c.).

Since the start of the current war in the DRC in 1998, RDF troops have participated on the side of the Congolese Rally for Democracy (RCD) rebel movement against the DRC government. In 1999 all parties involved in the war in the DRC signed the Lusaka Agreement, which included a cease-fire; however, all parties, including RDF soldiers, repeatedly participated in battles after the declaration. Following the assassination of DRC President Laurent Kabila in January 2001, renewed efforts were made to end the war; however, periodic fighting since that time has resulted in credible allegations of human rights violations by all forces, including the RDF; however, no reliable statistics were available. All parties agreed to disengage their troops from the front lines and began doing so in 2001; the RDF pulled back to its agreed upon positions. In March 2001, a cease-fire began; however, fighting continued between the RDF/RCD and pro-DRC forces, primarily in the Kivu Provinces, DRC. In July in Pretoria, the Government and the DRC government signed an agreement calling for the DRC to end its support for Rwandan rebels and for the RDF to withdraw from DRC territory. In September the Government began withdrawing troops and by October 5, all RDF forces had left the DRC, according to the U.N.-South African third-party verification mechanism.

There continued to be reports throughout the year of killings and other human rights abuses committed with impunity in the DRC by both pro-DRC and anti-DRC government forces, including, prior to October, the RDF. Verification of these reports was extremely difficult, particularly those originating from remote areas and those affected by active combat in the eastern part of the DRC. Independent observers often found access difficult due to hazardous conditions, as well as frequent bureaucratic impediments imposed by authorities. There were other reports of extrajudicial killings committed either by elements of the RCD, which the RDF materially supported and in some respects often directed, or in which direct involvement by RDF soldiers could not be clearly established by persons who found it difficult to distinguish between RCD and RDF forces. Some of these reports of RDF killings surfaced in Congolese media directly or indirectly controlled by the DRC government; however, other such reports emerged from international religious or humanitarian organizations and were based on the accounts of multiple witnesses. The reported extrajudicial killings of civilians by RCD and Rwandan forces in the DRC often reportedly were committed in reprisal for guerrilla attacks on RCD or RDF forces. The Government has admitted that human rights abuses have occurred in territory under RDF/RCD control, but claimed that these were acts committed by individuals, not by the military as an institution.

There were numerous credible reports that RDF and RCD/Goma troops burned and destroyed entire villages in the DRC, frequently killing, torturing, or raping some of the inhabitants, especially in rural areas of North and South Kivu and northern Maniema Province. In May RCD-Goma troops killed more than 100 persons in retaliation for an attempted mutiny by RCD-Goma dissidents in Kisangani,



DRC. The U.N. investigation did not find evidence of RDF involvement; however, there were numerous unconfirmed reports that RDF forces participated in these killings. Between January and July, RDF forces used excessive, indiscriminate violence against civilians, particularly the ethnic Tutsi Banyamulenge, to put down a popular revolt led by former RCD/G Commander Patrick Masunzu in the High Plateau region of South Kivu. There were numerous reports that RDF soldiers who arrived via the ground route burned, destroyed, and pillaged numerous small non-Banyamulenge villages on their way up to the High Plateau. On the High Plateau, the RDF forcibly displaced as many as 30,000 Banyamulenge civilians and burned down more than 90 Banyamulenge villages. RDF troops also reportedly killed, abducted, and raped an undetermined number of Banyamulenge civilians. At various periods, particularly from June 18 until July, the RDF repeatedly used helicopters to attack the High Plateau region, including areas populated by civilians. The RDF repeatedly denied access to all international humanitarian organizations, making it difficult to determine the number of civilians killed, injured, raped, tortured, and displaced. The Government has not opened any inquiries into the abuses by its troops.

The Government continued to assert that the casualties of the December 2001 fighting between Mai Mai and RDF and RCD/Goma forces were the result of a Mai Mai attack, rather than an RDF and RCD/Goma-staged battle to discourage the deployment to the area of a U.N. Peace Observation Mission in Congo (MONUC). The Government has taken no action against any RPA soldier in connection with this incident.

There were reports that landmines continued to be used, particularly in the eastern half of the DRC, despite agreement not to do so in the Lusaka Accords. However, it was impossible to know which groups laid landmines.

Unexploded ordinances that remained from the 1994 civil war caused deaths during the year. For example, on June 4, a boy was killed and several others were injured after the boy accidentally detonated a grenade.

The Government provided to human rights organizations, and even other governments, systematic replies and rebuttals to allegations of human rights abuses. It also arrested alleged offenders from the security services. According to the Government, soldiers continued to be arrested and detained on charges of murder, manslaughter, or armed robbery in the DRC prior to the October withdrawal. Others were arrested on charges of offenses committed in the country. The Ministry of Defense also has prosecuted alleged offenders during the year in military trials. Despite these arrests and trials, impunity remained a problem.

During the year, RDF Captain Peter Kabanda and other RDF soldiers were tried and acquitted of charges of killing 67 unarmed civilians in Masisi, North Kivu Province in 2000.

In June RDF Captain Alex Rugira, Lieutenant Stephan Gapfunsi, S/Major Canisius Rutabana, Private Alphonse Tuyisenge, and Private Joseph Rugiranganga were tried by military court for the 2000 killings of Baligizu Mufungizi and other civilians near Burhinyi, South Kivu, in the DRC. Captain Rugira and Lieutenant Gapfunsi were acquitted, while S/Major Rutabana and Privates Tuyisenge and Rugiranganga each were sentenced to 1 year's imprisonment.

The investigation into the 2000 killing of Assiel Kabera, an advisor to former President Pasteur Bizimungu, by three men in military uniform, still was ongoing at year's end. The Government denied any involvement in the killing.

No action has been taken against the RDF officers responsible for human rights violations in 2000 during fighting with Ugandan troops in Kisangani. The fighting resulted in hundreds of civilian deaths, more than 1,700 persons injured, and 60,000 displaced persons. The Government denied that Rwandan troops committed any human rights violations in Kisangani and claimed that civilian casualties occurred inadvertently while the RDF was defending itself from an unprovoked attack.

Action was taken in some of the 2000 cases involving rape and killing by members of the RDF; however, most of the responsible parties were neither arrested nor prosecuted.

The International Criminal Tribunal for Rwanda (ICTR), based in Arusha, Tanzania, continued to prosecute genocide suspects (*see* Section 4). Seven trials were in progress at year's end: The media case against Jean-Bosco Barayagwiza, Ferdinand Nahimana, and Hassan Ngeze; the Butare case against former Minister of Family and Women's Affairs Pauline Nyiramasuhuko, Arsene Shalom Ntahobali, Alphonse Nteziryayo, Sylvain Nsabimana, Elie Ndayambaje, and Joseph Kanyabashi; the Cyangugu case against Emmanuel Bagambiki, Samuel Imanishimwe, and Andre Ntagerura; the Juvenal Kajelijeli case; the Jean de Dieu Kamuhanda case, the Eliezer Niyitegaka case; and the military case against Theoneste Bagasora, Gratién Kabiligi, Aloys Ntabakuze, and Anatole Nsengyumva. The trials in the Laurent

Semanza case and the Kibuye case against Elizaphan Ntakirutimana and Gerard Ntakirutimana were completed, but verdicts have not yet been handed down. Major Francois-Xavier Nzuwonemey, former Reconnaissance Battalion Commander; Lt. Colonel Tharcisse Muvunyi; Bernard Ntyuhag; and Capt. Innocent Sagahutu remained in detention. Two of the three ICTR investigators arrested in 2001 on genocide charges were in custody awaiting trial at year's end; the remaining investigator had been released from custody, but was fired by the ICTR.

There were no developments in the investigation into the December 2001 shooting death of Gratien Munyarubuga, a taxi driver and member of the outlawed Party for Democracy and Renewal (PDR), who was killed by two of his passengers. The Government denied that the killing was politically motivated.

There were no reports of any action taken against local defense unit members responsible for killing civilians in 2000.

Unlike in the previous year, there were no reports that rebel forces killed civilians in the country.

*b. Disappearance.*—Unlike in the previous year, there were no reports of politically motivated disappearances within the country; however, there were numerous credible reports that RDF forces in the DRC seized and transferred to the country numerous Banyamulenge prisoners following the revolt of Banyamulenge Commander Masunzu against the RDF in late January. Several hundred RCD/Goma soldiers in the DRC suspected of sympathizing with the revolt reportedly were disarmed and sent to the country in May for forced “retraining.” There was no further information on the soldiers; many suspected they were killed or remained in secret detention in military camps or prisons. The Government denied that any abductions occurred.

In April and May, there were reports that the RDF arrested Banyamulenge soldiers, including 9 senior commanders who refused to fight against Masunzu and his followers and sent them to Kamembe military camp in Cyangugu prefecture. The soldiers remained missing at year's end. Government officials denied that any such arrests had occurred.

There continued to be reports that until their withdrawal in October, RDF troops abducted women and children from villages they raided to perform labor, military services, and sexual services, although it was unlikely that such abductions were sanctioned by the Rwandan government. Many of the victims disappeared and have not been heard from since.

Theobald Rwaka Gakwaya, a former Interior Minister and founder of the Rwandan League for the Promotion and Defense of Human Rights (LIPRODHOR) who disappeared in 2001, remained in self-imposed exile abroad.

There were no developments in the 2001 disappearances of Jean de Dieu Dufatanye or the 2000 disappearance of Ainakafota and Alexis Ruzindara.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The fundamental law prohibits torture; however, beatings at the time of arrest were common. There continued to be reports that RDF troops abused civilians in the DRC. Unlike in the previous year, detainees did not report torture.

There continued to be numerous reports that government security forces harassed and threatened political dissidents, journalists, and NGOs (*see* Sections 2.b. and 4); however, unlike in the previous year, there were no reports that police prevented the meetings of some NGOs.

No action was taken against responsible security forces in the 2001 case of the Congolese art dealer who was arrested and tortured at Military Intelligence Headquarters. The Government maintained that it was unaware of the incident.

No action was taken against those responsible for attacking former President Bizimungu in August 2001.

No action was taken against the three soldiers who harassed and beat the wife of Vales Kwitegetse, a journalist with the Government-controlled newspaper *Imvaho*, in 2000. The Government reported that it had investigated the report and determined that it was false.

The RDF continued to dismiss soldiers for indiscipline and criminal offenses. The RDF routinely tried military offenders in military courts, which handed down sentences of fines, imprisonment, or both during the year.

Unexploded ordinances that remained from the 1994 civil war caused injuries during the year (*see* Section 1.a.).

During the year, there were numerous, credible reports from local and international human rights groups that RDF forces and their RCD allies engaged in the beating and torture of civilians in the DRC, particularly in the High Plateau region (*see* Section 1.a.). There also were numerous reports that RDF forces and their RCD allies raped women and girls. For example, from January to March, RPA and RCD-

Goma soldiers reportedly frequently raped young girls in rural schools throughout the territory of Fizi in South Kivu.

RDF and RCD/Goma forces reportedly imprisoned individuals in a small metal freight container at Ndosho, outside Goma, the DRC, in conditions that were cruel, inhuman, and degrading. According to Amnesty International, Zelote Farini Leundo Shandwe and Elias Nguru have been held in this container without communication with family members or NGOs since August. Two prior detainees at Ndosho reportedly disappeared; one was believed to have been executed and the other sent to a detention center in the country.

No action has been taken against RDF soldiers responsible for human rights violations in Kisangani during fighting with Ugandan troops in 2001, and the Government continued to deny that such events occurred (*see* Section 1.a.). No action was taken during the year against RDF soldiers involved in the following 2000 cases in the DRC: The rapes of numerous women in Kisangani in May and June; and the February killings and rapes of 30 persons in Kilambo, North Kivu Province.

Prison conditions were harsh and life threatening. The International Committee of the Red Cross (ICRC) has registered approximately 103,000 prisoners detained on genocide or security-related charges and estimated that an additional 8,000 prisoners were detained on charges unrelated to the genocide; however, the Ministry of Justice routinely referred to the prison population as numbering 130,000. While the Government was committed to improving prison conditions, chronic overcrowding remained a major problem. Sanitary conditions were extremely poor, and despite continuing efforts, the Government did not provide adequate food or medical treatment. The ICRC provided 50 percent of the food in the 19 main prisons and also provided additional expertise and medical, logistical, and material support to improve conditions for inmates. Prison deaths largely were the result of preventable diseases, suspected HIV/AIDS, or the cumulative effects of severe overcrowding. There were an undetermined number of deaths in prison reported during the year.

Women were detained separately from men, and more than 4,500 minors between the ages of 14 and 18 years were incarcerated with adults throughout the prison system. Children under 14 were not legally responsible for their acts, and this led to the release of many children and youths from prison, although the National Commission for Human Rights (NCHR) reported that 108 infants and at least 15 children were incarcerated with their mothers. Pretrial detainees generally were separated from convicted prisoners; however, there were numerous exceptions as a result of the large number of genocide detainees awaiting trial. Prisoners may also be hired out to perform work at private residences and business.

The ICRC, human rights organizations, diplomats, and journalists had regular access to the prisons. The ICRC continued its visits to communal jails and military-supervised jails.

Reports persisted that RCD/Goma and RDF forces used the private residences of Rwandan or rebel military commanders for incarcerations. Reports from former detainees indicated a pattern of beatings, undernourishment, and deliberate killings in these houses.

*d. Arbitrary Arrest, Detention, or Exile.*—The fundamental law provides legal safeguards against arbitrary arrest and detention; however, authorities rarely observed them in practice, and security forces continued to arrest and detain persons arbitrarily. The justice system collapsed during the war and genocide of 1994. With help from the international community, it was being rebuilt slowly and was beginning to function more normally. The Government did not have the capacity to ensure that provisions in the Constitution were enforced or that due process protections were observed.

In general the law requires that authorities investigate, then obtain a judicial warrant before arresting a suspect. The police may detain persons for up to 48 hours without a warrant; formal charges must be brought within 5 days of arrest. These provisions were disregarded widely. The law permits investigative detention if authorities believe that public safety is threatened or that the accused might flee. There is no bail, but the authorities may release a suspect pending trial if they are satisfied that there is no risk that the person may flee or become a threat to public safety and order.

Police arrested members of NGOs during the year (*see* Section 4).

In April security forces arrested former President Bizimungu and former minister Charles Ntakarutinka and charged them with making divisive statements against the Government, forming and recruiting for an illegal organization, supporting armed groups against the Government, embezzlement of public funds, circulating false documents, and possession of an illegal firearm. Police subsequently arrested approximately 30 other persons believed to be involved with Bizimungu's banned PDR-Ubuyanja party. On July 12, Bizimungu, Ntakarutinka, and others who were

arrested in connection with them appeared before the Supreme Court and appealed their detention; on July 30, the Court rejected their appeal. On October 14, the group appeared before the Nyamirambo Court of First Instance to appeal their charges of “threatening national security by forming a criminal association.” Their appeal was referred to the Court of Appeals for determination. Many of those arrested eventually were released; however, Bizimungu, Ntakarutinka, and several others remained in custody awaiting trial at year’s end.

The Government continued to detain members of ALIR who returned to the country, either after being captured following armed incursions or voluntarily turning themselves over to government authorities; detainees were placed in a reintegration program. Ex-combatants also returned to the country as part of the ongoing peace process between Rwanda and the DRC. These returnees included some children. The children generally were serving as porters for the ALIR units; few were serving as combatants. Child soldiers were separated from the adult combatants. Human rights groups reported that the detainees were treated humanely. Detainees at the reeducation camp at Mutobo frequently received visitors and sometimes were allowed to go home for visits.

An estimated 95 percent of the approximately 111,000 individuals presently incarcerated were awaiting trial on genocide charges. The law permitted the continued detention of genocide suspects long enough to allow them to face trial either in a conventional court or in the Gacaca system (see Section 1.e.). Lengthy pretrial detention was a serious problem. Some suspects have been in jail since 1994. The Government does not have the capacity to process cases within a reasonable time frame. Mobile groups, whose mandate was to establish or complete files that indicated the basis for charges for all detainees, continued to operate during the year. Approximately 90 percent of prisoners in custody during the year have files; however, the vast majority of those files were incomplete. The Government continued to release prisoners who were elderly, ill, without files, or with incomplete files. Rearrests because of community criticism were rare.

There were no developments in the case of Jean Mbanda, who was arrested in 2000 allegedly for fraud and embezzlement. Mbanda, who remained in detention, widely was regarded as a political detainee who actually was being punished for his political views.

The Government did not use forced exile; however, some individuals secretly left the country to live in self-imposed exile because they believed their lives were in danger (see Section 1.b.). Unlike in the previous year, the Government did not try anyone in absentia.

*e. Denial of Fair Public Trial.*—The fundamental law provides for an independent judiciary; however, the Government did not always respect this provision in practice. The judiciary was subject to executive influence and also suffered from inefficiency, a lack of resources, and some corruption. Security forces at times ignored court decisions and have refused to release prisoners. There were occasional reports of bribery of officials ranging from clerks to judges. The 12-member Anti-Corruption Commission charged with fighting corruption in the judiciary continued to make progress. It was chaired by the Minister of Justice and charged with investigating all activities involving corruption and educating citizens on methods that can be used to fight corruption. In April Commission action resulted in the resignation of 6 Supreme Court and 4 First Instance Court judges over charges of corruption, the dismissal of 8 district court judges, and the transfer of 32 district court judges, mainly in Gisenyi Province.

The fundamental law provides for a system of communal courts, appeals courts, and a Supreme Court of six justices. The President nominates two candidates for each Supreme Court seat, and the National Assembly may choose one or reject both; however, the latter was not known to ever have happened.

The law provides for public trials with the right to a defense, but not at public expense. The shortage of lawyers and the abject poverty of most defendants made it difficult for many defendants to obtain legal representation. Unlike in the previous year, *Avocats Sans Frontieres* redirected its efforts to training Gacaca judges and did not provide defense or counsel those in need. New court officers continued to be sworn in and assigned to courts across the country, but the Government did not have sufficient prosecutors, judges, or courtrooms to hold trials within a reasonable time.

Unlike in the previous year, there were no reports that the Government tried and convicted persons in absentia.

The judiciary was focused on resolving the enormous genocide caseload of more than 100,000 detainees (see Section 1.d.). The Government continued with the program referred to as the *Gisovu*, or pre-Gacaca, project, a release program in which detainees and prisoners who were elderly, ill, or without files were taken to their

former villages to allow villagers to make complaints against them or to confirm that there was no reason to detain them. Local human rights organizations estimated that less than 10 percent of accused persons undergoing this process during the year were released. Rearrests because of community criticism were rare.

Gacaca courts, a grassroots participatory form of justice, were scheduled to serve as the Government's primary judicial process for adjudicating genocide cases. The sixth chamber of the Supreme Court and its President, Aloysie Cyanzayire, oversaw the implementation of Gacaca. These courts, which combined participatory justice and reconciliation techniques exercised at the local level, began pilot operations in designated cells during the year. The Gacaca law provides for reduced sentences for cooperation and credit for time served; lawyers were not permitted to participate officially in Gacaca.

Genocide-related cases were tried in the ICTR (*see* Section 4) and by the Government in local courts. By year's end, approximately 7,331 persons had been judged on genocide-related charges, most following group trials. Of the 877 cases judged this year, 33 resulted in death sentences, 186 in life imprisonment, 381 in sentences less than life, 237 in acquittals, and 40 were fined for property crimes. The vast majority of trials met international standards. LIPRODHOR also actively monitored trials and interviewed released prisoners. No executions have been carried out since 1998.

A section of the Organic Genocide Law is designed to encourage confessions in exchange for reduced sentences for the vast majority of those involved in the genocide. As a result of efforts by the Government, international donors, and NGOs to advertise widely the confession provisions, 33,000 prisoners have confessed since the law was implemented in 1996. However, only a small number of confessions were processed due to lengthy administrative review and hearing proceedings and the lack of officials to process the confessions through the system.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, and authorities generally respected these prohibitions; however, on April 19, police forcibly entered the home of former President Bizimungu, searched the home of former Minister Ntakarutinka, and confiscated a computer and files belonging to Ntakarutinka. Both Bizimungu and Ntakarutinka, who were charged with spreading divisive ideas, subsequently were arrested and remained in detention awaiting trial at year's end.

Since 1997 more than 600,000 persons in the countryside have been relocated to government-designated resettlement sites in compliance with a "villagization" policy. Although the Government claimed that the move to villages was voluntary, some observers believe that many persons were compelled to move by government authorities; others may have relocated out of fear of government security forces or insurgents. Human Rights Watch reported that many of these individuals were forced to move against their will to substandard housing, often with little access to basic amenities such as water. The Government denied that coercion occurred, but admitted it has encountered problems in the implementation of the program. While villagization remained government policy, the Government no longer compelled these persons to remain in the villages; however, restrictions on where houses could be built forced some to remain. Thousands of persons still lived in inadequate housing not of their own choosing.

The RDF has practiced forced conscription, particularly after the country entered the conflict in the DRC. Citizens who served in the military could be recalled to compulsory duty at any time.

Unlike in the previous year, there were no reports that the Government pressured prominent members of the PDR to leave the party and renounce it publicly.

Police harassed and intimidated family members of former President Bizimungu during the year. During April several individuals suspected of association with Bizimungu's banned political party PDR-Ubuyanja were arrested for privately expressing support for ex-President Pasteur Bizimungu (*see* Section 1.d.).

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The fundamental law provides for freedom of speech and of the press; however, the Government restricted these rights in practice, and the Government harassed journalists whose views were contrary to official views. Most journalists practiced self-censorship due to fear of government reprisals.

Authorities arrested several individuals after they expressed viewpoints unacceptable to the Government (*see* Section 1.d.).

Media sources were limited. There were several privately owned newspapers, which publish weekly in English, French, or Kinyarwanda. There was no daily newspaper.

In January Pierre Gakwandi, Secretary General of the Democratic Republican Movement, was arrested on charges related to an interview that appeared in the newspaper *Le Partisan*. His trial was scheduled for March of 2003.

In May authorities arrested Ismail Mbonigaba, chief editor of the newspaper *Umuseso*, for publishing an article that was disrespectful of the President. *Umuseso* was detained for less than a week, and his passport was confiscated for another 2 weeks.

On May 17, the Government arrested and subsequently deported Rwanda Herald Chief Editor Asuman Bisiika. The Herald had been critical of the Government on several occasions prior to Bisiika's arrest.

On July 19, Kigali security forces arrested three *Umuseso* reporters, who were believed to have observed unprofessional conduct by police responding to an altercation at a local bar. The reporters were charged with assaulting police officers and were arrested and released; however, all three were required to remain in their districts of residence and to appear monthly in court. These restrictions were lifted within a few months.

No action was taken against those responsible for harassing a journalist working for Voice of America (VOA) in May 2001.

Journalist Vales Kwitegetse remained outside the country at year's end.

The President refused to sign a law passed by the National Assembly in 2001 that provided for a maximum sentence of death and a minimum sentence of 20 years imprisonment for journalists who were convicted of using the mass media to incite the population to commit genocide.

In November a new press law was passed that authorized private radio and TV broadcasting, subject to the approval of the Government. The Government owned the only national radio station and the only television station, which in principle nominally were independent of the Government. The television station broadcast 10 hours per day. The Government-controlled radio station, Radio Rwanda, had a wide audience and each Sunday broadcast a call-in program, which discussed and debated controversial subjects; Radio Rwanda journalists were civil servants of the National Office of Information. The British Broadcasting Corporation broadcast on FM from Kigali in several languages. The German broadcasting service *Deutsche Welle* also broadcast from Kigali, as did the VOA.

Unlike in the previous year, no broadcast journalists were fired for criticizing the Government.

The Government-owned telecommunication company, the Government-supported Kigali Institute of Technology, and the National University of Rwanda provided Internet service along with the privately owned Media Post. In 2001 several licenses were granted to private companies that planned to provide Internet services in the future.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The fundamental law provides for freedom of assembly; however, authorities limited this right in practice. They legally may require advance notice for outdoor rallies, demonstrations, and meetings. Authorities generally prohibited nighttime meetings, although they have relaxed this restriction for religious groups. Unlike in the previous year, authorities did not prevent any meetings of human rights NGOs, press conferences, or meetings held in private homes. However, prior to former President Bizimungu's arrest in April, government authorities restricted his contacts with political figures and the press, and forbade him from attending public church services.

RDF soldiers forcibly dispersed demonstrations in the DRC (*see* Section 2.c.).

The Constitution provides for freedom of association; however, the Government limited this right in practice. Private organizations were required to register but, with few exceptions, the Government generally granted licenses without undue delay. All unions must register with the Government. In 2001 the Government also passed a new law making registration of NGOs more difficult and giving the Government more influence over the staff, budget, and committee membership of NGOs (*see* Section 2.c.).

Individuals suspected of association with former President Bizimungu's banned political party PDR-Ubuyanja were subject to arrest in April (*see* Section 1.d.).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion; however, while the Government generally respected this right in practice, it imposed some restrictions.

In 2001 the Government promulgated a law that increases government influence over NGOs and requires all nonprofit organizations, including churches and religious organizations, to register with the Ministry of Justice to acquire the status of "legal entity." All religious groups reportedly met the April 1 deadline for filing

registration applications, and many groups were granted status as legal entities by year's end. Other groups experienced delays because of government security procedures, such as criminal background checks of group leaders, or because they were unable to provide required documentation, such as asset statements, financial reports, and constitutions. Ministry of Justice officials worked to resolve these issues with representatives of the religious groups. At year's end, no application had been denied, and no group's religious activities had been curtailed as a result of difficulties or delays in the registration process.

In February government authorities forbade former President Bizimungu from attending public church services; authorities charged that Bizimungu's presence would be "divisive."

In April the Prefect of Kibungo Province attempted to reimpose restrictions on the rights of members of Jehovah's Witnesses to assemble and worship and announced a ban on the construction of "Kingdom Halls," the group's places of worship. The restrictions subsequently were lifted after the group petitioned the national government; however, in July the Prefect of Kibungo again announced restrictions on the Jehovah's Witnesses' right of assembly and worship. These restrictions had not been imposed by year's end.

During April and May, local officials detained members of Jehovah's Witnesses, primarily for refusing to participate in nightly security patrols. Delegations of Jehovah's Witnesses who intervened with local or national authorities generally were able to secure the release of those arrested, who typically were detained from 2 days to 2 weeks; however, two persons remained in detention at year's end. Local school authorities also suspended students for refusing to salute the flag or to sing the national anthem.

The Government continued to watch closely for the development of cult churches after the doomsday cult deaths in Uganda in 2000. Approximately 12 members of the Mouvement Sacerdotal Marial, which authorities charged was an "unhealthy and antisocial cult" with ties to the cult in Uganda, remained in detention at year's end.

Prior to the Rwandan withdrawal from the DRC in October, reports continued to surface that RDF troops joined RCD rebels in targeting Catholic clergy for abuse. Abuses reportedly took the form of arbitrary killings, arrests, and disappearances of pastors, priests, and laypersons; public threats against the lives of religious leaders; pillaging and destruction of church property; and the use of armed soldiers to disperse forcibly religious services. For example, on April 12, in Bukavu, DRC, RDF and RCD-Goma soldiers surrounded the congregations of several Catholic churches and forcibly dispersed and beat parishioners.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, the Government at times did not respect them in practice. Citizens must show identification when requested. Citizens must obtain a new national identity card when making a permanent move to a new district, and these new cards were issued routinely.

In May government authorities confiscated the passport of Umuseso chief editor Ismail Mbonigaba and prevented his travel to Bujumbura for a meeting. The passport was returned after 2 weeks (*see* Section 2.a.).

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Constitution recognizes the right to asylum "under conditions determined by law"; however, there is no law in place to recognize refugees. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and provided first asylum to approximately 31,500 persons. The vast majority were Congolese refugees who fled their country during the unrest of 1996. There were reports of the forced return of persons to a country where they feared persecution. From August to October, the Government repatriated between approximately 10,000 refugees to the DRC. While many left the country voluntarily, many others were forcibly repatriated to inadequate camps and to unsafe areas within the DRC. Since October more than 3,500 of such refugees returned to the refugee camps in the country to escape the harsh conditions in the DRC. Even after authorities discontinued the forced repatriations, the Government continued to harass those who chose to stay and drastically reduced services to the camps.

By year's end, more than 45,000 Rwandan refugees remained in the DRC, Uganda, Burundi, Malawi, Zambia, Angola, Republic of the Congo, Cameroon, Central African Republic, Togo, and Benin; however, many refugees have returned to the country. According to the UNHCR, 13,837 Rwandan citizens returned to the country from the DRC during the first 9 months of the year. Another 24,000 Rwandan refu-

gees were voluntarily repatriated from Tanzania. The Government made a concerted effort during the year to encourage repatriation of Rwandan refugees throughout the region, particularly in Tanzania. Several thousand Rwandan refugees in Tanzania, fearing forced return, fled to camps in Uganda and Malawi during the year.

More than 750 Hutu former combatants and accompanying family members were repatriated to the country as part of an effort to demobilize, repatriate, and reintegrate Rwandan rebels in the DRC.

There were approximately 31,500 refugees in Rwanda, including 28,250 from the DRC, 500 from Burundi, and 2,750 from other countries.

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

Citizens do not have the right to change their government by democratic means. The RPF was the dominant political force in the country. Following the genocide of 1994, political parties agreed to form a government of national unity based on the 1992–93 Arusha Accords. This agreement laid the basis for the apportionment of ministries and other offices. The RPF brought representatives of four opposition parties into the Government after its military victory in 1994, but none of the officials was elected.

Political parties agreed to suspend political activities for a period of 5 years, during which time the transition to elected government was to have been completed. This 5-year period was scheduled to end in 1999; however, the Government announced in June 1999 the extension of the transition period by 4 additional years. The announcement did not mention political party activities, but the parties continued to observe the suspension. Some political parties alleged that the RDF actively promoted itself regionally and at the sector levels, while prohibiting other political parties from doing the same. While there was no law specifically preventing the formation of political parties, in 2001 the Government prevented former President Bizimungu from forming the PDR-Ubuyanja party. Members of the party were arrested, and several, including Bizimungu, remained in custody at year's end (see Sections 1.d. and 2.b.).

A National Assembly was functioning, with nine political entities represented, including the RDF. The political bureaus or executive committees of their respective parties chose assembly members, known as deputies. The "Political Forum," an informal grouping of senior members of each of the political parties represented in the National Assembly, has dismissed deputies for misconduct, alleged corruption, or incompetence. The parliamentary commissions of inquiry investigated allegations of corruption and other alleged misdeeds of ministers and deputies. Some of these inquiries have resulted in the sanctioning and resignation of ministers.

In March 2001, the country held its first secret-ballot elections to elect council members at the district level; more than 90 percent of eligible voters participated in what international observers deemed to be generally free and fair elections. However, a March report by Human Rights Watch indicated that in 45 percent of the contests only 1 candidate ran for office, some potential candidates withdrew after being threatened, and some voters cast their ballots out of fear of reprisal. This fear was based on historical experience; however, there were no reports of reprisals following the March elections. Political parties did not participate in this election. The central government continued to appoint officials at the regional and national levels.

The National Unity and Reconciliation Commission, charged with educating the public on such issues as ethnic understanding, peace building, history, and civics, was active. In November the Legal and Constitutional Commission completed a draft constitution, which was being modified at year's end. Once completed, the constitution will be presented to the Presidential cabinet and submitted to the National Assembly for debate. A constitutional referendum was scheduled for May 2003.

There were no laws that restrict the participation of women in the political process. Women held 5 of the 26 ministerial positions in the Government and 16 of the 74 seats in the National Assembly.

There were no laws that restricted the participation of minorities in government and politics (see Section 5).

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A variety of domestic and international human rights groups operated in the country, investigating and publishing their findings, but none of the domestic organizations had the resources to conduct extensive human rights monitoring. In 2001 the Government passed a law making registration of NGOs more difficult and giving the Government more influence over the staff, budget, and committee membership of NGOs.



Local NGO activities often were limited to receiving and compiling reports from citizens about human rights abuses and conducting selected investigations. Reports were published occasionally; statements criticizing specific incidents are more common. Only one or two local human rights NGOs were viewed as strictly impartial. Unlike in the previous year, the Government did not threaten LIPRODHOR. There also were no reports of the forcible dispersal or prevention of NGO meetings during the year.

In January police in Butare arrested three members of a local NGO for publishing a newsletter calling for national reconciliation; authorities charged that the newsletter was an incitement to hatred. One of the persons arrested was released within hours of the arrest; the other two were detained for 1 month, after which they were released when a court determined that the charges were unsubstantiated. All three persons remained under government surveillance, and the NGO was not allowed to operate.

The Government criticized the reports by some international human rights NGOs and was particularly hostile towards those whose reporting was perceived as biased and inaccurate. The Government provided to human rights organizations, and even other governments, systematic replies and rebuttals to allegations of human rights abuses. The ICRC operated normally and was active in visiting prisons.

On December 9, the Government declared *persona non grata* the deputy head of the local UNHCR office, who had criticized the Government's refugee policy.

The ICTR continued to prosecute genocide suspects during the year, but at a slow pace. No verdicts were handed down this year although two trials were completed and were awaiting verdicts. Since 1994 the ICTR has delivered verdicts on only nine persons. Credible reports indicated that the ICTR continued to face serious problems, including poor management, incompetence, and corruption. The authorities sporadically prevented witnesses from attending and giving testimony at the ICTR, which delayed the judicial process. Relations and cooperation between the Government and the ICTR worsened considerably over the year, particularly after it became known that the Tribunal was investigating RDF crimes committed in 1994. In June survivor's organizations suspended cooperation and advised their members not to testify in Arusha. These actions were due to perceived mistreatment of witnesses and continuing reports that the ICTR tolerated the presence of suspected genocidaires within some of the defense teams.

The Governments of Mali, Benin, and Swaziland have agreements with the ICTR to accept convicted prisoners. Six convicted genocidaires were serving their sentences in Mali: former Prime Minister Jean Kambanda, Jean Paul Akayesu, Alfred Musema, and Clement Kayishema, all of whom were sentenced to life in prison; Obed Ruzindana, who was sentenced to 25 years; and Omar Serushago, who was sentenced to 15 years. The Government of Italy has agreed to house Georges Riuggiu, the only non-Rwandan in ICTR custody; however, the agreement was not implemented by year's end.

The NCHR hosted several human rights seminars and training sessions during the year. The Government generally allowed the Commission to operate independently and without undue influence. The NCHR intervened on behalf of several prisoners over the year.

#### *Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution provides that all citizens are equal before the law, without discrimination on the basis of race, color, origin, ethnicity, clan, sex, opinion, religion, or social standing and the Government generally enforced these provisions; however, problems remained.

*Women.*—Domestic violence against women was common. Wife beating and domestic violence occurred frequently. Cases normally were handled within the context of the extended family and rarely came before the courts. When the Government did become involved, such as in cases involving serious injury, the courts took such incidents seriously. Numerous suspects have been tried and convicted for crimes of violence against women and girls. During the year, numerous rape trials resulted in convictions with the maximum sentences for perpetrators. Prosecutions for rape continued during the year; those convicted generally received sentences of from 20 to 30 years' imprisonment.

Women continued to face societal discrimination. Women traditionally performed most of the subsistence farming. Since the 1994 genocide, which left numerous women as heads of households, women have assumed a larger role in the modern sector, and many run their own businesses. Nevertheless, women continued to have limited opportunities for education, employment, and promotion. Government efforts to expand opportunities for women included the sponsorship of scholarships for girls in primary and secondary school, the provision of loans to rural women, and a Min-

istry of Gender program to train government officials and NGOs in methods to increase the role of women in the workforce. The 1992 Family Code generally improved the legal position of women in matters relating to marriage, divorce, and child custody. The law allows women to inherit property from their fathers and husbands and allows couples to choose the legal property arrangements they wish to adopt.

The Ministry of Gender and Women in Development was charged with handling problems of particular concern to women. The Minister was an active advocate of women's rights. A number of women's groups were extremely active in promoting women's concerns, particularly those faced by widows, orphaned girls, and households headed by children.

*Children.*—The Government was committed to children's rights and welfare, and it attempted to provide education and health care to every child. Children headed at least 85,000 households. The Government worked closely with international NGOs to secure assistance for children who were heads of households, and sensitized local officials to the needs of children in such situations. More than 98 percent of the children who were separated from or lost their parents during the 1994 genocide and subsequent repatriations have been reunited with family members or placed in foster homes. Approximately 30,000 children live abroad, and the Government claims most were taken without the consent of their parents during the genocide. Many of the children abroad have been adopted. The Government did not reiterate its request during the year that the 41 children adopted in Italy be repatriated.

All families must pay school fees to enroll a child; however, school fees routinely are waived for orphans. Public schools lacked essential and basic supplies and could not accommodate all children of primary school age. A UNICEF study reported that 400,000 school-age children were unable to go to school in 1999. Private schools often were too distant or too expensive to serve as an alternative for many children. Entry to secondary school was by examination. According to a 1996 study conducted by the Government and the U.N. Population Fund, 59.6 percent of the population age 6 and over had primary education, but only 48 percent of the population as a whole was literate; 52 percent of men were literate compared to 45 percent of women. Only 3.9 percent of citizens had completed secondary school, and only 0.2 percent had a university education.

Although the Penal Code prohibits the imprisonment of children with adults, the NCHR reported that at least 15 children, and 108 infants, were incarcerated with their mothers (*see* Section 1.c.). In 1999 the ICRC reported that approximately 570 children who were under the age of 14 at the time of their arrests were incarcerated on genocide-related charges. Although the Government was making efforts to release them, an undetermined number of children under the age of 14 still were incarcerated on genocide-related charges at year's end.

There were approximately 7,000 street children in the country, according to UNICEF. During the year, local authorities continued to periodically round up street children and place them in foster homes. Many children also have forcibly been placed in the Center run by the Ministry of Local government at Gitagata. The Center, which has a capacity of 400 to 500, has held up to 1,000 children. Police and local defense forces provided security; however, escapes occurred regularly, and an adolescent reportedly was shot in the leg while trying to escape. The children were not effectively segregated by age or by gender, and many were at risk of physical and sexual abuse. The 20 to 25 girls in the camp especially were vulnerable, and there were reports of sexual abuse by peers, Center staff, and security forces. The Government was working with local NGOs at year's end to provide an alternative program for street children.

Unlike in the previous year, there were no reports that some street children joined the RDF to perform nonmilitary duties.

Until the RDF withdrawal from the DRC in October, there continued to be reports that Rwandan and RCD rebel troops abducted young women from the villages they raided.

*Persons with Disabilities.*—Although there are no laws restricting persons with disabilities from employment, education, or other state services, in practice few persons with disabilities had access to education or employment. There is no law mandating access to public facilities.

*National/Racial/Ethnic Minorities.*—Before April 1994, an estimated 85 percent of citizens were Hutu, 14 percent were Tutsi, and 1 percent were Batwa (Twa). However, Hutus and Tutsis were not clearly distinct groups, since the two have intermarried for generations. The 1994 mass killings and migrations probably af-

ected the ethnic composition of the population, but the extent and nature of the changes were unknown.

With the removal of ethnic labels from identification cards, the Batwa no longer were designated officially as an ethnic group. Less than 1 percent of the population is considered Batwa. The Batwa, survivors of the Twa (pygmy) tribes of the mountainous forest areas bordering the DRC, exist on the margins of society and continued to be treated as inferior citizens by both the Hutu and Tutsi groups. There were seven Batwa organizations focused on the protection of their interests, access to land, housing, education, and eradication of discrimination against them; however, they generally were unable to protect their interests. Few Batwa have been educated formally, resulting in minimal representation in government institutions. There was one Batwa on the NCHR.

Large-scale interethnic violence in the country between Hutus and Tutsis has erupted on three occasions since independence in 1962, resulting on each occasion in tens or hundreds of thousands of deaths. The most recent and severe outbreak of such violence, in 1994, involved genocidal killing of much of the Tutsi population under the direction of a Hutu-dominated government and in large part implemented by Hutu-dominated armed forces called the ex-FAR and Interahamwe militia. That genocide ended later the same year when a predominately Tutsi militia, operating out of Uganda and occupied Rwandan territory, overthrew that government and established the current government. Since 1994 the Government has called for national reconciliation and committed itself to abolishing policies of the former government that had created and deepened ethnic cleavages. It eliminated references to ethnic origin from the national identity card. On February 1, a law prohibiting racial and ethnic discrimination came into effect. The Government has not addressed statutorily the problem of ethnic quotas in education, training, and government employment, but discrimination against the Tutsi minority in these areas effectively ceased with the change of government in 1994. Some organizations and individuals accused the Government of favoring Tutsis, particularly English-speaking Tutsis, in government employment, admission to professional schooling, recruitment into or promotion within the army, and other matters, a charge the Government denied.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides the right to create professional associations and labor unions, and the Government generally respected this right in practice. The labor movement was hampered in practice because of the massive disruptions caused by the 1994 genocide. Unions continued to regroup and assert themselves.

Union membership was voluntary and open to all salaried workers, including public sector employees. Organized labor represented only a small part of the work force. More than 90 percent of workers were engaged in small scale subsistence farming. Approximately 7 percent of the workforce worked in the modern (wage) sector, and approximately 75 percent of those active in the modern sector were union members.

There were no restrictions on the right of association, but all unions must register with the Ministry of Justice for official recognition. There were no known cases in which the Government has denied recognition. The law prohibits unions from having political affiliations, but in practice this was not always respected. Participation in unauthorized demonstrations could result in employee dismissal, nonpayment of wages, and civil action against the union; however, authorization was not required for union meetings.

There were 27 registered unions under 2 umbrella groups: 17 were under the Central Union of Rwandan Workers (CESTRAR), and 10 were under the National Council of Free Unions in Rwanda (COSYLI).

The law prohibits antiunion discrimination, but no formal mechanisms existed to resolve complaints involving discrimination against unions. Union activists have complained that some employers threatened to fire employees who attempted to join a union.

Labor organizations may affiliate with international labor bodies. The CESTRAR was affiliated with the Organization of Africa Trade Union Unity and the International Confederation of Free Trade Unions.

*b. The Right to Organize and Bargain Collectively.*—The law protects workers from employer interference in their right to organize and administer unions; however, the law does not include agricultural workers in this provision. The Constitution provides for collective bargaining, although only the CESTRAR has an established collective bargaining agreement with the Government. In practice the Government was involved intimately in the collective bargaining process since most union members were in the public sector (*see* Section 6.e.).

The Constitution provides for the right to strike, except for public service workers and workers in essential services. A union's executive committee must approve any strike, and the union must first try to resolve its differences with management according to steps prescribed by the Ministry of Public Service and Labor. There were no demonstrations by union members during the year.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor; however, prisoners were assigned to work details, which generally involve rebuilding houses, clearing land, or other public maintenance duties. Prisoners also may be hired out to perform work at private residences and businesses. It was unclear how much pay the prisoners were given in return for their work.

There continued to be reports that the Rwandan army forced Rwandan prisoners and Congolese civilians, including children, to mine coltan in the Provinces of South Kivu and Maniema, especially in the areas of Kalemie and Kalima.

The law does not prohibit specifically forced and bonded labor by children; however, there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Except for subsistence agriculture, which occupies approximately 90 percent of the workforce, the law prohibits children under the age of 18 from working without their parents' or guardians' permission, and they generally cannot work at night. The minimum age for full-time employment was 18 years, and 14 years for apprenticeships, provided that the child has completed primary school. The Ministry of Public Service and Labor and the Ministry of Local government did not enforce child labor laws effectively, in part due to the large number of households headed by children. It was rare to see child labor outside the agricultural sector.

*e. Acceptable Conditions of Work.*—The Ministry of Public Service and Labor set minimum wages in the small modern sector. The Government, the main employer, effectively set most other wage rates as well. There is no single minimum wage; minimum wages varied according to the nature of the job. The minimum wages paid were insufficient to meet the basic needs of a worker and family, and in practice, workers accepted less than the minimum wage. Often families supplemented their incomes by working in small business or subsistence agriculture.

Officially, government offices and private sector entities have a 40-hour workweek; the maximum workweek was 45 hours. There was no mandated rest period. The law controls hours of work and occupational health and safety standards in the modern wage sector, but inspectors from the Ministry of Public Service did not enforce these standards aggressively. Workers do not have the right to remove themselves from dangerous work situations without jeopardizing their jobs.

The law provides for equal protection of foreign workers.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons, and there were reports of trafficking in persons. Women reportedly were trafficked from Rwanda to South Africa during the year.

There were reports that the Rwandan army continued to force prisoners and civilians to mine coltan in the DRC (see Section 6.c.).

There continued to be reports that RDF troops abducted women and children from villages they raided to perform labor, military services, and sexual services (see Section 1.b.).

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## SAO TOME & PRINCIPE

The Democratic Republic of Sao Tome and Principe is a multiparty democracy. The Government is composed of an executive branch and a unicameral legislature (the National Assembly). The President appoints the Prime Minister, who in turn appoints the ministers of the Government. In December 2001, President Fradique de Menezes dissolved the 55-member National Assembly and called for new elections. In a March election deemed free and fair by international observers, the Movement for the Liberation of Sao Tome and Principe-Social Democratic Party (MLSTP) won 24 seats, the Movement for the Democratic Force of Change (MDFM) coalition took 23 seats, and the Ue-Kedadji coalition won 8 seats. On March 26, the MDFM's Gabriel Arcanjo Ferreira da Costa was named Prime Minister, and 2 days later he formed a 13-member coalition government. On September 27, President Menezes dismissed Costa and his government. On October 6, a new 13-member coalition government was formed under Maria das Neves, the country's first female head of government. The judiciary was generally independent; however, it was subject at times to influence and manipulation.

The Minister of National Defense and Interior supervised and effectively controlled the military services and the police. Many members of the military were part-time farmers or fishermen. The Government and international donors continued to dedicate resources to improving soldiers' living conditions. No defense expenditures were used for lethal weapons since the advent of multiparty democracy in 1990.

The mainstay of the economy was the export of a single product, cocoa, produced on formerly state-run plantations. According to the 2002 census, the country had a population of 137,500. The Government privatized all of the state-held land, but it had limited success in privatizing state-owned enterprises. The Government was somewhat successful in its efforts at structural adjustment. The country remained highly dependent on foreign aid. Although difficult to quantify, unemployment remained high.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. The principal human rights problems continued to be harsh prison conditions, an inefficient judicial system, violence and discrimination against women, child labor, and outdated plantation labor practices that limit worker rights. Sao Tome and Principe was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There was one report of a possible arbitrary or unlawful deprivation of life by the Government or its agents. On October 29, police arrested 24-year-old Ineas Cravid for the alleged rape of a 13-year-old girl. After 2 hours in custody, police took Cravid to the National Hospital where he was declared dead. An autopsy determined that he died of poisoning. In response to public pressure, the Government requested a Portuguese physician to perform a second autopsy, which confirmed he had died of poisoning. However, there were growing doubts about police conduct: Reportedly a senior police official, who may have filed the original complaint, was a close relative of the alleged rape victim; Cravid reportedly told police that he intended to marry the girl; and after his death, the girl told the media that he had not molested her. At year's end, the Portuguese specialist was performing further tests to determine what toxins were present in Cravid's body.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that government officials employed them.

Prison conditions were harsh but not life threatening. Facilities were overcrowded, and food was inadequate. Women and men were held separately, and juveniles were separated from adults.

Human rights monitors were not known to have requested permission to make prison visits during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

Forced exile was not used.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, the judicial system at times was subject to political influence or manipulation. In previous years, the judiciary returned verdicts against both the President and the Government. The Government has important powers relating to the judiciary, including setting salaries for judges and all ministerial employees in accordance with standard government salary guidelines. Government salaries were extremely low, and the authorities were concerned that judges may be tempted to accept bribes (see Section 6.e.).

The legal system was based on a Portuguese model. The court system had two levels: Circuit courts and the Supreme Court. The Supreme Court was the appellate court of last resort.

The Constitution provides for the right to fair public trial, the right of appeal, and the right to legal representation. However, in practice the judicial infrastructure suffered from severe budgetary constraints, inadequate facilities, and a shortage of trained judges and lawyers, which caused delays from 3 to 9 months in bringing cases to court and greatly hindered investigations in criminal cases.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice. The judicial police were responsible for criminal investigations and must obtain authorization from the Ministry of Justice to conduct searches.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. Two government-run and six independent newspapers and newsletters were published sporadically, usually on a monthly or bimonthly basis.

Television and radio were state operated. While there were no independent local stations, no laws forbade them. The Voice of America, Radio International Portugal, and Radio France International were rebroadcast locally. The law grants all opposition parties access to the state-run media, including a minimum of 3 minutes per month on television.

All parties freely distributed newsletters and press releases stating their views and criticizing the Government, the President, and one another.

The Government did not restrict access to or the use of e-mail, the Internet, or satellite telephones. However, the only domestic Internet service provider was a joint venture in which the Government's Post and Telecommunications Office was a partner. The cost of Internet access remained high; consequently, access remained limited in practice.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. The Government required that requests for authorization for large-scale events be filed 48 hours in advance, but it generally granted the appropriate permits.

*c. Freedom of Religion.*—The Constitution provides for religious freedom, and the Government generally respected this right in practice.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

The law does not provide specifically for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Regarding the Status of Refugees and its 1967 Protocol. However, the authorities traditionally welcomed those seeking refuge or asylum. The issue of the provision of first asylum did not arise during the year.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The Constitution provides for the election of the President, who as Head of State names the Prime Minister. The Prime Minister appoints members of the Government. In December 2001, President Fradique de Menezes dissolved the 55-member National Assembly and called for new elections. In a March election deemed free and fair by international observers, the Movement for the Liberation of Sao Tome and Principe-Social Democratic Party (MLSTP) won 24 seats, the Movement for the Democratic Force of Change (MDFM) coalition took 23 seats, and the Ue-Kedadji coalition won eight. On March 26, the MDFM's Gabriel Arcanjo Ferreira da Costa was named Prime Minister, and 2 days later he formed a 13-member coalition government. On September 27, President Menezes dismissed Costa and his government. A new 13-member coalition government was formed on October 6 under Maria das Neves, the country's first female head of government.

There were 5 women in the 55-seat National Assembly, and, at year's end, women held 5 of 13 seats in the Cabinet. The Prime Minister and the President of the 3-member Supreme Court were women.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A small number of domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views. During the year, there were no known requests by international human rights groups to visit the country.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution provides for the equality of all citizens regardless of sex, race, racial origin, political tendency, creed, or philosophic conviction; however, the Government has not enforced actively these provisions.

*Women.*—While the extent of the problem was unknown, medical professionals report that domestic violence against women occurred, including rape. They also reported that although women have the right to legal recourse—including against spouses—many were reluctant to bring legal action or were ignorant of their rights under the law. Traditional beliefs and practices also inhibited women from taking domestic disputes outside the family.

While the Constitution stipulates that women and men have equal political, economic, and social rights, and while many women have access to opportunities in education, business, and government, in practice women still encounter significant societal discrimination. Traditional beliefs concerning the division of labor between men and women left women with much of the hard work in agriculture, with most child-rearing responsibilities, and with less access to education and to professions.

*Children.*—A number of government- and donor-funded programs were established to improve conditions for children, notably an ongoing malaria control project and purchase of school and medical equipment. There has been improvement in maternity and infant care, in nutrition, and in access to basic health services, especially in urban areas. Mistreatment of children was not widespread; however, there were few social protections for orphans and abandoned children.

Education was free to the age of 14 and universal; there were no differences between the treatment of girls and boys in regard to education. Education was compulsory through the sixth grade; however, education after the sixth grade or the age of 14, whichever came first, was not free.

*Persons with Disabilities.*—The law does not mandate access to buildings, transportation, or services for persons with disabilities. There were no reports of discrimination against persons with disabilities.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for freedom of association. Few unions existed in the very small modern wage sector. The two major unions were the General Union of Workers and the National Organization of Workers of Sao Tome and Principe. Independent cooperatives took advantage of the Government's land distribution program to attract workers and in many cases to improve production and incomes significantly. Public sector employees still made up the great majority of wage earners.

There were no laws prohibiting antiunion discrimination; however, there were no reports of antiunion discrimination.

There were no restrictions against trade unions joining federations or affiliating with international bodies, but none have done so.

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides that workers may organize and bargain collectively; however, due to its role as the principal employer in the wage sector, the Government remained the key interlocutor for labor on all matters, including wages.

The Constitution provides for the freedom to strike, even by government employees and other essential workers. In July the State Workers Union (STE) staged a 2-day public sector general strike to demand a minimum salary increase. Although the STE publicly refused the Government's proposal of a 30 percent (\$8 or 70,000 dobras) minimum wage increase, the strike ended peacefully after the Government and union officials reached an undisclosed agreement. There were no laws or regulations that prohibit employers from retaliating against strikers; however, there were no reports of retaliation following strikes.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Employers in the modern wage sector generally respected the legally mandated minimum employment age of 14 years or 18 years for dangerous jobs or those requiring heavy manual labor. The law prohibits minors from working more than 7 hours a day and 35 hours a week. Children were engaged in labor in subsistence agriculture, on plantations, and in informal commerce, sometimes from an early age. Although no cases of child labor abuses have been prosecuted, the law states that employers can be fined for employing underage workers.

The Government has not ratified ILO Convention 182 on the worst forms of child labor.

*e. Acceptable Conditions of Work.*—Working conditions on many of the cocoa plantations—the largest wage employment sector—were extremely hard. The legal minimum wage was \$16.50 (150,000 dobras) per month, with an additional stipend of \$2.20 (20,000 dobras) for civil servants. The average salary for plantation workers did not provide a decent standard of living for a worker and family, and the real value of their pay was eroded constantly by high rates of inflation. In principle workers and their families were provided free (but inadequate) housing, rudimentary education for their children, and health care, as well as the privilege of reduced prices and credit at the “company store.” These arrangements were intended to subsidize food and clothing. However, corruption was widespread, and international lending institutions have criticized the Government for ineffective administration of these subsidies. Workers often were forced to pay higher prices on the open market to obtain the goods theoretically provided at a discount as part of their compensation.

During the 1990s, the Government, with foreign donor assistance, privatized or redistributed the land in many state-run plantations in an effort to improve work, pay, and living conditions. While the program redistributed some land, not all of the newly privatized plantations were successful, particularly because the world price for cocoa dropped.

As a result of a 1999 salary increase for some civil servants, (such as those working in the court system, Finance Ministry, Customs, Education Ministry, and Criminal Investigation Police) government workers in these departments earned up to 400 percent more than their counterparts in the rest of the public sector.

The legal workweek was 40 hours, with 48 consecutive hours mandated for a rest period, a norm respected in the modern wage sector. The law prescribes basic occupational health and safety standards. Inspectors from the Ministry of Justice and Labor were responsible for enforcement of these standards, but their efforts were ineffective. Employees had the right under the law to leave unsafe working conditions.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country.

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## SENEGAL

Senegal is a moderately decentralized republic dominated by a strong presidency. In March 2000, opposition leader Abdoulaye Wade, backed by a coalition of opposition parties, became president in an election viewed as both free and fair, albeit marred by reports of sporadic preelection violence and minor procedural irregularities. The post-election transition period was free from violence and characterized by good conduct on the part of all candidates. In a January 2001 referendum, 94 percent of voters accepted the new Constitution, which abolished the Senate, a body that had no directly elected members. On April 29, 2001, President Wade’s Sopi (Change) coalition, composed of the Senegalese Democratic Party (PDS) and its allies, won 49.6 percent of the votes cast and gained 89 of 120 seats in the National Assembly elections, which also were unmarked by violence and judged to be free and fair. In transparent and orderly local elections held May 12, President Wade’s coalition gained control of the majority of rural, regional, and city councils. The Government continued to implement decentralized regional and local administrations. Occasional fighting continued in the Casamance area in the southern part of the country between the Government and the secessionist Movement of Democratic Forces of the Casamance (MFDC). In March 2001, the Government and the MFDC signed two peace agreements designed to end the 20-year insurgency; however, these agreements proved ineffective and fighting continued. In August the Government agreed to hold new peace talks with the two principal rival leaders of the MFDC, and President Wade met with the two MFDC leaders that month. The Constitution provides



for an independent judiciary; however, it was subject to government influence and pressure in practice.

The armed forces were professional and generally disciplined. They traditionally remain aloof from politics and were under civilian control. The paramilitary gendarmerie and the police were less professional and less disciplined. Some members of the security forces committed serious human rights abuses.

The country is predominantly agricultural with about 70 percent of the labor force engaged in farming. In 2000 the population was estimated at 9.5 million, 31 percent of which was urban and 69 percent rural. Gross domestic product (GDP) per capita was estimated at about \$500, but this excluded the large informal economy. Since the devaluation of the CFA franc in 1994, the Government has implemented a series of economic policy reforms to enhance competitiveness by dismantling monopolies, liberalizing markets, and privatizing several state-owned industries. GDP per capita grew at an average rate of approximately 5 percent per year since 1995. Exports account for about one-third of the GDP. The Government continued to receive external assistance from international financial institutions and other sources, and such assistance represents approximately 32 percent of the national budget. Annual remittances from abroad represented between 3 and 4 percent of GDP.

The Government generally respected the rights of its citizens; however, there were problems in some areas. Government forces reportedly were responsible for extrajudicial killings in the troubled Casamance region, including some civilian deaths. Several disappearances from previous years remained unsolved. Police at times tortured and beat suspects during questioning and arbitrarily arrested and detained persons. Prison conditions were poor. The Government often did not try or punish members of the military, gendarmerie, or police for human rights abuses, and there was little public accountability. Human rights advocates and nongovernmental organizations (NGOs) continued to report a decrease in arbitrary arrests and disappearances in connection with the Casamance insurgency. Lengthy pretrial detention largely due to an overburdened judiciary was a problem. The judiciary was subject to government influence and pressure, and it suffered from low salaries and insufficient resources. On at least one occasion the Government limited freedom of speech and of the press. Unlike in the previous year, there were no reports that the Government limited freedom of assembly. Domestic violence and discrimination against women, female genital mutilation (FGM), and child labor remained problems. There were reports of trafficking in persons. Unlike in previous years, mob violence was not a problem. Senegal was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

There were reports that rebel MFDC forces committed killings, torture, and rape.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no confirmed reports of political killings by government officials; however, government forces reportedly were responsible for extrajudicial killings, including some civilian deaths.

Numerous rebel incursions and armed robberies occurred in the Casamance region during the year, and the incidence of violence increased between early May and mid-July when government security forces initiated military sweeps against the rebel movement. On June 24, 20 civilians were caught in the line of fire and killed as they tried to flee to The Gambia.

During the year, the press continued to report on frequent small arms attacks, raids, ambushes, and clashes between suspected MFDC gunmen and military forces. There were military and civilian fatalities.

On October 23, near the village of Badioure a government soldier shot and killed a civilian passenger in a vehicle whose driver reportedly refused to stop at a roadblock. The soldier was relieved of duty at that post, and an investigation was reportedly opened into the incident. There was no further information by year's end.

On August 7, a government soldier was killed when the vehicle in which he was driving set off a landmine. The incident occurred in the village of Kandiadiou, near Ziguinchor.

In January 2001, police shot and killed one student while forcibly dispersing a demonstration at the University of Dakar; the Government appointed a commission to investigate, and a police officer subsequently was arrested and was in detention awaiting trial at year's end (*see* Section 2.b.).

There was no action, nor was any likely, in the following 2000 cases of alleged killings by government security forces: The January killing of Momany Tendang and the March killing of Daniel Sambou and Denis Sambou.

Throughout the year, MFDC gunmen or suspected MFDC gunmen committed numerous killings. For example, in March suspected MFDC insurgents attacked a group of civilian vehicles 4 kilometers from the town of Diouloulou, near the Gambian border in the Bignona region of the Casamance and killed seven civilians and wounded four. In a government military sweep following this attack, the military killed several suspected MFDC insurgents, although exact figures were not available. In October suspected MFDC gunmen opened fire on a taxi in Diabang killing three civilian passengers.

Unlike in previous years, vigilante groups and mobs did not lynch suspected thieves.

*b. Disappearance.*—There were no reports of politically motivated disappearances during the year; however, there remained several unsolved cases of disappearance from previous years.

According to Amnesty International, on April 2, 2000, Moise Diatta, a hotel employee in the Cap Skirring area of Ziguinchor region, was arrested at his house by government security forces and has not been seen since. According to Amnesty, his wife was called in by a Ziguinchor examining magistrate in June 2001 and interrogated about her missing husband's activities during the tourism off-season. There were no reports of further government action on this case.

Amnesty also reported that during the night of March 29, 2000 residents near the Ziguinchor military camp Joher heard cries from Antoine Nyafouna, a resident of the town of Caleane, near Nyassia, who was apparently being beaten by security forces. Nyafouna has not been seen since. There have been no reports of progress in the Government investigation.

Amnesty also reported that Ziguinchor resident Ephreme Diatta was last seen in the custody of security forces at the Gendarmerie in Cabrousse in April 2000, and has not been seen since. There were no reports of a government investigation into this case.

According to Amnesty International, in March 2000, government security forces in Kabrousee arrested Jean Dacougna, a 40-year-old man with mental disabilities. The man remained unaccounted for and there were no reports of a government investigation into this case.

In September 1999, a group of Casamance professionals helped family members of two missing persons, Alexis Etienne Diatta and Jean Diandy, file legal complaints against security forces for abduction. The families of both Diatta and Diandy had reported the disappearances in August 1998 to civilian authorities, who were unsuccessful in finding either person. In response to inquiries by Amnesty, the Government reportedly stated that the Diandy case was closed due to lack of evidence in November 2000. According to Amnesty, Diandy's family had not been informed of this decision. The Government reportedly delegated the case to the criminal police in February 2000; however there were no reports of progress in the case.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such treatment; however, there were credible reports that police and gendarmes often beat suspects during questioning and pretrial detention, and the problem remained a serious public concern.

According to the domestic human rights organization, Rencontre Africain des Droits de l'Homme (RADDHO), on May 2, police officers in the Dakar suburban police station of Guediawaye, beat severely 41-year-old Alioune Sow.

In December police reportedly beat a television cameraman during a demonstration (see Section 2.b.).

Amnesty International reported that in December 2000, 26-year-old Raoul Mendy was arrested by government security forces at the Breguede border post in the Casamance region. According to Mendy, the soldiers undressed him, bound his hands and feet, and placed him in a trench in the ground. They then allegedly beat him while interrogating him concerning a recent rebel attack, and accused him of being a spy. Mendy said the soldiers set fire to empty plastic containers and poured the melted plastic onto his body. Mendy was subsequently hospitalized for two months. Amnesty International noted that in June 2001, military authorities arrested the lieutenant in charge of the group in question. His case was transferred to the Gendarmerie. No information was available concerning the progress of the case at year's end.

Despite stronger legal provisions against torture, those cases that are pursued often took years before a final judgment was reached.

Prison conditions were poor and prisons remained overcrowded. Food and health care were inadequate; however, there were no reports of deaths in prison as a result of these conditions.

Women were held separately from men. Juveniles were housed separately from adults. Pretrial detainees usually were held separately from convicted prisoners, as required by law; however, on occasion pretrial detainees were detained with convicted prisoners due to limited space.

The Government permits prison visits by independent human rights monitors. During the year, local and international human rights groups such as RADDHO, the National Organization for Human Rights (ONDH), the International Committee of the Red Cross, the International Prison Observatory, and Methodist missionaries visited prisons.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, the authorities, at times, arbitrarily arrested and detained persons.

The law specifies that warrants, issued by judges, are required for arrests; however, laws also grant the police broad powers to detain prisoners for lengthy periods. Police officers may hold without charge a person suspected of a crime for 48 hours after arrest and for up to 96 hours if authorized by a public prosecutor. This period may be doubled in the case of crimes against the security of the state. The prosecutor decides whether to forward the case to an investigating judge who may open an investigation. At this point, the suspects are charged preliminarily and may be held or released on their own recognizance. During the initial 48 hours of detention the accused has no access to family or an attorney, but has the right to demand a medical exam. The accused has the right to an attorney after this initial period of detention. There is a system of bail, but it was used rarely. The accused may be held in custody for 6 months, and the investigating magistrate can certify that an additional 6-month extension is required. Such extensions may be reviewed by a court on appeal. Judges have the right to order release pending trial without the prosecutor's consent.

Police rarely were prosecuted for violations of arrest and detention procedures, and the authorities could detain a prisoner for long periods of time while they investigated and built a case against a suspect. The authorities routinely held prisoners in custody unless and until a court demanded their release. Despite the 6-month limitation on detention, the time between the charging phase and trial averaged 2 years. In a 1998 effort to improve the administration of justice, the Government recruited 48 law school graduates to be trained as magistrates over a 2-year period. In 1999 approximately 90 graduated judges were assigned to courts nationwide, which allowed for the opening of judicial districts in all 30 administrative districts and access to the judicial system by citizens in the countryside. There were reports that the initiative resulted in faster trials, particularly outside the Dakar area; however, no statistics were available.

On July 10, the Dakar Court of Assizes threw out murder charges against Mame Demba Gueye, but sentenced him to 6 years in jail for robbery and check forgery. Gueye had been in pretrial detention since 1996 after being arrested for stealing and forging checks belonging to an 80-year-old female acquaintance who was found dead in her house.

On July 16, the same court acquitted a young woman who had been in pretrial detention for 4 years on manslaughter charges. She was arrested following the death by poisoning of her baby, which she claimed was accidental.

On June 5, RADDHO issued a press statement protesting the detention by police of 48 illegal immigrants from various African countries. According to RADDHO, the detainees were held in extremely poor conditions pending deportation, and the police injured five of them. The detainees were all either released or deported following RADDHO's protest.

Military authorities in the Casamance region made an effort during the year to reduce the number of human rights abuses committed by security forces under their command, and human rights NGOs confirmed that there were significantly fewer complaints of arbitrary arrests, lengthy detention, and abuse during detention; however, there were no statistics available at year's end.

Human rights NGOs in Casamance reported a decrease in the number of detentions of suspected MFDC rebels reported by local families; however, in January 2001 Amnesty International reported that 30 alleged MFDC sympathizers remained in detention in Dakar and Kolda without trial. According to Amnesty International, the alleged sympathizers were arrested in 2000 because of their Diola ethnic origin; they were charged with compromising state security, but no evidence was provided of their involvement in any acts of violence. Following the signing of a peace accord with the MFDC on March 16, the Government released 16 of these prisoners on March 19. During the early part of the year other prisoners were released. Amnesty International reported in April that at least two prisoners were still detained without trial in connection with the Casamance conflict.

The Constitution prohibits forced exile, and it was not used.

*e. Denial of Fair Public Trial.*—The Constitution provides for a judiciary independent of the executive, the legislature, and the armed forces; however, in practice it was subject to government influence and pressure. Magistrates were vulnerable to outside pressures due to low pay, poor working conditions, and family and political ties. Also, the Minister of Justice and subordinate authorities had extensive authority to influence judicial procedures by keeping an accused in pretrial detention.

The legal system is based on French civil law and is composed of ordinary courts and a number of higher and special courts, including the Council of State, the Constitutional Council, and the Court of Final Appeal. These courts remained understaffed, and many of the special courts, including the one that deals with unlawful enrichment and other courts that try government officials for treason and malfeasance, were dormant. Muslims have the right to choose customary law or civil law for certain civil cases, such as those concerning inheritance and divorce. However, customary law decisions were rendered by civil court judges. There is a separate system of military courts for members of the armed forces and the gendarmerie. The right of appeal exists in all courts except military courts and the special Unlawful Enrichment Court. Military courts may try civilians only if the civilians were involved with military personnel who violate military law.

In principle the accused was innocent until proven guilty. Trials were public, and defendants had the right to be present in court, to confront witnesses, to present evidence, and to have an attorney. However, some defendants were denied legal assistance at public expense due to a lack of funding. Evidentiary hearings may be closed to the public and the press, but the defendant and counsel have access to all evidence presented and may introduce their own evidence before the investigating judge decides to refer the case to the prosecutor for trial. A panel of judges presides over ordinary courts for both civil and criminal cases; in criminal cases, citizens also serve on the panel.

The Minister of Justice has taken steps to eliminate the backlog of cases in the judiciary system. In 2000 the Government adopted legislation for the appointment of judges in charge of monitoring the implementation of court decisions and for the establishment of alternative justice mechanisms, including a “*maison de la justice*” to be staffed by voluntary jurists—usually retired judges or attorneys. However, by year’s end, local governments reportedly did not have the resources to implement the system mandated in the legislation.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits arbitrary invasion of the home, and there was little government interference in the private lives of citizens. The law requires search warrants, and only judges may issue them. In past years, during high profile or politically charged investigations, police often proceeded without the required search warrants; however, there were no reports of this during the year.

MFDC rebels sought to extort supplies and money from civilians. On several occasions during the year, MFDC rebels stopped passenger buses and robbed passengers (see Section 1.a.).

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, at times it imposed some limits on these rights.

A broad spectrum of thought and opinion was available to the public through regularly published magazines and newspapers, including foreign publications. Political and economic views expressed in the independent press often were critical of the Government and its programs. While publishers were required to register prior to starting a publication, the Government routinely approved such registrations.

On December 9, the High Audiovisual Commission (HCA) the country’s media watchdog, criticized the biased coverage of the Government-run TV station RTS of a scandal involving diplomatic passports. The HCA claimed RTS blacked out a press conference by opposition leader Moustapha Niassé, who was Foreign Minister during the time of the passport scandal, to slant the news coverage against Niassé. HCA claimed that by not broadcasting the press conference, RTS deprived Niassé of a public response to the charges against him. HCA’ charges came after Niassé’s political party, the Alliance of Forces of Progress lodged an initial complaint.

Police reportedly beat a TV cameraman during a December 14 demonstration (see Section 2.b.).

In July 2001, police summoned to their headquarters Alioune Fall, editor-in-chief of the *Matin* newspaper, on charges of reporting false news. Following the escape

of a well-known convict, Fall had reported that there was discontent within the police force after the case was assigned to the gendarmerie. In August 2001, he was charged formally with disseminating false news and released. He trial was pending trial at year's end.

In December 2000, the Government issued a general warning to the national press that the dissemination of communications from the MFDC would be considered attempts to derail the Casamance peace process and would be prosecuted under the Penal Code.

In September journalists from the newspapers Walfadjiri and Sud Quotidien reported that their correspondents in the Casamance region had received death threats from the MFDC. The national union for journalists, the Syndicat des Professionnels de l'Information et de la Communication Sociale du Senegal (SYNPICS), called upon the Government to take measures to ensure security for journalists in the region.

Radio remained the most important medium of mass information and the main source of news for citizens outside urban areas. There were 20 privately owned radio stations in the country. Of these, 15 were regular commercial enterprises, and the other 5 were noncommercial "community" radio stations, set up by communities to broadcast community information and provide news and information on a variety of topics. There also were three international stations that rebroadcast within the country. All of the locally owned stations broadcast national news and political commentary. Some of them often were critical of the Government; no government harassment was reported.

A government monopoly controlled local television, an important source of news. While there were no privately owned domestic television stations, French-owned pay television was available but offered no local news.

In September 2001, the Minister of the Interior halted the screening of *Karmen Gei*, a film version of the classic opera *Carmen*, following a day long sit-in protest by members of the Mouride Islamic brotherhood, who criticized the film as blasphemous. Members of the brotherhood, some armed with clubs, gathered outside a cinema in Dakar and demanded the withdrawal of the film. Police and gendarmes were present at the cinema, and no acts of violence occurred. In response to the Mouride protest, the Minister of Culture promised to review the film and reconstitute the Censoring Commission; however, a decree to reconstitute the Censoring Commission had not been promulgated by year's end.

At least nine Internet service providers operated in the country at year's end. The Government did not restrict access to the Internet. A personal account with unlimited access time cost approximately \$18 (10,000 CFA francs) per month. Several cybercafes in the capital city, Dakar, provided access to many persons unable to afford personal accounts.

The Government generally did not restrict academic freedom; however, student meetings on part of the campus of the University of Dakar were banned informally (see Section 2.b.), ostensibly to prevent militant student groups from disrupting classes and studies.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly, and the Government generally respected this provision in practice. The Government's required prior authorization for public demonstrations usually was granted. Meetings by students on the academic campus of the University of Dakar were prohibited by university authorities, but this prohibition did not extend to the dormitory areas of the campus.

In past years, the Government frequently denied authorization or forcibly dispersed peaceful marches by the opposition, and there were two minor incidents during the year. On September 19, citing security concerns, local authorities in the town of St. Louis denied a permit to a group of citizens who wanted to protest the nonissuance by the French consulate of a visa to a young citizen who had earned a scholarship for study abroad. On October 18, citing security concerns, authorities denied an application to march from a group of poultry producers protesting importation of chicken parts from abroad.

On December 14, police used tear gas to disperse forcibly a demonstration by bereaved family members who had lost relatives during a major ferry disaster in September. The police reportedly used the tear gas after demonstrators refused to change their planned itinerary as the police instructed. During the clash, demonstrators threw stones at police, and two demonstration leaders were detained for questioning; however, they subsequently were released without being charged. Police reportedly beat a TV cameraman during the incident. Three police officers later were detained pending an investigation into the beating, which was ongoing at year's end.

In January 2001, police forcibly dispersed a student demonstration at the University after students began protesting university conditions, such as the cost of meals and the number of government scholarships. The MOI reported that the police officers were unarmed and instructed only to use tear gas; however, reporters and students at the scene stated that they heard shots fired. One student was shot and killed. Following extensive media coverage, the Government appointed a commission, whose members included human rights activists, to investigate the incident. In October 2001, the commission completed its report, and a police officer was arrested; he remained in detention awaiting trial at year's end.

The Constitution provides for the right of association, and the Government generally respected this provision in practice. Citizens who wished to form associations must register with the Ministry of the Interior (MOI). Business-related associations registered with the Ministry of Commerce. By law and in practice, the MOI must register such groups as long as the objectives of the association were stated clearly and they did not violate the law.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

Any group—religious or other—that wants to form an association with legal status must register with the MOI in accordance with the civil and commercial code. Registration, which generally was granted, enabled an association to conduct business, including owning property, establishing a bank account, and receiving financial contributions from any private source. Registered religious groups, like all registered nonprofit organizations, also were exempt from many forms of taxation. The Minister must have a legal basis for refusing registration. There were no reports of any applications for such registration being delayed or denied during the year.

On May 26, a group of youngsters in the Dakar neighborhood of Yoff attacked a house being used for Sunday service by members of the Celestial Christian Church, which is composed of immigrants from other African countries. The juveniles alleged that the service disturbed the peace and disrupted the service but did not cause any injuries. The group did not press charges and police made no arrests.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice. Some public employees, including teachers, were required by law to obtain government approval before departing the country, although this was enforced sporadically.

At times, usually during sweeps for MFDC rebels, the security forces temporarily restricted access to the Casamance region or areas within it. The security forces also regularly maintained checkpoints in the Ziguinchor region to screen for MFDC rebels and arms transports. Security forces generally allowed travelers to proceed after checking documents and searching vehicles.

According to the U.N. High Commissioner for Refugees (UNHCR), during the first 2 weeks of May, approximately 2,000 civilians fled the country to the Gambia following clashes between government security forces and MFDC rebels in the Bignona area of northwestern Casamance. The UNHCR reported that 70 percent of these refugees returned to their villages by early June. The numbers of refugees outside the country fluctuated according to the level of violence in the Casamance region; at year's end, it was estimated that several thousand refugees remained outside the country, mostly in the Gambia and Guinea-Bissau. A UNHCR census in January counted 7,000 Senegalese refugees living in the north of Guinea-Bissau.

The law provides for the granting of asylum or refugee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the UNHCR and other humanitarian organizations that provide assistance for refugees. Since 1989 the country has hosted Mauritanian refugees as a country of first asylum, and the UNHCR continued to provide protection services for them. Mauritanian refugees generally lived in dispersed locations along the length of the Senegal-Mauritania border and were allowed free movement within the country. However, most of these refugees were unable to obtain current refugee documents from the authorities and sometimes encountered administrative difficulties when using their expired refugee application receipts issued in 1989. While no formal repatriation agreement existed among Mauritania, Senegal, and the UNHCR, the two governments have cooperated to permit repatriation for several years. Because the nature of this repatriation was generally unsupervised and largely informal, the exact number of remaining Mauritanian refugees was difficult to determine. Several hundred Bissau-Guinean refugees chose to remain in the country, living with relatives or on their own. The

UNHCR estimated that, overall, fewer than 30,000 refugees remained in the country.

There were no reports of the forced return of persons to a country where they feared persecution.

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

Citizens have the constitutional right to change their government through periodic multiparty elections, and they exercised this right during the February and March 2000 presidential election that ended the Socialist Party's 40-year domination of political power. After 26 years in opposition, Abdoulaye Wade, backed by a coalition of opposition parties, defeated incumbent President Abdou Diouf in what was considered to be a free and fair election, marred only by reports of sporadic pre-election violence and minor procedural irregularities. In the January 2001 national referendum, 94 percent of those voting accepted the new Constitution, which abolished the Senate. Created by the previous government in 1998, this second legislative chamber, in which no members were elected directly by the citizenry and one-fifth of the members were appointed by the President, reduced the ability of citizens to change their government and increased the presidency's domination of the state.

In addition to eliminating the Senate, the new Constitution reduced the number of National Assembly seats from 140 to 120. There were 65 legally registered parties.

In April 2001, President Wade's coalition won 49.6 percent of the vote and 89 of 120 seats in the National Assembly elections. International and national observers characterized the elections as free and transparent. Voter participation in the election was 67.41 percent of registered voters.

The 2000 electoral process was marked by minor irregularities such as the illegal issuance of birth certificates to Socialist Party supporters in Keur Madiabel by a judge in the district court in Kaolack. Following a complaint filed by the National Observatory of Elections (ONEL), the documents were cancelled. ONEL also noted that national identity card applications were processed illegally in some instances. Access to personal identification cards was an important issue in the election, since they were necessary to vote. No such incidents were reported in the April 2001 legislative elections.

On May 12, President Wade's coalition won 52 percent of votes and control of 281 of 441 rural, regional, and city councils in the country's first local elections since 1996. Observers noted that the election was orderly and transparent.

Elections were held by balloting that officially was described as secret but permitted voters to leave the polling place with evidence of how they voted. Nevertheless, despite apparent potential for abuse, this balloting system has not been the subject of complaints or reports of abuse in recent elections.

In 1997 the Government created the ONEL to supervise and oversee elections. The ONEL was established as a temporary, independent oversight body empowered to order bureaucrats to obey the law and to take legal action against individuals and parties who violated it. The MOI remains responsible for the actual organization and implementation of the elections, which is done through a directorate of elections. The ONEL significantly improved the level of transparency of the April National Assembly elections, the 1998 National Assembly elections, and the 2000 presidential election, despite persistent flaws in the electoral system. ONEL also oversaw the May 12 local elections.

Although there were no legal impediments to the participation of woman in government and politics, cultural and educational factors hampered them. In addition political parties often ranked women low on party lists, making it difficult for them to be elected to the National Assembly or to be appointed ministers. There were 21 female deputies in the 120-member National Assembly. In March 2000, for the first time in the country's history, the President appointed a woman, Mame Madior Boye, as Prime Minister. Nevertheless, only 5 of the 24 ministers in the President's Cabinet were women. In 1999 a woman, Marieme Wane Ly, formed and headed a political party for the first time.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

The Government's National Committee on Human Rights included members from the Government and civic organizations, including private human rights groups. On

its own initiative, it may investigate human rights abuses, including torture; however, it did not investigate any cases of abuse during the year.

In April 2000, the Government announced the establishment of a Human Rights Office in the President's office to investigate complaints filed by individuals regarding human rights violations. In September 2001, the Government named a Human Rights Commissioner to head the new office, which was active. The Commissioner's human rights mandate includes both national and multilateral issues. In September her office undertook to coordinate the country's national strategy against trafficking in persons (*see* Section 6.f.).

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution states that "men and women shall be equal in law" and prohibits discrimination based on race, sex, class, or language. However, discrimination against women was pervasive, and the Government frequently did not enforce anti-discrimination laws.

*Women.*—There were credible reports that domestic violence against women, usually wife beating, was common. According to a study funded by the Canadian Center for International Research and Development (CECI) focusing on the capital Dakar and on the city of Kaolack, 87 percent of 515 women interviewed had suffered from some form of domestic violence. The study also showed that domestic violence was more widespread in Dakar than in Kaolack. Police usually did not intervene in domestic disputes, and most persons were reluctant to go outside the family for redress. In contrast the law and society view rape as a very serious crime, and the law stipulates that persons convicted of rape may be imprisoned for up to 10 years. If the victim was a minor, her age was considered an aggravating circumstance. Rape trials often result in convictions. According to the criminal law, sexual harassment was a crime punishable by imprisonment of up to 3 years and a fine of \$700 (500,000 CFA francs). The potential fine for domestic violence to \$700 (500,000 CFA francs), and the length of imprisonment for domestic violence is 5 years. Several women's groups have formed to address these problems.

In September 2001, supporters of women's rights marched through Dakar to protest violence against women and the impunity with which these acts were carried out. Vivian Wade, the wife of the President, was among the demonstrators.

FGM was not practiced by the country's largest ethnic group, the Wolofs (representing 43 percent of the population), but it was performed on girls belonging to some other ethnic groups. Sealing, one of the most extreme and dangerous forms of FGM, was sometimes practiced by members of the Toucouleur and Mandinka ethnic groups, particularly those in rural areas. Recent studies estimated that about 20 percent of girls undergo FGM. In the regions of eastern Saint-Louis, Matam, Tambacounda, and Kolda, where the practice was most prevalent, it was estimated that 50 percent of girls undergo FGM, with the estimated rate in Kolda as high as 88 percent.

The law stipulates that FGM is a criminal offense, carrying a jail term ranging from 6 months to 5 years for persons directly practicing FGM or ordering it to be carried out on a third person. Most human rights organizations considered the law to be a positive step towards greater protection of women. However, a few women's rights activists criticized the law because they perceived it as being dictated by Western donors. A few Muslim religious leaders also criticized the law because they consider FGM to be a religious practice. While the Government sponsors programs to educate women regarding the dangers of FGM, other critics of the law contended that these programs should have been more widespread prior to implementation of the ban.

In October 2001, with funding from the World Health Organization, the Government launched its National Plan of Action against FGM. Local action plans have since been completed for the departments of Velingara and Kolda in Kolda region. At year's end, the Government's focus was on implementing these plans and developing local action plans for three departments in the Tambacounda region. Several domestic NGOs and one foreign NGO (TOSTAN) worked in coordination with the Government on the FGM problem.

On June 5, inhabitants of 285 villages in the Kolda region publicly announced their decision to ban the practice of FGM in their communities. The decision was the result of an educational campaign initiated in 1997 by TOSTAN in collaboration with the Government. Since July 1997, approximately 708 villages nationwide have banned FGM among their inhabitants. This represented about 12 percent of the approximately 5,500 villages that practiced FGM.

On October 18, a judge in a Dakar regional court formally charged 6 women with performing excision on 5 girls, ages 9 through 15 years, in the Dakar suburb of



Malika. The six women included the FGM practitioner and the mother and aunts of the victims. The six were released on bail and were awaiting trial at year's end.

In October 2001, near the village of Dabo, Kolda region, 8 persons were convicted and sentenced to 4-month prison terms for the excision of 18 girls between the ages of 2 and 5. In November 2001, in Velingara, Kolda region, a mother of two and an FGM practitioner were arrested for the October excision of the mother's two daughters; trials for the two women were pending at year's end.

Despite constitutional protections, women faced extensive societal discrimination, especially in rural areas where Islamic and traditional customs, including polygyny, and Islamic rules of inheritance were strongest, and women generally were confined to traditional roles. By law women have the right to choose when and whom they marry; however, in some areas, traditional practice restricted a woman's choice. The minimum age of consent to marry is 21 for males and 16 for females. Under certain conditions, a judge may grant a special dispensation to a person under age. The law was not enforced in some communities, where marriages often were arranged. Under family law, the woman's consent is required to polygynous unions when contracting a marriage; however, once in polygynous unions women do not have the right of notification or approval prior to a subsequent marriage. In the countryside, women performed much of the subsistence farming and child rearing and had limited educational opportunities. Although the Government has committed itself to equalizing male and female primary school enrollment, there still was much social discrimination against allowing women educational opportunities. Only 23 percent of women over 15 years of age were literate, while the rate for men over age 15 was 43 percent.

It was estimated that only 20 percent of women were engaged in paid employment. Moreover traditional practices made it difficult for women to obtain bank credit. Due to the fact that legally men were considered heads of household, women paid higher taxes than men for equal wages, and employers paid child allowances to men and not women. Women usually married young (the majority by age 16 in rural areas) and averaged 5.7 live births (down from 7 in 1995). Approximately half of all women lived in polygynous unions.

In urban areas, women encountered somewhat less discrimination and were active in government, political life, the legal profession, and business. Approximately 14 percent of lawyers were women. Urban women were more likely to take advantage of the Government's efforts to increase respect for women's legal rights to divorce, alimony, and child support, and to seek education and employment. In general urban women received equal pay for equal work.

*Children.*—The Ministry of Family and Infancy was responsible for promoting children's welfare. Numerous organizations assist the Ministry in support of children's rights, including the Ministry of Health, which maintained a nationwide effort focusing on child survival. The Government continued to increase the number of classrooms and encouraged more children, particularly females, to enter and stay in school. The law requires that all children attend school until age 12, but this was not enforced due to a shortage of schools; 75 percent of boys and 67 percent of girls were enrolled in primary school.

On May 31, a 12-year-old girl died of hemorrhage following sexual injuries sustained on her wedding night. She had been married to her cousin without the consent of her father, who lived in France. The groom was arrested and on July 22, was sentenced to 2 months in jail by a court in St. Louis. The domestic human rights organization RADDHO denounced the court's decision as too lenient.

FGM was performed primarily on young girls (*see* Section 5, Women).

The law mandates jail terms of up to 10 years for convicted pedophiles.

*Persons with Disabilities.*—There are no laws that mandate accessibility for persons with disabilities, and in practice most persons with disabilities generally were unable to participate in many occupations due to physical barriers and a lack of equipment and training opportunities.

In 2000 the Council of State (the country's highest administrative court) ruled on an antidiscrimination lawsuit filed in 1999 by the National Association of Disabled People against the regional educational board in the eastern province of Tambacounda. The board had refused to hire a candidate with physical disabilities who had passed a recruitment test, on the grounds that persons with physical disabilities were not qualified for the job of teaching. The court overruled the board's decision on the grounds that a physical disability did not represent a valid legal ground for barring a person from teaching.

*National/Racial/Ethnic Minorities.*—The country was ethnically diverse. The largest ethnic groups were the Wolof (more than 40 percent of the country's population), the Pular (also called Peuhl or Fulani, nearly 25 percent), and the Serer

(more than 15 percent). Other smaller groups include the Diola, Mandingo, and Soninke. Each group has its own primary language, although French and Wolof were used widely as secondary languages. Wolof was the country's primary language. While general regions of origin can be identified for most ethnic groups, these regional separations no longer were distinct.

In most of the country, ethnic and regional tensions have not contributed significantly to human rights abuses, and opposition to the Government generally has taken the form of nonviolent political parties that have not had readily identifiable ethnic or regional bases. However, this has not been true in the Casamance region, the part of the country to the south of The Gambia. Casamance was substantially less arid, less Islamic, and less Wolof than the rest of the country. Resentment on the part of Casamance groups, including the Diola, of domination by northerners, including the Wolof, reportedly has contributed significantly to the secessionist MFDC rebellion in the Casamance region, which began in 1982 and has continued to give rise to many human rights abuses (see Sections 1.a. and 1.c.).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and the Labor Code provide all workers with the right of association, and they were free to form or join unions; however, the Labor Code requires the Minister of the Interior to give prior authorization before a trade union can exist legally, and the Government can dissolve trade unions by administrative order. The International Labor Organization (ILO) continued to oppose both of these governmental limitations on the freedom of association.

Any group of workers in the same occupation, similar trades, or the same professions could form a union. The Government could disband a union if its activities deviated from its charter.

The Labor Code does not apply to the informal and agricultural sectors. Approximately 60 percent of the population were engaged in agricultural work, and 40 percent of urban youth officially were unemployed.

There are legal prohibitions governing discrimination by employers against union members and organizers. Employers found guilty of antiunion discrimination were required to reinstate workers.

Although they represented a small percentage of the working population, unions wielded significant political influence because of their ability to disrupt vital sectors of the economy. The small industrial component of the total work force of 4 million was almost totally unionized. The only union in the agrarian sector was one representing workers at a privately owned sugar company. Some farmers were organized into the National Farming Association, an advocacy organization.

The National Confederation of Senegalese Workers (CNTS), the largest union organization, had close ties to the Socialist Party. While ostensibly an independent organization, the umbrella CNTS consistently supported government policies during the Diouf administration. The 2002 International Confederation of Free Trade Unions (ICFTU) Annual Survey charged that toward the end of 2001, government actions clearly aimed at undermining the CNTS had resulted in tensions within the union organization.

The rival to the CNTS was the National Union of Autonomous Labor Unions of Senegal (UNSAS). The UNSAS was a federation of strategically important unions such as those formed by electrical workers, telecommunication workers, teachers, water technicians, and hospital, railroad, and sugar workers. The third major labor federation was the Confederation of Autonomous Workers (CSA).

The Labor Code permits unions to affiliate with international bodies. The CNTS was active in regional and international labor organizations and was the dominant Senegalese member of the Organization of African Trade Union Unity.

*b. The Right to Organize and Bargain Collectively.*—The law provides unions with the right to organize and to bargain collectively, and these rights were protected in practice. The ICFTU 2002 survey noted that the national trade union centers were able to bargain successfully with the Government during the year, gaining agreement on a long-standing demand concerning an increase in the retirement age, and credited the Government with giving due respect to the bargaining process. There were no known instances in which workers were prevented from exercising the right to organize and bargain collectively. The Ministry of Labor (MOL) can intervene in disputes between labor and management if requested, and it plays a mediation role in the private and state enterprise sectors.

The new Constitution, adopted January 2001, and the Labor Code provide for the right to strike, but with significant restrictions. Unions representing members of the civil service must notify the Government of their intent to strike no less than 1 month in advance, and private sector unions must make a similar notification 3

days in advance. The Government or the employer can use the time to seek a settlement to the dispute through mediation, which usually was provided by the Ministry of Labor; however, the Government or employer cannot stop the strike. Under the new Constitution, a strike action may neither infringe upon the freedom to work nor imperil the enterprise involved; however, this provision was not tested by year's end. The Government has the power to requisition workers from private enterprises and public services for the safety of persons and goods, the maintenance of public order, and the continuity of public services, or to meet the country's essential needs.

There were no illegal strikes during the year.

Labor laws apply to all industrial firms including those in the Dakar Industrial Free Trade Zone.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution bans child labor of all kinds, and the Government enforced this ban in the formal sector, which was under the purview of the labor law. However, children under the minimum age frequently work in the much larger traditional or informal sectors, such as family farms in rural areas or in small businesses, where the Government does not enforce minimum age and other workplace regulations. In addition, many children who were Koranic students were involved in organized street begging.

Under the law, the minimum age for employment was 16 years for apprenticeships and 18 years for all other types of work. Inspectors from the MOL closely monitored and enforced minimum age restrictions within the small formal wage sector, which included state-owned corporations, large private enterprises, and cooperatives.

In 1998 the country began a 3-year program of action to eliminate child labor, the International Program for the Elimination of Child Labor (IPEC). The program was scheduled for termination in December 2001; however, it received additional funding, which allowed it to continue to operate for 2 more years.

*e. Acceptable Conditions of Work.*—The law mandates a monthly minimum wage, and the Ministries of Labor and Finance determined wage rates after negotiating with the unions and management councils. The minimum wage of \$0.37 (223.7 CFA francs) per hour did not provide a decent standard of living for a worker and family.

Within the formal sector, the law mandates a standard workweek of 40 to 48 hours for most occupations, with at least one 24-hour rest period and 1 month per year of annual leave; enrollment in government systems for social security and retirement; safety standards; and a variety of other measures. These regulations were incorporated into the Labor Code and were supervised by inspectors from the MOL; however, enforcement was uneven, especially outside the formal sector.

There is no explicit legal protection for workers who file complaints about unsafe conditions. While there are legal regulations concerning workplace safety, government officials often did not enforce them. In theory workers have the right to remove themselves from unsafe working conditions, but in practice the right seldom was exercised because of high unemployment and a slow legal system.

*f. Trafficking in Persons.*—The law prohibits the sale of persons, abduction, and hostage-taking but does not specifically address trafficking in persons. There were occasional reports of the trafficking of women for labor or sexual purposes during the year. In September the office of the Human Rights Commissioner undertook to coordinate the country's national strategy against trafficking in persons.

In August 2001, authorities stopped 100 young Senegalese women from boarding a charter flight to Libya. One Senegalese and two French nationals of Senegalese origin were arrested and charged with organizing an international prostitution ring. In September 2001, authorities questioned them concerning allegations that the young women were being sent to Libya to work as prostitutes. In October 2001, the Senegalese citizen was released on bail, and in November 2001, the two French nationals were released on bail. On August 27, the investigating judge dropped all charges against the defendants.

In 2000 police arrested a Nigerian citizen who had lured a Nigerian woman to Dakar and confined her in a house with three other Nigerian women. According to the police, the Nigerian man raped and beat the women. No further information was available on the case at year's end.

## SEYCHELLES

President France Albert Rene and the Seychelles People's Progressive Front (SPPF) have governed the country since a 1977 military coup. In the early 1990's, the SPPF guided the country's return to a multiparty political system, which culminated in 1993 in the country's first free and fair presidential and parliamentary elections since 1977. In September 2001, President Rene and the SPPF again won reelection with 54 percent of the vote; Seychelles National Party (SNP) candidate Wavel Ramkalawan received 45 percent and independent candidate Dr. Philip Boule 1 percent. Although the opposition criticized the election for a number of irregularities, some international observers concluded that overall result was decided fairly; however, other international observers concluded that the election was not entirely free and fair. In December elections for the National Assembly were held and judged to be free and fair by international observers. The ruling SPPF party prevailed in the elections, winning 23 of the 34 seats. The opposition SNP party won 11 seats, a significant increase over the 4 seats that were secured by the opposition in the 1998 elections. The President and the SPPF dominate the country through a pervasive system of political patronage and control over government jobs, contracts, and resources. The judiciary was subject to executive interference.

The President has complete control over the security apparatus, which included a national guard force, the army, the Presidential Protection Unit, the coast guard, the marines, and the police. There also was an armed paramilitary Police Mobile Unit. Members of the security forces committed some human rights abuses.

The economy was market-based and provided the country's approximately 82,000 residents with an average per capita income of \$8,000. The Government in recent years diversified the economy by increasing the revenues received from fishing rights and investing in the fish-processing sector with foreign joint-ownership partners in order to move the economy away from its heavy reliance on tourism. Manufacturing surpassed tourism as the most important economic activity; however, no significant new investments were made during the year. Overall growth continued to remain sluggish, largely due to shortages of foreign exchange and the pervasive presence of inefficient state enterprises. There continued to be no progress toward privatization during the year. The country's application to join the World Trade Organization obliged it to consider reforming its trade and foreign exchange regimes; however, it made few substantive changes by year's end.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. President Rene and the SPPF continued to wield power virtually unchecked. Security forces arbitrarily arrested and detained citizens; however, such actions were limited to detention during the weekend in order to avoid compliance with the Constitution's 24-hour "charge or release" provision. The judiciary was inefficient, lacked resources, and was subject to executive influence. There were some restrictions on freedom of the press. Violence against women continued, and child abuse remained a problem. Discrimination against foreign workers also was a problem. Seychelles was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There was at least one report of the arbitrary or unlawful deprivation of life by the Government or its agents. In June a prisoner, who allegedly was killed during an attempted escape, may have been the victim of an unlawful killing. According to reports, the prisoner had more than 10 bullet wounds on his body, and he was disfigured and maimed in ways that contradicted a police report, which claimed that the prisoner's physical injuries were the result of his resisting arrest. No action was taken against the responsible officers by year's end.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution expressly forbids torture and there were no reported instances of the use of torture by the security forces.

Unlike in previous years, there were no reports that police officers forcibly dispersed crowds.

There was no action taken against the responsible police officers who used tear gas to disperse forcibly a group of soccer players and their fans in May 2001 on Praslin Island by year's end.

In March 2000 on the island of La Digue, police reportedly beat a man while he was in police custody. The family of the detainee sued the Commissioner of Police and the three police officers on duty at the time for \$4,386 (SR 25,000) in damages. Both a criminal and a civil suit have been filed; the trial was still pending at year's end.

Conditions at the Long Island prison, the only such facility in the country, remained Spartan. During the year, the number of inmates dropped to 149 of which 4 were women, 2 were under the age of 23 years, and 2 were noncitizens. Family members were allowed monthly visits, and prisoners had access to reading but not writing materials. Men were held separately from women, and juveniles were held separately from adults. There were no reports of abuse of women or juveniles by guards or other inmates.

There was no regular system of independent monitoring of prisons; however, local and international nongovernmental organizations (NGOs) were allowed to visit. There were no prison visits by NGOs or other interested parties during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution provides that persons arrested must be brought before a magistrate within 24 hours with allowances made for boat travel from distant islands. The law provides for detention without charge for up to 7 days if authorized by court order. Defense attorneys asserted in previous years that extended periods of detention under harsh conditions were used to extort confessions from suspects; however, there were no such incidents reported during the year. Police occasionally detained individuals on a Friday or Saturday in order to allow for a longer period of detention without charge, thereby avoiding compliance with the Constitution's 24-hour "charge or release" provision; however, the practice appeared to be diminishing during the year. The police released such persons on a Monday before the court could rule on a writ of habeas corpus.

There was no official action taken against the responsible soldiers who in the May 2001 on the island of Praslin arrested and detained for 1 day approximately 20 soccer players and fans at local police stations (*see* Section 1.c.).

Detainees have the right of access to legal counsel, but security forces, in hopes of eliciting a confession or other information, sometimes withhold this right. Free counsel was provided to the indigent. Bail was available for most offenses.

The law prohibits forced exile, and the Government did not employ it. Following the 1977 coup, a number of persons went into voluntary exile, and others were released from prison with the condition that they leave the country immediately. A number of these former exiles that returned to the country were able to reacquire their property; however, several claims remained in the court system at year's end.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, it was inefficient, lacked resources, and was subject to executive interference.

The judicial system includes magistrates' courts, the Supreme Court, the Constitutional Court, and the Court of Appeal. The Constitutional Court convenes weekly or as necessary to consider constitutional issues only. The Court of Appeal convenes three times per year for 2 weeks in April, August, and October to consider appeals from the Supreme Court and Constitutional Court only.

All judges are appointed for 7 years and could be reappointed by the President on the recommendation of the Constitutional Appointment Committee. All sitting judges were hired from other Commonwealth countries, including Mauritius, India, Sri Lanka, Nigeria, and Zambia; none were citizens, with the exception of the Chief Justice, who was a naturalized citizen. The Seychelles Bar Association criticized the Government for not advertising domestically that judicial positions were available, since 30 citizens practiced law either domestically or abroad. Some observers criticized expatriate judges for a perceived lack of sensitivity on issues such as human rights. Legal entities of the Government, such as the Attorney General's Office and the Ombudsman, were reluctant to pursue charges of wrongdoing or abuse of power against senior officials.

Defendants had the right to a fair public trial. Depending on the gravity of the offense, criminal cases were heard by magistrates' court or the Supreme Court. A jury was used in cases involving murder or treason. Trials were public, and the accused was considered innocent until proven guilty. Defendants had the right to counsel, to be present at their trial, to confront witnesses, and to appeal.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the right to privacy and freedom from arbitrary searches; however, the Government sometimes infringed on these rights. The law requires a warrant for police searches and seizures; however, there were reports that members of the police drug squad entered homes and detained persons without a warrant.

The law requires that all electronic surveillance be justified on the grounds of preventing a serious crime and approved by a judge; however, the Government maintained telephone surveillance of some political figures.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, it also provides for restrictions on speech “for protecting the reputation, rights, and freedoms of private lives of persons” and “in the interest of defense, public safety, public order, public morality, or public health,” and as a result both freedom of speech and of the press were constrained by the ease with which civil lawsuits could be filed to penalize journalists for alleged libel. The law allows the Minister of Information Technology to prohibit the broadcast of any material believed to be against the “national interest” or “objectionable”; however, the law was not used against journalists or the media during the year. The legislation also requires telecommunications companies to submit subscriber information to the Government. In most instances, citizens speak freely, including in Parliament.

In May 2001, government officials seized a shipment of copies of a local singer’s album on the grounds that the singer had not obtained an import permit for the shipment. The singer claimed the album copies were seized because they contained songs that were critical of the Government and that called for political change. In June 2001, the Government-controlled Seychelles Broadcasting Corporation (SBC) banned the musician’s songs from being broadcast on the grounds that they were seditious. The musician’s songs still were not permitted to be broadcast at year’s end. During the year, the SNP also was not permitted to broadcast its theme song in advertisements on SBC.

The Government has a near monopoly of the media, owning the only television and radio stations—the most important means for reaching the public—and the only daily newspaper, the Nation. The official media adhered closely to the Government’s position on policy issues and gave the opposition and news adverse to the Government only limited attention. While both opposition parties published an assortment of newsletters and magazines, only one significant opposition newspaper, the weekly Regar, was published. Government officials have sued Regar for libel 10 times in the last 6 years. In 2001 President Rene sued Regar and the SNP for libel, demanding \$1.5 million (SR 9 million) in damages. In the lawsuits, Rene claimed Regar and the SNP libeled him when they suggested that he had stolen money from the Government’s Children’s Fund and when Regar criticized him for using expensive imported marble in the construction of a private residence. The Supreme Court had not heard the case by year’s end.

The license fees for a private radio or television station were \$151,200 (SR 800,000) per year, while newspaper publishing licenses are \$760 (SR 4,000) plus a bank guarantee of \$19,000 (SR 100,000). The high fees still had not changed and were a deterrent to the establishment of private radio and television stations.

The Internet was available in the country, and the Government did not restrict access to it.

Academic freedom was limited due to the fact that one could not reach senior positions in the academic bureaucracy without demonstrating at least nominal loyalty to the SPPF. There are no universities; secondary school teacher appointments largely were apolitical. The Government controlled access to the Polytechnic, the most advanced learning institution.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice; however, while generally permitting SNP rallies, the police on occasion refused to grant permission to the SNP to hold rallies citing dubious reasons.

Unlike in the previous year, there were no reports that police forcibly dispersed crowds.

Some members of opposition parties claimed that they lost their government jobs because of their political beliefs and were at a disadvantage when applying for government licenses and loans.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice; however, although it was not used during the year, the law allows the Government to deny passports to any citizen if the Minister of Defense finds that such denial is “in the national interest.” While the resident

departure tax of approximately \$45 (SR 250) was payable in local currency, government foreign exchange regulations and the foreign exchange shortage hindered many citizens from being able to afford foreign travel, although they might have sufficient means in local currency. According to the law, citizens cannot possess any foreign exchange unless in possession of a receipt from a licensed foreign exchange vendor. In addition, banks provided only \$95 (SR 500) to a maximum \$200 (SR 1,146) to those departing the country because of the extreme foreign exchange shortage.

The law contains provisions for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. As there have been no recent refugee cases, there were no reports of government cooperation with the office of the U.N. High Commissioner for Refugees; however, there are no indications that the Government would not cooperate if such cases arose.

The Immigration Act does not mention asylum. There were no known requests for asylum, and there were no refugees in the country. The issue of first asylum did not arise during the year.

There were no reports of the forced return of persons to a country where they feared persecution.

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

Citizens exercised the right to change their government in the September 2001 presidential elections and in the 1998 National Assembly elections, despite the fact that President Rene and the SPPF dominated the elections. Suffrage was universal. In the December National Assembly elections, judged to be free and fair by international observers, the opposition SNP party won 11 of the 34 seats, an improvement on the 4 seats the opposition held following the 1998 elections.

In the September 2001 presidential election, approximately 90 percent of eligible voters participated. President Rene was reelected with 54 percent of the vote; SNP candidate Wavel Ramkalawan received 45 percent, and independent candidate Dr. Philip Boule received 1 percent. Only the chief opposition party, the SNP, chose to contest the election; the Democratic Party did not field a candidate. Many Democratic Party supporters apparently voted for Ramkalawan. Ramkalawan challenged the election results; he accused the SPPF of intimidation, vote buying, and not respecting the election rules. His court challenge remained pending at year's end. Observers from the Southern African Development Community (SADC), the Commonwealth Organization, and the Francophone Organization supervised the polling. SADC observers noted "minor hitches" but stated their satisfaction with the election and in particular observed "transparency" during vote casting and counting. However, in October 2001, the Commonwealth Organization observers released their report, which concluded that the elections were peaceful but not entirely free and fair. The report described instances of intimidation during voting and the lack of open competition during the campaign.

In August the leader of the opposition, Mr. Wavel Ramkalawan declared that there was a plot to assassinate him, and the Speaker of the Assembly made special provisions for him to be provided with security personnel. A special Assembly allocation provided him with \$2,683 (SR 15,000) per month for unarmed bodyguards.

Prior to the 2001 presidential elections, the SNP protested to the Electoral Commission that a parastatal company, whose chairman is President Rene, required employees to attend a government-sponsored political rally. The opposition party reported that employees who did not attend the rally risked losing their year-end bonuses (*see* Section 6.a.).

The President's SPPF party continued to utilize its political resources and those of the Government to develop a nationwide organization that extended to the village level. The opposition parties have been unable to match the SPPF's organization and patronage, in part because of financial limitations. In the 2000 budget, the SPPF was allocated \$54,202 (SR 308,952), the SNP \$22,889 (SR 130,470), and the Democratic Party \$10,628 (SR 60,578).

In 2000 the National Assembly amended the Constitution to allow the President to call presidential elections separately from National Assembly elections at any time after the first year of his 5-year term in office, which allowed President Rene to call presidential elections in 2001.

There were 8 women in the 34-seat National Assembly, 6 by direct election and 2 by proportional representation, and there were 3 women in the 12-minister Cabinet.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic human rights groups, including churches, generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

Two private human rights related organizations operated in the country. The Friends for a Democratic Society pledged to focus on raising awareness of individual rights in a democracy; however, it was inactive. In 1999 the Center for Rights and Development (CEFRAD) published a 5-year action plan that stressed respect for human rights, participation in a civil society, and sensible approaches to development. CEFRAD did not claim any results from its 5-year plan by year's end. CEFRAD also established ties with other national and international NGO's. In 2001 Simeon Ake, an African Union (AU) representative from the Cote d'Ivoire, led a two-person delegation to the country from the Commission on Human and People's Rights. Although the AU has not released a report detailing any findings, the team urged the Government to take unspecified steps to better promote respect for human rights in the country. Possibly in response to AU encouragement, the Government ratified the Constitutive Act of the African Union, which promotes respect for human rights. The Government also established a National Humanitarian Affairs Committee (NHAC), with a diverse range of members from both civil society and the Government. The International Committee of the Red Cross acts as a technical adviser to the NHAC.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution affirms the right to be free from all types of discrimination, but it does not prohibit discrimination based on these factors specifically. Nevertheless, in practice there was no overt discrimination in housing, employment, education, or other social services based on race, sex, ethnicity, nationality, or disabilities.

*Women.*—Domestic violence against women, particularly wife beating, remained a problem and increased during the year. Police seldom intervened in domestic disputes, unless the dispute involved a weapon or major assault. The few cases that reached a prosecutor often were dismissed, or, if a case reached court, the perpetrator usually was given only a light sentence. Rape, spousal rape, and domestic abuse are criminal offenses. Between May 2000 and September 2002, the Probation Services recorded 510 domestic violence cases against women. There was growing societal concern about domestic violence and increased recognition of the need to address it. During the year, local NGOs continued awareness campaigns and training programs regarding domestic abuse for women and girls; however, the Government did not engage in any public campaigns to dissuade domestic abuse.

The society largely was matriarchal, with 76 percent of births out-of-wedlock during the year. There were no reports of societal discrimination against unwed mothers, and fathers were required by law to support their children. The age of consent was 14, and women under 20 years of age accounted for 14 percent of all births. Girls were not allowed to attend school when they were pregnant, and many did not return to school after the birth of a child. There was no officially sanctioned discrimination in employment, and women were well represented in business. Inheritance laws did not discriminate against women.

*Children.*—The law prohibits physical abuse of children. The Division of Social Affairs in the Ministry of Social Affairs and Manpower Development worked to protect children's rights. Children were required to attend school through the 10th grade. Free public education was available through the secondary level until age 18. Parents contributed up to two-thirds of the cost of post-secondary education and training based on their income for both in country and overseas schools. According to government figures, all children between the ages of 6 and 16 attended school, and the enrollment of boys and girls was roughly equal. There was a noncompulsory fifth year of secondary school. After completing secondary school, students can go to the Polytechnic School for Vocational Training, go abroad for university studies, or go to apprenticeship or short-term work programs. Children in the apprenticeship or short-term work programs received a training stipend, which was less than the minimum wage.

An 18-member Family Tribunal heard and decided all matters relating to the care, custody, access, and maintenance of children, except paternity cases, which remain under the courts. During the year, 367 cases came before the Tribunal. Approximately 14 percent of all cases presented to the Family Tribunal were resolved during the first hearing. The Family Tribunal also was responsible for collecting and disbursing child support payments made by family members. In 2001 it was re-



ported that as much as \$173,077 (SR 900,000) was missing from the child support funds. The Ministry of Social Affairs opened an investigation into the matter. There were no results released on the investigation; however, social security funds were transferred to cover the child support obligations.

Sexual abuse of children, usually in low-income families, was a problem; however, there were only 41 cases of sexual abuse reported during the year—generally by stepfathers and older brothers. Ministry of Health data and press reports indicated that there were a significant number of rapes committed against girls under the age of 15. Very few child abuse cases actually were prosecuted in court. The strongest public advocate for young victims is a semiautonomous agency, the National Council for Children. There was criticism that the police failed to investigate vigorously charges of child abuse.

*Persons with Disabilities.*—There was no discrimination against persons with disabilities in housing, jobs, or education; however, there was no legislation providing for access to public buildings, transportation, or state services.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers with the right to form and join unions of their choosing; however, police, military, prison, and fire-fighting personnel may not unionize. Between 15 and 20 percent of the workforce was unionized.

There were three trade union organizations: One dominated by the SPPF, the Seychelles Federation of Workers Union (SFWU), one independent federation, the Seychelles Workers Union (SWU), and a new trade union created during the year, the Seychelles National Trade Union (SNTU), that has close connections to the opposition SNP party.

The law prohibits antiunion discrimination by employers against union members.

Unions may affiliate freely with international bodies; the SFWU is a member of the International Confederation of Free Trade Unions.

*b. The Right to Organize and Bargain Collectively.*—The law provides workers with the right to engage in collective bargaining; however, free collective bargaining did not take place. The Government has the right to review and approve all collective bargaining agreements in the public and private sectors. There was little flexibility in setting wages. In the public sector, which employed 57 percent of the labor force, the Government set mandatory wage scales for employees. Wages in the private sector generally were set by the employer in individual agreements with the employee, but in the few larger businesses, wage scales were subject to the Government's right of review and approval. Private employers historically paid higher wages than the Government in order to attract qualified workers; however, economic problems during the year led to downward pressures on wages.

The law authorizes the Ministry of Employment and Social Affairs to establish and enforce employment terms, conditions, and benefits. Workers frequently have obtained recourse against their employers through the Ministry.

Strikes were illegal; however, a strike may be allowed if written permission or approval from the Commissioner of Police was obtained. The last recorded strike occurred in the early 1960's.

There were 26 companies that participated in an export processing zone known as the Seychelles International Trade Zone (SITZ). The SITZ was bound only by the Seychelles Trade Zone Act and was not obliged to adhere to labor, property, tax, business, or immigration laws.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution states that the minimum age for employment is 15, "subject to exceptions for children who are employed part time in light work prescribed by law without harm to their health, morals, or education." It is a criminal offense punishable by a fine of \$1,130 (SR 6,000) to employ a child under the age of 15. The Ministry of Employment and Social Services was responsible for enforcing child labor laws and investigating abuses of child labor. The Ministry handled such complaints within its general budget and staffing; no cases that required investigation were reported by year's end.

*e. Acceptable Conditions of Work.*—The complicated minimum wage scale was regulated administratively by the Government; it covered the public and state-owned sectors and differentiated among various job classifications. The Ministry of Employment and Social Affairs enforced minimum wage regulations. The "recommended" minimum wage was \$405 (SR 2,025) per month. Trade unions contended that government entities paid some workers less than the legal minimum wage. Even with

the free public services that were available, primarily health care and education, independent labor unions disputed that a single salary at the low end of the pay scale provided a decent standard of living for a worker and family.

The legal maximum workweek varied from 45 to 52 hours, depending on the economic sector; government employees worked fewer hours. Each full-time worker was entitled to a 30-minute break per day and a minimum of 21 days of paid annual leave. Workers were permitted to work overtime up to 60 additional hours per month. The Government generally enforced these regulations. Foreign workers did not enjoy the same legal protections.

In recent years, there was a growing trend to admit foreign workers, primarily from China, India, the Philippines, Thailand, and Madagascar, to work in the construction and commercial fishing sectors, because few citizens chose to work in these sectors. Although it was difficult to determine the living and working conditions of these workers, there was evidence that the labor laws were flouted routinely with the Government's knowledge and acquiescence. These workers were paid lower wages and forced to work longer hours than citizens.

The Ministry of Employment and Social Affairs has formal responsibility for enforcing the Government's comprehensive occupational health and safety regulations; however, the Ministry of Health also sought a role in this area. An International Labor Organization (ILO) team, which visited in 1995, found serious deficiencies in the management and effectiveness of government monitoring and enforcement efforts; however, there were never any government actions in response to the ILO criticisms. Occupational injuries were most common in the construction, marine, and port industries. A worker who removed himself from a potentially dangerous situation on the job was considered to have resigned. Safety and health inspectors rarely visited job sites. There were no work-related deaths during the year. Workers do not have the right to remove themselves from dangerous or unhealthy work situations without risking their continued employment.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country.

## SIERRA LEONE

Sierra Leone is a constitutional republic with a directly elected President and a unicameral legislature. On January 18, the devastating 11-year civil conflict officially ended when all parties to the conflict issued a Declaration of the End of the War. The Government since asserted control over the whole country, backed by a large U.N. peacekeeping force. Revolutionary United Front (RUF) insurgents, who fought successive governments since 1991, completed disarmament and demobilization. The Civil Defense Force (CDF), a government-allied militia, also disarmed and demobilized, but many CDF members retained informal links to act in concert as a veterans' lobbying group and in their centuries-old role as members of traditional hunting societies. In May peaceful presidential and parliamentary elections were held; Ahmed Tejan Kabbah was re-elected President and his Sierra Leone People's Party (SLPP) won a large majority in Parliament. Many international monitors declared the elections free and fair; however, there were numerous reports of election irregularities and abuses. Since the resumption of the disarmament, demobilization, and reintegration (DDR) process in May 2001, an estimated 72,500 former combatants disarmed; on January 31, the disarmament and demobilization sections of the program were completed. The process of reintegration continued at year's end. The U.N. maintained a force of approximately 17,500 peacekeepers during most of the year. In September the U.N. Security Council decided to begin a gradual withdrawal of U.N. Mission to Sierra Leone (UNAMSIL) troops, to be completed by 2005. The official independent judiciary began functioning in areas abandoned during the war, but there still were sections of the country where the judiciary had not yet returned. The judiciary demonstrated substantial independence in practice but at times was subject to corruption.

Among the Government's security forces, the police officially had primary responsibility for internal order; however, on occasion, the Republic of Sierra Leone Armed Forces (RSLAF) and UNAMSIL shared responsibility with the police in security matters. The RSLAF were deployed to all vital locations and secured the country's borders with guidance and leadership from the British-led International Military Advisory and Training Team (IMATT). The Sierra Leone Police (SLP) were present in all provincial and district capitals. The Government maintained control of security forces throughout the year. During the year, more than 55,000 ex-combatants were registered with the National Commission for Disarmament, Demobilization,

and Reintegration (NCDDR). Approximately 31,000 of these ex-combatants were engaged in reintegration program activities, ranging from formal education and vocational skills training to small-scale trade, agriculture, and community development. NCDDR projected that 7,000 more ex-combatants would enter reintegrations programs every 6 months, until all registered combatants had entered the programs. Some members of the security forces committed human rights abuses.

The country had a market-based economy and remained extremely poor; per capita earnings for the population of under 5 million have declined approximately by two-thirds since 1970. The country was rich in natural resources and minerals (particularly diamonds, gold, rutile, and bauxite) and had large areas of fertile land suitable for farming. Mineral extraction and agricultural production began after a virtual standstill during the war; however, the illegal diamond industry continued to operate. There was little manufacturing, and there were few exports; approximately 60 percent of the Government's budget came from foreign assistance. Years of fighting and decades of corruption and mismanagement resulted in a devastated infrastructure.

The Government generally respected the rights of its citizens; however, there were serious problems in several areas. With the end of war and demobilization of the RUF and CDF, many systematic and serious human rights abuses ended. During the year, there were no reports of unlawful killings or other abuses by the CDF in support of the Government. RSLAF soldiers at times beat former RUF rebels. Prison conditions improved significantly during the year. The number of deaths in custody declined considerably. On March 1, civil liberties suspended under the Constitution were reinstated when the Government lifted the state of emergency. Members of the SLP continued to arrest and detain persons arbitrarily. There were reports of extortion by police. Prolonged pretrial detention, due to a severe lack of resources in the judicial system, remained a problem. The Government at times limited freedom of speech and the press during the year. Violence in Liberia, which produced an influx of more than 50,000 Liberian refugees, contributed to border areas becoming more unstable. Violence, discrimination against women, and prostitution remained problems. Female genital mutilation (FGM) remained widespread. Abuse of children was a problem; however, numerous children who fought as child soldiers continued to be released and participated in reintegration programs during the year. Residents of non-African descent faced institutionalized political restrictions. Forced labor continued to be a problem in rural areas. Child labor remained a problem. There were reports of trafficking in persons. Sierra Leone was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as an observer.

There were some reports of abuses committed by former RUF rebels. International aid groups believed that many girls who were abducted by the RUF remained sex slaves during the year. Some young ex-combatants still were dependent on their former RUF commanders for support.

There was no cross-border conflict between rebel forces and the Guinean military. During the year, there were incursions into the country by Liberian combatants. At times the combatants looted villages and abducted inhabitants, reportedly to use them as porters.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

Unlike in the previous year, there were no reports that forces operating in support of the Government committed unlawful killings.

No action was taken against the CDF members responsible for the June 2001 killing of three civilians during an attack in Kono district or the June and July 2001 retaliatory attack by the RUF that resulted in three deaths.

No action was taken against the members of the security forces responsible for the following incidents in 2000: The May and June killings of 27 persons in the towns of Makeni, Magburaka, and Kambia; the July killing of civilians in Bunumbu during a helicopter gunship attack; and the July execution of an RUF fighter who allegedly was trying to surrender.

Two persons were killed during a demonstration, and alleged eyewitnesses claimed UNAMSIL troops were responsible for the killings (*see* Section 2.b.).

There were a number of deaths in custody during the year (*see* Section 1.c.). In September one RUF member who was indicted for murder died in custody.

No action was taken against the members of the Economic Organization of West African States (ECOWAS) Monitoring Group (ECOMOG) responsible for the Janu-

ary 2000 stabbing death of a civilian in a market and the April 2000 killing of an ex-Sierra Leone Army (SLA) soldier.

Unlike in the previous year, there were no reports that RUF members were responsible for killings during the year or killed ex-combatants who had fled the group. There also were no reports of mutilations that led to deaths by rebel groups.

In March RUF leader Foday Sankoh and 49 RUF co-defendants were indicted with 16 counts of murder and 54 counts of shooting with intent to commit murder in connection with the 2000 incident outside Sankoh's residence in Freetown in which 20 persons were killed and 80 persons were injured. Thirty-one members of an ex-SLA splinter group called the West Side Boys were charged with 11 counts of murder and 11 counts of robbery with aggravation in connection with incidents that took place in Port Loko District in 1999 and 2000. Sankoh, the 49 former RUF rebels, and the indicted West Side Boys remained in detention awaiting trial at Pademba Road Prison at year's end.

No action was taken against the RUF for the following incidents in 2001: The July killing of 22 persons in an attack on the village of Henekuma; the August killing of 2 persons in an attack on the village of Seria, in Koinadugu district; and the death of four former RUF members, allegedly under orders from RUF chairman Issa Sesay.

No action was taken against the RUF rebels responsible for the following killings in 2000: The April and May killings of U.N. peacekeepers; the May killings of journalists Kurt Schork and Miguel Gil Moreno; the June killings in the attack on Port Loko; and the August killing of nine civilians in the village of Folloh. Although the Special Court for Sierra Leone was expected to examine these incidents, no further action was taken by year's end.

An international forensic investigation team visited alleged mass gravesites throughout the country, including several sites in the Port Loko district. Local residents claimed that the victims were civilians executed by ex-Armed Forces Revolutionary Council (AFRC)/RUF members in 1999. Human Rights Officers from UNAMSIL and representatives from the Special Court for Sierra Leone also visited several suspected mass gravesites. In February a former RUF member reported that he had witnessed 75 CDF members killed in an "execution house" in Kailahun in 1998.

Unlike in the previous year, the Guinean army did not attack any part of the country. The Guinean army continued to occupy disputed territory in Yenga, Kailahun District. There was no further verification of reports that Guinean soldiers bombed and shelled villages in the Kambia District in 2001, killing or injuring many civilians, and no action was taken against Guinean soldiers who allegedly carried out these attacks. One Guinean commanding officer was relieved from command after leading an attack against a just-demobilized column of RUF soldiers at a disarmament site at Rokupr, Kambia District in May 2001.

There was no action taken against Guinean armed forces that reportedly participated in the following killings in 2001: The January helicopter gunship attack on the town of Kamakwie that reportedly killed 12 civilians; the February incident of Guinean artillery fire that allegedly killed 4 civilians in Sabuya; the February killing of a 3-year-old girl in the village of Rokel; and the May killing of a small child in Rokupr.

*b. Disappearance.*—With the demobilization and disarmament of the RUF, there were no reports that RUF rebels abducted children, women, or men as slaves or soldiers; however, some women and children remained in captivity during the year. The RUF did not exert significant control over the civilian population in any area of the country. The U.N. estimated that rebel forces abducted approximately 20,000 persons throughout the country during the 1991–1999 period. More than 10,000 victims were released and went through a formal reintegration process; most of those released were children. Many others escaped; however, former RUF rebels continued to hold some persons, including women and children as laborers or sex slaves at year's end. Some human rights monitors said that some of the women remained with their captors during the year due to a lack of viable options and intimidation by their captors (see Section 5). According to child protection officers from non-governmental organizations (NGOs), the Government was hindered severely by a lack of resources and has taken little action to secure their release. The Ministry of Social Welfare, Children, and Gender maintained a database, with the help from UNICEF, which attempted to track children separated from their families during the war.

There were no developments in the following disappearances in 2000: The February abduction of 11 passengers by the RUF from a bus near Masiaka; the July disappearance of a foreign worker following an attack by the West Side Boys; the July abduction of 18 persons by the West Side Boys during an attack on a bus; and

the August kidnaping of 15 persons by the RUF during an attack on the village of Folloh.

During the year, Liberian combatants abducted persons in the country. For example, on July 16, armed Liberian combatants abducted 28 persons from the villages of Mandavalahun, Sange, and Kolu in Kailahun District. The combatants captured 31 villagers in the raid, but 3 escaped. On July 25, an armed group from Liberia abducted 18 persons during a raid of the village of Kokobu, Kailahun District. The Liberian combatants were thought to be using the villagers primarily as porters for looted goods. RSLAF performed frequent border patrols to deter such attacks, and UNAMSIL maintained a heavy presence in Kailahun District; however, the border with Liberia was very porous, and cross-border raids were difficult to stop completely.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there was one unconfirmed report of soldiers beating a person. There also were reports that police accepted bribes and extorted money from motorists. Unlike in the previous year, there were no reports that the CDF beat or otherwise abused persons on behalf of the Government. The conduct of the RSLAF continued to improve following reorganization and increased training.

On February 12, two uniformed RSLAF soldiers allegedly beat two former RUF combatants in the presence of two police officers. The police officers allegedly did not intervene and accepted bribes from the soldiers. RSLAF officials said that the two soldiers were former SLA members and no longer were in military service. An SLP official in the Criminal Investigations Division said that the men were RSLAF members and made a formal request to the RSLAF to identify the perpetrators.

During the year, there were frequent reports that SLP officers took bribes at checkpoints, stopped and falsely charged motorists with violations, and impounded vehicles in order to extort money. Unlike in the previous year, there were no reports that drivers were beaten if they refused to pay.

Unlike in the previous year, there were no reports that the military or the CDF manned roadblocks and bridges to extort money. There was no further information on the disciplinary action taken against an SLA soldier who in 2001 reportedly beat a driver who refused to pay at a roadblock on the road from Kabala to the Guinean border.

There was no action taken against the CDF members responsible for beating, raping, or otherwise abusing the persons in the following cases from 2000: The May and June injuring of 50 persons during gunship attacks on the towns of Makeni, Magburaka, and Kambia; the July raping of 3 women who were accused of transporting goods to rebel-held areas; the August beating of 2 truck drivers because they could not produce the requested bribe; and the October beating of a journalist.

There was no action taken against the relatives of the Minister of Transport and Communication who allegedly beat a journalist, Mustapha Bai Attila, in 2000.

No one was injured by landmines during the year; very few landmines were used in the 11-year conflict.

A policeman allegedly raped a minor girl at the Jembe refugee camp. SLP personnel were removed from the camp during the investigation; however, the alleged perpetrator died and the case was closed.

During the year, there were reports that UNAMSIL soldiers raped persons. For example, on June 26, a UNAMSIL soldier allegedly raped a 14-year-old boy in Jui, Western Area. Although there was strong circumstantial and physical evidence that the rape occurred, 10 days after the alleged rape a UNAMSIL investigation did not find convincing physical evidence to validate the boy's allegation. The UNAMSIL soldier later was sent home, and UNAMSIL sent details of the allegations and findings to the soldier's government.

In April two UNAMSIL soldiers allegedly raped a woman in Joru, Kenema District. International human rights monitors talked to eyewitnesses who supported the victim's claim. UNAMSIL representatives said they carried out an investigation, although international human rights monitors claimed that the investigation was insufficient. UNAMSIL instituted a Personnel Conduct Committee to receive complaints on conduct impropriety. The UNAMSIL Human Rights Section held training sessions for peacekeepers on sexual abuse.

No action was taken against the ECOMOG employee who injured a person during an argument over a stolen vehicle in 2000.

Unlike in the previous year, there were no beatings, rapes, or abductions of women or refugees committed by organized groups of former combatants; however, it was likely that such crimes were committed by individual ex-combatants including former RUF rebels. In previous years, the RUF committed numerous abuses, including abductions, torture, beatings, and rapes, including gang rapes. There also

were no reports of deliberate mutilations during the year. UNAMSIL began systematic investigations of amputees, tracking and monitoring individual amputation cases and compiling statistics. U.N. officials and humanitarian organizations estimated that hundreds if not thousands of persons, including children, had one or both limbs amputated over the decade-long conflict. There were no more reports of RUF rebels carving the initials "RUF" into the skin of civilians. During the year, a U.S.-based plastic surgeon removed the "RUF" scars from many victims.

In September Foday Sankoh and 49 other RUF members appeared in High Court. The trial was postponed throughout the year, and the cases of Sankoh and his co-defendants had not been heard (*see* Section 1.a.).

No action was taken against RUF rebels who committed human rights abuses in 2001, including extortion, beatings, and rapes. No action was taken against RUF members who in April 2001 beat and killed a woman and beat her stepson in Seidu, Kono District.

There was no reported action taken against the RUF rebels who beat, raped, or otherwise abused the persons in the following cases from 2000: The February beating of 15 RUF combatants who tried to join the disarmament process; the March abduction and injuring of Aaron Kargbo and Aruna Sherrif, both Adventist Development and Relief Agency staff members; the April and May abduction of U.N. peacekeepers; and the May injuring of at least 1 civilian during a confrontation between British paratroopers and RUF rebels at Lungi Lo.

There were no developments on the unconfirmed reports that Guinean troops operating in the country amputated the limbs of suspected RUF members in 2001.

Prison conditions improved significantly during the year. International human rights monitors who visited Pademba Road maximum-security prison reported that conditions there were good, with adequate access to food, medical care, recreation, and vocational skills training. In July human rights monitors reported that prisons in Bo and Moyamba were generally good; however, a prison in Kenema suffered from overcrowding, and access to medical facilities was limited. In October a rebuilt detention facility opened in Kono District. Many of the problems that remained in prisons were a result of the poor state of the judicial system. A large backlog of cases led to problems with overcrowding. The Pademba Road prison, which was designed for 325 prisoners, routinely housed hundreds more. There were no reports that prisoners were held incommunicado, although it was government policy to forbid family visits to prisoners at Pademba Prison except in exceptional circumstances and on a case-by-case basis. According to international monitors, the mortality rate in Pademba Prison was within acceptable actuarial norms. Male and female prisoners were housed separately. Adults and juveniles were incarcerated together. Conditions in the holding cells in police offices were extremely poor. Pretrial detainees were held with convicted prisoners. There were no reports that prison guards tortured or beat former RUF members in prison. There was no further investigation into the March 2001 killings at Pademba Prison.

International monitors, including UNAMSIL and the International Committee for the Red Cross (ICRC), had unrestricted access to visit Pademba Prison and other detention facilities. The ICRC and UNAMSIL doctors visited and monitored the health of former RUF leader Foday Sankoh, who was said to be in poor health. At least one local human rights group claimed that it could not get unrestricted access to the prisons.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, government forces occasionally arrested and detained persons arbitrarily. The law requires warrants for searches and arrests in most cases. There were adequate judicial protections against false charges, and detainees had the right of access to family or counsel, although family visits were restricted at maximum-security Pademba Prison (*see* Section 1.c.). On March 1, the Government lifted the state of emergency, under which many of these protections were suspended. Some detainees had not been informed of their legal status, and had no access to legal advice. There were provisions for bail and there was a functioning bail system. Many criminal suspects were held for months before their cases were examined or formal charges were filed. A number of prisoners in custody had not seen a judge since 1999 and 2000 (*see* Section 1.e.).

Following the demobilization of the CDF, there were no reports that CDF members arrested or detained persons during the year.

In July and August, four Liberian children were detained without charge at Pademba Road Prison and then released.

Following the lifting of the state of emergency, a large number of persons detained without charge were released or charged accordingly. At year's end, there were 18 persons who were detained for more than 2 years without charge; 17 were former SLA members and 1 was a former SLP officer.

On September 25, the Government expelled David Bropley, a Liberian ex-combatant, to Denmark for conducting "activities incompatible with his refugee status." Bropley had been in detention for 1 month prior to his expulsion.

The Government did not use forced exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, the judiciary continued to function only in part of the country. The judiciary began to reestablish operations in areas that were abandoned during the war, although there still were large parts of the country without judicial institutions. The judiciary demonstrated substantial independence in practice but at times was subject to corruption.

The judicial system consisted of the Supreme Court, appeals courts, and a high court whose justices were chosen by the President. Local courts administered traditional law with lay judges; appeals from these lower courts moved to the superior courts.

Although the Constitution and the law provide for a speedy trial, in practice the lack of judicial officers and facilities often produced long delays in the judicial process. Trials were usually fair; however, there was evidence that corruption influenced some cases. A majority of cases on the magistrate level were prosecuted by police officers, many of whom had little or no formal legal training. In 2000 the Armed Forces of the Republic of Sierra Leone (Amendment) Act reinstated the right of members of the armed forces to appeal a sentence handed down by a court-martial to the Court of Appeal.

Traditional justice systems continued to supplement extensively the central government judiciary in cases involving family law, inheritance, and land tenure, especially in rural areas. In Kono District there were reports that former CDF and Movement of Concerned Kono Youth (MOCKY), held informal courts to settle disputes among area residents, typically those who were not satisfied with the results of the legal judicial system. MOCKY representatives denied these reports and said that they catalogued disputes and brought them for referral to the proper authorities.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution and law prohibit such practices, and government authorities generally respected these prohibitions in practice.

In March the Government lifted the state of emergency, under which the Government permitted searches without warrants and established a nightly curfew.

In February former RUF commanders in Tongo Fields, Kenema District reported that youths from the Lower Bambara chiefdom tried to drive them out of the area. The ex-RUF commanders alleged that the youths were former CDF members under the influence of the Acting Paramount Chief. The youths allegedly harassed persons in Tongo Fields and imposed fines and taxes.

On July 6, approximately 100 persons destroyed dozens of homes in Kokwima, Kono District. Local chiefs and MOCKY allegedly carried out the attacks in an effort to rid the Kono area of non-Kono persons. MOCKY representatives claimed that individuals from Tankoro, Kono District destroyed the homes because police had failed to respond to reports that the dwellings were being used to traffick drugs. An individual who owned land on which many of the homes were built said that the only homes spared belonged to Konos.

Unlike in the previous year, there were no instances of rebel forces invading, looting, or destroying private property.

Unlike in the previous year, there were no reports that rebel forces kidnaped and forcibly conscripted children (see Section 5).

There was no action taken on unconfirmed reports that in March 2001 RUF fighters forcibly conscripted civilians in Makeni into the Poro Society, one of several secret societies in the country tied to indigenous beliefs and rituals, and forced them to join the RUF.

On July 21, five armed Liberians reportedly looted the villages of Kokobu and Gbandoma.

Unlike in the previous year, there were no reports that Guinean troops destroyed private property or burned homes.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government at times limited these rights in practice. During the year, there were no bans on any newspapers, and no radio station was shut down for failure to pay fees. Unlike in the previous year, security forces did

not harass journalists. The written press and radio generally reported on security matters, corruption, and political affairs without interference.

More than 50 newspapers were published in Freetown during the year, covering a wide spectrum of interests and editorial opinion. Most of the newspapers were independent of the Government, and several were associated with opposition political parties. The number of newspapers fluctuated weekly. Many contained sensational, undocumented stories and repeated items carried by other newspapers. Newspapers openly and routinely criticized the Government and its officials, as well as the rebel forces.

The Independent Media Commission (IMC) regulated independent media outlets. Although it was an independent body, some media observers alleged that the Government influenced it. In March the IMC ordered the editor of the African Champion newspaper to stop publication and cease editorial functions for 2 months in response to two articles printed on February 6 and 11 that accused President Kabbah's son of using a Consul's diplomatic status to escape import duties. The IMC said the editor, Mohammed Koroma, had to cease publication until an investigation was complete. Koroma ignored the demand on the grounds that the IMC did not have the legal right to demand his suspension. The IMC charged Mohamed Koroma to the High Court, but the case had not been heard by year's end.

In November Paul Kamara, editor of the For Di People newspaper, was sentenced to 6 months in prison for defaming a local judge. The court sent a letter to the President recommending the banning of the paper for 6 months, however, the ban was not implemented by year's end. International press rights groups called for the repeal of the criminal libel law under which Kamara was charged.

There was no action taken against police forces that detained and interrogated the editor of the Democrat newspaper in February 2001.

There was no further development on the rumors of "killing squads" that allegedly targeted a list of seven journalists in September 2001.

Due to low levels of literacy and the relatively high cost of newspapers and television, radio remained the most important medium of public information. Several government and private radio and television stations broadcast; both featured domestic news coverage and political commentary.

In February the IMC instituted a \$2,000 (4 million Leones) annual license fee for single channel radio stations. Radio journalists and media monitors claimed that this fee was prohibitively expensive, and if enforced would limit severely the number of independent radio stations. The IMC threatened to close any radio station that did not pay the fee. At year's end, no stations had been closed.

The parastatal Sierratel communications company exercised a monopoly over Internet access in the country. The lack of competition and the poor condition of telephone lines often made Internet connectivity problematic.

The Government did not restrict academic freedom. All institutions of higher learning were open during most of the year; however, university infrastructure destroyed during the conflict was not yet restored fully by year's end.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice.

Several large demonstrations took place during the year, including demonstrations involving thousands of persons before the May elections. Although some demonstrations were marred by violence, most were relatively peaceful. At times UNAMSIL forces backed up government security forces in dealing with demonstrations.

The Government did not ban any demonstrations during the year.

On July 18, two persons were killed in demonstrations relating to the death of a well-known Fullah moneychanger in Freetown. A large crowd took the body of the moneychanger from the morgue and paraded it in the streets. UNAMSIL troops were deployed to key areas in central Freetown for security reasons. According to UNAMSIL, when the crowd became aggressive, UNAMSIL troops employed a combination of persuasion, crowd dispersal tactics, and firing of warning shots in the air. A consortium of domestic human rights NGOs investigated the incident and determined through alleged eyewitness accounts that UNAMSIL troops directly fired into the crowd, killing two civilians. A UNAMSIL investigation into the incident found no conclusive evidence as to how the individuals were killed.

RUF members who opened fire on demonstrators in 2000, killing at least 20 persons and injured 80 others, remained in detention at year's end (see Section 1.a.).

The Constitution provides for freedom of association, and the Government generally respected this right in practice. There were numerous civic, philanthropic, and social organizations, and the registration system was routine and nonpolitical. No known restrictions were applied to the formation or organization of the 16 opposition political parties and the more than 60 registered civic action NGOs. In 2001



21 political parties were registered; during the year, 16 political parties were registered. Some parties were integrated into other parties, such as the Grand Alliance Party. In 2001 the RUF alleged that the Government prevented the establishment of an RUF political party as called for in the Lome Accord. However, during the year the RUF registered as a political party, changed their name to the Revolutionary United Front Party (RUF), and fielded presidential and parliamentary candidates.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice; however, there were frequent reports that SLP officers manned roadblocks and stopped motorists to extort money from travelers (see Section 1.c.). Unlike in the previous year, there were no reports of RUF rebels or CDF members manning roadblocks.

Approximately 247,000 internally displaced persons (IDPs) remained at year's end. Some IDPs were housed in camps, but many lived in Freetown. Residents who feared that their homes would not be safe strongly resisted government attempts to close IDP camps. The large influx of IDPs and the lack of resources caused tension between local residents and IDPs; however, there were no reported incidents of violence. There were numerous reports that refugees and IDPs returned to find their homes occupied.

Approximately 135,000 refugees repatriated during the year. An estimated 70,000 persons remained in refugee camps in Guinea and Liberia; smaller numbers remained in Cote d'Ivoire, the Gambia, Ghana, and other countries and were likely to integrate locally in those countries.

Unlike in the previous year, there were no cross-border actions by the RUF in Guinea that contributed to the return of refugees from Guinea. Unlike in the previous year, there were no reports that the RUF raped, abducted, and killed refugees returning to the country from camps in Guinea.

The law does not provide for granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. However, in practice the Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other organizations on repatriation matters and continued to provide first asylum to an increasing number of Liberians who had fled the conflict in their home country. UNHCR reported that more than 50,000 Liberian refugees entered the country by year's end. Some camps such as Jendema Camp at times were not able to provide adequate food or shelter for the influx of refugees, which caused border areas to become unstable. However, at year's end, conditions in all camps were described as adequate.

The U.N. conducted an investigation into reports in 2001 of widespread sexual abuse of refugees in the Mano River Union, including Sierra Leone. The U.N. investigation found no evidence to support earlier claims of widespread abuse, but did confirm the report of the rape of a 14-year old returnee in Jui (see Section 1.c.). Other international aid workers reported that several cases of abuse and exploitation of refugees by aid workers took place throughout the year.

The Liberian border officially closed at times during the year due to the civil conflict in Liberia; however, authorities permitted refugees, returnees, and other persons to move between the two countries regularly. There were some unconfirmed reports of bribery or coercion at border crossing points, although UNHCR reported that the Government did not hinder or refole those seeking asylum. At year's end, the border was open for all travel.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides for the right of citizens to change their government; however, the May elections were marred by some irregularities.

In 2001 the Government extended the term of Parliament and the President by 6 months in response to the "state of war" in the country. In December 2001, Parliament voted to amend the Constitution in order to modify the electoral system. The amendments also extended President Kabbah's term of office until July. On March 29, Parliament was dissolved until the May elections.

During the year, the Government facilitated the RUF's re-registration as a political party, the RUF. The Government did not allow Foday Sankoh to run as the RUF Presidential candidate, citing a law that required candidates to be registered

to vote and to file personally their candidacy with the National Electoral Commission (NEC). RUF leadership said that Sankoh's registration was not possible because he was in government custody. The RUF alleged that the Government unfairly was trying to ward off a potential threat in the elections, because Sankoh had considerable name recognition and support in the country.

On January 24, the Government began voter registration for the May elections; however, there were reports that the Government's voter registration efforts were unbalanced, with more support going to areas that were dominated by the SLPP. There were widespread reports of underage voter registration.

On May 14, presidential and parliamentary elections were held. Eleven political parties were represented in the elections. President Kabbah of the SLPP was re-elected with 70 percent of the popular vote. The RUF fielded presidential and parliamentary candidates but performed poorly, winning only 1.7 percent of the vote. In Parliament the SLPP won 83 seats; only 2 other parties won seats. Only the SLPP was represented in the Cabinet after two cabinet members, who were earlier considered to be independent, joined the SLPP following the elections. Many international monitors declared the elections free and fair; however, there were credible reports of significant abuse of incumbency, manipulation of vote counting, and partisan action by the NEC. There also were reports of voter coercion by party bosses and traditional leaders. These abuses reportedly did not affect substantially the overall outcome of the election.

There were reports of significant problems on election day. Voter eligibility rules were changed during the course of election day. Early in the day, voters whose names did not appear on registration lists but who held voter cards were allowed to vote. Later in the day, the NEC changed the rule, which led to confusion in some polling stations. One district, Pujehun, reported a 104 percent voter turnout. In the southern and eastern districts, results showed that opposition parties received zero votes in some areas, which was not credible given the observed participation in the election of opposition supporters in those districts.

Locally elected councils and a traditional chieftain system controlled local government. Local elections, which were to have taken place in 1999, again were postponed.

It was estimated that approximately 40 percent of women in the country voted and represented 13 percent of the candidates in the May elections. Sixteen women won seats in the 112-seat Parliament. There were three women in the Cabinet and one in the Supreme Court. A significant number of women were employed as civil servants.

No statistics were available concerning the distribution of votes among minorities. Only citizens could vote. The Constitution restricts the acquisition of citizenship at birth to persons of "patrilineal Negro-African descent." Since legal requirements for naturalization effectively denied citizenship to many long-term residents, a large number of persons of Lebanese origin, who were born and resided in the country, could not vote (*see* Section 5). There was a small percentage of the Lebanese population who had been naturalized and did vote, although the exact figure was unknown. There were no ethnic Lebanese members of Parliament.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated with few government restrictions, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views. National Forum for Human Rights (NFHR) served as an umbrella organization for human rights groups in the country. More than 30 human rights NGOs were registered with NFHR, although only approximately 20 of these were said to be active. The majority of domestic human rights NGOs focused on human rights education, while only a few NGOs actively monitored and reported human rights abuses. The Campaign for Good Governance (CGG) oversaw widespread monitoring activities and has monitored human rights abuses in every province since 2000. CGG also undertook a conflict-mapping exercise that recorded more than 1,000 testimonies of victims and perpetrators of abuses during the war. The final report of this exercise was given to the Truth and Reconciliation Commission (TRC) and Special Court for use in carrying out these two institutions' respective mandates.

For the first time in years, human rights monitors were able to travel freely in previously rebel-held areas. Intensive reporting, data collection, and investigations started in these formerly inaccessible areas. Representatives of various international NGOs, foreign diplomats, the ICRC, and U.N. human rights officers were able to monitor trials and to visit prisons and custodial facilities during most of the year;

however, the Government on occasion attempted to restrict such visits (*see* Section 1.c.).

UNAMSIL continued to operate regional human rights offices in the provincial capitals of Bo and Makeni in addition to the UNAMSIL Human Rights section in Freetown.

In July the U.N. Special Court for Sierra Leone, whose role is to try those who “bear the greatest responsibility for the commission of crimes against humanity, war crimes, and serious violations of international humanitarian law,” began operations and was given 3 years to complete its mandate. By year’s end, investigations had begun and construction had begun on court facilities in Freetown. It was not known when the first indictments would be made.

The TRC provided a forum for publicly airing the grievances of victims and the confessions of perpetrators from the civil war. The TRC began with three interim secretariats who initiated preparations for eventual public hearings. The TRC was delayed, partly by a lack of funding, but was expected to begin public hearings in March 2003. In the interim, commissioners and staff began an education campaign throughout the country. The TRC suffered from management problems that delayed the Commission’s start date and resulted in the dismissal of nearly the entire interim secretariat staff. OHCHR provided an interim administrator in December to oversee a renewed hiring process. On December 4, 70 statement takers began collecting narratives throughout the country.

The U.N. and numerous NGOs, both domestic and international, continued to educate and sensitize the population about the TRC and the Special Court for Sierra Leone, and the Government supported these efforts.

#### *Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination against women and provides for protection against discrimination on the basis of race and ethnicity; however, residents of non-African descent, particularly the Lebanese community, faced institutionalized political restrictions on the acquisition of citizenship.

*Women.*—Domestic violence against women, especially wife beating, was common. The police were unlikely to intervene in domestic disputes except in cases involving severe injury or death. In rural areas, polygyny was common. Women suspected of marital infidelity often were subjected to physical abuse. Frequently women were beaten until they divulged the names of their partners. Because husbands could claim monetary indemnities from their wives’ partners, the beatings often continued until the woman named several men even if there were no such relationships. There also were reports that women suspected of infidelity were required to undergo animistic rituals to prove their innocence.

Rape was recognized as a societal problem and was punishable by up to 14 years imprisonment. Cases of rape were underreported and indictments were rare, especially in rural areas. There were reports that former rebel forces continued to force women and girls to act as sex slaves. Medical or psychological services for rape victims were very limited. There were reports of the sexual abuse of refugees in refugee camps (*see* Section 2.d.).

FGM was practiced widely at all levels of society, although with varying frequency. The less severe form of excision was practiced. UNICEF and other groups estimated that 80 to 90 percent of women and girls had undergone the practice; however, local groups believed that this figure was overstated. FGM was practiced on girls as young as 5 years old. No law prohibits FGM. A number of NGOs worked to eradicate FGM and to inform the public about its harmful health effects. However, active resistance by women’s secret societies, in which FGM commonly occurred as part of initiation rites, countered the well-publicized international efforts against FGM.

On July 31, SLP officers arrested 10 women in Freetown in connection with the death of a 14-year-old girl following an FGM rite. The girl reportedly was found lying on the ground, bleeding from her genital area. All 10 women were suspected to be members of the Bundu secret society.

Prostitution was widespread. Many women and girls, particularly those displaced from their homes and with few resources, resorted to prostitution as a means to support themselves and their children.

The Constitution provides for equal rights for women; however, in practice women faced both legal and societal discrimination.

In particular their rights and status under traditional law varied significantly depending upon the ethnic group to which they belonged. The northern Temne and Limba tribes gave greater rights to women to inherit property than did the southern Mende tribe, which gave preference to male heirs and unmarried daughters. In the Temne tribe, women could not become paramount chiefs; however, in the Mende

tribe, there were several female paramount chiefs. Women did not have equal access to education, economic opportunities, health facilities, or social freedoms. In rural areas, women performed much of the subsistence farming and had little opportunity for formal education.

Women were active in civic and philanthropic organizations. Domestic NGOs such as 50/50 and Women's Forum raised awareness of gender equality and women's issues and encouraged women to enter politics as candidates for Parliament.

*Children.*—The Government was committed to improving children's education and welfare; however, it lacked the means to provide them with basic education and health services. The Ministry of Social Welfare, Gender, and Children's Affairs had primary responsibility for children's issues.

The law requires school attendance through primary school. Schools, clinics, and hospitals throughout the country were looted and destroyed during the 11-year insurgency; most were not rebuilt by year's end. A large number of children received little or no formal education. Schools were financed largely by formal and informal fees, but many families could not afford to pay them. The average educational level for girls was markedly below that of boys, and only 6 percent of women were literate. At the university level, male students predominated.

FGM was performed commonly on girls (*see* Section 5, Women).

More than 6,000 child soldiers served alongside adults on both sides during the civil conflict, but in greater numbers on the rebel side. Some observers estimated that there were almost twice that many child soldiers. In 2001 the recruitment of children for military service by the CDF and the kidnaping and forced conscription of children into rebel forces ceased.

The National Commission for Disarmament, Demobilization, and Reintegration listed 6,845 demobilized child combatants. Girls represented 8 percent of demobilized child soldiers, and 30 percent of reunified noncombatant separated children. Because U.N. and human rights monitors estimated that girls represented 50 percent of those abducted during the war and there were reports that the rebels released disproportionate numbers of boys, these groups fear that many girls continued to be held as sex slaves. UNICEF reported in August that almost 7,000 children, including nearly 5,000 ex-combatants and nearly 2,000 noncombatant separated children, had been reunified with their families. More than 3,500 children of both groups were engaged in formal and informal education programs. Others were in special transitional centers, which were designed to help provide for their unique mental and emotional needs prior to reunification with their families. There continued to be reports that some families and communities rejected the returnees because of their perceived involvement in rebel atrocities. Child protection agencies reported that hundreds of boys and girls did not participate in the formal demobilization process. Locating the families of released child combatants often was difficult, and some did not want to assume responsibility for their children, some of whom were mentally and emotionally incapable of rejoining their families.

*Persons with Disabilities.*—There was no outright discrimination against persons with disabilities in housing or education; however, given the high rate of general unemployment, work opportunities for persons with disabilities were few. Public facility access and discrimination against persons with disabilities were not considered public policy priorities. Although a few private agencies and organizations attempted to train persons with disabilities in useful work, there was no government policy or program directed particularly at persons with disabilities. No law mandates accessibility to buildings or provides assistance to persons with disabilities. In May the Government made some effort to facilitate access to voting for persons with disabilities, particularly for the blind.

Some of the numerous individuals maimed in the fighting, or had their limbs amputated by rebel forces, received special assistance from various local and international humanitarian organizations. Such programs involved reconstructive surgery, prostheses, and vocational training to help them acquire new work skills; however, amputees complained that they did not receive sufficient assistance compared to ex-combatants, who received assistance through the demobilization process. Although the Lome Accord also called for the creation of a special fund to implement a program for rehabilitation of war victims, the fund had not yet been established by year's end. Attention to amputees increased the access of other persons with disabilities to health care and treatment.

*National/Racial/Ethnic Minorities.*—The ethnically diverse population consisted of at least 13 ethnic groups. These groups all spoke distinct primary languages and were concentrated outside urban areas; however, all ethnic groups used Krio as a second language. Little ethnic segregation was apparent in urban areas. Interethnic marriage was common. The two largest ethnic groups were the Temne in the north

and the Mende in the south. Each of these groups was estimated to make up approximately 30 percent of the population. There were reports of interethnic tension (see Section 1.f.).

Ethnic loyalty remained an important factor in the Government, the armed forces, and business. Complaints of ethnic discrimination in government appointments, contracts, military commissions, and promotions were common.

Residents of non-African descent faced institutionalized political restrictions (see Section 3). Legal requirements for naturalization, such as continuous residence in the country for 15 years or the past 12 months and 15 of the previous 20 years, effectively denied citizenship to many long-term residents, notably members of the Lebanese community.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right of association, and in practice, workers had the right to join independent trade unions of their choice. Approximately 60 percent of the workers in urban areas, including government workers, were unionized, but attempts to organize agricultural workers and mineworkers have met with little success. All labor unions generally joined the Sierra Leone Labor Congress (SLLC), but membership was voluntary. There were no reliable statistics on union membership, but membership numbers declined as a percentage of all workers because of the virtual collapse of the small manufacturing sector. Police and members of the armed services were prohibited from joining unions.

The Trade Union Act provides that any five persons may form a trade union by applying to the registrar of trade unions, who has statutory powers under the act to approve the creation of trade unions. The registrar could reject applications for several reasons, including an insufficient number of members, proposed representation in an industry already served by an existing union, or incomplete documentation. If the registrar rejected an application, the decision could be appealed in the ordinary courts, but applicants seldom took such action.

The law does not prohibit antiunion discrimination against workers or employer interference in the establishment of unions; however, there were no reports of such cases during the year. An employee fired for union activities could file a complaint with a labor tribunal and seek reinstatement. Complaints of discrimination against trade unions were made to a tribunal.

Unions were free to form federations and to affiliate internationally. The SLLC was a member of the International Confederation of Free Trade Unions (ICFTU).

*b. The Right to Organize and Bargain Collectively.*—The Regulation of Wages and Industrial Relations Act provides the legal framework for collective bargaining. Collective bargaining must take place in trade group negotiating councils, each of which had an equal number of employer and worker representatives. Most enterprises were covered by collective bargaining agreements on wages and working conditions. The SLLC provided assistance to unions in preparations for negotiations; in the case of a deadlock, the Government could intervene. The Industrial Court for Settlement of Industrial Disputes began hearing cases in 2000; although most cases involving industrial issues continued to go through the normal court system, the Industrial Court heard more than 50 cases during the year.

Workers had the right to strike, although the Government could require 21 days' notice. There were several significant strikes in the public sector during the year. Most notably teachers and doctors went on strike over wages and unpaid salaries in the form of work stoppages and sick-outs. Teachers, doctors, and nurses went on strike during the year. Teachers struck in January, and nurses and doctors struck in February and March. According to the president of Sierra Leone Nurses' association, the Government eventually accepted 80 percent of the nurses' demands. Workers from Sierratel, a telecommunications parastatal, went on strike over refunds of pension benefits.

No law prohibits retaliation against strikers, even for a lawful strike; however, the Government did not take adverse action against the employees and paid some of them back wages.

There were no export processing zones (EPZs).

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced and bonded labor, including by children; however, forced labor remained a problem. Under the Chiefdom's Council Act, individual chiefs could impose forced labor as punishment, and have done so in the past. They also could require members of their villages to contribute to the improvement of common areas. This practice occurred only in rural areas. There was no penalty for noncompliance. There were reports of some bonded labor, possibly including labor by children, in rural areas.

Some women and girls, although in significantly less numbers than before, allegedly remained as sex slaves with former RUF rebels (*see* Section 5). There were reports that former RUF commanders continued to force children to mine diamonds (*see* Section 6.f.).

Liberian forces abducted persons for forced labor (*see* Section 1.b.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The official minimum age for employment was 18 years; however, children between the ages of 12 and 18 years could work in certain non-hazardous occupations, provided that they had parental consent. Due to a severe lack of resources, the Government was unable to implement these laws.

Children routinely assisted in family businesses and worked as petty vendors. Adults employed a large number of street kids to sell, steal, and beg. In rural areas, children worked seasonally on family subsistence farms. Hundreds of children, including those 10 years old and younger, mined in alluvial diamond fields. A majority of these children worked for relatives; however, some reportedly worked for former RUF commanders.

Because the adult unemployment rate remained high, few children were involved in the industrial sector. Foreign employers hired children to work as domestic laborers overseas at extremely low wages and in poor conditions. The Department of Foreign Affairs and International Cooperation was responsible for reviewing overseas work applications to see that no one under the age of 14 was employed for this purpose; however, the reviews were not effective.

The Constitution prohibits forced and bonded labor by children; however, such practices continued to exist (*see* Section 6.c.).

*e. Acceptable Conditions of Work.*—The minimum wage was approximately \$10.50 (21,000 Leones) per month; it had not been adjusted since 1997. The minimum wage was not sufficient to provide a decent standard of living for a worker and family. Most workers supported an extended family, often including relatives who were displaced by the insurgency in the countryside. It was common to pool incomes and to supplement wages with subsistence farming and child labor (*see* Section 6.d.).

The Government's suggested workweek was 38 hours, but most workweeks exceeded that figure.

Although the Government set health and safety standards, it lacked the funding to enforce them properly. Trade unions provided the only protection for workers who filed complaints about working conditions. Initially a union could make a formal complaint about a hazardous working condition; if this complaint were rejected, the union could issue a 21-day strike notice. If workers were to remove themselves from dangerous work situations without making a formal complaint, they risked being fired.

The law protects both foreign and domestic workers; however, there were fewer protections for illegal foreign workers.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons, and there were reports that persons were trafficked from and within the country. Child prostitution was a problem (*see* Section 5). With the end of the war and the demobilization of child soldiers, trafficking in persons lessened significantly. The Government acknowledged unconfirmed reports of limited trafficking within and from the country; however, it lacked resources to address the problem adequately. There were no figures available on the extent of the trafficking problem.

During the year, the Government compelled the RUF to disarm, demobilize, and release its child soldiers; however, there were concerns that a significant number of children remained with their captors. It was likely that small groups of previously captured women and girls continued to be forced to act as sex slaves (*see* Section 5).

Unlike in the previous year, there were no reports that rebels abducted persons to work as servants or laborers in the diamond fields; however, there were reports that former RUF commanders continued to use children to mine diamonds. The Government had not yet asserted complete control over the diamond fields by year's end.

In July Liberian soldiers abducted men, women, and children and used them as porters and other unknown purposes (*see* Section 1.b.).

## SOMALIA<sup>1</sup>

Somalia has been without a central government since its last president, dictator Mohamed Siad Barre, fled the country in 1991. In May 2000, in Arta, Djibouti, delegates representing all clans and a wide spectrum of Somali society participated in a "Conference for National Peace and Reconciliation in Somalia." The Conference adopted a charter for a 3-year Transitional National government (TNG) and selected a 245-member Transitional National Assembly (TNA), which included 24 members of Somali minority groups and 25 women. In August 2000, the Assembly elected Abdiqassim Salad Hassan as Transitional President. Administrations in the northwest (Somaliland) and northeast (Puntland) of the country do not recognize the results of the Djibouti Conference, nor do several Mogadishu-based factional leaders. Serious interclan and intraclan fighting continued to occur in parts of the country, notably in Puntland, the central regions of Hiran and Middle Shabelle, the southern regions of Bay, Bakol, Gedo, Lower Shabelle, Middle Juba, Lower Juba, and in Mogadishu. In Baidoa, the Rahanweyn Resistance Army (RRA) which controls Bay and Bakol splintered, resulting in continued fighting by RRA leaders to assert control over Baidoa. No group controlled more than a fraction of the country's territory. The Inter-Governmental Authority for Development (IGAD) sponsored a reconciliation conference led by Kenya, in association with Ethiopia and Djibouti. All major political and military leaders attended as well as elders, religious leaders, and members of civil society. There was no national judicial system.

Leaders in the northeast proclaimed the formation of Puntland in 1998. Puntland's leader, Abdullahi Yusuf, publicly announced that he did not plan to break away from the remainder of the country; however, the Puntland Administration did not participate in the Djibouti Conference or recognize the TNG that emerged from it. In July 2001, Yusuf announced his refusal to abide by the Constitution and step down. This led to a confrontation with Chief Justice Yusuf Haji Nur, who claimed interim presidential powers pending elections. In November 2001, traditional elders elected Jama Ali Jama as the new Puntland President. Yusuf refused to accept the elders' decision, and in December 2001, he seized by force the town of Garowe, reportedly with Ethiopian support. Jama fled to Bosasso. In early May, Yusuf seized Bosasso and controlled Puntland in general. Forces loyal to Puntland president Jama Ali Jama withdrew from Bosasso without a fight. Both Yusuf and Jama continued to claim the presidency, and there were continued efforts to resolve the conflict at year's end. A ban on political parties in Puntland remained in place.

In the northwest, the Republic of Somaliland continued to proclaim its independence within the borders of former British Somaliland. Somaliland has sought international recognition since 1991 without success. Somaliland's government included a parliament, a functioning civil court system, executive departments organized as ministries, six regional governors, and municipal authorities in major towns. During the year, Somaliland continued to be stable. In January the House of Elders extended the life of the Parliament for 1 year and postponed elections. On December 15, municipal elections were held, and more than 440,000 voted out of a population believed to be 2.5 million. A total of 379 local councilors were elected. Presidential and parliamentary elections are expected to take place in mid-2003. In May President Egal died, and his vice-president, Dahir, was sworn in as president within a week.

Clan and factional militias, in some cases supplemented by local police forces continued to function with varying degrees of effectiveness in the country. In Somaliland more than 60 percent of the budget was allocated to maintaining a militia and police force composed of former troops. The TNG had a 3,500-officer police force and a militia of approximately 5,000 persons. During the year, demobilization ceased due to lack of funding. Police and militia members committed numerous and serious human rights abuses throughout the country.

The country's population was estimated to be between 7 and 8 million. The country was very poor with a market-based economy in which most of the work force was employed as subsistence farmers, agro-pastoralists, or pastoralists. The principal exports were livestock and charcoal; there was very little industry. Insecurity and bad weather continued to affect the country's already extremely poor economic situation. A livestock ban by Saudi Arabia continued and seriously harmed an already devastated economy. The country's economic problems continued to cause severe unemployment and led to pockets of malnutrition in southern areas of the country.

<sup>1</sup>The United States does not have diplomatic representation in Somalia. This report draws in part on non-U.S. Government sources.

The country's human rights record remained poor, and serious human rights abuses continued. Citizens' did not have the right to change their government because of the absence of an established central authority. Numerous civilians were killed in factional fighting, especially in Gedo, Bay, Bakol, Hiran, Lower Shabelle, Middle Shabelle, Middle Juba, Lower Juba, and in Mogadishu and Bosaso. Kidnaping remained a problem, particularly in Mogadishu where a number of Somali U.N. workers were kidnaped. Landmines resulted in several deaths. Prison conditions remained harsh and life threatening. Arbitrary arrest and detention remained problems. In most regions, the judicial system relied on some combination of traditional and customary justice, Shari'a (Islamic) law, and the pre-1991 Penal Code. Citizens' privacy rights were limited. There were restrictions on the freedoms of speech, press, assembly, association, religion, and movement. Violence and discrimination against women, including the nearly universal practice of female genital mutilation (FGM), continued. Abuse of children remained a problem. Abuse and discrimination against ethnic and religious minorities in the various clan regions persisted. There was no effective system for the protection of workers' rights, and there were isolated areas where local gunmen forced minority group members to work for them. Child labor and trafficking remained problems.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Political violence and banditry have been endemic since the 1991 revolt against Siad Barre. Since that time, tens of thousands of persons, mostly noncombatants, have died in interfactional and interclan fighting. The vast majority of killings throughout the year resulted from clashes between militias or unlawful militia activities; several occurred during land disputes, and a small number involved common criminal activity. The number of killings continued as a result of interclan and intraclan fighting between the following groups: The RRA and TNG; the TNG and warlord Muse Sudi in Mogadishu; warlord Hussein Aideed and the TNG; Abdullahi Yusuf's forces and those of Jama Ali Jama in Puntland; and the SRRC and Jubaland Alliance in Kismayu.

Security forces and police killed several persons; however, unlike in the previous year, there were no reports that they used lethal force to disperse demonstrators. For example, on June 22, TNG police killed Abdi Adam Jabey after he refused to pay a tax levy at Bakara market in Mogadishu. On September 22, TNG soldiers who were manning a checkpoint on the outskirts of Merka opened fire on a minibus taxi after it refused to stop and killed one person. No action was taken in either case by the TNG authorities by year's end.

No action was taken against the responsible members of the security forces in the following 2001 cases: The February forcible dispersal of a demonstration in Bosaso by security forces and police who shot and killed 1 woman and injured 11 other persons; the August killing of a small child by Somaliland police; and the alleged August killing in Mogadishu of 2 young brothers by TNG police.

No action was likely to be taken against the responsible members of TNG forces, Somaliland and Puntland forces, warlord supporters, or members of militias for numerous killings in 2000.

In August 2001, Tanzanian police arrested three individuals who reportedly killed former Siad Barre army General Yusuf Tallan in 2000; they remained in custody in Tanzania at year's end.

Numerous deaths resulted from conflicts between security and police forces and militias during the year. For example, between May 24 and May 28, more than 60 persons were killed and hundreds injured in clashes between militia loyal to Muse Sudi and TNG forces. Hospital sources said most of the casualties were civilian non-combatants, including women and children, injured by indiscriminate fire.

There were no actions taken against those responsible for the killings that resulted from conflicts between security and police forces and militias in the following 2001 cases: The March killing in Mogadishu of 4 persons, including a deputy police inspector, during a gun battle between police and militia members; the May killing of more than 50 persons and the injuring of more than 100 during fighting between Somali National Alliance (SNA) militiamen and TNG security forces; the May killing of 13 persons in Libahel town during fighting between RRA militiamen and TNG forces; the June killing of 2 persons and the injuring of several others during fighting between TNG police and militiamen; the July killing of 4 persons during clashes between security forces belonging to Islamic Court Militia in Merka and clan militiamen from the area; and the August killing of at least 18 persons during fighting between a coalition of factions supported by the Government of Ethiopia and the TNG-supported Jubaland Alliance militia in the southern port city of Kismayu.



There was no action taken against the responsible members of militias in the following 2001 cases of killing of members and supporters of the TNG: The reported January attack by RRA militia members on a convoy of TNG officials in the Bakol region in which at least 9 persons were killed and a number of others were injured, and the February attack by troops from the Somali National Front (SNF) militia belonging to warlord Abdirizak Bihi on a TNG delegation in Garbaharre town in Gedo region during which 10 persons were killed.

Attacks against humanitarian and nongovernmental organization (NGO) workers resulted in at least one death during the year. In February gunmen killed Veren Karer, a Swiss national funded by a Swiss NGO who was running a primary school and clinic. TNG police arrested several men who were suspects. The killing was apparently related to an employment dispute and was not politically motivated. Police killed one of the suspects, possibly while he was resisting arrest; the other suspects were released for lack of evidence. On October 19, armed men attacked a Medecines Sans Frontieres (MSF) clinic in Adan Yabal in Middle Shabelle. One patient was killed and two persons were injured. MSF suspended operations after the attack. No action was taken against those responsible by year's end.

There were no actions taken by year's end against the militiamen loyal to warlord Osman Atto who in July 2001 ambushed a World Food Programme (WFP) relief convoy near Mogadishu that killed six persons.

Militia attacks resulted in deaths during the year. For example, on January 11, Garah Mohammed Said Gom'ad, a prominent businessman, reportedly was killed by forces of Abdullahi Yusuf in a deliberate attack. Yusuf's militia reportedly stopped his car and shot him. On August 17, Abdullai Yusuf's bodyguards killed Sultan Ahmed Mohamoud Mohammed, a UK citizen, after respective convoys of Yusuf and Mohammed passed each other on the road approximately 2 miles south of the Puntland town of Garowe. Yusuf claimed the death was accidental and that his men only were trying to stop Mohammed to question him and fired to get the attention of the convoy. Witnesses claimed that the killing was intentional. According to the press reports, Mohammed was targeted by Yusuf for arrest as a religious extremist. No action was taken against those responsible by year's end.

No action was taken in the following 2001 cases of militia attacks that resulted in deaths: The February killing of one person during renewed border clan warfare between Somaliland and Puntland; the June killing of at least three persons in Mogadishu by armed militiamen; the June killing of five persons by unidentified heavily armed militiamen who shot at a passenger bus in Mahadday area of Lower Shabelle region; the June killing of seven persons by militiamen who fired into a minibus in Mogadishu; and the August killing by Abdullahi Yusuf's militia of four men who attempted to stop them at a roadblock while retreating to Garowe from Bosasso.

Conflicts between rival militias resulted in deaths during the year. For example, on May 30, four persons were killed and seven injured in a clash between subclan militiamen loyal to Mohammed Dere and those loyal to Dahir Dayah, TNG Interior Minister in Mir Tuug village in Middle Shabelle; on June 18, 20 more persons were killed in a clash between Dere and Dayah militiamen. On August 2, forces loyal to Abdullahi Yusuf captured Gardo from Jama Ali Jama's forces, and more than 120 persons were killed and 100 others injured. No action was taken against those responsible by year's end.

No action was taken against the militia members responsible for any 2001 cases of killing.

Fighting within militia groups resulted in numerous deaths during the year. For example, on June 1 and 2, more than 10 persons were killed and 40 injured after fighting broke out between Marehan and Haber Gedir Ayr clans that form most of the Juba Valley Alliance (JVA) coalition. No action was taken against those responsible by year's end.

No action was taken against the militia members responsible for the February 2001 killing at the Balligdogle airstrip of four persons when they began to fight among themselves.

Mining of roads occurred primarily in Gedo region where Marehan factions of the SNF fought during the year and in Middle Shabelle where warlord Mohamed Dere was involved in intraclan warfare.

Landmine explosions caused several deaths and injuries during the year (*see Section 1.c.*). On January 30, a vehicle hit a landmine about 90 miles from Mogadishu on the road to Baidoa killing two persons and injuring three.

Unknown assailants killed persons during the year. For example, on April 28, gunmen killed Dr. Dahir Sheikh Ahmed, a well-known radiologist at Mogadishu's Mount Sinai Hospital. The apparent motive was robbery. On May 3, near Johwar,

unidentified gunmen attacked a passenger bus, killing six persons and injuring six others. No action was taken against those responsible by year's end.

No action was taken against the unknown assailants responsible for the following 2001 cases: The February killing of a bystander during an attack on the Mogadishu police chief in Mogadishu; the February killing of three children in Mogadishu while returning from Koranic school; the March killing of 10 men in Jowhar in retaliation for the killing of a young girl; and the March killing of four persons at the police station in Qardho after complaining about police harassment.

Interclan fighting resulted in numerous deaths during the year. For example, on January 29, more than 40 persons were killed and 60 injured in interclan fighting in Mudug region of central Somalia. In April interclan fighting in Bula Hawa, across the border from Mandera, Kenya, resulted in numerous deaths and injuries. Approximately 7,000 refugees fled to Kenya; most returned after fighting subsided. In early October in Galkacyo, an interclan clash between Majerten and Haber Gedir resulted in 13 deaths and more than 20 injured. On December 25, at least 4 students were killed and 15 injured—all between the ages of 16 and 19—when gunmen opened fire on a school bus in Mogadishu, apparently because one clan thought the bus belonged to another clan. No action was taken in any of these incidents by year's end.

There was no action taken against those responsible for the following killings due to interclan fighting in 2001: The March killing of 6 persons in Hawl Wadag; the March killing of 40 persons during Marehan intraclan fighting; and the May killing of 7 persons in a clash between the Galjecel and Rahanweyn clans over camel rustling in Burhakaba.

There was no action taken against those responsible for the February 2001 killing of 3 persons and the burning of 13 villages in Jowhar during a land dispute.

Unlike in the previous year, there were no reports during the year that Ethiopian troops participated in fighting and killed persons.

There no further developments in the January 2001 report that Ethiopian soldiers killed 5 persons after they fired shots into a group of demonstrators in the southwest or the September 2000 reported killing of 2 persons by 30 Ethiopian soldiers during an alleged attack on Haji Salah village in Somaliland.

*b. Disappearance.*—There were no known reports of unresolved politically motivated disappearances, although cases easily might have been concealed among the thousands of refugees and displaced persons.

There continued to be reports of kidnappings of NGO workers during the year. For example, on February 28, a Somali UNICEF employee in Mogadishu was kidnaped; he was released several days later after TNG, U.N., and elders' pressure. On April 28, a Somali U.N. Development Program (UNDP) employee in Mogadishu was kidnaped; he was released on May 25. On August 5, a Somali Foreign Agricultural Organization employee in Mogadishu was kidnaped; he was released on August 10.

There were numerous kidnappings by militia groups and armed assailants who demanded ransom for hostages. For example, on February 9, gunmen in Mogadishu abducted a Djiboutian citizen serving as a bodyguard to then TNG Foreign Minister Ismael Hurre. A ransom was demanded; however, it was unclear whether this was an act of extortion or an attempt to undermine the TNG. The hostage escaped 2 months later. In early August off the coast of Puntland, militia members loyal to Abdullahi Yusuf hijacked a Greek-owned North Korean-registered oil tanker and asked for \$600,000 in ransom. Yusuf intervened and the ship was released. The amount of ransom paid, if any, was unknown.

Between Sept 20 and 24, approximately 10 ethnic Arabs were kidnaped. The motive for the kidnappings and whether they have been released were unknown by year's end.

In late September, approximately 100 Ethiopian soldiers abducted 12 elders who were negotiating a ceasefire between subclans in Galgudud region. The reason for abduction was unknown; however, the elders subsequently were released.

There were no investigations or action taken against the perpetrators of kidnappings that occurred during the year, in 2001, or in 2000.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Transitional National Charter, adopted in 2000 but still not implemented by year's end, prohibits torture, and the Puntland Charter prohibits torture "unless sentenced by Islamic Shari'a courts in accordance with Islamic law"; however, there were some reports of the use of torture by the Puntland and Somaliland administrations and by warring militiamen against each other or against civilians. Observers believed that many incidents of torture were not reported.

Security forces, police, and militias also injured persons during the year. Acts of violence, including several killings, continued against supporters or members of the TNG (*see* Section 1.a.).

In July a regional court found a young man guilty in Mogadishu of stealing more than \$20. The court sentenced him to amputation of his hand; however, the TNG Justice Minister and the domestic human rights group Dr. Ismael Jumale Human Rights Centre (DIJHRC) protested, and the sentence was under review at year's end.

In their annual report the DIJHRC reported that during the year there were 32 rape cases in Mogadishu, largely committed by militia members.

There were reports of numerous rapes of Somali women and girls in refugee camps in Kenya during the year. The majority of the rapes were perpetrated by Somali bandits who crossed over the border; a small number of the rapes were committed by Kenyan security forces and police. The U.N. High Commissioner for Refugees (UNHCR) documented more than 100 reported cases between February and August but estimated that the actual number was likely 10 times greater. The aid agency CARE estimated that approximately 40 women were raped every month in 4 refugee camps; other reports indicated that 10 percent of Somali women in the camps have been raped. The rapes usually followed looting attacks by bandits and occurred when women and girls left the camps to herd goats or collect firewood or at night when bandits enter the refugee camps. The victims ranged in age from 4 to 50 years of age, and many of the rapes reportedly resulted in pregnancies.

Unlike in the previous year, there were no reports that security forces killed and injured persons while forcibly dispersing demonstrations.

There were several attacks on humanitarian and NGO workers by militia and other groups, which resulted in deaths and injuries (*see* Section 1.a.).

There was at least one report of an attack with explosives during the year. In February two persons were injured seriously when unknown persons threw a grenade into the residence of TNG Prime Minister Hassan Abshir Farah.

There were no investigations or action taken against the perpetrators of numerous attacks with explosives in 2001.

No action reportedly was taken against TNG, Somaliland, and Puntland forces, warlord supporters, or members of militias responsible for torturing, beating, raping, or otherwise abusing persons in 2001 or 2000.

Landmine explosions killed and injured persons during the year (*see* Section 1.a.). Although reliable statistics were not available, a large number of persons were killed and injured as a result of interfactional and interclan fighting (*see* Section 1.a.).

Prison conditions remained harsh and life threatening. For example, Hareryale, a prison established between north and south Mogadishu, reportedly held hundreds of prisoners, including children. Conditions at Hareryale were described as overcrowded and poor. Similar conditions exist at Shirkhole prison, a prison in south Mogadishu, and at a north Mogadishu prison for Abgel clan prisoners run by warlord Musa Sudi. In September 2001, the U.N. Secretary General's Independent Expert on Human Rights, Dr. Ghanim Alnajjar, visited prisons in Hargeisa and Mogadishu. Alnajjar reported that conditions had not improved in the 3 years since his last visit.

Overcrowding, poor sanitary conditions, a lack of access to adequate health care, and an absence of education and vocational training characterized prisons throughout the country. Tuberculosis was widespread. Abuse by guards reportedly was common in many prisons. The detainees' clans generally paid the costs of detention. In many areas, prisoners were able to receive food from family members or from relief agencies. Ethnic minorities made up a disproportionately large percentage of the prison population.

Pretrial detainees and political prisoners were held separately from convicted prisoners. According to an international observer, men and women were housed separately in the Puntland prison in Bosasso; this was the case in other prisons as well. Juveniles frequently were housed with adults in prisons. A major problem continued to be the incarceration of juveniles at the request of families who wanted their children disciplined. The juveniles were held without charge, and they frequently spent long periods of incarceration with adults.

The Puntland Administration permitted prison visits by independent monitors. Somaliland authorities permitted prison visits by independent monitors, and such visits occurred during the year. The DIJHRC visited prisons in Mogadishu during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—In the absence of constitutional or other legal protections, various factions continued to engage in arbitrary detention.

On September 15, Abdillahi Yusuf's Puntland authorities arrested a group of Muslim preachers, both foreign and local, who were on their way to Hargeisa to attend a religious gathering. They were released several days later.

In early August, Puntland authorities arrested several human rights advocates who were planning to attend a conference in Hargeisa. They were released several weeks later at the request of the visiting U.N. Independent Expert on Human Rights.

On August 27, Puntland forces raided the office of Ocean Training Promotion, a Bosasso NGO, removed equipment, and arrested seven officials. The officials were released 1 day later.

There were reports that authorities in Somaliland, Puntland, and in areas of the south detained local or foreign journalists (*see* Section 2.a.).

It was unknown whether persons detained in 2001 and 2000 were released during the year.

None of the factions used forced exile.

*e. Denial of Fair Public Trial.*—There was no national judicial system.

The Transitional Charter, adopted in 2000, provides for an independent judiciary and for a High Commission of Justice, a Supreme Court, a Court of Appeal, and courts of first reference; however, the Charter still had not been implemented by year's end. Some regions established local courts that depended on the predominant local clan and associated factions for their authority. The judiciary in most regions relied on some combination of traditional and customary law, Shari'a, the Penal Code of the pre-1991 Siad Barre government, or some elements of the three. For example, in Bosasso and Afmadow, criminals were turned over to the families of their victims, who then exacted blood compensation in keeping with local tradition. Under the system of customary justice, clans often held entire opposing clans or subclans responsible for alleged violations by individuals.

There were two functioning Shari'a-based entities—a new one in the Daynile area and one in the Beledweyne area; however, both largely acted as administrative units not courts.

In 2000 Somaliland adopted a new Constitution based on democratic principles but continued to use the pre-1991 Penal Code. The Constitution provides for an independent judiciary; however, the judiciary was not independent in practice. There was a serious lack of trained judges and of legal documentation in Somaliland, which caused problems in the administration of justice. Untrained police and other persons reportedly served as judges.

The Puntland Charter has been suspended since the infighting between Abdullahi Yusuf and Jama Ali Jama. The Charter provides for an independent judiciary; however, the judiciary was not independent in practice. The Puntland Charter also provided for a Supreme Court, courts of appeal, and courts of first reference. In Puntland clan elders resolved the majority of cases using traditional methods; however, those with no clan representation in Puntland were subject to the Administration's judicial system.

The Transitional Charter provides for the right to be represented by an attorney. The right to representation by an attorney and the right to appeal did not exist in those areas that apply traditional and customary judicial practices or Shari'a. These rights more often were respected in regions that continued to apply the former government's Penal Code, such as Somaliland and Puntland.

There was no investigation or action taken against the more than 50 gunmen responsible for the January 2001 attack on an Islamic court in Mogadishu during which 48 prisoners were released and the premises looted.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Transitional Charter provides for the sanctity of private property and privacy; however, looting and forced entry into private property continued in Mogadishu, although on a smaller scale than in previous years. The Puntland Charter and the Somaliland Constitution recognize the right to private property; however, the authorities generally did not respect this right.

Unlike in the previous year, there were no reports that militia members confiscated persons' possessions as punishment during extortion attempts.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Transitional Charter provides for freedom of speech and the press; however, the charter still was not implemented by year's end, and there were incidents of harassment, arrest, and detention of journalists in all areas of the country, including Puntland and Somaliland. The Puntland Charter provides for freedom of the press "as long as they respect the law"; however, this

right was not respected in practice. The Somaliland Constitution also provides for freedom of the press; however, this right was restricted in practice.

In September the Transitional National Assembly (TNA) passed a Press Bill that requires all media to register with the Minister of Information and imposes penalties for false reporting. Critics alleged that if enforced the law would give the TNG powers of censorship; however, there were no reports that the law was enforced by year's end.

Unlike in the previous year, journalists were not banned from covering proceedings of the TNA.

In January TNG police arrested a newspaper reporter allegedly for reporting inaccurately on parliamentary proceedings. He was released 2 days later.

The print media consisted largely of short, photocopied dailies, published in the larger cities and often linked to one of the factions. Several of these newspapers nominally were independent and were critical of the faction leaders.

Somaliland has two daily newspapers, one government daily, and one independent. There also was an English language weekly newspaper. The Government tolerated criticism by journalists during the year.

On March 17 in Somaliland, the editor-in-chief of the local daily Al-Jamhuriya newspaper was arrested for publishing an article that claimed that members of the House of Elders were bribed to extend the President's term for another year. He was released several days later.

In late August, a reporter for the Hargeisa-based Wartire newspaper was arrested for writing an allegedly false article that Somaliland had entered into a secret agreement to give land to Djibouti. He was released 3 days later at the request of the visiting U.N. Independent Expert on Human Rights.

The majority of the country's citizens obtained news from foreign news broadcasts, primarily the British Broadcasting Corporation (BBC), which transmitted a daily Somali-language program. The major faction leaders in Mogadishu, as well as the authorities of the self-declared Republic of Somaliland, operated small radio stations. The TNG recently began operating an FM station. In April 2001, a new radio station, funded by local businesses, began operating in the southern part of the country.

On May 22, after retaking power in Puntland, Yusuf's administration closed the privately owned Somali Broadcasting Corporation's (SBC) radio and television facilities in Bosasso, probably because the SBC had favored Yusuf's rival Jama Ali Jama.

In June Somaliland authorities banned all private radio stations; however, it subsequently permitted a BBC-funded FM station to broadcast. Government-run Hargeisa radio continued to broadcast.

On August 16, Puntland authorities prohibited two BBC correspondents from filing reports with the BBC.

Unlike in the previous year, several telephone companies and Internet providers operated and provided service throughout the country during the year.

There were restrictions on academic freedom; academics operated under restrictions similar to those imposed on members of the media. There was no organized higher education system in most of the country. There were two universities in Mogadishu and two in Somaliland.

*b. Freedom of Peaceful Assembly and Association.*—There is no mention of freedom of peaceful assembly in the Transitional Charter, nor is there legal protection for freedom of assembly, and although citizens were free to assemble in public, the lack of security effectively limited this right in many parts of the country. The ban on demonstrations continued; however, demonstrations occurred throughout the country during the year. On a number of occasions during the year, women demonstrated for peace in Puntland despite the ongoing factional fighting.

Unlike in the previous year, there were no reports that the authorities in Somaliland, Puntland, and the south forcibly dispersed demonstrations or used excessive force, which resulted in deaths.

The Puntland Charter provides for freedom of association; however, the Puntland Administration banned all political parties. The Somaliland Constitution provides for freedom of association. In a referendum in May 2001, Somaliland voters approved legislation governing the formation of political parties. The law limits the number of political parties allowed to contest general elections to three. An ad hoc commission, nominated by the President and approved by the House of Representatives, was responsible for considering applications. The law provides that approved parties that win 20 percent of the vote in the next Somaliland elections would be allowed to operate.

Professional groups and local NGOs operated as security conditions permit.

*c. Freedom of Religion.*—There was no national constitution and no legal provision for the protection of religious freedom, and there were some limits on religious freedom.

The Transitional Charter establishes Islam as the national religion. Some local administrations, including the Republic of Somaliland and Puntland, have made Islam the official religion in their regions.

Local tradition and past law make it a crime to proselytize for any religion except Islam. Proselytizing for any religion except Islam is prohibited by law in Puntland and Somaliland and effectively blocked by informal social consensus elsewhere in the country. Christian-based international relief organizations generally operated without interference, as long as they refrained from proselytizing. In early March, three Christian Ethiopian nationals were arrested in Hargeisa allegedly for proselytizing. A search of their home uncovered Bibles and tapes on Christianity. They were deported to Ethiopia.

In Puntland Abdallahi Yusuf decreed that only Shaff'iyyah, a moderate Islamic doctrine followed by most Somalis, would be allowed in Puntland. Several days later, Puntland security forces entered several mosques in Bosasso to compel compliance.

Under the regulations in Somaliland, religious schools and places of worship were required to obtain the Ministry of Religion's permission to operate. The Ministry must approve entry visas for religious groups, and certain unspecified doctrines were prohibited. In Puntland religious schools and places of worship must receive permission from the Ministry of Justice and Religious Affairs to operate.

Non-Sunni Muslims often were viewed with suspicion by members of the Sunni majority. There was strong social pressure to respect Islamic traditions. Organized Islamist groups whose goal was the establishment of an Islamic state included Al-Islah, which openly operated primarily in Mogadishu, and Al-Ittihaad, which during the mid-1990's organized and operated training camps, continued to have adherents throughout the country but did not appear to have a central structure during the year. There was a continued influx of foreign Muslim teachers into the country to teach in private Koranic schools; however, there were reports that these schools required the veiling of small girls and other conservative Islamic practices normally not found in the local culture.

There was a small, low-profile Christian community. Christians, as well as other non-Muslims who proclaimed their religion sometimes faced societal harassment.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Transitional Charter and the Puntland Charter provide for freedom of movement; however, this right continued to be restricted in some parts of the country. Checkpoints manned by militiamen loyal to one clan or faction inhibited passage by other groups. In the absence of a recognized national government, most citizens did not have the documents needed for international travel.

On April 2, a TNG minister was detained in Hargeisa and sent back to Mogadishu. Somaliland authorities said he did not have permission to be in Somaliland. TNG authorities said he was transiting Somaliland to attend a conference in Cairo.

In 2001 in the Qoryoley district, militia members reportedly created checkpoints along the river where residents obtained water and charged them to take water from the river. The militia members also reportedly charged money from persons who were going into or out of the town. Persons who refused to comply with the extortion attempts reportedly were punished by having their belongings taken or were killed by militia members.

There are approximately 300,000 IDPs in the country, representing approximately 4 percent of the population. The majority of IDPs in the country reportedly lived in old schools and former government buildings.

As security conditions continued to improve in many parts of the country, refugees and IDPs returned to their homes. During the year, 50,216 Somali refugees returned to the country from Ethiopia under the auspices of the UNHCR. Despite sporadic harassment, including the theft of humanitarian provisions and convoys by militiamen, repatriation generally took place without incident. The U.N. Independent Expert on Human Rights visited several IDP camps in Somaliland and found them among the worst in the world. He reported that the camps were overcrowded, had poor sanitation, and there was little or no access to employment and education. No local, regional, or U.N. authorities have taken responsibility for the camps.

Despite the relative stability in many parts of the country, many citizens continued to flee to neighboring countries, often for economic reasons. Most migrants left

from the northeast and traveled via boat to Yemen. There were reports that hundreds of such migrants drowned in accidents at sea during the year.

The U.N. estimated that approximately 305,000 Somalis were living as refugees in neighboring countries, including approximately 139,000 in Kenya at year's end, a decrease from more than 400,000 at the height of the humanitarian crisis in 1992. There were approximately 60–70,000 Somali refugees in Ethiopia and 23,872 Somali refugees in Djibouti at year's end.

As there was no functioning central government, there was no policy of first asylum, nor were there any laws with provisions for the granting of asylum or refugee status. A small number of Ethiopian refugees remained in the country, mostly in the northeast near Bosasso. The authorities in Somaliland have cooperated with the UNHCR and other humanitarian assistance organizations in assisting refugees.

In October 2001, approximately 106 Tanzanian refugees arrived in Mogadishu from Kenya. Some of the refugees were living in an open yard at the Hamar School at year's end, and some of the refugees returned to Tanzania. Also in October 2001, a second group of approximately 93 Tanzanian refugees arrived in Mogadishu; the group moved to another location until the TNG's National Refugee Agency was able to renovate abandoned buildings in the city for their use.

There were numerous reports of rapes of Somali women and girls in refugee camps in Kenya (*see* Section 1.c.).

There were no reports of the forced return of persons to a country where they feared persecution.

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

In the absence of a fully functioning national government, citizens cannot exercise the right to change their government. In most regions, local clan leaders function as de facto rulers. Although many such groups derived their authority from the traditional deference given clan elders, most faced opposition of varying strength from clan groups and political factions.

With the fall of the Barre regime in 1991, fighting among rival faction leaders resulted in the killing, displacement, and starvation of thousands of persons and led the U.N. to intervene militarily in 1992. Following the U.N. intervention, periodic attempts at national reconciliation were made, but they did not succeed.

In 2000 in Arta, Djibouti, more than 900 delegates representing all clans and a wide spectrum of Somali society were selected for a "Conference for National Peace and Reconciliation in Somalia." The Conference adopted a charter for a 3-year Transitional National Administration and selected a 245-member Transitional Assembly, which included 24 members of Somali minority groups and 25 women. The assembly elected Abdiqassim Salad Hassan as Transitional President. Ali Khalif Gallayr was named Prime Minister, and he appointed the 25-member Cabinet. In October 2001, the TNA passed a vote of no confidence in the TNG, and Gallayr was dismissed as Prime Minister. In November 2001, Abdiqassim appointed Hassan Abshir Farah as the new Prime Minister.

The Transitional Charter, adopted in 2000, but still not implemented by year's end, provides for universal suffrage. Both of the Puntland and Somaliland administrations provided for universal suffrage.

In the Republic of Somaliland, a clan conference led to a peace accord in 1997 that demobilized militia groups, established a constitution and bicameral parliament with proportional clan representation, and elected a president and vice president from a slate of candidates. The Hargeisa authorities have established functioning administrative institutions in virtually all of the territory they claim, which equaled the boundaries of the Somaliland state that achieved international recognition in 1960. Nine new political parties were formed in Somaliland during the year. In May 2001, a referendum was held with 97 percent of voters supporting Somaliland independence; voters also ratified the political party legislation approved in 2000 by Parliament. Parliamentary and presidential elections were scheduled for January 2003. President Egal died in May; however, there was a peaceful transition, and Vice-President Dahir was sworn in as President.

In 1998 Puntland was established as a regional government during a consultative conference with delegates from six regions, including traditional community elders, the leadership of political organizations, members of legislative assemblies, regional administrators, and civil society representatives. Representatives of Puntland-based subclans chose Abdullahi Yusuf as President. Puntland has a single chamber quasi-legislative branch known as the Council of Elders, which played a largely consultative role. Political parties were banned in Puntland. Regional elections in Puntland were held during 2001; however, President Yusuf refused to step down, and Chief Justice Nur assumed powers as interim president. In November 2001, elders elected

Jama Ali Jama as the new President of Puntland, and he assumed power in Garowe. Yusuf refused to accept the decision, and, in December 2001, he militarily seized Garowe, reportedly with Ethiopian support, which forced Jama to flee to Bosasso. In May Abdullahi Yusuf, who claimed that Jama was elected president illegally, occupied Bosasso by force and declared himself President of Puntland.

The Somaliland and Puntland administrations do not recognize the results of the Djibouti Conference, nor do several Mogadishu-based factional leaders.

Somaliland and Puntland continued to contest the Sanaag and Sol regions and the Buhodle district during the year. Both governments sent administrators to the Sanaag and Sol regions, and both governments exerted influence in various communities. In December the Somaliland president traveled to Las Anod in Sool to assert Somaliland authority. A battle with Puntland forces took place and several persons were killed.

On October 15, a reconciliation conference in Eldoret, Kenya, that brought together political and military leaders, as well as civil society representatives, from throughout Somalia with the exception of Somaliland, which refused to attend. The conference was ongoing at year's end.

No women held prominent senior public positions; however, several women were important behind-the-scenes figures in the various factions. There were 5 female members of the 69-seat Puntland Council of Elders. In the TNA there were 25 women in the 245-seat Assembly.

Minorities were allocated 25 seats in the TNA.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Several local human rights groups were active during the year, including the Mogadishu-based DIJHRC, Isha Baidoa Human Rights Organization in Bay and Bakol regions, and the Hargeisa-based Horn of Africa Human Rights Watch Committee (Horn Watch). The DIJHRC investigated the continuing causes of conflict in the Mogadishu area, conducted effective human rights monitoring, protested the treatment of prisoners before the Islamic Shari'a courts, and organized periodic demonstrations for peace. The Horn of Africa Human Rights Watch Committee monitored human rights in Somaliland. Women's NGOs also played an important role in galvanizing support in the country for the Djibouti process.

In August, with funding from foreign embassy in Kenya, the DIJHRC and Horn Watch sponsored a human rights training workshop in Hargeisa attended by more than 25 human rights activists from throughout the country. A seven-member advocacy committee was established.

NGOs and aid agencies operated freely throughout the country, except in Puntland. After resuming power in Puntland in May, Abdullahi Yusuf refused access to the U.N., EU, and NGO agencies claiming many of their employees had sided with his rival Jama Ali Jama.

Numerous international organizations operated in the country during the year, including the Red Cross, CARE, Save the Children, and various demining agencies such as the Halo Trust. The TNG and Somaliland authorities permitted visits by U.N. human rights representatives during the year. Sporadic security problems complicated the work of some local and international organizations, especially in the south. There were reported incidents of harassment against NGOs, resulting in at least one death and some injuries (*see* Sections 1.a., 1.b., and 1.c.). Several attacks on NGOs disrupted flights and food distribution during the year. For example, on September 2, local militia that were hired to guard U.N. vehicles opened fire on the plane carrying U.N. Resident and Humanitarian Coordinator while it was on the ground in Garbaharrey in Gedo region. No one was injured and the plane was not hit, but the U.N. temporarily closed Gedo to U.N. flights and international staff.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Transitional Charter, adopted in 2000 but not implemented by year's end, contains provisions that prohibit discrimination on the basis of sex and national origin; however, societal discrimination and violence against women and widespread abuse of children continued to be serious problems. The Somaliland Constitution also contains provisions that prohibit discrimination on the basis of sex and national origin; however, these rights were not respected in practice.

*Women.*—Domestic violence against women existed. Women suffered disproportionately in the civil war and in the strife that followed. There was no information available on the prevalence of domestic violence in the country. There were no laws that specifically address domestic violence; however, both Shari'a and customary law address the resolution of family disputes (*see* Section 1.e.). Rape commonly was practiced in interclan conflicts. There was a reported marked increase in the num-



ber of rapes in Mogadishu, most perpetrated by militia members. Laws prohibiting rape exist; however, they generally were not enforced. There were no laws against spousal rape. A few rapes were prosecuted during the year. There were reports of numerous rapes of Somali women and girls in refugee camps in Kenya during the year (*see* Section 1.c.).

FGM was a near-universal practice. Estimates placed the percentage of women who have undergone FGM at 98 percent. The majority of women were subjected to infibulation, the most harmful form of FGM. In Somaliland FGM remained illegal under the Penal Code; however, the law was not enforced. In Puntland legislation banned FGM in northeastern areas of the country; however, in practice the law was not enforced strictly. U.N. agencies and NGOs have made intensive efforts to educate persons about the danger of FGM; however, no reliable statistics were available on the success of their programs.

Trafficking in women for the purposes of sexual exploitation continued to be a problem (*see* Section 6.f.).

Women were subordinated systematically in the country's overwhelmingly patriarchal culture. Polygyny was permitted, but polyandry was not. Under laws issued by the former government, female children could inherit property, but only half of the amount to which their brothers were entitled. Similarly according to the Shari'a and Somali tradition of blood compensation, those found guilty in the death of a woman must pay only half as much to the aggrieved family than if the victim were a man.

Several women's groups in Mogadishu, Hargeisa (Somaliland), Bosasso (Puntland), and Merka (Lower Shabelle) actively promoted equal rights for women and advocated the inclusion of women in responsible government positions. During the year, the local NGO "Save Somali Women and Children" held a workshop in Mogadishu to discuss human rights and Shari'a.

*Children.*—Children remained among the chief victims of the continuing violence. Boys as young as 14 or 15 years of age have participated in militia attacks, and many youths were members of the marauding gangs known as "morian," "parasites," or "maggots." Even in areas with relative security, the lack of resources has limited the opportunity for children to attend school. Approximately 10 to 20 percent of the school-age population attended school; more boys than girls were enrolled in school. There were three secondary schools in Somaliland and more than three secondary schools in Mogadishu; however, only 10 percent of those few children who entered primary school graduated from secondary school. Parents generally paid fees for their children's education. Schools at all levels lacked textbooks, laboratory equipment, and running water. Teachers were trained poorly and paid poorly. The literacy rate was estimated at 25 percent throughout the country; however, reliable statistics did not exist. There was a continued influx of foreign Muslim teachers into the country to teach in private Koranic schools. These schools were inexpensive and provide basic education; however, there were reports that these schools required the veiling of small girls and other conservative Islamic practices normally not found in the local culture.

During August and September, the U.N. Independent Expert on Human Rights visited Bosasso, Puntland, and Hargeisa, Somaliland. He reported that children were recruited as soldiers in Puntland and that many juveniles were incarcerated with adults by their parents for disciplinary problems (*see* Section 1.c.).

Medical care was rudimentary, and only a small percentage of children had access to adequate medical facilities.

There was no information available on the prevalence of child abuse in the country.

There were reports of numerous rapes of Somali girls in refugee camps in Kenya during the year (*see* Section 1.c.).

FGM was performed on approximately 98 percent of girls (*see* Section 5, Women).

Trafficking in children for forced labor reportedly was a problem (*see* Section 6.f.).

*Persons with Disabilities.*—In the absence of a functioning state, the needs of persons with disabilities were not addressed. There were several local NGOs in Somaliland that provided services for persons with disabilities.

*National/Racial/Ethnic Minorities.*—More than 80 percent of citizens shared a common ethnic heritage, religion, and nomadic-influenced culture. In most areas, members of groups other than the predominant clan were excluded from effective participation in governing institutions and were subject to discrimination in employment, judicial proceedings, and access to public services.

Minority groups and low-caste clans included the Bantu (the largest minority group), the Benadiri, Rer Hamar, Brawanese, Swahili, Tumul, Yibir, Yaxar, Madhiban, Hawrarsame, and Faqayaqub. Inter-marriage between these groups and mainstream clans was restricted. These groups had limited access to whatever social

services were available, including health and education. Members of minority groups continued to be subjected to killings, harassment, intimidation, and abuse by armed gunmen of all affiliations.

*Section 6. Worker Rights*

*a. The Right of Association.*—The 1990 Constitution provided workers with the right to form unions, but the civil war and factional fighting negated this provision and broke up the single labor confederation, the then government-controlled General Federation of Somali Trade Unions. In view of the extent of the country's political and economic breakdown and the lack of legal enforcement mechanisms, trade unions did not function freely.

The Transitional Charter, the Puntland Charter, and the Somaliland Constitution established the right of freedom of association, but no unions or employer organizations existed.

*b. The Right to Organize and Bargain Collectively.*—Wages and work requirements in the traditional culture were established largely by ad hoc bartering, based on supply, demand, and the influence of the worker's clan.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The pre-1991 Penal Code prohibited forced or bonded labor, including by children; however, local clan militias generally forced members of minority groups to work on banana plantations without compensation. There are reports that in Middle and Lower Juba, including the port of Kismayu, Bantus were used as forced labor.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The pre-1991 Labor Code prohibited child labor; however, there were reports that child labor occurred, and that there were child soldiers (*see* Section 5). Formal employment of children was rare, but youths commonly were employed in herding, agriculture, and household labor from an early age. Substantial numbers of children worked. In 1999 it was reported that 42 percent of children between the ages of 5 and 14 years worked; however, the percentage of children engaged in labor was believed to be higher than 42 percent during the year. The lack of educational opportunities and severely depressed economic conditions contributed to child labor.

*e. Acceptable Conditions of Work.*—There was no organized effort by any of the factions or de facto regional administrations to monitor acceptable conditions of work during the year.

*f. Trafficking in Persons.*—The pre-1991 Penal Code prohibited trafficking; however, there were reports of trafficking during the year. In 2000 Djibouti law enforcement authorities arrested members of a group that was smuggling Somali women to destinations such as Lebanon and Syria to work in brothels. The number of women being trafficked from the country appeared to be small.

Trafficking in children for forced labor was a serious problem. There were reports of an increase in the smuggling of children out of the country to relatives and friends in western countries where they worked or collected welfare and sent money back to family members in the country.

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## SOUTH AFRICA

South Africa is a multiparty parliamentary democracy in which constitutional power is shared between the President and the Parliament. The Parliament consisted of the National Assembly and the National Council of Provinces. President Thabo Mbeki led the African National Congress (ANC) party, which held 266 seats in the 400-seat National Assembly. The Parliament was elected in free and fair elections in 1999; the Parliament, in turn, elected the President. The country continued to consolidate the democratic transformation initiated by the 1994 elections. The Government included ministers and deputy ministers from the ANC, the Inkatha Freedom Party (IFP), a predominantly Zulu-based party whose support is concentrated in KwaZulu-Natal, the Azanian People's Organization (AZAPO), and the New National Party (NPP), but was dominated by the ANC. In October 2001, the New National Party (NNP) formed a coalition with the ANC. In 2001 the ANC and NNP took control the Western Cape Province and appointed Marthinus van Schalkwyk as Premier of the Western Cape Province during the year. The judiciary, including the Constitutional Court, was independent but overburdened.

The South African Police Service (SAPS) has primary responsibility for internal security, although the Government continued to call on the South African National Defense Force (SANDF) to provide support for the SAPS in internal security situa-

tions. The SAPS continued its major restructuring and transformation from a primarily public order security force to a more accountable, community service-oriented police force; however, it remained ill-equipped, overworked, and undertrained. The SANDF and the SAPS border control and policing unit shared responsibility for external security. The Government continued to train and organize the new Directorate of Special Operations (DSO), dubbed the Scorpions, to coordinate efforts against organized crime and corruption. The civilian authorities maintained effective control of the security forces. Some members of the security forces committed serious human rights abuses.

The country has a population of approximately 44,560,000. The economy continued to undergo important fundamental changes as the manufacturing, wholesale and retail trades, transportation and travel services, and communication services continued to grow and the contributions of agricultural and mining sectors to the economy declined. The distribution of income and wealth remained highly skewed along racial lines and between urban and rural citizens. Official unemployment remained high at approximately 29 percent, with some studies indicating that it was even higher. More than one-third of employed persons worked outside the formal economy. The country suffered from a significant shortage in skilled workers, and many black citizens were poorly educated, ill housed, unemployed, and ill equipped to function in a globalized economy.

The Government generally respected the human rights of its citizens; however, there were serious problems in several areas. Some members of the security forces committed unlawful killings due to use of excessive force, and there also were deaths in police custody. Although declining in number, politically motivated or extrajudicial killings committed by nongovernment persons remained a problem. Some members of the security forces were responsible for torture, excessive use of force during arrest, and other physical abuse. Some members of the police beat, raped, tortured, and otherwise abused suspects and detainees. The Government took action to investigate and punish some of those involved and committed itself to curbing future killings and other abuses. Prisons were overcrowded, and prison employees and other prisoners abused prisoners. The judiciary was overburdened, and lengthy delays in trials and prolonged pretrial detention were problems. The Government generally respected citizens' privacy; however, the law provides for state monitoring of all telecommunications in criminal investigations. Legislation posed a potential threat to the independence of the media, and self-censorship existed. Police forcibly dispersed a demonstration during the year. Xenophobia continued to be a problem, and there were a number of violent attacks on foreigners, including refugees and asylum seekers. Violence against women and children remained serious problems, and discrimination against women and persons with disabilities also remained problems. Child labor, including forced child labor, was a problem. Child prostitution and trafficking in persons were serious problems. Gang violence continued to be a serious problem in the Western Cape, and vigilante violence and mob justice continued throughout the country. South Africa was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

The Truth and Reconciliation Commission (TRC), created to investigate apartheid-era human rights abuses, made recommendations for reparations for victims, and granted amnesty in return for full disclosure of politically motivated crimes. The TRC concluded its activities at the end of 2001; however, the final report was not released by year's end.

#### RESPECT FOR HUMAN RIGHTS

##### *Section 1. Respect for the Integrity of the Person, Including Freedom From*

*a. Arbitrary or Unlawful Deprivation of Life.*—Police use of lethal force during apprehensions resulted in numerous deaths, and deaths in police custody was a problem. The Government took action to investigate and punish some of those involved and to prevent future abuses. The Government's Independent Complaints Directorate (ICD) investigated deaths in police custody and deaths as a result of police action. During the period from April 2001 until March, there were 214 deaths in police custody and 371 deaths as a result of police action. The ICD's report listed subcategories under deaths in police custody, which included natural causes, suicide, injuries in custody, injuries prior to custody, and possible negligence. The Government's cooperation with the ICD was poor.

According to the ICD, shootings accounted for 88 percent of all deaths by police action. Of the killings committed by police, 90 occurred in KwaZulu-Natal, 82 in Gauteng, and 48 in the Eastern Cape. The Free State had the fewest with five killings. During the year, police in pursuit of fleeing suspects shot and killed 20 in-

nocent bystanders. There also were 18 cases in which SAPS vehicles struck innocent bystanders or were involved in motor vehicle accidents that resulted in death. The ICD reported three cases of death as a result of Municipal Police Service (MPS) personnel shootings during the course of an arrest. Two cases involved the Durban Metropolitan Police Department and one case involved the Johannesburg Metro Police Department.

The ICD investigated a number of incidents during the year. For example, on June 21, Inspector Leonard Hlagala died after three police officers allegedly assaulted him. The police officers arrested him on suspicion of being involved in the theft of a car and took him for questioning to an office in Polokwane police station where he was assaulted. He later died of injuries sustained in the assault. The Directorate of Public Prosecutions (DPP) charged the three officers; the next court appearance for the accused is in January 2003.

On June 24, five gas station attendants were shot and killed during an armed robbery at a service station at Grassy Park on the Cape Flats. A SAPS sergeant, Ishmael Hendricks, surrendered voluntarily to police and confessed to the killings. Hendricks was referred to the Valkenberg psychiatric hospital for 30 days of observation. Prior to the killings, the SAPS authorities confiscated Hendricks' service pistol after complaints by colleagues about his mental state; however, subsequently he was issued a private gun license. The ICD completed its investigation, and ICD officials were awaiting a psychological report, which will determine whether Hendricks is competent to stand trial at year's end. If he is found to be incompetent to stand trial, the case will be dismissed.

In June the Cape High Court found the SAPS liable for millions of dollars in damages for issuing a firearm license to Erna McArdell, a diagnosed paranoid psychotic. She shot and paralyzed Ian Hamilton in 1994, during an argument about a parking spot. Hamilton then sued the Minister of Safety and Security for nearly \$1.9 million (19 million Rands) for negligence and failure to take McArdell's character and mental illness into consideration when issuing the permit.

Two police officers of a SAPS dog unit charged with the January 2001 killing of Thokozani Nhlapho in Newcastle, KwaZulu-Natal Province, appeared in Dundee Circuit Court on September 2 and 4; they were found not guilty.

A police captain, who allegedly shot and killed Makawe Makiti in March 2001, was not suspended. During the year, the SAPS completed its investigation of the case and forwarded it to authorities for a decision. There was no decision whether to prosecute by year's end.

There were no developments in the March 2001 case of a woman who died from injuries sustained during shooting between the police and residents in Avilla Park.

The three police officers in the Eastern Cape Province charged with the murder of a 14-year-old boy in April 2000 still were awaiting trial at year's end.

On April 11, Dr. Wouter Basson, who was charged with murders of hundreds of members of the Namibian Liberation Movement between 1980 and 1987 when he was head of the chemical weapons program of the former government, was acquitted of all charges. State prosecutors stated they would appeal the verdict; however, no appeal was filed by year's end. Namibian authorities stated that they were considering an application to extradite Basson to stand trial.

Racial tensions in the military between white commanding officers and their black subordinates continued. There was one killing during the year. In February a black corporal, serving on the peacekeeping mission in Burundi, shot and seriously injured a white officer. Another member of the defense forces attempted to intervene and also was shot and injured by the corporal. He returned fire and killed the corporal; he later was found to have acted in self-defense for shooting the corporal. A 2001 Ministry of Defense report on the shootings and racism within the SANDF in general still was not released by the Parliament by year's end. However, the Defense Minister stated publicly that racism was likely a motivating factor in the past killings.

The South Africa Institute for Race Relations (SAIRR), a nongovernmental organization (NGO) concerned with political killings, reported 46 politically motivated killings during the first 7 months of the year, compared with 53 for the same period in 2001. Of the 46 killings, 29 took place in KwaZulu-Natal.

The 2001 kidnaping and killing of two members of the Zulu royal family likely were robbery related. No arrests were made in the case by year's end.

A peace process continued between the IFP and the ANC, the two parties most closely associated with the political violence in KwaZulu-Natal. Although violence in KwaZulu-Natal remained higher than in other provinces, resulting in dozens of deaths during the year, there was an increased level of tolerance attributable to the IFP-ANC peace process, as well as an increased police presence. Isolated rural areas

in KwaZulu-Natal that previously experienced violence remained tense at times; however, the overall level of violence continued to decrease.

Factional and intraparty rivalry and violence in the Nongoma area increased during the year. Violence was mainly taxi-related but had political overtones. In March the IFP claimed that some of its top officials were on an ANC assassination list, which the ANC denied. The ANC reported several politically motivated deaths in KwaZulu-Natal during the year. For example, in August a member of the ANC died in political violence in the Abaqulusi area of KwaZulu-Natal. On October 24, a prominent municipal councilor and school principal, Bhekisisa Buthelezi, was shot and killed while walking in King Dinizulu suburb. No action was taken by year's end.

On August 16, two IFP supporters, Gcinokwakhe Lindinkosi and Victor Khumalo, were sentenced at the Durban High Court to life in prison for the 1999 murder of ANC leader Prince Zulu.

Unlike in the previous year, there were no reports of politically motivated murders by the United Democratic Movement (UDM) and the ANC in the Western Cape during the year.

There were no developments in September 2001 killings of a UDM branch leader and an ANC member in Philippi, Western Cape. There also were no developments in the investigation into the killings of UDM members primarily in the Cape Flats areas of Nyanga and Philippi.

Since witnesses did not show up for court proceedings in the 2000 killing of five persons during local elections near Johannesburg, the prosecutors dropped all charges and the accused were released.

Unlike in the previous year, there was a significant decrease in reports of taxi-related violence; however, in KwaZulu-Natal, 13 members of the Sundumbili Taxi Owners' Association were killed during the year.

There were no developments in the following 2001 cases of taxi-war deaths in KwaZulu-Natal: The March killing of a prominent taxi boss, Thula Maxwell Sithole, and his wife; the August killing of an 8-year-old child, Lungile Zikalala; the August killing of taxi-driver Musa Zondi; and the August killing of Mxwayiseli Ntuli and a passenger in his taxi.

In March a Western Cape Taxi Council was established, among other things, to work towards unity within the minibus taxi industry and eradicate violence and conflict by introducing mechanisms for conflict resolution.

There were no developments in the investigations of the 2001 killings of seven persons during a taxi-related violence near Cape Town or in the 2001 cases of more than 30 deaths related to taxi violence in the Eastern Cape.

Domestic terrorism resulted in deaths during the year. For example, in October a series of bomb explosions in Soweto resulted in at least one death and one injury. In November an extremist right-wing Afrikaaner group, the Boeremag, claimed responsibility for the bombings. The group threatened further attacks if 18 of its supporters (*see* Section 5) on trial in connection with a plot to overthrow the Government and reinstate apartheid were not released. In December five men believed to be members of the Boeremag were arrested in connection with the bombings; Brothers Wilhelm, Johan, and Kobus Pretorius, Herman van Rooyen, and Rudi Gouws were charged with terrorism, high treason, and sabotage, and remained in custody at year's end (*see* Section 1.c.).

Vigilante action and mob justice continued throughout the country during the year. The Institute for Security Studies (ISS) reported a continuation in vigilante action as a result of police inefficiency and the perception that the courts failed to deliver justice. The ISS reported that mob justice still was a major problem, although no figures were available. Gang violence still was rampant in the Cape Flats area of Cape Town and elsewhere in the Western Cape. In late April and early May, police and soldiers were sent into Cape Flats to quell unrest after 37 persons were killed in 4 weeks of intensive gang violence. During the year, vigilantes lynched at least 14 alleged gangsters in the Western Cape neighborhoods of Khayelitsha and Nyanga, causing at least 10 deaths. In activity apparently unrelated to organized vigilantism, in May three men hacked with axes and shot seven men who were alleged to have been robbing Khayelitsha homes. Three of the alleged robbers died of their injuries. The three men who perpetrated the axing and shootings were arrested and faced charges of murder and attempted murder at year's end.

A vigilante group called Mapogo A Mathamaga has grown in membership and offices in at least nine cities, including Pretoria. Mapogo A Mathamaga reportedly has more than 90 branches and 50,000 members throughout the country. Mapogo members attacked and tortured suspected criminals and beat persons with clubs and whips. Mapogo targeted persons whom they suspected of property crimes against their members.

On December 10, Mapogo members reportedly beat two men, Adam Potgeiter and Samuel Moletsane, for allegedly stealing construction equipment from a site where they worked. On December 13, Bertrams Pringle, the construction company owner, Willie Skhosana, and Mapogo A Mathamaga member Robert Van der Colff, appeared at the Delmas magistrate's court and were charged with murder. The case was postponed to February 2003.

During the year, two Mapogo members, Ockert Werner and Marius van Antwerp, were convicted on charges of attempted murder, assault with the intention to do grievous harm, and kidnaping in the 2000 case of the beating of two men and the death of one from injuries. Werner was sentenced to 16 years in prison and van Antwerp was sentenced to 14 years.

There were no further developments in the 2001 cases of two Mapogo members charged with murder in connection with the killing of a man in Kruger National Park in 2000.

During the year, Jan Lourens Botha, the former head of Mapogo in Bronkhorstspuit, was charged with the murder of Thulane Justice Nkosi in 1998. In February the charges were changed to defeating the ends of justice; however, in July prosecutors dropped all charges against Botha relating to the death of Nkosi. Two other Mapogo members, James Masia and Sipho Mkhatswa, admitted guilt on charges of culpable homicide and defeating the ends of justice in the Nkosi case.

Unlike in the previous year, there were no reports that People Against Drugs and Violence (PADAV), the Eastern Cape counterpart to People Against Gangsterism and Drugs (PAGAD), killed or attacked criminals in instances of vigilante violence. PAGAD is an Islamic-oriented, community-based organization with a mandate calling for stronger action against crime and drugs. In 2001 the Organized Crime Unit arrested 12 PADAV members for a series of vigilante crimes committed between September 2000 and July 2001, and a trial was underway at the Port Elizabeth Regional Court at year's end.

Numerous court cases involving PAGAD continued throughout the year. There were hundreds of cases under investigation against suspected members of PAGAD and scores of trials pending based on charges, which included murder, attempted murder, possession of explosives, possession of an unlicensed firearm, armed robbery, and conspiracy to commit murder. Reportedly no PAGAD members were arrested and one was released on bail by year's end; there were no cases of bail denial during the year. The Muslim community protested the infrequent availability of bail and staged periodic small-scale protests, criticizing the treatment as unfair compared with the judicial treatment of non-Muslims. In May Anees Adams was convicted of murder and sentenced to 25 years in prison; however, his codefendant, Moegamat Zain Cornelison was acquitted. On September 19, Moegamat Isaacs was convicted of three counts of murder and was sentenced to life imprisonment. On December 20, Ebrahim Jeneker and Abdulla Maansdorp, alleged PAGAD members who were charged with the 2000 killing of a police captain, were convicted on numerous charges and sentenced to three concurrent life imprisonments. The one PAGAD member who escaped October 4, 2001, Abubakar Jacobs, was rearrested December 12. At year's end, he was in police custody awaiting trial for his suspected role in a drive-by shooting that killed four persons.

There were instances of murder and intimidation of witnesses who were testifying against PAGAD members; a total of eight witnesses (five named, three unnamed) were shot and killed during 2001. No action was taken against those responsible by year's end.

On March 6, the chief coordinator of PAGAD, Abdus Salaam Ebrahim, and his three fellow defendants in the Rashaad Staggie murder trial were found not guilty by the Cape High Court. The judge said there was not sufficient evidence to link them to the actual murder; however, three of them were found guilty on the charge of public violence. Abdus Salaam Ebrahim was sentenced to 5 years in prison, Abdur Razaq Ebrahim was sentenced to 3 years in prison, and Moegsien Mohammed received a 3-year suspended sentence. On May 14, the three were refused permission to appeal their convictions and sentences. Salie Abader was acquitted on both charges.

Murders of farm families in rural parts of the country continued. There was widespread concern among white farmers that they were targeted for racial and political reasons; however, according to police and academic studies of farm attacks, the perpetrators reportedly were common criminals motivated by financial gain. It also was reported that in the majority of cases, the perpetrators were not farm workers. Official statistics were not available; however, according to Agriculture South Africa (AgriSA), 1,000 farm attacks and 145 killings took place during the year, and that there were 639 farm attacks and 91 killings during 2001 and 905 attacks and 144 killings in 2000. AgriSA also reported that there were 5,972 attacks and 1,241 mur-

ders since 1991. In August 2001, HRW released a report titled, "Unequal Protection: The State Response to Violent Crime in South African Farms." The report concluded that the Government failed to protect adequately residents of commercial farms from attacks and that black farm residents, especially black women, were most vulnerable to abuse. The Government established Priority Committees, consisting of the South African Police Service (SAPS), South African National Defense Forces (SANDF), and farming communities to coordinate the activities of law enforcement and other relevant actors to address violent crime on farms. The committees were operational and attempted to prevent farm attacks; however, security forces actions largely were viewed as responding to attacks, not preventing them.

There were incidents of abuse and killings of black farm laborers by their white employers. NGOs claimed that rural police and courts refused to arrest or prosecute whites in many cases. In 2001 the South African Human Rights Commission (SAHRC) launched an inquiry into the human rights situation in farming communities, and a national conference was expected to prepare an action program in March 2003 (*see* Section 2.d.). AgriSA participated in the hearings; they alleged that unsubstantiated claims were made at the hearings that wrongly implicated farmers in human rights abuses.

In May the trial of nine white men accused of the March 2001 murder of teenager Tshepo Matloha ended in the acquittal of six and the conviction of two, Riaan Botha and Ben Korff, on charges of murder. Both were sentenced to 18 years in jail. Botha and another accused, Kobus Joubert, received 4-year sentences for attempting to defeat the ends of justice by putting Matloha's body into a dam.

Foreigners were killed in violent attacks during the year (*see* Section 2.d.). For example, in March a Nigerian man was beaten to death after escaping from the Lindela Repatriation Center.

Occasional witchcraft-related incidents occurred during the year, a number of which took place in KwaZulu-Natal (*see* Section 1.c.). For example, on May 10, a 56-year-old woman died after a mob accused her of witchcraft and set her on fire in Marianhill. On July 23, community members accused a 66-year-old man, Mr. Ntimbane, of witchcraft and allegedly assaulted him. He subsequently disappeared and was found hanging from a tree on July 25.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution's Bill of Rights prohibits such practices and provides for the right to be free from all forms of violence from either public or private sources; however, some members of the police beat, raped, tortured, and otherwise abused suspects and detainees. Some incidents of torture and ill-treatment by the police and SANDF occurred during interrogation, arrest, detention, and searches of persons' homes. The ICD reported 37 incidents of torture and 14 rapes committed by police officers between April 2001 and March. During the year, the Government investigated these allegations and prosecuted some offenders. For example, in July Constable Mzamu Edward Mlomo was convicted of murder and sentenced to life imprisonment for the October 2000 murder of Phinidiwe Majobela. On September 25, SAPS Reservist Constable Ronald Mannie was convicted, and sentenced in November to 15 years imprisonment, for the April 2001 murder of Moses Makila.

The investigation was ongoing at year's end into the March 2001 injuring of six and the death of one civilian during a shooting between residents and police in Vredendal, Western Cape Province.

Incidents of police harassment and attacks against foreigners continued, particularly during coordinated police raids of areas where foreign nationals resided. Some state hospitals reportedly routinely refused treatment to indigent foreigners, despite regulations that required such treatment.

The 2001 trials of two police officers from the Pretoria SAPS dog unit, who pled not guilty to using their dogs to attack two Mozambican immigrants, were pending at year's end.

There were reports of police abuse of detainees awaiting deportation (*see* Section 2.d.). Problems remained at the Lindela Repatriation Center, the largest detention facility for undocumented immigrants in the country, particularly as a result of occasional overcrowding after Home Affairs conducted sweeps of squatter camps and sent illegal immigrants to Lindela to await repatriation. Some of the refugees alleged that Home Affairs employees assaulted them and requested bribes.

There were no new developments by year's end in the unresolved cases of police attacks on illegal immigrants in 2000.

During the year, police injured persons while forcibly dispersing a strike (*see* Section 2.b.).

The Government made efforts to address abuses with an official antitorture policy and training programs for police and SANDF officers. Broad efforts to reform police practices continued to reduce the number of abuses, and the ICD investigated reports of police misconduct and corruption (*see* Section.a.). During the year, the ICD reported 30 cases of corruption and 2,253 incidents of misconduct, including negligent or improper performance of duty and failure to perform duties and responsibilities. During the year, new material on human rights was introduced into the curriculum at the police basic training level, and the training division provided classes to police officers whose basic training took place prior to the introduction of the new material.

The SAPS continued to institute reforms designed to create partnerships between local police forces and the communities they served and establish metropolitan police forces in major cities with local control. However, the SAPS continued to have deficiencies in midlevel leadership and institutional memory that were harmful to its overall performance. The SAPS continued to be ill-equipped, overworked, and undertrained.

There was no action taken in the case of the September 2001 shooting and injuring of ANC councilor Wandile Nkwele in Philippi, Western Cape.

Conflict between warring taxi companies led to gun battles and other street violence and resulted in the deaths and injuries of bystanders (*see* Section 1.a.).

There were incidents of bombings during the year. For example, in October and November, a series of bombings attributed to the extremist right-wing Afrikaaner group the Boeremag resulted in one death and one injury (*see* Section 1.a.).

There were no developments in the numerous 2000 and 2001 bomb attacks by year's end.

Vigilante action and mob justice resulted in attacks on suspected criminals and drug dealers, some of whom were tortured (*see* Section 1.a.).

Xenophobia continued to worsen during the year. Xenophobia was expressed in institutional and social interactions with foreigners, particularly those from other African countries. There were a number of violent attacks on foreigners, including refugees and asylum seekers (*see* Sections 1.a. and 2.d.). Many of those attacked were hawkers and street vendors.

There were incidents of abuse of black farm laborers by their white employers, and NGOs claimed that rural police and courts refused to arrest whites in many incidents (*see* Section 1.a.). According to AgriSA, many of the claims of human rights abuses against farm workers were unfounded and untrue.

There were a few illegal strikes that resulted in some worker violence, in particular incidents of intimidation and threats of violence by striking workers against nonstriking and replacement workers (*see* Section 6.b.). No government action was likely to be taken in the 2000 killing of two guards in Cape Town in what police believed was a strike-related attack.

There was no action taken against students responsible for the March 2001 attack and robbery of bystanders, motorists, and journalists in central Johannesburg.

In Limpopo Province, where traditional beliefs regarding witchcraft remained strong, there were occasional reports of attacks on persons accused of witchcraft by their rural communities (*see* Section 1.a.). The Ministry of Safety and Security, with the assistance of the quasi-governmental Commission on Gender Equality, and traditional leaders instituted programs to end violence against suspected practitioners of witchcraft during 2001. Traditional leaders cooperated with the programs and reported threats against persons suspected of witchcraft to the police. In March an off-duty police sergeant at Paulpietersburg in northern KwaZulu-Natal shot a 70-year-old woman he accused of killing his father, mother, and son by witchcraft. The woman was seriously injured.

Prisons did not meet international standards, and prison conditions did not always meet the country's minimum legal requirements. Severe overcrowding in some prisons led to poor health; as many as 75 inmates may occupy a cell designed to hold 40 inmates. The Department of Correctional Services (DCS), which manages prisons, reported that in January there were 176,588 prisoners in custody, with 5,576 awaiting sentences, in facilities designed to hold only 105,000. In January it was reported that 68 percent of prisons were overcrowded. Prisoners often were required to sleep in shifts because of a lack of space. Overcrowding was cited as the main reason for the high rate of HIV/AIDS infection in prisons and a reported increase of more than 300 percent in deaths among inmates.

Concerns have been raised over the potential health threat to thousands of juvenile offenders. In the first 7 months of 2001, 1,101 inmates died of HIV/AIDS. Prison employees and other prisoners abused and assaulted prisoners physically and sexually. Press reports indicated that some detainees awaiting trial contracted HIV/AIDS through rape. Food, especially for prisoners with HIV/AIDS and other medical



problems, frequently was of poor quality and insufficient quantity. NGOs reported that prison employees stole food from prisoners. Although prisoners generally had access to health care, prison officials sometimes withheld prescribed treatment as punishment.

Male and female prisoners were held separately; however, female prison wards often were on the same grounds as male wards, and Amnesty International reported that male prisoners raped women prisoners. DCS statistics from September 2001 documented that there were 29,873 youth offenders (prisoners under age 21), 3,556 of whom were 17 years of age or younger. Juveniles normally were not housed with adults; however, in April 2001, 320 juveniles under 18 years of age awaiting trial were transferred to secure care centers after it was discovered that they were detained with adult prisoners at Pollsmoor Prison near Cape Town. There were credible reports that youths from juvenile wards were sold to adult prisoners for sexual exploitation, including rape. Juveniles between the ages of 14 and 18 accused of serious crimes, including murder or rape, sometimes were placed in pretrial detention in prisons with adult offenders (see Section 5). Pretrial detainees were not held separately from convicted prisoners.

Immigrant children detained in the Lindela Repatriation Center received the same general treatment as adult detainees, were not provided with separate sleeping facilities from adults, and were not always provided with food and clothing by the facility (see Section 1.c.).

On June 18, a television news program aired footage from a hidden video camera showing prison employees at the Grootvlei prison in Bloemfontein selling a gun to a prisoner serving a sentence for double murder, bringing a juvenile prisoner to another prisoner for sex, selling illegal drugs to prison inmates, purchasing frozen chickens stolen from the prison kitchen, and fraternizing and drinking alcohol with prisoners. Authorities suspended 22 implicated prison employees. After their hearings, four of the prison employees were dismissed, and another resigned. The hearings for the other 17 employees continued at year's end.

C-MAX prisons were designed to hold the country's most dangerous criminals. Human rights groups have raised serious concerns regarding C-MAX facilities, including the Government's criteria for transferring prisoners from other prisons to a C-MAX facility and the restrictive, solitary conditions of the prisons. In May an additional C-MAX prison was opened in Kokstad, KwaZulu-Natal.

The Government generally permitted independent monitoring of prison conditions, including visits by human rights organizations; however, only those organizations that were able to send lawyers were allowed to visit prisons. Other prisoners' rights organizations routinely were denied access. The Judicial Inspectorate visited prisons during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The Bill of Rights prohibits detention without trial; however, prolonged pre-trial detention was a problem. The Bill of Rights also provides that every detained person has the right to be informed promptly of the reasons for the detention; to be advised promptly of the right to remain silent and the consequences of waiving that right; to be charged within 48 hours of arrest; to be detained in conditions of human dignity; to consult with legal counsel at every stage of the legal process; to communicate with relatives, medical practitioners, and religious counselors; and to be released (with or without bail) unless the interests of justice require otherwise. Courts and police generally respected these rights; however, there continued to be a problem with bringing detainees to trial expeditiously.

Legislation regulates pretrial detention of juvenile offenders accused of serious crimes. The law states that any child under the age of 14 must be released within 24 hours into the custody of a parent or guardian when possible.

Human rights groups, judges, and judicial scholars have expressed concern about the Criminal Procedure Second Amendment Act of 1995, which mandates minimum jail sentences and prohibits bail in certain cases, thus raising concerns about judicial independence and civil liberties. The laws have contributed to prison overcrowding by imposing an increased number of long-term prison sentences.

According to the SAHRC, prisoners waited an average of 6 months to be tried in the regional courts and 6 months to 1 year in the high courts; however, in extreme cases detention may extend up to 2 years. This problem primarily was the result of an understaffed, underfunded, and overburdened judiciary (both magistrates and prosecutors), with more cases than it can handle efficiently (see Section 1.e.). In June 2001, the Government initiated a pilot project called the Court Process Project (CPP), which was designed to control criminal cases in a more structured way, from the police stations where they originated through the adjudication process until the convicted person was handed over to the appropriate prison or welfare/health authorities. This process included electronically storing the fingerprints and

picture of the accused, which assisted authorities in minimizing the incidence of mistaken identity or deliberate identity switching by detainees, thereby limiting the chances of escape. The system also was designed to prevent docket thefts and to curtail the activities of corrupt police and court officials. The CPP in Durban was effective in eliminating lost dockets, prioritizing certain crimes such as violence against women and children cases, and electronically managing dockets.

There were reports that authorities abused detainees awaiting deportation. Under the provisions of the law, an illegal immigrant may be detained for 48 hours pending the determination of his or her status. A person declared illegally in the country may be detained for an additional 30 days pending his or her removal from the country. In practice persons may be held in detention for several days before being declared as an illegal immigrant or released, and those declared as illegal regularly were held for more than 30 days. In March an investigation by the SAHRC found that conditions at the Lindela Repatriation Center had improved and met every provision under the Constitution; however, some problems remained (*see* Section 1.c.).

There were no reports of forced exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent and impartial judiciary subject only to the Constitution and the law, and the Government generally respected this provision in practice.

Under the Constitution, the Constitutional Court is the highest court for interpreting and deciding constitutional issues, while the Supreme Court of Appeal is the highest court for interpreting and deciding other legal matters. Generally magistrates courts and high courts were the courts of original jurisdiction in criminal cases.

Judges and magistrates hear criminal cases. There is a presumption of innocence for criminal defendants. The presiding judge or magistrate determines guilt or innocence. The law requires that a panel of lay assessors hear cases along with a magistrate in cases involving murder, rape, robbery, indecent assault, and assault leading to serious bodily harm. The two assessors may overrule magistrates on questions of fact. Magistrates also can use assessors in an advisory capacity in bail applications and sentencing. The Office of the National Director of Public Prosecutions exercised national control over prosecution policy and applied a consistent national policy for the prosecution of offenses. There were nine provincial directors and offices to coordinate and streamline prosecutions.

The Bill of Rights provides for due process, including the right to a fair, public trial within a reasonable time after being charged, and the right to appeal to a higher court. It also gives detainees the right to state-funded legal counsel when “substantial injustice would otherwise result.” In practice the law functioned as intended; however, a general lack of information on the part of accused persons regarding their rights to legal representation and the Government’s inability to pay the cost of those services were continuing problems. The Government planned to open 60 justice centers in the country, comprised of the Departments of Justice, Correctional Services, Welfare and Health, along with the SAPS, to speed up the administration of justice, free up the court rolls, and alleviate overcrowding in prisons; 23 such centers were established during the year. There were serious backlogs in the numbers of cases that have gone to trial. The ISS reported that there were 2.58 million crimes recorded by the police in 2000. Of 610,000 criminal cases, the prosecution service actually prosecuted 271,000. The other cases were withdrawn or settled out of court. Of the initial 2.58 million cases, slightly more than 210,000 or 10.5 percent ended in convictions. For serious crimes, the conviction rates were lower: Carjacking 2.3 percent, aggravated robbery 2.8 percent, and rape 8 percent.

In February 2001, justice officials began a program called Saturday Courts to address the huge backlog of cases in the courts. It was estimated that it would take 2 years for this program to clear the backlog completely. Officials also instituted privately contracted Additional Courts, which operated in specific districts where there were significant backlogs and where space was available in existing court buildings. The Additional Courts used private sector employees or retirees with judicial experience. In September the National Director of Public Prosecutions reported that there were 3,027 Saturday and Additional Courts that had 10,153 additional court days and had completed 24,570 cases; however, there were 128,656 cases in district courts and 42,758 in regional courts that remained backlogged at the end of July.

In 2001 business managers from the private sector and the NGO Business Against Crime were appointed by the Minister of Justice and Constitutional Development to oversee the overall functioning of the courts; however, there were no results reported by year’s end.

There was public concern about the capacity of the criminal justice system to deal with the high level of crime, and the increasing incidence of vigilante justice reflected this concern (*see* Section 1.a.).

The Promotion of Equality and Prevention of Unfair Discrimination Act provides for the establishment of Equality Courts within magistrates' courts and High Courts to adjudicate complaints. All High Courts were equality courts for their areas of jurisdiction. During the year, Parliament passed legislation amending the Equality Act to simplify the accreditation of magistrates as equality court judges.

The amnesty committee of the TRC finished the last two volumes of the final report in September, and the Cape High Court was expected to hear an IFP suit to remove or correct parts of the final report in January 2003. At year's end, the National Directorate of Public Prosecutions (NDPP) was reviewing all cases that were considered by the TRC to determine which cases to prosecute. The NDPP considered for prosecution only those cases in which amnesty was not granted or those in which the individual did not apply for amnesty.

In May the Eastern Cape 33 prisoners, mostly ANC and PAC members, who were refused amnesty by the TRC, received presidential pardons. The pardoning of the Eastern Cape 33 generated criticism from many, including the former chairperson of the TRC. The Justice Minister stated that between April 2001 and March, 339 presidential pardons were granted from 846 applications. According to opposition parties, these pardons undermined the TRC amnesty process. On September 19, one of the Eastern Cape 33 prisoners, Dumisani Ncamazana, was arrested on charges of murder and illegal possession of a firearm and charged with the May slaying of East London businessman Martin Whitaker. In December Ncamazana and his brother were found guilty and sentenced to life imprisonment.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, and the Government generally respected these prohibitions. Violations generally were subject to effective legal sanction; however, there were reports of police abuses during sweeps and home searches (*see* Section 1.c.).

On November 1, more than 10 police officers entered the house of the Mchunu family in Soweto, looking for someone not known to the family. The police officers entered without any warning and broke the back and front doors. Sam Radebe, a visitor, was allegedly sprayed in the face with a spray can and assaulted by the police officers. No action was taken against the responsible officers by year's end.

The Transvaal Agricultural Union accused the SAPS of harassing and intimidating citizens during November and December pre-dawn raids on homes and farms without warrants. No action was taken against the responsible officers by year's end.

In November the Parliament passed the Regulations of Interception and Provision of Communication-Related Information Bill that provides for state monitoring of all telecommunications systems for criminal investigations, including cell phones, the Internet, and e-mail. The Bill requires an order from a judge in most cases; however, in some cases, high-ranking police or army officers were authorized to grant permission. The President had not signed the legislation into law by year's end.

The Promotion of Access to Information Act is to assist authorities in obtaining personal information and is used solely in criminal investigations; however, opposition parties and human rights NGOs objected to its broadly defined provision that enabled the Government to access an individual's personal information.

During the year, the Department of Home Affairs conducted sweeps of squatter camps and sent illegal immigrants to Lindela Repatriation Center to await repatriation (*see* Section 1.c.).

The Land Claims Court settled cases previously screened and evaluated by the Commission on Restitution of Land Rights. Claims only could be filed for land dispossessions that occurred after the promulgation of the Natives Land Act of 1913, although this does not include dispossessions that occurred in 1913, the year of the former government's most significant land redistribution. The various forms of compensation offered to claimants were the return of the original land, a deed to another piece of land, financial remuneration, or preferential access to government housing. The Commission ceased accepting applications after 1998, but the cases have moved slowly, which has caused increasing tension and frustration and has resulted in some land occupations by squatters. In March 2001, the Commission began a process to determine which claims were valid, and the process was 92 percent complete by year's end. The Ministry of Land Affairs was authorized to offer settlements without first going to court, which has expedited the resolution process. At year's end, 36,279 restitution claims, involving 85,005 households and 437,145 beneficiaries had been settled. There was no action taken, nor was any likely to be taken, against those responsible for the 2001 illegal selling of land to squatters in the East Rand.

There were reports that farm residents were evicted illegally by farmers; however, the Department of Land Affairs could not substantiate some alleged illegal evictions and many such evictions apparently were not reported.

There were reports that persons accused of witchcraft were driven from their villages in rural communities (*see* Sections 1.c. and 5). Some survivors of attacks and their families were driven from their villages and were living in “witch villages” for safety in Limpopo Province. The villages have no running water or electricity. Although some persons accused of witchcraft returned to their homes, many persons remained in the villages and requested government assistance for schools and basic infrastructure. During the year, in KwaZulu-Natal, individuals or mobs attacked and, in some cases, killed persons who they accused of witchcraft-related activities.

On June 16, three members of a family in Ezibeleni in northern KwaZulu-Natal were arrested after they allegedly set fire to a house of a woman they believed to be practicing witchcraft. The owner of the house was unharmed, and the three were charged with arson.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, these rights can be limited by law in some circumstances. Several apartheid-era laws that remained in force posed a potential threat to media independence; the South African National Editors’ Forum (SANEF) recommended that between 13 and 15 laws should be reviewed for possible revocation. The Justice Department agreed to establish a committee with SANEF to review the legislation in question; however, the review had not occurred by year’s end. The Constitution bans the advocacy of hatred based on race, ethnicity, gender, or religion that constitutes incitement to cause harm. The press criticized both the Government and the opposition during the year.

In May songwriter Mbongeni Ngema released a song called *Ama-Ndiya* (Indians). The song immediately was viewed as racist and anti-Indian. The Broadcasting Complaints Commission said the lyrics were “inflammatory” and “promoted hate in sweeping, emotive language against Indians as a race.” On June 11, a Durban scriptwriter won an interim injunction against the distribution or sale of the song. In July the South African Human Rights Commission and the Broadcasting Complaints Commission criticism led to the banning of the song from the airwaves.

All newspapers were owned by conglomerates. One of the prominent companies, New Africa Media, was a black-owned consortium that controlled the country’s largest circulated daily newspaper, *The Sowetan*, as well as a larger publishing business, Times Media Limited.

Print media reached approximately 20 percent of the population. This was due to high levels of illiteracy, the lack of newspapers in rural areas, and the cost of newspapers. The majority of the population received the news through radio broadcasts from the national broadcaster (SABC) and community radio stations.

The Government used both legislative and structural means to encourage greater diversity in the media. The media offered a broad range of news, opinion, and analysis. Coverage of news and expression of opinion were vigorous. High-ranking government officials on occasion reacted sharply to media criticism of government programs and problems and at times accused journalists, particularly black journalists and editors, of disloyalty and white journalists and editors of racism.

Several laws remained in effect that permitted the Government to restrict the publication of information about the police, the national defense forces, prisons, and mental institutions. While these laws were not used often, journalists perceived them to be a threat to constitutional free press rights. The Criminal Procedure Act may be used to compel reporters to reveal their sources. The Western Cape Provincial Director of Public Prosecutions invoked a section of the Criminal Procedure Act and subpoenaed two photographers and an editor of *Die Burger* newspaper because of their film footage of the events on the night drug lord Rashaad Staggie was killed. The photographers and the editor contested their subpoenas in court under the clauses related to media freedom and freedom of speech in the Bill of Rights. In 2001 the Government first withdrew then reissued the subpoenas. In February the Cape High Court decided that the photographers could submit affidavits confirming they had taken certain published photographs rather than providing direct testimony in the trial.

Some journalists expressed concern that the Government wanted to control the media. A larger number of journalists believed that the Government’s sensitivity to criticism caused self-censorship in the media. SANEF and the Freedom of Expression Institute (FXI) were concerned that the Government’s alleged attempts to silence expressions of dissent eventually could be codified into law.

The Government-owned SABC, a limited liability company, continued to own and control the majority of the television and radio outlets. The SABC was scheduled to be split into two operational units—a public broadcasting company and a commercial entity; however, the restructuring had not occurred by year's end. The SABC was managed by black executives, provided broadcasting in the country's main African languages, and offered news coverage of the Government and the leading opposition parties. The SABC maintained editorial independence from the Government, although the balance between editorial independence and national interest remained a delicate topic with governmental officials. Critics alleged that top officials were chosen for political reasons without regard for media expertise or relevant experience.

The only commercial television station, e-TV, reaches 75 percent of the population; however, its share of the viewership was only approximately 10 percent. Most of e-TV's schedule consisted of newscasts and foreign-produced programs; the Government urged e-TV to meet its licensing conditions, which required programming to include at least 30 percent local content. Majority ownership of e-TV was held by Midi Television, a black-owned consortium composed of a number of associations and syndicates representing workers, women, and persons with disabilities.

In addition to e-TV, the SABC competes with two pay-per-view broadcasters, M-NET (encoded UHF transmissions) and MultiChoice (satellite broadcasts); several commercial radio broadcasters; and a large number of low-power, not-for-profit community radio stations.

Government broadcast regulators regularly issued community radio licenses; many of the more than 80 stations operating continued to experience financing and personnel problems. Nevertheless, community radio provided special event information and news tailored for specific interest groups. In March 2001, Radio Islam, the Muslim community radio station, applied for and was granted a 12-month temporary license. During the year, it received an additional 12-month extension and applied for a 4-year license, which was pending at year's end.

There were several government agencies with media-related responsibilities such as the Independent Communications Authority of South Africa (ICASA). The ICASA has less independence from the Ministry of Telecommunications than previously was granted to the Independent Broadcast Authority. In September 2001, the Department of Telecommunications introduced a bill to Parliament that included further limits to the power of ICASA and gave greater authority to the Minister of Communications. This bill was the subject of a great deal of domestic and foreign media scrutiny and criticism. SANEF regarded it as a regressive step by the Government that could result in very little independence for the regulator of the broadcasting and telecommunications media. The bill was passed by the Parliament in November 2001; however, the President had not signed it into law by year's end.

The Minister of Communications has a direct role in the awarding of telecommunication-service licenses.

The Foreign Publication Board, formerly the Government Board of Censors, reviewed and judged written and graphic materials published in or imported into the country. The Board had the power to edit or ban books, magazines, movies, and videos, and it regularly exercised that power, mostly regarding pornographic material. The Government Communications and Information Service (GCIS) coordinated and facilitated communications with the citizenry through its Directorate for Media Diversity and Development.

Internet access was unrestricted for persons with the ability to pay for the service. The number of Internet users continued to expand quickly. All major newspapers maintained Internet sites, most of which were updated daily with the latest news and features. In November the Parliament passed a bill that provides for state monitoring of telecommunications, including the Internet and e-mail (*see* Section 1.f.).

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedoms of assembly and association, and the Government generally respected these rights in practice. However, on July 11, police used tear gas and rubber bullets to disperse forcibly a crowd of approximately 100 persons during a South African Municipal Workers' Union strike in Cradock; 10 persons were injured.

There was no action taken against the responsible police officers who forcibly dispersed approximately 100 persons in February 2001, injuring 2 of them, and who forcibly dispersed striking postal workers in March 2001.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Bill of Rights prohibits the State from unfairly discriminating directly or indirectly against anyone on religious grounds, and it states that persons belonging to

a religious community may not be denied the right, with other members of that community, to practice their religion and to form, join, and maintain religious associations. Cases of discrimination against a person on the grounds of religious freedom can be taken to the Constitutional Court.

Relations between the various religious communities generally were amicable.

For a more detailed discussion, see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Refugees Act provides that no person shall be expelled, extradited, or returned to any other country if he or she faced persecution due to race, religion, or political affiliation, or when “his or her life, physical safety, or freedom would be threatened.” The act also stipulated that designated refugees lose their status if they voluntarily return to their country of origin, take citizenship of another country, or if the circumstances that caused their flight from the country of origin changed; however, the act stipulated that in order to renew their temporary residency permits, asylum seekers must return to the town in which they originally submitted their applications to be recognized as refugees. Permits that were lost, stolen, or destroyed were not renewed. If found without a valid permit, asylum seekers were subject to arrest, detention, and deportation. The act was supported by the new Immigration Bill that was passed by the Parliament and signed into law in May.

The U.N. High Commission for Refugees (UNHCR) assisted the Government in processing asylum applications. The Department of Home Affairs was required to interview asylum seekers within 14 days of entry and to determine their status within 180 days of the interview; however, asylum applications were not processed efficiently due to poor management and insufficient resources. There were interview delays of up to 3 months, followed by a 6-month adjudication period; under new procedures, applicants were prohibited from working or attending school until asylum was granted. NGOs continued to encourage the Government to give equal access to health, education, and legal protection to foreigners. Human rights groups criticized the Department of Home Affairs for not following the provisions of the act. New applicants for asylum and NGOs assisting refugees reported abuse and assaults by immigration authorities and requests for bribes to process applications for permits to remain in the country. Human rights groups also reported asylum seekers being turned away at borders or repatriated immediately upon arrival at airports without benefit of formal asylum processing. The SAHRC lawsuit against the Department of Home Affairs to compel it to process all applications by asylum seekers as required by the Refugees Act still was pending at year’s end. The UNHCR, the National Consortium on Refugee Affairs, and the SAHRC continued their “Roll Back Xenophobia” campaign to raise public awareness of the situation and rights of refugees and the difference between refugees and economic migrants. The campaign produced publications, organized several public relations events, and instituted a Police Training Initiative in cooperation with the SAPS to sensitize police officers on the need to protect refugees and to deal properly with foreign nationals.

The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees. The Government provided first asylum. The Department of Home Affairs reported that as of August, 65,798 persons had applied for asylum since 1994. Of this number, 58,721 applications had been finalized, including 19,106 granted asylum and refugee status, 35,268 refused, and others falling into various other categories such as applications withdrawn, cancelled, or manifestly unfounded; 7,077 were awaiting a decision at year’s end. At year’s end, there were approximately 89,000 asylum seekers in the country; 23,000 had been granted refugee status. The majority of recognized refugees came from Somalia, the Democratic Republic of the Congo (DRC), and Angola; there also were refugees from Rwanda, Burundi, and the Republic of the Congo.

The majority of illegal immigrants came from Mozambique and Zimbabwe. Illegal immigrants were processed for deportation at a central facility and sent back to Mozambique and Zimbabwe by weekly trains. Inadequate security on the trains allowed many deportees to jump from the train en route, perpetuating the illegal immigration problem. Despite numerous procedural safeguards, efforts to combat a growing illegal immigration problem occasionally resulted in the wrongful deportation of aliens who legally were in the country; however, there were no reports of the forced return of persons to countries where they feared persecution.

There were credible reports of overcrowded, unhygienic detention facilities; beatings by security personnel in detention centers; and the theft of money and personal possessions from refugees by security personnel (*see* Section 1.c.).

Unlike in the previous year, there were no reports that police used their dogs to attack immigrants (*see* Section 1.c.).

Xenophobia led to a number of violent attacks on foreigners (*see* Section 1.a.). In January three Angolans and one citizen were killed and a house burned in clashes between locals and refugees in the Joe Slovo area in Milnerton, a Cape Town suburb. Detectives were investigating the case at year's end; however, they were hampered seriously by the lack of witnesses willing to testify.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic free and fair elections held on the basis of universal suffrage. In June 1999, national elections were held that observers deemed to be free and fair. There was an improved level of overall tolerance during the campaigning and voting period compared with the 1994 elections, attributable to IFP-ANC talks, as well as to an increased police presence. Complaints primarily concerned posters being removed or defaced, individuals being threatened because of political affiliation, and other incidents of intimidation. In May a commission led by Dr. Frederik van Zyl Slabbert was appointed by the Minister of Home Affairs to study possible alternatives for the electoral system which would become effective in the 2004 general elections. A consultative process was completed and final recommendations were pending at year's end.

The country has a bicameral parliament, an executive state presidency, and an independent judiciary, including a constitutional court.

The two houses of Parliament are the National Assembly, with 400 members, and the National Council of Provinces (NCOP), consisting of 6 permanent and 4 rotating delegates from each of the 9 provinces. The NCOP, created to give a greater voice to provincial interests, was mandated to approve legislation that involved shared national and provincial concerns according to a schedule in the Constitution and to concur on other legislation. There was an 18-member Council of Traditional Leaders, which the Constitution accords an advisory role in matters of traditional law and authority.

Four parties—the ANC, the IFP, AZAPO, and the NNP—shared executive power. The ANC dominated the Government and gained in parliamentary strength in the 1999 elections. ANC members occupied 24 of the 27 ministerial positions. In 1999 the ANC leader, Thabo Mbeki, succeeded Nelson Mandela as President and Head of State. As a result of the 1999 national elections, the official opposition party in the National Assembly was the Democratic Party (DP), which joined with the smaller Federal Alliance (FA) to constitute the Democratic Alliance (DA). In November 2001, the NNP left the DA and reached an agreement to cooperate in government with the ANC at national, provincial, and local levels. The National Assembly also included the UDM, the African Christian Democratic Party, the Pan-Africanist Congress, the United Christian Democratic Party, the Freedom Front, the Afrikaner Unity Movement, the AZAPO, and the Minority Front.

The UDM challenged in the Constitutional Court legislation that allows elected officials to change political parties without losing their seat in the legislature. On October 4, the Constitutional Court ruled that it was constitutional for elected officials at the municipal and local levels of government to defect (“cross the floor”) to another party without losing their seats on city or municipal councils. As a result, power could change hands on many local councils. The court also ruled that defections at provincial and national levels satisfied constitutional requirements; however, the court held that a procedural flaw in the legislation necessitated a constitutional amendment.

The questions surrounding traditional leaders and their authority at the local level and participation in local councils were not resolved by year's end. The traditional leaders claimed that municipal demarcations split and diminished their hereditary status and power bases. They also complained that new municipal structures and legislatures denied them voting rights in local councils, which controlled development funds for local communities. In February President Mbeki implied that the Government would address this issue; however, it had not done so by year's end. There were reports that leaders in some areas actively hindered government activities where they infringed upon areas under traditional rule.

There were very few reports of violence or irregularities during the 2000 local elections; however, in the East Rand area of Johannesburg, there were reports that five persons were killed in acts that may have been politically motivated. On March

28, the case came before the Germiston Regional Court and was withdrawn since all the witnesses failed to appear in court. The witnesses allegedly were intimidated into not testifying.

There were no legal impediments to women's participation in government or politics. There were 117 women in the 400-seat National Assembly, and there were 18 women among the 54 permanent delegates of the NCOP. Women occupied three of four parliamentary presiding officer positions (speaker and deputy speaker of the National Assembly, and chair of the NCOP). Women held 9 of 27 ministerial positions, as well as 8 of 16 deputy ministerial slots.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views. Many organizations participated in governmental bodies that sought to gather public input and to fashion policies related to human rights.

The Government-created SAHRC was tasked with promoting the observance of fundamental human rights at all levels of government and throughout the general population. The SAHRC also has the power to conduct investigations, issue subpoenas, and hear testimony under oath. In 2001 the SAHRC began research into allegations of abuse of black farm workers, local justice system prejudice against farm workers, and violence against white farm owners (*see* Section 1.a.). In July and August, there were public hearings in the nine provinces concerning the human rights situation in farming communities. National hearings were conducted in Johannesburg in October. The SAHRC undertook a number of other activities during the year, including a national action plan and strategy to combat racism, the "Roll Back Xenophobia" campaign, a study of socio-economic rights, and an inquiry into sexual offenses against children (*see* Section 5).

The Office of the Public Protector investigated abuse and mismanagement by the Government, and acted as an office of last resort to which citizens reported unfair treatment by government entities. Such complaints generally took the form of concerns over lost pension checks or unfair hiring practices. The office handled an increasing number of complaints but was hampered by severe resource constraints.

The TRC was empowered by legislation to investigate apartheid-era gross human rights abuses committed between 1960 and 1994, to grant amnesty to perpetrators of a broad range of politically motivated crimes, and to recommend compensation for victims of human rights abuses. The amnesty committee concluded its proceedings in June 2001, but a committee of the TRC still was compiling the last two volumes of the seven-volume TRC report. The two volumes—one by the amnesty committee and the other a comprehensive victims list—will end formally the TRC's work and activate the state's obligation to consider the recommendations of the commission. The final report was scheduled for submission to the President in September; however, it was delayed, pending a court decision on IFP leader Mangosuthu Buthelezi's suit to prevent publication of the report. An estimated 80 to 90 percent of the 7,112 applications for amnesty were from persons already incarcerated. A total of 1,146 applicants were granted amnesty.

The Department of Justice was tasked with making a final decision on the reparations issue and implementing the decisions. The TRC officially expressed concern regarding delays in implementing reparation measures and doubt about the level of government support for reparation funding. Final decisions could only be made after the final report has been given to the President. The more than 21,000 victims identified by the TRC have received some interim reparations but have been waiting 5 years longer than expected for final reparations.

On June 26, the Khulumani support group filed a suit in the Cape High Court, demanding access to information held by the TRC. Archbishop Tutu, Justice Minister Maduna, and President Thabo Mbeki were named as correspondents. Khulumani claimed that attempts to get access to the state's draft reparation policy have been blocked repeatedly. The goal of the Khulumani Victims Support Group was to become involved in the discussions on reparations and to speed up the process.

The Human Rights Investigative Unit has authority to prosecute those persons who failed to ask for amnesty or to whom amnesty had been denied. All human rights abuses addressed by the TRC's amnesty committee were scrutinized by the unit. In October 2001, the TRC's amnesty committee submitted its final report; it was estimated that no more than 20 cases potentially could be prosecuted, which could take up to 5 years. The case against Dr. Basson was the first case pursued



by this unit to go to trial; in April Dr. Basson was acquitted of all 46 charges (*see* Section 1.a.).

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination on the grounds of race, disability, ethnic or social origin, color, age, culture, language, sex, pregnancy, or marital status. The Promotion of Equality and Prevention of Unfair Discrimination Act places a responsibility on the State and any person in the public domain to promote equality. The act addresses discrimination in a broad context in the workplace, health care, education, services, pensions, and other socio-economic areas. Legal recourse was available to those who believed that they have been discriminated against; however, entrenched attitudes and practices, as well as limited resources, restricted the practical effect of these protections.

*Women.*—There was a high rate of domestic violence, including physical, sexual, emotional, and verbal abuse, as well as harassment and stalking of former partners. Entrenched patriarchal attitudes towards women were a significant factor in under-reporting. It was difficult for abused women's cases to be prosecuted effectively, and abused women often were treated poorly by doctors, police officers, and judges.

A study conducted in 1999 in three provinces by the Medical Research Council (MRC), a statutory body, found that 27 percent of women in the Eastern Cape, 28 percent of women in Mpumalanga, and 19 percent of women in the Northern Province had been abused physically in their lifetimes by a current or ex-partner. In a 1999 study by the MRC of 1,394 men working for 3 Cape Town-area municipalities, approximately 44 percent admitted to abusing their female partners. In a MRC study of 1,800 working men in the Western Cape Province over a 10-year period, 22 percent reported forcing their wives or girlfriends to have sexual intercourse.

The law defines victims of domestic violence, facilitates the serving of protection orders on abusers, requires the police to take victims to a place of safety, and allows police to seize firearms at the scene and arrest abusers without a warrant. The law defines marital rape as a criminal offense and permitted women to obtain injunctions against abusive husbands in a simple, less expensive, and more effective manner. The law extends legal protection from domestic abuse to persons who are not in legal or common-law marriages. Violating a protection order is punishable by a prison sentence of up to 5 years, or 20 years if additional criminal charges, including indecent assault, rape, incest, attempted murder, malicious damage to property, or pointing a firearm, are made.

The implementation of domestic violence legislation was hampered by societal attitudes and a lack of infrastructure, resources, and training for law enforcement officials. Researchers at the University of Cape Town's Institute of Criminology reported that while many police and other judicial system officials were committed to complying with the law, it was not implemented adequately. It was believed that the number of women who filed complaints represented only a fraction of those who suffered abuse. Statistics on prosecution and conviction of domestic abusers were not available at year's end. In August 2001, the Constitutional Court ruled that a woman could be awarded damages on the basis that the Government failed to protect her security.

Domestic violence was the subject of extensive media coverage, much of which was focused on the need to improve implementation of domestic violence legislation and to impose longer sentences on convicted abusers. The parliamentary monitoring committee on women's affairs completed consultations with NGOs and local and national government officials regarding defects in the domestic violence laws. During the year, the Parliament's Joint Monitoring Committee on the Quality of Life and Status of Women approved a report on defects in the domestic violence laws, and the National Assembly adopted the report. The committee followed up the report with an active monitoring program and remained concerned about problems in this area.

The Government financed 25 shelters for abused women. This number was inadequate, particularly in the rural areas. The SAPS operated 12 Family Violence, Child Protection, and Sexual Offenses (FCS) Units, which dealt specifically with these issues and which were intended to increase victims' confidence in the police and lead to increased reporting of such crimes. Six training courses for FCS Investigating Officers were held annually, and there were numerous additional workshops and seminars for other members of the police force, including gender sensitivity training. The Government conducted domestic violence awareness campaigns such as the 16 Days of Activism of No Violence Against Women and Children campaign in December and counseling services in partnership with the Network of Violence Against Women, an NGO consortium.

Rape, including spousal rape, was illegal. There was an extremely high incidence of rape for reasons that included a poor general security climate and societal attitudes condoning sexual violence against women. In the large majority of rape cases, the perpetrator went unpunished.

The SAPS reported that between January and March 2001, there were 144.2 rapes reported per day or 29.5 rapes per 100,000 persons; however, according to a 1998 SAPS survey cited in the Statistics South Africa (StatsSA) report, only half of all respondents who were raped reported the incident to the police. Of the cases reported, 47.6 percent were referred to court after an investigation. The Rape Crisis Organization of South Africa reported that only 8.9 percent of reported rapes resulted in a conviction (*see* Section 1.e.).

Rape, sexual assault, and sexual harassment of black female farm workers by farm owners, managers, and by other farm workers was common.

The Office on the Status of the Women, located in the Presidency, reported in the 2000 National Policy Framework for Women's Empowerment and Gender Equality that "there are few support structures for victims of rape. At police stations, rape victims face a lack of facilities coupled with the unsympathetic treatment women frequently receive from both the police and the justice system." Although judges in rape cases generally followed statutory sentencing guidelines, judges occasionally were criticized by women's advocacy groups for using questionable criteria, such as the victim's behavior or relationship to the rapist, as a basis for imposing lighter sentences.

The Government established 22 sexual offense courts throughout the country, designated waiting rooms for victims, established counseling, installed more than 2,000 intermediary facilities at courts, and trained judicial officers.

The issue of rape was covered widely in the media during the year. There were a number of demonstrations against rape, such as the October massive protest against child abuse and child rape, which culminated with the presentation of a petition to Minister of Home Affairs Mangosuthu Buthelezi.

Unlike in the previous report, there were no reports that female immigrants and asylum seekers were abused sexually during detention.

Female genital mutilation (FGM) was practiced in some areas of the Eastern Cape and KwaZulu-Natal; however, it was not considered to be widespread and was confined to isolated cases. The law specifically prohibits FGM as unfair discrimination.

Prostitution was illegal, but it was widespread and practiced rather openly. In August 2001, the Pretoria High Court ruled that sections that prohibited prostitution in the Sexual Offences Act were unconstitutional. There were incidents of harassment by policemen demanding sexual favors of prostitutes under threat of penalizing them for lewd conduct or public loitering. There was no law that specifically prohibited sex tourism, although it was covered under the general prohibition against prostitution. The Government was not involved in sex tourism.

There were reports that women were trafficked into the country for prostitution (*see* Section 6.f.).

Although no official statistics were available, there was anecdotal evidence that sexual harassment was a widespread problem. An attorney from the Women's Legal Center, an NGO, estimated in July 2001 that 76 percent of women had experienced some form of sexual harassment; 40 percent of these women had left their jobs or changed jobs as a result of the harassment. Perpetrators of sexual harassment can be prosecuted under a number of laws; however, there were few successful prosecutions.

Discrimination against women remained a serious problem despite equal rights under family law and property law with regard to inheritance, divorce, and custody of children, and equal legal rights under the judicial system.

Polygyny continued to be practiced by several ethnic groups. Exacting a bride price ("lobola") also was a traditional practice of some ethnic groups. The Recognition of Customary Marriages Act of 2000 recognizes customary marriages, both monogamous and polygynous; however, it did not address religious marriages, which were not recognized by the law.

Discrimination against women in the workplace was prohibited under the law, which included both antidiscrimination and affirmative action provisions; however, in practice women experienced economic discrimination in areas such as wages, extension of credit, and access to land. For example, township housing transfer schemes favored existing titleholders who tended to be men, and women in rural areas found it hard to obtain security of tenure, which was a precondition for accessing housing subsidies. Women, especially black women, typically had lower incomes and less job security than men. Most women were engaged in poorly paid domestic labor and micro-enterprises, which did not provide job security or benefits. Domestic workers usually did not have contracts with their employers and had little recourse

for unfair treatment or abuse. Female farm workers often experienced discrimination. Female farm workers' access to housing often was dependent on their relationship to male farm workers. Women generally occupied the less well-paid farming jobs or received lower wages than men who performed the same type of work. Many female farm workers were denied maternity leave in violation of the law or were allowed only the minimum time to give birth and return to work.

According to data supplied in 2000 by employers with 50 or more employees, women held 13 percent of all top management positions, 20 percent of all senior management positions, and 43 percent of professional and middle management positions. This last figure was high because of the disproportionate representation of women within the nursing and teaching professions, which were included in those categories. Approximately 17 percent of women who worked were domestic laborers; the majority of these workers were black women with little or no education.

The Department of Trade and Industry ran a program to provide incentive grants to promote the development of small and medium businesses and microenterprises for women, young persons, and persons with disabilities in the areas of manufacturing, tourism, arts and crafts, and imports and exports.

A number of governmental and nongovernmental organizations monitored and promoted women's human rights. The Office on the Status of Women, located in the Office of the President, coordinated departmental gender desks, which developed strategies to ensure integration of gender concerns into governmental policy and planning. The Commission on Gender Equality (CGE), a constitutionally mandated body, was authorized to investigate allegations of gender discrimination and make recommendations to Parliament on any legislation affecting women; however, the CGE was hampered by a lack of funding during the year. Parliament's Joint Committee on Improvement of Quality of Life and Status of Women was mandated to monitor the effects of government programs and policies on women. In 2001 the committee devoted special attention to monitoring gender equity in the Government budget process. In October the Parliament approved a 2000 report by the committee on the impact of HIV/AIDS on women, which included a recommendation that the Government provide pregnant women who are HIV-positive with antiretroviral medication.

There were numerous active women's rights groups that focus on such areas as violence against women and the economic advancement of women.

*Children.*—The Constitution stipulates that children have the right “to security, education, basic nutrition, and basic health and social services.” The Government remained committed to providing these services and has made some progress toward developing the mechanisms for delivering them, including improvements in the provision of education and a campaign against child abuse; however, the demand for such services far exceeded the resources available. The Government was unable to provide for the rapidly growing number of children who were affected by HIV/AIDS, including both infected children and AIDS orphans.

The law provides greater educational opportunities for disadvantaged children—traditionally black children—through a uniform system for the organization, governance, and funding of schools. It mandated compulsory education from ages 7 to 15 and ensured that children cannot be refused admission to public schools due to a lack of funds. According to the Department of Education, approximately 90 percent of 7- to 15-year-olds and 83 percent of 16- to 19-year-olds were enrolled in school. In its 2001 South Africa Statistics report, StatsSA reported that 50.3 percent of all students in public and independent schools were girls, and women comprised 55 percent of all university students and 43 percent of all technicon (technical colleges) students; however, the Office of the Status of Women reported in the 2000 National Policy Framework for Women's Empowerment and Gender Equality that a number of factors, including unplanned pregnancies, domestic responsibilities (particularly in rural areas), and gender stereotypes contributed to high drop-out rates and lower secondary school pass rates for girls. Although girls comprised 55 percent of those taking senior certificate exams, they only represented 52 percent of those passing, according to the StatsSA report.

The school funding formula, based on norms and standards tied to physical resources and performance, devoted 60 percent of nonpersonnel resources toward the 40 percent that were the most needy schools. Each of the nine provincial departments of education had responsibility for the schools in their provinces, which resulted in the uneven distribution of educational facilities. The disparity affected the areas of Eastern Cape, the Northern Province, and KwaZulu-Natal most severely. The availability and quality of primary schooling still was a problem, especially in rural areas where schools may not be easily accessible or where children worked (*see* Section 6.d.). Most schools in rural and urban KwaZulu-Natal reportedly faced many problems of inadequate learner support materials, long-vacant teaching posts, over-

crowding, late pupil registration, and vacation time vandalism; however, despite the setbacks and poor matriculation pass rate, school principals said there was a promise of improved support and delivery from provincial officials, greater community involvement, and better inter-school cooperation. To address this problem, the Government continued to build new schools and introduced basic skills development and prevocational training into the curriculum.

Student populations on university campuses were becoming more representative of the general population, with the most prestigious government-administered universities making an active effort to recruit students from disadvantaged communities.

There were a number of governmental social welfare programs for children, known as "Presidential Initiatives," including free health care for pregnant women and children under 6 years of age and school meal programs for primary school children. In practice it sometimes was difficult for persons in rural areas to obtain access to health care facilities and other social welfare programs. NGOs called for reforms of social security programs, including programs targeted at children, particularly in response to the increasing number of HIV/AIDS orphans. The Government was criticized widely by HIV/AIDS activists for failing to protect adequately young children from HIV/AIDS transmission through the provision of antiretroviral medication to pregnant and breast-feeding women. The Cabinet continued to withhold approval for programs to reduce the rate of mother-to-child transmission of HIV/AIDS during the year; however, the director of AIDS programs allowed provincial governments to implement the programs without cabinet approval. The Constitutional Court has ruled that the National government has a constitutional responsibility to provide an effective HIV/AIDS prevention program to reduce mother to child HIV transmission.

Violence against children, including domestic violence, remained widespread. The law prohibits domestic violence against children and requires medical, educational, and other practitioners working with children to report such abuse immediately. While the Government, the public, and the media paid increased attention to the problem, a lack of coordinated and comprehensive strategies to deal with violent crimes continued to impede the delivery of needed services to young victims. In July 2001, a senior police officer reported to a parliamentary committee that there was a significant increase in reports of child abuse. Although corporal punishment in schools was prohibited by law, there were reports that teachers used physical violence to discipline their students. In addition, there continued to be racially motivated violence among students in schools.

Reports of child rape increased significantly, as have reports that men were committing rape due to a growing myth that having sexual intercourse with a virgin can cure HIV/AIDS. Between January 2000 and June 2001, the police reported 31,780 cases of rape and attempted rape of children; however, observers believed that these figures represented a small percentage of the actual incidents of child rape, because most cases involved family members and were not reported. The country had a low conviction rate for rape and child abuse. The conviction rate in cases of child abuse in Johannesburg reportedly was 2.6 percent. The minimum sentence for rape of a child was life in prison, but judges have the discretion to grant more lenient sentences. In November 2001, a 9-month-old girl was raped in Upington; six men were arrested for the crime, but later released when DNA tests showed no link between the men and the rape. The incident was part of a series of rapes of baby girls that continued during the year.

In March 2001, HRW released a report entitled "Scared at School: Sexual Violence Against Girls in South African Schools," which documented widespread rape, sexual abuse, sexual harassment, and assaults of girls at school by teachers, students, and other persons in the school community. According to the report, girls "are confronted with levels of sexual violence and sexual harassment in schools that impede their access to education on equal terms with male students." The report stated that the Government was working to improve its responses to domestic and sexual violence, but recommended "a more proactive, coordinated, and system-wide response." In July the Minister of Education requested that schools establish hot lines to the local police stations and that trauma centers be set up wherever possible to support the Department of Education's commitment to a national toll free line that would deal with all aspects of violence in schools. The law requires schools to disclose sexual abuse to the authorities; however, administrators often disregarded the obligation by concealing sexual violence or delaying disciplinary action. The report further noted that "sexual violence and harassment in South African schools erect a discriminatory barrier for young women and girls seeking an education."

A 2000 survey documented that 39 percent of sexually active teenage girls reported being raped. According to HRW, girls who experienced sexual violence often

left school temporarily, changed schools, or quit attending school to escape continuing abuse; those who remained in school had difficulty completing their studies. The level of sexual violence in schools also increased the risk for girls of contracting HIV/AIDS or other sexually transmitted diseases, as well as unwanted pregnancies.

The Government introduced initiatives to address school violence; however, it does not have a national policy to address sexual violence and harassment in schools. HRW reported an absence of standard procedural guidelines governing how schools should treat persons accused of sexual violence or harassment.

Virginity testing on young girls and traditional male circumcision still were prevalent in various parts of the country. Virginity testing was a violation of the law. In 2001 HRW reported that virginity tests were conducted at some schools in KwaZulu-Natal. Several teenage boys died or were mutilated and hospitalized as a result of unsafe practices during traditional circumcision rituals in Eastern Cape and KwaZulu-Natal. In June five boys died of wounds and exposure during a traditional initiation process near Heidelberg, and another 18 boys were admitted to a hospital after suffering from complications. The initiation school was closed. In June a 30-year-old traditional surgeon in the Eastern Cape was arrested for performing 90 unlawful circumcisions without parental consent. The Eastern Cape Provincial government introduced legislation to regulate traditional male circumcision and improve health standards during the ritual; however, at least 8 initiates died in the Eastern Cape alone during the winter circumcision season, and at least 49 initiates were hospitalized.

FGM still was performed on young girls in some rural areas of the Eastern Cape and KwaZulu-Natal (*see* Section 5, Women).

Child prostitution was a problem (*see* Section 6.f.).

*Persons with Disabilities.*—The Constitution prohibits discrimination on the basis of disability; however, in practice government and private sector discrimination against persons with disabilities in employment existed. Society increasingly was open to the concept of persons with disabilities as a minority whose civil rights must be protected. The Government attempted to ensure that all government-funded projects take account of the needs of citizens with disabilities. The law mandates access to buildings for persons with disabilities; however, such regulations rarely were enforced, and public awareness of them remained minimal. The law requires employers with more than 50 workers to create an affirmative action plan with provisions for achieving employment equity for persons with disabilities. The National Environmental Accessibility Program, an NGO comprising consumers with disabilities as well as service providers, established a presence in all nine provinces to lobby for compliance with the regulations and to sue offending property owners when necessary. In August the Ministry of Labor introduced a new code to protect persons with disabilities from any kind of harassment. The code, which works in conjunction with the Employment Equity Act, also provides guidelines on the recruitment and selection of persons with disabilities, reasonable accommodation for persons with disabilities, and guidelines on proper handling of employee medical information. In August 2001, the Public Service Commission reported to a parliamentary committee that persons with disabilities constituted only 0.02 percent of the public service workforce, compared with 5.9 percent of the general population.

*National/Racial/Ethnic Minorities.*—The law prohibits discrimination on 19 grounds and requires employers with 50 or more employees to ensure that previously disadvantaged groups—defined as blacks, women, and persons with disabilities—are represented adequately at all levels of the workforce. However, these previously disadvantaged groups remained underrepresented in the workforce, particularly at the professional and managerial levels. The Government continued efforts to reorganize and redesign the educational, housing, and health care systems to benefit all racial and ethnic groups in society more equally. A comprehensive analysis of workforce profiles by an NGO based on 2000 and 2001 Department of Labor data indicated that blacks held 9 percent of top management positions, 59 percent of the skilled position, and 83 percent of semi-skilled and unskilled positions. The employers cited a lack of training and development, poor recruitment processes, and an antagonistic corporate culture as the main impediments to affirmative action. The armed forces have struggled with the process of integrating blacks into the predominantly white officer corps (*see* Section 1.a.).

Xenophobia led to a number of attacks on foreigners (*see* Section 2.d.). Foreigners faced harsh reactions from anti-immigrant groups such as the Unemployed Masses of South Africa, which criticized immigrants for job losses.

The continued killings of mostly white farm owners by black assailants created concern among white farmers that they were being targeted for racial and political reasons (*see* Section 1.a.). There also were reports that white employers abused and

killed black farm laborers but avoided penalty due to collusion with the authorities (see Section 1.a.).

During the year, police arrested 18 right-wing conspirators who allegedly planned to overthrow the Government and reinstate apartheid. At year's end, they were being held on charges of high treason, contravening the Internal Security Act, and a variety of weapons charges. The 18 men allegedly were members of the Boeremag, an extremist right-wing Afrikaaner group.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for freedom of association, and this right was given statutory effect in the Labor Relations Act (LRA). All workers in the private sector were entitled to join a union. Workers in the public sector, with the exception of members of the National Intelligence Agency (NIA) and the Secret Service, also were entitled to join a union. Members of the SANDF were allowed to join a union, but they were prohibited from striking. Union membership in the private sector continued to decline steadily, as a result of job layoffs and declining formal sector employment, including in industries that were heavily unionized, such as mining and manufacturing. The largest trade union federation, the Congress of South African Trade Unions (COSATU), lost approximately 200,000 members in the past 5 years, bringing its membership down to 1.8 million. However, some public sector unions experienced growth. Total union membership was approximately 3.3 million persons, which constituted 26 percent of the economically active population.

COSATU was aligned formally with the ANC and the South African Communist Party (SACP). Several ANC members of Parliament and the Cabinet had a COSATU leadership background, and the premier of Gauteng, the country's richest province, was a former COSATU general secretary. COSATU's largest rival, the Federation of Unions of South Africa (FEDUSA), was a nonpartisan labor federation. A relatively minor labor federation, the National Council of Trade Unions (NACTU), was independent of any political grouping. Some unions did not belong to any federation.

Although labor laws protected farm workers, the COSATU-affiliated South African Agricultural, Plantation and Allied Workers, Union (SAAPAWU), and the NACTU-affiliated National Union of Farmworkers have encountered difficulties trying to organize farm workers, because union organizers were considered trespassers on private property. In addition, farm workers or farm residents who attempted to organize were harassed and evicted. The Department of Labor (DOL) and unions have enlisted the cooperation of the national farmers' organization to educate farmers about worker rights. The DOL reported that 4.5 percent of the agricultural labor force was unionized. In 2000 the DOL conducted a survey on the prevailing conditions in the agricultural sector; however, the results were not yet available. According to DOL statements and media reports, the survey found that the majority of farm workers were not unionized and were exploited by employers. In December the Minister of Labor announced minimum wage standards for farm workers that were expected to take effect in March 2003.

The Government did not restrict union affiliation with regional or international labor organizations. COSATU, FEDUSA, and NACTU were affiliated with the International Confederation of Free Trade Unions (ICFTU).

*b. The Right to Organize and Bargain Collectively.*—The law defines and protects the rights of workers to organize and bargain collectively. The Government did not interfere with union organizing and generally has not interfered in the collective bargaining process; however, some COSATU unions claimed that NIA agents have infiltrated their ranks. The LRA statutorily provides for "organizational rights," such as trade union access to work sites, deductions for trade union dues, and leave for trade union officials, which strengthened the ability of trade unions to organize workers.

The LRA was designed to create an industrial relations regime that is stable and recognizes that basic worker rights need to be protected. The law, which applies to both the public and private sectors, protects workers against unfair dismissal, recognizes their right to form trade unions, provides for the right to strike, and establishes a simple set of procedures that protect striking workers from the threat of dismissal. Essentially, for a strike to proceed, all that was required was that a dispute be referred for conciliation. There was no time limit on conciliation efforts; however, if conciliation failed to resolve the dispute or lasted more than 30 days, a trade union was entitled to advise an employer of intent to strike as long as it gave 48-hours notice to a private sector employer or 7-days notice to a state employer. Organized labor also had the right to engage in "socioeconomic protest," whereby workers may demonstrate, without fear of losing their jobs, in furtherance

of broader social objectives. The LRA also allows employers to hire replacement labor for striking employees, but only after giving 7-days' notice to the striking trade union. Employers have the right to lock out workers if certain conditions were met. Public sector employees, with the exception of essential services and the three components of the security services, also had the right to strike. Strikes by workers in essential services, such as police and hospital workers, were prohibited. If disputes between workers in essential services and their employers cannot be resolved through collective bargaining or conciliation, they were referred to arbitration.

There were several strikes over wage disputes throughout the year, including a 1-day strike of the Communication Workers' Union in May and a 2-day strike of brick makers in Grahamstown in August. In July the South African Clothing and Textiles Workers' Union (SACTWU) members at the Team Puma factory in Cape Town went on strike for 15 weeks. In a landmark decision, the Labor Court ruled in September that a solidarity strike by non-Puma workers was legal and protected.

In July one man was killed and another injured during a 3-week municipal strike when a senior municipal official allegedly opened fire on demonstrators in the Louis Trichardt municipality in Limpopo province. Another man was injured during the same strike when fireworks exploded in a crowd of strikers in Cape Town.

In October there was an antiprivatization strike, which was organized by COSATU. Both the Government and businesses adopted a "no work, no pay" policy. Most workers did not heed COSATU's call for a mass stay-away action.

During a wage-related strike at the East Rand Proprietary Mines (ERPM), which was organized by members of the National Union of Mineworkers, two security guards allegedly opened fire on the ERPM employees after they attempted to enter the mine, killing two and injuring 14. A court injunction was in place restricting miners from gaining access. The security guards were terminated and the security company lost its contract with the mine. The 5-day ERPM strike coincided with COSATU's October antiprivatization stay-away action and involved casual employees who were contracted by the private recruiting company "Circle Labour." The illegal strike culminated in the firing of the striking workers, 2,300 of whom were rehired by ERPM after being interviewed. ERPM terminated its contract with "Circle Labour."

A November taxi strike in Durban was in response to "Operation Shanela," a government crackdown on unlicensed or unroadworthy taxis. The KwaZulu-Natal Taxi Council members struck for a week at the end of November and early December, protesting "Operation Shanela." The strike reportedly turned violent when strikers stoned private and municipal buses and their passengers.

Union participation as an equal partner with business and government in the National Economic Development and Labor Council (NEDLAC), a tripartite negotiating forum, ensured a direct voice for labor in the formulation of economic, social, and labor policy. Through NEDLAC, organized labor has been able to participate in the formation of the country's labor legislation as well as initiatives such as the 1998 Presidential Job Summit.

To further reduce the adversarial nature of labor relations, the LRA also created a Commission for Conciliation, Mediation, and Arbitration (CCMA). The CCMA has resolved successfully many disputes referred to it and remained critical to the emergence of a less confrontational business climate. The CCMA also gradually was beginning to play an interventionist role by becoming involved in disputes before they deteriorated into full-fledged strikes or lockouts. Other important mechanisms created by the LRA included a labor court and a labor appeals court. The labor court has jurisdiction to resolve disputes that the CCMA was unable to mediate to the satisfaction of both parties. Notwithstanding the existence of the CCMA and specialist courts for labor disputes, the aim of industrial relations was to minimize the need for judicial intervention in labor relations, leaving it to the contending parties to resolve disputes whenever possible. No employee may be fired or discriminated against because of membership in or advocacy of a trade union.

The LRA allows for the establishment of workplace forums that are intended to promote broad-based consultation between management and labor over issues such as work organization, corporate downsizing, and changes in production processes. The forums, in order to receive statutory protection, could be established by trade unions only in businesses with more than 100 employees. Although trade unions in only a few factories reportedly have established workplace forums, the intent of the law was to build wide support within the trade union movement and business for such cooperative workplace relationships.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, including by children; however, there were reports that children were forced into prostitution or exploited by their parents to earn money for their families

(see Section 5). According to a survey conducted by StatsSA, up to 2,000 children worked to pay off outstanding debts to employers or obligations to their landlords (see Section 6.d.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits the employment of a child under 15 years of age. It was a criminal offense to employ a child between 15 and 18 years of age if such employment “places at risk the child’s well-being, education, physical or mental health, or spiritual, moral, or social development.” This policy was enforced effectively in the formal non-agricultural sector and less effectively in other sectors by DOL inspectors. The DOL was required to ensure that all of its inspections addressed child labor problems; however, many inspectors were so poorly trained that investigations of cases involving child labor often were dismissed by courts. The inspectors attempted to resolve most problems by counseling employers, child workers, and parents, and by cooperating with the Departments of Welfare and Education. The violation of the laws regulating child employment was a criminal offense, punishable by a maximum prison sentence of 3 years; however, criminal prosecution frequently was reserved for “extreme circumstances,” and there were no prosecutions by year’s end. Inspectors often had difficulty gaining access to farms where children may have been employed.

Many children, especially in the rural areas of the country, were expected to help with household chores and school maintenance. According to a survey conducted by StatsSA, 45 percent of children between the ages of 5 and 17 worked for 1 hour or more per week in an economic activity, 5 hours or more per week in school labor, or 7 hours or more in household chores. The most common economic activity for children was gathering wood and water for domestic use, which occupied 4.5 million of the 13.4 million children between the ages of 5 and 17 years for 1 hour or more per week. Of the 2 million children who spent at least 1 hour per week in activities for pay, profit, or family economic gain, 59 percent were involved in agriculture and 33 percent in trade.

Child laborers from Zimbabwe and Mozambique worked in the country on commercial farms, for the taxi industry, or as domestic servants.

The Government was preparing an action program for coordinating interdepartmental action on child labor; however, the program had not been announced by year’s end. The Government has prepared training manuals and conducted a number of courses on enforcing child labor laws. The Child Labor Intersectoral Group (CLIG) was composed of representatives of trade unions, employers, organizations, NGOs, and officials of the Departments of Labor, Welfare, and Education. The CLIG debates policy options and ensures coordination of initiatives between these different groups.

The DOL began provincial consultations in order to develop and complete a comprehensive program of action to implement the International Labor Organization’s Convention 182. The DOL released its survey of child labor at year’s end.

There were reports that children were forced into prostitution and that some children work in conditions that amount to bondage (see Sections 5 and 6.c.).

*e. Acceptable Conditions of Work.*—There was no legally mandated national minimum wage. Unionized workers in the formal sector of the economy set wage rates on an industry-by-industry or plant-by-plant basis through annual negotiations with employers or employer organizations. Such wages generally were sufficient to provide a decent standard of living for a worker and family. In those sectors in which workers were not organized sufficiently to engage in the collective bargaining process, the law gives the Minister of Labor the authority to set wages, including for farm laborers and domestic workers; however, income disparities between skilled and unskilled workers and the income distribution gap between rural and urban workers meant that many unskilled or rural workers were unable to provide a decent standard of living for themselves and their families. On September 1, new regulations outlining conditions of employment and minimum wage for domestic workers took effect.

The law standardizes time-and-a-half pay for overtime, establishes a 45-hour workweek, and authorizes 4 months of maternity leave for women. A ministerial determination exempted businesses employing fewer than 10 persons from certain provisions of the act concerning overtime and leave.

Occupational health and safety issues were a top priority of trade unions, especially in the mining and heavy manufacturing industries. Although attention to these issues increased significantly, the country’s industrial and mining processes were dangerous and sometimes deadly. The law provides for the right of mine employees to remove themselves from work deemed dangerous to health or safety. In addition, a tripartite mine health and safety council and an inspectorate of mine



health and safety, were tasked with enforcing the act and monitoring compliance with its provisions. The law specifically made it an offense for a company to discriminate against an employee who asserted a right granted by the law (for example, to leave a hazardous work site) and required mine owners to file annual reports that provided statistics on health and safety incidents for each mine being worked. During the year, 288 persons were killed in mine accidents.

Working conditions on farms generally were poor. There were many incidents of physical abuse of farm workers, nonpayment of wages, and other forms of arbitrary treatment generally by white farm owners (*see* Section 1.a.). In September 2001, the DOL published a report on employment conditions in the agricultural sector which found that “most South African farm workers live in circumstances of absolute and relative poverty” and recommended minimum farm wages ranging from \$40 to \$75 (400 to 750 Rands), depending on the farm’s location. Many farmers did not measure accurately working hours, and they often required their laborers to work 11 hours per day and 6 days per week. In addition, 12-hour days were common during harvest time, and few farmers provided overtime benefits. HRW reported low wages and the absence of basic services in farm workers’ housing. There were reports that farmers ignored laws relating to health and safety and other labor rights for their workers. Health and safety regulations often were not observed during the use of chemicals in agricultural work.

There were no laws or regulations in other industries that permitted workers to remove themselves from work situations deemed dangerous to their health or safety without risking loss of employment; however, the law protects employees from retaliation who with “reasonable belief that the health or safety of an individual has been, is being, or is likely to be endangered,” disclosed dangerous workplace conditions to the appropriate authorities.

Illegal foreign workers had no protection under the law. They often were underpaid and forced to work long hours in very poor, unsanitary, and unsafe conditions. Several “sweatshop” type locations were uncovered, and their owners were fined during the year. In May the owner of a Newcastle factory was ordered by the DOL to pay his 87 workers \$50,129 (501,287 Rands) in backpay. At the same factory, an investigation found workers locked in the building overnight. There were no accurate numbers on Zimbabweans entering the country and working on farms; however, it was reported that the Government deported approximately 40,000 illegal Zimbabweans during the year.

*f. Trafficking in Persons.*—The law does not prohibit specifically trafficking in persons, and the country was a transit and destination point for the trafficking of persons from other countries in Africa, Asia, Eastern Europe, and the states of the former Soviet Union for prostitution and forced labor. Women and children were trafficked into the country by domestic and international organized crime syndicates for the sex industry.

Child prostitution increased, primarily in Cape Town, Durban, and Johannesburg. NGOs estimated that there were 10,000 children working as prostitutes in Johannesburg and at least 1,000 in Cape Town. Along trucking routes, child prostitutes were sought after because of the belief that they were more likely to be disease-free or that, if they were virgins, sex with them cured diseases such as HIV/AIDS. The child sex industry increasingly has become organized, with children either forced into prostitution by gangs or exploited by their parents to earn money for the family. The law prohibits the commercial sexual exploitation of children, sexual intercourse with children under 16, and permitting a female under 16 to stay in a brothel for the purpose of prostitution. The Government established a task force to develop a plan of action to combat the sexual exploitation of children and created training courses for the police force and the judiciary regarding the problem; however, the 33 SAPS Child Protection Units lacked the capacity to deal adequately with the problem of child prostitution.

The country has laws that can be applied to prosecute offenses related to trafficking, including laws dealing with illegal aliens, employment, occupational health and safety, sexual offenses, domestic violence, and organized crime. Various entities of the Government investigated trafficking cases on an ad hoc basis. The Government made efforts to address the trafficking problem with investigations and arrests by the police. These efforts were hampered by police corruption, lack of training, and understaffing. The 2001 criminal case against the owner of brothel in Johannesburg in which prostitutes from Thailand, Bulgaria, Russia, the Czech Republic, Romania, and Zambia were found and various civil cases were pending at year’s end. The courts generally dealt with trafficking through deportations and fines, rather than exacting criminal penalties.

The extent of trafficking operations was not known; however, it was estimated that an average of 1,000 women were trafficked across the country’s borders every

month. In 2000 Molo Songololo, an NGO in Cape Town, conducted a study of 44 women working in the sex industry in the country and found that women who were trafficked to the country were 18 to 25 years of age with limited English skills, limited job opportunities, and dependent families. Ten of the 44 women surveyed were trafficked from Thailand, Eastern Europe, and the states of the former Soviet Union; the remaining women were South African.

Women and children were lured by traffickers with the promise of jobs and decent wages and then forced to work as prostitutes, in some cases to pay off debts to those who smuggled them into the country. While many women came willingly, some claimed that they were tricked into coming or that they were forced to continue working as prostitutes until they had paid off the cost of their transport. The Eastern European syndicates contacted women through acquaintances and offered employment opportunities in the South African hospitality industry, usually offering to pay airfare and obtain travel documents; the women usually entered the country with a holiday visa or claimed political asylum. The women generally traveled alone; upon arrival they were met by an agent at the airport and taken to a house in Gauteng Province, Eastern or Western Cape, or KwaZulu-Natal. Trafficked women usually were threatened if they did not comply, and their documents were confiscated.

In Asia employment agencies, female agents, and newspaper advertisements were used to recruit women with promises of employment in the hospitality, catering, teaching, or service industries. These agencies created "books" with photographs and personal information on the women, which were circulated among prospective buyers who were either agents or brothels and escort service owners. The women were "ordered" and brought to South Africa, where they resided in the same house and were monitored closely. The women usually were debt-bonded to the agent who recruited them and were required to make a profit for both their trafficker and employer.

African women were trafficked from neighboring countries including Angola, Zimbabwe, Lesotho, Swaziland, Zambia, Cameroon, Malawi, and Rwanda. Namibia and Botswana reportedly were transit countries. The trafficking operations were run by Nigerian, Angolan, and Congolese networks; South Africans also were involved in trafficking syndicates. The method of recruiting in Africa reportedly was with promises of employment in the hospitality industry, and women were transported via roads into the country; the trafficked victims were indebted to the recruiting organizations.

The country also was a transit point for trafficking operations between developing countries and Europe, the United States, and Canada. Migrants from foreign countries, particularly China, India, the Middle East, Eastern European countries, and other African countries, were lured to the country with accounts or promises of money and jobs in the West. Once in the country they were provided with documentation and accommodation before being moved to final destinations, where they were forced into prostitution, drug dealing, or other criminal activity until they paid off the debt of their travel expenses. Traffickers apparently had identified the country as one in which temporary entry permission often was granted without difficulty, fraudulent documents were easy to obtain, and direct flight and shipping routes were available to most countries in the developed world.

There were four major criminal syndicates in the country that trafficked women: The Chinese Mafia, Bulgarian syndicates from Eastern Europe, the Russian Mafia, and African criminal groups, mainly from Angola, Nigeria, and the DRC. The African syndicates appeared to be the managers and owners of specific establishments within the sex industry. Individual criminals from South Africa and neighboring countries also engaged in trafficking. It was reported that women from Eastern Europe were trafficked by a well-organized syndicate that was run by ex-military personnel of senior rank.

Trafficked women who worked in the sex industry lived with other trafficked victims in segregated areas; were under constant surveillance; had no money or identifying documents; were indebted to the agents who arranged their travel; worked up to 18 hours each day; worked double shifts, on weekends, and when ill; were fined for infractions of strict rules; and had little communication with other workers.

The Government did not focus on trafficking, and allocated few resources to combat it. There was no plan or program in place to assist trafficking victims. There was no specialized training for dealing with trafficking victims; however, during the year, the border police set up a special Trafficking Unit at the Johannesburg International Airport, the major entry point for trafficked women and children from outside the Southern Africa region.

There were no reported government antitrafficking awareness campaigns or other programs to prevent trafficking. Terre D'Homme, an NGO working in the trafficking

field, conducted a media campaign to promote awareness of trafficking in persons in the Southern African region. In addition, magazines and local newspapers published several articles on the subject during the year.

## SUDAN

Sudan has an authoritarian government in which all effective political power was in the hands of President Omar Hassan al-Bashir. Bashir has controlled the Government since he led a 1989 military coup, with the instigation and support of the fundamentalist National Islamic front (NIF), which overthrew the country's democratically elected government. In 1999 Bashir broke with the ideological leader of the NIF, Dr. Hassan al-Turabi, disbanded Parliament, suspended the 1998 presidentially decreed Constitution, and declared a state of national emergency that suspended basic liberties. In 2000 Bashir was reelected and his political party, the National Congress/National Islamic Front (NC/NIF), won 340 out of 360 seats in the Parliament in deeply flawed presidential and parliamentary elections that all major opposition parties boycotted. Parliament resumed 14 months later in February 2001, and in December 2001, the state of emergency was extended for another year. Turabi's popular National Congress Party (PNC) was disestablished and continued to be a proscribed political organization. NC/NIF members and supporters continued to hold key positions in the Government, security forces, judiciary, academic institutions, trade unions, professional associations, and the media. The major opposition political parties for the most part remained marginalized from the political process. The judiciary was not independent and was subject to government influence.

In 1993 the leaders of Eritrea, Ethiopia, Uganda, and Kenya launched a peace initiative under the auspices of the Intergovernmental Authority on Development (IGAD) to end the country's civil war. The peace initiative stalled several times, and the emergence of an alternative peace initiative launched in July 2000 by Libya and Egypt also complicated the IGAD effort. In July negotiations between the Government and the Sudan People's Liberation Movement (SPLM)—the political wing of the Sudan People's Liberation Army (SPLA)—resumed in Machakos, Kenya. The parties reached fundamental agreement on self-determination for the south and on the question of religion and the state. On October 15, the parties signed a memorandum of understanding (MOU) that called for a cessation of hostilities and unimpeded humanitarian access to all areas of the country, and which both parties largely have respected. The ensuing talks at Machakos focused on power and wealth sharing, and on November 18, the two sides agreed to extend the ceasefire and humanitarian access agreements until March 2003. They also signed an additional MOU outlining 15 areas of consensus on power sharing. The next round of talks was set to begin in January 2003.

In addition to the regular police and the Sudan People's Armed Forces, the Government maintained an external security force, an internal security force, a militia known as the Popular Defense Forces (PDF), and a number of police forces, including the Public Order Police (POP), a law enforcement entity that enforced Islamic law (Shari'a). The POP's mission included enforcing proper social behavior such as restrictions on alcohol and "immodest dress." The security forces were under the effective control of the Government. Members of the security forces committed numerous, serious human rights abuses.

Civil war, destruction of infrastructure, economic mismanagement, and the existence of more than 4 million internally displaced persons and refugees in a country of an estimated 30 million persons continued to cripple the country's mostly agricultural economy. The infusion of Islamic banking and financial assets as well as increased revenue from oil production injected new capital into some sectors of the economy; however, corruption, mismanagement and increasing military expenditures limited the impact. The country took some steps towards transitioning from a socialist to a market-based economy; however, the Government and NC supporters remained heavily involved in the economy. Approximately 86 percent of the labor force was engaged in agriculture.

The Government's human rights record remained extremely poor, and although there were some improvements in a few areas, it continued to commit numerous, serious abuses. Citizens did not have the ability to change their government peacefully. Government security forces were responsible for extrajudicial killings, and there were reports of government responsibility for disappearances. Government security forces regularly beat, harassed, arbitrarily arrested, and detained incommunicado opponents or suspected opponents of the Government, and there were reports of torture. Government security forces and associated militias beat refugees, reportedly raped women abducted during raids, and reportedly harassed and detained per-

sons on the basis of their religion. Government security forces and progovernment militias acted with impunity. Prison conditions remained harsh and life threatening, prolonged detention was a problem, and the judiciary continued to be subservient to the Government. The authorities did not ensure due process and the military courts summarily tried and punished civilians. The Government continued to infringe on citizens' privacy rights. The Government continued to conscript forcibly men and boys. The Government still did not fully apply the laws of war to the southern insurgency, has taken few prisoners of war (POWs), and did not cooperate with the International Committee of the Red Cross (ICRC) regarding access to or treatment of POWs. Cooperation with U.N.-sponsored relief operations generally was poor, although there was some improvement. Government forces continued to obstruct the flow of humanitarian assistance. Problems with relief flights in the south were caused by the Government's frequent denials of visas or work permits to foreign humanitarian workers as well as aircraft clearances to the U.N.'s Operation Lifeline Sudan (OLS).

During the year, restrictions on press freedom under the National Security Emergency decree continued as the Government frequently arrested editors and journalists and suspended publications that criticized or disagreed with government policy; however, there were a few media articles critical of the Government. The Government continued to restrict severely the freedoms of speech, assembly, association, religion, and movement. The Government continued the Islamization and Arabization of the country, and there were credible allegations of forced Islamization of non-Muslims. Fears of Arabization and Islamization and the imposition of Islamic law (Shari'a) increased support for the armed opposition throughout the country. Local human rights NGOs were harassed routinely. Violence and discrimination against women and abuse of children remained problems. Female genital mutilation (FGM) remained widespread. Discrimination and violence against religious and ethnic minorities and government restrictions on worker rights persisted. Child labor was widespread. Slavery and trafficking in persons remained significant problems. Government security forces and associated militias were responsible for forced labor (including forced child labor), the abduction of women and children, and the forced military conscription of underage young men.

Antigovernment insurgent groups and associated militia forces also continued to commit numerous, serious abuses. There were reports of SPLM/SPLA violations to citizens' rights, despite its claim that it was implementing a 1994 decision to assert civil authority in areas that it controlled. During the year, the SPLM/A was responsible for extrajudicial killings, beatings, rape, arbitrary detention, and forced military conscription of underage young men. In addition, SPLM/A officials were involved in the theft and destruction of property of nongovernmental organizations (NGOs) and U.N. agencies operating in the south. Both the Government and the SPLM/A continued to manipulate humanitarian assistance for military advantage. The SPLM/A observed some of the basic laws of war; it took prisoners on the battlefield and permitted ICRC visits to some of them.

The participation of the Government and the SPLM in the IGAD peace process during the year produced some improvement in the overall human rights situation in the south by lessening (but not eliminating) military and militia attacks against civilians and by expanding the delivery of relief assistance to people affected by the war and continuing drought. The parties' agreement to an internationally monitored ceasefire also led to some improvement in the human rights situation in the Nuba Mountains' region.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—During the year, there were numerous reports of extrajudicial killings. Government forces and allied militia still pursued a scorched earth policy aimed at removing populations from the areas of the oil pipeline and oil production. On numerous occasions, the Government attacked civilian facilities and housing, which resulted in numerous civilian deaths, including of children (*see* Section 1.g.). Deaths resulted from landmines during the year.

There were reports of government-supported killings (*see* Section 1.g.). For example, in July and August, government-allied militia launched a series of attacks in the oil regions to the southwest of Bentiu, Western Upper Nile, which displaced thousands of persons and reportedly killed many of them. During the year, government planes repeatedly bombed civilian targets in the south (*see* Section 1.g.).

Government-allied militias also continued to raid Dinka villages in Bahr el-Ghazal, killing men, abducting women and children, and destroying and looting property (*see* Section 1.g.).

There was no known action taken in the following 2001 cases: The March death in custody of Hassan Omar Bul Reish; the April killing of three persons during a demonstration at All Saints Cathedral; and the August killing of two students by police during a demonstration at Gezira University.

There was no known action taken, nor was any likely to be taken, in the following 2000 cases: The February reported PDF attack on several villages in northern Bahr el-Ghazal, during which 156 civilians were killed; the June attack in the vicinity of a Catholic mission, which reportedly resulted in the deaths of 32 persons; the September incidents in which security forces in several cities forcibly dispersed some demonstrations and killed several persons; and the unconfirmed November PDF attacks on the village of Guong Nowh in which several persons were killed.

Government forces routinely killed rebel soldiers captured in battle. Only a small group of prisoners captured before the 1989 coup and a few soldiers taken in the east in 1998 reportedly were held as POWs in government-controlled areas. The Government did not admit that it held POWs. It has not responded to ICRC inquiries about POWs and has refused the ICRC access to POWs.

During the year, attacks by progovernment Arab militias on the Four tribe of Darfour left 23 persons dead, 26 injured, and more than 150 houses destroyed. On November 13, 300 progovernment Arab militia members attacked villages in the northern Kass area killing 15 persons, including a pregnant woman. There was no known action taken against the responsible militia members by year's end.

There were no reports that the Government prosecuted or otherwise penalized the attacking militia or made efforts to protect civilian victims from attacks; government forces provided logistic and transportation support, and weapons and ammunition, to progovernment militias.

In August government- and rebel-laid landmines resulted in some deaths in and around Torit and the oil fields of Western Upper Nile.

Rebel forces reportedly committed political and other extrajudicial killings, particularly in areas of active conflict such as the Nuba Mountains and northern Bahr el-Ghazal; however, details generally were unavailable.

Rebel forces killed a large number of civilians during their attacks on government forces (*see* Section 1.g.). There were reports that SPLA forces and allied militias summarily executed persons in the southern part of the country. Rebel forces laid landmines indiscriminately on roads and paths that killed and maimed both soldiers and civilians (*see* Section 1.g.).

In March an attack, allegedly by a SPLM/A commander on the village of Tuhubak, resulted in the deaths of at least 25 persons and the burning of 173 homes. Estimates of the damage to the village by a consortium of NGOs concluded that all the homes had been destroyed, along with 400 granaries.

In August after the SPLA captured the town of Torit, there were credible reports that SPLA commanders summarily executed captured government soldiers and PDF prisoners.

In late April and early May, Human Rights Watch (HRW) reported that the Lord's Resistance Army (LRA), a Ugandan armed opposition group in the south, killed more than 470 civilians in Imatong villages.

There was no known action taken, nor was any likely to be taken, in the following 2001 and 2000 cases of rebel killings: The January 2001 killing of two relief workers in an attack by unidentified assailants; the January 2001 attack by rebels believed to be from the LRA on a humanitarian vehicle that killed eight aid workers; the November 2000 National Democratic Alliance (NDA) attack on Kassala in which 52 civilians and soldiers were killed during fighting between government and rebel troops.

Unlike in the previous year, there were no reports of interethnic and intraethnic violence that resulted in deaths.

*b. Disappearance.*—There were continued allegations that the Government was responsible for the arrest and subsequent disappearance of persons suspected of supporting rebels in government-controlled zones in the south and the Nuba Mountains. Persons arrested by government security forces often were held for long periods of time in unknown locations without access to lawyers or family members.

There were reports that during raids on civilian settlements, government forces abducted persons, including women and children (*see* Sections 1.g. and 6.c.). In the last 15 years, approximately 15,000 Dinka women and children have been abducted and between 10,000 and 12,000 mostly Dinka persons remained abducted or unaccounted for at year's end. Observers believed that some of those abducted were sold into slavery, while others were used as forced labor or drafted into the military. In some cases, the abductees escaped or eventually were released or ransomed; however, in other cases, they were killed.

Unlike in the previous year, there were no reports government forces or progovernment militias abducted NGO workers during the year.

There was no known action taken in the following 2001 cases: The September disappearance of Aladin Omer Agabani Mohammed who converted from Islam to Christianity and was last seen telling friends that he was going to report to the Government security office, and the October disappearance of Wilson Wani, an employee of OLS. Their whereabouts remained unknown at year's end.

There was no action taken, nor was any likely to be taken, on the alleged February 2000 PDF abduction of more than 300 women and children from northern Bahr el-Ghazal or the November 2000 unconfirmed PDF abduction of 24 persons from the village of Guong Nowh.

There was no action taken, nor was any likely to be taken, in the February 2000 case in which a progovernment militia detained two pilots, a U.N. worker, and a Sudanese relief worker for 1 week.

In January the Government reorganized the Committee to Eradicate the Abduction of Women and Children (CEAWAC) with supposedly broader powers and greater support. In the past CEAWAC lacked the necessary funding to document, rescue, and transport abductees back to their families, and there was no significant change after the reorganization. During the year, CEAWAC formed 22 joint-tribal committees and has conducted two field missions resulting in the documentation of more than 150 cases of abduction. In November CEAWAC documented 55 abductees, reunified 29 with their families, and transported 26 to a facility in Fulla until their families could be located. Refusal to provide flight clearances prevented additional reunifications of abductees with their families.

In May the International Eminent Persons Group completed its investigation into the extent of slavery, abductions, and associated abuses by both sides in the conflict. The Group concluded that armed progovernment militias were responsible for committing these crimes and operated with virtual impunity. The Group also concluded that abductions did fall under prescribed definitions of slavery; however, the Group was unable to determine the scale of abduction and enslavement.

There also were reports of periodic intertribal abductions of women and children in the Eastern Upper Nile (see Section 5).

There continued to be reports of abduction by SPLA forces and allied militias. For example, during the summer, an SPLA commander reportedly captured, robbed, and then released several local health workers involved in a polio vaccination program. In September HRW reported SPLA forces looted the village of Today (north of Abyei), abducting 45 civilians, including children under the age of 15. The civilians were released after 2 weeks to return home by dangerous routes through SPLA and government contested territory.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture; however, government security forces continued to beat, torture, and harass suspected opponents and others. Members of the security forces were not held accountable for such abuses.

In accordance with Shari'a, the Criminal Act provides for physical punishments including flogging, amputation, stonings, and crucifixion—the public display of a body after execution. The Government officially exempted the 10 southern states, in which the population was mostly non-Muslim, from parts of the law that permits physical punishments based on Shari'a. There were no reports of court-ordered Shari'a punishments, other than lashings, in government-controlled areas of the south. The law legally can be applied in the south, if the state assemblies approve it.

On January 24, after being charged and tried, a sentence of amputation was carried out on a 46-year-old man imprisoned in Khartoum. He was accused of theft, and held in Kober prison in Khartoum from May 2000 until the date of his amputation.

In February an appeals court in Nyala sentenced a southern Christian woman accused of adultery to 75 lashes, instead of an initial December 2001 lower court sentence of execution by stoning.

On May 8, there were 14 prisoners charged with armed robbery who were sentenced to death by hanging; however, they were not executed by year's end.

In November 17 women from the village of Munwashi, Darfour, were convicted of adultery and received 100 lashes. None of the women had legal representation.

Amnesty International (AI) reported the case of five men sentenced to cross amputation and execution were executed in 2000. These men were accused of a 1998 bank robbery in Nyala. The Supreme Court heard and rejected their appeal.

Credible reports suggested the number of student victims of torture increased during the year. Security forces beat and otherwise abused youths and student leaders and others deemed to be opponents of the Government. For example, in October se-

curity officers arrested 11 students during demonstrations at Khartoum and Bahr el-Ghazal Universities who reportedly were tortured while in custody.

In November a progovernment Islamic student militia beat students at Khartoum University, injuring several students and requiring the admission of 14 to a local hospital. The student militia also was responsible for an attack on student hostels at Shambat, which seriously injured at least 11 students. Reports indicated that many of the students attacked by the militia were arrested and tortured while in police custody.

Refugees were subjected to beatings and mistreatment by security forces (*see* Section 2.d.).

Soldiers, PDF members, and progovernment militia forces raped women (*see* Section 1.g.).

During the year, security forces injured persons while forcibly dispersing demonstrations (*see* Section 2.b.).

There was no information at year's end in the 2001 cases of Sebit Hassan Ramadan or Osman Robon and no action was taken against security forces who tortured, beat, raped, or otherwise abused persons in 2001 or 2000.

Government forces and allied militias were responsible for injuring many civilians during attacks on rebel forces, during raids on civilian settlements, and during bombing attacks on civilian targets (*see* Section 1.g.). There were reports that persons abducted during raids were subjected to torture, rape, and forced servitude (*see* Section 6.c.).

Insurgent forces were responsible for a number of civilian injuries and for raping women. For example, early in the year, SPLA-affiliated forces attacked a camp that contained approximately 18,000 internally displaced persons (IDPs) at Mbiya, killing a tribal leader and raping numerous women. According to the HRW, there were instances of rape and other abuses in Raga, Western Bahr el-Ghazal. HRW inquiries with the SPLM/A regarding these attacks, including the alleged killings in Tuhubak (*see* Section 1.a.), went unanswered.

During the year, both sides laid landmines indiscriminately on roads and paths, killing and maiming both soldiers and civilians.

Conditions in government prisons remained harsh, overcrowded, and life threatening. Most prisons were old and maintained poorly, and many lacked basic facilities such as toilets or showers. Health care was primitive, and food was inadequate. Prison officials arbitrarily denied family visits to prisoners. High-ranking political prisoners reportedly often enjoyed better conditions than did other prisoners.

The Government routinely mistreated persons in custody. In June 88 members of the Rizeigat tribe in Nyala, including 2 14-year-old children, were beaten badly while in custody. The tribal members were arrested following armed clashes with the Ma'aliya tribe. In July the 88 persons were charged and tried for the crimes of murder, armed robbery, and public disturbance and were sentenced to death.

Female prisoners were housed separately from men and rape in prison reportedly was rare.

Minors often were held with adults. In order to care for their children, many women prisoners were forced to take their children with them into the prison. Inside the prison, the children were unable to receive an education. In December it was reported that 652 women and 161 children were incarcerated at Omdurman prison with 12 of the women awaiting trial.

The Government did not permit regular visits to prisons by human rights observers. No independent domestic human rights organizations monitored prison conditions.

In previous years, prisoners reportedly have died while in SPLM/A custody due to poor prison conditions. The SPLM/A gave the ICRC access to approximately 550 POWs in 12 camps in southern Sudan but denied ICRC access to POWs in Kapoeta and Torit following battles there. The ICRC reported that living conditions in SPLM/A prisons were similar to living conditions for the general southern population. Some prisoners were released due to poor health.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention without charge; however, in practice the Government continued to use arbitrary arrest and detention under the state of emergency provisions. Under the Constitution and the Criminal Code, an individual may be detained for 3 days without charge, which can be extended for 30 days by order of the Director of Security and another 30 days by the Director of Security with the approval of the prosecuting attorney. Under the amended National Security Act, which supercedes the Criminal Code when an individual is accused of violating national security, that individual may be detained for 3 months without charge, and the detention is renewable by the Director of Security for another 3 months. Under the state of emergency, the Government was not constrained by the National Security

Act and could detain individuals indefinitely without judicial review, which reportedly it did. Persons arrested by government security forces often were held incommunicado for long periods of time in unknown locations without access to their lawyers or family members.

The law allows for bail, except for those accused of crimes punishable by death or life imprisonment.

In general the Government detained persons for a few days before releasing them without charge or trial; however, detentions of PNC and NDA members generally were much longer. There were unconfirmed reports that security forces tortured, detained without charge, and held incommunicado members of the PNC. In addition to detentions, government security forces frequently harassed political opponents by summoning them for questioning, forcing them to remain during the day without questioning, and then ordering them to return the following day. This process sometimes continued for days.

Authorities continued to detain political opponents of the Government during the year. Dr. Hassan Al-Turabi, former Speaker of the National Assembly and head of the PNC, was arrested in February 2001 and charged with posing a threat to national security and the constitutional order because he signed a MOU with the SPLM/A calling for citizens to rise against President Bashir. Al-Turabi subsequently was placed under house arrest. In August a presidential decree renewed Al-Turabi's detention for another year, and he was moved from house arrest to a maximum-security prison then to a house owned by the Government. He remained in detention at year's end.

A number of journalists were arrested and detained during the year (*see* Section 2.a.). In July security forces arbitrarily arrested 11 leaders of the Fuar tribe for reporting recent attacks by members of Arab militia.

Security forces continued to detain persons because of their religious beliefs and activities (*see* Section 2.c.). Generally detentions based nominally on religion were of limited duration; however, the Government routinely accused persons arrested for religious reasons of common crimes and national security crimes, which resulted in prolonged detention.

Security forces often targeted southern women in IDP camps because they produced and sold a traditional home-brewed alcohol. Such women were arrested and imprisoned for up to 6 months under Shari'a (*see* Section 1.c.).

There were reports that detainees were abused and tortured while in custody (*see* Section 1.c.).

There was no information on whether 10 to 12 civilians, including Ishmael Mohammad Ibrahim and Dr. Najib Nigom El Din, remained in custody at year's end, and there was no information on persons who remained in detention from 2000.

During the October battle to recapture the southern garrison town of Torit, the Government imprisoned 24 SPLM/A as POWs. They were under indefinite detention at year's end.

In September and October, SPLM/A officials detained local staff members of international humanitarian organizations on suspicion of espionage and holding sensitive information. Each of these persons was held without charge for approximately 2 weeks before being released. In response to these organizations' concerns about the arbitrary arrest of their staff, the SPLM/A has responded that the security forces have the right to take whatever action was necessary to assure SPLM/A security.

The law prohibits forced exile, and the Government did not use it; however, opposition leaders remained in self-imposed exile at year's end.

*e. Denial of Fair Public Trial.*—The judiciary was not independent and largely was subservient to the Government or the President. The Chief Justice of the Supreme Court was nominated by a Judiciary Committee and appointed by the President. As the senior judge in the judicial service, the Chief Justice also controlled the judiciary. On occasion some courts displayed a degree of independence. For example, appeals courts on several occasions overturned decisions of lower courts in political cases, particularly decisions from public order courts.

The President appoints the Constitutional Court's seven members. Within the regular court system, there were civil and criminal courts, appeals courts, and the Supreme Court.

The judicial system included four types of courts: Regular courts, both criminal and civil; special mixed security courts; military courts; and tribal courts in rural areas to resolve disputes over land and water rights and family matters. The 1991 Criminal Act governs criminal cases, and the 1983 Civil Transactions Act applies in most civil cases. Shari'a was applied in the north. There continued to be reports that non-Muslims were prosecuted and convicted under Shari'a "hudud" laws. Courts did not apply formally Shari'a in the south. Public order cases were heard in criminal courts.



The Constitution provides for fair and prompt trials; however, this was not respected in practice in many cases. Trials in regular courts nominally met international standards of legal protections. The accused normally had the right to an attorney, and the courts were required to provide free legal counsel for indigent defendants accused of crimes punishable by death or life imprisonment; however, there were reports that defendants frequently did not receive this right and that counsel in some cases could only advise the defendant and not address the court. In some cases, courts refused to allow certain lawyers to represent defendants.

Military trials, which sometimes were secret and brief, did not provide procedural safeguards. Military trials sometimes have taken place with no attorney permitted and did not provide an effective appeal from a death sentence. Witnesses may be permitted to appear at military trials.

The Special Courts Act created special three-person security courts to deal with a wide range of offenses, including violations of constitutional decrees, emergency regulations, some sections of the Penal Code, as well as drug and currency offenses. Special courts, on which both military and civilian judges sat, handled most security-related cases. Attorneys could advise defendants as "friends of the court" but normally could not address the court. Lawyers complained that they sometimes were granted access to court documents too late to prepare an effective defense. Sentences usually were severe and implemented at once; however, death sentences were referred to the Chief Justice and the Head of State. Defendants could file appellate briefs with the Chief Justice. The special civilian tribunals, which were supposed to operate in the border regions that separated the north and south, were not operational during the year.

In 2001 the Government established emergency tribunals in the western part of the country to try banditry cases. The emergency tribunals were composed of civil and military judges. Defendants were not permitted access to legal representation. The emergency tribunals ordered sentences such as death by stoning and amputations during the year. Sentences ordered by emergency tribunals were carried out quickly with only 1 week allowed for appeal to the district chief justice; there were reports that persons were executed the day after sentencing. Emergency tribunals ordered executions during the year. For example, according to AI, on May 14, numerous men in the Darfur region were hanged after being convicted of robbery by emergency tribunals. While executions by stoning were ordered, none were carried out. Executions were by hanging.

Lawyers who wished to practice must maintain membership in the Government-controlled Bar Association. The Government continued to harass and detain members of the legal profession who it viewed as political opponents.

Civil authorities and institutions did not operate in parts of the rebel-held south and the Nuba Mountains. Parts of the south and the Nuba Mountains fell outside effective judicial procedures and other governmental functions. According to credible reports, government units summarily tried and punished those accused of crimes, especially for offenses against civil order.

Magistrates in SPLM/A-held areas followed a penal code roughly based on the 1925 Penal Code. The SPLM had a judicial system of county magistrates, county judges, regional judges, and a court of appeals. While officials have been appointed for most of these positions, the court system did not function in many areas due to lack of infrastructure, communications, funding, and an effective police force. Some cases were heard at the magistrate and county levels. The SPLM recognized traditional courts or "Courts of Elders," which usually heard matters of personal affairs such as marriages and dowries, and based their decisions on traditional and customary law. Local chiefs usually presided over traditional courts. Traditional courts particularly were active in Bahr el-Ghazal. The SPLM process of conducting a needs assessment for the courts continued during the year. In rural areas outside effective SPLM control, tribal chiefs applied customary laws.

There was an unknown number political prisoners in the country, although the Government maintained that it held none. The Government usually charged political prisoners with a crime, which allowed the Government to deny their status as political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the inviolability of communication and privacy; however, the Government routinely interfered with its citizens' privacy. Security forces frequently conducted night searches without warrants, and they targeted persons suspected of political crimes. Government forces occupied PNC offices during the year. In the north, security forces also searched the residences of persons suspected of making alcoholic beverages, which were illegal under Islamic law (*see* Section 1.d.).

Security personnel routinely opened and read mail and monitored telephones. The Government continued to restrict the ownership of satellite dishes by private citi-

zens through use of its licensing requirement. A wide network of government informants conducted pervasive surveillance in schools, universities, markets, workplaces, and neighborhoods.

The Government razed some squatter dwellings; however, the practice continued to decrease in frequency.

Government forces pursued a scorched earth policy aimed at removing populations from around the oil pipeline and other oil production facilities, which resulted in deaths and serious injuries (*see* Section 1.g.). Government armed forces burned and looted villages and stole cattle (*see* Section 1.g.).

The Government continued to conscript citizens forcibly for military service, including high school age children (*see* Section 5).

A Muslim man may marry a non-Muslim, but a Muslim woman cannot marry a non-Muslim, unless he converts to Islam (*see* Section 5); however, this prohibition was not observed or enforced universally, particularly in the south and among Nubans. Non-Muslims may adopt only non-Muslim children; no such restrictions apply to Muslim parents.

The insurgent SPLM/A generally was not known to interfere with privacy, family, home, or correspondence in areas that it controlled; however, rebel factions continued to conscript citizens forcibly, including high school age children.

During the year, there were reports that the SPLA forcibly recruited Sudanese refugees in northern Uganda for service in their forces.

*g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—Since the civil war resumed in 1983, more than 2 million persons have been killed and more than 4 million persons displaced as a result of fighting between government and insurgents in the south, interethnic conflict, and famine. The principal antigovernment faction was the SPLM, the political wing of the SPLA. In 1995 a coalition of internal and exiled opposition parties in the north and the south created the NDA as an antigovernment umbrella group. This broadened the scope of the civil war, making it a center-periphery rather than just a north-south conflict.

In 1994 the IGAD peace initiative promulgated the Declaration of Principles, which aimed to identify the essential elements necessary to achieve a just and comprehensive peace settlement: The relationship between religion and the state, power sharing, wealth sharing, and the right of self-determination for the south. After several unsuccessful peace efforts, the Government and the SPLM/A again met for peace negotiations in Machakos, Kenya, under the auspices of the IGAD. On July 20, the two sides signed the historic Machakos Protocol that resolved two of the most contentious issues in the civil war: The role of religion and the state during an interim period and the right of self-determination for the south. The terms of the Protocol called for a 6½-year interim period and a referendum for southerners in which they could vote to remain unified with the north or vote for secession. Talks continued through July and August, were suspended in September, and resumed in October. The next round of talks was scheduled for January 2003.

In the southern war zone, the SPLA controlled large areas of the states of Equatoria, Bahr el-Ghazal, and Upper Nile and also operated in the southern portions of the states of Darfur, Kordofan, and Blue Nile. The Government controlled a number of the major southern towns and cities, including Juba, Wau, and Malakal. During the year, military activity intensified throughout the south. All sides in the fighting were responsible for violations of humanitarian law. In the second half of the year, the SPLM attacked and captured the Government garrison towns of Kapoeta and Torit. In late September, the Government recaptured Torit; however, the SPLM/A and its northern allies launched a military offensive along the border with Eritrea that led to the capture of the symbolically important town of Hamesh Khoreb and the displacement of several thousand local inhabitants. The Government continued efforts to strengthen its control of the oil producing areas in Western Upper Nile. Government forces routinely killed, injured, and displaced civilians, and destroyed clinics and dwellings intentionally during offensive operations. There were confirmed reports of government-allied militia intentionally attacking noncombatant civilians, looting their possessions, and destroying their villages. Despite having signed a Cessation of Hostilities Agreement with the SPLM in October, the Government and allied militia launched a series of military actions on December 31.

As part of the Agreement on the Protection of Civilians from intentional military attack, the Government and the SPLA agreed to allow the international community to form a Civilian Protection Monitoring Team (CPMT). Located in Rumbek and Khartoum, the team was staffed with expert personnel experienced in investigating allegations of military attacks against civilians. On December 15, the CPMT released the report of its first investigation, the bombing at Lui/Mundri. The details of the report included recommendations on what both sides could do to prevent fu-

ture unintentional attacks on civilians. The CPMT also initiated an investigation into the military attacks that took place in Western Upper Nile at year's end.

The Government and government-associated forces implemented a scorched earth policy along parts of the oil pipeline and around some key oil facilities. These forces have injured persons seriously, destroyed villages, and driven out inhabitants in order to create an uninhabited security zone. There was a significant increase in indiscriminate government bombing of civilian locations in September and October. The bombings often were associated with military actions by both sides or continuing government efforts to clear the population from near the oil producing areas in Western Upper Nile and adjacent areas.

During the year, the Government's PDF militia reportedly attacked several villages in northern Bahr el-Ghazal, killing civilians, abducting women and children, stealing cattle, looting and burning villages, raping women, and displacing persons. For example, on February 9, a government helicopter gunship attacked the village of Akuem in Western Bahr el-Ghazal killing 2 children and injuring 10 others. There was no known action taken against the responsible PDF members by year's end. At year's end, government-allied militias attacked villages in Western Upper Nile, abducting the inhabitants and looting their possessions.

In his August report the U.N. Special Rapporteur for Human Rights in Sudan reportedly dropped 16 bombs between Mayam and Manken, killing 15 persons and seriously injuring 35 others. On the same day, government planes reportedly dropped 16 additional bombs on Rier, killing 11 persons and injuring 95 others. In June government airstrikes killed 34 civilians.

The Government also conducted bombing raids that targeted NGOs and impeded the flow of humanitarian assistance to the south. For example, on February 20, a government helicopter gunship attacked a World Food Program (WFP) distribution compound in Bieh, Western Upper Nile, killing 17 civilians and injuring dozens of other persons. The Government later announced that an investigation would be held; however, the results of the investigation were not made public and it was not known if any disciplinary action was taken by year's end.

There was no known action taken in the 2001 cases of government aerial bombings.

In addition to bombings that have made humanitarian assistance difficult, the Government routinely denied flight clearances during the year. In September the Government banned all relief flights to Eastern and Western Equatoria. It prohibited flights over these provinces, effectively halting OLS operations for more than 2 weeks. The Government frequently denied visas and work permits to foreign humanitarian workers and aircraft clearances to the U.N.'s OLS. A subsequent agreement between the Government and OLS resulted in greater humanitarian access; however, complete unrestricted access, particularly in the areas of Southern Blue Nile and the east, was not granted.

Government forces, antigovernment insurgents, and military militias loyal to both sides raped women and forcibly conscripted men and boys.

Despite an agreement to stop using antipersonnel mines, during the year both sides continued to lay mines. A government militia raided a relief center at Mading and placed landmines in an NGO compound, forcing the permanent evacuation of the center. Reportedly the SPLA continued to lay landmines in Eastern Equatoria for defense purposes. Injuries continued to occur during the year from landmines previously laid by the Government to protect garrison towns and from landmines left by the SPLM/A and its allies during the war.

Insurgent forces routinely displaced, killed, and injured civilians and destroyed clinics and dwellings intentionally.

The SPLM/A has taken a number of POWs over the years. The SPLM/A often cooperated with the ICRC and allowed regular visits to the POWs (*see* Section 1.c.). The SPLM/A released a limited number of POWs for health reasons during the year. The Government did not permit access to POWs for any reason and did not return any POWs during the year.

The ICRC cooperated with UNICEF to remove child soldiers during the year.

There were credible reports of SPLM/A taxation and occasional diversion of relief supplies. The SPLM/A leadership repeatedly committed itself to eliminating these problems; however, in practice it appeared unable to impose consistently those commitments on its forces in the field. During the year, there were reports that SPLA-allied forces attacked international relief organizations, which jeopardized relief operations. In addition, there were reports that the Sudan Relief and Rehabilitation Association diverted humanitarian food to the SPLA or its allied forces and that humanitarian food was diverted in general.

During the year, a joint-monitoring commission was established in the Nuba Mountains to monitor a ceasefire. Conditions in the Nuba Mountains region had improved dramatically by year's end.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedoms of thought, expression, and of the press “as regulated by law”; however, the Government severely restricted these rights in practice. Government detentions, intimidation, and surveillance of journalists as well as suspensions of newspapers continued to inhibit open, public discussion of political issues. There was self-censorship by journalists, and the Government confiscated entire issues of newspapers if it objected to an article.

There were a large number of independent daily newspapers, mainly in urban areas, and differing political views publicly were reflected to some extent. Several newspapers also reprinted articles from the international press, some of which were critical of government policies. There was coverage of debates in the National Assembly, which allowed the press to report much that was previously ignored. There was one government-controlled newspaper. Four publications remained under intensive scrutiny and experienced intimidation, interruption, and arrest of their editors.

The Government exercised control of news reporting, particularly of political topics, the war, and criticism of the Government, through the National Press Council and security forces. Newspapers were prohibited from publishing articles about the war with the exception of information provided by the Ministry of Defense or official government statements. Nevertheless, the local press did report the findings of the CPMT investigations. The National Press Council applied the Press law and was directly responsible to the President. It was charged with licensing newspapers, setting press policy, and responding to complaints. In the event of a complaint, it can give a newspaper a warning or suspend it for up to 15 days. It also can suspend a newspaper indefinitely and suspend journalists for up to 2 weeks. The National Press Council consisted of 21 members: 7 selected by the President; 5 from the National Assembly; 7 directly elected by journalists from the Journalists' Union; and 2 selected by the Journalists' Union leadership. Observers believed the Journalist's Union was government-controlled. The National Press Council was active in suspending journalists and newspapers in 2001. The National Press Council operated during the year.

During the year, the National Security Offices imposed restrictions on press freedom by suspending publications, detaining journalists and editors, confiscating already printed editions, conducting prepublication censorship, and restricting government advertising to progovernment media only. For example, on January 9, police interrogated a journalist for political views expressed in a newspaper column that was critical of the Government.

On March 7, two journalists were arrested in Khartoum for publishing caricatures of government officials and released after a few days. Security forces seized 3,000 copies of the newspaper.

On November 9, security forces arrested the editor of a Khartoum daily newspaper for criticizing the actions of the Government during October clashes between students and police at several universities (*see* Section 2.b.) and released him after a week. At the same time, two daily newspapers were seized for failing to obey government instructions on how to report the student protests at Khartoum University.

The PNC newspaper *Rai-al-Sh'ab* (People's View) remained banned at year's end.

Radio and television were controlled directly by the Government and were required to reflect government policies. During the year, there was a marked expansion of government-controlled regional radio and television. Television has a permanent military censor to ensure that the news reflected official views. There were no privately owned television or radio stations, although the Government and private investors jointly owned one television cable company. The Government often charged that the international, and particularly the Western, media had an anti-Sudan and anti-Islam bias.

In spite of the restrictions on ownership of satellite dishes (*see* Section 1.f.), citizens had access to foreign electronic media; the Government did not jam foreign radio signals. In addition to domestic and satellite television services, there was a pay cable network, which directly rebroadcast uncensored Cable News Network, the British Broadcasting Company, the London-based, Saudi-owned Middle East Broadcasting Corporation, Dubai-TV, Kuwait-TV, and a variety of other foreign programs.

Internet access, which was potentially monitored, was available through two Internet service providers.

The Government restricted academic freedom. In public universities, the Government appointed the vice-chancellors who were responsible for running the institu-

tions. While many professors lectured and wrote in opposition to the Government, they exercised self-censorship. Private universities were not subject to direct government control; however, professors also exercised self-censorship. The Government continued to determine the curriculum.

In January the Government introduced Student Discipline and Code of Conduct Acts in many universities. The new code required strict Islamic standards of dress and association, applied to Muslim and non-Muslim students alike (*see* Section 2.c.). A progovernment Islamic student militia attacked students during the year (*see* Section 1.c.).

On February 2, a student human rights activist was suspended for 12 months from Omdurman College of Technological Science for carrying out human rights activities. On March 2, security forces arrested a male student member of the SDF in Khartoum and severely beat him with water hoses and empty bottles.

In November the University of Khartoum was closed after progovernment administration officials banned student protests that called for student union elections. The administration refused new elections on the grounds that the students were not prepared for such elections, and that a large segment of the student body was fighting with the military forces in the south.

The Government officially required that young men between the ages of 17 and 19 enter military or national service to be able to receive a certificate upon leaving secondary school; the certificate was a requirement for entry into a university.

The SPLM/A and the NDA provided few opportunities for journalists to report on their activities. The SPLM/A restricted the freedom of speech among populations under its control.

*b. Freedom of Peaceful Assembly and Association.*—The continuing National Security Emergency decree and the Criminal Procedure Act, which requires government approval for gatherings involving more than five persons, effectively circumscribed the right of assembly, and the Government continued to severely restrict this freedom. The authorities permitted only government-authorized gatherings and routinely denied permission for or disrupted gatherings they view as politically oriented. Islamic orders associated with opposition political parties, particularly the Ansar and Khatimia, continued to be denied permission to hold large public gatherings during the year. In June 2001, the Government declared a ban on all rallies and public demonstrations in the country, and announced that no permits would be authorized or issued; the ban remained in effect at year's end.

Security forces used excessive force, including beatings, tear gas, and firing of live ammunition to disperse unapproved demonstrations. For example, in October police used tear gas and rubber bullets to disperse a crowd of protesting university students. The students had gathered to mark the anniversary of the October 1964 protests against the military government of General Abboud. Also in October, security forces in Khartoum used tear gas and live ammunition to disperse forcibly demonstrations by students at Khartoum University; two persons were killed and several were injured.

No action was taken against security forces who forcibly dispersed demonstrations or meetings in 2001 or 2000.

The Government severely restricted freedom of association. There were 20 officially registered political parties; however, the law includes restrictions that effectively prohibit traditional political parties if they were linked to armed opposition to the Government. During the year, the Government amended the Political Parties Act to allow some former banned political parties to resume their activities; however, the parties still were unable to participate in elections unless the registrar was notified in writing. In November a loyalist of Hassan al-Turabi was jailed for hosting an "Iftar" dinner, an act the Government stated was a ruse for a political party meeting. Observers believed that the Government controlled professional associations.

The Government restricted diplomatic, international, and regional organizations' contact with any Sudanese political organizations, including the NDA, that the Government considered to be waging war against it.

In 2000 the SPLA implemented a 1999 MOU that was negotiated between the SPLM, NGOs, and donors and discussed increased SPLA control over NGO interaction with local communities, SPLA control over the planning and distribution of humanitarian assistance, a requirement to work "in accordance with SPLA objectives" rather than solely humanitarian principles, the payment of "security fees," and additional fees for services, including charges for the landing of aircraft carrying humanitarian aid and for NGO movement within SPLA-held areas. The MOU was in effect; however, it did not affect substantially NGO operations.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion; however, the Government severely restricted this right in practice. The Constitution states that “Shari’a and custom are the sources of legislation,” and in practice the Government treated Islam as the state religion and declared that Islam must inspire the country’s laws, institutions, and policies. Ten southern states, whose population was mostly non-Muslim were exempted from Shari’a.

There were reports that security forces harassed and at times threatened use of violence against persons on the basis of religious beliefs and activities. There continued to be reports that Christian secondary school students in Khartoum were not allowed to continue their compulsory military service because they attended church. New codes of dress and association based on strict Islamic standards were introduced by universities during the year, which reflected an effort by the Government to force religious observance on male and female members of opposition and non-Muslim student groups. During the year, Islamic students harassed, beat, and otherwise abused non-Sudanese African students; part of the motivation for such acts appeared to be religious (*see* Section 1.c.).

The Government placed the same restrictions on churches as it did on nonreligious corporations. Religious groups must register in order to be recognized or worship legally. Government approval was required for the use and construction of houses of worship. The Government permitted non-Muslims to participate in services in existing and otherwise authorized places of worship only. Registered religious groups were exempt from most taxes. Nonregistered religious groups found it impossible to construct a place of worship and were harassed by the Government. Registration reportedly was very difficult to obtain in practice, and the Government did not treat all groups equally in the approval of such registrations and licenses.

Authorities continued to restrict the activities of Christians, followers of traditional indigenous beliefs, and other non-Muslims, as well as certain Islamic groups. The Government generally was least restrictive of Christian groups that historically had a presence in the country, including Coptic, Roman Catholics, and Greek Orthodox and was more restrictive of newer Christian groups. Although the Government considered itself an Islamic government, restrictions often were placed on the religious freedoms of Muslims, particularly on those orders linked to opposition to the Government.

Applications to build mosques generally were granted in practice; however, the process for applications for non-Muslim churches was more difficult. The Government did not authorize the construction of any churches in the Khartoum area or in the district capitals; the Government often claimed that local Islamic community objections restricted the issuance of permits. While the Government permitted non-Muslims to participate in services in existing, authorized places of worship, the Government continued to deny permission for the construction of any Roman Catholic churches, although some other Christian groups have received permission. However, the Government permitted some makeshift structures in displaced persons camps to be used for Roman Catholic services.

Under the 1991 Criminal Act, non-Muslims may convert to Islam; however, conversion by a Muslim was punishable by death. In practice converts usually were subjected to intense scrutiny, ostracization, intimidation, torture by authorities and encouraged to leave the country.

PDF trainees, including non-Muslims, were indoctrinated in the Islamic faith. In prisons and juvenile detention facilities, government officials and government-supported Islamic NGOs pressured and offered inducements to non-Muslim inmates to convert. Some persons in the Government-controlled camps for IDPs reportedly at times were pressured to convert to Islam. Children, including non-Muslim children, in camps for vagrant minors were required to study the Koran, and there was pressure on non-Muslim children to convert to Islam. Unlike in the previous year, there were no credible reports of forced circumcision during the year. There were credible reports that some children from Christian and other non-Muslim families, captured and sold into slavery, were converted forcibly to Islam.

In late October, there was a case involving the alleged abduction and forced conversion to Islam of a Coptic Christian woman in Omdurman. The lack of transparency in the case and ongoing allegations by the woman’s parents that their daughter was forced into marriage and conversion against her will brought into question the fairness of the judicial system and its ability to ensure due process for all citizens. Nevertheless, the allegations of forced conversion were not confirmed.

Muslims could proselytize freely in the Government-controlled areas, but non-Muslims were forbidden to proselytize.

Authorities sometimes harassed foreign missionaries and other religiously oriented organizations; and delayed their requests for work permits and residence visas. For example, Catholic priests in the north continued to have problems obtain-

ing visas and occasionally were subjected to interrogations by internal security agents.

The Government required instruction in Islam in public schools in the north. In public schools in areas where Muslims were a minority, students had a choice of studying Islam or Christianity. Christian courses were not offered in the majority of public schools, ostensibly due to a lack of teachers or Christian students, which meant that many Christian students attended Islamic courses.

Children who have been abandoned or whose parentage was unknown—regardless of presumed religious origin—were considered Muslims and citizens and could be adopted only by Muslims (*see* Section 1.f.).

Minority religious rights were not protected. In government-controlled areas of the south, there continued to be credible evidence of prejudice in favor of Muslims and an unwritten policy of Islamization of public institutions, despite an official policy of local autonomy and federalism. In the past, some non-Muslims lost their jobs in the civil service, the judiciary, and other professions. Few non-Muslim university graduates found government jobs. Some non-Muslim businessmen complained of petty harassment and discrimination in the awarding of government contracts and trade licenses. Reports continued that Muslims (particularly supporters of the NIF) received preferential treatment for the limited services provided by the Government, including access to medical care.

Aerial bombings by the Government in southern rebel-held areas at times have struck hospitals, schools, mosques, Christian churches, and interrupted religious services (*see* Section 1.g.). For example, in June, four bombs dropped in Ikotos struck the residence of the Christian bishop.

In SPLA-controlled areas, Christians, Muslims, and followers of traditional indigenous beliefs generally worshiped freely, however, many of the region's Muslim residents have departed voluntarily over the years. The SPLM officially favored secular government; however, Christians dominated the SPLM and local SPLM authorities often had a very close relationship with local Christian religious authorities.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for freedom of movement and residence, including exit from and entry into the country; however, the Government severely restricted these rights in practice.

Movement generally was unhindered for citizens outside the war zones; however, travelers who failed to produce an identity card at checkpoints risked arrest. Foreigners needed permits for domestic travel outside of Khartoum, which often were difficult to obtain and sometimes refused; however, foreign diplomats could travel to many locations with a government escort. Foreigners must register with the police on entering the country, obtain permission to move from one location to another, and re-register at each new location within 3 days of arrival. Foreign NGO staffs at times had problems obtaining entry visas as well as work or travel permits once they had entered the country. In December 2000, the Government announced restrictions on travel by diplomatic, international, and regional organizations, and others into rebel-controlled areas without prior written permission from the Ministry of External Affairs. These restrictions remained in force at year's end.

The Government denied exit visas to some categories of persons, including policemen and physicians, and maintained lists of political figures and other citizens who were not permitted to travel abroad. For example, the Government has banned all travel to several outspoken human rights activists in Khartoum. Some former political detainees have been forbidden to travel outside Khartoum. The Government also restricted the external travel of Joseph Okel and other southern political leaders who were arrested in 2000 after meeting with a foreign diplomat. During the year, the Government claimed it had canceled the exit visa requirement for its citizens; however, in practice the Government still denied travel privileges to certain individuals when they arrived at exit ports (such as airports). The Government denied exit visas to NDA representatives during the year. Women cannot travel abroad without permission of their husbands or male guardians.

The SPLM/A restricted freedom of movement among populations under its control. Citizens from the north or from government-controlled areas reportedly were denied permission to enter SPLM areas and were treated as foreigners. Insurgent movements also required foreign NGO personnel to obtain permission before traveling to areas that they controlled; however, they generally granted such permission. NGO workers who have worked in government-held areas encountered problems receiving permission to work or travel in insurgent-held areas. There were reports in June 2001 that SPLM/A commanders were ordered not to permit persons to attend a reconciliation conference in Kisumu, Kenya. In addition, a conference held by Justice

Africa in Kampala on Nuba and Blue Nile civil society was attended poorly because the SPLM/A did not permit the participants to obtain transportation clearance.

There were estimates that up to 4 million persons were displaced internally due to the civil war. Tens of thousands of persons, largely southerners and westerners displaced by famine and civil war, continued to live in squatter slums in the Khartoum area. The Khartoum state government planned to upgrade conditions in some camps, requiring the movement of populations to other areas so that roads may be built or enlarged and services established. The state government was in contact with foreign NGOs and U.N. agencies concerning this effort. During the year, displaced persons were included in a government housing development plan and were granted land in a new planned settlement area.

Nearly 500,000 Sudanese were refugees in neighboring countries. Refugees have fled to Uganda, Ethiopia, Eritrea, Kenya, the Democratic Republic of the Congo, and the Central African Republic.

The law includes provisions for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian assistance organizations and accorded refugees generally good treatment. The UNHCR reported that there were 349,209 refugees, primarily from Eritrea, Ethiopia, Chad, Uganda, the Democratic Republic of the Congo, and Somalia. Approximately 150,000 refugees were in camps, and the rest were scattered in urban areas throughout the country. The Government provided first asylum; however, no statistics were available for the year.

In 2000 the Government signed an agreement with the Government of Eritrea to repatriate longtime Eritrean refugees in the country. Although fighting between the Government and the NDA along the eastern border with Eritrea delayed the process, most Eritrean refugees that lived near the border voluntarily returned to Eritrea during the year. Security authorities also arrested, fined, imprisoned, and deported many Eritreans in Khartoum during October and November for alleged conspiracy with the Government of Eritrea to pass information on the mobilization of government forces.

In 2000 the UNHCR signed an agreement with the Government of Sudan and the Government of Ethiopia to repatriate pre-1991 Ethiopian refugees to their homeland by the end of the year. In 2001 and during the year, more than 12,000 Ethiopians chose to return with UNHCR assistance. The UNHCR also signed an agreement with the Governments of Sudan and Eritrea in 2001 to encourage the repatriation of some 300,000 Eritrean refugees. Although fighting along the Eritrea-Sudan border slowed the repatriation process, almost 100,000 refugees returned to Eritrea with UNHCR assistance by year's end.

There were some reports of the mistreatment of refugees, including beatings and arbitrary arrests by government officials. Refugees could not become resident aliens or citizens, regardless of their length of stay. The Government allowed a large number of refugees to work.

There were no reports that the Government forcibly returned persons to a country where they feared persecution.

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

Citizens had no genuine opportunity to change their government peacefully. Presidential and parliamentary elections were held in December 2000, and there were allegations of serious irregularities, including official interference, electoral fraud, inadequate opportunities for all voters to register, and inadequate election monitoring. All major opposition parties boycotted the election. Bashir was elected to another 5-year term, and the NC/NIF won 340 out of 360 seats in Parliament in the deeply flawed process.

The Constitution, which provides in theory for a wide range of rights, was passed by referendum in June 1998, and implemented in early 1999. There was widespread skepticism about the Government's claims that the constitutional referendum passed with 96.7 percent approval and 91.9 percent participation. Critics of the 1998 Constitution charged that it neither was drafted nor passed with truly national participation. Some critics also objected to the statement that Shari'a would be among "the prevalent sources of law" in regard to amending the Constitution. Despite the adoption of the Constitution promulgated by presidential decree in 1998, the Government continued to restrict most civil liberties.

In 1999 President Bashir disbanded the Parliament, suspended the Constitution, and decreed a state of national emergency, which suspended basic civil liberties. Parliament resumed 14 months later in February 2001. The state of emergency remained in effect at year's end.



The law allows the existence of political parties (*see* Section 2.b.). The Government continued routinely to deny permission for and disrupt gatherings that it viewed as politically oriented (*see* Section 2.b.). Security forces arrested, detained, and on occasion, beat political opponents during the year (*see* Sections 1.c. and 1.d.). During the year, authorities seized and occupied PNC offices.

The federal system of government slowly was developing a structure of 26 states, with governors and senior state officials appointed by the President from Khartoum. The Government considered this strategy as a possible inducement to the rebels for accommodation through a principle of regional autonomy; however, southerners were underrepresented in the central government, and local appointees were not viewed universally as representative of their constituencies. This underrepresentation remained a key obstacle to ending the rebellion.

Women had the right to vote. There was 12 women members in the 360-seat Parliament. There were two female ministers, the Minister of Social Welfare and a member of the Council of Ministers. There also were two female State Ministers.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Due to government restrictions, there were only two independent domestic human rights group—the Sudan Human Rights Group and the Sudan Human Rights Organization (SHRO). The SHRO operated out of Cairo until 2000 when the Egyptian government asked them to close their offices. There also were two local NGOs that addressed health concerns related to the practice of FGM and other “traditional” practices (*see* Section 5).

During the year, there was at least one report a government helicopter gunship attacked an NGO in Bieh (*see* Section 1.g.).

The Human Rights Advisory Council, a government body whose rapporteur was the Solicitor General for Public Law, continued its role in addressing human rights problems within the Government. The Council was composed of representatives of human rights offices in 22 government ministries and agencies. While the council was charged with investigating human rights complaints, its effectiveness was hampered by lack of cooperation on the part of some ministry and agency offices. In January the Government reactivated the CEAWAC, which in turn formed mechanisms to identify and return abductees (*see* Section 1.b.).

Dr. Gerhart Baum served as Special Rapporteur for Human Rights in Sudan. In November Dr. Baum presented his report to the U.N. Human Rights Commission, which highlighted ongoing human rights abuses during the year and noted the continuation of the state of emergency and the virtual impunity enjoyed by the security services. The Commission has assigned a representative to work with the U.N. Development Program in Khartoum who was active in organizing human rights courses for security and police forces; however, he had no human rights monitoring responsibilities.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination based on race, sex, or religious creed; however, discrimination against women and ethnic minorities continued. Mechanisms for social redress, especially with respect to violence against women and children, were ineffective.

*Women.*—Violence against women was a problem; however, since reliable statistics did not exist, its prevalence was unknown. Many women were reluctant to file formal complaints against such abuse, although it was a legal ground for divorce. The police normally did not intervene in domestic disputes.

Displaced women from the south were vulnerable to harassment, rape, and sexual abuse. The Government did not address the problem of violence against women, nor was it discussed publicly. The punishment for rape under the Criminal Act varied from 100 lashes to 10 years imprisonment to death. In most cases, convictions were not publicized; however, observers believed that sentences often were less than the maximum provided for by law.

FGM was widespread, especially in the north. An estimated 90 percent or more of girls and women in the north have undergone FGM, with consequences that have included severe urinary problems, infections, and even death. Infibulation, the most severe type of FGM, was the most common type. Usually it was performed on girls between the ages of 4 and 7 by traditional practitioners in improvised, unsanitary conditions, which caused severe pain, trauma, and risk of infection to the child. No form of FGM was illegal under the Criminal Code; however, the health law forbade doctors and midwives from performing infibulation. Unlike in the previous year, there was no evidence that women displaced from the south to the north reportedly were imposing FGM increasingly on their daughters, even if they themselves have

not been subjected to it. A small but growing number of urban, educated families were abandoning the practice completely. A larger number of families, in a compromise with tradition, have adopted the least severe form of FGM, "sunna," as an alternative to infibulation. The Government neither arrested nor prosecuted any persons for violating the health law against infibulation. The Government does not support FGM, and it has introduced information about FGM in some public education curriculums. One local NGO was working to eradicate FGM.

Prostitution is illegal but was a growing problem. Trafficking in women was a problem (*see* Section 6.f.).

The law prohibits sexual harassment; however, it occurred.

Some aspects of the law discriminated against women; including certain provisions of Shari'a interpreted and applied by the Government, and many traditional law practices. Gender segregation was common in social settings. In accordance with Shari'a, a Muslim woman has the right to hold and dispose of her own property without interference. Women were assured an inheritance from their parents; however, a daughter inherited half the share of a son, and a widow inherited a smaller percent than did her children. It was much easier for men to initiate legal divorce proceedings than for women. These rules only applied to Muslims and not to those of other faiths for whom religious or tribal laws applied. Although a Muslim man may marry a non-Muslim, a Muslim woman cannot marry a non-Muslim unless he converted to Islam; however, this prohibition was not observed or enforced in areas of the south not controlled by the Government or among Nubans. Unofficial, nonregistered marriages, known as "orfy" or traditional weddings, are valid legally but do not guarantee the wife's legal rights. For example, in an orfy customary marriage, a woman is not entitled to alimony or pension, has no judicial protection without official recognition by her spouse, and must file a legal petition to establish her children's parentage. Women cannot travel abroad without the permission of their husbands or male guardians; however, this prohibition was not enforced strictly for women affiliated with the PNC.

A number of government directives required that women in public places and government offices and female students and teachers conform to what the Government deemed an Islamic dress code (*see* Section 2.a.). At the least, this necessitated wearing a head covering; however, enforcement of the dress code regulations was inconsistent.

In February there were a number of incidents in which young women were detained at police stations and sometimes beaten for alleged improprieties of appearance or behavior. There were reports that police demanded bribes in exchange for releasing the women. In addition, a Khartoum-based NGO received an increasing number of reports of female students threatened with rape while detained at police stations.

Women generally were not discriminated against in the pursuit of employment; however, in July 21 women arbitrarily were dismissed from their jobs at the Customs and Excise forces (CEF) headquarters in Khartoum. No reason was given.

*Children.*—Education was compulsory through grade eight; however, attendance reportedly was declining and was less than the 1990 level of 61 percent. There were wide disparities among states and some gender disparity especially in the eastern and western regions; for example, enrollment was 78 percent in Khartoum State and only 26 percent in South Darfur State. In the northern part of the country, boys and girls generally had equal access to education (50 percent and 47 percent respectively), although many families with restricted income choose to send sons and not daughters to school. Although there was little data on enrollment rates, it was estimated that the vast majority of the school age children of IDPs were not receiving an education. Nomadic groups also were disadvantaged. Although the gender gap in enrollment between boys and girls was only 3 to 5 percent in favor of the boys, girls were more affected by early withdrawal due to family obligations or early marriage. In the urban areas of the south, primary school age children in basic education were estimated at 68 percent of all boys and 67 percent of all girls. More than 50 percent of university students were women, in part because men were conscripted for war.

The Government operated camps for vagrant children. Police typically send homeless children who have committed crimes to these camps, where they were detained for indefinite periods. Health care and schooling at the camps generally were poor, and basic living conditions often were primitive. All of the children in the camps, including non-Muslims, must study the Koran, and there was pressure on non-Muslims to convert to Islam (*see* Section 2.c.). There were reports that boys in these camps and in homes for delinquent youths were forced to undergo circumcision. Male teenagers in the camps often were conscripted into the PDF, including some girls in the south (*see* Section 1.f.). There were reports that abducted homeless and

displaced children were discouraged from speaking languages other than Arabic or practicing religions other than Islam.

FGM was performed frequently on girls (*see* Section 5, Women).

A large number of children suffered abuse, including abduction, enslavement, and forced conscription (*see* Sections 6.c. and 6.f.).

The Government forcibly conscripted young men and boys into the military forces to fight in the civil war (*see* Section 2.a.). There were reports of at least 50 cases this year of children taken from the markets of Khartoum and conscripted into the PDF. Government authorities frequently carried out conscription by raiding buses and other public places to seize young men. No one was jailed during the year for evading compulsory military service.

Rebel factions have conscripted citizens forcibly, including high school age children. During the year, the SPLM/A actively engaged in efforts to demobilize child soldiers; however, there were reports that child soldiers were involved in military incidents during December, which raised concerns that the SPLM/A again was using forced recruitment of children.

*Persons with Disabilities.*—The Government did not discriminate against persons with disabilities, but has not enacted any special legislation for persons with disabilities, such as mandating accessibility to public buildings and transportation. The law requires equal educational opportunities for persons with disabilities.

*National/Racial/Ethnic Minorities.*—The estimated population of 27.5 million was a multiethnic mix of more than 500 Arab and African tribes with numerous languages and dialects. Northern Muslims, who formed a majority of approximately 16 million persons, traditionally have dominated the Government. The southern ethnic groups fighting the civil war (largely followers of traditional indigenous religions or Christians) total approximately 6 million and sought independence, or some form of regional self-determination or autonomy from the north.

The Muslim majority and the Government continued to discriminate against ethnic minorities in almost every aspect of society. Citizens in Arabic-speaking areas who did not speak Arabic experienced discrimination in education, employment, and other areas. For university admission, students completing high school were required to pass examinations in four subjects: English language; mathematics; Arabic language; and religious studies. Even at the university level, examinations in all subjects except English language were in the Arabic language, placing nonnative speakers of Arabic at a disadvantage.

There were periodic reports of intertribal abductions of women and children in the south, primarily in the Eastern Upper Nile. The abductions were part of traditional warfare in which the victor took women and children as a bounty and frequently tried to absorb them into their own tribe. There were traditional methods of negotiating and returning the women who were taken in these raids. During the year, there was at least one serious incident near Pibor in which members of the Murle tribe abducted women and children from other tribes.

There were deaths in conflicts between ethnic groups, such as continued fighting between Dinka and Nuer or between Nuer tribes.

Intertribal fighting among Nuer tribesmen increased during the year. In November battles, which took place near Bentiu, resulted in numerous deaths.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right of association for economic and trade union purposes; however, the Government restricted this right in practice. The Government prescribed severe punishments, including the death penalty, for violations of its labor decrees. The Trade Union Act established a trade union monopoly. There were no independent trade unions. Only the Government-controlled Sudan Workers Trade Union Federation (SWTUF) can function legally, and all other unions were banned.

Former workers' union leaders were arrested during the year.

The law does not prohibit antiunion discrimination by employers.

SWTUF, the official government union, affiliated with international bodies, such as the African Workers' Union and the Arab Workers' Union.

*b. The Right to Organize and Bargain Collectively.*—The emergency decree passed in December 2001 still was in effect. Labor organizing committees have the right to organize and bargain collectively; however, government control of the steering committees meant that in practice the Government dominated the process of setting wages and working conditions. The continued absence of labor legislation allowing for union meetings, the filing of grievances, and other union activity greatly reduced the value of these formal rights. Local union officials have raised some grievances with employers, although few raised them with the Government. There were cred-

ible reports that the Government intervened routinely to manipulate professional, trade union, and student union elections (*see* Section 2.a.).

A tripartite committee comprising representatives of the Government, the SWTUF, and business set wages. Specialized labor courts adjudicated standard labor disputes; however, the Ministry of Labor has the authority to refer a dispute to compulsory arbitration. A labor code has been in effect since December 2000, which strengthened government control over trade unions and continues to deny trade unions autonomy to exercise their basic right to organize or to bargain collectively. The code provides that unions should be democratic, national, and neutral, defend the welfare of their members, and should raise productivity. There was nothing in the code regarding organizational structure, strikes, or term limits. Union funds were subject to control by the auditor general. A 30 percent salary increase was scheduled to take place in January 2003 but only in Khartoum.

The Government continued to dismiss summarily military personnel as well as civilian government employees whose loyalty it considered suspect.

Strikes were banned and were considered illegal unless the labor office granted approval, which never has been given. In most cases, employees who tried to strike were subject to employment termination. No action was taken against members of the security forces who forcibly dispersed strikes in previous years.

There was one export processing zone.

*c. Prohibition of Forced or Bonded Labor.*—The 1998 Constitution prohibits forced or bonded labor, including by children; however, slavery and forced labor persisted, affecting women and children in particular. The enslavement of women and children, particularly in the war zones, and their transport to the central and northern parts of the country continued.

Some NGOs reported that victims of government bombings and of the civil war in general who fled to government-controlled peace camps were subject to forced labor.

There were frequent and credible reports that militia raiders, “*murahileen*”, with the support of forces directly under the control of government authorities, systematically raided villages and captured women and children as remuneration for their services in Bahr el-Ghazal and Upper Nile. The Government took no action to halt these practices and continued to support tribal militias. Abductees frequently were forced to herd cattle, work in the fields, fetch water, dig wells, or do housework. They also were subjected to arbitrary punishment, torture, and rape, and at times, killed. These practices had a pronounced racial aspect, as the victims exclusively were black southerners and members of indigenous tribes of the Nuba Mountains. There were reports of the sale and purchase of children, some in alleged slave markets; however, the Government continued to deny slavery and forced labor existed but acknowledged that abductions occurred (*see* Section 1.b.).

Both the Government and rebel factions continued to conscript men and boys forcibly into the fighting forces (*see* Section 5). There were reports that the Government’s PDF seized underage recruits from the streets of Khartoum. Conscripts faced significant hardship and abuse in military service, often serving on the frontline.

The ILO Conference Committee urged the Government to punish the perpetrators of these abductions and to enforce ILO Convention 29 on forced labor. The ILO also has recommended an ILO “direct contact” mission to investigate the situation. The Government rejected this suggestion.

The rebel factions continued to force southern men to work as laborers or porters.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution provides that the Government protect children from exploitation; however, the Government did not enforce the provisions. The legal minimum age for workers was 18 years; however, the law was not enforced in practice. Children as young as 11 or 12 years of age worked in a number of factories, particularly outside the capital, including the factories at Um Ruwaba that produced edible oils. In addition, severe poverty has produced widespread child labor in the informal economy. In rural areas, children traditionally assisted their families with agricultural work from a very young age.

The Government did not adhere to ILO Convention 182 on the worst forms of child labor and has not taken any action to investigate abuses or protect child workers.

There were credible reports that children were taken as slaves (*see* Section 6.c.). Child labor existed in SPLM/SPLA-held areas, particularly in the agricultural sectors. Child labor in such areas was exacerbated by lack of schools, extreme poverty, and the lack of an effective legal minimum age for workers.

*e. Acceptable Conditions of Work.*—The legislated minimum wage was enforced by the Ministry of Labor, which maintained field offices in most major cities. Employ-

ers generally respected the minimum wage. Workers who were denied the minimum wage could file a grievance with the local Ministry of Labor field office, which then was required to investigate and take appropriate action if there was a violation of the law. The Ministry of Finance approved a 30 percent increase in the minimum wage effective January 2003 for all workers only in Khartoum. The minimum wage was \$26 (6,881 SD), an insufficient amount to provide a decent standard of living for an average worker and family. There were reports during the year that some workers were not paid their regular wages.

The workweek was limited by law to an 8-hour day, with a day of rest on Friday, which generally was respected. Legal foreign workers had the same labor rights as domestic workers.

Although the laws prescribe health and safety standards, working conditions generally were poor, and enforcement by the Ministry of Labor was minimal. The law does not address the right of workers to remove themselves from dangerous work situations without loss of employment.

Legal foreign workers had the same labor rights as domestic workers. Illegal workers had no such protections and, as a result, typically worked for lower wages in worse conditions than legal workers. Southern IDPs generally occupied the lowest paying occupations and were subject to economic exploitation in rural and urban industries and activities.

*f. Trafficking in Persons.*—Although the law does not prohibit specifically trafficking in persons, the Constitution specifically prohibits slavery and forced labor; however, slavery, forced labor, and trafficking in persons persisted, particularly affecting women and children (*see* Sections 1.b. and 6.c.). The capturing and abduction of women and children as slaves and their transport to other parts of the country continued; the majority of abductees were taken to the Government-controlled part of the country. During the year, there were credible reports of abductions of women and children by government and government-associated militia and their use as domestic servants, forced labor, or sex slaves.

The Government has pledged to end abduction and slavery, and the CEAWAC has resulted in the return of approximately 300 abducted individuals (*see* Section 1.b.); however, an estimated 10,000 to 12,000 women and children remained in captivity and subject to forced servitude at year's end. The Government did not identify publicly the abductors or forced labor owners and chose not to prosecute them.

During the year, the Government's refusal to approve flight clearances for the transfers of the abductees prevented additional reunifications.

In November 2001, the Government announced the establishment of special civilian tribunals in the border regions separating the south and the north of the country to prosecute persons involved in the abduction, transport, holding, and selling or exchanging of women and children from war zones. The tribunals were not set up nor were administrative procedures promulgated by year's end.

Libyans have been implicated in the purchase of Sudanese slaves, particularly women and children who were captured by government troops.

There are credible reports that intertribal abductions of women and children continued in the southern part of the country; abductees were absorbed into tribes or kept as domestic servants or sex slaves (*see* Section 5).

There were continuing reports that the SPLA forcibly recruited Sudanese refugees in northern Uganda for service in their forces.

During the past 10 years, between 3,000 and 10,000 Ugandan children were kidnaped by the LRA, taken to the southern part of the country, and forced to become sex slaves or soldiers. There also were reports in previous years that the LRA had sold and traded some children, mostly girls, or provided them as gifts, to arms dealers in Sudan. In March the Government signed an agreement to stop supporting the LRA and permit Ugandan army access in the south to pursue the LRA. The LRA continued to operate in the south and to hold a large number of child abductees during the year.

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## SWAZILAND

Swaziland is a modified traditional monarchy with executive, legislative, and limited judicial powers ultimately vested in the King (Mswati III). The King ruled according to unwritten law and custom, in conjunction with a partially elected parliament and an accompanying structure of published laws and implementing agencies. The 2001 municipal elections and 1998 parliamentary elections increased representative government; however, political power continued to rest largely with the King and his circle of traditional advisors, including the Queen Mother. The judici-

ary was generally independent; however, the King exerted certain judicial powers, and High Court judges struggled to resist pressure to yield any powers to those outside the judiciary.

Both the Umbutfo Swaziland Defense Force (USDF) and the Royal Swaziland Police (RSP) operated under civilian control and were responsible for external and internal security. Some communities questioned the ability of the National Police to operate effectively at the community level and have formed community police. Members of both the National Police and the community police committed human rights abuses.

The country had a free market economy, with relatively little government intervention; its population was approximately 1.1 million. The majority of citizens were engaged in subsistence agriculture and the informal marketing of agricultural goods, although a relatively diversified industrial sector accounted for the largest component of the formal economy. The country depended heavily on South Africa, from which it received almost all of its imports and to which it sent the majority of its exports. A quasi-parastatal organization established by royal charter, and responsible to the King, maintained large investments in major sectors of the economy, including industry, agriculture, and services. This parastatal required partnership with foreign investors and international development agencies.

The Government's human rights record was poor, and it continued to commit serious abuses. Citizens were not able to change their government peacefully. Police used excessive force on some occasions, and there were reports that police tortured and beat some suspects. The Government generally failed to prosecute or otherwise discipline officers who committed abuses. The Government interfered with the judiciary and infringed on citizen's privacy rights. The Government continued to limit freedom of speech and of the press. The Government restricted freedom of assembly and association and prohibited political activity, although numerous political groupings operated openly and voiced opinions critical of the Government. The police on several occasions harassed political activists. There were some limits on freedom of movement. Legal and cultural discrimination and violence against women, as well as abuse of children, remained problems. Some societal discrimination against mixed race and white citizens persisted. Trafficking in persons occurred.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life by the Government or its agents.

Unlike in the previous year, there were no reports of deaths in police custody.

There were no developments in the February 2001 police killing of a 20-year-old man who they claimed was trying to escape from police custody in the village of Sithobelwini, or the March 2001 death by poisoning in police custody of two 20-year-olds.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law does not prohibit specifically such practices, although under the 1963 Prison's Act correctional facility officers may be prosecuted if they engage in such practices; however, there were reports that government officials employed them. There were credible reports by criminal defendants that the security forces used torture during interrogation and abused their authority by assaulting citizens and using excessive force in carrying out their duties. For example, in January a woman accused of theft complained that she was beaten, slammed against the wall, and slapped with a knife by police attempting to elicit a confession.

Police sometimes beat criminal suspects and occasionally used the "tube" style of interrogation, in which police suffocate suspects through the use of a rubber tube around the face and mouth. According to unofficial reports, police still used the Kentucky method of interrogation in which the arms and legs of suspects are bent and tied together with rope or chain, then the person is beaten. The Government generally failed to prosecute or otherwise discipline police officers for such abuses. An internal complaints and discipline unit investigated reports of human rights abuses by the police, but no independent body had the authority to investigate police abuses. Courts have invalidated confessions induced through physical abuse and have ruled in favor of citizens assaulted by police.

Police also banned and forcibly dispersed prayer meetings that unions and members of banned political parties attempted to attend (*see* Section 2.b.).

Prison conditions generally met international standards; however, government detention centers remained overcrowded, and conditions were generally poor. The use

of nonbailable provisions resulted in the continued overcrowding and other unfavorable conditions in government detention centers where suspects were held during pretrial detention. Suspects often were released for time served after being sentenced (*see* Section 1.d.).

Women and juveniles are held in separate prison facilities.

The Government routinely permitted prison visits by diplomats, journalists, human rights monitors, and representatives of international organizations. During the year, a foreign diplomat and the Assistant Secretary General for the U.N. International War Crimes Tribunal for Rwanda conducted visits to prison facilities (*see* Section 4).

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest and detention, and the Government generally respected these prohibitions. The law requires warrants for arrests, except when police observed a crime being committed or believed that a suspect might flee. Detainees may consult with a lawyer of their choice and must be charged with the violation of a statute within a reasonable time, usually 48 hours, or, in remote areas, as soon as the judicial officer appeared.

The Government continued to limit the provisions for bail for crimes appearing in the Non-Bailable Offenses Order, which listed 11 offenses. The Minister of Justice may amend the list by his own executive act. The mere charge of the underlying offense, without any evidentiary showing that the suspect was involved, was sufficient to employ the nonbailable provision. In May 2001, the Court of Appeals ruled that the nonbailable order was unconstitutional; however, in June 2001, the King overruled the Court's decision by decree. The nonbailable offense provision exacerbated ongoing judicial problems such as lengthy pretrial detention, the backlog of pending cases, and prison overcrowding. In November the Court of Appeals ruled that the King could not rule by decree, which invalidated the nonbailable offense order (*see* Section 1.e.).

During the year, the cases against the remaining 9 of 15 union representatives who were arrested in January 2001 were dismissed (*see* Section 2.b.).

In September the High Court acquitted Mario Masuku, the president of the banned political party People's United Democratic Movement (PUDEMO), of sedition.

Also during the year, the 1999 case of an editor of an independent newspaper who was arrested for criminal defamation was dismissed without explanation.

The Government did not use forced exile.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary; however, the King has certain judicial powers, and government officials, including the King, the Prime Minister, the Minister of Justice and Constitutional Affairs, and the traditional governor of the royal family, challenged the judiciary's independence on several occasions by attempting to influence and also to reverse court decisions. High Court judges resisted pressure to yield any powers to those outside the judiciary; however, the Government ignored judgements that did not favor them. For example, the Government ignored a September 2000 ruling by the Chief Justice that prohibited the eviction of two traditional chiefs. In October 2000, the Chief Justice rescinded the injunction against the eviction after the Attorney General (AG) gave him an affidavit stating that the King had decreed the evictions and that the High Court had no jurisdiction over the case. The case was appealed to the Court of Appeals, which ruled in December 2000 that the Chief Justice's original ruling was correct. In 2001 the King succeeded in overruling a subsequent decision made by the Court of Appeals ordering the Government to compensate citizens who also were expelled forcibly from their homes when the chiefs were evicted in October 2000. During the year, when the Commissioner of Police refused to enforce a court order permitting the evicted residents to return to their homes, one of the residents sought relief from the High Court. The AG, acting on behalf of the Police Commissioner, urged the High Court judge hearing the case to be "executive minded" when ruling on the matter. The judge refused to yield to pressure and held the Commissioner in contempt of court.

In October the AG, allegedly acting on orders from King Mswati III, accompanied by the Police Commissioner, the Prison Commissioner, and the Commander of the USDF, advised the Chief Justice of the High Court and two other High Court judges to dismiss a case, which the mother of a young woman taken by the King's emissaries to become his 10th wife alleged was an abduction (*see* Section 5). The AG told the judges that if they proceeded to hear the case they should resign immediately upon rendering judgment or the AG would arrange for their removal. The judges refused to yield to the pressure; however, the mother asked for the matter to be postponed.

On November 8, the Director of Public Prosecutions (DPP) brought obstruction of justice and sedition charges against the AG based on his attempted coercion of the High Court judges. On November 12, the Prime Minister, the AG, and a member of the National Council ordered the DPP to withdraw the charges or resign his post. If the DPP did neither he was threatened with removal and possible bodily harm. On November 20, he was locked out of his office; however, he was eventually let back into his office. The Government has blocked the DPP's efforts to prosecute the AG by refusing to serve process in the case. The DPP advised the Government that he would resign if he received full payment of his salary through the term of contract, which expires in 2005. The Government stalled negotiations on this and threatened to arrest the DPP on unrelated matters pertaining to a car accident that the DPP was involved in several years ago.

In February the Prime Minister, acting in defiance of a court order, ordered the Commissioner of Police to prevent the Clerk of Parliament from resuming his position after the court determined that the Prime Minister had improperly transferred him to the Ministry of Agriculture. After the court ruled that the Prime Minister was in contempt of court for his conduct, he withdrew his instructions to the Commissioner of Police. In November the Prime Minister again ordered the Clerk of Parliament transferred to the Ministry of Agriculture, stripped him of his administrative powers, and transferred those powers to the Principal Secretary in the Prime Minister's office. The Clerk challenged his transfer and has requested the intervention of the Labor Commissioner.

On November 22, the Court of Appeals ruled that King Mswati has no authority to rule by decree until a new constitution was put in place, which invalidated the Non-Bailable Offenses Order. On November 28, the Government declared it would disregard the court's ruling because it challenged the "legitimate authority of the King." As a result of this statement, the judges on the Court of Appeal all resigned. On December 19, the High Court ruled that the Government could not seek relief in court until the Prime Minister withdrew his statement the Government would not abide by the judgements; however, the Prime Minister did not withdraw his statement and the Court did not reverse its position by year's end.

Judicial powers are vested in a dual system, one independent and based on Western law, the other based on a system of national courts that followed unwritten traditional law and custom. In treason and sedition cases, the King can circumvent the regular judiciary by appointing a special tribunal, which may adopt rules and procedures different from those applied in the High Court; however, this power has not been used since 1987.

The Western judiciary consisted of the Court of Appeals (composed entirely of expatriate, usually South African, judges), the High Court, and magistrate courts, all of which were independent of executive and military control. The expatriate judges, frequently distinguished members of their respective bars, served on the basis of 2-year renewable contracts. Local judges served indefinitely with good behavior. In magistrate courts, defendants were entitled to counsel at their own expense. Court-appointed counsel was provided in capital cases or when difficult points of law were at issue. There were well-defined appeal procedures up to the Court of Appeals, the highest judicial body. A lack of an independent court budget, lack of trained manpower, inadequate levels of salary remuneration, and casework management remained problems for the judiciary.

Most citizens who encountered the legal system did so through the traditional courts. The authorities may bring ethnic Swazis to these courts for minor offenses and violations of traditional law and custom. In traditional courts, defendants were not permitted formal legal counsel but could speak on their own behalf and were assisted by informal advisers. Sentences were subject to review by traditional authorities and could be appealed to the High Court and the Court of Appeals. The public prosecutor legally has the authority to determine which court should hear a case, but in practice the police usually made the determination. Accused persons had the right to transfer their cases from the traditional courts. Delays in trials were common.

In 1998 the King issued an administrative order that strengthened the judicial powers of traditional chiefs appointed by the King. The order provided for chiefs' courts with limited civil and criminal jurisdiction and authorized the imposition of fines up to approximately \$30 (300 emalangeni), and prison sentences of up to 3 months. Accused persons were required to appear in person without representation by a legal practitioner or advocate. However, chiefs' courts only were empowered to administer customary law "insofar as it is not repugnant to natural justice or morality," or inconsistent with the provisions of any law in force. The order provides that defendants may appeal decisions of the chief's court to regional appeal courts and to the higher courts of appeal. Appeals in criminal matters can be taken to the Judi-



cial Commissioner as a last resort, and the High Court was the court of last resort for civil matters. Human rights organizations and the press expressed serious concern over issuance of the 1998 Administrative Order.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law requires a warrant from a magistrate before police may search homes or other premises; however, at times police did not respect this requirement in practice. Police officers with the rank of subinspector or higher had the right to conduct a search without a warrant if they believed that evidence might be lost through the delay in obtaining a warrant. Searches without warrants occurred (*see* Section 2.b.).

On February 26, police searched the house of a member of the banned political party Ngwame National Liberatory Congress without a warrant after threatening the homeowner with guns to gain access.

In October police searched and harassed a member of a banned political party for more than 1 hour on the roadside before letting her proceed.

There were no developments in the February 2001 case in which police officers raided the home of a citizen and his foreign wife and reportedly were abusive.

There were instances of physical surveillance by the police on members of labor unions and banned political groups. On February 7, police harassed and searched a car transporting leaders of a banned political party who were on their way to South Africa. Police also used video cameras to record meetings of union members.

In 2000 the Operation Support Service Unit (OSSU) of the RSP and the USDF evicted and relocated from their residences two Swazi chiefs representing the areas of KaMkhweli and Macetjani, members of their families, and others who opposed the appointment of Prince Maguga Dlamini to replace the chiefs. In June 2001, the Court of Appeals ordered the Government to assist and compensate the evicted residents, allow them to return to their homes, and allow them to remain in their homes until final judgement was decided by the High Court; however, King's Decree No. 2 overturned the Court of Appeals' ruling. In July 2001, police again evicted the chiefs and approximately 23 persons who had returned to their residences.

On March 2, approximately 50 residents of kaMkhweli marched to the Siphophaneni police station to deliver a petition calling for the return of chiefs Mtfuso and Mliba, the departure of police from kaMkhweli and Macetjeni, the removal of Prince Maguga from the area, and a time to conduct burial rites for the deceased son of chief Mtfuso. Some of the women in the crowd of 50 tore off their mourning strings and threw them to the ground as an act of protest. Viewing this action as an insult, the officer-in-charge ordered police to detain the women and police subsequently rushed the crowd and beat those women who threw down their mourning strings. Many of the residents then fled to the Siphophaneni clinic for shelter. After the initial attack, police raided and ransacked approximately 60 nearby huts in an attempt to apprehend some of the residents. Police eventually detained a young woman and the grandfather of evicted chief Mtfuso.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law does not provide for freedom of speech and of the press, and the Government limited these rights through a continuing formal ban on political parties and occasional harassment of journalists. The Government also discouraged critical news coverage of the royal family, and journalists practiced self-censorship in regard to the immediate royal family and national security policy.

There was one daily independent newspaper and a daily government-financed newspaper. In general both the Government-owned and independent newspapers covered a wide variety of sensitive topics and criticized government corruption, inefficiency, and waste, frequently using harsh invective. However, the Government used the same media to rebut such allegations. With some exceptions, the Government continued to withhold its advertising from the independently owned daily newspaper. The Prime Minister's office distributed a free weekly circular reporting on government policy and activities.

During the year, the Government did not make any progress in drafting a media policy to replace the proposed media council bill.

There were no developments in the 2001 appeal by the Government of High Court ruling against the Government's 2001 proscription of a weekly newspaper.

During the year, the 1999 case against an editor of an independent newspaper charged with criminal defamation was dismissed.

Police beat a journalist attempting to attend a prayer service (*see* Section 2.b.).

The Government had a monopoly over television and radio programming. There were two government-owned radio stations. There was one independent radio station, which only broadcast religious programs. The Government-owned television

and radio stations—the most influential media in reaching the public—generally followed official policy positions. Government broadcast facilities retransmitted Voice of America (VOA) and British Broadcasting Corporation (BBC) news programs in their entirety.

Private companies and church groups owned several newsletters, magazines, and one radio station that broadcast throughout the region but generally avoided political controversy. The Christian Broadcasting Company radio station was allowed to operate despite the fact that it was government policy not to permit private broadcasters to operate.

The Government did not restrict use of the Internet.

The practice of self-censorship and the prohibition of political gatherings limited academic freedom. On December 3, police evacuated the University of Swaziland and suspended classes following 2 days of protests of the Government's proposal to buy a jet for King Mswati and recent attacks on the independence of the judiciary and the rule of law.

*b. Freedom of Peaceful Assembly and Association.*—The law does not provide for freedoms of assembly and association, and the Government restricted these rights in practice. King Sobhuza's 1973 decree prohibits meetings of a political nature, processions, or demonstrations in any public place without the consent of the Commissioner of Police. The authorities routinely withheld permission to hold such meetings.

During the year, the police forcibly dispersed several demonstrations and meetings (see Sections 1.f. and 2.a.). For example, in October and November, police dispersed forcibly persons attempting to attend community prayer services in connection with the evictions of the two chiefs and their supporters from KaMkwaheli and Macetjani.

During the year, police harassed, arrested, and disrupted the meetings of pro-democracy activists and members of banned political parties (see Section 1.f.). For example, on November 19, police prevented PUDEMO leader Masuku from holding a press conference at a privately owned conference center.

Police also banned and dispersed meetings held by workers' unions. Police generally took such actions when they believed that political discussions were occurring, or were likely to occur, at these meetings. On November 2, police searched Swaziland Federation of Trade Union (SFTU) representatives and their vehicles without warrants and then forbade them from proceeding to the site of the prayer service on the grounds that the group had dispersed. Police beat a journalist attempting to attend the same service.

There was no action taken against the responsible police officers who in October 2001 used tear gas and beat several persons while dispersing forcibly a demonstration in the KaMkwaheli and Macetjani areas, or the police who forcibly disrupted a press conference also in October 2001 and reportedly injured 18 students.

No action was taken against police officers in the following 2001 incidents: The police officers who dispersed forcibly a Swaziland National Association of Teachers (SNAT) union meeting in January, or the police banning of an impromptu meeting called by the Swaziland Agricultural Plantation and Allied Workers Union (SAPAW) in August.

There were no developments in the January 2001 case of nine persons who were charged with misconduct for compromising their political impartiality and for violating a government order that prohibited them from attending a November 2000 political meeting in South Africa.

Several traditional forums existed for the expression of opinion, including community meetings, national councils, and direct dialog with area chiefs; however, these local channels were not meant as a vehicle for political change. They often depended on the interests of leaders and were not consistently effective channels for expressing political dissent.

King Sobhuza's 1973 decree prohibits political parties. In January 2001, police arrested 15 labor union and political group members for organizing protest actions and for political association. In September 2001, the Magistrate court acquitted six of these union members, and during the year, the cases of the remaining nine union representatives were dismissed.

*c. Freedom of Religion.*—There is no formal legal provision for freedom of religion; however, the Government generally respected freedom of religion in practice, although there were a few restrictions. Followers of all religious faiths generally were free to worship without government interference or restriction.

New religious groups or churches were expected to register with the Government upon organizing in the country. In order to be considered organized, a religious group or church must demonstrate either possession of substantial cash reserves or

financial support from outside religious groups with established ties to western or eastern religions. For indigenous religious groups or churches, authorities considered demonstration of a proper building, a pastor or religious leader, and a congregation as sufficient to grant organized status. However, there is no law describing the organizational requirements of a religious group or church. All religions were recognized unofficially.

Government permission was required for the construction of new religious buildings. Non-Christian groups sometimes experienced minor delays in obtaining permits from the Government.

In October and on November 2, police banned and dispersed people attempting to attend community prayer services (see Section 2.b.).

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law does not provide for these rights, and the Government placed some limits on them in practice. Citizens may travel and work freely within the country; however, under traditional law, a married woman requires her husband's permission to apply for a passport, and an unmarried woman requires the permission of a close male relative. Citizenship law nominally permits nonethnic Swazis to obtain passports and citizenship documents; however, individuals seeking these documents sometimes experienced lengthy processing delays, in part due to occasional prejudice that mixed-race and white persons were not real Swazis (see Section 5). Political dissenters often had their citizenship questioned and could experience difficulty in obtaining travel documents. The Constitutional Review Commission (CRC) made a recommendation that effectively could render a child stateless should it be born to a Swazi mother and a foreign father.

The Government treated several thousand ethnic Swazis living across the border in South Africa as virtually indistinguishable from Swazi citizens and routinely granted them travel and citizenship documents.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated fully with the office of the U.N. High Commissioner for Refugees (UNHCR), as well as the various nongovernmental organizations (NGOs) involved in the care of refugees. According to the UNHCR, there were an estimated 1,000 refugees in the country, the majority coming from the Great Lakes region of Africa and Angola. The issue of provision of first asylum did not arise during the year.

There were no reports of the forced return of persons to a country where they feared persecution.

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

Citizens were not able to change their government peacefully. The King retained ultimate executive and legislative authority, and political parties were prohibited. Passage of legislation by Parliament required the King's assent to become law, which he was not obliged to give. When Parliament was not in session, the King could legislate by decree under his residual emergency powers. The King chooses the Prime Minister and, in consultation with the Prime Minister, also chooses the Cabinet, many senior civil servants, and the heads of government offices.

Citizens elected most members of the lower house of Parliament. According to law, 55 seats in the 65-seat House of Assembly are popularly contested. Parliamentary elections were held by secret ballot in October 1998 for 53 of the 55 elected seats (the King appoints the remaining 10 members), and a by-election was held in December 1998 for 1 of the 2 remaining constituencies. The final remaining constituency held its by-election in 1999.

As provided under law, the House of Assembly nominated 10 members from the public at large to serve in the upper house or Senate. The King appointed the additional 20 Senate members. The Cabinet of Ministers included only three elected Members of Parliament, with the balance drawn from appointed members of the House and Senate.

King Sobhuza, the King's father who died in 1982, suspended the 1968 Constitution in 1973 with a decree that bans political parties, meetings, and processions; these meetings can be held only in local "Tinkhundla" administrative centers or as authorized by the police. The King had the authority to issue decrees that carry the force of law and exercised this authority in June 2001, when he issued Decree No. 2. Decree No. 2 reasserted and strengthened his absolute authority, provided further restrictions on freedom of speech and the press, reinstated a nonbailable offense provision, and provided a mechanism to neutralize the powers of the judiciary and Par-

liament. On July 24, the King repealed the decree after the Government received strong criticism from foreign governments and domestic and international groups; however, the King retained the nonbailable offense provision(see Section 1.d.).

Pressure has been building for several years to modernize the political system, and both the King and the Government recognized that there was a need for political reform, including the drafting of a new constitution and, specifically, a bill of rights. The CRC compiled a constitutional framework, including portions of the 1968 Constitution still in force, the 1973 decree as currently amended, and the 1992 Establishment of Parliament Order, and in August 2001, after 5 years of deliberation, the CRC publicly released its findings. In general the report concluded that most citizens want a continuation of the status quo, a strengthening of the King's powers, a continued ban against political parties, greater emphasis on traditional law and custom, and stiffer penalties for those who speak against the state. The CRC was disbanded after submitting its report.

Domestic and international groups criticized the CRC report as flawed. These groups specifically cited the commission's composition that consisted predominantly of traditionalists, the internal disputes that led to the resignation of four members, and the commission's controversial terms of reference. These controversial terms of reference included prohibition of media coverage, prohibition of group submissions, and possible fines and imprisonment of those persons interfering in the commission's activities. During the constitutional review process, human rights organizations, church groups, labor unions, and other NGOs conducted their own active programs of constitutional and human rights civic education.

In January the King appointed a Constitutional Drafting Committee and instructed the committee to prepare a constitution within 8 months. The release of the draft Constitution was delayed until 2003.

Chiefs were custodians of Swazi law and custom and were responsible for the day-to-day running of their chiefdom. Although law and customs were not codified, chiefs essentially were responsible for maintaining law and order in their respective chiefdoms. For example, chiefs had their own community police who may arrest a suspect and bring the suspect before an inner council within the chiefdom for a trial. Besides the Swazi Administration Act of 1998, chiefs traditionally were empowered by virtue of unwritten customary laws to impose fines and some form of punishment to their subjects. Chiefs were an integral part of society and acted as overseers or guardians of families within the communities and traditionally reported directly to the King. Local custom mandates that chieftaincy was hereditary.

The continuing ban on political parties and restrictions on political activity prompted some political groupings and trade unions to call for a boycott of the 1998 elections by their members. Members of the SFTU who participated in the electoral process were threatened with disciplinary measures by the labor federation. Election officials reported that approximately 200,000 of the 400,000 eligible citizens registered for the parliamentary elections, and that approximately 120,000 citizens voted, although critics questioned that figure.

There was no formal international observer presence during the 1998 elections, but there was intensive coverage by local and foreign media, and resident diplomats were granted accreditation to observe the proceedings freely. Candidates or their representatives also were allowed to monitor the elections. Election procedures generally were carried out in an orderly fashion; however, the decision to open polling stations for further voting a week after the election because of torrential rains led to irregularities, including persons being found with multiple copies of registration certificates. Alleged irregularities led to legal challenges in four constituencies, and the High Court overturned the result in one constituency as a result. Opposition political groupings remained highly critical of the entire electoral process, due to the continuing formal ban on organized political party activity.

In September 2001, elections were held by secret ballot without major difficulties to select new municipal councils in 11 cities and towns across the country. Voter turnout was low, with percentages ranging from 12 percent to 40 percent across all cities and towns. There were no reports of intimidation or violence.

Women generally had full legal rights to participate in the political process; however, in accordance with societal practice, widows in mourning (for periods that can vary from 6 months to 3 years) are prevented from appearing in certain public places and from being near the King and, as a result, can be excluded from voting or running for office. There were 4 women in the 65-member House of Assembly, 4 women in the 30-seat Senate, and 2 women among the 16 ministers in the Cabinet. A woman served as Secretary to the Cabinet and the head of the civil service. Three women served as principal secretaries, the most senior civil service rank in the ministries.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views. Human rights groups have spoken out on a number of occasions, criticizing the lack of accountability and transparency in government circles. In May 2001, Amnesty International visited the country to conduct investigative work on the state of human rights in the country, and issued a press release condemning the Government's interference with the independence of the judiciary and failure to respect the rule of law.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The law forbids employers to discriminate on the basis of race, sex, or political affiliation. Under the law, employees may bring suit against employers for discrimination, and there also were provisions for criminal prosecutions. The law reportedly has been used on occasion to bring moral suasion to bear against employers. Mixed race citizens sometimes experienced governmental and societal discrimination.

*Women.*—Domestic violence against women, particularly wife beating, was common, despite traditional restrictions against this practice. Women have the right to charge their husbands with assault under both the Western and the traditional legal systems, and urban women frequently did so, usually in extreme cases when intervention by extended family members failed to end such violence. Rural women often had no relief if family intervention did not succeed, because the traditional courts could be unsympathetic to “unruly” or “disobedient” women and were less likely than the modern courts to convict men for wife beating. Rape also was common and regarded by many men as a minor offense, while women often were inhibited from reporting such crimes by a sense of shame and helplessness, especially when incest was involved. In the modern courts, sentences frequently resulted in several months in jail, a fine, or both. The law provides some protection from sexual harassment, but its provisions were vague and largely ineffective. Several NGOs provided support for victims of abuse or discrimination.

Women occupied a subordinate role in society. In both civil and traditional marriages, wives were treated as minors legally, although those who married under civil law may be accorded the legal status of adults, if stipulated in a signed prenuptial agreement. A woman generally required her husband's permission to borrow money, open a bank account, obtain a passport, leave the country, gain access to land, and, in some cases, take a job. An unmarried woman required a close male relative's permission to obtain a passport (*see* Section 2.d.). Despite the law's requirement for equal pay for equal work, men's average wage rates by skill category usually exceeded those of women.

The dualistic nature of the legal system complicated the issue of women's rights. Since uncodified law and custom govern traditional marriage, women's rights often were unclear and change according to where and by whom they were interpreted. Couples often married in both civil and traditional ceremonies, creating problems in determining which set of rules applied to the marriage and to subsequent questions of child custody and inheritance in the event of divorce or death. In traditional marriages, a man may take more than one wife. For example, in October King Mswati III, who has nine wives, allegedly instructed his agents to take three additional young women into royal custody while he considered whether or not to take them as wives. In November the King announced that he would take one of the three women, the mother of whom sued in court alleging that her daughter's taking was an abduction (*see* Section 1.e.). The status of the two other women remained unknown at year's end. A man who marries a woman under civil law legally may not have more than one wife, although in practice this restriction sometimes was ignored. Traditional marriages considered children to belong to the father and to his family if the couple divorced. Children born out of wedlock were viewed as belonging to the mother. Under the law, a woman did not pass citizenship automatically to her children. Inheritances were passed through male children only.

Changing socioeconomic conditions, urbanization, and the increasing prominence of female leaders in government and civic organizations were breaking down barriers to equality. Women routinely executed contracts and entered into a variety of transactions in their own names. The Government has committed itself to various women's initiatives, and the Ministry of Home Affairs coordinated women's issues. Although gender sensitization was not part of the formal school curriculum, some schools have organized debates and other mechanisms to address gender issues. The University Senate also has a subcommittee that encouraged students and faculty to hold seminars and workshops on gender issues.

*Children.*—The Government has passed a number of laws directly addressed children's issues. The Government did not provide free, compulsory education for children. The Government paid teachers' salaries while student paid fees for books and into the building fund. Supplemental money sometimes must be raised for building upkeep, including teachers' housing; however, the country had a 99 percent primary school enrollment rate. The public school system ends at grade 12. Children were required to start attending school at the age of 6 years. Most students reach grade 7, which was the last year in primary school, and a large percentage of students finish grade 10. A government task force educated the public on children's issues.

In general medical care for children was inadequate. The wait for medical care was long, nursing care in public hospitals was poor, and hospitals were overcrowded and understaffed. Most prescription drugs were available in urban facilities, but rural clinics had inadequate supplies of certain drugs.

Child abuse was a problem, and the Government has not made specific efforts to end such abuse. Children convicted of crimes sometimes were caned as punishment. There were a growing number of street children in Mbabane and Manzini. The law prohibits prostitution and child pornography and provides protection to children under 16 years of age from sexual exploitation and sets the age of sexual consent at 16 years of age; however, female children sometimes suffered sexual abuse, including by family members. There were reports that Mozambican girls worked as prostitutes in the country (see Section 6.f.).

*Persons with Disabilities.*—The Ministry of Home Affairs has called for equal treatment of persons with disabilities; however, there were no laws that protect the rights of those with disabilities or that mandate accessibility for persons with disabilities to buildings, transportation, or government services. There has been no progress on legislation that would give preferential treatment to persons with disabilities for building access and other needs; however, all new government buildings under construction included improvements for those with disabilities, including accessibility ramps.

*National/Racial/Ethnic Minorities.*—Governmental and societal discrimination was practiced widely against nonethnic Swazis, namely white persons and persons of mixed race. Although there were no official statistics, an estimated 2 percent of the population were nonethnic Swazis. Nonethnic Swazis have experienced difficulty in obtaining official documents, including passports (see Section 2.d.). Nonethnic Swazis also suffered from minor forms of governmental and societal discrimination such as needing special permits or stamps to buy a car or house, delays in receiving building permits for houses, and difficulties in applying for a bank loan.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The 2000 Industrial Relations Act (IRA) provides that employees who are not engaged in essential services have the right to participate in peaceful protest action to promote their socioeconomic interests. However, during the year, the Government continued to ignore certain foreign direct investors who violated international labor standards and domestic labor laws with impunity.

The main trade union federation was the SFTU. A second trade union federation was the Swaziland Federation of Labor (SFL).

Unions were free to draw up their own constitutions within the framework of the IRA. The IRA specifies a number of provisions that must be addressed in a constitution, including the election of officers by secret ballot. There was no collusion between the Government and business in relation to worker rights. The Labor Commissioner may reinstate unions quickly, once they have met all the legal requirements of the IRA.

The law requires employers to recognize a union when it achieves more than 50 percent membership among employees. Employers must allow representatives of legally recognized unions to conduct union activities on company time. Although many employers resisted union recognition and forced the issue to the Industrial Court, the Court generally ruled in favor of the unions in these cases.

The law forbids antiunion discrimination; however, antiunion discrimination continued to be prevalent and manufacturers continued to refuse to recognize duly elected unions. In the case of unfair dismissal, the court can order reinstatement and compensation for the employee, as well as fine the employer. Union leaders have made credible charges that management in various industries dismissed workers for union activity.

Unions were free to associate with international labor bodies and maintained regular contact.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to organize and bargain collectively. The IRA, with the 2001 amendments, is a com-

prehensive law providing for the collective negotiation of the terms and conditions for employment and dispute resolution mechanisms. In addition to these provisions, the law provides for the administration of a court devoted to the adjudication of labor related issues and establishes a tripartite labor advisory board. Collective bargaining was widespread; approximately 80 percent of the formal private sector were unionized, and a number of collective bargaining agreements were reached during the year. The Industrial Court may refuse to register collective bargaining agreements in the event of nonobservance of any requirement of the IRA. The IRA permits workers councils, which were to be established in factories with 25 or more employees in the absence of a trade union, to negotiate terms and conditions of work, wages, and welfare.

Disputes were referred to the Labor Commissioner and the Industrial Court, if necessary. The IRA also provides for disputes to be referred to the Conciliation, Mediation, and Arbitration Committee (CMAC). The Chief Executive Officer chaired the CMAC. By year's end, the CMAC had adjudicated approximately 2,200 cases.

The IRA details the steps to be followed when disputes arise, including the definition of a legal or illegal strike. The IRA shortened the notice that an organization or federation was required to give before it commenced a protest action. The IRA empowers the Government to mediate employment disputes and grievances through the Labor Advisory Board. When disputes arose, the Government often intervened to try to reduce the chances of a strike, which may not be called legally until all avenues of negotiation have been exhausted, and a secret ballot of union members has been conducted. The IRA prohibits strikes in "essential" services, which included police and security forces, correctional services, fire fighting, health, and many civil service positions.

In recent years, there have been a number of strikes, usually over wages and benefits, or the dismissal of fellow workers.

In March the Industrial Court ordered the Government to pay back wages to 32 state television employees who were dismissed in 1999; however, the Government had not done so by year's end.

During the year, the Government maintained that all outstanding labor issues have been addressed; however, the SFTU continued to press for action on the 27 demands it presented in 1994, including calls for fundamental political change. These demands addressed a wide range of issues, including recognition of affirmative action, a national uniform minimum wage, an end to discrimination against women, the provision of better housing for workers, inclusion of worker representatives in constitutional discussions, and the lifting of the 1973 Decree that suspended the Constitution and outlawed political parties.

There were widespread allegations that some garment manufacturers did not comply with the labor laws and that the Government did not enforce the law effectively within this sector. It was reported that the AG did not bring any cases against garment manufacturers for labor law violations, despite government inspectors having identified several manufacturers that were in violation of the law.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children, and the Government generally enforced this prohibition effectively; however, the SFTU cited the 1998 Administrative Order as a form of forced labor, because it reinforced the tradition of residents doing traditional tasks without receiving compensation for chiefs and allowed the chiefs to fine their subjects for failing to carry out the manual labor.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits the hiring of a child below the age of 15 in an industrial undertaking, except in cases where only family members were employed in the firm, or in technical schools where children were working under the supervision of a teacher or other authorized person. Legislation limits the number of night hours that can be worked on schooldays, and limits children's work hours overall to 6 per day and 33 per week. Employment of children in the formal sector was not usual; however, children below the minimum age frequently were employed in the agricultural sector, particularly in the eastern cotton-growing region. Children also were employed as domestic workers, and as herd boys in rural areas. The Ministry of Labor was responsible for enforcement, but its effectiveness was limited by personnel shortages.

A fact finding mission from the International Labor Organization (ILO) visited the country in August and encouraged the Government to participate in the ILO's International Program for the Elimination of Child Labor program; however, the Government had not yet decided to participate by year's end.

*e. Acceptable Conditions of Work.*—There was a legally mandated sliding scale of minimum wages depending on the type of work performed. These minimum wages

generally did not provide a worker and family with a decent standard of living. The minimum monthly wage for a domestic worker was approximately \$30 (300 emalangeni), for an unskilled worker \$42 (420 emalangeni), and for a skilled worker \$60 (600 emalangeni).

Labor, management, and government representatives have negotiated a maximum 48-hour workweek in the industrial sector except for security guards, who worked up to six 12-hour shifts per week. The law permits all workers 1 day of rest per week. Most workers received a minimum of 12 days annual leave. The Labor Commissioner enforced standards in the formal sector; however, enforcement was lax or nonexistent especially in the textile and apparel sector. There were extensive provisions allowing workers to seek redress for alleged wrongful dismissal; these provisions frequently were invoked. There also were penalties for employers who conduct unauthorized lockouts; however, penalties were not imposed during the year.

The law protects worker health and safety. The Government set safety standards for industrial operations, and it encouraged private companies to develop accident prevention programs. Recent growth in industrial production necessitated more government action on safety issues; however, the Labor Commissioner's office conducted few safety inspections in recent years because of staffing deficiencies and an alleged desire not to "scare off foreign investors." Workers had no formal statutory rights to remove themselves from dangerous work places without jeopardizing their continued employment; nor did any collective bargaining agreements address the matter.

There were allegations that working conditions within some garment factories were substandard. In particular, there were allegations that women who tried to take maternity leave were dismissed, that employers paid employees at casual or probationary wage scales regardless of their position or length of service, and that some supervisors were abusive to employees. The Government has indicated a willingness to increase labor inspections in order to address these allegations.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons, and there were reports of trafficking. Underage Mozambican girls reportedly worked as prostitutes in the country. There also were reports that Swazi women were trafficked to South Africa for prostitution.

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## TANZANIA

The United Republic of Tanzania is a multiparty democracy led by the President of the mainland, Benjamin Mkapa. The islands of Zanzibar were integrated into the United Republic's governmental and party structure; however, the Zanzibar government, which has its own President and Parliament, exercised considerable autonomy. When the country held its second multiparty national elections for President and Parliament in 2000, Mkapa was reelected, and the ruling Chama Cha Mapinduzi (CCM) party made significant gains in its majority in Parliament. On the mainland, international observers concluded that the October 2000 elections were free and fair and conducted peacefully. However, the presidential and parliamentary elections that took place in Zanzibar, were marred by irregularities, voter intimidation, and politically motivated violence. Votes were cancelled in 16 constituencies, and new votes were held in November 2000. The opposition Civic United Front (CUF) boycotted the new vote in protest. The ruling CCM and the CUF parties engaged in a dialog throughout 2001 in an attempt to resolve outstanding issues concerning the 2000 elections and the subsequent violence. In October 2001, the parties reached an agreement, which was designed to lay the foundation for a multiparty democracy in Zanzibar. During the year, both sides made efforts to follow through on the agreement, and several steps were taken to improve the electoral process. The national judiciary was formally independent but was corrupt, inefficient, and subject to executive interference, although there were jurists who were working to improve the judicial function.

The police force had primary responsibility for maintaining law and order. It formerly was supported by citizens' patrols known as "Sungusungu," which remained active in rural areas, but virtually disappeared from urban areas. There also were Sungusungu groups composed of refugees in most refugee camps that acted as quasi-official security forces. The military was composed of the Tanzanian People's Defense Force (TPDF). The People's Militia Field Force (FFU) was a division of, and directly controlled by, the national police force. The security forces were under the full control of, and responsive to, the Government. The security forces regularly committed human rights abuses.



Agriculture provided 82 percent of employment for the population of approximately 35 million. The Government continued macroeconomic reforms that liberalized agricultural policy; privatized over 300 parastatals; rescheduled foreign debt payments; freed the currency exchange rate; stimulated economic growth; and reduced the rate of inflation. The GDP growth rate was 5.6 percent. While the Government attempted to improve its fiscal management, pervasive corruption constrained economic progress.

The Government's human rights record remained poor; while there were improvements in a few areas, serious problems remained. The right of citizens to change their government in Zanzibar was circumscribed severely by abuses of and limitations on civil liberties in 2000. On November 4, the joint commission to investigate reported abuses committed in January 2001 in Zanzibar released its final report. Police were more disciplined during the year; however, members of the police and security forces committed unlawful killings. Police officers mistreated suspected criminals. Unlike in the previous year, there were no reports that police used torture in Zanzibar. Prison conditions throughout the country remained harsh and life threatening. Arbitrary arrest and prolonged detention remained problems. The inefficient and corrupt judicial system often did not provide expeditious and fair trials. Pervasive corruption continued. The Government limited freedom of speech, the press, assembly, and association, particularly for Muslim demonstrators in Zanzibar. In the western part of the country, anti-refugee resentment and hostility continued. The Government pressured Burundian and Rwandan refugees to voluntarily repatriate; however, no forced repatriations occurred. The National Human Rights Commission heard several cases during the year and worked to heighten public awareness of human rights problems. Sexual and gender-based violence and discrimination against women and girls remained problems throughout the country, including in refugee camps. Female genital mutilation (FGM) remained a serious problem. Trafficking of children and child prostitution were problems. The Government continued to infringe on workers' rights, and child labor persisted. Mob justice remained widespread. Tanzania was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings during the year; however, there were reports of unlawful killings.

On January 24, two soldiers killed a man after catching him viewing military aircraft through binoculars. No further information was available about punitive measures taken within the military at year's end.

In a February 4 account, a soldier shot and killed a policeman who attempted to arrest suspects carrying an illegal local beverage. The soldier allegedly joined a group of onlookers who threw rocks at the policeman to stop him from arresting the suspects. The soldier killed one policeman and injured two others, allowing the suspects to escape.

On May 15, a police officer in Pemba shot and killed a mentally disabled man for ignoring an order to stop throwing stones. Witnesses indicated that the police were aware of the man's condition.

During the year, police used excessive force to disperse demonstrations, which resulted in the deaths of demonstrators (*see* Section 2.b.).

On November 4, the independent commission to investigate police responsibility in the January 2001 violent dispersal of demonstrators on Pemba released its final report. The report stated that police lacked proper riot gear and resorted to live bullets. The report also stated that police used batons, canes, and electric wires to torture suspects in custody and recommended providing police with modern riot gear and civic training. No action was taken during the year against individual police officers responsible for the killings (*see* Section 2.b.).

No action was taken during the year against police officers that shot and killed one CUF member and injured another in Stonetown, Zanzibar, in January 2001.

There were deaths in custody during the year (*see* Section 1.c.).

There were no reports of any investigation or action taken in the May 2000 case in which FFU officers in Iringa were accused of beating a man to death for not paying a "development levy"; the July 2000 case in which police killed a prisoner while he was in remand; or the case of a prisoner who died in Moshi Prison in 2000.

There were some reports of violent clashes between clans. For example, in January four persons were killed during a conflict between pastoralists and Asian farmers.

Mob justice against suspected criminals persisted, despite government warnings against it. Throughout the year, the media reported numerous incidents in which mobs killed suspected thieves who were stoned, lynched, beaten to death, or doused with gasoline and set on fire. The Government took some measures to prosecute those who participated in mob justice. On June 7, three persons were sentenced to death after the High Court convicted them of murder in a mob justice prosecution; however, the sentence had not been carried out by year's end. The crime occurred in 1997, when the innocent victim was killed before a local businessman arrived on the scene and attested to his innocence.

The widespread belief in witchcraft in some instances led to the killing of alleged witches by their "victims," aggrieved relatives, or mobs. Government officials criticized these practices, and some arrests were made; however, most perpetrators of witch killing or mob justice eluded arrest, and the Government did not take preventive measures during the year.

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

Unlike in the previous year, there were no reports during the year of children being abducted from refugee camps in the western part of the country.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there were reports that police officers threatened, mistreated, or occasionally beat suspected criminals during and after their apprehension and interrogation. The Government seldom prosecuted police for abuses in practice. During the year, police used force to disperse one large gathering (see Section 2.b.). There continued to be numerous reports that police officers used torture, including beatings and floggings, during the year.

Unlike in the previous year, there were no reports of police officers threatening, mistreating, beating, or arresting relatives of criminal suspects.

The police and the judicial system continued to use corporal punishment. On June 4, a high court in Dodoma ordered six cane strokes for a juvenile convicted of manslaughter. In July Justice Minister Mwapachu said that the issue of whether to continue the practice of caning offenders would be suspended until the Government carried out thorough investigations.

No action was taken against the members of the security forces responsible for torturing, beating, or otherwise abusing persons in the following cases from 2000: The April beatings and police brutality in Stone Town in Zanzibar; the October beating of persons who violated the 7 p.m. curfew imposed in Wete, Pemba; the October beating of a man in custody; the October shooting of six CUF supporters; the October beating of a man during a CUF meeting; the October beating of Fortunatus Masha, an opposition candidate who was vice-chairman of his party; the October injuring of several arrested persons in Pemba; the November beating of several CUF officials in Stone Town in Zanzibar; the November case in which police reportedly broke the jaw of a detainee; and the November beating and reported torture of opposition officials in Zanzibar.

Sexual abuse and rape of detainees was a problem; however, the Government took some steps during the year to discourage and punish such abuses. On March 25, following public protest, the Minister of Home Affairs ordered the Inspector General of Police to investigate a policeman who allegedly raped a 16-year-old girl in November 2001 while she was at a police station. The action was ordered after complaints that the suspect had not yet been charged or summoned to court. The investigation was pending at year's end.

In previous years, security forces regularly used beatings, tear gas, and other forms of physical abuse to disperse large gatherings. During the year, police forces were more disciplined in their handling of demonstrations; however, in February they used tear gas to disperse one large gathering, which resulted in deaths and injuries (see Section 2.b.).

The Government promoted police training during the year in an effort to reduce police impunity. On December 2, the first Civil Disorder Management training session was held; 35 police officers attended from throughout the country, including Zanzibar.

In response to police corruption and impunity, the Inspector General of Police transferred 74 police officers from the Arusha Central Police Station following allegations that they were complicit in a series of thefts. In June 2001, the Inspector General of Police reorganized the police force. The action included transfers of police officials throughout the country, some for suspected misconduct, in order to improve police performance and fight corruption in the police force. The internal investigation of a police officer accused of harassing and attempting to bribe a local businessman was ongoing at year's end. Despite these actions and those of the Prevention of Corruption Bureau (a separate and ineffectual arm of the police force tasked with

combating police corruption), there were numerous complaints from civil society groups about police corruption during the year.

The People's Militia Laws grant quasi-legal status to the traditional Sungusungu neighborhood and village anticrime groups. The Sungusungu still exist, particularly in rural areas such as the Tabora, Shinyanga, and Mwanza regions, and in refugee camps. Members of Sungusungu have additional benefits similar to those given to police officials, including the right to arrest persons. In return members of Sungusungu were expected to be held accountable for any abuses.

In January radical Muslims bombed popular bars in Zanzibar Town because they served alcohol and employed prostitutes.

By year's end, no group had claimed responsibility for the 2000 bomb explosion at a school in Stone Town, Zanzibar that was used as a polling office for the November 2000 re-run elections or for the December 2001 bomb explosions in Zanzibar Town.

A general lack of trust in the police force and in the court system resulted in a high incidence of mob justice during the year.

There was significant hostility and resentment against Burundian refugees during the year and continuing concern regarding violence allegedly perpetrated by some armed Burundian and Rwandan refugees. Local officials reported incidents of banditry, armed robbery, and violent crime, perpetrated by refugees in the areas surrounding refugee camps. Sexual and gender-based violence remained a problem in refugee camps (*see* Sections 2.d. and 5). There also were credible reports that some refugees engaged in vigilante justice within camps, occasionally beating other refugees.

Prison conditions remained harsh and life threatening. In April the Minister of Justice stated that the Government had failed to implement the U.N. standard rules for treatment of prisoners, due to massive overcrowding at prisons nationwide, which prevented the Government from housing serious offenders separately. The prisons were designed to hold 21,000 persons, but the actual prison population was estimated at more than twice that number. The Government expanded prisons, but its efforts have not kept pace with the growing number of prisoners. The Government did not release statistics on the prison expansion program or on the extent of overcrowding during the year. Some prisoners were paroled or received suspended sentences as a means of relieving overcrowding.

Prisoners were subjected to poor living conditions, and the daily amount of food allotted to prisoners was insufficient to meet their nutritional needs. Convicted prisoners were not allowed to receive food from outside sources and often were moved to different prisons without notifying their families.

Prison dispensaries offered only limited treatment, and friends and family members of prisoners generally had to provide medication or the funds with which to purchase it. Serious diseases, such as dysentery, malaria, and cholera, were common and resulted in numerous deaths. There were reports that guards abused prisoners during the year. Pretrial detainees were held with convicted prisoners but were allowed to receive food from the outside.

On November 2, one man died in custody; post-mortem evidence indicated that he died from a head injury.

On November 17, 17 prisoners suffocated to death in a jail cell in Mbeya. The cell, which was built to hold 30 prisoners housed 112 prisoners when the deaths occurred. Another 17 prisoners received medical treatment at a hospital. Five police officers, including the Officer Commanding District (OCD), were arrested and charged with murder; no trial date was set by year's end.

The Prisons Act requires prisoners to be separated based on age and gender, and female prisoners were held separately from male prisoners in practice. Women sent to remand prison reported that they were forced to sleep naked and subjected to sexual abuse by wardens. Juveniles were protected under both the Prisons Act and the Young Persons Ordinance Act, which also requires separation according to age. However, there were limited resources to provide for juveniles and only two juvenile detention facilities existed in the country. As a result juveniles were not always separated from adults in practice.

Local nongovernmental organizations (NGOs) were permitted to monitor prison conditions; however, the Government did not grant permission to international NGOs to monitor prison conditions. The ICRC visited prisoners on Zanzibar and Pemba as well as combatants imprisoned in the western part of the country, provided surgical supplies, financial support, and trained to the region's medical facilities, which treated war-wounded from Burundi and the Democratic Republic of the Congo (DRC). The U.N. High Commissioner for Refugees (UNHCR) monitored conditions in the small prison that held special categories of refugees. The Government permitted UNHCR visits to prisons holding refugees in Dar es Salaam.

*d. Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention were problems. The law requires that a person arrested for a crime, other than a national security detainee under the Preventive Detention Act, be charged before a magistrate within 24 hours; however, in practice the police often failed to comply. In some cases, accused persons were denied the right to contact a lawyer or talk with family members.

The law restricts the right to bail and imposes strict conditions on freedom of movement and association when bail is granted. Bail was set on a discretionary basis by judges based on the merits of each case; however, there was no bail in murder or armed robbery cases.

Bribes often determined whether bail was granted or whether a case was judged as a civil or criminal matter. There were reports of prisoners waiting several years for trial because they could not bribe police and court officials. Because of backlogs, an average case took 2 to 3 years or longer to come to trial. Observers estimate that approximately 5 percent of persons held in remand ultimately were convicted, and often those convicted already had served their full sentences before their trials were held. The authorities acknowledged that some cases had been pending for several years.

Under the Preventive Detention Act, the President may order the arrest and indefinite detention without bail of any person considered dangerous to the public order or national security. This act requires that the Government release detainees within 15 days of detention or inform them of the reason for their detention. A detainee also was allowed to challenge the grounds for detention at 90-day intervals. The Preventive Detention Act has not been used for many years nor was it used during the year. The Court of Appeals ruled that the act cannot be used to deny bail to persons not considered dangerous to society; however, the Government still has not introduced corrective legislation. The Government has additional broad detention powers under the law, which permit regional and district commissioners to arrest and detain for 48 hours persons who may “disturb public tranquility.”

During the year, the May 2001 hunger strike by 12 inmates in Keko was resolved when court officials met with the strikers. The inmates had been imprisoned for as many as 10 years without trials. Their cases reportedly continued to progress through the courts, and at least one case was in the appeals process.

In October 2001, 18 CUF defendants accused of treason, who were released in 2000 after spending more than 2 years in prison without being convicted, introduced a civil suit against the Government seeking compensation for time in prison. The case remained pending at year’s end.

The Government used arbitrary arrest on a few occasions. For example, on August 4, opposition leader Christopher Mtikila of the Democratic Party was arrested and charged with making seditious remarks after alleging that President Mkapa was a national of Mozambique. These statements prompted the Registrar of Political Parties to threaten to deregister the Democratic Party if Mtikila was convicted of sedition. There was no further information on the case by year’s end.

During the year, persons were arrested following the forcible dispersion of demonstrations (*see* Section 2.b.).

Police continued to make arbitrary arrests to extort money. For example, on June 5, two police detectives were arrested after they solicited and obtained \$100 (100,000 shillings) from persons who they accused of possessing stolen property.

There were reports that the police arrested and detained refugees (*see* Section 2.d.).

In October 2001, all charges against persons arrested in connection with the January 2001 demonstrations were dropped, and all detainees were released as part of the October 10 reconciliation agreement between the CCM and the CUF, which called for the release of all persons in custody who were associated with the January 2001 events (*see* Section 2.b.).

In 2001 police arrested Tanzania Labor Party (TLP) chairman Augustine Mrerna and Lawyers’ Environment Action Team (LEAT) President Nshala Rugemeleza and charged them with seditious intent for LEAT’s role in investigating claims that miners were killed at Bulyanhulu in 1996; the case was still pending at year’s end.

Unlike in previous years, police in Zanzibar did not detain, arrest, or harass CUF members and suspected supporters.

There were reports that nongovernment militiamen detained persons. In October local militiamen in Tarime town detained 20 suspected criminals in a small room in a warehouse for more than 2 weeks without delivering them to the police for legal action.

The Constitution does not permit the forced exile of its citizens, and the Government did not use forced exile in practice.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary was corrupt, inefficient, and subject to executive influence.

The higher courts increasingly demonstrated independence from the Government. Senior police or government officials no longer pressured or reassigned judges who made unpopular rulings. However, independent observers continued to criticize the judiciary, especially at the lower levels, as corrupt and inefficient and questioned the system's ability to provide a defendant with an expeditious and fair trial. Clerks took bribes to decide whether or not to open cases and to hide or misdirect the files of those accused of crimes. Magistrates occasionally accepted bribes to determine guilt or innocence, pass sentences, withdraw charges, or decide appeals. In 2000 the Minister of Justice acknowledged in public statements that problems within the judiciary included unwarranted delays in the hearing of cases, falsified recording of evidence in court records, bribery, improper use or failure to use bail, and unethical behavior on the part of magistrates. For example, on September 4, 12 persons detained for operating a "sex parlor" were denied bail because police failed to transport the detainees from the prison to the court in order to plead bail.

The Government made little progress in addressing judicial corruption. Judicial ethics committees failed to offer recommendations to improve the credibility and conduct of the judiciary. The Prevention of Corruption Bureau (PCB) received 16 reports of judicial bribery during the year. For example, on November 22, a Primary Court magistrate was arrested after she received \$50 (50,000 shillings) of a \$150 (150,000 shillings) bribe that she demanded from the accused in a case about grazing rights. The magistrate previously had been reprimanded on numerous occasions for soliciting bribes.

Of the magistrates and court clerks arrested in 2000 and 2001 for corruption, three remained in prison at year's end. The others were acquitted; however, they received administrative penalties, including suspension from work, dismissal, and forced retirement.

The legal system was based on the British model, with modifications to accommodate customary and Islamic law in civil cases. Christians were governed by customary or statutory law in both civil and criminal matters. Muslims could apply either customary law or Islamic law in civil matters. The court system consists of primary courts, district courts, the High Court, and the Court of Appeals. Advocates defended clients in all courts, except in primary courts. There was no trial by jury. In addition to judges, there were district (or resident) magistrates. The law also provides for commercial courts, land tribunals, housing tribunals, and military tribunals. However, military tribunals have not been used in the country since its independence. Military courts did not try civilians, and there were no security courts. Defendants in civil and military courts could appeal decisions to the High Court and Court of Appeal. In refugee camps, Burundian mediation councils, comprised of male refugee elders, often handled domestic abuse cases of Burundian refugees even though the law does not allow these councils to hear criminal matters.

Zanzibar's court system generally parallels that of the mainland but retained Islamic courts to adjudicate Muslim family cases such as divorce, child custody, and inheritance. Islamic courts only adjudicated cases involving Muslims. Cases concerning Zanzibar constitutional issues were heard only in Zanzibar's courts. All other cases could be appealed to the national Court of Appeal.

Criminal trials were open to the public and to the press; courts were required to give reasons on record for holding secret proceedings. In November Parliament passed the Prevention of Terrorism Act, which excludes everyone except the interested parties from trials of terrorist suspects and suppresses information to protect the identity of witnesses in those trials. The law had not been implemented by year's end. Criminal defendants had the right of appeal.

The law provides for a right to defense counsel. The Chief Justice assigns lawyers to indigent defendants charged with serious crimes such as murder, manslaughter, and armed robbery. There were only a few hundred practicing lawyers in the country, and most indigent defendants charged with lesser crimes did not have legal counsel.

There was a separate facility for young offenders; however, the court was underutilized and many juvenile offenders still were tried in adult courts. Some cases continued to be sent through the traditional court system where they were processed faster due to a less significant backlog than in the regular civil court system.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution generally prohibits such actions without a search warrant; however, the Government did not respect consistently the prohibitions in practice. The Pre-

vention of Terrorism Act permits the police to conduct searches without a warrant in certain urgent cases.

The law authorizes police officials, including the civilian anticrime groups, to issue search warrants; however, the act also authorizes searches of persons and premises without a warrant if necessary to prevent the loss or destruction of evidence connected with an offense or if circumstances are serious and urgent. In practice police and members of other security services rarely requested warrants and often searched private homes and business establishments at will. The security services reportedly monitored telephones and correspondence of some citizens and foreign residents.

Unlike in the previous year, there were no reports that police officers broke into homes and businesses in Zanzibar, or that police officers in Pemba conducted house-to-house searches for opposition supporters. There also were no reports that telephone communications from Pemba were monitored or that connections were cut off during telephone calls.

The CCM remained influential. While in the past CCM membership was necessary for advancement in political and other areas, CCM membership was voluntary.

Unlike in the previous year, there were no reports of police officers threatening, mistreating, beating, or arresting relatives of criminal suspects.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government limited these rights in practice. The law limits the media's ability to function effectively. Government ministries and the Registrar of Newspapers pressured journalists to practice self-censorship. The Government allowed political opponents unrestricted access to the media.

Citizens on both the mainland and in Zanzibar generally enjoyed the right to discuss political alternatives freely; however, there were instances in which freedom of speech was restricted severely. Political parties were required by law to support the continuation of the Union. Opposition political party members and others openly criticized the Government and ruling party in public forums; however, persons using "abusive language" against the country's leadership may be subject to arrest, and the Government used this provision to detain some opposition figures (*see* Section 1.d.).

The press on the mainland was outspoken and unrestricted. Even the Government-owned newspaper regularly reported events that portrayed the Government unfavorably. There were 10 daily newspapers and 22 other newspapers in English and Kiswahili, along with another dozen periodicals, some of which political parties, both the CCM and the CUF, owned or influenced. There was no official censorship, but throughout the year the Government continued to pressure newspapers to suppress or change articles unfavorable to it. In 2001 two newspapers were forced to close reportedly because of lewd content, and they remained closed at year's end.

In Zanzibar the Government implemented a restrictive policy with regard to print media. The Zanzibar News Act circumscribed journalists' freedom of action by giving the authorities greater protection to harass, detain, and interrogate journalists. Private mainland newspapers were available widely in Zanzibar, and many residents could receive mainland television.

Private radio and television stations broadcast in Dar es Salaam and in a few other urban areas, although their activities may be circumscribed. The Government reportedly did not censor news reports, but it attempted to influence their content. In Zanzibar the Government controlled radio and television. Some journalists, such as those in Zanzibar, exercised self-censorship on sensitive problems. Journalists who reported arrests could be charged with obstructing police activity under the Police Act. The law authorizes the Government to prevent television cameramen from filming the swearing-in of an opposition M.P.

The Media Council operated with limited effectiveness during the year. The Council served as an adjudicating body when journalists infringe upon the voluntary code of ethics and has the power to impose fines. The Council resolved 12 cases during the year: In 6 cases, the newspapers were ordered to print a public apology and a corrected story; in 4 cases, they were fined; and in 2 cases, they were absolved. There were 21 pending cases at year's end.

In 2000 the Government banned the book, "The Mwembechai Killings and the Political Future of Tanzania" for being "incendiary."

The Government did not restrict academic freedom. Academics, increasingly outspoken in their criticism of the Government, continued their calls for reform during the year.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government limited this right in practice. To hold rallies, political parties were required to obtain police permission in advance. Police had the authority to deny permission on public safety or security grounds or if the permit seeker belonged to an unregistered organization or political party. The authorities arrested citizens for assembling without the appropriate permit.

Security officials interfered with citizens' rights to assemble peacefully on a few occasions. On February 13, police intervened and fired tear gas at a Muslim prayer meeting to commemorate the 1998 Mwembechai mosque riots. Security forces shot and killed one resident who allegedly resisted arrest. A group of youths severely beat a police officer, who later died from his injuries. The organizers claimed that the event had been peaceful until the police intervened; the police used tear gas to disperse demonstrators and prevent a clash between rival Muslim groups. The Government subsequently convinced Muslim groups to cancel a series of demonstrations planned for March 29 to protest the February events. Following the violence, the police arrested eight Muslims, including two leaders, charged them with murder, and denied them bail. In August all charges were dropped, and they were released from prison.

Opposition parties at times were unable to hold rallies. CUF meetings were banned periodically. On October 25, the CHADEMA Member of Parliament was arrested for holding a mass rally for which the police had denied a permit. The police claimed they had banned the open-air rally to prevent the spread of meningitis. Security officials interfered with citizens' rights to assemble peacefully on a few occasions.

During the year, Amnesty International (AI) and Human Rights Watch (HRW) published reports detailing violations of peaceful assembly on Zanzibar and Pemba in January 2001. The Government released its own independent commission's report, which made recommendations to prevent the recurrence of violence; however, no action was taken against individual officers who were responsible for killings, torture, rape, beatings, and looting during the forcible dispersal of the demonstrations (*see* Section 1.a.).

The cases against 41 Muslims arrested during a demonstration in August 2001 remained pending at year's end.

No action was taken against the police who used excessive force to disperse the August 2001 Muslim demonstrations.

No action was taken against the police who used excessive force to disperse the following rallies and demonstrations in Zanzibar in 2000: The January use of tear gas to disperse riots that began when hundreds of CUF supporters were not allowed to observe the trial of 18 CUF supporters accused of treason; the October beatings and use of tear gas, rubber bullets, and live ammunition against CUF opposition activists in Zanzibar; and the October beatings and use of excessive force against both demonstrators and bystanders during rallies and demonstrations in the Darajani district of Stone Town in Zanzibar.

The Constitution provides for freedom of association; however, the Government limited this right in practice. The Registrar of Political Parties has sole authority to approve or deny the registration of any political party and is responsible for enforcing strict regulations on registered parties. During the year, the Registrar deregistered two political parties, the Tanzanian People's Party (TPP) and the Popular National Party (PONA), for a lack of compliance with their respective constitutions. The Democratic Party of Christopher Mtikila, which in the past was not allowed to register due to a lack of representation on Zanzibar, officially was registered, bringing the total to 14 political parties.

Under the amended Constitution and various laws, citizens may not form new political parties independently, but must comply with certain requirements to register a new party with the Office of the Registrar. The Electoral Law prohibits independent candidates; requires all standing M.P.'s to resign if they join another party; requires all political parties to support the union with Zanzibar; and forbids parties based on ethnic, regional, or religious affiliation. Parties granted provisional registration may hold public meetings and recruit members. They have 6 months to submit lists of at least 200 members in 10 of the country's 25 regions, including 2 regions in Zanzibar, to secure full registration and to be eligible to field candidates for election. Unregistered parties were prohibited from holding meetings, recruiting members, or fielding candidates. In November 2001, two political parties, Chama Cha Demokrasi Makini and CHAUSTA, obtained registration.

Under the Societies Ordinance, the Ministry of Home Affairs must approve any new association. There were 2,700 registered NGOs. During the year, the Government continued a general suspension of registration of religious NGOs on the grounds that many were being formed for the purpose of evading taxes.

A number of professional, business, legal, and medical associations addressed political topics.

Zanzibar has the same NGO registration policy as the mainland, and NGOs conducted activities in Zanzibar during the year.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice, subject to measures that it claimed were necessary to ensure public order and safety; however, there were some limits on freedom of religion.

Government policy forbids discrimination against any individual on the basis of religious beliefs or practices; however, individual government officials allegedly favored persons who shared the same religion in the conduct of business.

The Government required that religious organizations register with the Registrar of Societies at the Home Affairs Ministry. To register, religious organizations must have at least 10 followers and provide a constitution, the resumes of their leaders, and a letter of recommendation from their district commissioner. Groups no longer were required to provide three letters of recommendation from the leaders of registered Christian churches or from registered mosques; however, some Muslim groups claimed that they still were required to submit a letter of recommendation from BAKWATA, the National Muslim Council of Tanzania. There were no reports during the year that the Government refused the registration of any group.

The Government banned religious organizations from involvement in politics, and banned politicians from using language designed to incite one religious group against another or to encourage religious groups to vote for certain political parties. The law imposes fines and jail time on political parties that campaign in houses of worship or educational facilities.

In October 2001, the Zanzibar government passed a bill to establish an Islamic leader (mufti) office on the island, similar to that which exists on the mainland. Government officials claimed that a mufti office was needed to coordinate Islamic activities and improve religious understanding; however, several Muslim organizations criticized the proposal as an effort by the union government to institutionalize government oversight of Islamic organizations.

The law prohibits preaching or distribution of materials that are considered inflammatory and represent a threat to the public order. In 2000 the Government banned as inflammatory the publication and distribution of a book by a Muslim academic. Unlike in the previous year, urban Muslims did not distribute videotapes of the Mwembechai riots to document perceived human rights abuses; the Government outlawed these videotapes for being incendiary.

The Muslim community claimed to be disadvantaged in terms of its representation in the civil service, government, and parastatal institutions, in part because both colonial and early post-independence administrations refused to recognize the credentials of traditional Muslim schools. As a result, there was broad Muslim resentment of certain advantages that Christians were perceived to enjoy in employment and educational opportunities. Muslim leaders complained that the number of Muslim students invited to enroll in government-run schools still was not equal to the number of Christian students. In turn Christians criticized what they perceived as lingering effects of undue favoritism toward Muslims in appointments, jobs, and scholarships by former President Ali Hassan Mwinyi, a Muslim. Christian leaders agreed that the Muslim student population in institutions of higher learning was disproportionately low; however, they blamed this condition on historical circumstances rather than discrimination.

The Government failed to respond to growing tensions between the Muslim and Christian communities. The Government recognized that a problem existed, but it did not take action. Senior Muslim officials in the Government appeared unwilling to address the problem beyond general criticism of those who fomented religious conflict.

During the year, police forcibly disrupted a Muslim prayer meeting (*see* Section 2.b.).

Unlike in the previous year, there were no reports of violence or harassment on Pemba.

In December 2001, police in Zanzibar arrested more than 20 leaders of the Answar Sunna sect for conducting Eid el Fitr prayers on a day other than that designated by the Government of Zanzibar. No further information was available at year's end.

Generally there were stable relations between the various religious communities; however, there was some tension between Muslims and Christians, and some tension between moderate and fundamentalist Muslims. It was estimated that the mainland was 60 percent Christian and 40 percent Muslim, while Zanzibar was 97 percent Muslim. Some urban Muslim groups claimed there was discrimination in



government hiring and law enforcement practices. Rural Muslim groups did not appear to share urban Muslims' concerns to the same extent.

Some observers reported signs of increasing tension between secular and fundamentalist Muslims, as the latter felt that the former had joined with the Government for monetary and other benefits. The fundamentalist Muslims accused the Government of being a Christian institution, and Muslims in power as being interested only in safeguarding their positions. Fundamentalist Muslims severely criticized secular Muslims who drank alcohol or married Christian women. Muslim fundamentalists attempted, unsuccessfully, to introduce Muslim traditional dress into the national school system. Fundamentalist groups also exhorted their followers to vote only for Muslim candidates.

In January radical Muslims detonated a petrol bomb in a hotel/guesthouse in Zanzibar, where alcohol and prostitutes were available.

For a more detailed discussion, see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them; however, bureaucratic inefficiency and corruption delayed implementation in practice. Passports for foreign travel at times were difficult to obtain, mostly due to bureaucratic inefficiency and officials' demands for bribes. Citizens could return to the country without difficulty.

Unlike in the previous year, no curfews were imposed during the year.

During the year, there were no reports of roadblocks in Pemba.

Mainlanders were required to show identification to travel to Zanzibar, although the requirement largely was ignored in practice. Zanzibaris needed no special identification to travel to the mainland. Mainlanders were not allowed to own land in the islands, except in partnership with foreign investors. There was no prohibition against mainlanders working in the islands; however, in practice few mainlanders were hired.

In February 2001, the Government declared that four government and party officials were noncitizens and therefore no longer could retain their positions. Those persons designated by the Government as noncitizens included a well-known journalist, the High Commissioner to Nigeria, a regional CCM chairman, and the Zanzibar CCM publicity secretary. The four were instructed to apply for resident permits. During the year, the Government restored the citizenship in three of the four cases, but the case of the journalist was still pending at year's end.

Following the outbreak of violence in Pemba in January 2001, several hundred refugees fled to Kenya. In May 2001, refugees began to return to Pemba, and most of the refugees had returned to the country by year's end.

In July 2001, following violent clashes that broke out in Tarime District in the northwest between members of the Walyanchoka and Waanchari clans, numerous persons fled across the border into Kenya (see Section 5). Most of those who fled had returned by year's end.

The law includes provisions for the granting of refugee and asylum status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and these provisions generally were respected in practice with a few exceptions. The Government generally cooperated with the UNHCR; however, relations were strained following the pressuring of Burundian and Rwandan refugees to repatriate. The Government maintained an open border policy both with regard to neighboring countries' refugees and to persons seeking political asylum. The UNHCR estimated that there were approximately 987,000 refugees in the country during the year. The country continued to provide first asylum to refugees, particularly those fleeing conflict in the region. During the year, the country hosted 517,000 refugees living in 12 UNHCR assisted camps in the northwest, as well as 470,000 "old caseload" Burundian refugees who have lived in the country since the 1970s and largely have integrated into local communities. Of the 517,000 refugees living in UNHCR camps, approximately 70 percent were Burundian. The country also hosted 139,000 Congolese, 15,000 Rwandans, and 3,000 Somalis in the camps. Refugees continued to arrive in the country during the year, most of them fleeing instability and conflict in Burundi and the DRC. A smaller number returned to their homes, mostly in Rwanda and some parts of Burundi.

Unlike in previous years, there were no reports that local authorities forcibly expelled refugees; however, following the establishment of Burundi's transitional government in November 2001, the Government promoted the "facilitated return" of Burundian refugees. Between March and August, approximately 20,000 Burundians voluntarily repatriated, and 80,000 more registered to return. UNHCR officials stated during the year that they did not believe conditions in Burundi were conducive for safe and sustainable return, and some returnees expressed fears that the Gov-

ernment would force them out of the country if they did not leave voluntarily. Many Burundian refugees reportedly repatriated under the perceived threat of refolement or diminished food supplies. However, the UNHCR, with strong encouragement from the Government, continued to facilitate limited returns to designated areas in Burundi that were considered secure. From April to July, more than 220 Burundian children were imprisoned at Mwisa separation facility in violation of agreed procedures for detaining refugees.

In October the Minister of Home Affairs announced plans for the remaining Rwandan refugees in the country to return home by year's end. On November 28, the Minister of Home Affairs said that the Government would revoke refugee status to all Rwandans who remained in the country at year's end. The Government of Rwanda agreed to receive the refugees. The Government joined with UNHCR and the Rwandan government to issue a communique describing plans to intensify UNHCR's voluntary repatriation program.

Antirefugee sentiment among local citizens was high due to the provision of goods and services for refugees that were not available to the local population; however, the UNHCR, NGOs, and international organizations made many of these services available to the local population to alleviate some tension.

There were 12 refugee camps in the country. It was illegal for refugees to live outside of the camps or settlements or to travel outside a 2.5-mile radius of their respective camps without permission. However, refugees in the Kasulu region often had to travel more than 5 miles to collect firewood because local supplies were inadequate; these refugees, usually women and children, were subject to theft, physical abuse, or rape. Food and water shortages and outbreaks of disease (including meningitis) plagued refugee camps in the west during the year. The authorities restricted employment opportunities outside the camps. There were reports that some refugees engaged in vigilante justice within camps, occasionally beating other refugees.

Sexual and gender-based violence continued to be a problem in the refugee camps. The Government did not adequately investigate, prosecute, or punish perpetrators of abuses in refugee camps. There was no mechanism within refugee camps to punish abusers, and most cases were not referred to local authorities. Police officials lacked special training in the area of domestic abuse, and local and traditional courts, which both handled domestic violence cases, lacked necessary resources (*see* Section 5). Among Burundian refugees, mediation councils comprised of male refugee elders often handled domestic abuse cases (*see* Section 1.e.).

There was continuing concern over violence allegedly perpetrated by some armed refugees. Local officials reported incidents of killings, banditry, armed robbery, and violent crime perpetrated by refugees in the areas surrounding refugee camps. There were several reports that Burundian rebels conducted training and recruitment in the camps; however, unlike in the previous year, there were no reports that Burundian rebels abducted children from refugee camps.

The UNHCR conducted an investigation into a report that 24 Burundian refugees were burned alive, but it found no evidence to substantiate the allegation.

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

The Constitution provides citizens with the right to change their government peacefully; however, this right was circumscribed severely in 2000. The Government engaged in a dialog with the opposition throughout 2001 and during the year to ensure a more open and transparent process for the next elections. The Government of Zanzibar announced that it would schedule by-elections for March 2003, to fill the parliamentary seats declared vacant as a result of disputes originating in the 2000 elections. In preparation for those by-elections, the Government worked during the year to reform the Zanzibar Electoral Commission (ZEC) as required by the October 2001 reconciliation agreement.

In October 2000, the country held its second multiparty elections on the mainland and Zanzibar. On the mainland, international observers concluded that the elections were free and fair and conducted peacefully; however, in Zanzibar four separate international observer teams concluded that the vote was marred by irregularities, voter intimidation, and politically motivated violence. The incumbent President of the mainland, Benjamin Mkapa, was reelected with 71 percent of the vote. Thirteen parties participated in the election; six won seats in Parliament. The ruling CCM party increased its majority in Parliament, winning 167 out of 181 seats. Opposition candidates gained 11 seats in 6 of the 19 mainland regions for a total of 14 seats on the mainland; the CUF won 16 seats in Zanzibar. The CUF refused to recognize the election results in Zanzibar, demanded new elections, and boycotted the union and Zanzibar elections. In April 2001, the National Assembly passed a law that al-

lows by-elections to fill seats that remain vacant for 2 years, and the Speaker announced that the 15 boycotted CUF seats from Pemba were vacant.

During the year, the Government arrested an opposition member for sedition (see Section 1.d.).

In 2000 local authorities in Mwanza forced persons attempting to register to vote to provide documentary proof that they had paid local government taxes before they allowed them to register, even though there was no legal requirement for voters to prove payment of taxes to register. In Zanzibar there were credible reports of irregularities during the voter registration process conducted in preparation for the 2000 elections.

Voting irregularities during the 2000 elections included the late arrival and absence of ballots and the late opening of polling stations. Four groups of international election observers criticized the Zanzibar vote and called for a re-run election in all of the Zanzibar constituencies; however, new elections were held in only 16 of the 50 constituencies in November 2000.

Voter turnout for the November 2000 elections was low. The opposition boycotted the re-run election, claiming that the elections already had been compromised. After the re-run, the ruling party announced that it had won all of the constituencies in Zanzibar and four constituencies in Pemba (where they previously did not hold any seats). The final results of the re-run election gave the ruling CCM party 34 seats in the 50-seat House of Representatives and 35 seats in the 50-seat National Assembly. CCM candidate Amani Karume was declared the new Zanzibari President.

Government security forces and CCM gangs increased harassment and intimidation of CUF members on the Zanzibar islands of Pemba and Ugunja in the 3 months before the 2000 elections. Security forces forcibly dispersed gatherings and intimidated, harassed, arrested, and beat persons (see Section 1.c.). During the re-run elections, police beat and reportedly tortured opposition officials.

Following the January 2001 demonstrations in Zanzibar and the ensuing violence, domestic political pressure and international donor pressure encouraged the CCM and CUF to engage in a dialog on the future of electoral politics in Zanzibar. The dialog concluded with a reconciliation agreement signed in October 2001. The CCM and CUF agreed to implement fully an earlier accord that the Commonwealth had brokered in 1999 to resolve conflicts stemming from the 1995 elections on Zanzibar. Provisions of the 1999 accord that never fully were implemented were incorporated into the 2001 agreement, which included provisions to: Appoint an independent and impartial ZEC and judiciary; create a Joint Presidential Supervisory Commission, comprised of 5 members from each party, to implement the accord; eliminate discrimination in government hiring; and eventually organize by-elections for 16 parliamentary seats; appoint an independent commission to investigate the extent and cause of the January 2001 violence, with all pending police charges against demonstrators dropped and humanitarian assistance provided to families of the victims; and allow for the safe return of all remaining Pemban refugees in Kenya, with immunity from prosecution for any crimes that may have been committed during the January 2001 violence. Several of the provisions were implemented, including the return of all refugees in Kenya and the dropping of police charges against demonstrators.

There were no legal restrictions on the participation of women in politics and government. Women occupied 60 seats in Parliament: 12 female M.P.'s were elected members of the CCM; 47 female M.P.'s occupy "Special Women" seats, which were appointed by political parties based on the elected percentages of the constituent seats; and 1 M.P. was nominated by President Mkapa. Women occupied seven seats in the Zanzibar House of Representatives. The 13th Amendment to the union Constitution, ratified in February 2001, requires that women occupy 20 percent of seats in Parliament. Four of the Cabinet's 27 ministers were women.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Several domestic human rights groups generally operated without government interference, investigating and publishing their findings on human rights cases. The Government generally was responsive to their views. In August the Legal and Human Rights Center, a local NGO, held its second annual general meeting, which was attended by a number of prominent domestic human rights activists as well as representatives of grassroots organizations. However, corruption at the grassroots level hampered NGO access and efforts to monitor violations of human rights. In the past, the Government delayed by 6 months to 1 year the registration of NGOs, including human rights groups. The Government continued to refuse registration of the African Human Rights and Justice Protection Network on the grounds that it was politically oriented. In November Parliament passed the NGO Act, which re-

quires the registration of all NGOs, including human rights NGOs. It also requires all currently registered NGOs to reregister and makes failure to register a legal offense. However, the NGO Act had not been implemented by year's end.

In 2001 the Government appealed a High Court decision ordering the reinstatement of the National Women's Council, an NGO that the Government had deregistered in 1997; the Court had not heard the case by year's end, and the National Women's Council continued to operate throughout the year.

Representatives from HRW and AI visited in 2001 and during the year to conduct followup investigations on the January 2001 violence (*see* Section 2.b.). In its report, issued in January, AI welcomed the formation of the independent commission of inquiry that the Government established after the October 2001 reconciliation agreement. In April HRW released a report on the January 2001 violence, also based on investigations that were carried out in 2001. HRW concluded that "security forces committed gross abuses, killing at least 35 people and wounding more than 600 others, when they ruthlessly suppressed opposition demonstrations in Zanzibar."

The ICRC was accredited as a legal entity in December 2001.

In 2001 after more than 2 years of debate and intense pressure from AI and other NGOs, the Government passed a law to establish the Commission for Human Rights and Good Governance. On March 15, the Commission's seven commissioners officially assumed their duties in a ceremony attended by President Mkapa. The Commission has the power to investigate human rights abuses on its own initiative upon receipt of a complaint or allegation; however, it does not have jurisdiction over any matter that is pending before a court or other tribunal or any dispute that involves relations between the Government and a foreign state or international organization. Critics of the Commission's mandate and structure criticized the organization's lack of independence from the Government, arguing that it would render the entity ineffective. Critics specifically pointed to the selection process to choose commissioners, in which five commissioners are appointed by the President based on the recommendation of a government selection committee. During the year, the Commission received 2,765 new complaints in addition to the 1,000 complaints filed prior to its inception. The Commission had investigated 517 complaints by year's end.

#### *Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination based on nationality, tribe, origin, political affiliation, color, or religion. Discrimination based on sex, age, or disability was not prohibited specifically by law but was discouraged publicly in official statements. Discrimination against women and ethnic minorities persisted. Ethnic tensions in society continued. In 2001 Parliament created the Tanzania Parliamentarians AIDS Coalition (TAPAC) to address discrimination against persons infected with HIV/AIDS in the country.

*Women.*—Domestic violence against women remained widespread. Legal remedies exist in the form of assault provisions under the Criminal Code; however, in practice these provisions were difficult to enforce. The Marriage Act includes a declaration against spousal battery, but does not prohibit it nor provide for any punishment. Traditional customs that subordinate women remained strong in both urban and rural areas, and local magistrates often upheld such practices. Women may be punished by their husbands for not bearing children. It is accepted for a husband to treat his wife as he wishes, and wife beating occurred at all levels of society. Cultural, family, and social pressures prevented many women from reporting abuses to the authorities. The Tanzania Media Women's Association (TAMWA), a local NGO, reported that as many as 6 out of 10 women were beaten by their husbands. According to TAMWA, between October 2000 and September 2001, there were a total of 346 cases of domestic violence reported at the TAMWA crisis center. No updated statistics were available at year's end. Government officials frequently made public statements criticizing such abuses, but action rarely was taken against perpetrators. Police often had biases against pursuing domestic abuse cases and demanded bribes to investigate allegations.

The law provides for life imprisonment for persons convicted of rape and child molestation. Several persons were prosecuted and convicted for rape and battery under this law during the year. There were reports that members of the police raped women in Zanzibar and Pemba in the period following the 2000 elections and following the January 2001 demonstrations. Sexual and gender-based violence continued to be a problem in the refugee camps (*see* Section 2.d.). In 2001 Norwegian People's Aid (NPA) reported 76 rape cases committed by both citizens and refugees; however, in only 5 cases were the perpetrators jailed and sentenced.

Although the Government officially discouraged FGM, it still was performed at an early age by approximately 20 of the country's 130 main ethnic groups.

On July 16, a 10-year-old girl died following an FGM procedure in Singida; police arrested three women who were responsible. The women were prosecuted; however, the outcome still was pending at year's end.

On October 18, there was a report that a young girl died following an FGM procedure in Dodoma.

According to a 1996 health survey conducted by the Bureau of Statistics (the most recent study), FGM affected 18 percent of the female population. There were no updated statistics available by year's end. In some ethnic groups, FGM was compulsory, and in others, a woman who had not undergone the ritual may not be able to marry. Government data showed this to be a problem that varied by region, with the most affected regions being Arusha (81 percent of women), Dodoma (68 percent), Mara (44 percent), Kilimanjaro (37 percent), Iringa (27 percent), Tanga/Singida (25 percent), and Morogoro (20 percent). FGM was almost nonexistent in the rest of the country.

There was no law that specifically prohibited FGM. The country's educational curriculum did not include instruction on FGM, although the problem was covered occasionally in secondary schools. Government officials called for changes in practices that adversely affected women, and the Sexual Offenses Special Provisions Act, which prohibits cruelty against children, was used as the basis for campaigns against FGM performed on girls; however, there was no legal protection for adult women. In addition, police did not have adequate resources to protect victims. Some local government officials began to combat the practice. They convicted and imprisoned some persons who performed FGM on young girls, and there were prosecutions during the year. Seminars sponsored by various governmental organizations and NGOs were held regularly in an attempt to educate the public on the dangers of FGM and other traditional practices. These practices included the tradition of inherited wives, which critics contended contributed to the spread of HIV/AIDS, and child marriages, which are sanctioned with parental consent under the law for girls 12 years of age or older. Local authorities and NGOs believed that the incidence of FGM had declined; however, no new study of the practice had been made since 1996, when the Government reported an increasing trend. The Ministry of Health continued an educational campaign on FGM as part of its Safe Motherhood Initiative. The enforcement of policies to stop FGM remained difficult because some regional government officials were in favor of the practice or feared speaking out against it because of the power of traditional leaders.

Sex tourism, particularly in Zanzibar, remained a problem (*see* Section 6.f.).

In 2000 Parliament amended the Constitution to prohibit sexual harassment against women in the workplace by a person in authority. In 2000 several persons were arrested under the new law. Male colleagues sometimes harassed women seeking higher education, and the authorities largely ignored the practice.

Although the Government advocated equal rights for women in the workplace, it did not ensure these rights in practice. In the public sector, which employed 80 percent of the salaried labor force, certain statutes restricted women's access to some jobs or hours of employment. For example, in general women may not be employed between 10 p.m. and 6 a.m., although this restriction usually was ignored in practice (*see* Section 6.e.). While progress on women's rights was more noticeable in urban areas, strong traditional norms still divided labor along gender lines and placed women in a subordinate position. Discrimination against women was most acute in rural areas, where women were relegated to farming and raising children and had almost no opportunity for wage employment. Custom and tradition often hindered women from owning property and could override laws that provide for equal treatment.

The overall situation for women was less favorable in Zanzibar. Although women generally were not discouraged from seeking employment outside the home, women there and on many parts of the mainland faced discriminatory restrictions on inheritance and ownership of property because of concessions by the Government and courts to customary and Islamic law. While provisions of the law provide for certain inheritance and property rights for women, the application of customary, Islamic, or statutory law depended on the lifestyle and stated intentions of the male head of household. The courts have upheld discriminatory inheritance claims, primarily in rural areas. Under Zanzibari law, unmarried women under the age of 21 who become pregnant were subject to 2 years' imprisonment.

Several NGOs provided counseling and education programs on women's rights problems, particularly sexual harassment, sexual and gender-based violence, and molestation.

*Children.*—The law provides for 7 years of compulsory education through the age of 15; however, education was not free on the mainland or in Zanzibar. Fees were charged for books, enrollment, and uniforms, with the result that some children

were denied an education. In 2001 Parliament voted to provide free primary school education for all children under the age of 12. The legislation went into effect in January; however, there were inadequate numbers of schools, teachers, books, and other educational materials to meet the demand. In some cases, children were unable to attend school because poorly paid teachers demanded money to enroll them. The primary school dropout rate was between 30 and 40 percent. The literacy rate was approximately 70 percent; for girls it was 57 percent compared with 80 percent for boys. There were overall increases in the rate of girls' participation in school since 1990; however, the rate of girls' enrollment in school was lower than that of boys and generally declined with each additional year of schooling. In some districts, the attendance of girls continued to decline as the result of the need to care for younger siblings, household work, and early marriage, often at the behest of parents. Despite a law to permit pregnant girls to continue their education following maternity absences, the practice of forcing pregnant girls out of school continued.

Government funding of programs for children's welfare remained low. The Government made some constructive efforts to address children's welfare, including working closely with UNICEF and other international and local organizations to improve the well-being of orphans and neglected children. A WHO program for children under 1 year of age reportedly decreased the number of severe cases of malaria in the country, and the Government cooperated with the WHO in administering this program.

FGM was performed on girls, primarily in the central region (*see* Section 5, Women).

The law criminalizes child prostitution and child pornography. The minimum age for protection from sexual exploitation is 18 years. Under the law, sexual intercourse with a child under 18 years is considered rape regardless of consent; however, the law was not effective in practice because it is customary for girls as young as 14 years of age to be considered adults for the purposes of sexual intercourse and marriage. There were reports of child prostitution and other forms of trafficking in children (*see* Section 6.f.).

Unlike in the previous year, there were no reports that Burundian rebels abducted children from refugee camps in the country.

*Persons with Disabilities.*—Although there was no official discrimination against persons with disabilities, in practice persons with physical disabilities effectively were restricted in their access to education, employment, and other state services due to physical barriers. The Government did not mandate access to public buildings, transportation, or government services for persons with disabilities and provided only limited funding for special facilities and programs.

*National/Racial/Ethnic Minorities.*—In the past, the Government discriminated against the Barabaig and other nomadic persons in the north. These ethnic groups continued to seek compensation for past government discrimination seeking to make them adopt a more modern lifestyle and to restrict their access to pastoral lands that were turned into large government wheat farms. By year's end, there was no further information on the 1994 Barabaig class action suit against the Government and its appeals in 2001.

The Asian population, which was viewed unfavorably by many African citizens, declined by 50 percent in the past decade to approximately 50,000 persons. There were no laws or official policies that discriminated against Asians; however, as the Government placed great emphasis on market-oriented policies and privatization, public concern regarding the Asian minority's economic role increased. This led to demands by small, populist opposition parties for policies of "indigenization" to ensure that privatization did not increase the Asian community's economic predominance at the expense of the country's African population.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Both the Constitution and the Trade Union Ordinance provide for freedom of association for workers, and the Government respected this right in practice. Worker rights were handled separately by the Union and Zanzibar governments. The Union government enforced labor laws for the mainland and the Zanzibar government enforced legislation specific to Zanzibar and Pemba islands. The labor law that applies to the mainland applies to both public and private sector workers, but restricts the right of association for those workers broadly defined as "essential." The labor law in Zanzibar applies only to private sector workers.

Only approximately 5 to 7 percent of the country's 2 million wage earners were organized. Registered trade unions nominally represented 50 percent of workers in industry and government. According to the ILO, the number of workers who were

unionized declined because workers no longer believed that unions could be agents for change. Union membership continued to decline during the year primarily due to the growth in the informal sector and the general feeling that unions remained ineffective. Seeking to bolster unions' effectiveness, the Trade Union Congress of Tanzania was established in 2000. All workers, including those classified broadly as essential service workers, were permitted to join unions, but essential workers were not permitted to strike.

The Trade Union Act permits workers to form unions voluntarily without requiring membership in an umbrella organization. There were a total of 12 unions operating in the country by year's end, including the teacher's union, which was the largest and most active union, as well as health workers' unions, and other job-specific groups.

The Registrar of Trade Unions has the power to interfere with union activities. The law permits the imposition of large fines, imprisonment, or both for failing to register a trade union. The Registrar also was permitted to deregister the smaller of two trade unions when more than one exists in an industry and to order the smaller union to rescind memberships. The Registrar can suspend a trade union for contravening the law or the union's own rules, suspend a union for 6 months on grounds of public order or security, and invalidate the union's international trade union affiliation if certain internal union procedures are not followed. The Registrar did not use these powers during the year.

The Security of Employment Act prohibits discriminatory activities by an employer against union members. Employers found guilty of antiunion activities were required under the law to reinstate workers. The Warioba Commission, in its White Paper Report, found that bribes often determined whether a worker dismissed from his job actually was reinstated. The labor law in Zanzibar does not protect trade union members from antiunion discrimination.

Unions were permitted to affiliate with international bodies. The local transport union was affiliated with the International Federation of Transport Unions, and the teacher's union was affiliated with Educators International.

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining was protected by law but did not apply to the public sector. The Government sets wages for employees of the Government and state-owned organizations administratively, although privatization and reductions in public sector employment reduced such employees to approximately 5 percent of the work force.

Unions directly negotiated with the Association of Tanzanian Employers on behalf of private sector members. Collective agreements must be submitted to the Industrial Court for approval and may be refused registration if they do not conform with the Government's economic policy. The ILO observed that these provisions were not in conformity with ILO Convention 98 on Collective Bargaining and the Right to Organize. By year's end, 11 of the 12 unions had collective bargaining agreements.

There were no laws prohibiting retribution against legal strikers; however, workers had the legal right to strike only after complicated and protracted mediation and conciliation procedures leading ultimately to the Industrial Court, which received direction from the Ministry of Labor and Youth Development. If a union was not satisfied with the decision of the Industrial Court, it then could conduct a legal strike. The mediation and conciliation procedures can prolong a dispute for months without resolving it. Frustrated workers staged illegal wildcat strikes and walkouts pending a resolution of their cases in the Industrial Court. The regional ILO office continued to call upon the Government to ratify the other core conventions. In October 2001, the Government created a task force for labor reform that underwent training in ILO standards and regional trends. In July the task force began gathering input from stakeholders and the public. A final report was scheduled for release in January 2003.

During the year, Parliament passed the Export Processing Zone (EPZ) Act to establish EPZs on the mainland; three EPZ's already were established in Zanzibar. Working conditions were comparable to those in other areas. Labor law protections applied to EPZ workers.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, including by children; however, there were reports that such practices occurred. In some rural areas, villagers still were obligated to work in the village community gardens or on small construction projects such as repairing roads.

There continued to be reports that forced and bonded labor by children occurred. The ILO and UNICEF reported that children who left home to work as domestic laborers in other towns or villages often were subjected to commercial sexual exploitation. Children worked in mines, commercial agriculture, or as domestic laborers, child soldiers, or prostitutes (see Sections 5 and 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Government prohibits children under the age of 14 from working in the formal wage sector in both urban and rural areas, and the Government enforced this prohibition; however, the provision did not apply to children working on family farms or herding domestic livestock. Child labor continued to be a problem. The ILO estimated that 3.4 million out of 12.1 million children in the country under the age of 18 worked on a regular basis, and that 1 of every 3 children in rural areas was economically active, as compared to 1 in 10 in urban areas. The minimum age for work of a contractual nature in approved occupations is set at 15 years. Children between the ages of 12 and 15 may be employed on a daily wage and on a day-to-day basis, but they must have parental permission and return to the residence of their guardian at night.

The law prohibits young persons from employment in any occupation that is injurious to health and that is dangerous or otherwise unsuitable. Young persons between the ages of 12 and 15 may be employed in industrial work but only between the hours of 6 a.m. and 6 p.m., with some exceptions. The Ministry of Labor and Social Welfare and Youth Development was responsible for enforcement; however, the number of inspectors was inadequate to monitor conditions. The effectiveness of government enforcement reportedly declined further with increased privatization.

Approximately 3,000 to 5,000 children engaged in seasonal employment on sisal, tea, tobacco, and coffee plantations. Children working on plantations generally received lower wages than their adult counterparts, even if in comparable jobs. Work on sisal and tobacco plantations was particularly hazardous to children. Between 1,500 and 3,000 children worked in unregulated gemstone mines. Small children, so-called snake boys, worked in dangerous tanzanite mines where deaths were known to occur. The Mererani Good Hope Program for Youth, a member of the ILO's International Program to Eliminate Child Labor (IPEC), reported 12 deaths of snake boys under the age of 16 during the year. Girls often were employed as domestic servants, mostly in urban households and sometimes under abusive and exploitative conditions. In the informal sector, children assisted their parents in unregulated piecework manufacturing. Children were engaged in labor in the areas of mining, domestic service, fishing, commercial agriculture, and prostitution.

Several government ministries, including the Ministry of Labor and Youth Development, the Bureau of Statistics, and the Department of Information Services, have special child labor units. The Government worked with NGOs to establish a specific prohibition against child labor. The Government worked with the ILO's IPEC plan of action to address the problem of child labor, and during the year implemented a program for the elimination of child labor. The Government also worked with the ILO to make significant progress toward launching the "Time Bound Program to Eliminate the Worst Forms of Child Labor." The Government began the program in September, as one of three pilot projects worldwide to collaborate with the ILO in this effort.

The Constitution does not specifically prohibit forced or bonded child labor, and there continued to be reports that it occurred (*see* Section 6.c.).

*e. Acceptable Conditions of Work.*—The legal minimum wage for employment in the formal sector was raised in July from approximately \$33 (30,000 shillings) per month to \$53 (48,000 shillings) per month. Even when supplemented with various benefits such as housing, transport allowances, and food subsidies, the minimum rate was not always sufficient to provide a decent standard of living for a worker and family, and workers had to depend on their extended family or on a second or third job. Despite the minimum wage, many workers, especially in the small but growing informal sector, were paid less.

There was no standard legal work week; however, a 5-day, 40-hour work week was in effect for government workers. Most private employers retained a 6-day, 44- to 48-hour work week. In general women could not be employed between 10 p.m. and 6 a.m. Several laws regulate safety in the workplace. The Ministry of Labor and Social Welfare and Youth Development managed an Occupational Health and Safety Factory Inspection System, which was set up with the assistance of the ILO; however, its effectiveness was limited. Labor standards were not enforced in the informal sector.

The Employment Services Promotion Act provides for a facility to promote job creation through self-employment opportunities, allows the Government to collect reliable data and information on vacancies for the unemployed, and facilitates employment with other agencies and private sector. The facility, the Labor Exchange Center, opened in August 2001 to match the skills, experience, education, and other qualifications of job seekers in Dar es Salaam with job qualification requirements of employers.



Union officials claimed that enforcement of labor standards was effective in the formal sector; however, no verification studies were performed. A large percentage of the workforce was employed in the informal sector, which was unregulated by labor standards.

Workers could sue an employer through their union if their working conditions did not comply with the Ministry of Labor's health and environmental standards. Workers who lodged and won such complaints did not face retribution; however, workers did not have the right to remove themselves from dangerous situations without jeopardizing their employment.

*f. Trafficking in Persons.*—The law does not prohibit trafficking, and there continued to be reports that children were trafficked away from their families to work in mines, commercial agriculture, and as domestic laborers (*see* Section 5). The Sexual Offenses Special Provision Act of 1998 prohibits trafficking of persons for sexual purposes. It sets punishment for procuring at 10 to 20 years of imprisonment, or a fine of \$100 (100,000 shillings) to \$300 (300,000 shillings). The ILO and UNICEF reported that children who left home to work as domestic laborers ("housegirls") in other towns or villages often were subjected to commercial sexual exploitation. Some girls were trafficked to Zanzibar from different parts of the mainland and Mombasa to work as prostitutes for Zanzibaris and in the tourist industry.

Unlike in the previous year, there were no reports that rebels abducted children from refugee camps.

The Government participated in the ILO's "Time Bound Program to Eliminate the Worst Forms of Child Labor" to help end child prostitution.

## TOGO

Togo is a republic dominated by President Gnassingbe Eyadema, who came to power in 1967 following a military coup. Eyadema and his Rally of the Togolese People party (RPT), strongly backed by the armed forces, have continued to dominate political power and maintained firm control over all levels of the country's highly centralized government. Despite the Government's professed intention to move from authoritarian rule to democracy, institutions established to accomplish this transition did not do so in practice. Procedural problems and significant fraud, particularly in the misrepresentation of voter turnout, marred the 1998 presidential elections. In February the Government made unilateral changes to the electoral code and in May replaced the national independent electoral commission (CENI) with a committee of seven magistrates to manage the legislative elections. In response to these changes, the traditional opposition boycotted the legislative races, held October 27. The RPT won 72 of 81 seats in the National Assembly; the remaining nine seats, eight went to newly formed opposition parties and one to an independent candidate. On December 30, the newly elected National Assembly modified the 1992 Constitution, which limited the president to two terms to allow President Eyadema to run again. These 34 constitutional changes also helped to consolidate presidential power. Eyadema and his supporters maintained firm control over all facets and levels of the country's highly centralized government. The executive branch continued to influence the judiciary.

The security forces consisted of the army (including the elite Presidential guard), navy, air force, the Surete Nationale (including the national police), and the Gendarmerie. The police and Gendarmerie performed domestic intelligence functions. Approximately 90 percent of the army's officers and 70 percent of its soldiers were from the Kabye ethnic minority. Although the Minister of the Interior nominally was in charge of the national police and the Defense Minister had nominal authority over most other security forces, President Eyadema effectively controlled all security forces. Members of the security forces effectively curtailed civil liberties of regime opponents, especially in the northern part of the country. Members of the security forces committed serious human rights abuses.

Approximately 80 percent of the country's estimated population of 5 million was engaged in subsistence agriculture, but there also was an active commercial sector. Economic growth continued to lag behind population growth. The Government privatized several companies during the year. Anti-corruption efforts continued, but the Government's budgetary and fiscal discipline eroded. International and bilateral donors continued to suspend foreign aid because of the Government's weak democratization efforts and poor human rights record, as well as repayment arrears.

The Government's human rights record remained poor, and it continued to commit numerous abuses. Citizens' right to change their government was restricted. As in the past, human rights abuses increased as the country neared elections; how-

ever, because of the mainline opposition boycott, there were few confrontations during the October 27 legislative elections. Nevertheless, the Government forcibly dispersed political rallies and protests, seized independent newspapers, and jailed political opponents and critics of the Government. Although there were no confirmed reports of extrajudicial killings, security forces beat civilians. The Government in general did not investigate or punish effectively those who committed abuses, nor did it prosecute persons responsible in previous years for extrajudicial killings and disappearances. Prison conditions remained very harsh. Arbitrary arrest and detention was a problem, and prolonged pretrial detention was common. The Government continued to influence the understaffed and overburdened judiciary and did not ensure fair and expeditious trials. Security forces often infringed on citizens' privacy rights. The Government and the security forces restricted freedom of speech and of the press, often using investigative detention and criminal libel prosecutions to harass journalists and political opponents. The Government restricted academic freedom and freedom of assembly, association, and movement. The National Commission for Human Rights (CNDH) continued to be dominated by supporters of the President, and the Government restricted and impeded the work of independent human rights groups. Violence and societal discrimination against women remained a problem. Female genital mutilation (FGM) persisted among some ethnic groups. Discrimination against ethnic minorities remained a problem. The Government limited workers' rights to collective bargaining. Child labor was a problem. Trafficking in women and children remained problems.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no confirmed reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents during the year, and no extrajudicial killings from previous years were discovered during the year. However, one person died during the year when police and demonstrators clashed (*see* Section 2.b.).

There were no developments in the investigation of the March 2000 killing of an alleged government-paid agitator at the University of Benin (now known as the University of Lome).

In April at the annual meeting of the U.N. Human Rights Commission, the U.N./Organization of African Unity (OAU) Commission of Inquiry into allegations of extrajudicial killings disbanded without further investigations. In February 2001, the Commission released the results of its investigation into reports that the Government threw hundreds of bodies into the sea during the 1998 presidential elections (*see* Sections 1.b. and 4), including what it called credible evidence of some extrajudicial killings that merited further investigation. The Commission's report also alleged that security forces or militias linked to government authorities were responsible for the following previously unreported extrajudicial killings or disappearances during the 1998 elections: Kodjo Ahadji; Anani Teko Allyn; Koffi Amouzou; Koffi Roger Ahiakpo; Kossi Kossi; Koffie Tenou; Germain Palanga N'Gamnouwe; Pele Keleou; and Hoffia Messan Pomeavor. In March 2001, the Government established a National Commission of Inquiry to investigate the Commission's allegations, which concluded that these allegations were unfounded and took no further action in any of the cases.

Following the September 1998 killing of Koffi Mathieu Kegbe, an activist in the opposition Action for Renewal Committee (CAR) party, police arrested Kodjovi Akomabu in 2001. He was found to be the leader of a criminal gang and was sentenced to 6 years in prison. He appealed the sentence, and it was raised to 10 years. Akomabu began serving his time in August 2001. He was transferred to the prison in Kara in the north during the year.

There still was no investigation into the April 2001 lynchings in Akodessewa of Anani Adable and Apelete Koffi Klutse, two alleged thieves; there was no suspicion of government involvement.

*b. Disappearance.*—There were no reports of politically motivated disappearances. In a final report released in February 2001, the U.N./OAU Commission of Inquiry reported the disappearance of the following six persons, previously unreported, last seen under arrest by security forces in 1998: Koffi "Hitler" Akakpessa; Nicolas Assiongbon; Adrisse "Ringo" Djiewone; Yao Homawoo; Kokou Akakpo; and Eugene Senyo. The Government denied it had anything to do with their disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture and physical abuse of prisoners and detainees; however, security forces often beat detainees after arresting them. Some suspects claimed

credibly to have been beaten, burned, or denied access to food and medical attention. Impunity remained a problem, and the Government did not prosecute publicly any officials for these abuses.

On June 26, security forces detained two opposition CAR Party members who claimed they were beaten at the Para-Commando military camp in Kara. They were released June 30. They were accused of distributing political tracts, reportedly endorsing a proposed presidential bid by RPT figure Dahuku Pere.

In November 2001, Union of Forces for Change (UFC) members Andre Kuevi and Atanai Aboubakar were attacked and beaten in the northern city of Kara. Kuevi was beaten on the head with iron bars and required a blood transfusion. Atanai reportedly slipped into a coma for 3 days. The Government vowed to investigate; however, there were no developments during the year.

Security forces harassed, intimidated, and beat journalists (*see* Section 2.a.).

Security forces dispersed demonstrators forcibly (*see* Section 2.b.).

On February 5, the Government forcibly retired former Army Chief of Staff LTC Kouma Bitenewe. Following his April 2001 arrest, Bitenewe accused troops of holding him incommunicado and torturing him. He was under house arrest for much of 2001.

There was no investigation into the April 2001 incident in which the UFC claimed that RPT militants doused UFC Secretary General Jean-Pierre Fabre with gasoline and threatened to set him on fire.

Prison conditions reportedly remained very harsh, with serious overcrowding, poor sanitation, and unhealthy food. According to the First Instance Court, a bureau of the Appellate Court in the Ministry of Justice, Lome's central prison, built for 350 prisoners, housed 1,100 inmates at its peak during the year. In December the total prison population for Lome was 1,146, including 35 women awaiting trial and 3 judged guilty as well as 871 men awaiting trial and 275 judged guilty. Medical facilities were inadequate, and disease and drug abuse were widespread. Prison guards in the overcrowded civil prison of Lome charged prisoners a small fee to shower, use the toilet, or have a place to sleep. Sick prisoners reportedly had to pay \$2 (1,500 CFA francs) to guards before being allowed to visit the infirmary.

The children of convicted adults often were incarcerated with the female inmates, who were housed separately from the male prisoners. Juvenile prisoners were held separately from adults. Political prisoners and pretrial detainees were not held separately from convicted prisoners.

Although some international and local private organizations had access to prisons for monitoring purposes, the International Committee of the Red Cross (ICRC) did not request a visit during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention remained problems. Judges or senior police officials may issue warrants. Although detainees have the right to be informed of the charges against them, police sometimes ignored this right. The law allows authorities to hold arrested persons incommunicado without charge for 48 hours, with an additional 48-hour extension in cases deemed serious or complex. Family members and attorneys officially had access to a detainee after 48 or 96 hours of detention; however, authorities often delayed, and sometimes denied, access. The law stipulates that a special judge conduct a pretrial investigation to examine the adequacy of evidence and decide on bail; however, in practice detainees could be, and often were, held without bail for lengthy periods with or without the approval of a judge.

A shortage of judges and other qualified personnel, as well as official inaction, resulted in lengthy pretrial detention—in some cases several years—and confinement of prisoners for periods exceeding the time they would have served if tried and convicted. For example, Kokou Alowou and Dela Atidepe were arrested in 1993, charged with armed robbery and manslaughter, and still were awaiting trial at year's end. In December an estimated 70 percent of the prison population was pretrial detainees (*see* Section 1.c.).

The Government continued to use brief investigative detentions of less than 48 hours to harass and intimidate opposition activists and journalists (*see* Section 2.a.). The Government at times has resorted to false charges of common crimes to arrest, detain, and intimidate opponents. On August 17, three members of the UFC opposition party were arrested and briefly detained for urging people to attend a political rally scheduled for August 24. Five persons were arrested, detained, and ultimately convicted of crimes for political reasons during the year (*see* Section 1.e.).

On September 24, a member of the opposition CAR party, Kokou Avigan, was arrested and charged with distributing political tracts to Alabi Sofiou, another CAR member. At year's end, both men remained in jail without being formally charged or given a trial.

After forcibly dispersing demonstrations during the year, members of the security forces arrested and detained participants, sometimes without charges (*see* Section 2.b.).

Unlike in the previous year, there were no records that members of the security forces detained human rights monitors and activists during the year. The Constitution prohibits exile, and the Government generally respected this prohibition; however, several opposition and human rights workers remained in self-imposed exile because they feared arrest. For example, some students who fled in 2000 remained in Ghana due to fear of arrest if they returned to the country.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice the executive branch continued to exert control over the judiciary. A majority of the members of the Supreme Council for the Magistrature were supporters of President Eyadema. Judges who belonged to the pro-Eyadema Professional Association of Togo Magistrates (APMT) reportedly received the most prestigious assignments, while judges who advocated an independent judiciary and belonged to the National Association of Magistrates (ANM) were marginalized.

The Constitutional Court stands at the apex of the court system. The civil judiciary system includes the Supreme Court, Sessions (Court of Assizes), and Appeals Courts. A military tribunal exists for crimes committed by security forces, but its proceedings are closed. General Seyi Memene served as Justice Minister. The court system remained overburdened and understaffed. Magistrates, like most government employees, were not always paid on time. The judicial system employs both traditional law as well as the Napoleonic Code in trying criminal and civil cases. Trials were open to the public, and judicial procedures generally were respected. Defendants have the right to counsel and to appeal. The Bar Association provides attorneys for the indigent. Defendants may confront witnesses, present evidence, and enjoy a presumption of innocence. In rural areas, the village chief or council of elders may try minor criminal and civil cases. Those who reject the traditional ruling may take their cases to the regular court system, which was the starting point for cases in urban areas.

Opposition figures were imprisoned for expressing political opinions and frequently were denied a fair trial. On January 10, an appeals court ruled in favor of opposition CAR Party President Yawovi Agboyibo, but only after President Eyadema issued instructions for his release from prison after 7 months. Agboyibo had been convicted in August 2001 of defaming then Prime Minister Agbeyome Kodjo. The trial was flawed; there were serious irregularities, including a disregard for proper judicial procedure. In September former Prime Minister Kodjo blamed President Eyadema for Agboyibo's imprisonment, saying that Eyadema forced him to bring the suit against the opposition party leader.

In June Yawovi Jules Kpizia, an opposition CAR political party official, was released from prison after serving 1 year for defamation of the President's son, LTC Ernest Gnassingbe.

In September the Government tried Claude Ameganvi, leader of an opposition labor party and union activist, for defamation of the President. The prosecutor allegedly changed Ameganvi's statement; the prosecutor insisted the text included typographical errors. The presiding judge rejected demands to withdraw the document. Ameganvi was sentenced to 4 months for defamation of the president's image and an additional 2 months after the public prosecutor raised the sentence.

In June 2001, Harry Olympio, former Human Rights Minister and opposition Rally for the Support of Democracy and Development (RSDD) president, was arrested and convicted in a seriously flawed trial for the production and possession of explosives. He was sentenced to 18 months in prison and fined \$500 (360,000 CFA francs); however, President Eyadema pardoned him in 2001.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the sanctity of residences, the confidentiality of correspondence and telecommunications, and prohibits searches and seizures not prescribed by law; however, security forces often infringed on these rights. In criminal cases, a judge or senior police official may authorize searches of private residences, and in political and national security cases, the security forces need no prior authorization. Police conducted searches without warrants, searching for arms caches as well as for criminals, often under the guise of searching for identity cards. Armed security checkpoints existed throughout the country, and security forces regularly searched vehicles, baggage, and individuals in the name of security (*see* Section 2.d.).

Security forces entered private residences, particularly in the north, for the purpose of disrupting meetings among opposition political figures. On July 3, gendarmes and other security officials reportedly searched the home of Dany Ayida, a

journalist and director of a human rights center in Lome who was exiled in France and mistreated his wife. He remained in Benin at year's end.

Citizens believed that the Government monitored telephones and correspondence, although this surveillance was not confirmed. The Government maintained a system of informers on the university campus (*see* Section 2.a.).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government restricted these rights in practice. The Government repeatedly harassed and intimidated print media journalists through threats, detentions, and criminal libel prosecutions. Police and gendarmes occasionally harassed newspaper vendors and confiscated issues of some opposition newspapers. Advertisers reportedly often were intimidated. Few opposition newspapers were allowed distribution outside the Lome area, particularly in areas not known to be ruling party strongholds.

On September 3, the National Assembly approved another revision of the 1998 Press and Communication Code, further restricting freedom of expression in the country. The revision focused on Article 91, enacting a 5-year term of imprisonment (up from 3 years in the previous code) and a \$7,600 (up from \$2,500) fine for any journalist found guilty of defamation of military or of government officials. The severest penalties were reserved for offenses to the “honor, dignity . . . and the public functions” of “the president, prime minister, national assembly president, parliamentarians, members of government and public institutions.” In addition, the new code requires independent newspapers to constitute their reporting staffs with at least one-third “professional journalists,” a status accorded only by the Government-appointed authority.

During the year, persons were charged with defamation (*see* Section 1.e.).

Despite government interference, there was a lively press, most of which was heavily politicized, and some of which was highly critical of President Eyadema. More than 15 privately owned newspapers published with some regularity. The only daily newspaper, Togo-Presse, was government-owned and controlled. There were several independent newspapers that published on weekly and biweekly schedules.

There was no pre-publication censorship of print media in law or practice; however, journalists practiced varying degrees of self-censorship, and security forces frequently threatened or detained print media journalists and interfered with the distribution of newspapers.

During the year, authorities seized copies of newspapers that criticized the Government. For example, on April 4, security agents seized all copies of *La Tribune du Peuple*, apparently for publishing an article entitled “Togo State of Terror: FAT (Armed Forces of Togo) Members Mistreated Agbekodo.”

On April 9, agents confiscated copies of the newspaper *Le Regard* for commenting on a Human Rights Commission meeting in Geneva in which the Amnesty International (AI) report entitled “Togo: A State of Terror” was discussed. A former minister threatened to put the director of *Le Regard* in jail for life.

On April 16, security forces unsuccessfully sought to confiscate all copies of *Le Regard* that contained a letter written by Member of Parliament (M.P.) Dahuku Pere, a member of the ruling RPT Party's Central Committee, that called on the RPT to convene a party congress to discuss the party's performance and image (*see* Section 3). On April 22, security agents seized copies of two newspapers, *Le Combat du Peuple* and *Motion d'Information*, for publishing Pere's letter.

Members of the security forces arrested and detained journalists, sometimes without charging them with any offense.

For example, in June Basile Agboh, publisher of the weekly newspaper *Aekle*, was jailed for publishing a story claiming that the President's eldest son, LTC Ernest Gnassingbe, had made death threats against then-Prime Minister Agbeyome Kodjo. He was released after 70 days of detention.

On August 5, Julien Ayi, editor of *Agoo Nami*, and Alphonse Klu, director of *Nouvel Echo*, were arrested for publishing unsubstantiated information allegedly given to them by Claude Ameganvi that *Forbes Magazine* had named President Eyadema one of the world's wealthiest people. Ameganvi was arrested the next day (*see* Section 1.e.). On September 13, Ameganvi and Ayi were sentenced to 4 months in jail and each fined \$150 (100,000 CFA francs). Klu, still in hiding, was sentenced to 6 months in prison and fined the same amount. At the time of sentencing, the Government had not enacted the new press code.

In October 2001, the Gendarmerie arrested journalist Komi Nemvame Klu for publishing false information about a public figure. He was released on October 30, 2001.

Unlike in the previous year, no press offices were closed due to government threats.

Radio remained the most important medium of mass communication. Two government-owned and 53 private radio stations were officially licensed in December in response to the first government-enacted licensing operation. Two of these, Radio Avenir and Galaxy FM, were associated with the ruling RPT Party. Some private radio stations broadcast domestic news; however, they offered little of the political commentary and criticism of the Government that was widespread in the print media. A private station, Kanal FM, was a foreign affiliate and carried several hours of news, music, and commentary daily.

Beginning on September 17, the Government blocked transmission of Radio France International to prevent the broadcast of an interview with former Prime Minister Kodjo. In the interview, Kodjo criticized President Eyadema for controlling the judicial and legislative as well as the executive branches of the Government. He said that Eyadema's stepping down was the only way for the country to complete its democratic transition.

The Government-owned and controlled Television Togo, and the independent TV-2 were the only major television stations in the country. TV-2 carried France-based TV-5's international news programming. Three smaller television stations operated during the year but their broadcasts were limited to certain localities, and their content primarily was of a religious or entertainment nature.

The Constitution mandates equal access to state media; however, the official media heavily slanted their contents in favor of the President and the Government. The High Authority for Audio-Visual and Communications (HAAC) was charged with providing equal access to state media, as mandated by the Constitution. Although nominally independent, in practice HAAC operated as an arm of the Government. It was dominated by Eyadema supporters and had not increased opposition access to the Government controlled media. Two opposition representatives were appointed in 2001 to improve the HAAC's balance. In February HAAC sent a letter to Radio Victoire telling it to stop all programming until it signed the convention that authorized all broadcasting.

The Togolese Media Observatory (OTM), a nongovernmental organization (NGO), was established to protect press freedom and to improve the professionalism of journalists. OTM's board and membership included both government and private journalists. During the year, it met regularly to discuss journalistic ethics and professional standards.

There were no reports that the Government restricted access to the approximately 15 Internet service providers in the country. Most Internet users were businesses rather than households. Access to the Internet and fax machines also was available in many small stores and cafes in Lome and other cities.

At the country's sole university, the University of Lome, previously known as the University of Benin, academic freedom was constrained by potential harassment by the Government and anti-opposition militants, or both, and the lack of a Rector elected by the faculty. Teachers' salaries and students' stipends rarely were paid on time. Drastic increases in tuition and cuts in scholarships reduced the total number of students, and as a result, there were fewer interruptions to university classes during the year. A government informer system reportedly continued to intimidate students. The only officially tolerated student groups; the High Council of the Student's Movement (Haut Conseil des Mouvements Etudiants) and the General Union of Students and Interns of Togo (Union General des Etudiants et Stagiares du Togo), were pro-Eyadema. The independent student organization CEUL has had longstanding unofficial recognition, and its elected representatives have participated on university committees.

Unlike in the previous year, security forces did not forcibly disperse student protests at the University of Lome.

Thomas Ghandi and Kodjo Gbodzisi, the President and Vice President of the CEUL, remained expelled at year's end, and no action was taken against security forces who allegedly tortured them following protests by students and professors over their May 2001 expulsion.

There were no developments in the 2000 case of former CEUL leader Lorempo Lamboni.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government restricted this right in practice. Opposition political parties rarely were permitted to hold public meetings in Lome, and authorities systematically interfered with the freedom of political opponents attempting to assemble in the central and northern regions. Government officials prohibited, and security forces forcibly dispersed, some public demonstrations critical of the Government. For example, on August 3, Claude Ameganvi, coordinator of a

group called "What Solution for Togo," organized a demonstration commemorating the 10th anniversary of the murder of opposition political leader Tavio Amarin. In response to a request by the UFC party to hold a rally August 3, the Minister of Interior organized a "Clean the City" day, forcing the UFC party members to postpone the rally until the following day. Police dispersed the participants using batons, injuring several marchers, including one who required medical treatment.

On August 17, UFC members were arrested for inviting people to attend another rally scheduled for August 24. The Minister of Interior convoked UFC leaders to his office and complained about the statements made in the August 4 rally and the blocked August 24 rally.

On September 28, security forces used tear gas and batons to break up a public opposition UFC Party meeting, and at least one UFC member was injured slightly. Police arrested Secretary General Jean-Pierre Fabre but released him a few hours later.

On November 9, security forces broke up a march organized by a coalition of opposition parties. Police and opposition members clashed when the group attempted to change from the pre-approved route. Numerous persons from both sides were injured, and one protestor, Alex Hedeka, a member of the opposition UFC party, died a few days later from his injuries.

Opposition groups continued to accuse Northern Military Zone Commander LTC Ernest Gnassingbe, the President's son, of blocking or breaking up public and private political demonstrations and meetings.

There were no official reports of student demonstrations during the year. However, security forces remained present on the University of Lome campus (*see* Section 2.a.).

No known action was taken against security forces that used excessive force when dispersing demonstrations in 2001 and 2000.

Unlike in the previous year, the Government did not ban opposition gatherings.

Under the Constitution, citizens have the right to organize associations and political parties; however, the Government restricted this right in practice. While political parties were able to elect officers and register, few opposition party offices and no pro-opposition newspapers operated in most towns in the central and northern regions.

There were many NGOs; they were required to register with the Government.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Government has established requirements for recognition of religious organizations outside the three main faiths—Roman Catholicism, Protestantism, and Islam—which were recognized officially. Applications for recognition must be submitted to the Interior Ministry's Division of Civil Security. The Interior Ministry issues official recognition. The Civil Security Division also has enforcement responsibilities when there are problems or complaints associated with a religious organization. The Government recognized 109 religious groups, of which most were smaller Protestant groups and some new Muslim groups as well as new traditional religious groups. Members of those religions not officially recognized were permitted to practice their religion, but had no legal standing. During the year, 12 religious groups submitted applications to the Government requesting official recognition. Since 1991, 329 groups have applied for recognition. There was no information available regarding the criteria for recognition, the number of rejections, or details about the groups that had been rejected. If an application provided insufficient information for recognition to be granted, the application often remained open indefinitely.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, the Government restricted them in practice. Armed security checkpoints and arbitrary searches of vehicles and individuals were common, and government security forces searched cars throughout the country. Undisciplined acts of some soldiers manning roadblocks, such as frequent demands for bribes before allowing citizens to pass, impeded free movement within the country. The Government prevented opposition political parties from traveling and campaigning in the north of the country and from traveling or entering certain towns.

In June the Government placed former Prime Minister Agbeyome Kodjo's French-citizen wife under house arrest, blocked her attempts to leave her house, and prevented others from visiting her. After 1 month, and appeals from the French Em-

bassy and international groups, the Government removed the security forces. The Government insisted the troops had been placed there for her protection.

In August the Government refused to act on the passport application by the son of Dahuku Pere, a prominent critic of the Government from within the ruling RPT, apparently in retaliation for his father's views. By year's end, Pere's son still had not been issued a passport. The Government permitted citizens to use a national identity card instead of a passport for travel to other member countries of the Economic Community of West African States. The Government required that a married woman have her husband's permission to apply for a passport.

There was no law that provided for the granting of asylum or refugee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. However, the Government provided first asylum. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. During the year, a National Refugee Assistance Coordination (CNAR) group was established.

In December UNHCR estimated there were 11,000 refugees from Ghana living in the northern areas of the country, near the cities of Bassar, Sotouboua, and Dankpen. A total of 508 Ghanaian refugees were in the process of being repatriated at year's end. According to the Government, there were approximately 800 refugees (mostly from Rwanda and the Democratic Republic of the Congo) registered in Lome and an approximate 1,200 additional refugees living in rural villages. According to UNHCR estimates, approximately 1,600 Togolese refugees lived in Benin and another 800 in Ghana.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides for the right of citizens to change their government peacefully; however, the Government restricted this right in practice. In the 1998 presidential election, the Interior Ministry declared Eyadema the winner with 52 percent of the vote; however, serious irregularities in the Government's conduct of the election strongly favored Eyadema and appear to have affected the outcome materially.

Although the Government generally did not obstruct the actions of political opponents openly, the President used the military and his government allies to intimidate and harass citizens and opposition groups (see Sections 1.d., 1.e., and 2.b.). LTC Ernest Gnassingbe, the President's son, threatened the leading legislative candidate for the opposition party CAR, Palakizima Aweli, telling him to leave the city.

The Government and the State remained highly centralized. President Eyadema's national government appointed the officials and controlled the budgets of all subnational government entities including prefectures and municipalities, and influenced the selection of traditional chiefs. The National Assembly has little authority or influence on President Eyadema and has limited influence on the Government. Aside from controlling its own programs and activities and writing amendments to the Constitution, the National Assembly largely approved the proposals of the President and the Government.

After the 1999 legislative elections, boycotted by the opposition and marred by procedural problems and significant fraud, the Government announced that it would pursue dialog with the opposition. In July 1999, all sides signed the "Lome Framework Agreement," which included a pledge by President Eyadema that he would respect the Constitution and not seek another term as president after his term expires in 2003. In 2000 the Government established the CENI, composed of 10 members of the President's RPT party and 10 members of the opposition, and adopted a new Electoral Code largely drafted by the opposition.

On February 1, in what it called a bid to speed up election preparations, the Government amended the electoral code to include: A requirement that legislative and presidential candidates must be citizens; a reduction of the composition of the CENI to 10 members (5 from the RPT and 5 representing the opposition); and that all CENI decisions could be made by a simple majority vote. On April 25, the Constitutional Court replaced the CENI with a seven-magistrate commission (C7), which proceeded to organize elections for October 27.

In April longtime RPT Party official and former president of the National Assembly, Dahuku Pere, publicly criticized the party's failure to break with its authoritarian one-party past. Noting that excesses from 1991 to 1993 had included murders and repression committed by the both the RPT and its opponents, Pere called for a renewal of party values and recommitment to success in a fairly fought democratic



contest. Gendarmes questioned and then released Pere. A nearly unanimous RPT Central Committee vote rejected Pere's treatise, and President Eyadema stripped him of his party position and decorations.

On June 27, Prime Minister Agbeyome Kodjo left his post and fled to France. He was the only member of the RPT Central Committee who did not sign the letter rejecting Pere's declaration. Upon his departure, he released a 14-page letter criticizing President Eyadema for his "monarchic-despotic" regime and accusing him of looting public coffers to sustain a life of luxury. As with Pere, the Government immediately stripped Kodjo of his party membership and decorations and accused him of treason.

In August four leading opposition parties united their agendas to demonstrate solidarity against the Government. Opposition parties that did not join the unified "Front" included the UFC party of Gilchrist Olympio, the son of the former president who was assassinated in 1963, and the Opposition Pan-African Patriotic Convergence party of former Prime Minister Edem Kodjo. In September several other minor opposition parties also united their agendas, calling themselves the Republican Opposition Front (FOR). Following the June 2001 presidential pardon of Harry Olympio on coup-plotting charges, the former Human Rights Minister and RSDD president stated that he intended to participate in the October legislative elections.

Long-delayed legislative elections were held on October 27, and the opposition parties who were members of the Lome Framework Agreement boycotted the races. President Eyadema's RPT party won 72 out of the total 81 seats in the National Assembly. Three newly formed opposition parties and one independent candidate shared the remaining nine seats. The Government said voter turnout was 67 percent, a figure contested by the main opposition parties as well as some of the Government-sponsored international election observers. There were reports of incidents of intimidation and fraud.

On December 30, the newly elected National Assembly passed 34 modifications to the 1992 Constitution. President Eyadema promulgated the law on December 31. Chief among the changes was a rewrite of Article 59 erasing the two-term limit for the presidency. In addition, the new Constitution lowered the age of presidential candidates from 45 to 35; stipulated only one-round of voting for all future elections; and created a new legislative body, the Senate, making the National Assembly a bicameral legislature, the Parliament. Many of the changes restored powers to the presidency taken away by the 1992 Constitution, including new language strengthening the president's authority over national policy, the power to dismiss the prime minister, and appoint a greater number of judges, especially to the country's highest bench, the Constitutional Court. The Constitutional Court now also was tasked as final arbiter in resolving future election disputes.

There were no legal restrictions on the participation of women and ethnic minorities in the Government. There were 5 female members in the 81-member National Assembly and there were 3 female ministers in the President's 20-member Cabinet. Members of southern ethnic groups were underrepresented.

#### *Section 4. Government Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were several domestic private human rights groups, including the LTDH, the Center of Observation and Promotion of the Rule of Law (COPED), the CADEPROD, and the Togolese Association for the Defense and Protection of Human Rights (ATDPDH). In general the Government allowed groups to investigate alleged violations of human rights; however, the Government occasionally threatened or hindered the activities of human rights activists and was inconsistent in following up on investigations of abuses. Years of government threats and intimidation of human rights leaders, combined with a lack of results from human rights initiatives, have led some human rights monitors to end their public activities.

Former officials of the domestic chapter of AI remained in exile, although it resumed its activities in the country in 2000.

The National Commission for Human Rights (CNDH) continued to be dominated by supporters of the President, individual human rights groups, and activists. Although there were no records of arrest and mistreatment, the CNDH found it difficult to accomplish its agenda of making people more aware of their rights.

#### *Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination on the basis of ethnic group, regional or family origin, sex, religion, social or economic status, or personal, political, or other convictions; however, the Government did not provide effective redress for discrimination complaints. Discrimination against women and ethnic minorities re-

mained a problem. Members of President Eyadema's Kabye ethnic group and other northern ethnic groups dominated much of the public sector, especially the military.

*Women.*—Domestic violence against women continued to be a problem. Although mechanisms for redress existed within formal judicial structures, police were not given any authority to protect women in abusive situations, and women were not made aware of the formal judicial mechanisms that would give them protection. As a result, the police rarely intervene in domestic violence incidents. Wife beating was estimated to affect approximately 10 percent of married women.

FGM continued to be practiced. The most commonly practiced form of FGM was excision, which usually was performed on girls a few months after birth. Most of the larger ethnic groups did not practice FGM; however, among the practicing groups rates ranged from 40 to 98 percent. FGM is illegal and penalties for practitioners ranged from 2 months to 5 years imprisonment as well as substantial fines. The law rarely was applied because most FGM cases occurred in rural areas where neither the victims nor the police knew the law. Traditional customs often superseded the legal system among certain ethnic groups. The Government continued to sponsor seminars to educate and campaign against FGM. Several NGOs, with international assistance, organized educational campaigns to inform women of their rights and how to care for victims of FGM.

There was some trafficking of young women (*see* Section 6.f.).

The Constitution declares women equal under the law; however, women continued to experience discrimination, especially in education, pension benefits, and inheritance as a consequence of traditional law. A husband legally could restrict his wife's freedom to work or control her earnings. In urban areas, women and girls dominated market activities and commerce; however, harsh economic conditions in rural areas, where most of the population lived, left women with little time for activities other than domestic tasks and agricultural fieldwork. Under traditional law, which applied to the vast majority of women, a wife has no maintenance or child support rights in the event of divorce or separation and no inheritance rights upon the death of her husband. Polygyny was practiced.

The Ministry of Health, Social Affairs, Promotion of Women, and Protection of Children, along with independent women's groups and related NGOs, continued to campaign actively during the year to inform women of their rights.

*Children.*—Although the Constitution and family code laws provide for the protection of children's rights, in practice government programs often suffered from a lack of money, materials, and enforcement. Although the law protected children, there were many practices that discriminated against children, especially girls. The Government provided free education in state schools. School attendance was compulsory for both boys and girls until the age of 15. Approximately 61 percent of children aged 6 to 15 years attended school, mostly boys. In the age group of 6 to 15 years, approximately 89 percent of boys and 66 percent of girls started primary school; however, only an estimated 39 percent of boys and 13 percent of girls reached secondary school. Approximately 3 percent of boys and 0.6 percent of girls reached the university level. Literacy rates were 57 percent for adult men and 31 percent for adult women. In its June 2001 General Direction of Education Planning (Direction Generale de la Planification de l'Education), the Ministry of Education estimated one-third of the national budget was spent on education.

Orphans and other needy children received some aid from extended families or private organizations but less from the State. There were social programs to provide free health care for poor children. In rural areas, traditionally the best food was reserved for adults, principally the father.

In November 2001, traditional chiefs met and agreed to set up watchdog committees and conduct awareness campaigns against the abuse of children, especially trafficking, confinement in voodoo shrines, FGM, torture, forced marriages, and other forms of sexual harassment. Without financial or legal support, success of the committees was sporadic, and they continued to function on a minimal level during the year. FGM was performed on approximately 12 percent of girls (*see* Section 5, Women).

There were reports of trafficking in children (*see* Section 6.f.).

*Persons with Disabilities.*—The Government did not mandate accessibility to public or private facilities for persons with disabilities. Although the Constitution nominally obliged the Government to aid persons with disabilities and shelter them from social injustice, the Government provided only limited assistance in practice. There was no overt state discrimination against persons with disabilities and some held government positions. However, persons with disabilities had no meaningful recourse against private sector or societal discrimination, and in practice there was discrimination against persons with disabilities.

*National/Racial/Ethnic Minorities.*—The country's population included members of approximately 40 ethnic groups that generally spoke distinct primary languages and were concentrated regionally in rural areas. Major ethnic groups included the Ewe (between 20 and 25 percent of the population), the Kabye (between 10 and 15 percent), the Kotokoli (between 10 and 15 percent), the Moba (between 10 to 15 percent), and the Mina (approximately 5 percent). The Ewe and Mina were the largest ethnic groups in the southern region and the Kabye was the largest group in the less prosperous northern region.

Although prohibited by law, societal discrimination on the basis of ethnicity was practiced routinely by members of all ethnic groups. In particular discrimination against southerners by northerners and against northerners by southerners was evident in private sector hiring and buying patterns, in patterns of de facto ethnic segregation in urban neighborhoods, and in the relative rarity of marriages across the north-south ethnic divide. Discrimination extended into the public sector, where the centralization of the State allowed little scope for regional or ethnic autonomy, except through the circumscribed authority of traditional rulers and the use of dispute resolution systems.

The relative predominance in private sector commerce and professions by members of southern ethnic groups, and the relative predominance in the public sector and especially the security forces by members of President Eyadema's Kabye group and other northern groups, were sources of political tension. Political parties tended to have readily identifiable ethnic and regional bases: The RPT party was more represented among northern ethnic groups than among southern groups; the reverse was true of the UFC and CAR opposition parties.

In each region, members of majority ethnic groups harassed and attacked members of ethnic groups originating from the other region, forcing them back to their home region. In addition, due to the congruence of political divisions and ethnic and regional divisions, human rights abuses motivated by politics at times had ethnic and regional overtones.

There were reports of violence involving ethnic Ibos from Nigeria. In October in the northern city of Dapaong, an Ibo was accused of killing a taxi driver and a vigilante mob gathered and demanded the police turn over the suspect for punishment.

Following an investigation that revealed the taxi driver had stolen from the Ibo, the Ibo accused of killing him was not turned over to the crowd but was detained by authorities. No trial had been set at year's end. Some believe that Nigerian Ibos kill young women, drain their blood, and steal their sex organs to perform voodoo to accumulate wealth, health, or protection.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides most workers with the right to join unions; however, security forces, including firefighters and police, did not have these rights. The Constitution also prohibits discrimination against workers for reasons of sex, origin, beliefs, or opinions. The World Bank estimates that the country's total workforce was approximately 2 million persons. The work force in the formal sector was approximately 20 percent of the total, of whom from 60 to 70 percent were union members or supporters.

The 1974 Labor Code prohibits foreign nationals from performing administrative or management functions in trade unions.

There were several major trade union federations, including the the National Confederation of Togolese Workers (CNTT), which was closely associated with the Government; the Labor Federation of Togolese Workers (CSTT); the National Union of Independent Syndicates (UNSIT); and the Union of Free Trade Unions.

The Labor Code prohibits antiunion discrimination. The Ministry of Labor was charged with resolving labor-related complaints, but it did not always do so effectively.

Federations and unions were free to associate with international labor groups. The CNTT and the UNSIT were affiliates of the International Confederation of Free Trade Unions, and the CSTT was an affiliate of the World Confederation of Labor.

*b. The Right to Organize and Bargain Collectively.*—The Labor Code nominally provides workers with the right to organize and bargain collectively; however, the Government limited collective bargaining to producing a single nationwide agreement that must be negotiated and endorsed by representatives of the Government, labor unions, and employers. All formal sector employees were covered by the collective bargaining agreement that set nationwide wage standards for all formal sector employees. The Government participated in this process both as a labor-management mediator and as the largest employer in the formal sector, managing numerous state-owned firms that monopolize many sectors of the formal economy. Individual groups in the formal sector could attempt to negotiate agreements more fa-

avorable to labor through sector-specific or firm-specific collective bargaining, but this option rarely was used.

The Constitution provides most workers with the right to strike; however, security forces and government health workers do not have this right. Government health care workers may join unions.

There is no specific law prohibiting retribution against strikers by employers. Air Afrique workers held a strike at Lome's airport during the year.

The law allows the establishment of export processing zones (EPZs). Many companies had EPZ status, and more than 30 were in operation. The EPZ law provides exemptions from some provisions of the Labor Code, notably the regulations on hiring and firing. Employees of EPZ firms did not enjoy the same protection against antiunion discrimination as did other workers. In practice unions did not have free access to EPZs or the freedom to organize workers.

*c. Prohibition of Forced or Bonded Labor.*—The law does not specifically prohibit forced or bonded labor, including by children, and children sometimes were subjected to forced labor, primarily as domestic servants. In rural areas, parents sometimes placed young children into domestic work in other households in exchange for one-time fees as low as \$25 to \$35 (15,000 to 20,000 CFA francs).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Code prohibits the employment of children under the age of 14 in any enterprise. Some types of industrial and technical employment set a minimum age of 18. Inspectors from the Ministry of Labor enforced these age requirements but only in the formal sector in urban areas. In both urban and rural areas, particularly in farming and small scale trading, very young children traditionally assisted in their families' work.

The Ministry of Health, Social Affairs, Promotion of Women, and Protection of Children was responsible for enforcing the prohibition of the worst forms of child labor; however, few resources were allotted for its implementation and enforcement was weak. Forced and bonded labor by children was a problem (*see* Section 6.f.).

*e. Acceptable Conditions of Work.*—The Government sets minimum wages for different categories, ranging from unskilled labor through professional positions. In practice less than the official minimum wage often was paid, mostly to unskilled workers. Official monthly minimum wages ranged from approximately \$20 to \$33 (14,700 to 23,100 CFA francs) and did not provide workers a decent standard of living for themselves and their families. Many workers supplemented their incomes through second jobs or subsistence farming. The Ministry of Labor was responsible for enforcement of the minimum wage system but did not enforce the law in practice. The Labor Code, which regulated labor practices, required equal pay for equal work, regardless of sex; however, this provision generally was observed only in the formal sector.

Working hours of all employees in any enterprise, except for those in the agricultural sector, normally must not exceed 72 hours per week; at least one 24-hour rest period per week was compulsory, and workers must receive 30 days of paid leave each year. The law requires overtime compensation, and there were restrictions on excessive overtime work. However, the Ministry of Labor's enforcement was weak, and employers often ignored these provisions.

A technical consulting committee in the Ministry of Labor set workplace health and safety standards. It may levy penalties on employers who do not meet the standards, and employees have the right to complain to labor inspectors of unhealthy or unsafe conditions without penalty. In practice the Ministry's enforcement of the various provisions of the Labor Code was limited. Large enterprises were obliged by law to provide medical services for their employees and usually attempted to respect occupational health and safety rules, but smaller firms often did not.

Workers have the legal right to remove themselves from unsafe conditions without fear of losing their jobs; however, in practice some could not do so.

*f. Trafficking in Persons.*—The law does not prohibit specifically trafficking in persons, although other statutes against kidnaping, procuring, and other crimes linked to trafficking were used to prosecute traffickers, and trafficking was a problem. Local committees were set up in every region, and while they were voluntary without financial or legal support, these committees investigated reports of trafficking. The country remained a country of origin and a transit point for trafficking in persons, primarily children. Trafficking in women for the purpose of prostitution or nonconsensual labor as domestic servants existed.

The Government had little or no funding to investigate traffickers or trafficking rings. The police had limited success in intercepting victims of trafficking, but prosecution of traffickers was rare. In 2001 the Government reported that it detained

10 traffickers as well as 55 parents of the children stranded in Cameroon in a boat-capsizing incident. Most persons arrested or detained by security forces for alleged trafficking ultimately were released for lack of evidence. No records were available of the number of individual traffickers who were prosecuted during the year.

Government agencies involved in antitrafficking efforts included the Ministry of Social Affairs and Protection and Promotion for Family and Children, the Ministry of the Interior and Security, the Ministry of Justice, and security forces (especially police, army, and customs units). The Government cooperated with the Governments of Ghana, Benin, and Nigeria under a Quadripartite Law allowing for expedited extradition among those countries.

The majority of the country's trafficking victims were children from the poorest rural areas, particularly those of Cotocoli, Tchamba, Ewe, Kabye, and Akposso ethnicities and mainly from the Maritime, Plateau, and Central Regions. Adult victims usually were lured with phony lucrative jobs. Children usually were approached by friends or family friends. Sometimes parents sold their children to traffickers for bicycles, radios, or clothing.

Children were trafficked to indentured and exploitative servitude, which amounted at times to slavery. Victims were trafficked to West and Central Africa, particularly Cote d'Ivoire, Gabon, Nigeria; Europe, primarily France and Germany; the Middle East, including Saudi Arabia and Kuwait; and Asia. Children were trafficked to Benin for indentured servitude and to Cote d'Ivoire and Ghana for domestic servitude. Boys were trafficked for agricultural work in Cote d'Ivoire and domestic servitude and street labor in Gabon. They were fed poorly, clothed crudely, and cared for inadequately, and neither were educated nor permitted to learn a trade. Children sometimes were trafficked abroad by parents misled into allowing them to depart under false pretenses. There were reports that young girls were trafficked from the country to Nigeria for prostitution.

The country was a transit point for children trafficked from Burkina Faso, Ghana, Cote d'Ivoire, and Nigeria. There were credible reports of Nigerian women and children who trafficked through the country to Europe (particularly Italy and the Netherlands) for the purpose of prostitution.

From February 2001 until February, the Government reported that authorities intercepted 351 children ages 10 to 17 in the process of being trafficked.

Traffickers were believed to be men and women of Togolese, Beninese, and Nigerian nationalities.

The Government provided limited assistance for victims. Terre des Hommes, an NGO, assisted recovered children until their parents or next-of-kin could be notified. There also was a government-funded Social Center for Abandoned Children. During the year, the ILO-sponsored International Program for the Elimination of Child Labor (IPEC) program conducted a study of trafficking in persons in the country and in West Africa. During the year, ILO/IPEC worked with other NGOs to increase awareness of the trafficking problem and to encourage the Government to develop a law (which has been drafted but not passed and enacted) setting fines and penalties for anyone caught in the process of trafficking children. A World Bank program, started in 2001 to educate domestic servants and others at risk of being trafficked, was stopped when the country fell into arrears to the Bank on December 31, 2001.

During the year, the Government continued to conduct public awareness campaigns, with the help of UNICEF and NGOs such as WAO-Afrique and CARE.

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## UGANDA

President Yoweri Museveni continued to dominate the Government after he was reelected to a second 5-year term in March 2001. He has ruled since 1986 through the dominant political party, The Movement. The Constitution provides for an autonomous, independently elected President and a 295-member unicameral Parliament whose members were elected to 5-year terms. The Parliament was weak compared to the Executive, although it occasionally displayed independence and assertiveness. In the June 2001 parliamentary elections, more than 50 percent of those elected were new legislators; however, Movement supporters remained in control of the legislative branch. Observers believed that the 2001 presidential and parliamentary elections generally reflected the will of the population; however, both were marred by serious irregularities, particularly in the period leading up to the elections, such as restrictions on political party activities, incidents of violence, voter intimidation, and fraud. A 2000 national referendum on the role of political parties formally extended the Movement form of government indefinitely and severely re-

stricted political activities. The Constitutional Review Commission (CRC) continued to work to amend the 1995 Constitution during the year. The judiciary generally was independent but was understaffed and weak; the President had extensive legal powers.

The Uganda People's Defense Force (UPDF) was the key security force. The Constitution provides for civilian control of the UPDF, with the President designated as Commander in Chief; a civilian served as Minister of Defense. The Government withdrew a significant portion of the UPDF from the Democratic Republic of the Congo (DRC) during the year; however, security forces remained active in Bunia and border areas. The UPDF also increased its activities in the north in "Operation Iron Fist" against the Lord's Resistance Army (LRA) rebels and conducted operations destroying LRA sanctuaries in southern Sudan with the permission of the Sudanese government. UPDF soldiers and members of Local Defense Units (LDU's), assigned to the Reserved Forces, assisted the police in rural areas. LDU's operated under the authority of the Ministry of Internal Affairs but lacked a legal mandate. The Internal Security Organization (ISO) remained under the direct authority of the President. Although the ISO primarily was an intelligence-gathering body, its operatives occasionally detained civilians. The Chief of Military Intelligence (CMI), under UPDF control, detained civilians suspected of rebel and terrorist activity. The police were organized as a national force under the authority of the Ministry of Internal Affairs. All security forces were under government control and were responsive to the Government. Members of the security forces committed numerous serious human rights abuses.

The country's population was approximately 24.6 million. The economy grew at a rate of approximately 5.6 percent during the year. Approximately 40 percent of total GDP was in agriculture, and foreign economic assistance accounted for approximately 48 percent of the total government expenditure. Foreign investment fell slightly during the year but remained close to 4 percent of GDP. Corruption was a major problem but indicators showed positive changes during the year. For example, Parliament created a Local government Account Committee, which pursued local officials over financial issues raised in government audits. Parliament also passed the Ethics Bill, which requires the declaration of wealth by government officials and their family members. The privatization of state-owned enterprises continued.

The Government's human rights record remained poor, and there continued to be numerous, serious problems. Movement domination of the political process limited the right of citizens to change their government. Security forces used excessive force, at times resulting in death, and committed or failed to prevent extrajudicial killings of suspected rebels and civilians. The Government enacted measures to improve the discipline and training of security forces and punished some security force officials who were guilty of abuses; however, abuses by the security forces remained a problem. Security forces were responsible for some disappearances. UPDF forces committed fewer abuses in the DRC, where they significantly had reduced their presence during the year. Security forces regularly beat suspects in order to force confessions and at times tortured detainees. Prison conditions remained harsh and life threatening. Members of the security forces arbitrarily arrested and detained civilians, including opposition politicians and their supporters. Authorities used incommunicado detention. Prolonged pretrial detention remained a problem. Poor judicial administration, lack of resources, a large case backlog, and lengthy trial delays limited due process rights, including the right to a fair trial; however, some detainees received amnesty and were released. Security forces at times infringed on citizens' privacy rights. The Government at times did not respect freedom of speech and of the press, and restricted freedom of assembly and association. There were some limits on freedom of religion and movement. Domestic violence against women, rape, and abuse of children remained serious problems. Discrimination against women and persons with disabilities remained problems. The Government worked with nongovernmental organizations (NGOs) to combat the practice of female genital mutilation (FGM), which occurred on a limited basis. There continued to be limits on worker rights. Forced labor, including by children, occurred and child labor was common, mostly in the informal sector. There were reports of trafficking in persons. Vigilante justice remained a problem.

Insurgent forces committed numerous, serious abuses and atrocities. The LRA, a rebel organization led by Joseph Kony, increased attacks in the north and killed and abducted civilians, including children. Remnants of the Allied Democratic Forces (ADF) on one occasion abducted civilians.

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were unconfirmed reports of politically motivated killings by government forces, and members of the security forces and the police committed unlawful killings. Security forces sometimes used excessive force that resulted in deaths.

Security forces killed several persons during the year. For example, on March 21, two UPDF soldiers in Kotido killed Father Declan O'Toole, his driver, and his cook. On March 25, the soldiers received a court martial and subsequently were executed.

On April 1, a bodyguard of Presidential Advisor for Military Affairs, Lt. General David Tinyefuza, killed two farm workers in Nakoma Village, Sembabule District. The bodyguard was arrested but was not charged.

On April 19, the High Court in Kampala acquitted former Minister of State and Member of Parliament (M.P.) Vincent Nyanzi of the July 2001 murder of Vincent Mwebesa, a supporter of his opponent.

In May the Director of Public Prosecutions (DPP) dropped murder charges against Edward Kamana Wesonga, M.P. of Bubulo West, Mbale District, for lack of evidence. Wesonga had been charged in September 2001 for the murder of Sergeant Maxwell Wasswa during the 2001 parliamentary campaign.

There was no action taken against persons responsible for the following killings prior to the March 2001 presidential election: The January killing of a Museveni campaign task force member; the January killing of two men who were putting up posters of opposition leader Kizza Besigye in Tororo District; the February killing of four Besigye supporters during a campaign rally; and the March killing of one person during clashes between supporters of Museveni and Besigye in Rukungiri District.

There were no developments in the following 2001 cases: The April shooting by LDU members of two persons and the injuring of another in Kabarole District; the June killing of a woman and injuring of 14 persons by UPDF soldiers in an internally displaced persons (IDP) camp in Kilak County, Gulu District; the June killing of a political opponent by the bodyguard of Hoima Resident District Commissioner (RDC) Simon Mulongo in Bubulo East; the June killing of one person by parliamentary candidate Otieno Akika; the July killing of Makerere University student George Babigumira by police in Kampala; and the August killing of Annet Nakimuli by a police constable during an eviction in Kampala.

On August 16, a Special Police Constable in Nakasongola District was found guilty and sentenced to death for the murder of a fish dealer in 2000.

There was no action taken, nor was any likely, against the members of the security forces responsible for the following killings in 2000: The January killing of two LRA rebels by UPDF soldiers during an attack on Paloga trading center, Gulu; the January killing of six persons by the UPDF and the police in the Kampala suburb of Kabalagala; and the killing of nine persons by UPDF soldiers at a wedding party in the village of Kikere, DRC.

During the year, violent crime increased considerably nationwide, including carjackings, armed robberies, and murders. In June the Government began an anti-crime operation code named "Operation Wembley." Under the campaign, security forces fought aggressively against crime; however, the campaign resulted in many deaths, some in gunfire exchanges with criminals, some while criminals were trying to resist arrest or escape from detention. For example, on May 27, an LDU officer was arrested and charged with the murder of a 5-year-old child who was killed in crossfire when security personnel pursued thieves in Poloto Village in Mukono District. Human rights organizations questioned the legality and severity of the police actions.

On June 29, police operating under Operation Wembley killed three armed robbers, allegedly while they tried to escape from custody in Masaka Town.

Security forces used unwarranted lethal force during arrests. For example, on September 9, security forces killed a pedestrian while trying to arrest armed thieves in the Kampala industrial area.

Police at times used excessive force while dispersing gatherings that resulted in killings (*see* Section 2.b.).

There were reports of deaths in custody that resulted from alleged torture or other abuse. For example, on June 6, a juvenile trying to escape from Nyabahukye Farm Prison in Mbarara District, died after the prison warden allegedly ordered other inmates to beat him. There were no reports of action taken against responsible prison officials.

On July 23, Patrick Owomugisha Mamenero died in CMI custody in Kampala, allegedly of internal bleeding due to blunt injury. He was arrested on July 20 in

Kabale District for alleged subversion. The CMI Director initially denied CMI responsibility, but later promised to conduct an investigation. There were no reports of an investigation at year's end.

On September 16, during the process of transferring 21 detainees from the central prison to the military barracks in Gulu District, soldiers killed Peter Oloya allegedly after he tried to disarm a soldier. The Gulu branch of UHRC said the transfer was illegal. There were no reports of investigation into the incident or action taken against the responsible military officials; two Gulu M.P.'s filed petitions in the Constitutional and municipal Courts for Oloya's wrongful death. Oloya's body never was released to his family.

During the year, harsh conditions and lack of adequate medical treatment caused some deaths in prison (*see* Section 1.c.).

Government forces also killed civilians they mistook to be rebels. For example, on August 25, a UPDF helicopter gunship killed two civilians and injured eight others in Anara Parish, Lira District. Army spokesperson Major Shaban Bantariza confirmed the incident and said that the civilians were mistaken for rebels.

On September 7, a UPDF soldier in Kitgum reportedly killed Emmanuel Onencan, a student of Panyadwong Primary School, whom he mistook to be a rebel, near the Kitgum town council offices. Major Shaban Bantariza confirmed the incident.

On October 25, a village council Secretary for Security and three surrendering LRA rebels were killed in crossfire in Omoro County, Gulu District; Major Bantariza attributed the killings to the mistaken belief that the men were rebels. There were no reports of action taken in any of the cases.

There was no investigation into the April 2001 killing of five persons and injuring of two others during a confrontation between the UPDF and the LRA in Gulu District.

UPDF forces killed numerous persons during clashes with Karamojong raiders during the year. For example, in February soldiers allegedly tortured and killed two Karamojong warriors for refusing to surrender their guns in a disarmament exercise in Kapedo sub-county, Kotido District.

On April 10, the UPDF killed 10 Karamojong warriors during a gun battle to recover illegal guns in Kotido District. The UPDF Commanding Officer of Karamoja, Col. Sula Ssemakula, confirmed the killings; however, Ssemakula did not indicate whether any action would be taken against the responsible soldiers.

In May the UPDF killed 39 Karamojong warriors during a battle in Kotido, Panyangara sub-county.

There was no action taken against the UPDF soldiers responsible for the following 2001 killings: The January killing of 29 Karamojong warriors involved in cattle raids and ensuing clashes in Moroto and Katakwi districts; the April killing of 6 Karamojong warriors during encounters with the UPDF in the Katakwi District; and the September killing of 18 Karamojong warriors when a UPDF helicopter gunship fired upon villagers in Nakapiripirit District.

In August the UPDF submitted to the International Committee of the Red Cross (ICRC) a report of investigations into the April 2001 killings of six relief workers in the Ituri District, DRC; however, the report was not conclusive. ICRC field operations remained suspended, and ICRC offices maintained only a liaison presence at year's end.

Unlike in the previous year, there were no confirmed reports of UPDF abuses in the DRC. Independent observers often found access difficult due to hazardous security conditions and frequent impediments imposed by authorities. Both pro- and anti-DRC government forces extensively used propaganda disseminated via local media, including accusations of abuse by opposing forces, further complicating efforts to obtain accurate information regarding such events. In September the Government and the DRC agreed to set up a joint "pacification mission" to promote peace in Ituri region.

There were reports that violence between the Hema and Lendu tribes in northeastern DRC that was under UPDF influence resulted in the deaths of thousands of Congolese civilians.

Private Otim Okello's death sentence for killing six Congolese civilians had not been carried out by year's end.

There was no action taken against members of the UPDF for abuses committed during the 2000 fighting in Kisangani, DRC.

LRA attacks increased during the year. There were numerous LRA attacks on villages, IDP camps, and refugee camps in which persons were killed, injured, raped, or abducted (*see* Sections 1.b. and 2.d.). During the year, LRA attacks resulted in the deaths of approximately 750 persons, including children, numerous injuries, and the destruction of homes and property. While new incidents of mutilation were not reported, the LRA committed numerous atrocities. For example, on February 23,



LRA rebels killed eight persons during an attack on Agoro Market in Kitgum District. Eyewitnesses reported that the rebels forced parents to kill their own children by beating their heads against trees.

In March LRA rebels reportedly killed an estimated 50 children captives in the Imatong and Acholi Mountains in Sudan on the orders of Joseph Kony. A significant number reportedly died of hunger.

On October 13, LRA rebels burned to death 52 civilians during an attack in Mucwini Trading Center.

Protected villages, IDP camps, and refugee camps also were the targets of large-scale rebel attacks during the year (*see* Section.c.). On July 8, LRA rebels killed five refugees and a UPDF soldier during an attack on the Maaji Refugee Resettlement Camp in Adjumani, West Nile.

On August 5, LRA rebels killed 60 persons and injured several others during an attack on Achol-pii Refugee Camp in Aruu County, Pader District.

In September LRA rebels attacked a World Food Program (WFP) convoy and killed one of the drivers.

No action was taken against LRA rebels responsible for the following 2001 killings: The March killing of 9 persons in Pader District; the March killing of 12 persons and injuring of several others in the Murchison Falls National Park; the June killing of 3 Sudanese refugees and injuring of 7 others at the Maaji Refugee Camp; and the September killing of 1 relief worker and 4 civilians in Gulu.

There were no developments in the case of the LRA rebels who killed Father Raffale Di Bari of the Comboni Missionary Fathers, Kitgum RDC J.B. Ochaya, and seven others in 2000.

During the year, there were at least two reports of landmine use by the LRA. There continued to be deaths and injuries resulting from previously laid landmines. In March one person was killed and another seriously injured by a landmine allegedly laid by LRA rebels in Pawele, along the Gulu-Juba highway.

During the year, one person was killed during crossfire with ADF rebels (*see* Section 1.b.).

No action was taken against the alleged ADF members who in March 2001 killed 10 persons, injured several others, and burned 54 vehicles during an attack on Kasese.

Raids by armed Karamojong raiders continued during the year in Katakwi, Kotido and Kapchorwa districts in the northeast and resulted in more than 50 deaths and more than 80,000 IDPs (*see* Section 2.d.).

Unlike in the previous year, there were no reports that the Karamojong raiders killed relief workers in road ambushes. The Government continued its disarmament program for the Karamojong to stop the raids and killings.

There were no developments in the November 2001 case in which unidentified rebels killed a Catholic priest and two other foreign persons.

Unlike in the previous year, there were no reports of Rwandan Hutu rebel attacks in the country. There were no developments in the case of the Rwandan Hutus who killed two civilians in 2001 in Kisoro District.

Unlike in the previous year, there were no reports of urban bombings in Kampala and other cities; however, on August 12, one person was killed, and five others were injured when a bomb exploded in a house in Iganga District. No one claimed responsibility for the incident.

There were no developments in the cases against persons allegedly responsible for the 2001 series of bombings in the Kampala and Jinja urban centers and Sironko District that resulted in several deaths.

There were no developments in the 2000 grenade attacks in Kampala and Gulu that resulted in the deaths of nine persons.

Incidents of vigilante justice increased and were reported almost daily during the year (*see* Section 1.c.). In April the Inspector General of Police Major General Edward Katumba Wamala estimated that more than 1,000 persons had been killed by mob violence since 1991 and called for an end to the practice. Mobs often targeted and attacked criminals or alleged witches. There were numerous instances in which mobs beat or burned to death petty theft suspects. For example, on July 6, a mob cut with machetes, doused with petrol, and burned to death a suspected thief in Nyendo, Masaka District.

Unlike in the previous year, authorities prosecuted persons who engaged in mob violence. For example, on June 24, the High Court in Jinja convicted six persons of the mob murder of four persons in Kamuli District in 2000 and sentenced them to death. On September 30, the High Court in Kampala charged four men with the mob murder of a taxi driver who allegedly had killed a neighbor's child in Rubaga. However, there was no action taken against persons responsible for the October 2001 mob killing of a suspected thief near Kampala.

There were increased reports of ritual killings of children during the year (*see* Section 5).

*b. Disappearance.*—There were no confirmed reports of politically motivated disappearances due to action by government forces; however, there were numerous disappearances during the year. For example, on September 1, security officials who claimed to be “Operation Wembley” operatives reportedly abducted Steven Mukama, Vincent Kasozi, and Henry Subi from their homes in Kampala. On September 12, the Uganda High Court ordered the police and other security agencies to produce in court the three missing persons. On September 16, the three appeared in court and were charged with terrorism, aggravated robbery, and illegal possession of arms. The case still was pending at year’s end.

There were no developments in the February 2001 disappearance of Ahmed Mugere and Richard Mutebi, two supporters of opposition leader Besigye.

UNICEF reported that as many as 30,839 children and adults have been abducted since 1986 by rebel groups. Approximately one-third of the abductees were children, and 20 percent of the adults taken were female. UNICEF also stated that of these, 28,903 abductees were from the north, while 2,036 were from the southwest. Approximately 13,611 persons remained missing and presumed dead at year’s end, more than 5,000 of which were children.

UNICEF estimates that 4,500 children were abducted (including long-term and short-term abductions) in the north during the year; some of the children were released and returned home. There were an estimated 7,800 abductions overall from the north during the year. On September 14, LRA rebels abducted two elderly Italian priests and several citizens. The priests were released the next day, and some of the citizens were released by the end of September. The fate of the others was unknown.

During the year, the LRA significantly increased its abductions of civilians for training as guerrillas and as sex slaves, cooks, and porters; most victims were children and young adults. The LRA abducted an estimated 1,086 persons, including children and young girls (*see* Section 1.c.).

For example, on August 6, LRA rebels abducted four workers of the International Rescue Committee (IRC) following an attack on the Achol-pii Refugee Camp (*see* Section 1.a.). On August 11, the aid workers were released in Kazi Kazi.

The ADF abducted civilians on one occasion. On May 13, five ADF rebels abducted two girls during an attack on Bujonjo Trading Center in Nyamiramira Parish, Kagadi sub-county. The UPDF rescued one of the girls; the other girl was killed during the crossfire.

Under the 2000 Amnesty Act, government assistance was provided to former rebels to assist their return to the country. On May 9, UNRF-II Chairman, Major General Ali Bamuze, returned from Sudan to discuss amnesty and released more than 135 child soldiers to UNICEF for rehabilitation. On December 24, Bamuze signed a peace agreement with the Government.

Unlike in the previous year, there were no reports that Karamojong warriors abducted women as part of their traditional practice in which they claim unmarried women as wives by raping them.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, security forces commonly beat criminal suspects, often to force confessions. There were a few reports that security forces tortured suspects, primarily during the period prior to and after the March local council elections.

For example, on March 18, UPDF soldiers and members of the LDU from Moroto District allegedly beat and robbed civilians in Achowa sub-county; the authorities in Katakwi District were investigating the allegations at year’s end.

In May UPDF soldiers allegedly forced Esther Angela to swallow beads she was wearing and assaulted her co-wife Grace Aleper, whom they accused of violating a new, military-imposed dress code intended to apply only to men, during the ongoing disarmament exercise in Karamoja. In September the UPDF 3rd Division Commander ordered the detention of the nine soldiers, including his aide, who had been acquitted of a court martial for assaulting the two women on August 29. The case was pending at year’s end.

On August 23, Lt. Julius Mwali, a UPDF Intelligence Officer attached to the 21st Battalion in the southern district of Kabale, allegedly tortured a student; Mwali later was arrested.

Police arrested several persons who claimed to have been tortured or beaten while in custody. There were fewer reports during the year that members of the LDUs, who frequently lacked training, mistreated prisoners and detainees.

Police and security forces at times harassed and detained opposition activists and journalists (*see* Sections 1.d. and 2.a.).

There were allegations that UPDF soldiers raped and tortured persons in protected villages, IDP camps, and refugee camps that were the targets of large-scale rebel attacks during the year (*see* Section 1.a.).

On January 10, the police Human Rights Desk released a report on the 317 complaints received in 2001, including allegations of excessive force, torture, assault, rape, and murder. According to the report, of the 317 complaints received, 250 were resolved and 67 were pending investigations. During the year, the desk received 386 new complaints; however, details of the new police report were not released by year's end.

Police processed 101 cases of election-related violence in 2001. During the year, the NGO Election Monitoring Group-Uganda (NEMGROUP) recorded numerous incidents of election-related violence, including murder, attempted murder, harassment, intimidation, riots, and attacks against property.

In conjunction with the UHRC, the police continued a training program for police officials to foster respect for internationally recognized human rights standards. The UHRC and NGOs conducted similar programs with UPDF officials during the year.

The Government investigated some cases of abuse, and tried and punished some offenders (*see* Sections 1.a. and 3). In May 2001, the Ministry of Internal Affairs released the 1999 Judicial Commission of Inquiry report into corruption in the police force. The Commission recommended reform of the police force, including the removal of senior police officers found to be incompetent or who had acquired wealth fraudulently. Five high-ranking police officers subsequently were fired. During the year, four police officers interdicted in 2001 were reinstated; however, three others retired, and one was dismissed following investigations by the disciplinary committee of the police force.

The UHRC Tribunal awarded compensation to several persons who had been abused by police. For example, on April 16, the UHRC Tribunal awarded approximately \$18,000 (33 million shillings) to James Kamengo as compensation for torture and inhuman degrading treatment by Lugazi Police, Mukono District in 1999.

On May 22, the UHRC Tribunal awarded approximately \$16,000 (30 million shillings) to Private Godfrey Birungi as compensation for having been detained for 3 years, tortured, and deprived of his property by the UPDF in 1997.

On August 29, the UHRC tribunal awarded approximately \$2,222 (4 million shillings) as compensation to Yitzach Ocircan, whom police arrested, detained, and tortured for 12 days in 1998.

However, the Government failed to prosecute some persons who had committed abuses. For example, on April 26, the DPP dropped the charges of inciting violence against Ken Lukyamuzi, M.P. Rubaga Division, Kampala District, who in February 2001 urged the public to injure or kill any foreigner who attempted to vote in the presidential election at a rally in Kampala. No reason was given for the withdrawal of charges. Nasser Sebagala, who faced similar charges, was convicted of inciting violence in 2001 but was released with a warning.

There were no developments in the April 2001 incident in which LDU members killed two persons and injured another in Rwenkuba sub-county, Burahya, Kabarole District.

There were no further developments or action taken in the following 2001 election abuses: The January intimidation of opposition candidates in Rukungiri by members of the Presidential Protection Unit (PPU); the January case in which seven supporters of opposition leader Besigye were shot; the January beating of supporters of President Museveni; the January attacking of former candidate Chapaa Karuhanga's campaign team by armed gunmen; the February beating of supporters of opposition leader Besigye by Museveni supporters in Luwero; and the July 2001 harassment of Lydia Kamanyi, deputy campaign manager to presidential candidate Aggrey Awori.

There was no action taken against the UPDF soldiers in the following 2001 cases: The March case in which PPU members opened fire and injured several persons in Rukungiri; the March intimidation of voters by the UPDF soldiers in Gulu; the June injuring of 14 persons at the Pabbo IDP camp during violent clashes between supporters of parliamentary candidates; and the June allegation that UPDF soldiers beat voters in Mbarara, Lira, Kyoga, and Otuke.

There were no new developments in the following 2000 cases: The case in which Major Kakooza Mutale allegedly detained and tortured businessman Charles Mpunga at Mbuya Military Barracks; the case in which a police constable in Kayunga, Mukono District, allegedly tortured two civilians; the case in which the UPDF reserve force commander for Tororo district was arrested for torturing and beating of civilians and two police officers; and the case in which Major Dick

Bugingo, a commanding officer in the PPU, was summoned by the UHRC tribunal on charges that he tortured Sergeant Godfrey Mubiru.

There were no reports of any action taken against the responsible members of the police who beat or otherwise abused persons in the following cases from 2000: The March forcible dispersal of an unauthorized rally in Mbarara; the April beating of Ahmed Washaki, an official of the Uganda People's Congress (UPC); the June beating and arrest of 11 Makerere University students; and the September forcible dispersal of a Uganda Young Democrats (UYD) meeting in Gulu.

In accordance with the Lusaka Accords, the Government withdrew most of its troops from the DRC during the year; however, approximately 1,500 soldiers remained in Bunia and on the western slopes of the Rwenzori Mountains.

In 2001 the U.N. released a report that accused various foreign armies in the DRC, including the UPDF, of exploiting the DRC's minerals and other resources, as well as committing human rights abuses. In May 2001, the Government set up the "Judicial Commission into Illegal Exploitation of DRC's Natural Resources and Other Forms of Wealth by Uganda" to investigate the allegations. The report was completed in December but had not been released by year's end.

No action was taken during the year against members of the UPDF responsible for abuses committed in Kisangani in 2000.

There were no developments in the 2000 case in which two senior UPDF Officers were arrested for their involvement in violence between the Hema and Lendu in the DRC.

Reports of violations of humanitarian law decreased in the west, but remained a problem in the north due to the upsurge in LRA activity and the disarmament of the Karamojong in the northeast. The number of reported violations by the Government increased during the year in response to increased activities and abductions by the LRA. There were reports that civilians were injured during fights between UPDF forces and rebels (*see* Section 1.a.).

There were reports that the LRA committed numerous atrocities, including the use of landmines. The LRA increased attacks and the looting and burning of private homes, schools, and IDP and refugee camps. The LRA continued to abduct children and, at clandestine bases, forced them into virtual slavery as guards, concubines, and soldiers (*see* Section 1.b.). In addition to being beaten, raped, and forced to march until exhausted, abducted children were forced to participate in the killing of other children who attempted to escape. There also were numerous LRA attacks in which persons were killed and injured and homes and property were destroyed (*see* Section 1.a.).

There were numerous instances in which mobs attacked suspected thieves and other offenders caught in the commission of crimes (*see* Section 1.a.). Often motivated by widespread distrust or misunderstanding of the justice system, these mobs engaged in stonings, beatings, and other forms of mistreatment. Such mistreatment included tying suspects' wrists and ankles together behind their backs, stripping suspects of their clothes and parading them through the streets, or forcing suspects to hop painfully on the sides of their ankles.

Prison conditions remained harsh and life threatening for the estimated 17,500 inmates in the various prisons and police cells primarily as a result of the Government's seriously inadequate funding of prison facilities. Prison conditions came closest to meeting international standards in Kampala, where prisons provided medical care, running water, and sanitation; however, these prisons also were among the most overcrowded. By one estimate, the country's prisons held approximately three times their planned capacity. The central prison system continued to work with NGOs and the donor community to improve prison buildings, water and sanitation systems, food, and uniforms; however, progress was minimal during the year. Although the law provides for access to prisoners by their families, ignorance of this right and fear of prison authorities often limited family visits. The UHRC reported that it received allegations that officers in charge of police cells sometimes demanded bribes to allow visits.

In March the UHRC reported overcrowding, torture by wardens, severely inadequate medical services, unhygienic conditions, and "semi-starvation" among prisoners in many prisons. The investigator also received complaints from female prisoners that prison authorities tortured them. In March the UHRC branch in Gulu investigated the 2000 torture allegations of four inmates and wrote to the Officer in Charge of Lira government Prisons, who demoted Alfred Obura and transferred others who were responsible to different departments. Long remand periods also were a problem. For example, Gorretti Kabanuka, an elderly female inmate, had been on remand for 6 years in Kakiika prison in Mbarara.

Prisoners at most of the prisons grew maize, millet, and vegetables; however, the UHRC accused prison farms of overworking inmates (*see* Section 6.c.). Skilled pris-

oners earned approximately \$0.14 (500 shillings), and unskilled prisoners earned approximately \$0.06 (100 shillings) per day.

The Community Service Act reduces prison congestion by allowing minor offenders to do community service instead of being imprisoned. Since the act was implemented in November 2001, 301 offenders have been sentenced to community service in the pilot districts of Mukono, Mpigi, Masaka, and Masindi.

There were a number of deaths in custody, some due to torture (*see* Section 1.a.).

Authority over the local prison system remained with the Ministry of Local government. Both civilian and military prisons were believed to have high mortality rates from overcrowding, malnutrition, diseases spread by unsanitary conditions, HIV/AIDS, and lack of medical care; however, accurate estimates were unavailable. In October Assistant Commissioner of the Uganda Prisons Department Mary Kaddu reported the deaths in custody of 37 inmates due to health reasons in Kampala's Luzira Prison during the year; 30 of the 37 died of HIV/AIDS-related diseases. Government agencies sponsored or participated in numerous conferences on the justice system and prison conditions, and worked closely with international and domestic human rights organizations on prison reform efforts during the year.

Female prisoners were held in segregated wings with female staff in most prisons. According to human rights advocates, rape generally was not a problem, although female prisoners also suffered from severely substandard conditions. Due to lack of space in juvenile facilities, juveniles often were kept in prisons with adults. The central prison system maintained one juvenile prison and four lower security remand homes. School facilities and health clinics in all five institutions were defunct; prisoners as young as age 12 performed manual labor from dawn until dusk. Severe overcrowding also was a problem at juvenile detention facilities and in women's wings. The remand home in Kampala, designed for 45 inmates, held approximately 140 children. In Kampala penal institutions, pretrial detainees were kept separate from convicted prisoners; however, in the rest of the country, due to financial constraints, pretrial detainees and convicted prisoners sometimes were held together.

The Government permitted full access to prisons by the ICRC and local NGOs, principally the Foundation for Human Rights Initiative (FHRI) and the Uganda Prisoners' Aid Foundation. The UHRC visited numerous prisons and reported on its findings publicly. Prison authorities required advance notification of visits, a process that often was subject to administrative delays.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits such practices; however, members of the security forces arrested and detained citizens arbitrarily. Under the Constitution, search warrants issued by competent Judges or prosecutors are required to make an arrest; however, in practice suspects often were taken into custody without them. According to the Constitution, a suspect must be charged within 48 hours of arrest and be brought to trial or released on bail within 120 days (360 days for a capital offense). The Constitution also provides that suspects must have access to a lawyer; however, there was no provision for family visitation. The Constitution provides for bail in all but capital cases and cases of treason. If the case is presented to the court before the expiration of this period, the Constitution does not limit pretrial detention. The Constitution also provides that detainees be informed immediately of the reasons for their detention; however, in practice the authorities did not enforce these procedural protections. In March Parliament passed the Anti-Terrorism Act, which permits suspects to be held for not more than 48 hours without charge, repeals section 28 of the Penal Code that limits the definition of terrorism to illegal possession of firearms, and requires the death penalty for all convicted terrorists. On October 4, the General Court Martial in Kampala remanded UPDF Deputy Director for Sports Captain Moses Kabusenene under this act, after he was charged with terrorism, aggravated robbery, and illegal possession of a firearm.

Legal and human rights groups, including the UHRC, strongly criticized the excessive length of detention without trial, in many cases amounting to several years, for alleged offenses under other laws, which both violated the constitutional rights of the detainees and substantially contributed to prison overcrowding (*see* Section 1.c.). Pretrial detainees comprised 70 percent of the prison population. The average time in pretrial detention was between 2 and 3 years. An estimated 11,300 of the approximately 17,500 persons being held in the central prisons and in the local government-run prisons were pretrial detainees. During the year, the UHRC heard several cases brought by prisoners challenging the length of their detention (*see* Section 1.c.).

During the year, there were reported detentions of civilians in military barracks and unregistered places of remand. There were credible allegations that the CMI ordered detainees held incommunicado in police stations or so-called safe houses.

Arbitrary arrest was a problem, and police at times harassed and detained opposition activists (*see* Section 2.b.). During the local council election campaigns, there were many reports of arbitrary detention; however, few were reported to human rights groups or were verified independently.

For example, on February 13, five persons, including Abdelatif Sebagala, M.P. of Kawempe North, were arrested, taken to CMI cells, and later released without charges. The men who arrested them allegedly belonged to the extrajudicial group, Kalangala Action Plan, which was under the direction of Presidential Advisor on Political Affairs Major Kakooza Mutale and most often was used during elections to sway votes and harass citizens.

On March 31, CMI Officers in Rukungiri District, southwestern region, arrested James Musinguzi, former campaign manager of opposition leader Besigye for allegedly mobilizing youth for subversive purposes. He was released after a few hours.

On June 14, Alice Nakyanzi Katooda, a former Besigye campaign manager, and her husband were arrested for alleged subversion. On August 23, the ISO released them after 2 months in detention in the southwestern district of Ntungamo.

On September 7, security forces arrested and charged 14 opposition youths with treason in Gulu. The case was pending at year's end.

On September 17, police arrested and released after 4 hours Francis Malinga Egosot, a former Besigye Presidential Task Force Secretary, in Entebbe. On October 4, Egosot wrote to the Inspector General of Police asking him to investigate the alleged harassment. The case was pending at year's end.

Police at times detained journalists (*see* Section 2.a.).

Arbitrary mass arrests, known as "panda gari," remained a problem. On February 11, security forces arrested more than 150 suspected criminals, including 20 suspected sex workers, in Lira Town. The operation was prompted by a wave of robberies and murders. There were no reports of any court action.

On February 18, security forces arrested 128 suspected criminals in Jinja. The suspects reportedly were screened and released, and those without proper documents were sent to court.

On March 22, security forces arrested 38 persons at Lambu Landing Site, Mukono District. Those arrested were suspected prostitutes, drug addicts, and petty thieves. There were no reports of further judicial action.

The UPDF routinely detained for debriefing LRA fighters and their abductees, including adults and children, at the Gulu military barracks (*see* Section 5). There were several reports during the year that abductees, mostly children, escaped from the LRA or were freed and returned to their families.

There were fewer reports during the year that LDU members arrested citizens.

On January 16, Kampala Police released Bob Kabushenga, a former campaign manager of opposition leader Besigye, who was arrested from his home in Kampala in December 2001, on allegations that he was involved in the murder of Lt. Godfrey Ngabirano. On April 17, he filed a case against the Attorney General for illegal detention.

On July 24, a court sentenced five members of the Ndawula Religious Group, who had been charged in 2001 with unlawful assembly, to a fine of \$111 (200,000 shillings) or 6 months imprisonment.

On September 2, the court adjourned until October 31 the hearing of the February 2001 case in which Hajji Ramathan Muwonge, former campaign manager of opposition leader Besigye, sued the Government for wrongful detention and assault and demanded \$14,500 (250 million shillings) in compensation. No action had been taken on this case by year's end.

On September 3, the hearing of the September 2001 case in which Winnie Byanyima, M.P. for Mbarara Municipality and Besigye's wife, had been charged with unlawful possession of a firearm and seven bullets, was adjourned until October 31, when Byanyima's defense witness failed to appear. The case was ongoing at year's end.

The UHRC reported that Frank Byaruhanga, who was arrested and remanded to Kigo Prison on treason charges in November 2001, was in good health. His case still was pending at year's end.

There were no developments in the following 2001 cases of arbitrary arrest and detention: The February case in which PPU members reportedly arrested and detained for 2 days Lieutenant Bariba Kafara, Besigye's chief campaigner in Rukungiri; the February case in which Presidential Advisor on Political Affairs Mutale allegedly commanded UPDF soldiers to arrest several Besigye supporters in Tororo; the June detention of Hajji Muhammad Kimbugwe by the DMI; and the July mass arrests of persons in Kampala, Kasese, and Masaka.

There were no developments in the following 2000 cases: The case in which police arrested and later released Sam Lyomoki, Worker's M.P. and General Secretary of

the Uganda Medical Union, after he protested in front of State House (the President's residence); the case in which authorities arrested several religious leaders and church members for incidents including killings, defilement, rape, abduction, theft, and unlawful assembly; and the case of 30 youths arrested in Gulu after they were found without identification papers.

The Constitution does not prohibit forced exile; however, the Government did not use exile as a means of political control. During the year, several UPDF officers and Besigye supporters left the country. For example, on February 1, Sabiiti Mutegeza, UPDF's former Director of Records, left the country following an investigation against him over alleged corruption. In February Lt. Muhire Mugire, former ISO Director of Personnel also went into exile. In May Dennis Murindwa, Besigye's cousin who was charged with treason for the alleged recruitment of youths into rebel activity, was released when the court found he had been held beyond the mandatory 48 hours and then reportedly left the country. In September the independent Monitor newspaper reported that Mbareeba Kifaka, a Reform Agenda member, left the country following alleged harassment by security personnel. Kifaka was arrested for alleged subversion and later released in August in Rukungiri.

Former presidential candidate Kizza Besigye and a number of persons on his National Task force, including Rabwoni Okwir, Deus Bainomugisha, and Ann Mugisha, remained in self-imposed exile during the year. James Opoka reportedly was collaborating with the LRA in the north during the year.

Some former rebels returned to the country during the year under the 2000 amnesty (*see* Section 1.e.).

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the President had extensive legal powers that influenced the exercise of this independence. The President nominated, for the approval of Parliament, members of the Judicial Service Commission, which made recommendations on appointments to the High Court, the Court of Appeal, and the Supreme Court. The lower courts remained understaffed and weak.

The highest court was the Supreme Court, followed by the Court of Appeal (which also functioned as the Constitutional Court for cases of first instance involving constitutional issues), the High Court, the Chief Magistrate's Court, local council (LC) level 3 (sub-county) courts, LC level 2 (parish) courts, and LC level 1 (village) courts. A minimum of six justices could sit on the Supreme Court and the Court of Appeal. In addition, there were a few specialized courts that dealt with industrial and other matters. The Industrial Court (IC), which arbitrated labor disputes, structurally was parallel to the chief magistrate's court. A system of commercial courts resolved commercial disputes, improved commercial justice, and reduced case backlogs. There also was a military court system.

The LC courts often were marred by bribery and male dominance in rural areas. The LC courts had the authority to settle civil disputes, including land ownership and payment of debts, and criminal cases involving children. These courts, often the only ones available to villagers, frequently exceeded their authority by hearing criminal cases, including murder and rape. LC court decisions could be appealed to magistrate's courts; however, often there were no records made at the village level, and defendants were not aware of their right to appeal.

The civilian judicial system contained procedural safeguards, including bail and the right of appeal; however, an inadequate system of judicial administration and a lack of resources, resulting in a serious backlog of cases, circumscribed the right to a fair trial. The case backlog in the High Court continued to diminish; the number of criminal cases pending decreased from 149 in 2001 to 87 by year's end. Most courts rarely observed the constitutionally prescribed limits on pretrial detention. All nonmilitary trials were public.

Many defendants could not afford legal representation. The Constitution requires that the Government provide an attorney for indigent defendants accused of capital offenses, but there rarely was enough money to retain adequate counsel. The Uganda Law Society operated legal aid clinics in four regional offices, although its services remained limited due to funding constraints. It assisted military defendants as well as civilians. The local chapter of Federation International de Abogadas/Uganda Women Lawyers Association (FIDA-U) and the FHRI also practiced public interest law from offices in Kampala. The Law Development Center operated a legal aid clinic to address cases involving children and those accused of petty crimes. A public defense service also operated; however, it lacked government funding and relied solely on donor support.

The military court system did not assure the right to a fair trial. Although the accused had the right to legal counsel, some military defense attorneys were untrained and could be assigned by the military command, which also appointed the prosecutor and the adjudicating officer. The law establishes a court-martial appeals

process; however, the sentence passed by a military court, which could include the death penalty, could be appealed only to the High Command. Under exigent circumstances, a field court martial could be convened at the scene of the crime; however, the law does not permit an appeal under this provision.

On August 23, the Government utilized a National Resistance Army (NRA) statute granting jurisdiction over civilians found in possession of military property (including weapons and uniforms) and instituted an extraordinary court martial tribunal to try some suspects detained under Operation Wembley (*see* Section 1.a.). At least 450 suspects were arrested and detained on various counts including terrorism, aggravated robbery, murder, illegal possession of firearms and desertion, and on September 16, the tribunal began hearing some cases. On October 17, detainees challenged the legality of the extraordinary court martial. However, the Directorate of Public Prosecution, however, ruled that the tribunals were legal under the 1992 NRA statute.

The Government continued to arrest and charge persons for treason, especially captured rebel fighters and opposition supporters (*see* Section 1.d.). During the year, numerous human rights abuses continued to be committed in connection with treason cases, including political detention, detention without charge, detention in unregistered and unofficial places of remand, and mistreatment, including torture. At year's end, prison officials reported that there more than 120 persons detained on charges of treason. Detainees included members of the Islamic Tabliq group, some of whom were released and then rearrested (*see* Section 2.c.).

In 2000 the President signed an amnesty law, which applies to all persons involved in insurgencies since the Movement came into power in 1986. In July the amnesty law was extended for a 6-month period. Since the establishment of the amnesty Commission, 4,714 former rebels or collaborators accepted amnesty, of which 141 were already in prison in 2001 on charges of treason. During the year, no former rebels in prison on treason charges were pardoned, but there were pending applications. On April 19, approximately 1,350 UNRF-II rebels based in Southern Sudan returned to the country with their families to negotiate resettlement terms under the Amnesty Program, which increased the number of persons at a camp in Yumbe supported by the UPDF under a de-facto ceasefire to 2,500. The Government also released some persons convicted of treason and other suspects; however, by year's end, the Government had made limited progress in implementing provisions in the amnesty act related to the repatriation and resettlement of former rebels because of funding constraints.

There was one political prisoner. Bright Gabula Africa, whose death sentence for treason (plotting an armed coup) was upheld by the Supreme Court in 1995, remained imprisoned pending the outcome of his appeal to the Advisory Committee on the Prerogative of Mercy, a largely autonomous constitutional body.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice; however, there were some exceptions. The law requires that police obtain search warrants before entering private homes or offices; however, at times police did not obtain warrants prior to searches.

During the presidential, parliamentary, and local council election campaigns, there were credible reports that security officials searched homes and applied routine traffic roadblocks without warrants. The police also sometimes searched vehicles without prior warrants. During the year, police searched a newspaper office without a warrant (*see* Section 2.a.).

On March 20, Parliament passed the Anti-Terrorism Act, which authorizes certain law enforcement officials to intercept communication in order to detect and prevent terrorist activities. Prison officials routinely censored prisoners' mail.

The Government required that employees in the President's office register their political affiliation in writing.

The Government at times punished family members of suspected criminals. On July 13, John Bagashasha, a relative of Lt. Col. Anthony Kyakabale, an alleged UPDF deserter believed to be organizing a rebel force against the Government, was arrested for alleged subversion. In August the DMI released him.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government at times did not respect these rights in practice.

On occasion persons were arrested for criticizing the Government. For example, on February 8, police in Kampala questioned M.P. Michael Mabikke over seditious statements he allegedly made about President Museveni on January 31, in Kampala. He was released after 6 hours and issued a warning.



Most public media generally were free and outspoken. There were many privately-owned publications and broadcasters. The New Vision, a government-owned daily newspaper with a circulation of 35,000, was of fairly high quality and sometimes included reporting that was critical of the Government. The independent Monitor newspaper, with a daily circulation of approximately 30,000, consistently was critical of the Government. The East African, a Kenya-based weekly publication that provided extensive reporting on the country, continued to circulate without government hindrance.

In October the police raided the independent Monitor newspaper and shut down its publication for 1 week. The police, who did not obtain a search warrant, confiscated computers, mobile phones, diskettes, and print materials. Two editors and a journalist were charged with publication of false information that was considered a threat to national security. The Monitor subsequently was closed down and reopened 1 week later.

A print media law and a broadcast media law require journalists to be licensed and to meet certain standards, such as holding a university degree in journalism or the equivalent. The law also provides for a Media Council that can suspend newspapers and deny access to state information; the Media Council was staffed but not operational during the year. Government officials began to enforce the law at year's end. In November President Museveni ordered stations to stop interviewing "exiled political dissidents" who failed to renounce terrorist and subversive activity, specifically opposition leader Kizza Besigye.

Police at times harassed journalists by detaining them for several hours of questioning. In July an editor and a reporter from the Monitor were summoned by the police for questioning about a news story titled "Uganda Training Rwandan Rebels, Kigali tells UK," in which the journalists allegedly published false information. No formal charges were made.

Government ministers continued to speak out publicly against obscenity and for "press responsibility" in terms of moral content of media. On February 26, police investigators summoned the editor of Bukedde, the Luganda-language sister newspaper of the state-owned New Vision, for the publication of pornographic material; however, Bukedde was not charged.

The charges against the editor of the Red Pepper tabloid, who in October 2001 published obscene photographs, were dropped or suspended.

Unlike in the previous year, there were no reports that security forces forcibly removed journalists from open meetings and press conferences.

The Government continued to operate Radio Uganda, the only national radio station, and one television station (UTV), whose reporting was not considered to be independent. At year's end, there were at least 50 radio stations, mostly private, operating throughout the country. Monitor FM radio, belonging to the Monitor publications group, continued to operate throughout the raid and closure of the Monitor newspaper. There were four local private television stations and more than a dozen private television stations available via satellite. The number of independent media broadcast sources increased during the year.

Several independent media outlets in Kampala broadcast daily or weekly political talk shows, including live off-site radio public debates called "bimeeza" ("peoples' parliament"), which often were very critical of the Government. In August some government and police officials raised security concerns about the programs; however, other officials championed bimeeza as a forum to promote government policies. In late December, the Secretary of the National Broadcasting Council, a governmental body, informed three radio stations that they must stop broadcasting from off-site locations. Under protest the stations modified their bimeeza programs in subsequent weeks by moving them to station premises or taping them in advance. On December 19, the Minister of Information said the Government would begin enforcing media laws and restricting bimeeza, citing legal and security concerns.

Uncensored Internet access was available widely in major cities through several commercial service providers; however, it continued to be beyond the reach of most noninstitutional users, despite declining costs as competition increased. There were more than a dozen cyber cafes in Kampala and a few other cities, and several NGOs offered Internet access.

The Government did not restrict academic freedom. There were two public and more than nine private universities. Students and faculty sponsored wide-ranging political debates in open forums. On October 14, Makerere University students organized a demonstration to protest the police raid on the Monitor newspaper; however, the students cancelled it. One newspaper article said the demonstration was cancelled because of police threats to stop it, while others believed that the Monitor management asked students to let the newspaper resolve their problems quietly.

with the Government. Unlike in the previous year, police did not forcibly disperse student demonstrations.

Political education and military science courses known as “Chaka Mchaka” continued during the year on a national level; however, the courses were not mandatory. These courses were criticized as indoctrination in Movement political philosophy.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution restricts freedom of assembly, particularly for political groups. Permits were not required for public meetings; however, groups were required to notify the police prior to such gatherings. Police denied permission to hold public rallies to several non-Movement groups during the year; however, in practice many groups held rallies and large gatherings, only some of which were declared illegal or disrupted by authorities. For example, on February 1, opposition members Paul Ssemogerere of the Democratic Party (DP), Karuhanga Chapaa of the National Democrats Forum, Muhammed Kibirige Mayanja of the Justice Forum, and James Rwanyarare of the UPC, held a meeting in Kampala to discuss President Museveni’s remarks on political parties, and authorities did not interfere.

On May 14, Karamojong locals demonstrated in Moroto against UPDF soldiers whom they accused of looting property, beating and molesting civilians, and assaulting women and girls following a May 13 operation in which Karamojong men and women were detained and undressed by soldiers after the 3rd Division Commander’s aide de camp gave erroneous orders. The UPDF rearrested the soldiers and scheduled to retry them.

The Constitution also forbids any activities that interfere with the Movement system; the Government interpreted this provision to undermine political groups’ interests. The Constitution bans political parties from holding national conventions, issuing platforms, endorsing candidates, or opening branch offices outside the capital, and on several occasions, police disrupted or intervened and dispersed opposition demonstrations and other events. On June 6, the President approved the Political Organizations Act (POA), which regulates political party activities. The POA permits political parties to establish their headquarters and operate in Kampala; however, the law does not allow parties to operate or campaign at the district level or below. Furthermore, it requires parties to submit a list of names and addresses of at least 50 members from each of at least one third of all districts in the country. On July 2, the opposition DP and lobbying group Reform Agenda filed a petition in the Constitutional Court to challenge the constitutionality of the POA.

During the year, there continued to be credible reports that security personnel, including UPDF soldiers, intimidated members of the opposition and disrupted their rallies and political events. For example, On January 1, police arrested Rubaga South M.P. Ken Lukyamuzi on charges of trying to convene an illegal assembly at the Constitutional Square in Kampala. On January 18, police in Kampala lifted a police bond on the M.P.

On January 12, one person was killed and several others injured when police opened fire to disperse a crowd gathered for a planned UPC rally at the UPC headquarters in Kampala. The police also arrested several members of the UPC, including the Chairman of the Presidential Policy Commission, Dr. James Rwanyarare, and charged them with unlawful assembly. On January 22, the charges were withdrawn for lack of evidence. Three policemen were detained after the Inspector General of Police stated that he had ordered the police not to carry ammunition during the demonstration. They were released on bond pending investigations, and there was no court action by year’s end.

During the February LC 5 elections, security agents fired into a crowd of celebrating supporters of the winning LC 5 candidate, killing one man and injuring others in Kiboga District.

On March 21, anti-riot police in Rukungiri District stopped a planned demonstration by supporters of former Rukungiri M.P., Winnie Babihuga, who had mobilized to celebrate her victory in an election petition filed in the High Court on March 20.

There were reports that local government officials dispersed meetings of religious groups and sometimes denied groups the right to assemble for security reasons (see Section 2.c.).

No action was taken against the members of the police who forcibly dispersed demonstrations in 2001 or 2000.

The September 2001 ban on all meetings and elections within the labor movement still was in effect during the year.

The Constitution provides for freedom of association; however, the Government restricted this right in practice. NGOs were required to register with the NGO Board, which included representation from the Ministry of Internal Affairs as well as other ministries. The Government approved most NGO registrations; however, in September the Minister of State for Internal Affairs stated that the Government had

deregistered 25 NGOs in the public interest, none of which were human rights groups. At least one of the groups, Caring for Orphans, Widows, and Elderly Association (COWE) challenged its deregistration; on October 14, COWE was reinstated.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion; however, at times the Government limited this right in practice.

Religious groups and foreign missionaries, like other NGOs, had to register with the Government. The Government continued to refuse registration to the World Last Message Warning Church, due to continuing suspicions following the 2000 cult killings of more than 1,000 citizens in Kanungu. The Government appointed a Commission of Inquiry to investigate the killings; however, the Commission's investigation was delayed due to lack of funds. There were no reports that the Government refused registration to any other religious organizations.

The backlash from the 2000 cult killings resulted in negative public attitudes toward fringe Christian groups. Some local governments restricted the hours of operations and the practices of religious organizations that were viewed as cults. Several churches, including the Revival Pentecostal Church in Nseko, a church group based in Hima public school in Busongone, and the Church of the Servants of the Eucharistic Hearts of Jesus and Mary, remained closed during the year.

Muslims occupied positions of authority in local and central government; however, some Muslim leaders claimed that the number of positions did not reflect their percentage of the population.

In August the District Security Committee of Ntungamo banned night prayers in all Evangelical churches. On August 19, the Resident District Commissioner (RDC) John Kigyagi told the Government sponsored New Vision newspaper that night prayers had become a security threat. Night prayers in Masaka also remained banned at year's end.

There were several reports that security forces denied the right of assembly to some religious groups, largely due to reasons of national security. In April security authorities rejected a Muslim request to march in Kampala to protest against Israel. The Muslims agreed to hold a prayer meeting instead in downtown Kampala.

There were some reports that security officials harassed and or detained Muslims. On July 12, 15 Tabliq Muslims who were acquitted of treason by the High Court were rearrested by the Joint Anti-Terrorism Task Force on allegations that they had made contact with ADF rebels. The suspects were remanded for further questioning.

Police arrested suspected cult leaders during the year for questioning. In May police arrested Aloysius Ndyabawe, a suspected cult leader who allegedly confined and overworked his followers in Kamwenge District. Ndyabawe was released after a few hours.

On July 16, Prophet Wilson Bushara, leader of the World Last Message Warning Church, was arrested and detained on suspicion that he was reorganizing his followers in Bukoto in Nakaseke County, Luwero District. Bushara later was released from Luwero Central Prison. Bushara had been released in January for lack of evidence in the 2000 case in which he was charged with defilement, rape, abduction, and theft.

On July 24, a court in Kampala sentenced the five leaders of the Ndawula religious group, who had been charged in 2001 with managing an unlawful assembly in Wakiso, to a fine of \$111 (200,000 shillings) or 6 months imprisonment.

In July 2001, the court dismissed for lack of prosecution the 2000 case in which Innocent Bitungwabariho was charged with participating in an unlawful assembly.

Nabi Besweri Kiswabuli, leader of the Issa Massiya religious group in Iganga district, was released from prison during the year after he was cleared of any wrongdoing.

There were no developments in the following 2000 cases: The March case in which Rukungiri Assistant Resident District Commissioner (ARDC) Reverend Francis Mutazindwa was arrested and released on bail for failing to act on information about the activities of the Kanungu cult; the May case of five members of the Kisaaba Redeemed Church in Kayunga, Mukono district; and the May case of five members of the Mulungimu Full Gospel Church in Luweero.

There also were reports of societal violence against traditional African religious institutions. For example, on September 16, a group of foreign pastors and evangelical members attacked a traditional healer's shrine in Masaka District; local residents stopped the attack. Local police initiated an investigation into the incident.

For a more detailed discussion, see the 2002 *International Religious Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, the Government at times limited them in practice. Some local officials reportedly demanded payment of fees for permission to change a place of residence. A married woman must obtain

her husband's written permission on her passport application if children are traveling on her passport.

The decision of Kizza Besigye's 2001 petition to the UHRC Tribunal against the Government for wrongful restriction of movement remained pending at year's end, and he remained in self-imposed exile during the year.

Attacks by LRA terrorists and armed Karamojong raiders caused many Acholis and Iteso to leave their homes for urban centers, IDP camps, and villages guarded by the UPDF and LDU's. Although the armed Karamojong raiders did not attack the Acholi during the year, increased incursions by the Karamojong raiders led to the displacement of approximately 79,600 persons, particularly in Katakwi, Kotido and Kapchorwa Districts. It was estimated that approximately half of Katakwi, Kotido, Gulu, Kitgum and Pader district populations were in IDP camps or protected villages due to attacks by LRA or Karimojong warriors. At year's end, there were 814,199 IDPs as a result of violence in the north and northeast, according to the U.N. Office of the Coordinator for Humanitarian Affairs.

In the north, government forces continued their policy of maintaining so-called protected villages with UPDF detachments nearby as a means of protecting civilians and denying support to the LRA. Despite substantial NGO and donor community assistance, conditions worsened due to increased LRA activity in the north. The Government failed to provide adequate security to the protected villages or IDP camps, which were the targets of large-scale rebel attacks (*see* Section 1.a.).

Approximately 27,700 persons were refugees in the DRC, Sudan, and Kenya during the year.

There were no laws that provide for the granting of asylum or refugee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, the Government granted such status in practice. The Government cooperated with the Office of the U.N. High Commissioner for Refugees (UNHCR) and with other humanitarian organizations in assisting refugees. The Government continued to provide first asylum as well as land for temporary resettlement to citizens from neighboring countries and extended this practice to significant numbers of refugees during the year. More than 85 percent of the approximately 200,000 refugees in the country were from southern Sudan; there also were refugees from the DRC, Rwanda, and Somalia as well as a small number from Burundi.

In November Human Rights Watch issued a detailed report entitled "Hidden in Plain View: Refugees Living Without Protection in Nairobi and Kampala" describing the difficult living conditions of Kampala's urban refugees, including arbitrary arrests and detentions.

During the year, there were reports of the forced return of persons to a country where they feared persecution. In March the Government handed over for repatriation three Rwandan Patriotic Army (RPA) Officers, Michael Kanyamahanga, Joseph Akayezu, and Jean Baptiste Habimana.

In November 2001, the Government signed a Memorandum of Understanding on the Formation of a Joint Verification and Investigation Committee with Rwanda, which gave each country free access to inspect and investigate allegations of military and subversive activities that occurred in the other country.

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

The Constitution provides citizens with the right to change their government; however, Movement domination of the Government and some restrictive constitutional and statutory provisions limited citizens' effective exercise of this right. There was universal suffrage for adults who were 18 years of age and older. The Constitution does not provide the right to vote to prisoners.

The President dominated the Government and Movement supporters remained in control of the Parliament. The independence and assertiveness of the legislature decreased significantly prior to the June 2001 parliamentary elections; however, the Seventh Parliament showed occasional signs of independence.

In 2001 the Constitutional Review Commission (CRC) began soliciting the public's opinion and holding public hearings on amending the 1995 Constitution. The CRC was set up to examine the constitutional provisions relating to sovereignty, political systems, democracy, and good governance; its report was scheduled for release in June 2003.

The Government maintained, at government expense, the Movement Secretariat, an organization that roughly paralleled government institutions and was limited to those who supported the Movement. The Government prohibited some non-Movement political gatherings, required employees in the President's office to register their political affiliation in writing, and dispersed numerous political meetings not

sanctioned by the Movement (*see* Section 2.b.). The 2000 referendum on the role of political parties resulted in the indefinite extension of the Movement form of government and the indefinite continuation of restrictions on political parties (*see* Section 2.b.). The referendum process was flawed by restrictions on political party activities and unequal funding. In May the President signed the Political Parties and Organizations law, which permits political parties to establish their headquarters and operate in Kampala; however, the law does not allow parties to operate or campaign at the district level or below.

The law sets educational requirements for candidates for public office. Election candidates were required to prove that they met the requirements. Several candidates were disqualified because of false papers, and Asraf Olega, M.P. Aringa County, was disqualified over academic qualifications. The cases of four others were pending at year's end.

The Presidential Elections Law permits election campaigns to commence after the Electoral Commission (EC) has approved a candidate's nomination. Under the Local government Act and the Electoral law, Parliament must approve funding for each electoral exercise. The Government's failure to provide timely legislation for the presidential, parliamentary, and LC elections caused EC funding for electoral materials to be delayed considerably.

On January 4 and 5, the LC 3 and 4 elections were held in some districts. They were marred by insufficient procurement, incorrect and faulty ballot papers, and poor and incorrect packaging for distribution. Defective voter rolls also prevented many persons from voting. In some cases, there were no dispatches of materials to districts before election day, causing some LC 3 elections to be delayed. Many of the election flaws were attributed to insufficient funds and corruption in the EC.

On February 14, LC 5 elections were held and generally were peaceful; however, there was some violence, intimidation, and voter fraud in some districts during the campaign period and on election day (*see* Section 2.b.). For example, Kampala District and Kabale District had multiple allegations of beatings on election day. In Kasese District, a man was shot and killed in an election scuffle in Kitholhu. Voter turnout was low.

On February 26, Parliament formed a 15-member select committee to probe violence and irregularities in the 2001 presidential and parliamentary elections and LC elections that took place during the year. On September 10, its findings were made public and revealed that Movement supporters accounted for 29 percent of all cases of violence during the elections. The UPDF accounted for 17 percent, closely followed by EC officials with 16.5 percent. The committee recommended that the Government desist from using the army and other security organs to advance partisan interests during elections and that the army should register at civilian polling stations to avoid the appearance of malfeasance. It also recommended that acting Army Commander Major General James Kazini, Presidential Advisor on Political Affairs Major Kakooza Mutale, Brigadier Julius Oketa, and other security personnel be investigated further and prosecuted for alleged crimes related to election violence.

On July 31, President Museveni dismissed EC Chairman Hajji Aziz Kasujja, together with several other EC commissioners. The dismissals followed recommendations from the Inspector General of government (IGG) that the EC officials be terminated for misuse of public funds and incompetence. Six former EC staff members were on remand in prison on fraud charges. On November 5, President Museveni appointed Baddru Kiggundu the new EC Chairman and Sister Margaret Magoba, a Catholic nun, Deputy Chairman, along with four other commissioners.

In March 2001, six candidates competed in the presidential elections, including President Museveni and Kizza Besigye. President Museveni was reelected with 69.3 percent of the total votes cast; Besigye received 27.3 percent of the vote. The presidential election generally reflected the will of the population; however, there were many complaints of irregularities prior to and on election day, which led to a flawed election process. These irregularities included: Insufficient time for voter registration; vote-buying; unauthorized persons tampering with voter rolls; double voting; persons' names being crossed off the voter list before they voted; and votes being given to President Museveni before the votes were cast. There also were reports that soldiers intimidated voters (*see* Section 1.c.). Although there were allegations that the voter list rolls contained many illegal names, the percentage of all registered voters accounted for only 70.3 percent of the eligible voter poll.

Army Commander Major General Jeje Odongo was appointed head of the country's internal security during the election period. There were numerous reports of election-related violence and intimidation by both the Government and the opposition prior to and on election day (*see* Section 1.c.). Police and UPDF forces also harassed and detained opposition politicians and supporters (*see* Section 1.d.).

Several civil and religious organizations prohibited their members from campaigning for candidates during the presidential elections. There were reports that UPDF officers campaigned, and a UPDF officer reportedly was arrested and another went into hiding to avoid arrest for violating army rules against campaigning. The Inspector General of Police restricted presidential candidates and their agents from conducting campaigns in police barracks and cautioned police against wearing T-shirts of candidates, carrying out campaigns, and putting up posters. The Anglican Church directed its clergy to stop campaigning in churches and not to display candidates' posters.

In March 2001, Besigye filed a petition with the Supreme Court challenging the results of the election, and in April 2001, the Court ruled 3–2 against Besigye, stating that he had failed to prove that the election was so flawed that a new election was needed. The Court found that the EC was at fault for its handling of the election. Opposition leader Besigye was detained or called in for questioning at least three times following the presidential and June parliamentary elections; he left the country in August 2001.

In June 2001, elections were held for the 214 directly elected parliamentary seats. There was an increase in the number of M.P.'s following the implementation of a law that increased by 12 the number of districts. Observers stated that the elections generally reflected the will of the population; however, there were numerous instances of election-related intimidation and violence. Despite active campaigning by President Museveni and influential members of the Movement, many important Movement M.P.'s lost their seats in the elections; however, a number of them lost to other Movement candidates, which suggested that their defeats were due to local concerns rather than political affiliation. The number of opposition M.P.'s increased to 35 from 12, including 9 UPC (former President Milton Obote's party) M.P.'s and at least 6 M.P.'s from the DP. Others were affiliated loosely with the DP; however, the affiliation of several other M.P.'s was unclear. There were 230 M.P.'s from the Movement party, giving it a clear majority; however, a number of moderate Movement M.P.'s, kept their seats in spite of Museveni's active campaigning for their opponents.

Prior to both sets of June 2001 parliamentary elections, the President campaigned against opposition candidates, including Movementists, and such threats increased immediately prior to the election days. Museveni appeared at rallies supporting his favored candidates and used the occasion to criticize their opponents. For example, in June 2001, during an FM radio broadcast, Museveni accused Winnie Babihuga, incumbent Rukungiri Women's M.P. and Besigye supporter, of engaging in election malfeasance, suggesting that she and others could be arrested; Babihuga was not reelected. However, in March Winnie Babihuga filed a petition challenging the June 2001 election of Winifred Maskio as Women's M.P. of Rukungiri District. On March 20, the High Court nullified the election, citing massive electoral fraud, and requested Masiko to vacate her seat. Masiko appealed the decision and the High Court ruling was overturned on November 4. Masiko was reinstated as M.P. and Babihuga ordered to pay court costs.

Election results in several districts were challenged and resulted in recounts. The most notable occurred in Mbarara Municipality, where M.P. Winnie Byanyima defeated her opponent Mbarara RDC Ngoma Ngime despite strong support for Ngime by President Museveni and other Movement officials. Ngime challenged the results in the Mbarara Chief Magistrate's court, and the Chief Magistrate ordered a recount of Byanyima's votes; however, the recount was stayed. The High Court ruled in favor of Byanyima and ordered the recount stayed indefinitely. In November 2001, Ngime filed an appeal and on September 23, the Court began hearing the appeal, which was pending at year's end.

On May 17, the High Court ruled in favor of James Musinguzi against Minister of Defense Amama Mbabazi and the EC in the Kinkizi West parliamentary race and ordered a by-election. The Court found that Mbabazi bribed voters, failed to comply with the electoral law, and wrongfully used public resources. The Court also found that the UPDF interfered with the electoral process. Mbabazi appealed to the Court of Appeal and on December 18, the Court upheld the lower court findings.

The Constitution requires elections through electoral colleges for the 81 special interest group seats in Parliament reserved for women (56), organized labor (5), persons with disabilities (5), youth (5), and the army (10); however, the UPDF High Command, chaired by President Museveni, selected the 10 army representatives. In June 2001, the elections were held for these seats; there were allegations of vote rigging and vote buying in some of the elections.

Newspaper, radio, and television coverage, in particular coverage by state-owned media of the presidential, parliamentary, and LC elections, favored Movement ac-

tivities. Efforts to promote activities by opposition candidates received less coverage in the media than the activities of the President.

The Government used quotas in an aggressive effort to place women in positions of authority. Women won 12 non-reserved seats for the 295-member Parliament in the June 2001 election, and the number of reserved seats for women increased from 38 to 56 in the 2001 elections. In total there were 73 female M.P.'s in the Seventh Parliament. The Vice President was a woman, as were 4 ministers and 12 junior ministers in the President's 66-member Cabinet. One woman served as Deputy Chief Justice of the Supreme Court, and another woman headed the CID. In 2001 four female members were elected to represent the country on the East African Community (EAC) legislative Assembly. Elections for special interest group seats reserved for women in Parliament were held in the 12 new districts created during the year.

The first M.P. of Asian ethnicity was elected for one of the reserved youth seats in Parliament in 2001; however, he resigned after it was discovered that he had forged his secondary school diploma.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were responsive to their views. Active domestic groups included the FHRI; FIDA-U; Human Rights Focus; the National Association of Women's Organizations of Uganda (NAWOU); the International Federation of Human Rights; and the Human Rights and Peace Center of Makerere University. The Prisoners' Aid Foundation monitored prison conditions. The National Organization for Civic Education and Election Monitoring dealt with problems related to civil society and political rights. HURINET, a Human Rights Network and an umbrella organization for nine human rights organizations in the country, also continued to be active. The local NGO Uganda Debt Network addressed corruption. Government officials frequently attended conferences and seminars hosted by NGOs on social problems and continued to cooperate with NGOs on legal and prison reforms.

The Uganda National NGO Forum was a consortium of local and international NGOs involved in advocacy. On August 8, the organization launched the NGO Code of Conduct that provides for the self-discipline, regulation, and mechanism of restraint for NGOs.

The Government allowed visits by international human rights NGOs, including Amnesty International (AI), the ICRC, and the UNHCR. The ICRC suspended all field activities in the country and in northeastern DRC following the killings of six ICRC workers in 2001 (see Section 1.a.). The ICRC maintained only local staff at branches in Kasese, Bundibugyo, Fort-Portal, Gulu, Kitgum, and eastern DRC during the year. The ICRC also suspended visits to military detention facilities (see Section 1.a.).

The Constitution establishes the UHRC as a permanent independent body with quasi-judicial powers. The President appointed the UHRC's eight-member board. Under the Constitution, the UHRC may subpoena information and order the release of detainees and the payment of compensation for abuses. The UHRC continued to pursue suspected human rights abusers, including high-level officials in the Government and military, and expanded its operations by opening three more branches countrywide, in Mbarara, Fort Portal, and Jinja. The UHRC Human Rights Tribunal headquarters received 409 new complaints during the year, including some against senior government leaders and military and police officials; the Soroti office received 405 complaints and the Gulu office received 372. Of the 409 complaints received at headquarters, 335 were pending investigations, 25 were referred to other bodies, 1 was waiting for judgement before the tribunal, 7 cases were ruled as no violation, 21 were resolved through mediation, 6 were determined not to be human rights cases, 9 complainants lost interest, 2 were time barred, 2 were dismissed for lack of evidence, and 1 case was dropped when the respondent died. Of the 405 complaints received at the Soroti office, 31 were pending investigation, 4 were referred to other bodies, 8 were waiting for judgement before the tribunal, 30 were resolved through mediation, 1 was time barred, 10 were dismissed for lack of evidence and 321 were pending resolution through mediation. Of the 372 complaints received at the Gulu office, only 13 complaints were investigated due to the insecurity in the region, of which 6 are pending judgement and 8 are awaiting a hearing before the tribunal. A total of 51 cases were referred to other bodies. The UNRC did not have the power to intervene in cases pending before a court. The UHRC inspected numerous detention facilities and publicly reported on its findings; however, it complained

of lack of access to military facilities during the year. In March the UHRC released its 2001 report that cited abuses by security organs, criticized police corruption and inefficiency, noted instances of denial of the right to assembly, and criticized involvement in the DRC.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination based on these factors; however, the Government did not enforce the law effectively in matters of locally or culturally accepted discrimination against women, children, persons with disabilities, or certain ethnic groups. Race was not a factor in national politics. The continued instability in the north led to violations of the rights of some Acholi, an ethnic group that comprises a significant part of the population. Most violations of Acholi rights resulted from LRA actions.

*Women.*—Domestic violence against women, including rape, remained common. According to the 2001 Law and Advocacy for Women Projects Report on Domestic Violence, wife beating ranked highest among the Acholi people at an estimated 80 percent. The Bakiga in the south ranked second with 75 percent. There were no laws that specifically protect women from battery or spousal rape, although there was a general law concerning assault. Law enforcement officials, reflecting general public opinion, continued to view wife beating as a husband's prerogative and rarely intervened in cases of domestic violence. Women remained more likely to sue for divorce than to file assault charges against their husbands.

These problems continued to receive increasing public attention. Numerous women's rights NGOs sponsored conferences, empowerment sessions, and training programs throughout the country. The revised 1964 bride-price by-law, which was passed by a referendum in Tororo in December 2001, made the bride price a non-refundable gift to the parents of the bride and was expected to lessen domestic violence when either party sought divorce. During the 2001 presidential elections, the Government set up a hotline for women to call the UPDF to seek redress if their husbands threatened violence against them for exercising their right to choose a candidate.

The Karamojong ethnic group in the northeast has a cultural practice of claiming unmarried women as wives by raping them; however, no cases of this practice were reported during the year. An undetermined number of women were victims of abduction and rape by rebel forces. There were allegations of rape by the UPDF (*see* Section 1.c.).

FGM was practiced by the Sabiny tribe, located in the rural Kapchorwa District, and the Pokot tribe (also known as the Upe), which inhabited the northeastern border with Kenya. There were approximately 10,000 Sabiny and approximately 20,000 Upe who lived in the country. Among the Sabiny, initiation ceremonies involving FGM were carried out every 2 years. During the year, initiation ceremonies took place in Kapchorwa. The NGO REACH recorded a total of 586 women who underwent FGM. These figures were down from the 621 reported in 2000.

There was no law against the practice, but the Government and women's groups working with the U.N. Population Fund continued to carry out programs to combat the practice through education. These programs received strong government support and some support from local leaders. The programs emphasized close cooperation with traditional authority figures and peer counseling. Significant press attention to these ongoing efforts brought public attention to the problem during the year.

Prostitution was illegal; however, it was common. There were no credible statistics available on the occurrence of prostitution during the year.

There were reports of trafficking in persons during the year (*see* Section 6.f.).

Sexual harassment also was common. On May 9, the Board of the Faculty of Law at Makerere University approved a sexual harassment policy intended to combat sexual abuse and harassment at the University. The July International Women's Congress held in Kampala heard from female police officers who were pressured into giving sexual favors and denied promotions.

Traditional and widespread societal discrimination against women continued, especially in rural areas. Many customary laws discriminate against women in the areas of adoption, marriage, divorce, and inheritance. In most areas, women could not own or inherit property, nor retain custody of their children under local customary law. Divorce law requires women to meet stricter evidentiary standards than were required for men in order to prove adultery. Polygyny was legal under both customary and Islamic law, and a wife had no legal status to prevent her husband from marrying another woman. In some ethnic groups, men also could "inherit" the widows of their deceased brothers. Women did most of the agricultural work but owned only 7 percent of the agricultural land. There were limits on a married woman's ability to travel abroad with her children (*see* Section 2.d.).



There were active women's rights groups, including FIDA, Action for Development, the National Association of Women Judges (NAWJ), Akina Mama Wa Afrika, the Forum for Women in Democracy, and NAWOU, which promoted greater awareness of the rights of women and children. Women as Partners for Peace sponsored a forum to discuss democracy and conflict resolution. FIDA continued with its program on proposed reforms of outdated and discriminatory laws.

*Children.*—The Government demonstrated a commitment to improving children's welfare. Education received the largest percentage of the budget. During the year, the Government did not enforce effectively the 1996 Children's Statute, which outlines broad protections for children. Government efforts to enforce the statute's provisions were hampered by the large proportion of the population that was below 18 years of age (50 percent of the country's population was under 15), staffing and fiscal constraints on the judiciary, and cultural norms. The law stipulates parents' responsibilities and provides extensive protection for children in a wide variety of areas, including financial support, foster care placement, adoption, determination of parentage, and treatment of children charged with offenses. It also includes provisions on the rights of the child. For example, the law prohibits children from taking part in any activity that was likely to injure the child's health, education, mental, physical, or moral development; however, the Government often did not enforce these prohibitions. The Children's Statute also requires children with disabilities to be treated and given necessary special facilities; however, inadequate funding often hampered the enforcement of this provision. In August the Ministry of Gender reported that knowledge on the rights of children of the 1996 Children's Statute was poor in most parts of the country, particularly in rural communities.

The Government continued the Universal Primary Education (UPE) program, which provided free education through the seventh grade; however, education was not compulsory. According to official statistics, there was a 95 percent enrollment rate; however, this figure widely was believed to be inflated as a result of both school dropouts and a tendency of some schools to inflate attendance figures for funding purposes. Since the implementation of UPE, primary school enrollment increased from 2.9 million in 1996 to 7.2 million during the year.

During the year, the Government eliminated the previous restriction to four children per family and opened UPE to all primary age children without limits. Key components of the UPE program included eliminating compulsory uniform requirements, providing free textbooks, and eliminating school and Private Learning Examination (PLE) fees. The UPE increased funding for education, provided additional skills training for teachers, and reduced the textbook to student ratio; however, some provisions had not yet been implemented fully by year's end. Strained finances, internal corruption, instability in some areas, infrastructure problems, and inadequate teacher training prevented full implementation. The UPE program made education more accessible financially; however, parents still had to pay for school supplies and some school costs.

Girls and boys theoretically had equal access to education in the lower grades; however, the proportion of girls in higher school grades remained low because families traditionally favored boys when making financially related educational decisions. Boys also were more likely to finish primary school and perform better on the PLE. The Government continued several programs to promote a national plan for the education of girls; only 54 percent of adult women were literate compared with 74 percent of adult men.

Child abuse remained a serious problem, particularly the rape of young girls or defilement. Defilement applied to all cases of sexual contact outside of marriage involving girls younger than 18 years of age, regardless of consent or the age of the perpetrator. The perpetrators of rape often were family members, neighbors, or teachers; however, only a small fraction of these cases was reported. In August the district of Mbarara's Department of Education established a hotline for the public to report defilement cases by teachers. Many cases frequently were reported in newspapers; a payment to the girl's parents often settled such cases. During the year, there were 5,554 reported cases of defilement, of which 3,178 were investigated. Increasing numbers of accusations reached the courts and an increasing number of cases were prosecuted during the year; however, neither conviction nor punishment was common. Defilement carried a maximum sentence of death; however, no court sentenced rapists to death during the year.

The marriage of young girls by parental arrangements was common, especially in rural areas.

Most schools used corporal punishment; however, the beating of secondary school students was prohibited. On August 9, a court sentenced a primary school teacher to 3 weeks imprisonment in Luzira Prison for caning student Elizabeth Uwimeza

and causing bodily injury. The teacher also was ordered to pay \$111.00 (200,000 shillings) to the victim after serving the sentence.

There were increased allegations and some confirmed reports of ritual killings of children during the year. On June 17, police in Luwero arrested four persons in connection with a ritual murder of a girl whose body was discovered in a shallow grave near a shrine in Nakikoota Village. Investigations in the case were pending at year's end.

On June 28, Salim Hussein of Kasusu, Kabarole District, beheaded the 2-year-old son of the Fort Portal Municipal Council Treasurer. Hussein later was killed by an angry mob.

In September police in Mukono arrested a man named "Davis," who allegedly tried to sell his 6-year-old son for approximately \$1,666 (3 million shillings). Davis reportedly was arrested following the delivery of the child to a traditional healer.

There were no reports of developments in the April 2001 case in which police arrested three traditional healers for allegedly kidnaping and trying to sacrifice a 13-year-old boy in Mukono, or in the December 2001 case in which police arrested Sheikh Hamdan Madanga, a witch doctor, for possession of a human head in his shrine in Mbale.

There were an estimated 2 million orphaned children (children missing either or both parents). This large number of orphans resulted from previous civil wars, the internal displacement of persons, and HIV/AIDS.

FGM was performed on girls in the Sabinu and Pokot tribes (*see* Section 5, Women).

Child prostitution was a problem (*see* Section 6.f.).

Trafficking in children remained a problem (*see* Section 6.f.).

The legal recruitment age for military service was 18 years; however, in practice some recruiters allowed 17 year-olds to enlist. LDU's could recruit children under the age of 18 with parental consent.

There were reports that the military detained and used child soldiers to help find LRA landmines, camps, and arms caches (*see* Section 1.d.).

The LRA abducted many children and used them as guards, laborers, soldiers, or as sex slaves (*see* Section 1.b.). Most LRA fighters were abducted children coerced into becoming rebels.

*Persons with Disabilities.*—The Constitution provides persons with disabilities with "a right to respect and human dignity"; however, widespread discrimination by society and employers limited job and educational opportunities for such persons. There was no statutory requirement for the accessibility of buildings for persons with disabilities. Most buildings had one floor; however, taller buildings in larger cities rarely had elevators and those that operated seldom were reliable. There was a Minister of State for Disabled Persons and a Department for Disabled Persons within the Ministry of Gender, Labor, and Social Development; however, these institutions lacked sufficient funding to undertake or support any initiatives.

The Children's Statute also requires children with disabilities to be treated and given necessary special facilities; however, in practice inadequate funding hampered its enforcement.

*National/Racial/Ethnic Minorities.*—Civil strife in the north led to the violation of the rights of members of the Acholi tribe, who primarily resided in the northern districts of Gulu and Kitgum. Both government forces and the LRA terrorists, who themselves largely were Acholi, committed abuses. LRA fighters in particular were implicated in the killing and kidnaping of Acholi tribe members (*see* Section 1.a.); the UPDF record in the north worsened with the increased activity of the LRA during the year. Unlike in the previous year, there were no reports that ADF rebels committed abuses against members of the Bakonjo and Bamba tribes.

During the year, raids by armed Karamojong raiders in Katakwi, Kotido, and Kapchorwa districts in the northeast resulted in more than 50 deaths. The raids reportedly exacerbated ethnic tensions in the northeast (*see* Section 1.a.). In December 2001, the Government began a disarmament program for the Karamojong raiders, which caused confrontations between the Karamojong and the UPDF in its efforts to enforce the program.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right of every person to join workers' associations or trade unions; however, the Government at times did not respect this right in practice. The Government continued to refuse registration to the Uganda Allied Teachers' Union. Employers often did not observe the requirement to recognize a union. The right to form unions extended to civil servants; however, many "essential" government employees were not permitted to form

unions, including police, army, permanent secretaries in the ministries, heads of departments and state-owned enterprises, school principals, and other management-level officials. The Government failed to enforce the rights of some employees to join unions in newly privatized industries and factories.

The law allows unionization if 51 percent or more of the work force supported it and if the proposed union represented at least 1,000 employees. These requirements effectively prevented the right of workers in the private sector to form unions, especially in the textile, hotel, and construction sectors. The International Labor Organization (ILO) noted that this dual requirement could deprive workers in smaller bargaining units or who were dispersed over wide geographical areas of the ability to form unions or exercise collective bargaining rights, especially when no trade union represented an absolute majority of the workers concerned (*see* Section 6.b.). Both the ILO's Committee of Experts (COE) and Committee on Freedom of Association (CFA) requested that this dual requirement be amended, and at year's end, there was a draft bill pending before Parliament that would reduce to 20 the number of workers required to form a union.

The National Organization of Trade Unions (NOTU), the largest labor federation, included 19 unions with a membership of 80,000, or approximately 5 percent of the workforce. The NOTU was independent of the Government and political parties. Among its members were medical workers, including doctors, and the civil service union. The NOTU's influence on the overall economy remained minimal, since approximately 90 percent of the labor force worked as peasant farmers. Even in areas in which cash crops were significant, unionization remained practically nonexistent.

The Ministry of Gender, Labor, and Social Affairs did not lift the 2001 ban on meetings and elections within the labor movement during the year.

The law does not prohibit antiunion discrimination by employers, and union activists were not protected sufficiently from retribution for union activities; however, there were no reported incidents of government harassment of union officials during the year.

Labor unions freely exercised the right to affiliate with and participate in regional and international labor organizations. The NOTU was a member of the International Confederation of Free Trade Unions (ICFTU).

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to organize and bargain collectively; however, the right to organize was rarely defended by the Government and true collective bargaining occurred only in the small private sector of the modern economy. The International Textile, Garment, and Leather Workers Federation (ITGLWF) formally complained to the ILO about the denial of the right to organize to members in all but one of 16 factories. The local affiliate, the Uganda Textile, Garment, Leather, and Allied Workers Union, has more 2,000 members. The case was pending at year's end.

There were examples of collective bargaining in the private sector during the year. For example, on March 15, the management of the Kampala Sheraton Hotel agreed to increase wages by 7 percent under the negotiated union agreement with management. In the modern sector, the Government by far was the largest employer (civil service and state-owned enterprises) and it dominated the bargaining process. The Government adopted a tripartite (Government-employers-labor) cooperative approach to setting wages and resolving labor disputes. Both the Government and employers could refer disputes to the Industrial Court (IC); however, the IC lacked funds and rarely sat.

The Constitution provides the right to strike; however, the Government seldom defended this right and government policy required labor and management to make "every effort" to reconcile labor disputes before resorting to strike action. This directive presented unions with a complicated set of restrictions. If reconciliation did not appear to be possible, labor had to submit its grievances and notice to strike to the Minister of Labor, who usually delegated the dispute to the IC. In principle IC rulings were final; however, its decisions often were appealed by employers who claimed that they doubted the impartiality of the Court. The Minister of Labor generally did not permit strikes in the absence of verdicts from the IC on the basis that "every effort" had not been exhausted. The Government only took limited action on organized labor complaints. Frustrated laborers often went on strike anyway.

There were several strikes during the year. For example, between July and August, there were nine strikes staged by primary school teachers protesting poor working conditions and delays in salary payments in different parts of the country. The teachers resumed work after the Government intervened and agreed to investigate the delays.

On August 5, more than 100 workers went on strike demanding higher wages at Lutembe Quarry in Mpigi District. The workers also complained of poor working

conditions, including the lack of sanitation facilities. They returned to work after the management agreed to address their concerns.

On August 9, casual laborers, mostly cane cutters, went on strike at a sugar plantation in Masindi District at Kinyara to protest high taxes withheld by the company and the failure of the Masindi District Administration to produce tax receipts. The strike lasted 1 week and resulted in the death of one worker, who was shot when police fired into the crowd to stop strikers from setting sugar cane fields on fire. On August 15, the Government ended the strike and agreed to resolve the grievance.

There were no developments in the 2000 case of Sam Lyomoki, General Secretary of the Uganda Medical Union, or the 2000 case in which 21 workers were dismissed at the Nytil Picfare textile factory.

There were no export processing zones (EPZs); however, the Ministry of Finance and the Uganda Investment Authority prepared legal documentation for Parliament to create such zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children; however, a lack of resources prevented the Government from enforcing this prohibition effectively in practice. There was strong evidence that prison officials hired out prisoners to work on private farms and construction sites, where often they were overworked. Throughout the country, prison officials routinely supplemented their meager wages with crops grown by prisoners on the prison grounds (*see* Section 1.c.). Male prisoners performed arduous physical labor while female prisoners produced marketable handicrafts such as woven basketry. Juvenile prisoners performed manual labor, often 12 hours per day. Compensation, when paid, generally was very low; however, the law requires that pretrial detainees receive back pay for all work that they performed once they are released.

There were reports that the UPDF used children to help find LRA landmines, camps, and arms caches (*see* Section 1.d.).

The LRA often forced abducted children into virtual slavery as guards, laborers, soldiers, and sex slaves (*see* Section 1.b.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits employers from hiring workers below the age of 18; however, child labor was common, especially in the informal sector. The Ministry of Gender, Labor, and Social Development enforced the law on child labor; however, financial constraints limited its enforcement. Demographics contributed to the problem of child labor; half of the population was under 15 years of age. Many children left school and went into agricultural or domestic work in order to help meet expenses or perform the work of absent or infirm parents, a situation common throughout the country (*see* Section 5). The problem was acute particularly among the large orphan population.

In urban areas, children sold small items on the streets, were involved in the commercial sex industry (particularly in border towns and in Kampala), or begged for money. Adults did most tea harvesting; however, some children were employed in this sector as well.

It was estimated that 60 percent of all land-based trade in the country was informal. Smuggling was one of the larger informal industries and employed large numbers of child laborers at the borders with Kenya and Tanzania. Children walked back and forth across the unguarded borders, transporting small amounts of fuel, sugar, coffee, or other commodities.

The Government made efforts to decrease the incidence of child labor during the year. On August 13, the Government signed an agreement with the ILO to continue the 1998 International Program for the Elimination of Child Labor (IPEC). Under the program, approximately 2,600 children were identified and withdrawn from hazardous work and were provided with alternatives, such as returning to school or taking vocational training. Government officials acknowledged that for the IPEC to be implemented, continued judicial and law enforcement reforms were needed and held several awareness-training workshops for officials charged with enforcing child labor laws during the year. In September there was a nationwide program to educate the public regarding child labor practices. Several human rights NGOs also continued programs during the year aimed at removing children from hazardous work.

In 2001 the Government ratified ILO Convention 182 on the Worst Forms of Child Labor and incorporated its provisions into the draft Employment Bill 2000 to comply with international standards; however, the law was not passed by year's end.

The law prohibits forced and bonded labor by children; however, a lack of resources prevented the Government from enforcing this prohibition effectively (*see* Section 6.c.).

*e. Acceptable Conditions of Work.*—The minimum legal wage was \$3.50 (6,000 shillings) per month, a rate set in 1984; however, this wage was not enforced effectively in practice. The Government and the private sector negotiated a new rate during the year. The minimum wage was insufficient to provide a decent standard of living for a worker and family.

Wages continued to be determined through negotiation between individuals and their employers, unions, and proprietors, or through negotiation within the boards of directors at state-owned industries. Other benefits such as housing and transport allowances, which often were equal to base wages, often supplemented salaries. The Ministry of Public Service's salary scale for civil servants started support staff at approximately \$38 (69,000 shillings) per month, up to supervisors at \$666 (1,200,000 shillings) per month, plus modest increases for years worked. All included provisions for paid overtime. The higher end of this wage scale provided minimal standards of living for a worker and family; however, most civil servants had great difficulty earning enough money to pay their children's school costs. Many civil servants and their dependents worked second jobs, grew their own food, or sought other ways to supplement their incomes.

In industries that employed workers on an hourly basis, the normal workweek was 40 hours. There was no legal maximum workweek; however, employers were supposed to pay a time-and-a-half rate for each additional hour worked beyond a 48-hour work week. Many industries paid workers incrementally in order to avoid overtime and circumvent the prohibition on child labor. Many companies employed workers as "casual laborers" or "contract workers" in order to avoid providing benefits.

The condition of employee housing on the tea and sugar plantations at the major state-owned corporations, and within military and police barracks, was substandard. Sanitation and water facilities often were inadequate.

Building codes often were not enforced. Some structures tripled in height above the original foundations, which often compromised the structural integrity of these workplaces. Factories generally were safe; however, machinery almost always lacked safeguards.

The law establishes some occupational health and safety standards. The Workers' Compensation Act provides compensation, based on monthly salaries, for workers injured or killed at work. The Ministry of Labor's Department of Occupational Health was responsible for enforcement of occupational safety regulations; however, in practice inspections were rare, primarily due to the lack of vehicles and funding for inspection trips. There were fatal accidents at several construction projects at a rate of approximately one per month. The limited occupational safety regulations under the law did not protect workers who refused to perform dangerous work from being fired; however, strong unions in certain dangerous industries protected such workers.

Foreign workers were protected under the Occupational Health and Safety Law. The law does not exclude illegal workers; however, any illegal worker filing a claim may find it difficult to prove that they genuinely were employed and would face penalties if in the country illegally.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to, from, or within the country. The Criminal Code prohibits slavery with penalties of up to 10 years' imprisonment and requires the CID to combat trafficking. The CID did not keep records on the magnitude of the trafficking problem and it was unknown if its efforts were effective.

There was strong evidence that prison officials hired out prisoners to work on private farms and construction sites, where they often were overworked (*see* Section 6.c.).

In urban areas, some children were involved in the commercial sex industry, particularly in border towns and in Kampala.

There were no reports that government officials were complicit in the trafficking during the year.

Unlike in the previous year, there were no reports that the country acted as a transit point for trafficking in persons.

There were continued reports that the SPLA forcibly recruited Sudanese refugees in the north for service in Sudan.

The LRA abducted civilians for training as guerrillas; most victims were children and young adults whom the LRA forced into virtual slavery as guards, laborers, soldiers, and sex slaves (*see* Section 1.b.). On March 5, the Government and Sudan signed an agreement in Khartoum for the Government of Sudan to stop supporting the LRA and permit the UPDF access in southern Sudan to pursue the LRA. The protocol was extended several times, including in December.

The Government, through the military, continued efforts to combat trafficking in persons by the LRA despite severe resource constraints. The Government began Operation Iron Fist to eradicate the LRA threat. It continued to offer amnesty to ex-rebels, providing resettlement packages that provided educational benefits and vocational training. The Government also established protected camps garrisoned by the UPDF that have helped to prevent abductions (*see* Sections 1.a. and 2.d.). The UPDF escorted rescued abductees to NGO facilities, which provided physical assistance and counseling to the children and their families so that the children could be reintegrated into society.

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## ZAMBIA

Zambia is a republic governed by a president and a unicameral national assembly. Since 1991 generally free and fair multiparty elections have resulted in the victory of the Movement for Multi-Party Democracy (MMD). In December 2001, Levy Mwanawasa of the MMD was elected president, and his party won 69 out of 150 elected seats in the National Assembly. The MMD's use of government resources during the campaign raised questions over the fairness of the elections. Although noting general transparency during the voting, domestic and international observer groups cited irregularities in the registration process and problems in the tabulation of the election results. Opposition parties challenged the election result in court, and court proceedings remained ongoing at year's end. The Constitution mandates an independent judiciary, and the Government generally respected this provision; however, the judicial system was hampered by lack of resources, inefficiency, and reports of possible corruption.

The police, divided into regular and paramilitary units operated under the Ministry of Home Affairs, had primary responsibility for maintaining law and order. The Zambia Security and Intelligence Service (ZSIS), under the Office of the President, was responsible for intelligence and internal security. Members of the security forces committed numerous, and at times serious, human rights abuses.

Approximately 60 percent of the labor force worked in agriculture, although agriculture contributed only 22 percent to the gross domestic product. Economic growth slowed to 3 percent for the year, partly as a result of drought in some agricultural areas. Pledged assistance from foreign donors increased substantially as a result of the peaceful change of administration, greater official attention to governance issues, the privatization of the mines, and the completion of a Poverty Reduction Strategy Paper. Approximately 73 percent of the country's estimated 10 million population live below the poverty line.

The Government's human rights record remained poor; although, there were some improvements in a few areas, serious problems remained. Police officers committed several unlawful killings and frequently beat and otherwise abused criminal suspects and detainees. Some police officers who committed these abuses were disciplined or remained in detention pending trial; however, most officers who committed such abuses did so with impunity. The lack of professionalism, investigatory skill, and discipline in the police force remained serious problems. Prison conditions were harsh and life threatening. Arbitrary arrests, prolonged detention, and long delays in trials were problems. The courts issued a number of rulings against the Government, senior officials, and the ruling MMD party during the year. The National Assembly rescinded former President Chiluba's constitutional immunity from prosecution, an action he challenged in court. The police infringed on citizens' privacy rights. The private media generally were free; however, there were reports that the Government at times sought to restrict press freedom. Violence against women remained widespread, and women continued to experience discrimination in both law and fact, including the denial of widows' inheritance rights. Child abuse was a problem. Discrimination against persons with disabilities was a problem. Child labor was a problem in rural subsistence occupations and some urban occupations. There were reports of trafficking in persons.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Police committed several unlawful killings during the year. The Legal Resources Foundation (LRF), an independent human rights organization that counseled victims' families and represented them in action against the state, consistently investigated and publicized such incidents.

On February 11, a police officer in Chalimbana killed Joe Mpambeni, a 28-year-old man, allegedly for failing to settle a beer debt. The Director of Public Prosecu-

tions (DPP) determined that sufficient evidence did not exist for criminal prosecution. The LRF brought a civil action against the officers involved, and a trial was pending at year's end.

On March 28, Fackson Kafumukache, a chief's retainer allegedly in possession of poached game meat, died in Solwezi after a police officer beat him to discipline him at the request of Chief Kapijimpanga. The officer turned himself in when he learned Kafumukache had died. No further action was taken by year's end.

On May 7, the LRF reported that five armed police officers from the Shibuyunji police post went on a rampage, stealing, burning houses, and severely beating Henry Simwinda, who subsequently died of his injuries. Two of five officers allegedly involved have been arrested and charged with aggravated robbery, arson, and assault; however, there was no trial by year's end.

On August 17, the LRF reported that a police officer beat Mukata Sifu, reported by his family to be mentally ill, for stealing two packages of cookies. Sifu died September 4; an autopsy found that Sifu died from blows to the head and chest. The LRF was considering legal action on behalf of Sifu's family at year's end.

On February 14, former State House Comptroller Gibson Zimba appeared in court to answer charges of murdering three teachers in 2001 near Zimba's home; a police officer was also charged. The Inter-Africa Network for Human Rights and Development (AFRINET), a local human rights nongovernmental organization (NGO), demanded an investigation into the killings. A trial was ongoing at year's end.

Police forcibly dispersed a demonstration in which at least one person was killed (*see* Section 2.b.).

Several persons died in custody during the year. A large number of prison inmates died due to illness and harsh conditions (*see* Section 1.c.).

Alison Phiri, a 25-year-old man, died in police custody approximately 7 days after being detained on January 27 as a suspect in a house breaking and theft case; according to the LRF, he had been beaten severely with batons and slammed against the wall and floor. In August the LRF asked the court to order an inquest into the circumstances of Phiri's death. There was an inquest; however, no results were released by year's end.

On March 8, David Nkwambwa died in the Livingstone Airport police cells. A preliminary police investigation found that the victim had committed suicide; however, relatives repeatedly told the LRF that Nkwambwa died of injuries sustained from being assaulted in police custody. The victim's mother reportedly found her son in a kneeling position with an undershirt tied around his neck. There was an inquest; however, no results were released by year's end.

The father of Eddie Muonga sought the assistance of the LRF to press for prosecution of the responsible police officers following the death of his son in police custody at Chawama in late 2001 after being severely beaten. A police officer was suspended but not charged with any criminal offense. The LRF initiated a civil action against the Government that was pending at year's end.

In July the LRF initiated a civil action against the Government in the 2001 death in custody of Lameck Siamapande, and the officers remained in detention at year's end pending a trial. In addition, the Government agreed to pay compensation to the victim's family, though an amount was not determined by year's end.

After the Government declined to present a defense, the LRF won a civil suit in the deaths in custody of Kelvin Mushabati and Geoffrey Michelo in 2000. A decision on the amount of damages was pending at year's end.

By year's end, there was no court ruling had been issued nor a date set for a decision in 1999 case of two suspects charged with murdering Wezi Kaunda, the son of former President Kenneth Kaunda. In August a public exhibit was opened in Lusaka by AFRINET to generate pressure on the Government to investigate deaths occurring under mysterious circumstances, such as that of Wezi Kaunda.

There were no confirmed deaths caused by landmines during the year.

In 2001 unknown persons killed Paul Tembo, a former senior MMD official, the night before he was to testify before a tribunal convened to investigate charges of financial fraud—testimony that was expected to be highly damaging to the Government ministers being investigated. On March 13, Tembo's wife was charged with murdering her husband but on October 29, the Lusaka High Court discharged her after the Prosecution dropped the charges following the deaths in a traffic accident of two key prosecution witnesses.

Unlike in the previous year, there were no armed attacks within the country's territory as a result of the conflict in Angola.

*b. Disappearance.*—There were no reports of politically motivated disappearances. However, there were reports that Angolan government forces or National Union for the Total Independence of Angola (UNITA) rebels abducted persons, particularly young persons, for forced labor in Angola. On July 23, then Home Affairs Minister

Lackson Mapushi told Parliament that Angolan soldiers abducted 261 Zambians from January 1999 until March. In December Angolan government forces detained eight Zambians who crossed the border into Angola. A detained woman was released quickly; however, there was no further information on the whereabouts of the seven detained men at year's end.

On July 1, the remaining citizens abducted from the Western Province by UNITA rebels early in the year returned to the country (*see* Section 6.f.).

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, police frequently used excessive force when apprehending, interrogating, and detaining criminal suspects or illegal immigrants. In most instances, officers who beat suspects generally were not disciplined or arrested for such acts, although local human rights organizations were active in pressing for such action. The LRF systematically investigated and publicized such incidents and represented victims in court proceedings.

For example, on January 9 and 10, police and neighborhood watch officers beat Joe Shapi Mulenga while being detained without charges at Chipata police post. In February the LRF filed a lawsuit against the responsible police officers for false imprisonment and assault; there were no further developments by year's end.

On March 13, according to the LRF, a drunken Matero police officer beat and injured Leonard Zimba with a heavy leather whip while questioning him during a theft investigation. There was no known disciplinary action taken against the responsible officer.

Police Officer Wilbroad Chewe reportedly was ordered to pay \$333 (1.5 million kwacha) in compensation after being accused of the February 9 rape at Chawama police post of a woman who had sought police assistance in recovering a missing radio. By year's end, Chewe had not paid the woman, and criminal charges had not been filed against him.

In April the police reportedly launched investigations into reports implicating five police officers in alleged rape cases and harassment of prostitutes. The results of the investigation were not known by year's end.

On April 18, President Mwanawasa dismissed Teddy Nondo as Deputy Commissioner of the Drug Enforcement Commission. Dean Mung'omba, leader of the opposition Zambia Alliance for Progress (ZAP), reactivated a legal suit against the Government, which alleged that he was tortured by Nondo while incarcerated in 1997 on false treason charges. The LRF also obtained signatures of other victims of alleged abuse by Nondo; however, the DPP refused to grant authority for civil prosecution.

Other 1997 coup suspects also accused Emmanuel Lukonde of being one of the senior police officers who had tortured them or who had given instructions to subordinates to carry out the torture. The 2000 report of the official Torture Commission recommended that both Lukonde and Nonde be retired from police service in the national interest. At the time, the Government rejected most of the Commission's recommendations; however, on June 19, President Mwanawasa ordered the retirement of Lukonde from his post as Commissioner of Police. On October 6, Legal Affairs Minister George Kunda stated that the Government was reconsidering a number of recommendations from the Commission, including those that recommended victim compensation; however, no further action had been taken by year's end.

Police forcibly dispersed a demonstration in which at least one person was injured (*see* Section 2.b.).

There was no known action during the year, nor was any action likely to be taken, against the police officers responsible for torturing, beating, or abusing the persons in the following cases from 2001: The January case in which police and a neighborhood watch group beat, detained, and subsequently released with a charge of immoral behavior 11 men who were suspected of killing a man; the January case in which 8 officers of the Kabwe flying squad tortured Adess Ngulube in her home and at a police station; the March beating and detention of Godfrey Mulundano; and the May case in which police used tear gas to disperse persons from the site of a banned rally, resulting in the death of an elderly man who was struck by a car while fleeing the scene.

There was no known action taken during the year, nor was any action likely to be taken, against the police responsible for torturing, beating, or abusing the persons in the following cases from 2000: The January case of Shadreck Selemani; the August case at the University of Zambia that followed demonstrations the day prior; and the August case of Hendrix Mbumwai.

During the year, the court referred a civil action against police accused of abusing Cedrick Phiri in 1999 to mediation after the Government requested another postponement. The results of the mediation were pending at year's end.

The amended Police Act provides for a police complaints authority to which members of the public could direct complaints of police harassment and abuse. In June



then Minister of Home Affairs Lackson Mapushi announced the establishment of the Police Complaints Authority and appointed the first authority members.

On July 25, the new Inspector General of Police announced that a Police Professional Standard Unit would be established to investigate corruption, arbitrary arrests and detention, and other unprofessional behavior in the police force. He also stated that the unit would have the power to recommend action against any implicated officers and that it would be under the direct authority of the senior police prosecutions officer, who is a lawyer. Human rights groups welcomed the announcement; however, they also expressed skepticism about the effectiveness of such a unit without the authority of a statute. The Police Professional Standards Unit was established and operational by year's end.

Corruption in the security forces also was a problem. On July 5, Xavier Chungu, the Director of ZSIS, was arrested and charged with abuse of authority in making irregular payments from a secret government account. There were reports that police released prisoners in exchange for bribes. Police often detained citizens in private debt disputes in exchange for a portion of the payment owed (*see* Section 1.d.). Police sometimes committed extortion at roadblocks or required document processing "fees" or "gas money" in order to commence investigations (*see* Section 2.d.).

The police investigated instances of police use of excessive force and disciplined officers found to have committed human rights abuses. Officers who committed serious abuses sometimes were prosecuted; some were convicted and sentenced to prison. Other cases of abuse in detention frequently went unpunished unless an NGO took up the case on behalf of the victim. Punishment, if any, usually came years after the abuse was committed, and the accused officers often remained on duty in the interim.

During the year, human rights groups reported a change in the Government attitude toward allegations of police misconduct. In some cases, the Government decided not to present a defense and agreed to mediate settlements out of court. The LRF agreed to settle 30 outstanding cases by mediation; at year's end, 19 cases were settled, and the remaining 11 were awaiting decisions on the amount of damages to be awarded. The Solicitor General indicated that the Government intended to recover some portion of awarded monetary damages from the responsible police personnel.

Senior government officials acknowledged the problem of police abuse and requested foreign donor assistance for training of the police. A national forensic laboratory was founded in 2001 to provide the police with resources for professional investigations, and some laboratory equipment was acquired during the year.

Human rights training for new recruits, middle ranks, and long-serving officers continued at the police academy. The training has raised police awareness of human rights; however, there was no decrease in police use of physical force to gather information from suspects.

Despite a High Court ban on corporal punishment in the country, some chiefs in Northern Province continued to use corporal punishment as a disciplinary measure in local court cases. During the year, the police told Chief Chiundaponde in Mpika, Northern Province, that they could not enforce the decree he issued on February 1 under which anyone who killed or assaulted someone would be killed or assaulted with the same weapon.

On July 24, three citizens were injured when approximately 100 suspected bandits from the Democratic Republic of Congo (DRC) raided their village in Nchelenge before looting their homes and granaries.

Prison conditions were harsh and life threatening. According to official statistics, prisons designed to hold 5,330 prisoners held more than 13,160 prisoners as of August. This severe overcrowding, combined with poor sanitation, inadequate medical facilities, meager food supplies, and lack of potable water, resulted in serious outbreaks of dysentery and other diseases, including tuberculosis. According to the Ministry of Home Affairs, 91 inmates died of tuberculosis or dysentery between January and September. The Government attempted to address water and sanitation problems with funds from donors, and water systems were rehabilitated at two prisons.

In April the Minister of Home Affairs reported that starvation was occurring in prisons throughout the country because the Prison Service had not received enough funds for food. He indicated that long-term measures to produce sufficient maize for prisoners had been worked out to avoid food shortages in the future. Efforts were underway to expand agricultural production in prisons so that they would be self-sufficient.

On June 2, the Minister of Home Affairs announced that more than 100 terminally ill and aged prisoners that had not committed unpardonable offenses would be released within 2 weeks as a humanitarian gesture and to relieve overcrowding.

On October 18, the Minister announced that another 170 terminally ill and aged prisoners would be released within 48 hours again to relieve overcrowding. Both of these prisoner releases took place.

Women and men were held separately. Juveniles often were not held separately from adults. Pretrial detainees were not held separately from convicted prisoners.

The Government permitted prison visits by both domestic and international NGOs and by resident foreign diplomats during the year. Provincial human rights committees periodically inspected prison conditions. The LRF maintained a prison visitation program under which it participated in the deportation of prohibited immigrants to their countries of origin to help relieve prison overcrowding (*see* Section 2.d.). The LRF reported some improvement in its working relationship with prison authorities in arranging prison visits.

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest and detention; however, the Government did not respect these prohibitions. Criminal suspects often were arrested on the basis of insubstantial evidence or uncorroborated accusations. Unlike in the previous year, there were no reports that family members or associates of criminal suspects sometimes were detained, interrogated, and physically abused by the authorities in attempts to identify or locate suspects. Attorneys and family members were permitted access to pretrial detainees.

Although there was a functioning bail system, overcrowded prisons reflected in part the large number of detainees charged with offenses for which bail was not granted. These included treason, murder, aggravated robbery, and violations of narcotics laws, as well as lesser offenses such as motor vehicle theft. The Oasis Forum, a local NGO, called for abolition of the nonbailable provision in laws regarding motor vehicle theft, which was applied in the August arrests and detention of Xavier Chungu, former chief of the ZSIS, and Richard Sakala, who was former President Chiluba's press aide. Chungu also was charged with abuse of authority in making irregular payments from a secret government account. There were no cases of "constitutional bail," which may be granted in cases in which a judge determined that the accused has been detained for an excessive period without evidence being presented against him or her.

Indigent detainees and defendants rarely had the means to post bail. The Government's legal aid office was responsible for providing representation for indigent detainees and defendants in criminal or civil cases; however, in practice few received assistance. The office had nine attorneys and a budget of \$128,000 (576 million kwacha) during the year.

Police stations frequently became "debt collection centers," where police officers acting upon unofficial complaints indefinitely detained debtors without charge, until they paid the complainants. In return the police received a percentage of the payments.

Pretrial detention often was prolonged. On December 6, the Chief Judge of the High Court said that over 1,000 detainees were awaiting trial in Lusaka in facilities intended to hold only 260 detainees. In some cases, defendants were awaiting trial for as long as 2 to 3 years. In past years, some defendants had waited as long as 10 years for completion of appeals processes that reached the Supreme Court. These long delays were a result of inadequate resources, inefficiency, lack of trained personnel, and broad rules of procedure that give wide latitude to prosecutors and defense attorneys to request adjournments (*see* Section 1.e.).

In March a 29-year-old mother, Alice Munachilengala, and her 3-year-old baby were forced to spend a night at Kamanga police post after being accused of disobeying police orders. The woman was released without being charged; however, she was required to pay \$2.22 (10,000 kwacha) for sleeping in police cells. There were no further developments by year's end.

In April Lukas Zulu, a 34-year-old farmer, was detained for 4 days on suspicion of stock theft, then released without explanation. When he asked why he was not being taken to court, the officers ordered him not to ask any questions concerning his detention. No action was taken by year's end.

Authorities arrested four journalists on charges of defamation during the year (*see* Section 2.a.).

Two Members of Parliament (M.P.s) and two journalists charged in 2001 with defamation of former President Chiluba were acquitted in July (*see* Section 2.a.).

There was no action taken in the following 2001 cases of arbitrary arrest and detention: The January detentions of a mother, father, and their 1-year-old daughter; the March detention of Kennedy Kangwa for 2 months; and the March beating and detention of Godfrey Mulundano.

There were no developments in the following court cases: The 1999 murder case against Donald Phiri; the 2000 case against four opposition cadres; and the 2000 case against Imasiku Mutangelwa.

The law prohibits government use of exile for political purposes, and the Government did not use it. In May the Government revoked earlier deportations of William Banda, former Lusaka Urban District Governor and a leader of the United National Independence Party, and Majid Ticklay, who was deported by the Government in 2000 after he wrote a letter publicly urging the Asian community to unite behind one political party. Banda and Ticklay returned to the country without incident.

During the year, the Government sought to assure citizens who remained in self-imposed political exile in foreign countries that they could return. In May the press reported that Liberal Progressive Front President Dr. Roger Chongwe, living in Australia, was invited home and assured of his safety in the country; however, he did not return during the year.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, the judicial system was hampered by lack of resources and inefficiency. The President nominates and the National Assembly confirms the Chief Justice and other members of the Supreme Court. On July 31, Chief Justice Matthew Ngulube resigned after being named as a beneficiary of a secret government account. On August 9, President Mwanawasa announced increases in salaries and benefits for judges when he swore in Ernest Sakala as the country's new Chief Justice. One opposition newspaper alleged that the increments were awarded in an attempt to influence the court's decision on petitions alleging rigging in last year's presidential elections (see Section 3). During the year, the courts issued a number of rulings against the Government, senior officials, and the ruling MMD party. In addition, the courts acquitted or discharged journalists and M.P.s charged in two defamation suits (see Section 2.a.).

The Supreme Court had appellate jurisdiction for all legal and constitutional disputes. The High Court, which held regular sessions in all nine provincial capitals, had authority to hear criminal and civil cases and appeals from lower courts. Magistrate courts had original jurisdiction in some criminal and civil cases; local, or customary, courts handled most civil and petty criminal cases in rural areas.

Local courts employed the principles of customary law, which varied widely throughout the country. Lawyers were barred from participating in proceedings in such courts, and there were few formal rules of procedure. Presiding judges, who usually were prominent local citizens, had substantial power to invoke customary law, render judgments regarding marriages, divorces, inheritances, other civil proceedings, and rule on minor criminal matters. Judgments often were not in accordance with the Penal Code; for example, they tended to discriminate against women in matters of inheritance (see Section 5).

Trials in magistrate courts were public, and defendants had the opportunity to confront their accusers and present witnesses; however, many defendants lacked the resources to retain a lawyer, and the limited resources of the Government's legal aid department meant that legal aid was unavailable for many citizens. Courts were congested, and there were significant delays in trials while the accused remained in custody. In criminal cases, the law requires that a detainee be charged and brought before a magistrate within 24 hours; in practice the authorities held most detainees for more than 1 month from commission of an offense to the first appearance before a magistrate. In many cases, an additional 6 months elapsed before a magistrate committed the defendant to the High Court for trial. Following committal, preparation of the magistrate court record for transmittal to the High Court took months, or in some cases as long as a year. Once a case reached the High Court for trial, court proceedings lasted an average of 6 months. Approximately 30 of 72 magistrate positions were filled by fully qualified individuals, the rest were filled by lay magistrates. Unlike in the previous year, there was no strike action during the year by magistrates or judges.

In 2000 the Magistrates and Judges' Association tried to expedite the process of court appearances by setting up a fast-track court that could quickly hear minor, uncomplicated cases. During a 2001 strike by the Magistrates and Judges' Association, this mechanism was suspended and has not been reinstated. During the year, courts began hearing cases on Saturdays on a voluntary basis to reduce backlogs.

Courts continued to act independently and at times made judgments and rulings critical of the Government (see Section 3). For example, in both July and September, the courts stayed implementation, pending judicial review, of Parliament's unanimous decision to revoke former President Chiluba's immunity from prosecution.

Appeals in the cases of 59 military personnel detained during a 1997–98 state of emergency and later sentenced to death for involvement in an attempted coup were ongoing. On September 30, the Supreme Court held a hearing on the appeals, but the case was adjourned. The appeals again were heard in December; however, a ruling was not issued by year's end.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, the Government frequently did not respect these prohibitions in practice. The law requires a search or arrest warrant before police may enter a home, except during a state of emergency. Police routinely ignored this requirement and often arrested alleged criminals at their homes without an arrest warrant.

Roundups of suspected illegal aliens in the home or workplace continued (*see* Section 2.d.). According to the Government's Commissioner for Refugees, immigration officials were empowered under the law to conduct these roundups without a warrant.

The Constitution grants the Drug Enforcement Commission and the ZSIS authority to wiretap telephones for probable cause. There were no confirmed reports of wiretaps during the year.

Unlike in the previous year, police did not detain or abuse relatives and associates of suspects.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government at times restricted these rights in practice. The Penal Code prohibits various activities that may be interpreted broadly to restrict these freedoms such as regulations requiring prior notification of rallies and libel legislation.

In response to headlines and stories of alleged corrupt practices on the part of government officials, the accused government officials and other individuals have brought numerous libel suits against the independent Post newspaper. During the year, nearly 80 cases filed over a period of 6 years were waiting to be adjudicated. The private print media routinely criticized the Government.

On October 8, police issued a warning to M.P. Vitalis Mooya for alarming the nation by stating publicly that three persons in his constituency died of hunger. The Government had declared a crisis due to drought in some areas but repeatedly told the public that relief supplies were adequate. On October 21, the DPP announced that Mooya would not be prosecuted.

The Government exercised considerable influence over the Government-owned media, including reviewing articles prior to publication and censoring individuals responsible for published articles or programs deemed offensive by the Government. As a result, workers in the Government media generally practiced self-censorship. The Government-owned media continued to be supportive of the Government. In August the Government-owned Zambia National Broadcasting Corporation (ZNBC) excluded experts who regarded grain containing genetically modified organisms (GMO) as safe for human consumption from a program debating whether the country should accept food relief assistance that could not be certified as GMO-free.

A number of privately owned newspapers questioned government actions and policies, and these circulated without government interference. For the last 5 years, the leading private daily, the Post, had an Internet website that attracted more than 15,000 readers per month. The Government-controlled Times of Zambia and Zambia Daily Mail, two of the most widely circulated newspapers, also had websites.

The law provides that investigative tribunals can call as witnesses journalists and media managers who print allegations of parliamentary misconduct. Failure to cooperate with a tribunal could result in charges of contempt punishable by up to 6 months in jail. The media criticized these provisions as clear infringements of freedom of the press and as a means for parliamentarians to bypass the court system.

Although the Post continued to run articles containing explicit information on government corruption cases during the year, Post staff was not targeted for legal action over any of these stories.

On June 5, authorities arrested four journalists, Emmanuel Chilekwa, Shaderick Banda, Kinsley Lwendo, and Jean Chirwa, for defamation for reporting that President Mwanawasa suffered from Parkinson's disease. On June 6, a Lusaka court refused to grant bail, which the court reaffirmed on June 25. The International Secretariat of Reporters without Borders took up their cause. On July 30, the Lusaka Magistrate's Court discharged them after President Mwanawasa agreed to accept their apology for the article. The journalists told the court that the article was based on information obtained from Richard Sakala, who served as former President Chiluba's press secretary.

On July 12, the Lusaka Magistrate's Court acquitted Post editor Frederick M'membe, reporter Bivan Saluseki, and M.P.s Edith Nawakwi and Dipak Patel on charges filed in 2001 of defaming former President Chiluba. Nawakwi had called

President Chiluba a “thief” in public remarks, which Saluseki subsequently reported in the Post. All four had been free on bail since their arrest in August 2001.

In addition to the Government-controlled radio station, there were several church-related radio stations, two private commercial radio stations, and three community radio stations in the country. Radio Phoenix rebroadcast Voice of America (VOA), British Broadcasting Corporation (BBC), and South African Broadcasting Corporation (SABC) items. A Catholic radio network, Radio Yatsani continued broadcast operations; however, the Government has not approved an application to add an associated television station. The radio license limited Radio Yatsani to three newscasts of 3 minutes each per day. Yatsani officially had permission to rebroadcast VOA and BBC transmissions; however, it first must have excerpts approved by the Ministry of Information, a censorship process that effectively eliminated timely rebroadcasts.

Unlike in the previous year, there were no reports of direct government intervention in private broadcast operations.

The Government-owned ZNBC was the sole local-content television station. Multi-choice, a telecommunications company based in South Africa, provided satellite and analog wireless subscribers with television services. These services included broadcasts of Cable News Network (CNN), BBC World, Sky Television, and the SABC’s Africa News. They also provided three BBC, one Radio France International, and VOA radio news broadcasts. None of the services included local news coverage. There was a second wireless television service, CASAT. Trinity Broadcasting Network, a foreign-based, church-related television network, broadcast a 24-hour transmission of prerecorded religious programming from a rented studio at the former ZNBC complex.

Opposition political parties complained that government control of the ZNBC and two major newspapers limited their access to the chief means of mass communication in the country. Opposition politicians and the Government submitted bills to Parliament that would revise media legislation. At year’s end, negotiations were underway to resolve differences between the competing bills.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom. Although the law gives the University Council a mandate to address faculty concerns, the Minister of Education was empowered to appoint the members of the Council; some academics criticized this provision as an infringement of academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice. The law requires rally organizers to notify the police 7 days in advance of a rally. The police may advise the organizers that the time or venue is unacceptable. In practice the police did not interfere with most peaceful rallies whose leaders followed the prior notification rule, especially when such events could be described as politically neutral or favorable to the Government or MMD. Unlike in the previous year, the authorities did not deny permission to proceed with, ban, or block rallies planned by the political opposition.

In July university students staged an unauthorized demonstration on roads leading to Parliament buildings in order to demand revocation of the former President’s immunity from prosecution. Some members of the National Assembly expressed concern that their personal safety might be put at risk if they departed from the Parliament buildings without acting on the immunity question, and the National Assembly passed the Government-supported revocation before departing. To maintain order police lined the roadways where the students were demonstrating; however, they did not attempt to break up the gathering, and there was no violence.

On November 26, a 14-year-old boy was killed and a 30-year-old woman injured when police in a Lusaka neighborhood fired their weapons to disperse a crowd protesting the demolition of squatters’ dwellings. This was a spontaneous demonstration, and there had been no prior notification. The Government subsequently ordered local authorities to suspend demolition of squatters’ quarters.

There was no known action taken against police responsible for injuring students during a demonstration in 2000.

The Constitution provides for freedom of association; however, the Government placed some limits on this right in practice. All organizations must apply formally for registration to the Registrar of Societies. In most cases, authorities routinely approved these applications. There were 45 political parties and dozens of NGOs registered. The Government threatened to take action against those organizations that did not submit annual reports to the Registrar of Societies; however, no action has ever been taken.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. Although the Constitution de-

clared the country a Christian nation, the Government in practice generally respected the right of all faiths to worship freely.

The Government required the registration of religious groups, and the Government approved all applications for registration from religious groups without discrimination.

Religious leaders spoke out forcefully during the year in supporting calls for investigation into, and prosecution of, corruption and other abuse of public office during the administration of former President Chiluba.

The Oasis Forum, composed of the Zambia Episcopal Conference, the Christian Council of Zambia, and the Evangelical Fellowship of Zambia, convened numerous public events to promote discussion of comprehensive constitutional reform. Although disagreeing with the Oasis Forum's position, the Government did not dispute the Forum's right to express its views.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, at times the Government limited them in practice. Police continued to man numerous roadblocks around the country to control criminal activity, enforce customs and immigration regulations, check drivers licenses, and inspect vehicles for safety compliance. Police at times extorted money and goods from motorists at these roadblocks. In an effort to reduce opportunities for corruption, signs were erected at some roadblocks serving notice that payment of fees was prohibited. These signs were not notably effective.

Unlike in the previous year, there were no raids by Angolan government or UNITA forces in the country.

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, in practice the Government complied with the provisions of these agreements. The Government offered first asylum to refugees fleeing conflict in neighboring countries. The U.N. High Commissioner for Refugees (UNHCR) estimated that there were approximately 275,000 refugees, mainly Angolans and Congolese, in the country at year's end, 135,000 of whom were in formal camps. The Government cooperated with the office of the UNHCR and other humanitarian organizations in assisting refugees.

Following the death in February of UNITA leader Jonas Savimbi and the April ceasefire in Angola, the influx of refugees arriving from Angola ceased. New arrivals from the DRC declined significantly during the year. An estimated 10,000 Angolans spontaneously returned home, 4,000 of them from formal camps and settlements. In June, with UNHCR and the Government's cooperation, the Angolan government carried out a repatriation airlift of 149 refugees, mostly relatives of UNITA leaders and families. The Government continued to cooperate closely with UNHCR, and cautioned refugees against returning to Angola before facilities were in place to receive them.

At year's end, the authorities held in detention pending deportation approximately 200 illegal immigrants, principally from neighboring countries. Because the immigration authorities lacked funds for deportation, illegal immigrants sometimes were kept in prison for extended periods, sometimes for more than 5 years. It was reported in February that the Immigration Department had deported 103 illegal immigrants to their respective countries, with travel funding from the Permanent Human Rights Commission (PHRC). The Department planned to deport 80 additional illegal immigrants, both as a humanitarian measure and in order to alleviate prison congestion.

There were no reports of the forced return of persons to a country where they feared persecution.

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

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

Under the Constitution, the President exercises broad authority. The National Assembly ratifies major appointments and theoretically has broad powers. The ruling MMD emerged from the December 2001 elections lacking sufficient seats to hold an outright majority, thus confirmation of some presidential appointees was delayed or blocked. President Mwanawasa's anticorruption campaign had the broad support of all parties, and on July 16, Parliament voted unanimously to revoke former President Chiluba's immunity from prosecution. The MMD gained majority control of the

National Assembly by winning three by-elections in August and September. Even with an MMD majority, the Government was forced to withdraw several bills in November and December because of opposition in Parliament. The anticorruption campaign resulted in many arrests and suspensions of former and current government officials. No prosecutions had been completed by year's end.

In December 2001, 11 political parties contested the presidential elections. Levy Mwanawasa, the MMD presidential candidate, was elected with 29 percent of the vote; runner-up Anderson Mazoka, the United Party for National Development (UPND) candidate, won 27 percent of the vote. The remaining 44 percent of the vote was divided among the other nine opposition candidates. The MMD won 69 out of 150 elected parliamentary seats, leaving it slightly short of a majority; the remaining 81 elected seats were divided among several opposition parties and 1 independent member. Approximately 55 percent of eligible voters registered, and approximately 70 percent of registered voters cast ballots. President Mwanawasa was sworn in on January 2.

Although noting general transparency during the voting, domestic and international observer groups cited irregularities in the registration process and problems in the tabulation of the election results. There were no reports of violence or overt intimidation during the elections. The MMD's use of government resources during campaigns, including the Government-owned media, called into question the fairness of the elections. Opposition parties further alleged that significant rigging took place during the elections. Mazoka, Christon Tembo of the Forum for Democracy and Development, and Godfrey Miyanda of the Heritage Party challenged the election results in court on those grounds. On July 23, the court banned public comments on this matter, after the three petitioners claimed that they were intimidated by President Mwanawasa's warning in a media interview that his accusers should "also be prepared to accept as a reward for their evidence that they should be prosecuted and possibly convicted of theft or corrupt practices." President Mwanawasa also indicated that he was unaware of any election rigging and expressed publicly his willingness to step down if the court nullified his election. The decision was pending at year's end.

On July 29, when Mazoka and another party official were summoned to police headquarters for questioning, the UPND complained that the Government was attempting to "vilify and scandalize" the former presidential candidate.

On July 29, following a second recount, the Lusaka High Court declared incumbent Kabwata M.P. Given Lubinda of the UPND duly elected M.P. in his constituency. The losing candidate, who had alleged irregularities in ballot paper security, had challenged the December result. In separate actions, the court also upheld elections in the Itenzi-tezhi, Lukulu West, and Chiengi parliamentary constituencies.

On August 2, in response to suits brought by losing candidates, the Lusaka High Court nullified the December 2001 parliamentary election results in the Isoka East and Isoka West constituencies, which had been won by Foreign Affairs Deputy Minister Catherine Namugala and Harry Sinkala, respectively, both of the ruling MMD party. The court cited contradictory maps, which created confusion over the constituency boundaries. The courts also overturned election results in Lukulu East, Msanzala, and Mulobezi. In all cases, M.P.s applied for a stay of judgment, pending rulings on their appeals to the Supreme Court.

Parliamentary by-elections were held in the Bwacha, Lufwanyama, Mwandi, and Kabwe Central constituencies. Local and international monitors and observers formally were accredited upon payment of \$2.22 (10,000 kwacha) and \$33.33 (150,000 kwacha) fees, respectively. The ruling MMD party candidates won all four seats in what observers judged as free and fair elections, and it now has a slim majority in Parliament.

Parties and NGOs generally were satisfied that the new system of voter registration adopted in advance of the 2001 elections was not subject to manipulation by the ruling party. However, the overall process of voter registration remained inefficient and difficult for eligible citizens to use.

There were 18 women in the 158-seat Parliament (150 members were elected, while 8 others were appointed by the President). Former ambassador Gwendoline Konie and Dr. Inonge Mbikusita-Lewanika were the first women to run for president in the 2001 elections.

There were 2 elected ethnic Asians in the 158-seat Parliament.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive

to their views. Unlike in the previous year, there were no known complaints by human rights or civic education NGOs of harassment by the Government or organizations supported by the Government.

Some domestic human rights organizations, including the Law Association of Zambia, Women for Change, the Catholic Commission for Justice and Peace, and the Zambia Civic Education Association, continued to press for a more transparent democratic electoral system. Human rights, development, and election NGOs monitored the by-elections during the year and organized civic education activities focused on improving voter participation and information. Several of these organizations worked to organize voter awareness campaigns and create conflict resolution bodies to address violations of the electoral code of conduct.

Government representatives cooperated with the international NGO Transparency International that mounted a campaign to encourage adoption of a national strategy against corruption.

Human rights training that the LRF offered to arrange for police officers in Livingstone did not materialize; however, the LRF reported that senior police commanders have adopted a more responsive attitude toward human rights organizations. A local NGO conducted human rights training during the year for police personnel in the Southern Province.

The Government did not interfere with inquiries or visits by human rights organizations or other international representatives. The LRF had access to imprisoned clients.

A Supreme Court justice chairs the PHRC; other members were drawn from throughout society and included the former head of the Foundation for Democratic Processes and a University of Zambia lecturer on human rights. The Commission interceded on behalf of persons whose rights it believed were denied by the Government and spoke out on behalf of detainees and prisoners. The Commission oversaw human rights committees in all provincial capitals. Independent human rights groups complained that the PHRC was understaffed, underfinanced, and lacked sufficient authority to enforce its recommendations.

#### *Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination based on race, tribe, sex, place of origin, marital status, political opinion, color, or creed. Constitutional amendments barring citizens of partial or full foreign ancestry from the presidency violated the prohibition on discrimination based on place of origin. These amendments also prohibit traditional chiefs, who were accorded authority and privileges as chiefs, from running for political office unless they resigned their chieftainships.

*Women.*—Domestic violence against women was a serious problem. Wife beating and rape were widespread. Domestic assault is a criminal offense. The police had a Victim Support Unit (VSU) to handle the problems of domestic assault, wife beating, mistreatment of widows by the deceased husband's relatives, and "property grabbing"; however, the police in practice often were reluctant to pursue reports of domestic violence, preferring instead to encourage a reconciliation. The Government and NGOs expressed continued concern about violence against women, and the media continued to devote considerable publicity to it during the year. Recent statistics were not available; however, more than 4,700 rape cases were reported to the police between 1991 and 1998. Of these, approximately 30 percent resulted in conviction and 5 percent in acquittal. The remainder of the cases either were dismissed or remain unresolved. The courts normally sentenced defendants convicted of rape to hard labor. Since many rape cases were not reported to the police, the actual number was considered to be much higher. In 2001 at its "Drop In" Center in Lusaka, the Young Women's Christian Association reported 12 cases of sexual abuse, 22 cases of domestic violence, and 257 cases of marriage problems.

Prostitution was considered prevalent, but no statistics were available. In April a police investigation was begun into allegations that five police officers had engaged in sexual harassment of prostitutes. The case was dropped after the prostitutes failed to identify positively the police officers who allegedly had harassed them.

Seven women who returned to the country from Angola reported sexual abuse there (*see* Sections 6.c. and 6.f.).

Both the Constitution and the law entitle women to equality with men in most areas; however, in practice women were disadvantaged severely in formal employment and education compared with men. Married women who were employed often suffered from discriminatory conditions of service. Women had little independent access to credit facilities; in most cases, they remained dependent on their husbands, who were required to cosign for loans. As a result, few women owned their own



homes. Some small financial institutions allowed women to sign independently for loans.

Customary law and practice also placed women in a subordinate status with respect to property, inheritance, and marriage, despite constitutional and legal protections. Polygyny was permitted if the first wife agreed to it at the time of her wedding. During the year, the NGO Women and Law in Southern Africa campaigned against the common traditional practice of "sexual cleansing," under which a widow had sex with her late husband's relatives as part of a cleansing ritual. Under the law, the children of the deceased man equally shared 50 percent of an estate; the widow received 20 percent; the man's parents received 20 percent; and other relatives received 10 percent. The widow's share must be divided equally with any other women who can prove a marital relationship with the deceased man, thus granting inheritance rights to other wives, mistresses, and concubines. However, under the traditional customs prevalent in most ethnic groups, all rights to inherit property rested with the deceased man's family. In practice property grabbing by the relatives of the deceased man remained widespread, although increased training of local court officials may have brought about a slight decrease in the number of incidents. Ignorance of the law on the part of victims was a problem. As a result, many widows received little or nothing from the estate. The fines that the law mandated for property grabbing were extremely low. During the year, the Law Development Commission, a semiautonomous body linked to the Ministry of Legal Affairs, began a review of the Intestate Succession Act. In response to the President's criticism of property grabbing, the police, through its VSU, handled instances of property grabbing as criminal offenses.

NGOs that predominantly represented women's interests were particularly active as lobbying organizations. The Non-Governmental Organizations Coordinating Committee, an umbrella organization for women's NGOs, was influential in the Oasis Forum, which continued to conduct civic education programs on the issue of constitutional reform. Women for Change conducted a series of high profile human rights awareness programs with traditional leaders.

*Children.*—The Government sought to improve the welfare of children, but scarce resources and ineffective implementation of social programs continued to affect adversely the welfare of children. The Ministry of Sport, Youth, and Child Development, the Ministry of Education, the Ministry of Labor, and the Ministry of Community Development and Social Services had the responsibility for improving child welfare.

Government policy provided for compulsory basic education for the first 9 years of elementary school; however, this policy was not enforced, and many children did not attend school. In March the Government announced the elimination of school fees and mandatory uniforms for primary education students, in an effort to increase school attendance by children of impoverished families. This initiative was commended widely and has reversed the decline in primary school attendance; the net enrollment ratio for children of primary school age increased from 66 percent in 1999 to 68 percent by year's end. Inadequate educational facilities and a scarcity of educational materials were problems. Some areas have established community schools; however, these schools had fewer resources than public schools and required contributions from parents. The number of girls and boys in primary school was approximately equal; however, fewer girls attended secondary school.

The number of street children in Lusaka increased from approximately 35,000 in 1991 to approximately 95,000 in 2001, partly because of the growing number of orphans whose parents have died from HIV/AIDS. Approximately 75 percent of all households were caring for at least one orphan; these children faced greater risks of child abuse, sexual abuse, and child labor. Approximately 7 percent of households were headed by children due to the death of both parents. The Government instituted programs to increase public awareness of HIV/AIDS.

Child abuse was believed to be fairly common, but few statistics were available. On July 30, the Deputy Minister of Home Affairs told Parliament that 925 child defilement cases were recorded over the last 2 years, of which 753 had been prosecuted. Of those numbers, 260 cases involved allegations of incest by parents. In August the National Initiative for Citizen's Awareness called on the Government to institute more severe penalties and step up prosecution of such offenses.

Child prostitution occurred (*see* Section 6.f.).

Laws against child prostitution were not enforced effectively; however, cases of child pornography and sexual exploitation generally were enforced effectively.

*Persons with Disabilities.*—Persons with disabilities faced significant societal discrimination in employment and education. The Government took steps to ameliorate their hardships, including establishing a national trust fund to provide loans to per-

sons with disabilities to help them start businesses, but its efforts were limited by scarce resources. The Government did not legislate or otherwise mandate accessibility to public buildings and services for persons with disabilities.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution recognizes the right of workers to form and belong to trade unions, and these rights were exercised and protected in practice. The procedures for registration set forth in the Industrial and Labor Relations Act (IRA) were somewhat burdensome. For example, no organization can be registered unless it had at least 100 members; however, with some exceptions, no trade union may be registered if it claims to represent a class or classes of employees already represented by an existing trade union or eligible for membership in an existing trade union. Unions may be deregistered under certain circumstances; however, the IRA provides for notice, reconsideration, and right of appeal to an Industrial Relations Court. In practice antiunion activities were not permitted prior to registration of a new union; however, the IRA provides for a 90-day period during which objections to registration may be lodged in writing.

The law provides the right of unions and their leaders to conduct their union activities without outside interference, and adequate enforcement mechanisms existed to protect this right. Unions acted independently of government, political parties, and other institutions in practice.

Approximately 60 percent of the 300,000 formal sector workers were unionized. Of the country's 19 large national unions, organized by industry or profession, 17 were affiliated with the Zambia Congress of Trade Unions (ZCTU). The ZCTU was operated democratically and, like its constituent unions, was independent of any political party and the Government. The Zambia Union of Financial and Allied Workers and the Primary Teachers Union of Zambia were independent of the ZCTU.

The law codifies the "one union, one industry" principle, but allows for a multiplicity of trade unions as well as federations of trade unions. The Bankers Union of Zambia, although registered with the Government in 1993, was unable to operate because the employers recognized the existing Zambia Union of Financial and Allied Workers. The Secondary School Teachers Union of Zambia (SSTUZ) and the Zambia National Teachers Union (ZNUT) continued to operate; however, most teachers still belonged to the ZNUT. The ZNUT lost bargaining power when some members switched to separate unions for primary and secondary school teachers; these unions experienced difficulty gaining the attention of the Government. Unions continued to experience increasing fragmentation due to a shrinking formal sector and changes in labor laws that decreased union leverage. Only 11 percent of the eligible workforce was employed in the formal sector; approximately 60 percent of the country's labor force was engaged in agriculture.

In a May 5 interview, Minister of Labor and Social Security Mutale Nalumango expressed an intention to crack down on organizations that violated labor laws such as by deliberately hiring casual workers for 5 months and then terminating their contracts in order to avoid employing them on a full-time basis after 6 months as required by law. In response to complaints that foreign investors were exploiting workers, the Minister announced plans to go from company to company to determine whether their employment policies met legal requirements; however, no known action was taken by year's end.

The law prohibits discrimination by employers against union members and organizers. Workers have access to an Industrial Relations Court (IRC) established by the IRA, which functions independently of government. Employers may not refuse to engage, dismiss, penalize, or discriminate against an employee for union membership or for holding union office. An employee who believed that he has been penalized for union activities may, after exhausting any existing administrative channels for relief, file a complaint with the IRC. This court had the authority to order the appropriate redress for the aggrieved worker. The complainant may appeal a judgment of the IRC to the Supreme Court. The IRC often ordered employers to reinstate workers found to have been victims of discrimination. The IRC had inadequate resources to handle the majority of the cases before it in a timely manner.

Under the IRA, a trade union is authorized to affiliate with a trade union organization or federation outside the country by a simple majority decision of members present and voting at a general conference of the union, provided that the Commissioner of Labor is notified within 21 days. The ZCTU was a member of the International Confederation of Free Trade Unions (ICFTU), and ZCTU President Fackson Shamenda served as President of the ICFTU during the year. In October Shamenda retired from the presidency of the ZCTU but remained President of the ICFTU at year's end. Labor leaders traveled without restrictions to international conferences and visited counterparts abroad.

*b. The Right to Organize and Bargain Collectively.*—The right to collective bargaining, without government interference, is protected in law and freely practiced. Employers and unions in each industry negotiated collective bargaining agreements through joint councils in which there was no government involvement. Civil servants and teachers, as public officials, negotiated directly with the Government. Collective disputes were referred first to conciliation. If conciliation failed to resolve the dispute, the parties may refer the case to the IRC or, in the case of employees, vote to strike. In practice the industry joint councils functioned effectively as collective bargaining units.

All workers have the legal right to strike, except those engaged in essential services. In addition to the Zambia Defense Force, the judiciary, the police, the prison service, and the Security and Intelligence Service, the law defines as essential services any activity relating to the generation, supply, or distribution of electricity, to the supply and distribution of water, to sewerage, to fire departments, and to the maintenance of safe and sound conditions in underground working environments such as shafts and machinery in the mining sector. It permits strikes only after all other legal recourse has been exhausted. Those procedures were sufficiently cumbersome that there has not been a legal strike since 1993. The law prohibits employers from retribution against employees engaged in legal union activities. Workers engaged in illegal strikes did not enjoy this protection.

In protest over nonpayment of accrued salary arrears and delayed payment of their July salaries, Copperbelt University lecturers initiated a “go slow” action, and the University of Zambia Lecturers and Researchers’ Union (UNZALARU) organized a strike from July 31 to August 12. Government released a sum of \$66,667 (3 billion kwacha) to cover those payments. Health workers and the Resident Doctors Association of Zambia (RDAZ) also carried out a “go-slow” over late payment of their July salaries. In August lecturers at Evelyn Hone College in Lusaka boycotted classes for a week, after a registrar was suspended for allegedly leading efforts to bring about improved employment conditions. After student demonstrators clashed with police, the institution was closed on August 18, and police in riot gear compelled students to vacate the campus. No action was taken against the workers engaged in these strikes.

In November 2001, the country adopted an Export Processing Zones (EPZ) Act, providing for the designation of areas or premises where business enterprises will be entitled to relief from numerous taxes and duties. The listed incentives did not extend to exemption from applicable labor laws, and no such zones were established by year’s end.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, including by children, and the law was enforced effectively; however, it authorizes the Government to call upon citizens to perform labor in specific instances, for example, during national emergencies or disasters. The Government also may require citizens to perform labor that was associated with traditional civil or communal obligations, as when all members of a village were called upon to assist in preparing for a visit by a traditional leader or other dignitary.

There were reports that Angolan government soldiers and UNITA rebels abducted persons for forced labor; however, there were no such reports following the Angolan cease-fire in April.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The legal minimum age for employment of children is 16 years. The Labor Commissioner effectively enforced this law in the industrial sector, where there was little demand for child labor because of high adult unemployment. Child labor was most concentrated in the hotel and catering industries, construction, farming, transportation, prostitution, and household work. The law was not enforced for those who work in subsistence agriculture, domestic service, and informal sectors, where children under the age of 16 often were employed. Acute family poverty levels and economic factors contributed to child labor, and the problem was compounded by the HIV/AIDS epidemic, which has produced a growing number of orphans.

In urban areas, children commonly engaged in street vending. The International Labor Organization estimated that approximately 564,000 children were in the work force during the year. A Child Labor Survey conducted by the Central Statistical Office placed the number at 595,000. While approximately 87 percent of working children worked in the agricultural sector, the number of children migrating to urban areas and living as street children increased rapidly, due to growing numbers of orphans resulting from the death of both parents due to HIV/AIDS.

As of September, an estimated 600 children were prevented from entering the labor market and 1,400 children withdrawn from hazardous work and provided with

educational opportunities by direct action programs carried out by NGOs under the National Program on the Elimination of Child Labor.

The National Steering Committee of the National Country Program on Child Labor coordinated efforts at addressing the root causes of child labor.

*e. Acceptable Conditions of Work.*—The minimum wage for nongovernment workers whose wages and conditions of employment, which were not regulated through collective bargaining, was determined by category of employment. Based on a 48-hour workweek, the legal maximum for nonunionized workers, a general worker earning the minimum wage would receive \$17.28 (76,800 kwacha) per month. The minimum wage was insufficient to provide a worker and family with a decent standard of living, and most minimum wage earners supplemented their incomes through second jobs, subsistence farming, or reliance on the extended family.

With respect to unionized workers, wage scales and maximum workweek limits were established through collective bargaining. In practice almost all unionized workers received salaries considerably higher than the nonunionized minimum wage. The minimum workweek for full-time employment was 40 hours, which was the normal workweek. The law requires 2 days of annual leave per month of service. The Government effectively enforced these standards.

The law also regulates minimum health standards in industry, and the Department of Mines was responsible for enforcement. The Inspector of Factories under the Minister of Labor handled factory safety; however, staffing shortages limited enforcement effectiveness. There were provisions in the law to protect the right of workers to remove themselves from work situations that endanger health or safety without jeopardy to their continued employment. The Government has acted when well-known occupational health problems existed, for example, by requiring underground mine workers to receive annual medical examinations. The LRF reported three cases during the year of employers assaulting their workers, represented workers seeking compensation for on-the-job injuries, and urged the Government to enact stiffer penalties governing violent employer-employee incidents. Foreign workers were protected under the law and were not treated by specific legislation.

*f. Trafficking in Persons.*—The Constitution prohibits trafficking of children under the age of 18, as well as trafficking in women for immoral activities; however, there were reports of trafficking in persons.

There are laws that criminalize child prostitution, pornography, and sexual exploitation of children under the age of 21; however, the presence of an estimated 95,000 street children in Lusaka contributed to the proliferation of street begging and prostitution. Anecdotal reports indicated that the food crisis resulted in an increase in prostitution, including child prostitution, in severely affected rural areas near transit routes. Statistics on child prostitution were not available, but it was considered widespread.

There were reports of small-scale trafficking of Zambian women to South Africa for prostitution and the use of the country as a transit point for regional trafficking of women to South Africa for prostitution.

Early in the year, Angolan government forces or UNITA deserters abducted 59 citizens and forced them to accompany them back to Angola, where the abductees were forced to herd cattle, carry logistical supplies, and engage in prostitution. They were returned to the country by July 1 (*see* Sections 1.b. and 5).

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## ZIMBABWE

Zimbabwe is a republic in which President Robert Mugabe and his Zimbabwe African National Union-Patriotic Front (ZANU-PF) have dominated the executive and legislative branches of the Government since independence in 1980. Although the Constitution allows for multiple parties, opposition parties and their supporters were subjected to significant intimidation and violence by the ruling party and government security forces, and financial restrictions continued to be imposed on the opposition. In 1999 the country's first viable opposition party emerged, the Movement for Democratic Change (MDC), which won 57 out of 120 seats in the 2000 parliamentary elections. The March presidential election was preceded and followed by a government-sanctioned campaign of violence directed towards supporters and potential supporters of the opposition. Although the voting process itself generally was peaceful, most election observers agreed that there were widespread and serious irregularities and that the election process was not free and fair. The Constitution provides for an independent judiciary; however, the Government eroded its independence by installing judges sympathetic to government policies, sanctioning in-

timidation against sitting judges, and ignoring or overturning judgments with which it did not agree.

The Zimbabwe Republic Police (ZRP) was responsible for maintaining law and order. Although the ZRP officially was under the authority of the Ministry of Home Affairs, in practice it was controlled by the President's Office. The Zimbabwe National Army and Air Force under the Defense Ministry were responsible for external security; however, they frequently were called upon for domestic operations during the year. The Central Intelligence Organization (CIO), under the Minister of State for National Security in the President's Office, was responsible for internal and external security and had powers of arrest. Senior government and ruling party members tightly controlled the security forces. Members of the security forces committed numerous, serious human rights abuses.

An estimated 60 percent of the population of approximately 12 million survived on subsistence agriculture and approximately 75 percent relied directly or indirectly on agriculture for their livelihood; however, there were significant mining, manufacturing, and service sectors. The political crisis, a drought, excessive government spending, manipulation of interest rates, money supply growth in excess of 100 percent, and the Government-sanctioned land occupations led to inflation, diminished agricultural harvests, reduced foreign investment and tourism, acute foreign exchange and fuel shortages, accelerating unemployment, and shrinking real incomes. The country's gross domestic product (GDP) dropped to an estimated \$4.1 billion (Z\$6,560 billion). During the year, per capita GDP fell to \$344 and, according to authoritative estimates, more than 70 percent of the population lived below the poverty line. International experts estimated that half the population faced starvation by year's end.

The Government's human rights record remained very poor, and it continued to commit numerous, serious abuses. The Constitution provides citizens the right to change their government through free and fair election; however, in practice President Mugabe and his ZANU-PF party used intimidation and violence to maintain political power. A government-sanctioned, systematic campaign of violence targeting supporters and potential supporters of the opposition began in late 2001 and intensified during the year. Security forces committed extrajudicial killings. Ruling party supporters and war veterans (an extralegal militia), with material support from the Government, expanded their occupation of commercial farms, and in some cases killed, abducted, tortured, beat, abused, raped, and threatened farm owners, their workers, opposition party members, and other persons believed to be sympathetic to the opposition. There were reports of politically motivated disappearances. Security forces and government youth militias tortured, beat, raped, and otherwise abused persons. Prison conditions remained harsh and life threatening. The Government frequently did not take steps to prosecute human rights abusers and official impunity was a problem. Arbitrary arrest and detention and lengthy pretrial detention remained problems. The Government undermined the independence of the judiciary by manipulating the composition of the courts and repeatedly refusing to abide by judicial decisions. Infringements on citizens' privacy continued. The Government expanded its far-reaching "fast-track" resettlement program under which nearly all large-scale commercial farms, of which most were white-owned, were designated for seizure without fair compensation.

The Government continued to restrict freedom of speech and of the press, passed new legislation that imposed stringent controls on the independent media, enforced restrictive laws against journalists, intimidated, arrested, and prosecuted journalists who published antigovernment articles, and monopolized radio and television broadcasting. Journalists also practiced self-censorship, and the Government continued to restrict academic freedom. The Government restricted freedom of assembly and used force on numerous occasions to disperse nonviolent public meetings and demonstrations. The Government at times restricted freedom of movement. Hundreds of thousands of farm workers were displaced internally due to the ongoing land resettlement policies, and tens of thousands of opposition supporters were displaced by threats of violence. The Government manipulated the electoral process effectively to disenfranchise thousands of voters. The Government's Grain Marketing Board (GMB) routinely and publicly denied handouts of maize meal to suspected MDC supporters and provided it only to ruling party supporters. The Government attacked and arrested members of civil society and human rights nongovernmental organizations (NGOs) and accused the NGOs of sponsoring opposition political activity. Domestic violence against women remained widespread, and discrimination against women and persons with disabilities remained problems. Abuse of children and child prostitution were problems. The President and his government encouraged widespread resentment of the white minority. The Government violated worker

rights. Child labor was a problem. There were anecdotal reports of trafficking in persons.

RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Security forces committed several extrajudicial killings, and in numerous other cases, army and police units participated or provided transportation and other logistical support to perpetrators of political violence and knowingly permitted their activities.

The Zimbabwe Human Rights NGO Forum, an umbrella group of 9 prominent domestic human rights organizations, reported that 58 persons were confirmed killed as a result of political violence during the year, mostly perpetrated by supporters of the ruling party. ZANU-PF supporters committed almost all of the killings during the year. The majority of those killed in political violence were MDC activists or supporters. A number of farm workers reportedly were killed in political violence; however, exact figures were not known.

For example, on January 28, a group of men in a car accosted Tichaona Katsamudangu in Harare and demanded to know where MDC meetings were held and who occupied MDC party structures. The men then grabbed Katsamudangu and attached cables from the car's revving engine to his thighs and fingernails. Katsamudangu later was forced to swallow an herbal substance, which induced severe diarrhea. He died 4 days after the attacks as a result of his injuries and dehydration. No official action was taken by year's end.

In February war veterans and a suspected CIO officer abducted and tortured for a month three MDC activists from Nkayi, Tembendi Ndebele, Venny Dube, and Newman Bhebhe in an underground military-style bunker. Ndebele died of his injuries shortly after being released. No official action was taken by year's end.

On March 8, unknown assailants killed Amos Museva, a war veteran, on his plot of land in Masvingo. Prior to his death Museva was embroiled in a dispute over ownership of his plot with the daughter of the Deputy Minister of Youth, Gender, Development, and Employment Creation. Police arrested suspects in connection with Museva's death; however, a trial date was not set by year's end.

On September 22, ZANU-PF supporters hacked to death MDC supporter Nikoniani Chibvamudeve in Hurungwe West prior to the rural district council elections. Faston Chipurupuru, another MDC supporter who was with Chibvamudeve at the time, sustained cranial axe wounds and barbed wire lacerations on his back. Twelve arrests were made; however, there was no further official action by year's end.

At least one commercial farmer was killed during the year. Security guards of the Government official who was to receive the property ambushed and shot him.

There were no new developments in the following 2001 cases of killings: The March killing of a soldier in police custody; the April beating death by police of a University of Zimbabwe (UZ) student; the August death of Vusumuzi Mukweli while in custody; and the October beating death by two army soldiers of a man in a Guruve police station.

There was no legal action taken against members of the security forces who in August 2001 killed 3 striking members of the Steel Workers' Union and injured 10 others.

In November 2001, six ZDF soldiers beat and threw Lameck Chemvura, a UZ student who they suspected of supporting the MDC, from a moving train; he subsequently died from his injuries. The soldiers also beat and harassed other passengers. Six soldiers were arrested; however, only one was charged with murder. The police denied that the case was politically motivated. The Rusape magistrate court postponed the case several times and appeared unwilling to try it by year's end.

Lawyers from the Zimbabwe Human Rights NGO forum filed a lawsuit against the police on behalf of the families of the 12 victims of a stampede at a soccer match in 2000. The police failed to respond to the lawyers' allegations that they behaved negligently in firing tear gas into the crowd. The lawyers obtained an order from the court compelling the police to respond to the specific allegation of negligence; however, the police refused to comply. By year's end, the lawyers planned to file an application for a default judgment on behalf of the victims' families with the court.

No further action was taken, nor was any likely to be taken, in the following 2001 cases: The March killing in Muzarabani and Hoya wards, Mashonaland Central province of two MDC members by ZANU-PF supporters; the May assault by four suspected ZANU-PF supporters of Misheck Mwanza that led to his subsequent death in June; and the December abduction and killing of Augustus Chacha, an MDC activist, by suspected ZANU-PF supporters.

The six MDC suspects charged with the 2001 murder of Bernard Gara, a ZANU-PF supporter, during clashes between ruling party and opposition supporters at Baradzanwa Business Centre in Bikita West were acquitted and subsequently released.

The case of Tawanda Mutinzwe, a ZANU-PF supporter, charged with murder and held without bail for allegedly torturing two men to death with a hot iron in 2001 remained pending at year's end.

Despite a May 29 High Court ruling ordering the Government to release three of the nine MDC members implicated in the 2001 killing of Cain Nkala, Bulawayo War Veterans Chairman, on bail until a trial date has been set, they remained in custody. In 2001 the Attorney General's office charged Remember Moyo, Khethani Sibanda, and Sazini Mpofu with murder. The trial date was postponed from November to early 2003 and the accused remained in detention awaiting trial at year's end.

Police arrested several government youth brigade members for the 2001 killing of Trymore Midzi, the MDC vice-chairman for the Bindura district. The youth brigade members appeared in court, were released on bail, and no trial date was set by year's end. Following Midzi's death, local ZANU-PF supporters forced the Midzi family out of their home. No one had been arrested in connection with the deaths of three other MDC activists, including Titus Nheya, an MDC candidate who ran for office but was defeated in the 2000 parliamentary election.

The MDC members implicated in the 2001 killing of war veteran and ZANU-PF supporter Willis Dhliwayo were released without being charged; an investigation was ongoing at year's end.

During the year, police failed to comply with a High Court Order to arrest two known suspects, one of whom serves as the head of the CIO branch in Chimanimani, in the 2000 beating death of the MDC leader Morgan Tsvangirai's campaign manager and another person. There were no arrests or court actions in the case by year's end.

There was no known investigation or action taken, nor is any likely to be taken, against the ZANU-PF supporters responsible for the following killings in 2000: The March killings in Mberengwa district; the April killing of Luckson Kanyurira and another MDC supporter; the May beating to death of Alex Chisasa; the May beating to death of Mationa and Onias Mashaya; and the June killing of Mandishona Mutyanda, MDC ward chairman for Kwekwe district.

There was no action taken, nor was any likely to be taken, against a group of war veterans, including active duty defense force personnel in civilian clothing, for the April 2000 killing of MDC organizer and commercial farmer David Stevens, or the three men armed with rifles who killed commercial farmer Henry Elsworth in December 2000.

Unlike in the previous year, there were no reports that the use of excessive force to disperse demonstrations resulted in deaths (*see* Section 2.b.).

Harsh prison conditions and a high incidence of HIV/AIDS were acknowledged widely to have contributed to a large number of deaths in prison; the Zimbabwe Prison Service documented that 1,051 prisoners have died of HIV/AIDS-related causes since 1998 (*see* Section 1.c.). However, some deaths in custody and prison may have been due to abuse.

There were no reports of landmine deaths during the year.

On May 2, the body of MDC polling agent Tipason Madhobha was found in a stream near the Ganye Dam in Gokwe. Madhobha went missing on April 10 after he left his home with a group of neighbors to search for missing cattle. Although the family demanded a postmortem, there was no further inquiry into the cause of Madhobha's death or the circumstances surrounding his disappearance by year's end.

There were no substantial developments in the 2001 killing of 72-year-old Gloria Olds, a commercial farmer. Police arrested one suspect shortly after the murder and claimed that the investigation into Olds' death was ongoing; however, no further action was taken by year's end. ZANU-PF supporters allegedly killed her son, Martin Olds, in 2000.

The police investigation into the 2001 killing of Kwekwe farmer Ralph Fenwick Corbett was ongoing; however, they reportedly had no leads on the case and no one was arrested by year's end.

Unlike in the previous year, there were no reports of ritual murders and killings of children for body parts that were associated with traditional religious practices. On July 22, the High Court acquitted Faber Chidarikire on a ritual murder charge.

*b. Disappearance.*—During the year, there were 35 reports of politically motivated disappearances mostly committed by ZANU-PF supporters, especially in the rural areas where most organized groups were loyal to the Government and few opposi-

tion organizations. Domestic human rights organizations believed that there were disappearances in rural areas that were not reported due to fear of retribution by progovernment factions. Many abductees were beaten or tortured, others later were found killed (*see* Sections 1.a. and 1.c.).

On March 6, suspected ZANU-PF supporters in Mabvuku abducted Thomas Manyika, the MDC polling agent for Mt. Darwin. Manyika was carrying a package of MDC T-shirts when he boarded a local commuter bus. When Manyika disembarked, six men followed him. No suspects were arrested in connection with Manyika's disappearance, nor had the police made any inquiries into the circumstances surrounding his abduction.

In July Musande Matsveta, the MDC treasurer for Buhera South, reportedly was abducted from a funeral service in Masasa by suspected ZANU-PF supporters. On the same day and in the same town, a second MDC member, Kudzai Magama, was abducted from his home by suspected ZANU-PF supporters. Magama's and Matsveta's whereabouts remained unknown. It is unclear whether police were conducting an investigation into their disappearances.

In the pre-election period prior to the September 28 and 29 rural district council elections, at least three MDC candidates were kidnaped and beaten, and several others assaulted (*see* Section 1.c.). For example, on July 21, ZANU-PF youth allegedly abducted Meynard Mashapa, a potential MDC candidate in the September election in Tanganda, Manicaland, from the Tanganda shopping center, held him for 3 days, and assaulted him. MDC members later rescued him from the home of a ZANU-PF member in Chipinge. The MDC identified those responsible; however, the police took no action on the case by year's end.

There were no further developments or action taken in the following 2001 cases of disappearance: The January abduction, beating, and interrogation for 2 nights of Eide Javachava, a messenger of former MDC parliamentary candidate Elliot Pfebve, by four CIO agents in Harare; the April and May abductions and attempted extortion of managers of urban NGOs and private companies by war veterans; the reported May abduction and detention for several hours of Joel Sithole, the MDC candidate for a local election in Plumtree, by masked men suspected of being ZANU-PF supporters; the July reported abduction of Chipu Ruzive and 27 MDC supporters—the whereabouts of 5 of the supporters remained unknown at year's end—in Bindura by armed police officers claiming to be war veterans; the July reported kidnaping and torture of 13 MDC supporters by war veterans in Bindura; and the September abduction at knifepoint and detention for 4 hours of the wife and daughter of Elliot Pfebve.

In 2000 suspected ZANU-PF supporters abducted Patrick Nabanyama, a local MDC official and polling agent for Bulawayo South Member of Parliament (M.P.) David Coltart, from his home. Seven war veterans, including Cain Nkala, the chairman of the National Liberation War Veterans Association in Bulawayo, reportedly were arrested and detained for the kidnaping. In 2001, a day after the war veterans' release on bail, Nkala was kidnaped and killed (*see* Section 1.a.). Unable to charge the remaining six with kidnaping because of President Mugabe's 2000 blanket amnesty for political crimes, the Attorney General charged them with murder. Court records reportedly included admissions by some of the accused to kidnaping and torturing Nabanyama; however, in June the judge, noting the absence of a body, acquitted the accused.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, security forces tortured, beat, and otherwise abused persons. The ZRP showed poor training in criminal apprehension and interrogation, and there were unconfirmed reports of human rights abuses by the CIO. There continued to be reports of police using excessive force in apprehending and detaining criminal suspects. Government supporters continued to beat and torture suspected opposition members, commercial farmers, and farm laborers, and some persons died from torture during the year (*see* Section 1.a.).

Security forces were involved in incidents of political violence, including instances of soldiers beating civilians nationwide, particularly in areas where persons voted for the opposition.

Government supporters continued to beat and torture suspected opposition members, commercial farmers, farm laborers, and trade union members (*see* Section 6.a.). An international team of experts from the International Center for Rehabilitation of Torture Victims, led by Dr. Inge Gefencke, visited the country in 2001 and concluded that there was systematic mass physical and psychological torture perpetrated by government supporters throughout the country. Human rights groups have reported that war veterans and other ruling party supporters set up torture chambers in government-funded offices, police stations, and schools to brutalize opposition supporters. National youth training camps were the source of government



youth militia forces, which were deployed widely to harass, abduct, and torture suspected MDC supporters during the presidential elections. There were reports that the camps were used to teach paramilitary skills and expertise in political oppressions and torture (*see* Section 6.c.). The Zimbabwe Human Rights NGO Forum reported 1,061 cases of torture during the year as part of a campaign of political violence.

On February 28, riot police attacked the MDC provincial office in Harare where MDC polling agents were training Philip Jani and others. The police beat Jani and the other agents, took them to the Harare Central Police station, and detained them for 4 days before releasing them without charge at year's end.

On April 6, suspected CIO officers abducted MDC provincial secretary for information and publicity for Midlands, Robbie Siyanai, from the Gweru Central Police station, where he was visiting detained MDC members and took him to an undisclosed location in Gweru where they beat him with their fists, booted feet, and whips. They demanded Siyanai renounce his MDC membership. Siyanai was severely injured in the attack. There were no arrests or investigations by year's end.

In August four MDC members were arrested and detained in connection with the killing of senior ZANU-PF activist Ali Khan Manjengwa in the Mbare area of Harare, including Mbare East M.P. Tichaona Jetter Munyanyi, who was held for 2 days. MDC intelligence officer Solomon Chikowero and Harare councilor Linos Mushonga were held in police custody and subjected to beatings and electric shock torture for 4 days. Joshua Rusere still was detained without charge.

On September 27, police arrested MDC youth activists Tom Spicer, Cosmos Ndira, Barabas Ndira, Reuben Tichareva, and Tendai Maluzi in the Mabvuku area of Harare. The five were held incommunicado for 4 days at Harare Central Police Station and then released. During his detention, Spicer, an 18-year-old college student, was separated from the others, handcuffed, repeatedly beaten on the soles of his feet, and subjected to electric shock torture lasting 4 hours at a time. No official action was taken against the responsible policemen by year's end.

On December 10, police arrested then beat and tortured the Secretary General of the Zimbabwe Confederation of Trade Unions (ZCTU), Wellington Chibebe.

Persons perceived as supporting the opposition, including judges, teachers, civil servants, health workers, and laborers in the manufacturing sector, were singled out for assault or intimidation by ruling party supporters (*see* Sections 1.e. and 6.a.). From interviews with victims the Zimbabwe Human Rights NGO Forum reported 75 cases of assault and 34 cases of torture against teachers. In most cases, the national police did not halt acts of political intimidation or violence, arrest the perpetrators, or investigate political crimes. For example, on March 11, ZANU-PF youths attacked 50 polling agents at a Mt. Darwin counting center where they were guarding ballot boxes overnight. Although the agents reported the attack to the local police, by year's end, no arrests were made. Some victims who were tortured or beaten died as a result of their injuries (*see* Section 1.a.).

On August 1, suspected ZANU-PF youths assaulted Tapera Dzingai, the opposition Chairman for Mbare East in his home. The youths allegedly broke down the door of his house and beat him with broken bottles and sticks. Dzingai filed a report with the police; however, they refused to arrest any suspects. The Police Commissioner Wayne Bvudzijena later said he was unaware of the allegations.

In the months preceding the September nationwide rural council elections, ruling party supporters beat and threatened opposition party candidates in an organized campaign of intimidation that resulted in hundreds of MDC candidates withdrawing from the election (*see* Section 1.b.). There also were reports of beatings, rapes, and arrests of MDC officials and supporters following the election.

Prior to the September elections, government militia abducted more than 100 MDC supporters and took them to Gunduza School in Gunduza, one of the three sites ZANU-PF set up in Mashonaland Province to detain and beat MDC supporters. Known or suspected MDC supporters were taken to these three sites, pressured to defect to ZANU-PF, and beaten or raped if they refused. In 2001 war veterans set up camps at Kitsiyatota, Chiveso, Murembe, Mupandira, and Maizeland Farms in Bindura district where they tortured captured opposition supporters. The Zimbabwe Human Rights NGO Forum reported that war veterans also established torture camps at Foothill Farm and Nyawa in Bindura in 2001 and at schools in other parts of the country during the year.

On November 15, war veterans detained a foreign diplomat, a local embassy employee, a U.N. employee, and a local citizen for 45 minutes and beat the citizen and the embassy employee. No arrests were made by year's end.

During the year, ruling party supporters increased their attacks on teachers who they suspected of supporting the opposition.

War veterans and ZANU-PF supporters continued to harass, intimidate, and abuse journalists considered to be sympathetic to the opposition during the year (*see* Section 2.a.).

In a number of rural areas, war veterans and other ZANU-PF supporters conducted “pungwes” (forced nightly political gatherings). Hundreds of villagers were rounded up, driven to remote areas, and forced to chant ZANU-PF slogans or denounce the opposition until the next morning.

Unlike in the previous year, there were no reports that managers of urban NGOs and private companies were abducted or beaten by ZANU-PF members.

Unlike in the previous year, there were no reports that war veterans targeted for abuse ZANU-PF members who were not carrying the new party identification cards.

There was no action taken, nor was any likely, against the responsible officials in the following 2001 cases: The January detention and torture of MDC supporter Ishmael Kauzani by police officers and CIO agents; the May reported beating of the occupants of local nightclubs and other establishments by 50 army recruits; and the July beating of residents in Harare’s suburbs during a strike by police; the July beating with batons by police officers in Harare’s Budiro township of Richard Jachi and his wife; and the September detention by police officers and beating by young ZANU-PF members of Tinaapi Diura, a local MDC official in Chikomba.

No action was taken in the following 2001 cases: The June abduction and severe beating of Fani Javangwe in the Harare township of Epworth by ZANU-PF supporters who accused him of being pro-MDC; the June attack on MDC M.P. Willias Madzimure in his home during which his maid and two residential guards sustained serious injuries; the July ambush and stoning of a motorcade carrying MDC President Tsvangirai and several MDC M.P.s by several hundred ZANU-PF supporters in which five persons were injured seriously; the September beating and stabbing of MDC-supporter Mutandera; the October abduction and torture of 10 MDC supporters, including a local MDC official, in Gokwe district by ZANU-PF supporters; the November beating and whipping of numerous farm workers and their families, including a 5-year-old boy, near the town of Marondera by ZANU-PF supporters; the November assault by hundreds of war veterans and ZANU-PF supporters on shoppers, schoolchildren, and other persons in Bulawayo that caused numerous injuries; and the November reported raid by 300 war veterans on a farm near Chegutu during which they beat farm workers, causing 20 persons to be hospitalized, and burned 42 houses.

There was no known action taken against the ZANU-PF supporters or war veterans responsible for torturing, beating, or otherwise abusing the persons in the following cases from 2000: The April beating and killing of several MDC supporters; the April beating and killing of a commercial farmer; the May beating of Eomonn Oliver; the May beating to death of an army sergeant; the May beating to death of an opposition supporter and his son; the June beating of several journalists; the June beating of an MDC ward chairman; the June reported attacks on 200 schools; the July beating of The Standard journalist Cengetayi Zvanya; and the August sexual abuse of 10 school children.

No action was taken, nor was any likely to be taken, against the army soldiers who allegedly beat an MDC M.P. and MDC members at a political rally in 2000 or against the police and security forces who used excessive force to disperse demonstrations or soccer matches in July and October 2000.

The Amani Trust and Musasa Project reported that at least 14 politically motivated rapes were committed during the year but noted that the figure likely was grossly underreported due to cultural taboos. The attacks targeted MDC supporters, their daughters, and their wives (*see* Section 5).

There were reports that young girls were raped at national youth service training camps (*see* Section 5).

Security forces repeatedly used force, including tear gas, to disperse nonviolent demonstrations; security forces also beat demonstrators, which resulted in injuries (*see* Section 2.b.).

Unlike in the previous year, there were no reports that the Government used excessive force to disperse strikes during the year.

The Government generally has not pursued actively past allegations of torture and has not prosecuted CIO or ZRP officers for such abuses. The 2000 amnesty protects nearly all the agents of the political violence campaign and effectively prevents any criminal prosecutions against them (*see* Section 1.e.).

No further action was taken by year’s end against two suspects who reportedly shot a farmer three times at close range in the Macheke area in November 2001.

There were no reports of landmine injuries during the year.

Prison conditions remained harsh and life threatening. The Government’s 42 prisons were designed for a capacity of 16,000 prisoners; they held more than 25,000

at year's end. Overcrowding became worse, and shortages of clothing and poor sanitary conditions persisted, which aggravated outbreaks of cholera, diarrhea, and HIV/AIDS-related illnesses. Government prison service authorities have determined that exposure to HIV/AIDS was a major cause of a large number of deaths in detention, and prison authorities called for more research to address this growing problem; some authorities argued for the early release of such terminally ill prisoners. Fletcher Dulini-Ncube, an MDC M.P. who was arrested in 2001 for the killing of Cain Nkala and held in Khami Maximum Security Prison for more than 1 month, reportedly was denied regular access to medications for diabetes and hypertension.

In 2001 the Government established a successful community service sentencing program to try to alleviate prison overcrowding. The Legal Resources Foundation, in cooperation with the prison service, had established a human rights training program for prison officials. Officials who mistreated prisoners were punished routinely.

There was a significant increase in the number of women incarcerated during the year. Female prisoners were held in separate cellblocks from male prisoners. There were an estimated 2,000 women in prison, increasingly for crimes of prostitution, embezzlement, fraud, petty theft, and abandonment of infants. Many incarcerated women were obliged to raise their very young children in prison if they had no one to care for them while they were detained. Juveniles generally were held separately from adults; however, a local NGO reported that occasionally juveniles, particularly juveniles between the ages of 16 and 18 years, were held with adult prisoners for brief periods of time.

Pretrial detainees generally were held in group cells until their bail hearings. If detainees were charged and held in custody, they routinely were held with the general prison population until trial.

The Government permitted international human rights monitors to visit prisons; however, government procedures and requirements made it very difficult to do so. Permission was required from the Commissioner of Prisons and the Minister of Justice, which sometimes took a month or longer to obtain or may not be granted. A local NGO that deals with prisoners' issues was granted access on a number of occasions during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, some laws effectively weakened this prohibition, and security forces arbitrarily arrested and detained persons repeatedly.

The law requires that police inform an arrested person of the charges against him before he is taken into custody. Warrants of arrest issued by the courts were required except in cases of serious crimes or where there was the risk of evidence disappearing. There was a growing problem, especially in rural areas, in which victims or witnesses of crimes who report to the police were charged themselves with the crimes of the perpetrators. Although a preliminary hearing before a magistrate is required within 48 hours of an arrest (or 96 hours over a weekend), the law often was disregarded if a person did not have legal representation. Police typically arrested individuals accused of political crimes on Fridays, so that they could detain them legally until Monday. In several cases, police claimed not to know where they were holding a detained individual, which delayed a hearing on bail release.

Detainees generally were not allowed prompt or regular access to their lawyers. Authorities often informed lawyers who attempted to visit their clients that detainees were "not available." Family members generally were denied access unless accompanied by an attorney. Detainees, especially those from rural areas without legal representation, routinely were held incommunicado. Family members and attorneys often were not able to verify that a person had been detained until the detainee appeared in court.

The Criminal Procedures and Evidence Act substantially reduced the power of magistrates to grant bail without the consent of the Attorney General or his agents; however, in practice a circular issued by the Attorney General giving a general authority to grant bail lessened the negative effect of the rule. High Court judges granted bail independently.

The Official Secrets Act and the Public Order and Security Act (POSA), which replaced the colonial era Law and Order Maintenance Act (LOMA), grant the Government a wide range of legal powers. The POSA, which gives extensive powers to the police, the Minister of Home Affairs, and the President to prosecute persons for political and security crimes that are not defined clearly, was passed by Parliament in January.

Prolonged pretrial detention remained a problem. Detainees spend an average of 6 months incarcerated before their trials because of a critical shortage of magistrates and court interpreters.

On June 3, Law Society of Zimbabwe President Sternford Moyo and Executive Secretary Wilbert Mapombere were arrested and held by police for 48 hours. During their detention they were denied food, access to a toilet, and were given a lice-infested blanket. On June 4, police arrested and interrogated the entire staff of the Law Society for approximately 4 hours. The arrests stemmed from allegations that Moyo was involved in planning mass action to overthrow the Government with the opposition MDC and British High Commission. Due to a lack of evidence the Attorney General had not made a decision on whether to take the case to trial, but was scheduled to do so by the next hearing scheduled for February 2003.

On August 3, plainclothes police officers arrested M.P. and MDC treasurer Fletcher Dulini-Ncube for the second time in connection with Nkala's death. Dulini-Ncube, a severe diabetic, was taken from a Bulawayo hospital where he was recuperating from having an eye surgically removed, and detained at a police station for 6 hours. Although Dulini-Ncube was allowed to return to the hospital later that day, the police accompanied him to the hospital and posted guards both inside and outside his room. On August 5, Dulini-Ncube was to be formally indicted in the Nkala murder case; however, the judge postponed the indictment hearing indefinitely for lack of evidence.

Following the August 8 deadline for commercial farmers to vacate their properties, police arrested and detained hundreds of farmers, or in their absence, their family members, most for a few days, for refusing to vacate their properties. After posting bail, all of them reportedly were released (*see* Section 1.f.).

On September 13, retired Judge Fergus Blackie was arrested on trivial charges, detained largely incommunicado, and not permitted his required medication for 4 days. Before he was pressured into retiring in July, Blackie sentenced Justice Minister Patrick Chinamasa to a 3-month jail sentence for contempt of court. The U.N. Special Rapporteur on the Judiciary criticized publicly the Government's treatment of Blackie. At year's end, Blackie's son William was organizing an international effort to get the charges against his father dropped.

On September 29, the MDC M.P. for Chimanimani, Roy Bennett was arrested and detained for 2 days without access to his attorney along with bodyguard Menson Magwaza and business partner Stuart Girvin. They were charged with violating the Electoral Act for video taping food distribution to ZANU-PF supporters at a polling station during the rural district council elections. Magwaza reportedly was tortured and Girvin beaten while in police custody. Bennett and Magwaza were released on bail of \$6.25(Z10,000). Girvin, who is South African, was released on bail of \$12.50 (Z\$20,000).

Police arrested several journalists during the year (*see* Section 2.a.).

Police arrested persons holding meetings and during the forcible dispersal of gatherings (*see* Section 2.b.).

Police arrested religious leaders during the year (*see* Section 2.c.).

No action was taken, nor was any likely to be taken, in the following 2001 cases: The July arrest and beating of Richard Jachi and his wife by police officers in Harare's Budiriro township; the July police raid of an MDC office and their arrest of 33 youths who police claimed were responsible for attacks on ZANU-PF supporters in Bindura; the July arrest and release by police of three journalists for reportedly photographing the police beating of workers who were participating in a 2-day national strike; the July arrest, questioning, then release of Wellington Chibebe, the Zimbabwe Confederation of Trade Unions' (ZCTU) Secretary General; and the August arrest then release on bail of a number of white farmers and their relatives.

No action was taken, nor was any likely to be taken, in the 2001 cases of protesters arrested and charged with violence under the LOMA.

No action was taken, nor was any likely to be taken, in the 2000 cases of police detaining 70 persons during food riots, and police arresting 20 MDC supporters preparing for an MDC rally.

The Constitution prohibits forced exile, and the Government did not use forced exile; however, a number of persons left the country to escape repression and remained in self-imposed exile at year's end. For example, Nkosana Moyo, former Minister of Industry and International Trade and his family remained outside the country at year's end.

On March 12, Captain Ernest Chuma disappeared from army headquarters in Harare after an interrogation by members of the army's counter-intelligence branch. He was accused of being an MDC supporter. Fearing for his safety, Chuma fled the facility and went into hiding. He had retained a lawyer to contest the army's allegations; however, legal proceedings could not proceed because his whereabouts were unknown. At year's end, he was being detained without charge at the Francistown State Prison in Botswana.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and since independence the country's judiciary generally had been independent. However, beginning in 2001 the judiciary came under intense pressure to conform to government policies, and the Government repeatedly refused to abide by judicial decisions. In a July 25 speech, President Mugabe said, "if judges are not objective, don't blame us when we defy them." In addition numerous government officials, including the Justice Minister and the Minister for Information and Publicity, repeatedly called for the resignation of justices whose rulings were not consistent with the policies of the executive branch, and officials criticized the judiciary for these rulings. In 2001 the Chief Justice was coerced into retiring early, and during the year, a number of High Court judges resigned or retired early after being subjected to intensive government pressure and intimidation. In 2001 the International Bar Association conducted an investigative visit to the country and criticized the intimidation of judges and the forced retirement of the Chief Justice in its report.

The law provides for a unitary court system, consisting of headmen's courts, chiefs' courts, magistrates' courts, the High Court, and the Supreme Court. Civil and customary law cases may be heard at all levels of the judiciary, including the Supreme Court.

Judges are appointed to serve until the age of 65 and may extend their terms until the age of 70 if they remain in good physical and mental health. The Constitution provides that they may be removed from the bench only for gross misconduct, and that they cannot be discharged or transferred for political reasons; however, during the year, judges were coerced by the Government into resigning. For example, in July High Court Judge Fergus Blackie retired early (*see* Section I.d.).

In 2001 President Mugabe appointed three additional Supreme Court judges, bringing the total number to eight. The Government stated that the additional appointments were necessary to handle an increase in workload; however, some members of the legal community criticized the action as an attempt by Mugabe to pack the court. Magistrates, who are part of the civil service rather than the judiciary, hear the vast majority of cases and came under increasing political pressure during the year after some of their decisions were interpreted as running counter to government interests.

For example, on August 16, a mob of 150 to 200 ZANU-PF militants and war veterans dragged Walter Chikwanha, a presiding magistrate, out of his Chipinge courtroom and beat him. They then paraded him around Chipinge forcing him to chant ZANU-PF slogans. This happened after Chikwanha granted bail to five MDC officials accused of burning two government tractors in Chipinge.

On August 28, the Zaka district resident magistrate, Godfrey Gwaka, was stabbed in the chest and back while in the company of another court official. The court official identified one of the two assailants, whom police arrested. During and after the March election period, Gwaka had heard cases involving political violence and five deaths in Zaka. Observers intimated that Gwaka was attacked for his remarks and judgments in favor of MDC supporters in those cases.

Military courts dealt with disciplinary or court-martial proceedings. Police courts, which can sentence a police officer to confinement in a camp or demotion, handle disciplinary and misconduct cases. Trials in both these latter courts generally met internationally accepted standards for fair trials. Defendants in these courts have the right to appeal to the Supreme Court.

The Constitution provides for the right to a fair trial, but the judiciary had difficulty enforcing this right due to political pressures. Every defendant has the right to a lawyer of his choosing; however, well over 90 percent of defendants in magistrates' courts did not have legal representation. In criminal cases, an indigent defendant may apply to have the Government provide an attorney, but this was done rarely and granted rarely. However, in capital cases, the Government provided an attorney for all defendants unable to afford one. Litigants in civil cases can request legal assistance from the NGO Legal Resources Foundation. All litigants were represented in the High Court. The Supreme Court has instructed magistrates to ensure that unrepresented defendants fully understood their rights and to weigh any mitigating circumstances in criminal cases, whether or not the accused presented them as part of his defense.

The right to appeal exists in all cases and is automatic in cases in which the death penalty is imposed. Trials were open to the public except in certain security cases. Defendants enjoyed a presumption of innocence, the right to present witnesses, and the right to question witnesses against them. Defendants and their attorneys generally had access to government-held evidence relevant to their cases. The legal system generally did not discriminate against women or minorities; however, some High Court judges imposed lenient sentences in some cases of rape and

child sexual abuse, and local women's and legal organizations challenged these decisions.

Members of the ruling party and the Government increasingly were dissatisfied with the judiciary when judgments were not to their liking. In 2001 the Supreme Court overturned as unconstitutional President Mugabe's decree prohibiting the nullification of the election of any M.P. The ruling allowed the High Court to hear challenges to the results in 38 constituencies—all but 2 of them submitted by the MDC—in the 2000 parliamentary elections (see Section 3).

The Government and police routinely failed to abide by court decisions ordering the removal of war veterans and other squatters residing on commercial farms, and the Government routinely continued to delay payment of court costs or judgments awarded against it.

Prior to 2000, the Government repeatedly amended the Constitution in response to judicial decisions that were protective of human rights. Amendments to the Constitution were not ratified by the public but were subject only to the ZANU-PF-dominated Parliament's approval. Constitutional amendments require a two-thirds majority vote, a margin ZANU-PF has been unable to muster since the MDC won 57 of 150 Parliamentary seats in 2000.

In October 2000, President Mugabe issued a presidential decree granting a general amnesty for politically motivated crimes that occurred between January 1 and July 31, 2000. The pardon excluded the offenses of murder, robbery, rape, sexual assault, theft, and possession of arms, but did not exclude the charges of common assault and assault with the intent to commit grievous bodily harm. The pardon permitted the immediate release of prisoners convicted of the latter two offenses. The amnesty protected nearly all the agents of the political violence campaign that preceded the 2000 parliamentary elections and effectively prevented any criminal prosecutions against them. Domestic and international human rights groups criticized widely the amnesty. Amnesty International expressed concern that it would encourage further violence in the run-up to the March presidential elections.

There were a few reports of MDC political prisoners held for sustained periods of a month or more by CIO agents or war veterans in unofficial locations. Police frequently detained opposition leaders and supporters for several days at a time (see Sections 1.a., 1.c., and 1.d.).

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, security forces searched homes and offices without warrants, and the Government was believed to monitor some private correspondence and telephones, particularly international communications. The law permits the Government to monitor and intercept e-mails entering and leaving the country, and security services reportedly have used this authority to monitor e-mail communication, although the extent of this monitoring was unknown.

On August 4, approximately 10 armed policemen raided MDC President Morgan Tsvangirai's home searching for "arms of war, illegal immigrants, and subversive materials." Although the police did not find any of the items listed on the search warrant, they did confiscate a car that belonged to Tsvangirai's assistant. Police claimed the car was being used in illegal activities.

Police periodically conducted house-to-house searches in the suburbs of Harare and Bulawayo during the year.

ZANU-PF supporters and war veterans attacked and destroyed the homes of hundreds of opposition supporters and commercial farmers. For example, on January 5, government militia stoned several houses in Chitungwiza and Ruwa, including those of MDC legislators Fidelis Mhashu and B. Tumbare-Mutasa, destroying property worth approximately \$560 (Z\$400,000). On January 20, police used tear gas in the Mpopoma home of MDC M.P., Milton Gwetu.

On April 22, approximately 50 ZANU-PF youth set fire to MDC ward chairman for Redcliff George Hungwe's house, destroying \$7,092 (Z\$5 million) worth of property. Prior to setting the fire, the perpetrators forced Hungwe and his family into one bedroom. The Hungwes then fled through a window as flames engulfed their house. The police claimed that an investigation was ongoing, and no one was charged in connection with the arson attack by year's end.

No action was taken against hundreds of ZANU-PF supporters who in 2001 embarked on a campaign of looting and burning farmhouses, destroying crops, livestock, and farming equipment, and forced 60 farmers and their families—approximately 300 persons—to flee the area. Many farm workers who refused to assist the looters were beaten. There were credible reports of police involvement in the looting.

The Government continued to claim that white farmers occupied more than 70 percent of the country's most productive land. The Commercial Farmers Union disputed that figure, contending that members of the white minority owned only 20 percent of the country's farmland, while the remainder comprised communal land

(government-owned), small-scale farms, national parks, forest lands, and urban lands.

Shortly after a 2000 referendum defeated a proposed constitution that would have permitted land seizures, Parliament passed a constitutional amendment permitting the seizure of land without compensation. In 2000 President Mugabe, using extraordinary presidential powers, amended the 1992 Land Act to bring it into conformity with this amendment. After the 2000 elections, the Government began a “fast-track” resettlement program in an ostensible effort to settle historical inequities in land ownership quickly. All or portions of 1,250 commercial farms were occupied by war veterans, ZANU-PF supporters, and other squatters who built homes and planted crops on the land. Intimidation and work stoppages occurred daily for commercial farmers and farm workers. In 2001 a newly-reconstituted Supreme Court reversed a 2000 decision that the land occupations violated constitutional private property rights and protection from arbitrary search and entry, ruling that the fast-track program was being conducted consistent with the law (*see* Section 1.e.).

In 2001 President Mugabe amended the Land Act by decree to permit the immediate government seizure of all commercial farming land, and the ZANU-PF dominated Parliament formalized this decree. The law requires all farm owners who have received a Section 8, final compulsory acquisition, notice to halt farming activities within 45 days of receipt of the order and leave their homes within 90 days. By August approximately 97 percent of the 4,500 remaining commercial farmers had received Section 8 notices.

In June the Government ordered all white commercial farmers who had received Section 8 notices to cease farming operations, despite widespread food shortages. In August the Government began arresting farmers en masse after the time period expired for the first batch of Section 8 notices. Most farmers who were arrested were detained for a few days and released on bail; some were allowed to return to their farms, and some ordered to abandon their standing crops and livestock. Many farmers filed legal challenges, arguing that the acquisition orders were not legitimate since they did not follow the Government’s own procedural laws. In many cases, the Government had not followed the procedural step of having the Administrative Court sign an eviction order; in others the Government had failed to notify banks or other bondholders who had an interest in the properties. Some farmers had limited success arguing in court that eviction notices were invalid because they were not served on all interested parties of a property, i.e. the bank or mortgage holder, the bondholder, and the farmer. In practice they were often served on the farmer alone. In September Parliament legislated that procedurally irregular Section 8 orders could be reissued without starting a new 90-day evacuation period. In addition, Section 8 orders that expired due to technical irregularities or failure of the Government to acquire the property within its own statutory time limit could be reissued with only a 7-day evacuation period. In that legislation, the fine for farmers who failed to vacate their property within the 90-day (or new 7-day) period increased 5-fold.

By November war veterans had intimidated thousands of ex-commercial farm workers into moving off of their original farms and into other areas of the country. Hundreds had relocated themselves and their families to the soil-poor Dande area in northern Zimbabwe and even across the border into the neighboring Tete Province of Mozambique.

Even on farms that did not receive Section 8 orders or those that received reprieves from the High Court, farmers were evicted with as little as 2 hours notice. “Settlers,” war veterans, or government youth militia members enforced evictions often in full view of police who declined to intervene stating that it was a “political matter.” Estimates were that more than 500,000 farm laborers, and their families were left destitute.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of expression but legislation limits this freedom in the “interest of defense, public safety, public order, state economic interests, public morality, and public health,” and the Government restricted this right in practice. Police and ZANU-PF supporters harassed, intimidated, and beat journalists. Security forces arbitrarily detained journalists and refused to investigate or punish security force members who tortured journalists and opposition members. Journalists practiced self-censorship.

The Government continued to restrict freedom of speech, particularly by opposition members and supporters and those making public comments critical of President Mugabe. For example, on July 25, MDC President Morgan Tsvangirai was asked to present himself at the Harare Central Police station on allegations of plotting to overthrow President Mugabe. Tsvangirai, who at the time was on bail for

allegedly plotting to assassinate Mugabe, was asked to sign a warned and cautioned statement. He was alleged to have contravened Section 5 of POSA, which refers to planning the overthrow of government, by allegedly telling persons at a rally in Gwanda that “what the MDC had planned for Mugabe shall remain a secret.” Tsvangirai was not charged formally.

In a number of rural areas, war veterans and other ZANU-PF supporters conducted *pungwes*, in which they forced villagers to chant ZANU-PF slogans or denounce the opposition (*see* Sections 1.c. and 6.a.).

Several major daily newspapers and one local-language tabloid belonged to the Mass Media Trust (MMT), a holding company heavily influenced by the ZANU-PF. The Government, through the MMT, controlled two daily newspapers, *The Chronicle* and *The Herald*. The news coverage in these newspapers generally focused on the activities of government officials, neglected opposition parties and other antigovernment groups, and also downplayed events or information that reflected adversely on the Government. The Government-controlled media always portrayed favorably President Mugabe and the Government. In 2001 Jonathan Moyo, Minister for Information and Publicity in the President’s Office, announced the dissolution of the MMT board and its replacement by a new board, which reportedly was more sympathetic to ZANU-PF. The Minister also controlled the Zimbabwe Inter-Africa News Agency wire service.

The independent press continued to operate despite frequent attacks and intense pressure from the Government. In addition to the *Daily News*, an independent newspaper that had the nation’s largest circulation, there were three major weeklies (*The Financial Gazette*, *The Independent*, and *The Standard*), and three monthlies. The major independent newspapers continued to monitor government policies and open their pages to opposition critics, but most of them also continued to exercise self-censorship in reporting due to growing government intimidation of the press and the continuing prospect of prosecution under criminal libel and security laws.

The Government increasingly was intolerant, especially of reports perceived to be critical of the security forces. The Government tolerated private media criticism of official corruption; however, corruption was not a major focus of the private media during the year. The Government arrested and prosecuted editors and journalists who contributed to published stories critical of government policies or security force operations; however, the Government did not censor directly the independent media.

Stricter measures, including the passage of two restrictive new laws, were introduced to prevent negative coverage of the Government and its policies. On January 22, the POSA was enacted to replace the colonial-era LOMA. Clause 15 of POSA, intended to replace section 50 of LOMA, makes it an offense to publish or communicate false statements prejudicial to the state. Legal experts have criticized this section saying that it imposes limits on freedom of expression beyond those permitted by the Constitution. Clause 16 of POSA also makes it an offense to make statements that will engender feelings of hostility towards the President. An extremely broad Official Secrets Act makes it a crime to divulge any information acquired in the course of official duties. In addition, antidefamation laws criminalize libel of both public and private persons.

In March the Parliament enacted the Access to Information and Protection of Privacy Act (AIPPA), which was criticized strongly by journalists, media analysts, and human rights organizations. Section 80 of AIPPA requires journalists to apply for accreditation from the Media and Information Commission, the members of which were appointed by the highly partisan Minister of Information and Publicity. Section 81 of this Act also makes it an offense for journalists to submit a story that already was published by another mass media service without the permission of the owner of that service. Journalists also were prohibited from falsifying or fabricating information, publishing rumors or falsehoods, and collecting and disseminating information for another person without the permission of their employer. On November 21, a trial challenging provisions of the AIPPA began and was pending at year’s end.

During the year, the Government used these acts to harass and intimidate many persons, including journalists, human rights activists, and opposition members. For example, on March 27, members of the CIO arrested and detained overnight Peta Thornycroft, the Zimbabwean correspondent for Britain’s *Daily Telegraph* and for South Africa’s *Mail and Guardian*, in Chimanimani while she was investigating reports of post-election violence and of a campaign of retribution against the MDC. Her legal counsel was denied access to her and only was allowed to see her after she was transferred to a Mutare police station. She was detained in Mutare for 3 more nights and was released on March 31 only after a High Court ordered her release. The police seized her documents, her camera, and her automobile during the detention. Her attorney described her charges as a “fishing expedition” by the state.



Thornycroft initially was charged under POSA for “publishing a false statement likely to be prejudicial to the state” but later was charged under section 83 of the newly enacted AIPPA, for “posing as a journalist” since she had not registered with the Media Commission. The Attorney General’s office declined to prosecute, and Thornycroft was challenging the constitutionality of the charges against her at year’s end.

On April 30, police arrested and detained two Daily News reporters, Lloyd Mudiwa and Collin Chiwanza, for publishing a story alleging that suspected ZANU-PF supporters had beheaded a woman in Magunje. The story turned out to be false. Chiwanza and Mudiwa were detained for 2 nights at Harare Central Police station. On May 1, the correspondent for the British Guardian, Andrew Meldrum, was arrested and detained overnight at his home in Harare for duplicating the story, and on May 20, the editor-in-chief of the Daily News, Geoff Nyarota was arrested in connection with the same story. All four journalists were charged under Section 80 of the AIPPA for abusing journalistic privilege. Meldrum became the first journalist to be tried under the AIPPA. On July 15, he was acquitted by a Harare magistrate, but was served with deportation papers, which required that he leave the country within 24 hours. Meldrum was given an extension by the High Court, and Meldrum was challenging the constitutionality in the Supreme Court of the deportation order since he has been a resident in the country for 22 years. At year’s end, Meldrum remained in the country pending the hearing of his case. Nyarota and Mudiwa were challenging the constitutionality of their charges, and their cases were pending before the Supreme Court at year’s end.

During the year, particularly in the presidential election period, war veterans and other ZANU-PF supporters harassed, intimidated, and abused journalists considered to be sympathetic to the opposition. For example, in February war veterans and government youth brigades regularly threatened the Daily News Masvingo bureau chief and reporters, and at least once burned a Daily News delivery truck. In March ZANU-PF youth and war veterans frequently intimidated and assaulted the vendors of independent newspapers in Bindura, Masvingo, Kariba, and Karoi, and on numerous occasions, destroyed their sale copies of The Daily News, Financial Gazette, Zimbabwe Independent, and The Standard.

There were no developments during the year in the trials under the LOMA of MDC M.P. Peter Nyoni or Dirk Wouter du Ploy.

In January 2001, an explosion destroyed the printing press facility of the Daily News. The Daily News continued to operate using a combination of private and government-owned printers before replacing its presses in September. There was a police investigation, but no arrests were made by year’s end, despite the fact that police were given the registration number of the vehicle seen at the sight. Most observers believe that the Government or ruling party was responsible due to the professional nature of the operation.

There were no new developments in the following 2001 cases: The July police arrest of three journalists reportedly for photographing the police beating of workers who were participating in a 2-day national strike; the August police arrest in the Chinoyi area of two journalists from the weekly newspaper The Sunday Mirror who they charged with “publishing subversive statements”; the August arrest of three editors, including Geoff Nyarota, the editor-in-chief of the Daily news for criminal defamation; the September police arrest and detention of two journalists during a mayoral election in Bulawayo; and the December police arrest of two Daily News reporters in Bulawayo in connection with the killing of Cain Nkala.

There were no new developments in the following 2001 cases: The January raid on the Harare offices of the Daily News by war veterans and other ZANU-PF supporters during which they harassed and assaulted Daily News reporters, staff, and passers-by; the May beating by ZANU-PF supporters of a Daily News reporter after he attempted to report on a political meeting in Gweru; the August beating with wooden clubs by ruling party supporters of Daily News reporter Mduduzi Mathuthu (Mathuthu resigned from the Daily News and since has left the country); the September severe beating with chains and other weapons by war veterans and land occupiers of three journalists and one driver from the Daily News; and the December attack on the Daily News office in Harare by ZANU-PF supporters during which they beat a photographer who was trying to film the attack.

There were no developments in the following 2000 cases: The detention and harassment of a Daily News Journalist; the detention and assault of Chengetai Zvauya; the attack on journalists during a peace march; and the beating and abduction of a journalist for the Independent, a foreign journalist, and her cameraman in Mutoko district.

Radio remained the most important medium of public communication, especially for the majority of the population living in rural areas. The Government continued

to control all domestic radio broadcasting stations through the state-owned Zimbabwe Broadcasting Corporation (ZBC), supervised by the Minister for Information and Publicity in the President's Office. There were credible reports that the Minister routinely reviewed ZBC news and repeatedly excised reports on the activities of groups and organizations opposed to or critical of the Government, including antigovernment demonstrations and the ZCTU. It was unclear how many Zimbabweans could actually listen to short wave broadcasts, however, by January there were three independent radio stations—two of which broadcast only on short wave for a few hours daily—Radio Dialogue-FM, Short Wave Radio-Africa, and Voice of the People (VOP) Radio. Short Wave Radio-Africa broadcast from the United Kingdom; Voice of the People broadcast from the Netherlands via transmitter in Madagascar. Radio Dialogue-FM produced prerecorded tapes for distribution in the community, but did not transmit over the airwaves.

On July 4, the police raided the offices of the VOP and searched for a transmitter and other broadcasting equipment. They confiscated 133 tapes and files, and the VOP trust deed also disappeared in the search. After questioning Trustees of the VOP, the police returned the trust document and all other tapes seized. On August 4, three armed men bombed the VOP offices shortly after midnight, completely destroying the premises and all equipment and documents. No arrests were made by year's end.

In 2001 the Broadcasting Services Bill became law, despite the fact that Parliament's legal committee found the bill to be unconstitutional. Section 47 of the Act gives the Act retroactive effect to October 4, 2000, the day police shut down the private radio station Capital Radio. The Broadcasting Services Act allows for one independent radio broadcaster and one independent television broadcaster but requires them to broadcast with a government-controlled signal carrier. Under the Act, the Minister of Information remains the final authority in issuing and revoking broadcasting licenses. Legal rights groups criticized the Act for restricting broadcasting employees to citizens who are resident in country; requiring 80 percent locally produced content; setting aside free airtime for the Government to "explain its policies"; and establishing a journalistic code of conduct that potentially limits free speech.

On June 19, Capitol Radio challenged the legality of the Broadcasting Services Act in the Supreme Court and argued that it was unconstitutional to place broadcasting authority under the control of the Minister of Information and Publicity. It also argued that the Broadcasting Services Act was developed in such a way that it ensured "the greatest difficulties were put in the way of anyone wishing to obtain a broadcasting license." The Supreme Court reserved judgment in the case, and there was no decision by year's end.

The Government controlled all domestic television broadcasting stations. The ZBC owned and operated television broadcasting facilities. During the year, ZBC appeared to lose its credibility and audience, as fewer international programs were carried and regular broadcasts of CNN were discontinued. Call-in talk shows, which carried phone calls from viewers critical of the Government, were cancelled. Prior to the presidential elections and continuing to year's end, ruling party music videos were aired throughout the day promoting the fast-track land redistribution program. The Government's key slogan highlighted in these videos, "Chave Chimurenga" or "the liberation war has begun" hinted at violence. Due to financial constraints, 60 percent of the ZBC staff members were fired, and some new employees, loyal to the ruling party, were appointed to senior positions.

Joy Television (Joy TV) was the only privately licensed television station; however, President Mugabe's nephew, Leo Mugabe, reportedly had financial ties to it, and the ZBC reportedly exercised some editorial control over Joy TV's programming. Joy TV was restricted to broadcasting on an available channel that was leased from the ZBC because the Broadcasting Act restricts the creation of an independent transmission facility. Joy TV reportedly came under pressure to cease regular, unedited BBC broadcasts, and the principal shareholder, James Makamba, lost favor with the Government when he launched a political talk show that included prominent opposition politicians such as MDC President Morgan Tsvangirai. After May 31, Joy TV was not allowed to broadcast. Despite public appeals and pressure from war veterans who were reported to hold shares in the company, the Government refused to continue leasing broadcast time to Joy TV.

International television broadcasts were available freely through private satellite firms, although the requirement that payment must be made exclusively in foreign currency made it unavailable for most citizens.

The Media and Information Commission imposed more stringent restrictions on both local and foreign journalists. One of the clauses of the new media law prohibited foreign correspondents from applying for greater than 30-day accreditation. The Commission declared October 31 as the deadline for the submission of applications

for the registration of media companies and accreditation of journalists. The Chairperson for the Commission, Dr Tafataona Mahoso, announced that the Commission intended to have all journalists registered before December 31. Many journalists applied for accreditation. Some received letters from the Commission requiring them to pay the application fees in U.S. dollars, and provide proof of their qualifications and examples of their work. With the advice of their attorneys, the journalists refused both requests. The Government had not made final decisions about whom to register by year's end. In accordance with AIPPA, mass media companies must pay an application fee of approximately \$625 (Z\$500,000). Journalists must pay \$1.25 (Z\$1,000) for application and accreditation respectively. Freelance journalists must pay \$0.63 (Z\$500) and \$3.13 (Z\$2,500). Foreign journalists were supposed to pay \$50 (Z\$40,000) and \$100 (Z\$80,000) for application and registration. Foreign media companies have to pay \$2,000 (Z\$1,600,600) and \$10,000 (Z\$8,000,000).

The Government denied entry to journalists, including journalists who were citizens, who it perceived to be portraying the country negatively. On June 12, Florence Machio, a Kenyan journalist, was detained at the Harare International Airport for failing to receive advance clearance from the Minister of State for Information and Publicity and was given until June 14 to leave the country. On September 14, Griffin Shea, correspondent for Agence France Presse, was forced to leave the country after the Government refused to renew his work permit. Shea had been working in the country for 2 years. Information Minister Moyo later said that no foreigner should be resident in the country as a journalist.

Books and films were subject to review by the Zimbabwe Board of Censors. The Board banned at least 10 films in recent years.

The Government did not restrict access to the Internet. During the year, there were many privately owned domestic Internet service providers (ISPs). However, the law permits the Government to monitor all international e-mail messages entering and leaving the country (*see* Section 1.f.). The arrests of journalist Andrew Meldrum and human rights activist Frances Lovemore were because of articles published on the Internet.

The Government restricted academic freedom. The University of Zimbabwe (UZ) Amendment Act and the National Council for Higher Education Act restricted the independence of universities, making them subject to government influence, and extends the disciplinary powers of the university authorities against staff and students. The Ministry of Higher Education and Technology controlled the UZ and appointed its Chancellor and Vice Chancellors; the Ministry also appoints the Dean of Faculty, and most members of the University Council. During the year, a number of students were brought before a disciplinary committee for allegedly being MDC members, and faculty members reportedly were denied promotions allegedly for supporting the MDC.

Unlike in the previous year, police did not disperse forcibly students during protests at the UZ.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of assembly; however, the Government restricted this right in practice through laws such as the new POSA. Legal experts believed that the restrictions imposed by POSA on an individual's right to freedom of assembly were unconstitutional. The police repeatedly used force to break up nonviolent demonstrations by its critics and erect roadblocks in urban areas to prevent public gatherings from taking place. Although permits were not required for meetings or processions, the POSA requires organizers to notify the police of their intentions to hold a public gathering 7 days in advance. Failure to do so would result in criminal prosecution as well as civil liability. Although most groups that conducted marches did not seek permits, some groups informed the police of their planned demonstrations. Police insisted that their permission was required to hold public gatherings, and they disrupted many events for which permission had not been sought.

Under the POSA, the Government asserted the right to have police members present at certain labor union meetings, claiming that they were "public meetings" banned under the Act. During the year, this was challenged and police no longer were required to attend (*see* Section 6.a.).

Police refused to permit numerous campaign rallies and meetings by the MDC in the period preceding the March presidential election and September rural council elections.

On February 15, police arrested 14 members of the National Constitutional Assembly (NCA) together with the MDC M.P. for Highfield Munyaradzi Gwisai who had marched in support of a new constitution and to demand a free and fair presidential election. The 15 men claimed that the police assaulted them and mistreated them, and Gwisai challenged the constitutionality of his arrest in the Supreme Court. The case had not been heard at year's end.

On April 3, police arrested 344 members of the Young Women's Christian Association in Harare during a planned meeting for a peaceful march to protest the results of the presidential election. Some women were detained for 3 nights with their babies, before being released on \$0.63 (Z\$500) bail.

On June 16, police assaulted and arrested approximately 70 MDC supporters and 3 independent journalists at the MDC's International Youth Day rally in Harare. Although the MDC obtained permission to hold the gathering in their Harare Provincial office, on the day of the event riot police dispersed the gathering and charged the participants with violation of the POSA. The MDC supporters claimed that the police assaulted them both prior to their arrest, and after they were detained at the Harare Central Police Station.

On July 25, MDC M.P. Austin Mupandawana and other senior members of the Kadoma branch of the MDC, were arrested following clashes between ZANU-PF youth and MDC supporters at an MDC campaign rally in advance of the Kadoma mayoral election. Several persons were injured when the ZANU-PF youths, armed with stones and iron bars, attempted to forcefully disperse the gathering. Although riot police intervened to stop the fighting, they accused the MDC members of inciting violence and arrested Mupandawana and other top MDC members who attended the rally. At year's end, the MDC officials still were in detention pending trial.

There was no action taken against police who used excessive force to disperse a number of demonstrations or rallies in 2001.

No action was taken, nor is any likely to be taken, against the members of the security forces who used excessive force to disperse demonstrations or rallies on the following dates in 2000: May 7; May 13; June 28; in July; October 9; October 12; and October 16 to 18.

No action reportedly was taken against the war veterans and riot police who violently disrupted a peace march in central Harare organized by the NCA in 2000.

The Constitution provides for freedom of association for political and nonpolitical organizations, including a broad spectrum of economic, social, and professional groups, and the Government generally respected this right in practice. However, ZANU-PF supporters, supplied with government vehicles and money, killed, tortured, beat, and otherwise abused persons perceived to be political opponents (*see* Sections 1.a., 1.c., 1.d., and 1.f.).

The formation of unions and political parties was not restricted.

Organizations generally were free of governmental interference as long as their activities were viewed as nonpolitical.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, a law that criminalizes both purporting to practice witchcraft and accusing persons of practicing witchcraft reportedly was viewed as restrictive by some practitioners of indigenous religions.

The Government and government supporters targeted some clergymen because they strongly criticized the state-sanctioned, politically motivated crimes and violence during the period prior to the 2000 parliamentary elections and the March presidential election and urged the Government to restore peace in the country. Church leaders and members who criticized the Government faced arrest and deportation. On February 16, police arrested Father Kevin O'Doherty and eight others participating in a prayer procession to police headquarters in Bulawayo. They were charged with contravening the POSA, but the charges later were dropped.

In February ZANU-PF supporters beat three Catholic priests, two Catholic nuns, and a Catholic brother in Zaka after they met with foreign officials. The perpetrators said the fact that the religious figures had met with foreign diplomats suggested they were opposition supporters. Local ruling party officials later apologized to the victims; however, the perpetrators were not charged with any crime.

The Government does not require religious institutions to be registered; however, religious organizations that run schools or medical facilities must register those specific institutions with the appropriate ministry involved in regulating those areas.

Witchcraft—widely understood to encompass attempts to harm others not only by magic but also by covert means of established efficacy such as poisons—traditionally has been a common explanation for diseases of which the causes were unknown. Although traditional indigenous religions generally included or accommodated belief in the efficacy of witchcraft, they generally approved of harmful witchcraft only for defensive or retaliatory purposes and purported to offer protection against it.

The Witchcraft Suppression Act (WSA) criminalizes purporting to practice witchcraft, accusing persons of practicing witchcraft, hunting witches, and soliciting persons to name witches; penalties include imprisonment for up to 7 years. The law defines witchcraft as “the use of charms and any other means or devices adopted in the practice of sorcery,” and provides punishments for intending to cause disease

or injury to any person or animal through the use of witchcraft. Human rights groups also generally supported the existing WSA, which has been used particularly to protect persons, primarily women, who have been accused falsely of causing harm to persons or crops in rural areas where traditional religious practices were strong.

There was some tension between the Government and some of the indigenous African churches, and between mainstream Christian churches and practitioners of traditional indigenous religions, because of the latter's preference for prayer over medical practices that resulted in the reduction of avoidable childhood diseases and deaths. Some members of the indigenous churches believed in healing through prayer only and refused to have their children vaccinated or treated. The Ministry of Health has had limited success in vaccinating children in these religious communities against communicable childhood diseases. Human rights activists also criticized these indigenous churches for their sanctioning of marriages for underage girls.

President Mugabe has expressed skepticism about the increasing membership in evangelical and indigenous churches and has indicated that he believed they could be subversive.

There were generally amicable relations among the various religious communities. Catholic Church officials said they welcome interfaith dialog with Muslims but believed some of the evangelical churches were hostile to Islam.

Muslims complained of discrimination by private employers who refuse to allow them sufficient time to worship at their mosques on Fridays.

Unlike in the previous year, there were no reports of ritual murders associated with traditional religious practices, and the Government actively enforced the law against ritual murders. However, Gordon Chavanduka, chairman of ZINATHA, the national association of traditional healers, reportedly stated in 2001 that black-market demand for human body parts used in making potions has increased greatly in recent years. Some observers suggested that this development might be associated with the spread of HIV/AIDS in the country and the lack of affordable science-based medicines for treating infected persons. Unlike in previous years, there were no reports that persons killed children for body parts for use in healing rituals associated with traditional religions.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, the Government at times restricted them in practice.

During the year, police routinely erected armed roadblocks in and around cities and rural districts during the post- and pre-election periods. Police claimed that they were looking for criminals and illegal weapons, but legal rights groups asserted that it was a measure designed to discourage or limit opposition campaigning in the electoral areas. Police used the POSA to erect roadblocks in urban areas to prevent public gatherings from taking place.

On November 8, government-owned media reported that the Government imposed travel bans and visa requirements on a variety of persons. Among those affected were British government officials, members of the British Parliament, an American human rights activist, and journalists. Several of the journalists reportedly banned from entering the country were Zimbabwean citizens. The Government expelled foreign journalists it perceived to be portraying the country negatively (see Section 2.a.). Foreign correspondents were denied visas during the year.

In 2001 the Minister of Information and Publicity threatened that the Government would revoke the passports of citizens who it viewed as traveling overseas to promote sanctions or other interests allegedly harmful to the country. During the year, the Government seized the passports of four of the MDC's top leaders: President Morgan Tsvangirai, Secretary-General Welshman Ncube, Treasurer Fletcher Dulini-Ncube, and shadow agricultural minister and M.P. Renson Gasela.

The Zimbabwe Citizenship Act, amended in 2001, requires all citizens with a claim to dual citizenship to renounce their claim to foreign citizenship under the laws of the foreign country in order to retain their citizenship. According to the act, citizens who failed to abide by the regulations by January 7 would cease to be citizens, would be removed from the voter rolls, and would be unable to vote. The revised act also revokes the citizenship of persons who fail to return to the country in any 5-year period. Legal rights groups described the legislation and regulations as a government attempt to disenfranchise citizens, because of their perceived opposition leanings, as well as the country's more than 500,000 commercial farm workers, many of whom have origins in neighboring countries, and the approximately 30,000 mostly white dual nationals. Many persons with dual citizenship experienced

difficulty complying with the regulations because many other countries do not provide procedures for repudiating citizenship.

On May 10, the High Court affirmed the Zimbabwean citizenship of Judith Todd, the daughter of Sir Reginald Garfield Todd, the former Prime Minister of Rhodesia. Registrar General Tobaiwa Mudede had refused to renew Todd's passport, declaring that her failure to renounce her claim to New Zealand citizenship had resulted in her losing her citizenship. The High Court Judge ruled that the Citizenship Act was not concerned with those persons who merely had entitlement to foreign citizenship and ordered that Todd's passport be renewed.

According to the local U.N. Development Program chapter and other NGOs, up to 500,000 farm workers were internally displaced at year's end. The majority of internally displaced persons (IDPs) were women and children. Many IDPs were farmers and farm workers who were forced to flee with their families because of threats and assaults by war veterans and other ZANU-PF supporters (*see* Section 1.f.). Displaced farm workers reportedly were living by the roadside, in the bush, or on other farms, and some were arrested. In most cases, the ZANU-PF supporters were farm squatters who ordered the farm workers to leave so that they could plant their own crops on the property. Other IDPs were persons, often teachers and civil servants, suspected by local officials of supporting the opposition who government supporters forced to leave their homes.

According to the Amani Trust, approximately 70,000 MDC supporters were displaced internally during the year, an increase from the 10,000 who were displaced in 2000; however, the number of unreported cases likely was higher. Often war veterans in local government positions applied pressure on local chiefs to order the expulsions of certain individuals. Some IDPs relocated to live with relatives or friends in urban areas; however, many remained in rural areas without shelter or reliable sources of food. Since early 2000, the Government has condoned and even encouraged an environment of lawlessness that permits war veterans and other ruling party supporters to force opposition members and supporters from their homes without consequences for the perpetrators (*see* Section 1.f.). In most cases, police were not permitted to intervene expeditiously. The Government harassed IDPs living in NGO safe houses in the capital, and arrested workers and staff of humanitarian organizations attempting to house them at camps.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government generally has cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government generally provided first asylum. According to UNHCR, about 100 asylum-seekers arrived each month and there were almost 11,000 refugees and 594 asylum seekers in the country at year's end. During the year, the Government denied first asylum to 38 persons. Asylum seekers from more than 20 countries were granted refugee status; the largest groups of refugees consisted of 4,525 Congolese (DRC), 2,819 Rwandans, and 880 Burundians.

The Director of operations of the Geneva-based International Catholic Migration Commission investigated allegations of rampant sexual abuse of female refugees at a camp it supervised. He interviewed 26 refugees and met with the UNHCR during his visit and found the allegations to be substantiated. The two perpetrators were suspended, and the police were notified.

Some employers reportedly took advantage of illegal refugees for inexpensive labor (*see* Section 6.e.).

There were no reports during the year of the forced return of persons to a country where they feared persecution.

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

Although citizens have the legal right to change their government democratically, in practice the political process continued to be tilted heavily in favor of President Mugabe and his ZANU-PF party, which have ruled continuously since independence in 1980. The Government amended laws, passed new legislation, and manipulated the electoral process effectively to disenfranchise voters during the year. On March 13, President Mugabe was declared the winner of a presidential election after a campaign in which violence and intimidation were used nationwide against MDC supporters, and in which the electoral rules were manipulated to favor overwhelmingly the ruling party. International observer missions from the Commonwealth, and the South African Development Community (SADC) parliamentary forum described the electoral process as fundamentally flawed while a large mission from the European Union (EU) withdrew before the election when the Government refused to accredit the delegation leader.

On April 8, James Majwabu-Moyo, a member of the 5-person Electoral Supervisory Commission (ESC), which was responsible for overseeing elections, resigned from the ESC citing differences with the ESC's Presidential Election Report, which described the election as "free and fair."

In April the MDC filed a lawsuit with the High Court calling for the nullification of the election results and a repeat of the election, claiming widespread violence against its supporters and numerous serious irregularities. In response, ZANU-PF claimed MDC President Tsvangirai lost because of an ineffective campaign and declining popularity. The case was scheduled to be heard in November but was postponed until February 2003.

During the year, the Government's GMB routinely and publicly denied handouts of maize meal to suspected MDC supporters and provided it only to ruling party supporters. In advance of the September rural council elections, ZANU-PF candidates were given maize meal to use in their campaign efforts. A common ZANU-PF tactic was to announce the distribution of food in the vicinity of, and at the precise time of, an MDC rally. Persons chose to attend the food distribution event but often were turned away empty-handed once the nearby MDC rally ended. In addition, GMB would only sell food to those who produced ZANU-PF membership cards, making it very difficult for known MDC supporters to purchase it.

In January Parliament passed the General Laws Amendment Act, which substantially amended the Electoral Act governing elections. The Act places new restrictions on local and international monitors and observers, gives the progovernment Registrar General the authority to amend the voters roll at will and issue absentee ballot papers, and effectively prohibits placing political posters in public areas. The Act also mandates that only the ESC can conduct voter education or delegate that responsibility to organizations that were registered with it (*see* Section 4). Media and civil society groups criticized the Act widely.

The 16 constitutional amendments enacted since 1980 have increased greatly Mugabe's power relative to the legislature. Originally a Prime Minister elected by the Parliament, he has become a President directly elected by the population. Constitutional Amendment 9 authorizes the President to declare unilaterally a state of public emergency for a period of up to 14 days. Amendment 10 grants the President sole power to dissolve Parliament and to appoint or remove a vice president and any minister or deputy minister. Amendment 10 also allows the President to appoint 20 of the 150 M.P.s, including 12 nonconstituency M.P.s and 8 provincial governors who sit in Parliament. The President also exerts great influence on the process by which the country's chiefs (traditional rulers) select 10 of their number to sit as M.P.s. All 30 of these M.P.s have been consistent ZANU-PF members.

The legislature, which traditionally has been subordinate to the executive branch, has a viable opposition that called on the Government to be accountable and transparent. Parliamentary question time was used to force debate and disclosure. In October 2000, the MDC brought a motion to Parliament to impeach President Mugabe for violating the Constitution and for gross misconduct. In November 2000, the Speaker of Parliament appointed a special committee composed of eight ZANU-PF members and four MDC members to consider the charges outlined in the motion. Legal rights activists accused the Speaker of preventing the committee from meeting or holding hearings; the committee essentially was defunct by year's end.

General parliamentary elections were held in June 2000 amid widespread voter intimidation and violence by the Government and ZANU-PF supporters with reports of vote-rigging and other irregularities. Although the election day generally was peaceful, the process leading up to it was neither free nor fair. The MDC won 57 out of the 120 popularly elected seats. Thirty additional seats were reserved for presidential and tribal chief appointees, who were ZANU-PF supporters, which gave ZANU-PF a total of 92 seats; this total increased to 93 in 2001 after the ruling party won a parliamentary by-election for a seat previously held by the MDC.

In the period before the March presidential election and the 2000 parliamentary elections, the Government, backed by security forces, implemented a systematic campaign of intimidation and physical violence against opposition supporters (*see* Sections 1.a., 1.b., and 1.c.). In many districts, the campaign reportedly backfired, both during the year and in 2000, resulting in additional votes for the opposition, but in others voters stayed away from the polls due to fear of retribution. For example, there were reports that farm workers of non-Zimbabwean heritage were threatened with deportation if they voted against the ruling party.

In 2000 President Mugabe amended the Electoral Act to prohibit the nullification of the election of any M.P. after the MDC and ZANU-Ndonga opposition parties filed petitions with the High Court challenging the electoral results in 37 parliamentary constituencies. In 2001 the Supreme Court declared the President's decree unconstitutional, which allowed the High Court to hear parliamentary election challenges

(see Section 1.e.). During the year, the High Court nullified the results in four constituencies, but upheld the results in four others. The respective parties appealed all eight cases to the Supreme Court, which had not heard the cases by year's end. Witnesses who testified in the cases were threatened or beaten. Police also frequently harassed individual MDC members after the both the elections during the year and in 2000 (see Sections 1.c. and 2.d.).

In 2000 Vice-President Msika announced that civil servants would not be permitted to act as election monitors in the parliamentary elections because they sympathized with the opposition. The civil service has been the Government's traditional source for domestic election monitors. The MDC accused the Government of replacing the civil servants with its own supporters. In 2000 the ESC challenged in the High Court sections of the amended Electoral Act that reduced ESC authority to accredit international electoral monitors; it was unlikely at year's end that the court would take any further action.

International election observers repeatedly were denied accreditation by the Government, and most were not accredited until the last few days before the 2000 election as a result of frequent changes in the accreditation rules by the Government. The Government continued to erect obstacles to international observers during the year.

Government and ruling party supporters used tactics of intimidation and violence, with the aid of security forces, to manipulate the electoral process in four districts holding parliamentary by-elections and three cities holding mayoral elections in 2001. ZANU-PF won four by-elections in 2001, a mayoral election, and virtually all the rural district council seats in the September election. The opposition MDC won two mayoral elections during the year and three in 2001. War veterans and security forces established base camps in Bikita West, Bindura, Makoni West, and Chikomba from which they reportedly beat and intimidated opposition supporters (see Section 1.c.). The ZANU-PF issued new party identification cards in 2001, however, unlike in the previous year, there were no reports that war veterans targeted for abuse ZANU-PF members who were not carrying the new cards. Observers also expressed general concern about a number of weaknesses and irregularities in the electoral process, including the lack of an independent electoral commission to oversee elections; the absence of a monitoring mechanism for the voter registration process; the consistent failure of election authorities to make the voters roll and supplementary rolls available for public inspection far enough in advance of the election; and the lack of voter education.

There were institutional problems with the management and supervision of elections, and the ESC, the Elections Directorate, the Ministry of Justice, Legal and Parliamentary Affairs, and the Registrar-General's Office had overlapping mandates. Although the Ministry of Justice technically administered the Electoral Act, the Registrar General's Office fell under the Ministry of Home Affairs. With an insufficient budget and an overburdened staff seconded from the Ministry of Justice, the ESC lacked the independence, institutional capacity, and resources to oversee all of the country's polling stations. Commissioners also lacked authority to order the correction of irregularities. The voters' roll was computerized, but it contained a large number of redundancies and errors, including misspellings, multiple entries, and names of deceased persons. These irregularities were highlighted during the 2000 parliamentary elections when deceased persons were recorded as casting votes for the ruling party. International observers cited the need to establish an independent electoral commission. The Government invested immense powers in the presidency through the Electoral Act, which institutionalized gerrymandering and fraudulent voters' rolls. The Government invoked the act shortly before the 2000 elections to redraw constituent boundaries in its favor and raise bureaucratic barriers to voter registration. Although most election observers agreed that the voting process itself generally was peaceful, 15 percent of voters were prevented from voting on election day on technical grounds or due to incomplete or inaccurate voters' rolls. Electoral officers did not operate in a fully open and transparent manner.

In 2001 the MDC unsuccessfully challenged in the High Court the Government's requirement that all voters cast ballots in the March presidential election in the constituency where they were registered. In previous presidential elections, voters were allowed to vote anywhere in the country; however, in the March elections they could only vote in their registered constituency. Legal rights groups argued that the new requirement would disenfranchise voters who were unable to travel to their home constituencies. In December 2001, the High Court ordered the Registrar General to supply a copy of the entire voters' roll to the opposition for inspection. The list was delivered in January, but the MDC complained it was outdated by the time of the election. The Government continued registering voters in its areas of strongest support until just before the March election, even though the registration dead-



line had passed in late January. Although the Registrar General was required by law to provide a copy of the voters rolls used in the March presidential election, the MDC still was unable to obtain one by year's end.

During the year, the NCA, an umbrella organization comprising most of the country's important civil society groups, continued to press for consideration of a new constitution that would reduce the power of the presidency and offer greater protection for civil liberties. In a nationwide referendum in 2000, voters defeated the draft constitution prepared by the Constitutional Commission that would have maintained a strong presidency.

The ruling party's candidates continued to benefit from the ZANU-PF's control of the state-owned firms that dominate the country's economy, from its control of the state-monopolized broadcast media (*see* Section 2.a.), and from its control over state funds granted to political parties. Under the Political Parties Finance Act (PPFA), the Government is required to allocate \$125,000 (Z\$100 million) among political parties in proportion to the parties' seats in the Parliament, provided the party has at least 15 seats. In 2001 the Government amended the PPFA to prohibit foreign funding for political parties. Political rights groups declared that the amended act was designed to cut off funding for the opposition, although ZANU-PF routinely ignored the PPFA's prohibitions without consequences.

Many persons who were perceived as opposition supporters by the Government, were removed from the civil service and the military.

There were 17 women in the 150-seat Parliament, including the Deputy Speaker of Parliament, and there were 4 female ministers and 1 female deputy minister in the Cabinet. In addition, there was one woman governor. Women participated in politics without legal restriction; however, according to local women's groups, husbands, particularly in rural areas, commonly directed their wives to vote for the husband's preferred candidates. The ZANU-PF congress allotted women one out of every three party positions and reserved 50 new positions for women on the party's 180-member Central Committee, which was one of the party's most powerful organs.

All major ethnic groups were represented in Parliament and in the Government; however, most members of the Government and the Parliament, as well as most ZANU-PF officials, belong to the Shona ethnic group, which composed 82 percent of the population (*see* Section 5).

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

The Government permitted local civic and human rights groups to operate, but it monitored their activities closely. The Government usually was unresponsive to the concerns of NGOs and rarely consulted with them during the year. National groups that promoted human rights included: The Amani Trust; the Bulawayo Legal Projects Centre; the Catholic Commission for Justice and Peace (CCJP); the Child and the Law Project; the Legal Resources Foundation; the Media Institute of Southern Africa; the Musasa Project; National Alliance of Nongovernmental Organizations; the NCA; the Southern African Foundation of the Disabled; Transparency International-Zimbabwe; the Women's Action Group; Women and AIDS Support Network; Women and Law in Southern Africa; Women in Law and Development in Africa; the Zimbabwe Elections Support Network; the Zimbabwe Human Rights NGO Forum; Zimbabwe Lawyers for Human Rights; the Zimbabwe Liberators Platform; the Zimbabwe Union of Journalists; the Zimbabwe Women Lawyers Association; Zimbabwe Women's Resource Centre and Network; Zimcet; and ZimRights.

Domestic NGOs worked on human rights and democracy issues, including lobbying for revision of the POSA and AIPPA, increasing poor women's access to the courts, raising awareness of the abuse of children, eliminating irregularities in voter rolls, conducting voter education, preserving the independence of the judiciary, and eliminating torture, arbitrary detention, and restrictions on freedom of the press and assembly. The Zimbabwe Human Rights NGO Forum has taken the lead in coordinating reports on human rights violations and abuses in the period prior to and following the 2000 elections.

During the March presidential election campaign only the Government-sponsored ESC and government-approved NGOs were permitted to carry out voter education.

On September 13, the Government signaled its intention to step up its oversight of NGOs, many of which they accused of supporting opposition political activity. It published a notice saying it would begin enforcing the 1995 Private Voluntary Organizations (PVO) Act requiring all PVOs to apply for registration with the Ministry of Social Welfare. Most PVOs had ignored the 1995 Act and expressed concern that enforcement of it would give the Government excessive control over their activities. Government ordered all nonregistered PVOs to cease operations until they registered, a process that generally takes approximately 8 months. On November 16,

Welfare Minister July Moyo declared in Parliament that the Amani Trust was in breach of the country's PVO registration laws. This coupled with ongoing government pressure and surveillance caused Amani Trust to cease operations indefinitely.

In a 2001 case brought by a women's NGO, the Supreme Court ruled unconstitutional those sections of the PVO Act that had authorized the Minister of Social Welfare, Labor, and Public Service to suspend the executive body or "any member of the executive committee of an organization and to appoint persons to manage the affairs of the organization for a specified time." Prior to the Supreme Court's ruling, several new NGOs set up their organizations as "associations" connected with established NGOs so that their executive bodies would not be subject to government interference.

In May local government minister Ignatius Chombo prompted war veterans in Binga district, Matabeleland North province, to close down the food distribution efforts of the CCJP, which was the only source of food for many rural residents in the Binga district. Chombo criticized the CCJP for establishing local structures parallel to the Government's structures. Beleaguered, the CCJP gave up their Binga operation to Save the Children UK which resumed food deliveries to Binga in November.

On August 29, police arrested and detained incommunicado overnight Frances Lovemore, acting director of a leading human rights organization, Amani Trust, after searching the organization's offices. She was denied access to food and a blanket. Lovemore was arrested for violating the POSA after she reportedly said the Government youth brigades were "raping [women] on a mass scale." She was charged formally under POSA with publishing falsehoods prejudicial to the state; however, all charges against her were dropped due to insufficient evidence.

Unlike in the previous year, there were no reports that war veterans abducted NGO directors.

Amnesty International, Transparency International, and the International Committee of the Red Cross operated in the country. The Government hindered representatives of international human rights groups from visiting the country before, during, and immediately after the presidential elections. For example, on April 18, the Government denied entry at Harare International Airport to the co-director of the Africa Program of the International Crisis Group. He was not given reasons why he was denied entry, but his organization had published a number of reports strongly critical of the Government. Norwegian parliamentarians and a prospective contractor for foreign government project were also denied entry at the airport, and the Government announced that citizen employees of Short Wave Radio-Africa would not be permitted to return to the country.

#### *Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution provides that "every person in Zimbabwe" cannot be deprived of fundamental rights, such as right to life, liberty, and security of person, based on his race, tribe, place of origin, political opinions, color, creed, or sex; however, domestic violence and discrimination against women, abuse of children, and discrimination against persons with disabilities were problems. The Government and ruling party discriminated against the white minority in areas of due process, foreign travel, and property ownership.

*Women.*—Domestic violence against women, especially wife beating, was common and crossed all racial and economic lines. It occurred throughout the country and sometimes resulted in death. The Musasa Project, a leading women's rights organization, reported that the number of incidents of domestic violence increased during the year due to the deteriorating economy and higher unemployment among men. In one high-profile case, MDC M.P. and spokesperson for the party, Learnmore Jongwe, admitted to fatally stabbing his wife and subsequently died in police custody of chloroquine poisoning. The organization addressed approximately 1,669 cases during the year. Musasa reported that 54 percent of the women counseled for domestic violence had sexually transmitted diseases, and 29 percent had HIV/AIDS.

There continued to be reports of rape, incest, and sexual abuse of women. Musasa handled 22 cases of rape in the first 8 months of the year; many cases were not reported because of the social stigma attached to the crime and wives' fear that husbands may disown them. Approximately 1,200 rapes were reported in Harare in 2001. Although the Government refused to supply figures for the year, the rate reportedly was higher than in 2001. Musasa and Amani Trust reported 14 cases of politically motivated rape during the year; human rights groups estimated that the actual number of politically motivated rapes may number in the hundreds (*see* Section 1.c.). Women faced many obstacles in filing reports of rape; for example, many police stations were not prepared to handle properly the investigation of such cases. When cases go to court, lengthy sentences for rape and wife beating generally were

imposed. However, a “binding over” order (an order to appear in court to respond to an accusation of violent behavior) was issued based only on actual physical abuse and not on threats of violence. Courts also did not have the power to oust an abusive spouse from a couple’s home. Systemic problems and lack of education often meant that police did not respond to women’s reports or requests for assistance.

There were reports of sexual abuse of female refugees (*see* Section 2.d.).

In 2001 the Sexual Offenses Act was enacted, which improved the legal recourses available to women. The Act enhances the protection of women by making non-consensual sex among married partners a crime. The Act provides penalties for up to 10 years in prison for sexual crimes. It also expanded the definition of sexual offenses to include rape, sodomy, incest, indecent assault, or an immoral or indecent act with a child or person with mental disabilities.

Female genital mutilation (FGM) rarely was performed in the country. However, according to press reports, the initiation rites practiced by the small Remba ethnic group in Midlands Province include infibulation, the most extreme form of FGM.

There were anecdotal reports of the trafficking of women (*see* Section 6.f.).

Since independence the Government has enacted laws aimed at enhancing women’s rights and countering certain traditional practices that discriminate against women; however, women remained disadvantaged in society. Illiteracy, economic dependency, and prevailing social norms prevented rural women in particular from combating societal discrimination. Despite legal prohibitions, women still were vulnerable to entrenched customary practices, including the practice of pledging a young woman to marriage with a partner not of her choosing and the custom of forcing a widow to marry her late husband’s brother.

The law recognizes women’s right to own property independently of their husbands or fathers. Although unmarried women may own property in their own names, women married under customary law were not allowed to own property jointly with their husbands. The Administration of Estates Amendment Act makes inheritance laws more favorable to widows; however, in 2000 the Supreme Court upheld a magistrate court decision that, under customary ethnic law, a man’s claim to family inheritance takes precedence over a woman’s, regardless of the woman’s age or seniority in the family. The Court cited Section 23 of the Constitution, which allows discrimination against women under customary law. Divorce and maintenance laws were favorable to women, but women generally lacked awareness of their rights under the law.

Although labor legislation prohibits discrimination in employment on the basis of gender, women were concentrated in the lower echelons of the work force and commonly faced sexual harassment in the workplace. One in three working women at all levels was subjected to sexual harassment in the workplace.

In 2000 the Government promised to grant a quota of 20 percent of resettled land to women, although they comprised nearly 80 percent of the rural population. During the year, very little land was granted to women under the fast-track resettlement scheme. The women who were allocated land were asked to register the land in their husband’s names. In contrast there were reports that the wives of senior government officials were allocated some well-established commercial farms in their own right (*see* Section 1.f.).

There is a Ministry of Youth Development, Gender, and Employment, but it did little to advance the cause of women. The Government gave qualified women access to training in the military and national service. Although there have been advances for women, they continued to occupy mainly administrative positions.

Several active women’s rights groups, including Women in Law and Development in Africa, the Musasa Project, the Zimbabwe Women Lawyers’ Association, the Women’s Action Group, and the Zimbabwe Women’s Resource Center and Network concentrated on improving women’s knowledge of their legal rights, increasing their economic power, and combating domestic violence. Groups that focused on the problems of protection of women against domestic violence and sexual transmission of HIV/AIDS included the Women and AIDS Support Network and the Musasa Project.

*Children.*—The Government’s commitment to children’s rights and welfare deteriorated during the year. The Government focused primarily on political issues, to the detriment of pressing social needs. Consequently, children, especially those in the rural areas, suffered greatly. Although legislation was in place to protect children’s rights, it was difficult to administer. The Children’s Protection and Adoption Act, the Guardianship of Minors Act, the Deceased Person’s Maintenance Act, and Sexual Offenses Act supposedly protect the legal rights of minor children, but they were not enforced effectively.

While there was no compulsory education and schooling was not free, in the past the country had made considerable progress in providing education for children. However, because of increased school fees in urban schools and rural secondary

schools, enrollment has declined. School fees have risen sharply due to high inflation, resulting in the inability of many families to afford to send all of their children to school. The Government established a program of social welfare grants for needy children; however, it was underfunded and corruption undermined the beneficiary selection process. The members of selection committees in some communities gave grants to their relatives and friends and denied them to the children of opposition supporters.

In most regions of the country, fewer girls than boys attend secondary schools. If a family was unable to pay tuition costs, it most often was female children who left school. The literacy rate for women and girls over the age of 15 was estimated to be 80 percent, while the male rate was approximately 90 percent. However, budget cuts and the lack of adequate attention to HIV/AIDS prevention eroded the Government's capacity to address children's needs in these areas.

The Government ordered that students entering college, teacher training schools, or the civil service must present a diploma from one of the newly established training camps (*see* Sections 1.c. and 6.c.). Graduates of the latest "class," which numbered in the several hundreds, were placed in police and military units. Reportedly the GMB hired 1,250 of the graduates for unspecified duties.

Several schools were shut down as teachers who supported the MDC were tortured and told they were not allowed to work as long as they did not support ZANU-PF and the President. There were reports that some schools were used as torture centers (*see* Section 1.c.).

International experts estimated that HIV/AIDS infected one-third of the adult population and killed approximately 2,000 persons every week. Deaths from HIV/AIDS created hundreds of thousands of orphans, a number expected to rise to 1 million by 2005. Government-funded and private orphanages were filled to capacity, and the number of street children or those living in adoptive homes rose dramatically and visibly during the year. This rapidly growing problem was expected to put a tremendous strain on both formal and traditional social systems. At the household level, there was an increased burden on the extended family, which had traditional responsibility for caring for orphans. Many grandparents were left to care for the young, and in some cases, children or adolescents were heading families. Many orphans were sent to foster homes, where they often become victims of sexual abuse. At the provincial and national levels, the Governments faced increasing demands for community orphan projects, orphanages, health care, and school fees.

The number of street children, and the related problems of theft, street violence, drug use, and violent death, increased significantly. There were an estimated 12,000 homeless street children in the country in 1999, and an estimated 5 to 6 children joined those ranks daily during the year. The number of incidents of child abuse, including incest (long a taboo), infanticide, child abandonment, and rape increased during the year. It was not known whether the statistics reflected the fact that more cases were occurring or only that more were being reported. The Parents and Family Support Network, a local NGO, reported that one in three children in the country was at risk of physical or emotional abuse. There was a large volume of rape cases in the Harare victim-friendly courts (VFC), which consisted of individual magistrates designated to try family cases. These courts were understaffed because many magistrates sought more lucrative employment outside the country. The large volume led to calls by children's rights' advocates to establish additional courts in surrounding areas.

Children were at increasing risk of HIV/AIDS infection as a result of the rising rate of sexual abuse cases. The Sexual Offenses Act (SOA) makes it a crime to infect anyone knowingly, including children, with HIV/AIDS. The SOA provides for a maximum fine of \$115 (Z\$35,000) or imprisonment of up to 7 years for those convicted of prostituting children under 12 years of age. It also provides for a maximum fine of \$167 (Z\$50,000) and a maximum prison sentence of 10 years for "procuring another person to become a prostitute and have sex whether inside or outside Zimbabwe." Although this Act was passed in 2001, it had little impact on the status of children. The Zimbabwe Women's Lawyers Association (ZWLA) claimed that most magistrates in the country were not aware of some of its contents or that the law was in effect. ZWLA's research illustrated that many magistrates continued to make judgments based on old laws. ZWLA was in the process of conducting training courses for local magistrates. The criminal justice system has special provisions for dealing with juvenile offenders.

A local NGO, Musasa Project, worked closely with the Ministry of Youth Development, Gender, and Employment Creation to investigate allegations of young girls being raped at the Government's national youth service training camps, established by the late Minister Border Gezi (*see* Section 6.c.). Musasa believed that the girls who were subjected to abuse remained silent out of fear of retribution. Many young

girls came to the camps because of the economic suffering in the country. In addition, members of government militias gang raped adolescent girls some as young as 12.

There were several cases of child rape within the country during the year, but no reports of trafficking associated with these cases. There were some reports of arranged marriages involving young girls, but no reports of sexual exploitation or forced labor associated with those.

No action was taken against the gardener who sodomized his employer's son and reportedly infected him with HIV/AIDS in 2001.

The 2000 case in which war veterans abducted and sexually abused 10 schoolchildren reportedly was under investigation; however, there was no further information available at year's end.

FGM was performed rarely on young girls (*see* Section 5, Women).

There were some reports that girls under 17 years of age were engaged in prostitution, and there were anecdotal reports of trafficking in children (*see* Section 6.f.). The Sexual Offenses Act, provides fines and imprisonment for those convicted of prostituting children or procuring prostitutes inside or outside the country.

The traditional practice of offering a young girl as compensatory payment in interfamily disputes continued during the year.

Indigenous African churches that combine elements of established Christian beliefs with some beliefs based on traditional African culture and religion generally accepted polygyny and the marriage of girls at young ages; they also generally approved of healing only through prayer and opposed science-based medicine including the vaccination of children.

Child rights advocates criticized the failure of government to provide children with birth certificates, which they blamed on overly stringent requirements and a shortage of staff at the relevant ministry. There also was concern that children displaced as a result of the land redistribution program would not be able to obtain birth certificates because they would be unable to obtain letters from evicted farmers to prove that they were born on the farms.

Unlike in the previous year, there were no reports of ritual murders and killings of children for body parts that were associated with traditional religious practices.

*Persons with Disabilities.*—The law specifically prohibits discrimination against persons with disabilities in employment, admission to public places, or provision of services and was viewed by advocates of persons with disabilities as model legislation; however, in practice the lack of resources for training and education severely hampered the ability of persons with disabilities to compete for scarce jobs. The law stipulates that government buildings should be accessible to persons with disabilities; however, implementation of this policy has been slow. A local NGO was working on auditing and implementing the law during the year. NGOs continued to lobby to include albinos in the definition of "disabled" under the law. Persons with disabilities face particularly harsh customary discrimination. According to traditional belief, persons with disabilities were considered bewitched, and reports of children with disabilities being hidden when visitors arrive were common.

The SOA expanded the definition of sexual offenses to include an immoral or indecent act with a person with mental disabilities.

*National/Racial/Ethnic Minorities.*—According to government statistics, the Shona ethnic group makes up 82 percent of the population, Ndebele 15 percent, whites less than 1 percent, and other ethnic groups 2 percent. There were tensions between the African majority and the white minority, between the Shona majority and the Ndebele minority, and among the various Shona subgroups.

During the 1960s and 1970s, elements of the white minority rebelled against British rule and established and maintained a racially discriminatory apartheid regime, which was dismantled in 1980 only after insurgencies by the armed wings of ZANU and the Zimbabwe African People's Union (ZAPU), and economic sanctions by the international community. The white community remained economically privileged despite government efforts to confiscate most of their land (*see* Section 1.f.).

Government services generally were provided on a nondiscriminatory basis. The Government has sought to expand and improve the previously "whites only" infrastructure in urban areas to provide health and social services to all citizens, and all schools and churches were integrated legally. However, social interaction between Africans and whites remained uncommon. Racial tensions have subsided since independence and remained low despite the Government's ongoing attempts to blame whites for the country's economic and political problems. On many occasions, President Mugabe, members of his government, and the state-controlled media attempted to reignite resentment of the white minority. President Mugabe accused the white minority of having too close ties to their ancestral countries and

criticized other governments for trying to interfere with the “continuing liberation struggle.” The Government’s far-reaching fast-track resettlement program designated 97 percent of large-scale, white-owned commercial farms for seizure with no clear means for providing compensation, and government supporters and war veterans assaulted commercial farmers in their homes and forced hundreds from their property (see Sections 1.a., 1.c., and 1.f.). Ruling party supporters seldom were arrested or charged for infringing upon minority rights.

Although relations between the Shona and the Ndebele have improved since the Shona-dominated government suppressed an alleged insurgency by Ndebele civilians in the 1980s that killed an estimated 10,000 to 20,000 Ndebele civilians in Matabeleland, the disproportionate number of Shona speaking teachers and headmasters in Matabeleland schools remained a sensitive issue. Members of the Ndebele community continued to criticize the Government’s unequal distribution of national resources and the Government’s failure to compensate victims of the 1980’s Matabeleland killings.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Labor Relations Act (LRA) provides private sector workers with freedom of association and the right to elect their own representatives, publish newsletters, set programs and policies that reflect the political and economic interests of labor, and form or join unions without prior authorization, and workers exercised these rights. The LRA allows for the existence of multiple unions per industry, provided that each is registered with the Ministry of Public Service, Labor, and Social Welfare (MPSLSW). While the Government can deregister individual unions, the High Court has ruled that the LRA does not give the Minister the power to suspend or deregister the national umbrella labor confederation, the ZCTU. In 2001 ZANU-PF brought the Labor Relations Amendment Bill before Parliament that proposed enhanced dispute settlement mechanisms and increased procedural barriers required before unions can call a strike, and the parliamentary legal committee issued an adverse report on the bill, calling many of its provisions unconstitutional. The Zimbabwe Tripartite Task Team—composed of representatives from the Government, employers, and workers—met in August to consider the proposed amendments to the LRA. There were serious objections to some of the bill’s language from labor unions, and there was little consensus as to the final form of the proposed amendments. The bill remained under consideration at year’s end.

At the end of 2001, approximately 25 percent of the formal sector work force (approximately 400,000 workers) belonged to the 31 unions that form the ZCTU; however, labor unions suffered dramatic losses in membership due to the contraction of the economy over the past 2 years. In 2001 more than 80 percent of all industries were unionized; however, during the year, the percentage was between 65 and 70 percent. Approximately 160,000 workers belong to unions (roughly 17 percent of the workforce), although not all were dues paying members. Although the Government encouraged the ZCTU’s formation, anticipating that it would form the labor arm of ZANU-PF, it no longer controlled the ZCTU; many of the leaders of the MDC began their public careers with the ZCTU. ZCTU officers were elected by delegates of affiliated trade unions at congresses held every 5 years; the ZCTU elected a new leadership at its congress in February 2001. ZANU-PF reportedly tried to influence the election of its preferred candidates at the congress by paying the back dues of affiliated unions and bribing congress delegates; however, the majority of candidates elected were independent of ZANU-PF. The Government and the ZCTU regularly clashed sharply over economic policy. The Government often did not consult either the ZCTU or employers before implementing policy decisions that affected the workplace. This lack of consultation often resulted in disrupted labor relations.

Public servants and their associations, the Public Service Association (PSA), and its branch associations, the Zimbabwe Teachers Association (ZIMTA), the Zimbabwe Nurses Association, and the Civil Service Employees Association, were not covered by provisions of the LRA. Instead, their conditions of employment were provided for under the Constitution. Although civil servants constitutionally were barred from forming unions, the PSA, and its affiliated associations, were members of the ZCTU.

The Labor Relations Amendment Act (LRAA) specifies that workers may establish independent worker committees, which existed side by side with unions in each plant. Worker committees also had to be registered with the MPSSLW, which was free to refuse registration. ZCTU officials believed that the formation of worker committees was an attempt to dilute union authority, because the worker committees comprised both union and nonunion workers; however, the ineffectiveness of worker committees demonstrated the need for the experienced worker representation of the established trade unions.

The LRA allows for the formation of multiple national labor federations. The ZCTU is the oldest and most powerful labor federation; however, the Government openly targeted the ZCTU by announcing that the ZCTU was a political organization and declaring it aligned with the opposition MDC. Under the restrictive POSA, the Government claimed the right to have police members present during ZCTU's meetings—even those at the executive level—by claiming these private meetings to be “public meetings” banned under the Act. During the year, ZCTU successfully challenged this interpretation in court and no longer was required to inform the police of its meetings and allow plainclothes police to attend.

On February 16, government youth militia members abducted ZCTU council member Ephraim Tapa and his 5-month pregnant wife Faith from a roadside canteen approximately 100 miles north of Harare. The Tapas were accused of supporting the opposition and held for almost 1 month in different locations, during which time Mr. Tapa was beaten frequently, at least once to the point of unconsciousness. They overheard their captors plotting their killing; however, police rescued them in the Mushimbo area near the border with Mozambique.

The ZCTU continued to criticize violence directed at agricultural workers who live and work on commercial farms. Many of these agricultural workers were members of GAPWUZ, which was affiliated with the ZCTU.

The Zimbabwe Federation of Trade Unions (ZFTU) was led by its vice president Joseph Chinotimba, the “war veteran” and self-styled leader of the 2000 farm invasions and 2001 factory invasions, who continued to disrupt relations between workers and their union leadership. In addition to arbitrarily guaranteeing wage increases and new benefits absent any agreement by employers, the ZFTU used a variety of coercive methods to convince workers to join its ranks. There were credible reports that ZFTU activists threatened to physically attack workers or publicly mark them as opposition supporters. In order to “persuade” them to change their labor union allegiance, the ZFTU at times sent armed gangs to force workers out of bed during the night to chant ZANU-PF slogans and prove their allegiance to the party.

The ZFTU increased its presence on several fronts during the year, and worked closely with ZANU-PF to undermine the ZCTU. ZANU-PF/ZFTU sponsored a second set of May Day commemorations intended to overshadow the traditional ZCTU workers' day celebrations. In many cities throughout the country, including Harare, the public venues normally rented by the ZCTU were coopted by the ZFTU. The politically charged alternative ZFTU gatherings decreased attendance at ZCTU celebrations; however, attendance at most ZFTU events was low as well. The ZCTU's Harare commemoration occurred without incident, despite a heavy police presence and subsequent ZANU-PF denunciations that it was a “political rally.”

The ZFTU also was responsible for confrontations involving the agricultural sector. During the year, the Government passed Statutory Instrument 6 (SI6), which was perceived widely as an attempt to bankrupt and dispossess white commercial farmers. Under SI6 commercial farmers whose farms were acquired compulsorily were required to pay all of their farm laborers terminal benefits or “retrenchment packages,” including severance benefits, payment for accrued leave, bonuses, and a “gratuity.” These packages were fixed by law in a formula that depended on the number of years worked by each employee, with some packages reaching in excess of \$724 (Z\$500,000). According to SI6, if the farmer did not have funds to finance the retrenchment packages, he could pay half immediately and postpone the remainder until, or if, he received compensation for the improvements on the land from the Government, but only with the consent of their labor force. However, the agricultural workers, who were left impoverished by the land redistribution program, virtually never gave permission to delay payment of the retrenchment package. The ZFTU, under the personal leadership of Chinotimba, successfully capitalized on the fears of the labor force by instigating hostile confrontations with farmers, in some instances barricading farmers inside their homes and demanding liquidation of any available asset to fund immediate payout of the retrenchment package. This also happened on farms that had not received final acquisition orders. In most cases, the ZFTU officials who orchestrated these confrontations collected between 30 and 40 percent from each retrenchment package as their “fee.”

The LRA prohibits antiunion discrimination by employers against union members. Complaints of such discrimination were referred to labor relations officers and subsequently adjudicated by the Government's Labor Relations Tribunal (LRT). Such complaints were handled under the mechanism for resolving cases involving “unfair labor practices.” The determining authority may direct that workers fired due to antiunion discrimination should be reinstated, although this was not utilized in practice.

The ZCTU and its officials ostensibly were free to associate with international labor organizations, and they do so as actively as possible. The ZCTU was affiliated formally with the International Labor Organization (ILO), the International Confederation of Free Trade Unions (ICFTU), and the Southern African Trade Union Coordinating Council. The ZFTU had no known international affiliations.

Before the annual ILO conference in Geneva, there was a great deal of tension regarding the Government's intentions towards the ZCTU. The Government accredited a labor organization, traditionally the ZCTU, to attend the convention as the workers' representative alongside the employers' representative and a government representative. During the year, the Government postponed its declaration as to which workers' organization would receive accreditation until the last minute, which raised concern that the Government might accredit the rival ZFTU. The ZCTU planned to raise an objection with the Accreditation Committee if the ZFTU was accredited as the official delegate; however, the Government backed down in the face of overwhelming international support for the ZCTU. The ZCTU was formally accredited as the official delegate representing the country's workers, with the ZFTU leaders being given an official role as "advisors." The Government paid for the attendance of the ZFTU representatives.

During the conference, after ZCTU officials had presented detailed and documented evidence of interference by ZFTU members and ZANU-PF operatives against its membership, ZCTU president Lovemore Matombo stated that the country "was no longer subject to democratic processes," and called for a "direct contacts mission" from the ILO to "bring his country back to a more democratic industrial relations system." Labor Minister July Moyo stated that the Government was negotiating amendments to the LRA and that the legislation would be sent to the ILO's Committee of Experts (COE) for its examination. The ILO requested follow-up information regarding the proposed amendments, and stated that if the Government did not accept an ILO mission, the COE would "take the appropriate measure in this respect next year."

No further action was reported on pending ILO cases during the year, although the ILO continued to request information from the Government regarding alleged interference with the right to organize and bargain collectively.

*b. The Right to Organize and Bargain Collectively.*—The LRA provides workers with the right to organize. As originally written, the act did not address the right to bargain collectively; however, the LRAA permits unions to bargain collectively over wages. Worker committees, which by law were not organizationally part of the unions or the ZCTU, were empowered to negotiate with the management of a particular plant on the conditions of labor and codes of conduct in the workplace, except for wages. Unions, employers, and individual workers have the right to take their grievances to the Government's LRT for final adjudication. Despite the additional appointment of four new judges, the LRT continued to maintain a 2-year backlog of cases. While the ZCTU claimed that any labor grievance should be resolved within 21 days, many cases took years to resolve.

Collective bargaining and wage negotiations take place on an industry-wide basis between the relevant union and employer organizations sitting on joint employment boards or councils. Collective bargaining agreements applied to all workers in an industry, not just union members. Between April and July each year, workers and employees negotiated salary increases and other benefits in their respective National Employment Councils. These bodies submit their agreements to the Registrar in the MPSSLWSW for approval. The Government retained the power to veto agreements that it believed would harm the economy; however, it did not involve itself directly in labor negotiations unless requested to do so by one of the parties. When no trade union represented a specific sector, representatives of the organized workers, such as the professional associations, meet with the employer associations, under the mediation of labor officers from the MPSSLWSW. Companies offered wage increases that did not keep up with inflation during the year, and most workers and unions accepted the increases offered because of the economic crisis, but some continued to press for higher wages. The Government called for a wage freeze to last for 18 months to counter inflation; however, this was not accepted by the labor unions nor enacted into law.

Employees in positions designated as managerial were excluded from union membership and thus from the collective bargaining process. The ZCTU stated that the definition of manager in the LRAA was overly broad and criticized the Government and private sector for using it to exclude managers from the collective bargaining process.

The Salary Service Department of the MPSSLWSW determined public sector wages, subject to the approval of an independent Public Service Commission (PSC) (see Section 6.e.). Each year PSC officials meet with PSA representatives to review wages



and benefits. These reviews result in a recommendation that is forwarded to the MPSSW. The Minister is not required by law to accept the recommendation and usually proposed a wages and benefits package that was less than the recommendation, resulting in yearly industrial protest actions by civil servants.

The Government is a signatory to various ILO conventions, including Convention 98, which provides for the right to organize and the right to bargain collectively. The ILO's COE stated that several pieces of the country's legislation restricted workers' rights provided for by Convention 98. Under cover of the LRA, the Minister of Labor allegedly interfered with the internal affairs of both workers' and employers' organizations. The Government also could impose compulsory arbitration whenever it considered that it was appropriate. Moreover, the Minister of Labor was authorized to set minimum wages and maximum benefits that limited the right to bargain collectively. In addition, collective bargaining agreements reached between employers and workers were subject to approval by the Minister of Labor. The COE also raised other questionable legislation, including the Public Service Act of 1996, which denies the right of public servants to join unions.

It was very difficult to conduct a legal collective job action. There is no right to strike in the Constitution, and the LRA and the LRAA do not mention this issue. The law prohibits essential employees from striking, and the Government defined all public sector workers as essential. The Government also considered some private sector workers, such as those in the health sector, as essential workers. The ZCTU was apprehensive about the Minister of Labor's power to declare which sectors constituted "essential services," which precluded such sectors from engaging in strikes. The ZCTU noted that proposed amendments to the LRA, as well as other pieces of legislation such as the POSA, gave the Government enhanced power to declare a service essential or otherwise penalize workers who engaged in collective action.

The ICFTU has criticized the labor laws for giving "wide scope to the authorities to declare that a given enterprise or industry constitutes an essential service, and then impose a ban (on strikes) on it." Unlike in the previous year, the authority to reclassify a previously nonessential service as essential was not used. Government officials stressed that the Government reserved the right to impose these bans at its discretion.

Managers also were prohibited from striking, and in some industries, the Government defined most employees as managers. For the remaining nonessential employees legally to conduct a strike more than 50 percent of the company's employees must vote in favor of the action. Many employees were afraid of management reprisals. If a majority voted to strike, the dispute was referred to the concerned government agency for resolution. Only if the Government-appointed arbitrator determined that a resolution was not possible was the right to strike granted. These government-imposed delays prevented most employees and their unions from ever declaring legal strikes; however, during the year, illegal strikes or work stoppages have occurred within individual companies and in entire industries occasionally. There were a number of labor actions, including strikes and stayaways, during the year; however, due to the political uncertainty in the country, no mass stayaway was successful.

For example, in March immediately after the presidential election, the ZCTU called for a mass stayaway protesting the outcome of the election. Due to a variety of factors, including a lack of publicity by the Government-controlled television station and newspapers as well as fears about the likely government reaction, the strike was not supported fully by constituent unions. The ZCTU was reluctant to call for another mass stayaway and believed that the failed effort was counterproductive and worse than no effort at all; however, strikes occurred within individual industries throughout the year, primarily protesting the erosion of income and the increased cost of living.

A 1-day stayaway was called by the NCA for December 9. The ZCTU neither endorsed the call for mass action nor discouraged their members from participating. The night before the stayaway, the Government arrested 11 members of the ZCTU—9 senior elected officials and 2 functionaries—and incarcerated them for 48 hours. The Secretary-General was held incommunicado with no food or water, was beaten on the head and body with the heels of his captors' open hands (resulting in a burst eardrum and bruised ribs), was beaten on the soles of his feet with a broomstick, and was threatened with death. Prosecutors asked that the trade unionists be charged with attempting to overthrow the constitutionally elected government; however, the judge released all 11 without charge.

Stagnating wages, increasing inflation, and eroding value of income were the major concerns for all sectors of the labor force. Some sectors addressed this by implementing a biannual wage adjustment, others have adjusted wages quarterly. Still other sectors—particularly those that were subject to price controls on their finished

products—were unable to increase wages due to pressures from increases in the cost of their inputs and decreases in profitability. Other sectors have resorted to strikes in order to pressure their employers into raising wages. Striking workers have received increases averaging 45 percent.

In late July, despite being categorized as providers of “essential services,” junior and mid-level doctors went on a 3-week strike protesting their low wages, a newly implemented doctor grading system, and poor working conditions. The healthcare sector particularly has been hit hard by a number of factors: Lack of foreign exchange to buy drugs, significant professional attrition due to physicians and nurses seeking better salaries in other countries, high inflation combined with the rapidly eroding exchange rate, and the increasing impact of the HIV/AIDS pandemic. The doctors returned to work with an increase in wages; however, the healthcare system remained unstable.

In early October, the Progressive Teachers’ Union of Zimbabwe (PTUZ), one of the two major teachers’ unions, called a strike. Despite common grievances regarding pay scale, conditions of work, and other benefits, the more mainstream ZIMTA did not support the strike. Teachers, particularly members of the PTUZ, often were suspected to be MDC supporters and were subjected to harassment by ZANU-PF supporters, war veterans, and government youth militia members. A recent government decree indicated that all headmasters, including private school headmasters, would become civil servants so that persons of the “right sort” would be leading the country’s schools. The Government also announced a policy under which teachers’ colleges must give first preference to students who have completed youth service training, such as that provided at the Government’s Border Gezi Youth Training Center. In one teacher training school in Masvingo, there were 750 youth training graduates, overwhelming facilities intended for 325 students. A combination of extremely low salaries and increased pressure from the Government threatened to widen the strike. Despite press reports, no teachers were fired for striking.

Prior to the teachers’ strike, a new graduate teacher earned approximately \$12.46 (Z\$20,000 dollars) per month. Although the PTUZ teachers returned to work in November after the Government offered a salary increase to all teachers, both unions continued actively to negotiate the amount of the increase and other benefits. Government sources claimed that the pay scale will be adjusted to give experienced teachers—defined to include those teachers who have undergone “national service” training such as the Youth Service training—a commensurately higher salary. While one group of established teachers and headmasters has already completed such a course of national service training, an agreement regarding salary increases had not yet been reached at year’s end.

Unlike in the previous year, there were no reports that war veterans forced striking civil servants to work.

In May the ZFTU made a concerted effort to discredit the ZCTU and to coopt the membership of the ZCTU-affiliated Zimbabwe Sugar Milling Workers union in the Chiredzi sugarcane region. After promising a raise, which was not negotiated with the employers, ZFTU called for a strike. During the strike, anyone perceived as not supporting the strike or as a ZCTU supporter was harassed and physically attacked. Many workers were beaten severely and hospitalized. ZCTU leaders were not able to intervene because they feared for their lives. After several weeks, the employers granted the wage increase. During the year, the ZFTU was active in fomenting unrest and urging spot strikes by agricultural workers against individual farmers to win retrenchment packages (*see* Section 6.a.).

In 2001 members of the security forces attempted to disperse forcibly a strike at the Zimbabwe Iron and Steel Company (ZISCO) plant in Redcliff, which resulted in the deaths of 3 strikers and injuries to 10 others. The Government claimed that the police shot the three accidentally; however, labor activists stated that the security forces fired at the workers deliberately to break up the strike. Although police conducted an investigation, the results were not announced by year’s end. The Steel Workers’ Union sued the police and army for using excessive force; the case still was pending at year’s end. During the year, representatives from the Iron and Steel Workers Union were called to Parliament to give evidence about the strikers’ deaths to the Committee on Foreign Affairs, International Trade, and Indigenisation. At year’s end, Parliament had taken no action on the representatives’ testimony.

The LRAA streamlined the procedure for adjudicating disputes by strengthening the LRT. Labor relations officers hear a dispute; their decision may be appealed to regional labor relations officers, after which the LRT may hear the case. Ultimately it may be appealed to the Supreme Court. However, cases from as early as 1997 remained pending with the LRT at year’s end.

There were few reported incidents of “factory invasions” such as those that occurred in 2001; however, coercion continued to be an issue, particularly regarding the ZFTU’s actions.

The Export Processing Zones Act states the LRA shall not apply to workers in export processing zones (EPZs). The ZCTU has negotiated directly with EPZ employers to allow some unions in the EPZ, although their number and level of activity remained low.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children; however, there were reports that such practices occurred (*see* Section 6.f.). The traditional practice of offering a young girl as compensatory payment in interfamily disputes continued in rural areas (*see* Section 5).

The Government, war veterans, and the ZFTU have the power to force workers to perform labor, which they might not otherwise choose. In addition, during the year, the Government announced a compulsory youth service requirement under which young citizens were forced to undertake training at government-sponsored training camps such as the Border Gezi Youth Training Camp (*see* Section 5). This camp was the source of the youth militia forces, or “Green Bombers,” who were deployed widely to harass, abduct, and torture suspected MDC supporters during the March presidential elections. The stated purpose of the training camps was to instill a sense of pride in the youths, highlight the history of the struggle for independence, and develop employment skills; however, they were reported to be training camps to instill ZANU-PF allegiance, paramilitary skills, and expertise in political oppression and torture.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law sets the minimum age for general employment of children at 12 years and restricts employment of those between the ages of 12 and 17 to light work during school holidays for periods not exceeding 6 hours per day. Light work was defined as work not likely to prejudice a child’s education, health, safety, rest, or social, physical, or mental development. All hazardous employment, overtime, and night shift work was banned for those under the age of 18; however, there was little to no enforcement of these laws.

Child labor was common. According to the 2000 National Child Labor Survey, approximately 25 percent of children between the ages of 5 and 17 were involved in some form of child labor. Children worked in the agricultural sector, and there were reports that children worked as domestics and as car-watchers. Some form of child labor on large commercial farms formerly was widespread; however, the land resettlement program, which has expropriated almost 95 percent of commercial farms, has dispossessed child workers along with many thousands of adults.

The unemployment rate continued to grow, with some estimates as high as 75 percent, decreasing the number of children employed in the formal sector. However, the incidence of children working in the informal sector increased as families, often headed by children, needed a source of income. Approximately 35 percent of the adult population were infected with HIV/AIDS. As a result, more children worked in the informal sector to fill the income gap left by ill or deceased relatives. Many children sold simple wares on the streets; others worked in the booming illegal gold panning industry. In addition, there were reports of an increasing number of girls under 17 years of age engaged in prostitution. The deteriorating economy, accelerating social breakdown, and increasing impact of HIV/AIDS were forcing more children to work. Although child labor in the agricultural, domestic, and informal sectors increasingly was discussed, the Government and NGOs have been unable to gather concrete data on the number of cases.

In 2001 Parliament passed the Child Adoption and Protection Amendment Act, which incorporates ILO Convention 182 on the Worst Forms of Child Labor; however, the law was not implemented by year’s end.

Forced child labor and child prostitution occurred (*see* Sections 6.c. and 6.f.)

*e. Acceptable Conditions of Work.*—The maximum legal workweek is 54 hours, and the law prescribes a minimum of one 24-hour rest period per week. The Government regulated working conditions on an industry-specific basis. The Constitution provides the PSC with the authority to set conditions of employment in the public sector. The Government eliminated a national minimum wage as part of the Economic Structural Adjustment Program of 1990, with the exception of agricultural and domestic workers. Government regulations for each of the 22 industrial sectors continued to specify minimum wages, hours, holidays, and required safety measures. In recent years, in an effort to remove itself from the wage bargaining system, the Government mandated wage parameters for industries. Due to an ineffective monitoring system, many agricultural and domestic workers were remunerated below the minimum wage. In October 2001, the Government implemented new monthly wages of

\$5.36 (Z\$4,181) for agricultural workers, \$10.13 (Z\$7,903) for agro-industrial workers, and \$11.44 (Z\$8,926) for industrial workers. While agreements to increase the minimum wage were reached in principle at the tripartite meetings in July and August, no national increase was instituted. Representatives from labor, employers, and the Government remained in consultation through year's end. Although the Government called for a wage freeze intended to last up to 18 months in support of its efforts to control inflation after the new minimum wage increases were determined, labor appeared unwilling to support this without major concessions in other areas.

Minimum wages in the formal sector changed continuously as a result of multiple increases in salaries to offset the high inflation rate. Some industries implemented wage increases every 6 months in an attempt to keep pace with inflation, the spiraling exchange rate, and the increases in the prices of basic food staples. However, in almost all cases, wage increases did not keep pace with these factors. The minimum wage did not provide a decent standard of living for a worker and family, and at least 70 to 80 percent of the population lived below the Government's poverty line.

Many of the basic legal protections do not apply to the vast majority of farm, mine, and domestic workers. Health and safety standards were determined on an industry-specific basis. Despite the lack of general standards, the National Social Security Authority's (NSSA) statistics from 1999 showed a decrease in the number of occupational injuries and deaths. There were 78 fatal job accidents reported, and 87 persons were killed in industrial accidents during the year. The NSSA reported an increase in the number of fatal accidents in the construction, electrical, and telecommunications industries and cited unskilled contract personnel performing jobs formerly done by professionals. In theory labor relations officers from the MPSLSW were assigned to monitor developments in each plant to ensure that government minimum wage policy and occupational health and safety regulations were observed; however, in practice these offices were understaffed, could not afford to inspect routinely workplaces, and relied on voluntary compliance and reporting by employers.

The Government designated the Zimbabwe Occupational Safety Council (ZOSHC) to regulate safe work conditions. The ZOSHC was a quasi-governmental, advisory body comprised of six representatives each from the Government, employers, and trade unions. The National Director of the ZOSHC was responsible for enforcing worker safety regulations. The director reported weekly to the MPSLSW on actions taken. Budgetary constraints and staffing shortages, as well as its status as an advisory council, made the council ineffective. The NSSA continued to experience difficulty monitoring the thousands of work sites across the country; however, it began to enforce safety standards more vigorously by closing down shops and factories in noncompliance. Although workers have a legal right to remove themselves from dangerous work situations without jeopardy to continued employment, in practice they risked the loss of their livelihood if they did so, and this situation worsened during the year.

Foreign workers were covered by ZOSHC's safety standards, but domestic workers were excluded because of the "impracticality" of enforcing standards in private homes. Government workers also were excluded.

According to the ZCTU, some employers took advantage of illegal refugees for inexpensive labor. Because the job market traditionally was worse in neighboring countries such as Malawi and Mozambique, the refugees were willing to risk arrest and work for wages below the legal minimums; however, there was an increasing tendency for economic refugees to flee the country and seek work in countries such as South Africa and Botswana.

*f. Trafficking in Persons.*—While no laws specifically address trafficking in persons, common law prohibits abduction and forced labor, and the Sexual Offenses Act makes it a crime to transport persons across the border for sex. There continued to be infrequent and anecdotal reports that persons were trafficked, particularly women and children, from and through the country to South Africa for prostitution and forced labor. Unlike in the previous year, there were no reports that Zimbabwe was a destination country.

In 2001 Parliament passed and signed into law the SOA, which makes it a crime to transport persons across the country's borders for the sex industry (*see* Section 5). Traffickers also can be prosecuted under other legislation, such as immigration and abduction laws. The primary government authority that would combat trafficking was the ZRP.

No NGO or law enforcement agency had any direct evidence of or statistics on either trafficking or child prostitution by year's end. A few NGOs, including South Africa-based Molo Songololo, Harare-based Save the Children Norway, and Connect had some anecdotal reports of both trafficking and child prostitution. Connect was

compiling a qualitative report on the subject; however, the report was not expected to indicate the scope of the problem.

The approximately 20 anecdotal reports that Connect was compiling were mostly of Zimbabwean female teenagers whose families, in the economic decline, had accepted some form of payment in exchange for allowing them to work in brothels, notably in the border town of Beitbridge. Molo Songololo claimed that Zimbabwe was a transit point for children being trafficked from countries such as those in Asia and Malawi to South Africa; however, they could provide no specific examples or numbers of cases.

While it commonly was known that many Zimbabwean women worked in the hotel industry in South Africa, sometimes a euphemism for commercial sex work, and many Zimbabweans were low-wage agricultural workers in South Africa, there was no evidence of coercion or force in these areas.

There were no reports of organized trafficking groups. Unlike in the previous year, there were no reports that Taiwanese crime syndicates were involved in trafficking Chinese through the country.

The Government generally did not acknowledge the problem of trafficking in persons; however, a trafficked person had the option to take his or her case before the VFC. No cases were filed during the year.

The regional governments had not taken action on recommendations made at the 2001 conference on trafficking by year's end.



## EAST ASIA AND THE PACIFIC

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### AUSTRALIA

Australia is a longstanding constitutional democracy with a federal parliamentary form of government in which citizens periodically choose their representatives in free and fair multiparty elections. The judiciary is independent.

Federal and state police are under the firm control of the civilian authorities and carried out their functions in accordance with the law. There were occasional reports that police committed abuses.

The country has a population of approximately 19,500,000. Its highly developed market-based economy, which includes manufacturing, mining, agriculture, and services, provided citizens with an average per capita income of approximately \$18,700. A wide range of government programs offered assistance for disadvantaged citizens.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse. There were occasional reports that police beat or otherwise abused persons. Several inquiries during the year, including one prepared by the United Nations Human Rights Commission, expressed concern over the impact of prolonged mandatory detention on the health and psychological wellbeing of asylum seekers. Some leaders in the ethnic and immigrant communities and opposition political party members expressed continued concern at conditions in immigration detention centers and instances of vilification of immigrants and minorities. The Government administered many programs to improve the socioeconomic conditions of Aboriginals and Torres Straits Islanders, who together form about 2 percent of the population, and to address longstanding discrimination against them. Societal violence and discrimination against women were problems that were being addressed actively. There were some instances of forced labor in the past, but none were identified during the year. There was some trafficking in women, which the Government was taking steps to address. There was ongoing criticism of the 1996 Federal Workplace Relations Act by domestic labor unions and the International Labor Organization (ILO), particularly in regard to the law's restrictions on multi-enterprise agency bargaining and its emphasis on individual employment contracts. The ILO asserted that these provisions are in violation of international labor covenants. Australia was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents. However, a report by the Australian Institute of Criminology, an agency of the Attorney General's Department, revealed that in 2001, 87 persons had died in prison, in police custody, or in the course of arrest, a slight decrease from the 91 deaths in 2000. Police fatally shot four persons and the cause of death was not identified in two cases. Of the remainder, 25 deaths were attributed to suicide by hanging, 31 to natural causes, 20 to multiple injuries sustained during high-speed car chases, 3 to unspecified injuries, 1 to a drug overdose, and 1 to self-inflicted gunshot wounds. The police were cleared in all cases in which they were involved (*see* Section 1.c.).

On January 8, a woman died in the Villawood immigrant detention center near Sydney, the only known death in an immigration detention facility. A coroner's inquest found that death resulted from injuries sustained in a fall; no determination could be made as to the cause of the fall.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits all such practices; however, there were occasional reports that police mistreated suspects in custody. Some indigenous groups charged that police harassment of indigenous people was pervasive and that racial discrimination among police and prison custodians persisted. Amnesty International (AI) reported several incidents that involved such abuses. State and territorial police forces have internal affairs units that investigate allegations of abuse and report to a civilian ombudsman. In the 12 months prior to June 30, 73 New South Wales police officers were charged with criminal offenses ranging from assault to inappropriate access to information. Seven Queensland police officers were charged with criminal offenses during the same period.

In 2001, the most recent year for which statistics were available, there were 87 deaths in custody or during arrest (*see* Section 1.a.). In past cases where deadly force was used, the circumstances of the case were reviewed and police were sanctioned in cases where abuses were found to occur. There were no cases during the year in which police were disciplined for the unjustified use of force.

According to the 2001 census, Aboriginal adults represented 2.2 percent of the adult population but approximately 20 percent of the total prison population, with incarceration rates approximately 15 times that of nonindigenous citizens. Aboriginals accounted for 22 percent of the deaths in custody that year; five died in police custody or during attempts by police to detain them, and fourteen in prison. Of the five deaths in custody, three resulted from injuries and two were found to be justifiable homicides. Of the 14 prison deaths, 8 were suicides by hanging and 6 resulted from natural causes.

Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. Within the country, each state and territory is responsible for managing its own prisons. After a 2001 death in custody, the Tasmanian government implemented extensive reforms in prison operations.

The Federal government oversaw six immigration detention facilities located in the country and several offshore facilities in the Australian territory of Christmas Island and in the countries of Nauru and Papua New Guinea. These facilities were used to detain individuals who attempted to enter the country unlawfully, pending determinations on their applications for refugee status. In May the 6 onshore centers held 1,258 detainees. By the end of November, the two offshore facilities on Nauru and on Manus Island in Papua New Guinea held 812 asylum seekers. These included 137 on Nauru and 87 on Manus Island whose applications for refugee status had been approved, but who had not been resettled yet. At that point, of the 1,497 asylum seekers who had received determinations of status, 736 claims were upheld and 761 rejected; only 5 persons still had not received an asylum review decision (*see* Section 2.d.).

Media reports, confirmed by the Government, indicated that at least one person died while in immigration detention during the year. This followed the deaths of three persons in 2001 and one in December 2000 (*see* Section 1.a.). Hunger strikes, protests, and arson occurred during the year at immigration detention facilities over allegedly poor sanitary conditions, inadequate access to telephones, limited recreational opportunities, decisions to deny refugee status, and delays in processing final appeals of asylum claims. In March approximately 50 detainees escaped from the Woomera detention center after a group of refugee activists broke into the facility. Most of the fugitives were captured within a few days, but a few remained at large at year's end.

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions in practice. The law provides that law enforcement officials may arrest persons without a warrant if there are reasonable grounds to believe a person has committed an offense. Law enforcement officials can seek an arrest warrant from a magistrate when a suspect cannot be located or fails to appear. Once individuals are arrested, they must be informed immediately of the grounds of arrest and of their rights under the law. Once taken into custody, a detainee must be brought before a magistrate for a bail hearing at the next sitting of the court. Persons charged with criminal offenses were generally released on bail unless considered a flight risk or charged with an offense carrying a penalty of 12 months' imprisonment or more. Attorneys and families were granted prompt access to detainees. Detainees held without bail pending trial generally were segregated from the rest of the prison population.

In June the Australian Council of Civil Liberties urged a review of the mandatory detention procedures for unauthorized immigrants in effect since 1994, citing a lack



of international precedent for detaining asylum seekers and a need for independent oversight of the facilities. The Government responded by noting that immigration detention facilities were monitored by the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA), using standards developed in consultation with the Commonwealth Ombudsman's office, and were open to inspection by the Ombudsman's office and the independent federal Human Rights and Equal Opportunity Commission (HREOC).

During the year, the Government granted the U.N. High Commission on Refugees (UNHCR) access to these facilities. In May the U. N. Working Group on Arbitrary Detention conducted an investigation into the detention centers and reported on its findings; the U.N. High Commissioner for Human Rights' Special Envoy released another report on the facilities in July. Both reports were critical of the facilities and the Government's policy of detaining children, unaccompanied minors, the elderly, and asylum seekers with disabilities. The Government rejected both reports, asserting they misrepresented government policy, contained many inaccuracies, and commented on issues well beyond the scope of their mandate.

In November 2000, HREOC asserted that in detaining a number of permanent resident convicts indefinitely pending deportation, the Government was in breach of the U.N. International Covenant on Civil and Political Rights. HREOC's March 2001 report asserted that as many as 70 permanent residents, most with Vietnamese nationality, had completed their prison terms but were still in custody pending deportation. A bilateral agreement later that year allowed the return of 35 Vietnamese nationals, and, at year's end, 10 remained in custody pending deportation.

Neither the Constitution nor the law address exile; however, the Government did not use forced exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

There is a well-developed system of federal and state courts, with the High Court at its apex. The Federal Court and the High Court have very limited roles, with most criminal and civil trials conducted by state and territorial courts.

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. A magistrate conducts local court trials. In higher courts such as the state district or county courts and the state or territorial supreme courts, there is generally a judge and jury. The judge conducts the trial, and the jury decides on the facts and on a verdict.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such practices, and the Government generally respected these prohibitions in practice. There were two reported incidents during the year of telephone interceptions of trade union communications, one by the Defense Signals Directorate and the other by the Cole Royal Commission in connection with criminal activity in the building industry. The Government investigated both incidents and concluded that there was insufficient evidence to substantiate allegations that the security forces covertly monitored labor unions.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution does not provide for freedom of speech and of the press; however, in two decisions the High Court has indicated that freedom of political discourse is implied in the Constitution. The High Court also has supported implied constitutional freedom of speech and of the press involving public political discourse. Citizens and the media freely criticized the Government without reprisal. Government officials have occasionally won libel suits against the independent media; however, such judgments have not impeded vigorous media criticism. An independent press, an effective judiciary, and a functioning democratic political system combine to support freedom of speech and of the press, including academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—While the right to peaceful assembly is not codified in law, citizens exercised it without government restriction. There is no explicit right to freedom of association; however, the Government generally respected this right in practice.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The Government encourages immigration by skilled migrants, family members, and refugees who enter through legal channels.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, subject to certain geographic and time constraints on claims by those who previously sought asylum in a safe third country. The Government cooperated with the office of the UNHCR and other humanitarian organizations in assisting refugees. There is no provision for first asylum. Federal immigration officials adjudicate refugee status claims based on UNHCR standards. Legal assistance is provided upon request to detainees making an initial asylum claim or application for lawful residence.

In September 2001, Parliament passed legislation that retroactively removed the right of any noncitizen to apply for a permanent protection visa (i.e., the right to live and work permanently in the country as a refugee) if that person's entry was unlawful and occurred in one of several "excised" territories along the country's northern arc: Christmas Island; Ashmore and Cartier Islands; the Cocos Islands; and any sea or resource installation designated by the Government.

Under the law, foreign nationals arriving at a national border without prior entry authorization are automatically detained. Individuals may be released pending full adjudication of their asylum claim only if they meet certain criteria such as age, ill health, or experience of torture or other trauma. However, most asylum seekers were undocumented, with claims that could not be immediately verified, and did not meet release criteria; they were detained for the length of the asylum adjudication process. Upon approval of an asylum claim, a temporary protection visa valid for 3 years is granted. This status, first established in 1999, grants full access to medical and social services but does not authorize family reunification or allow travel abroad with reentry rights. Prior to 1999, asylum claimants were either granted or denied permanent protection visas. This status still exists, and a full protection visa may be issued at any stage of the asylum adjudication process, but those entering unlawfully through an "excised" or designated territory are excluded. In September the Government began the process of reviewing protection claims for the first group granted temporary protection status in 1999. It was not clear what action would be taken with those whose claim to continued protection was not upheld; however, denials of asylum claims may be appealed successively to the Minister for Immigration and Multicultural and Indigenous Affairs, an independent Refugee Review Tribunal, and a Federal court.

In 2001–02 the Government recorded 1,645 unlawful arrivals in the country on 22 boats. A significant rise in asylum claims since 1999, coupled with insufficient staff and resources, has slowed processing of protection claims by DIMIA. The average detention period for those arriving unlawfully by boat during the year was 155 days; however, appealed cases took approximately 15 weeks to process. Previously, the average processing time for a primary decision on a refugee application had been only 6 weeks. However, a small number of asylum seekers have been detained for years pending review and appeal of their claims. In 2001 the Government decided that detention of asylum seekers would not generally be funded for longer than 14 weeks, giving DIMIA a financial incentive to expedite case handling.

The Government's detention policy has led to extensive litigation by human rights and refugee advocacy groups, which charged that the sometimes-lengthy detentions violated the human rights of asylum seekers. In September 2001, HREOC criticized the new Border Protection Act and related legislation, charging that they failed to apply human rights protections equally within all territories. Citing the U.N. International Covenant on Civil and Political Rights (ICCPR) to which the country is a party, HREOC asserted that the country did not ensure that all individuals within its sovereign territory received the basic human rights protections recognized in the ICCPR.

In 2001 HREOC asserted that the Migration Amendment Bill improperly abridged asylum seekers' right to pursue legal proceedings against the Federal government for breaches of human rights obligations. Other nongovernmental organizations (NGOs) such as Human Rights Watch voiced similar criticism.

During the year, there were hunger strikes and protests in centers over lengthy processing of final status determinations. In January and again in June, approximately 150 detainees at the Woomera Detention Center went on a hunger strike; up to 40 detainees sewed their lips together in protest. In March and again in June, a group of refugee advocates broke into the Woomera Detention Center, facilitating the escape of approximately 50 detainees on the first occasion and 35 on the second. Most of the fugitives in both incidents were captured within a few days, but more than 10 remained at large at year's end. In April about 100 detainees rioted at the Curtin Detention Center in Western Australia, injuring 28 staff and setting several buildings on fire (see Section 1.c.). At the end of December, detainees at five deten-

tion centers set fire to buildings, with damages estimated at \$4.35 million (A\$8 million). Five detainees were charged with arson.

In May the U. N. Working Group on Arbitrary Detention conducted an investigation into the detention centers. After visiting five facilities, the U.N. group reported that “collective depression” was driving asylum seekers to acts of self-harm and attempted suicide. The investigation expressed deep concern about the policy of detaining children, infants, unaccompanied minors, pregnant women, the elderly, and asylum seekers with disabilities. The Government rejected this criticism, saying that it considered its detention policy successful and saw no reason to modify it.

During the year, the HREOC examined whether the Government’s policy of detaining all unauthorized arrivals, including children, breached the Convention on the Rights of the Child to which the country is a party. Their report had not been made public at year’s end. Public submissions presented to the HREOC expressed serious concerns over the effects of prolonged mandatory detention on children.

In July the U.N. High Commissioner for Human Rights’ Special Envoy released a report on Human Rights and Immigration Detention in Australia. The report called the Government’s policy on asylum seekers a “great human tragedy.” The envoy charged that the conditions inside the Woomera Detention Centre breached the Convention on the Rights of Child and an international covenant relating to torture and other cruel and degrading treatment. The envoy cited prolonged detention periods as a major concern, alleging these sometimes resulted from lengthy and cumbersome appeal procedures and unnecessary delays. The Government dismissed the report as fundamentally and factually flawed, unbalanced, and emotive, charging it misrepresented government policy and ignored the fact that people in immigration detention had arrived in the country illegally.

However, the Government did act to resolve problems at the centers identified during a yearlong inquiry concluded in early 2001. The inquiry cited infrastructure and management shortcomings at the Woomera Detention Center and inadequate government oversight of the private security firm hired to manage the facility. It concluded that poor supervision at Woomera had allowed humiliating or verbally abusive treatment of detainees by some guards, and also cited improper handling of a child abuse complaint at the facility. The report recommended 16 changes to procedures at the centers, including improvements related to child welfare. The Government publicly supported the report’s recommendations and implemented improvements to facilities and services during the year. This included construction of new recreational facilities and extensive landscaping as well as improvements to the educational courses offered at detention centers, including new life skills classes.

During 2001 ships carrying would-be asylum seekers attempting to enter the country illegally were denied permission to enter the country’s ports or territorial waters. Some of the ships were rerouted to the country’s offshore immigration detention facilities on Christmas Island and in Nauru and Papua New Guinea. In some cases, the would-be asylum seekers reportedly took actions designed to force the Government to allow them to enter the country’s territorial waters and to land, such as setting fire to their ships. In these cases, naval vessels effected rescues but did not allow landings or entry to territorial waters. In 2001–02 the Government recorded 1,628 attempted interceptions of intending immigrants on 11 boats that were diverted to offshore processing centers on Manus Island in Papua New Guinea and to Nauru. New Zealand accepted 133 asylum seekers for evaluation and possible resettlement. Immigration officials processed applications for asylum presented at the offshore processing centers. In November DIMIA confirmed that they had made a primary determination of all but 5 of their allocated caseload of 1,502 asylum-seeker claims. Of these, the applications of 141 Afghans, 551 Iraqis, and 44 nationals of other countries were approved. Claims made by the remaining 761 had been rejected, but were eligible for review. As of November, the country had accepted 110 refugees from Manus Island and 192 refugees from Nauru for resettlement. In August departmental officials confirmed that an Afghan man had died at the offshore immigration center on Nauru. A post-mortem examination by Nauruan authorities concluded that the man had died of natural causes.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage and mandatory voting. In November 2001, citizens elected the Liberal-National Party Coalition to a third 3-year term of office. There also were elections in four of the country’s eight states and territories during 2001. The Australian Labor Party (ALP) won all four elections and controlled all state and territorial legislatures at year’s end. In February in South Australia

voters elected a Labor Party government and in July citizens in Tasmania reelected the Labor Party to a second 4-year term. In November Victoria voters reelected the Labor Party to a second 4-year term.

There are no legal impediments to public office for women and indigenous people. Both the Government and the opposition have declared their intent to increase the numbers of women elected to public office. There are 61 female members in the 226-seat Parliament. There are 4 female Ministers in the 30-member Federal government Cabinet. There is one female Premier of Chief of State and/or Territories, the Chief Minister of the Northern Territory.

Aboriginals were underrepresented among the political leadership (*see* Section 5, Indigenous People). One Aboriginal was elected to the Federal Senate in the October 1998 elections. During 2001 an Aboriginal woman was elected to the West Australian state parliament (the first indigenous woman to be elected to a state legislature) and four Aboriginals, including a woman, were elected to the Northern Territory legislative assembly.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. The Government in general has cooperated with human rights groups; however, on occasion it has made it clear that it did not agree with conclusions in reports by some organizations.

The most significant of the country's human rights groups is the federally funded but independent HREOC. During the year, the HREOC examined the Government policy of detaining all unauthorized arrivals, including children, and whether this policy breached the Convention on the Rights of the Child (*see* Section 2.d.).

Overall, the number of complaints of discrimination received by the HREOC rose slightly, from 1,263 in 2000–2001 to 1,271 in 2001–02. Approximately 55 percent of all cases were not accepted, either because they did not fall within HREOC's mandate or because no discrimination was shown. Another 30 percent were resolved through conciliation, and 14 percent were withdrawn before action could be taken.

In March, after an April and May 2001 visit, the U.N. Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and All Forms of Discrimination released his report on the human rights situation in the country. His report indicated that despite efforts by the authorities, much remained to be done to eradicate the legacy of racial discrimination and reduce the social inequalities and extreme poverty that affected the majority of Aboriginals. His recommendations to the Government included: Provide fresh impetus for reconciliation; enter into negotiations with Aboriginal representatives to rectify the "discriminatory nature" of 1998 amendments to the Native Title Act; find a humane solution to the question of the "Stolen Generation" (*see* Section 5); and intensify efforts to combat racism and poverty experienced by Aboriginals. He further recommended that the Government accede to the Convention on the Elimination of All Forms of Discrimination against Women.

In May the U. N. Working Group on Arbitrary Detention conducted an investigation into the country's detention centers and issued a report criticizing the Government's detention policy (*see* Section 2.d.).

In 2000 the U.N. Human Rights Commission (UNHRC) urged the Government to do more to secure a stronger, decisionmaking role for indigenous citizens in regard to their traditional lands and natural resources. The UNHRC also urged the Government to do more to provide remedies to members of the Stolen Generation (*see* Section 5). In addition, the UNHRC recommended review of mandatory sentencing policies (*see* Section 5) and mandatory detention of illegal arrivals (*see* Section 2.d.). The Government responded that many of the recommendations were neither necessary nor desirable and reiterated its belief that mandatory detention of illegal arrivals was consistent with its treaty obligations. However, in October the newly elected government of the Northern Territory repealed the territory's mandatory sentencing laws (*see* Section 5).

In 2000 the ILO's Commission on Freedom of Association made a series of recommendations regarding the country's labor laws, especially the Workplace Relations Act and the Trade Practices Act (*see* Sections 6.a. and 6.b.). The Government responded by stating that the ILO's comments "reflect an inadequate understanding of the nation's law," and that the ILO failed to understand the domestic role of certain labor laws. The Government rejected all of the ILO's recommendations.

In 2000 the Government announced the results of a review of its cooperation with U.N. human rights treaty committees. While maintaining its commitment to involvement with the committees, the Government decided to limit visits by such com-

mittees to cases where a “compelling reason” existed for the visit. In addition, the Government stated that it would not delay removal of unsuccessful asylum seekers on the basis of an appeal to one of the U.N. human rights mechanisms; previously, such persons had been allowed to remain pending the resolution of that appeal.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The law prohibits discrimination based on these factors, and the Government and an independent judiciary vigorously enforced the prohibition.

According to a study in 2000 by the Australian Institute of Criminology, 37 murders of homosexual men in New South Wales between 1989 and 1999 were hate crimes. A followup study by the institute found that the perpetrators in these cases were young, exceptionally brutal, and believed society approved of their actions. In its 2000–2001 report, the HREOC stated that it received complaints about discrimination based on sexual orientation; its 2001–02 report did not specifically identify complaints about discrimination based on sexual orientation.

*Women.*—Violence against women was a problem, but there was no consensus on its extent. Some observers estimated that domestic violence might affect as many as one family in three or four. Domestic violence was believed to be particularly prevalent in certain Aboriginal communities, but only the states of Western Australia and Queensland undertook comprehensive studies into domestic violence in the Aboriginal community. It was widely agreed that responses to the problem have been ineffectual.

The Government recognized that domestic violence and economic discrimination were serious problems, and the statutorily independent Sex Discrimination Commissioner actively addressed these and other areas of discrimination. A 1996 Australian Bureau of Statistics (ABS) study (the latest year for which statistics are available) found that 2.6 percent of 6,333 women surveyed who were married or in a common-law relationship had experienced an incident of violence by their partner in the previous 12-month period, and that almost one in four of these women experienced violence by a partner at some time during the relationship.

Prostitution is legal or decriminalized in several states and territories. In some locations, state and local governments inspected brothels to prevent mistreatment of the workers and to assure compliance with health regulations. Child sex tourism is prohibited within the country and for citizens overseas.

There were 14,074 victims of sexual assault recorded by the police in 1999 (the latest figures publicly available; they do not distinguish by gender), a decrease of 1.8 percent from 1998. This amounted to approximately 74 victims of sexual assault per 100,000 persons. Spousal rape is illegal under the state criminal codes.

Past occurrence of female genital mutilation (FGM) was insignificant. However, in the last few years, small numbers of girls from immigrant communities in which FGM is traditionally practiced were mutilated. The Government implemented a national educational program on FGM, in a community health context, to combat the practice. The program was designed to prevent FGM, to assist women and girls who already have been subjected to it, and to promote a consistent approach to the issue nationwide. The Government also allocated funds for the development of state and territory legislation to combat FGM. All states and territories except Queensland and Western Australia have enacted legislation against FGM. In all states and territories where FGM legislation existed, it was a crime either to perform FGM or to remove a child from the jurisdiction for the purpose of having FGM performed. Punishment for these crimes could include up to 7 years in prison.

Trafficking in women from Asia and the former Soviet Union for the sex trade was a limited problem (see Section 6.f.).

Sexual harassment is prohibited by the Sex Discrimination Act. The HREOC 2001–02 report detailed several cases of sexual harassment; HREOC received 195 harassment complaints during this period.

Women have equal status under the law, and the law provides for pay equity. There are highly organized and effective private and public women’s rights organizations at the federal, state, and local levels. A federally funded Office of the Status of Women monitored women’s rights. The federal Sex Discrimination Commissioner receives complaints and attempts to resolve those that are deemed valid. According to the HREOC 2001–02 report, sex discrimination complaints rose by 18 percent during this reporting period, and 399 new cases were filed during the year. Of these, women filed 88 percent and 85 percent were employment related. Through June the ABS estimated that women’s full-time average ordinary weekly earnings were 80.15 percent of men’s. However, a study released by the Australian Institute of Management in May 2000 found that women were paid only 66 percent of their male counterparts’ wages. This study also found that there were fewer female board members in both large and small companies than in the previous year. Some members of op-

position political parties attributed the difference to changes in workplace laws, such as the 1996 Workplace Relations Act, which relies on the use of individual employment contracts that are negotiated privately and thus do not necessarily foster equal pay outcomes. Other commentators suggested that an “old boy’s network” could make it difficult for women to negotiate salaries equal to those of their male counterparts.

*Children.*—The Government demonstrated its strong commitment to children’s rights and welfare through its publicly funded systems of education and medical care. The Government provides a minimum benefit of 16.8 percent of the cost of a first child’s childcare to all parents (with a smaller benefit for additional children), which increases to as much as 100 percent for the lowest income families.

According to the Productivity Commission’s Report on government Services, which was released in 2001, the structure of school education varied among states and territories. Formal schooling begins with 6 to 7 years of primary school followed by 5 to 6 years of secondary school, depending upon the state or territory. Education was compulsory, free, and universal in all states and territories for children between 6 and 15 years of age (and to 16 years of age in Tasmania). Most children in urban areas attended school regularly, and children in rural areas participated in school through radio programs or received government subsidies for boarding school. The report stated that 67 percent of all children completed 12 years of schooling (normally through the final year of secondary education).

The Government provided universal health insurance to all citizens from birth on a copayment basis. There was no discrimination between children and adults or between males and females in the provision of health care.

The HREOC receives complaints regarding children and attempts to resolve those that it finds valid. Similarly, the six states and two territories investigate complaints of neglect or child abuse and institute practical measures aimed at protecting the child when such complaints prove founded. The Government has enacted strict legislation aimed at restricting the trade in, and possession of, child pornography; it allows suspected pedophiles to be tried in the country regardless of where the crime was committed. There was no societal pattern of abuse.

The Government and domestic NGOs responded promptly to the problem of a small number of children who had been smuggled into the country, some for the sex trade (*see* Section 6.f.). The NGO Childwise, formerly End Child Prostitution, Pornography and Trafficking, conducted an aggressive public education campaign to raise awareness of the issue and offer strategies to combat trafficking in children. Childwise successfully lobbied the Government to conduct police checks of unaccompanied children entering the country to verify that they are not part of a trafficking operation (*see* Section 6.f.). In 2000 the Department of Family and Community Services released its plan of action against the commercial sexual exploitation of children; however, no information regarding activities resulting from this plan was available.

In 1992 the High Court ruled that the right to consent to the sterilization of a minor was not within the ordinary scope of a parental or guardianship powers, except in limited circumstances. The High Court ruled that the decision to undertake sterilization procedures should be made by an independent body. The Government made the federal Family Courts the arbiters in such cases; since 1998, it has been illegal for a physician to conduct sterilization of a minor without authorization from the Family Court. Physicians who performed such procedures without court authorization were subject to both criminal and civil action. In April a report into the sterilization of girls and young women with disabilities, commissioned by the federal Sex Discrimination Commissioner, found that the official data were unreliable and that anecdotal evidence suggested that girls continued to be sterilized in numbers that far exceeded the number of lawful authorizations.

During 2001 HREOC asserted that under the Convention on the Rights of the Child, the country’s mandatory immigration detention policy violated a child’s right not to be deprived of his or her liberty unlawfully or arbitrarily (*see* Section 2.d.).

*Persons with Disabilities.*—Legislation prohibits discrimination against persons with disabilities in employment, education, or other state services. The Disability Discrimination Commissioner promotes compliance with federal laws that prohibit discrimination against persons with disabilities. The Commissioner also promotes implementation and enforcement of state laws that require equal access and otherwise protect the rights of persons with disabilities.

The law makes it illegal to discriminate against a person on the grounds of disability in employment, education, provision of goods, services, and facilities, access to premises, and other areas. The law also provides for investigation of discrimina-

tion complaints by the HREOC, authorizes fines against violators, and awards damages to victims of discrimination.

The 2001–02 HREOC report stated that 478 disability complaints were filed during the 2001–02 reporting year, including 17 complaints of discrimination based on mental disability and 17 complaints based on learning disabilities. Of these 52 percent were employment related and 27 percent concerned the provision of goods and services. The complaints covered a 12-month period.

*Indigenous Persons.*—The law prohibits discrimination on grounds of race, color, descent, or national or ethnic origin. DIMIA, in conjunction with the elected Aboriginal and Torres Straits Islander Commission (ATSIC), has the main responsibility for initiating, coordinating, and monitoring all government efforts to improve the quality of life of indigenous people. A wide variety of government initiatives and programs seek to improve all aspects of Aboriginal and Torres Straits Islander life. In 2001–02 the Government planned to spend approximately \$1.27 billion (A\$2.34 billion) on indigenous-specific programs in areas such as health, housing, education, and employment. In real terms, the Government increased funding for Aboriginal benefits by 5 percent over the previous fiscal year. However, indigenous citizens continue to experience significantly higher rates of imprisonment, inferior access to medical and educational institutions, greatly reduced life expectancy rates, elevated levels of unemployment, and general discrimination, which contribute to a feeling of powerlessness. Poverty and low average educational achievement levels contributed significantly to Aboriginal underrepresentation in national, territorial, and state political leadership (see Section 3).

However, Aboriginals and Torres Strait Islanders can participate in government decisionmaking that affects them through the ATSIC. Every 3 years, indigenous people elect representatives to 35 regional councils and the Torres Strait Regional Authority, who in turn choose the 17 commissioners who make up the ATSIC Board. The ATSIC Board advocates for indigenous people on all issues affecting indigenous people and at all levels of government. ATSIC triennial elections for 380 regional councilors were conducted in October. By the end of November, all the regional councils had met and elected the 16 Commissioners who, together with an elected representative from the Torres Strait, form the new ATSIC Board. In December the ATSIC Board re-elected the current Chairman and Vice-Chairman of ATSIC to another term. Voter participation in the elections was higher than in the 1999 elections, and there was a greater than 50 percent turnover in representatives at both the Regional Council and Commission level. Female membership on the 16-member Commission fell from 5 to only 1 member.

Government programs, including a \$427 million (A\$785 million) indigenous land fund and a “Federal Social Justice Package,” are aimed at reducing the challenges faced by indigenous citizens. The indigenous land fund is a trust fund and enables indigenous people to purchase land for their use. It is separate from the Native Title Tribunal and is not for payment of compensation to indigenous people for loss of land or to titleholders for return of land to indigenous people.

The 1993 Native Title Act, which was amended in 1998, established a National Native Title Tribunal to resolve native title applications through mediation. The Tribunal also acts as an arbitrator in cases where the parties cannot reach agreement about proposed mining or other development of land. During the year, the ATSIC noted that the amended act provided gains for Aboriginal people but still contained “substantial pain” for native title claimants. Aboriginal leaders were pleased by the removal of a time limit for lodging native title claims but expressed deep concern about the weakening of Aboriginal rights to negotiate with non-Aboriginal leaseholders over the development of rural property. Aboriginal groups continued to express concern that the amended act limited the future ability of Aboriginal people to protect their property rights.

In August the High Court ruled that native title rights did not extend to mineral or petroleum resources, and that in cases where leasehold rights and native title rights were in conflict, leaseholder rights prevailed. In December the High Court rejected the Yorta Yorta people’s land claim, ending the country’s longest-running native title case. The Yorta Yorta claim covered more than 1000 square miles along the Murray River, which flows through New South Wales, Victoria, and South Australia. The court required that the Yorta Yorta people, in order to claim ownership, demonstrate that they had, without interruption and throughout the period of white settlement, practiced a system of native law and tradition on the land in question. Aboriginal leaders voiced concern that this decision would make future claims untenable by establishing too great a burden of proof.

A 1993 survey indicated that 14.25 percent of the country’s land is owned or controlled by Aboriginal people, according to the Australian Surveying and Land Information Group. In 2000 the UNHRC stated that the country should do more to se-

cure for indigenous citizens a stronger role in decisionmaking over their traditional lands and natural resources. Also in 2000, the U.N. Committee on the Elimination of Racial Discrimination (CERD) expressed concern that the Government's Native Title amendments would allow the states and territories to pass legislation containing provisions "reducing further the protection of native title claimants." The CERD declared "unsatisfactory" the Government's response to concerns about the Native Title regime expressed in 1999. The Government responded later that year that the laws were passed after full debate in a democratically elected legislature and that the states have a sovereign right to determine land use policy.

According to an ABS report released in March, in 2001 indigenous people throughout the country were imprisoned at 15 times the rate of nonindigenous people. The indigenous incarceration rate was 1,829 per 100,000 adult population, in contrast to a nonindigenous rate of 121 per 100,000. The AIC reported in June 2001 that the incarceration rate among indigenous youth in 2000 was 17.4 times that of nonindigenous youth. Over 45 percent of Aboriginal men between the ages of 20 and 30 years had been arrested at some time in their lives. In 2001 Aboriginal juveniles accounted for 55 percent of those between the ages of 10 to 17 in juvenile corrective institutions. Human rights observers noted that socioeconomic conditions gave rise to the common precursors of indigenous crime, such as unemployment, homelessness, and boredom.

In the past, there was controversy over state mandatory sentencing laws. These laws set automatic prison terms for those with multiple convictions for certain crimes. Human rights groups criticized mandatory sentencing laws, which allegedly resulted in prison terms for relatively minor crimes and disproportionately affected Aboriginals. In 2000 the U.N. Human Rights Commission issued an assessment of the country's human rights record that was highly critical of mandatory sentencing (see Section 4). The Federal government responded that democratically elected governments passed such laws after full political debate, making it inappropriate for the Federal government to intervene. The Government of the Northern Territory repealed the territory's mandatory sentencing laws in 2001. The ATSIC welcomed this repeal and called upon Western Australia, whose legislation was less sweeping and had been less controversial than that of the Northern Territory, to follow suit. Western Australia continued to retain its mandatory sentencing laws, which made any person (adult or juvenile) committing the crime of home burglary three or more times subject to a mandatory minimum prison sentence.

Indigenous groups charged that police harassment of indigenous people, including juveniles, was pervasive and that racial discrimination among police and prison custodians persisted. Human rights groups and indigenous people alleged a pattern of mistreatment and arbitrary arrests occurring against a backdrop of systematic discrimination; these statements were based on anecdotal information and lacked statistical confirmation.

The ABS report Australia's Health 2000 concluded that the average life expectancy of an indigenous person remained 20 years less than that of a nonindigenous person. The indigenous infant mortality rate was 2.8 times and the maternal mortality rate was 4 times the rates found in nonindigenous populations. According to the Australian Institute of Health and Welfare, between 1998 and 2000, tuberculosis and hepatitis A and B rates among indigenous people were, respectively, 3.9 times greater, 5.2 times greater, and 6 times greater than rates among the nonindigenous.

According to the Department of Family and Community Services, indigenous youth were 2.5 times more likely than nonindigenous youth to leave school before completing high school. The ATSIC 2000–2001 report estimated that the indigenous unemployment rate was 23 percent, 3 times that of the general population, and that employment was concentrated mainly in government and the indigenous service industry sectors, or in low-skilled jobs. Indigenous citizens were nearly 3 times more likely to be working as laborers and related workers and only half as likely to be employed as managers and administrators or in professional occupations, according to the latest available (1998) figures from the ABS.

In August 1999, the Government, in identical motions passed by both Houses of the Federal Parliament, expressed public regret for past mistreatment of the Aboriginal minority; however, the Government-sponsored motion of reconciliation was criticized by many Aboriginal leaders as not going far enough. Prime Minister Howard acknowledged the "most blemished chapter in our national history" and submitted a seven-point motion to Parliament. Howard proposed that Parliament express "its deep and sincere regret" that Aboriginals had "suffered injustices under the practices of past generations, and for the hurt and trauma that many indigenous people continue to feel." However, both Aboriginal and opposition leaders stated that only a full apology would be sufficient. The Government also continued to



oppose an official apology for the “Stolen Generation” of Aboriginal children, who were taken from their parents by the Government from 1910 until the early 1970s and raised by foster parents and orphanages. The Government’s position remained that the present generation had no responsibility to apologize for the wrongs of a previous generation.

In 2000 a federal court ruled against two claims for government compensation by members of the “Stolen Generation,” stating that they did not provide sufficient proof that they had been taken without parental consent. However, the presiding judge stressed that the ruling did not settle the question of compensation for “stolen” children as a whole. Also in 2000, the UNHRC urged the Government to do more to provide a remedy for members of the “Stolen Generation” (see Section 4). During this year, the High Court dismissed a hearing request by claimants in the 2000 case. There were new calls for a reparations commission for the “Stolen Generation,” including an ATSIC proposal that the Government establish a Reparations Tribunal to avoid costly future legal battles.

Following the 1997 publication of HREOC’s landmark report on the “Stolen Generation” entitled “Bringing Them Home,” the Federal government allocated \$34.27 million (A\$63 million) over 4 years to a comprehensive package of initiatives to facilitate family reunification and assist victims in coping with separation trauma. At the end of the fiscal year, all \$34.27 million had been disbursed. In addition, the 2001–02 federal budget allocated a further \$29.32 million (A\$53.9 million) over a 4-year period for programs under this initiative.

The Government’s approach toward Aboriginals emphasized a “practical reconciliation” aimed at raising the health, education, and living standards of indigenous people. Following the 2001 parliamentary elections, the Prime Minister designated a minister to serve as both Minister Assisting the Prime Minister for Reconciliation and Minister of Immigration and Multicultural and Indigenous Affairs. The latter portfolio includes oversight of the Department of Reconciliation and Aboriginal and Torres Strait Islander Affairs, previously its own department. The mandate of the Council for Aboriginal Reconciliation (CAR), created by Parliament in 1991, expired in 2000. The CAR’s final report was released in December 2000 and included recommendations for a constitutional amendment to make racial discrimination unlawful, as well as federal and state performance benchmarks and timelines to overcome Aboriginal disadvantage and enactment of legislation furthering reconciliation principles. It also called for preparation of parliamentary legislation providing for a referendum on deleting Section 25 of the Constitution, which denies voting rights in Federal elections to any person previously denied the franchise on racial grounds under State laws. (In practice, this section has no impact, as there are no race-based exclusions in state voting laws.) The report also recommended that appropriate recognition be given to the Aboriginal people and Torres Strait Islanders as the original inhabitants of the land.

In 2000 federal and state government leaders agreed to promote the economic welfare of indigenous people and reduce economic disparity. Under the agreement, a Federal-State leadership group, the Council of Australian governments (CAR), would monitor progress toward these goals. At year’s end, the Government had not acted on the CAR recommendations for a referendum, a Constitutional amendment, or recognition of the Aboriginal and Torres Strait Islanders as original inhabitants of the land.

Reconciliation Australia, Ltd., a private foundation with government funding, replaced CAR in 2000. Chairman Geoff Clark called on the foundation to strive for a true reconciliation guaranteed by both formal recognition of indigenous rights and a treaty. However, the Government remained opposed to a treaty on the principle that treaties could exist only between nations. There was some discussion of reconciliation treaties between Aboriginals and individual states; at year’s end, no legislative action had been taken.

On July 22, the Federal government commemorated the opening of a government-funded “reconciliation park” in Canberra.

The NGO Aboriginal Tent Embassy in Canberra set up a small structure on public land opposite the Old Parliament building and worked to publicize Aboriginal grievances. Other Aboriginal NGOs included groups working on native title issues, reconciliation, deaths in custody, and Aboriginal rights in general. International NGOs, such as Amnesty International, also monitored and reported on indigenous issues and rights.

*National/Racial/Ethnic Minorities.*—Although Asians are less than 5 percent of the population, they make up 40 percent of new immigrants. Public opinion surveys had indicated concern with the number of new immigrants, and in 1996 the Government reduced the annual nonrefugee immigration quota by 10 percent to a maximum of 74,000. It was subsequently raised to approximately 80,000 and expanded

to 93,000 during the year. The annual quota for humanitarian resettlement of refugees remained constant at approximately 12,000. However, a marked increase in unauthorized boat arrivals from the Middle East during the period from 1998–2001 heightened public concern that “queue jumpers” and alien smugglers were abusing the country’s refugee program. Leaders in the ethnic and immigrant communities expressed concern that increased numbers of illegal arrivals and violence at migrant detention centers had contributed to incidents of vilification of immigrants and minorities. Following the September 11, 2001, terrorist attacks, there were allegations of verbal harassment and threats against Muslim residents, and a mosque in Brisbane was attacked by an arsonist. In December a former security officer convicted of the arson was sentenced to 6 years in prison.

In March 116 NGOs, churches, unions, and government agencies joined the Acting Race Discrimination Commissioner at a 2-day national conference on tackling racism in the country. According to the 2001–02 HREOC report, the number of racial discrimination complaints fell by 30 percent during the year. Of 186 reported cases, 35 percent involved employment; 29 percent involved provision of goods, services, and facilities; and 19 percent alleged “racial hatred.” Non-English speakers filed 31 percent of the complaints and Aboriginals and Torres Strait Islanders only 13 percent. However, following the deaths of 88 citizens in an October terrorist bombing in Bali, the press reported an increase in racially motivated incidents.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers, including public servants, freedom of association domestically and internationally, and workers exercised this right in practice. The law also provides for employer associations. In August 2001, an ABS survey indicated that union membership had declined slightly, to 24.5 percent of the workforce.

Unions carry out their functions free from government or political control, but most local affiliates belonged to state branches of the ALP. Union members made up at least 50 percent of the delegates to ALP State and Territory conferences, but unions did not participate or vote as a bloc.

The 1996 Federal Workplace Relations Act contained curbs on union power, restrictions on strikes (*see* Section b.), and an unfair-dismissal system which limited redress and compensation claims by employees. Several unions have objected to the law, alleging it violated the right to assembly provided for in several ILO conventions that the Government has signed. The primary curb on union power is the abolition of closed shops and union demarcations. This provision could create many small and competing unions at the enterprise level, but thus far there have been few changes in existing union structures. The only enterprise union to be registered under the provisions of the act, the Ansett Pilots Association, disappeared following the decision of company administrators to close down Ansett Airlines at the beginning of the year.

Unions may form and join federations or confederations freely, and they actively participated in international bodies. However, in March 2000, the ILO’s Committee on Freedom of Association also recommended that the Government take measures, including amending legislation, to ensure that in the future trade union organizations are entitled to maintain contacts with international trade union organizations and to participate in their legitimate activities. The Government rejected this recommendation.

*b. The Right to Organize and Bargain Collectively.*—The law at all levels (federal, state, and territories) provides workers with the right to organize and bargain collectively, and the law protects them from antiunion discrimination; the Government respected these rights in practice. In August the Western Australian Labor government enacted the Labor Relations Reform Act of 2002. The act repealed laws that permitted individual contracts to override collective agreements, reversed many of the discriminatory measures against trade unions contained in 1997 legislation, and removed requirements that unions undertake complicated pre-strike ballots.

At a federal level, the negotiation of contracts covering wages and working conditions shifted from the centralized awards system of the past to enterprise-level agreements certified by the Australian Industrial Relations Commission (AIRC). In 2001–02, the AIRC certified 6,738 enterprise agreements, which was an increase of 8 percent from the number certified in 1997–98. The federal, state, and territorial governments administered centralized minimum-wage awards and provided quasi-judicial arbitration of disputes, supplemented by industry-wide or company-by-company collective bargaining. The Workplace Relations Act provided for the negotiation of Australian Workplace Agreements (AWAs) between employers and individual workers. These agreements were subject to far fewer government regulations than the awards; however, AWAs must meet comparable standards for basic working con-

ditions as an award in the same sector. The Office of the Employment Advocate reported that the OAE and AIRC had approved 290,029 AWAs since March 1997. This year 8,338 AWAs were approved, covering 5,074 employers. In 2000 the ILO recommended that the Government amend legislation so that workplace agreements did not undermine the right to bargain collectively; the Government rejected this recommendation. Ending a long-running dispute, in 2001 a federal court ruled that a mining company could offer individual employment contracts with superior conditions (as compared to workers covered by collective bargaining agreements) to iron ore miners in the Pilbara region of Western Australia. However, workers could not be compelled to accept the individual work agreements, and unions retained the right not only to represent employees who supported collective bargaining but also those who elected to accept an individual work agreement.

An implicit right to strike was legalized in 1994 legislation. The 1996 Workplace Relations Act significantly restricted the right of workers to take industrial action, including heavy fines for labor unrest during the life of an agreement and tougher secondary-boycott provisions, and confined it to the period of bargaining, where it remains a protected action. Protected action provides employers, employees, and unions with legal immunity from claims of losses incurred by industrial action during the formal period of bargaining over a new enterprise agreement. In April 1999, a union successfully challenged this provision in federal court; the court refused to grant an injunction against the union for taking industrial action outside of a bargaining period because it was in support of maintaining existing wages and conditions. Parliament has rejected on four occasions the Government's proposed associated legislative changes to the Federal Trade Practices law, which would have provided companies with resort to legal action if they were subject to secondary boycott action. There has been no significant increase in industrial actions taken outside the bargaining period, and the decision has not been appealed to date.

During the year, the most notable national industrial actions were against the airline industry and component parts manufacturers associated with the motor vehicle industry. There were also short localized strikes by nurses, teachers, and construction workers. The Bureau of Statistics reported 684 industrial disputes for 2001-02, down 2 percent from the previous year; over the same period, workdays lost due to strikes fell by 6 percent to 329,300. During the year, the national union federation, the Australian Council of Trade Unions (ACTU), also campaigned to increase the minimum wage, to establish a new benchmark for weekly working hours (especially as related to mandatory overtime), and to protect employee entitlements in the face of numerous company collapses. In one important case, the Industrial Relations Commission refused the ACTU's request to set a standard for "reasonable working hours" but allowed workers to refuse without penalty to work unreasonable overtime. Laws and regulations prohibit retribution against strikers and labor leaders, and they were effectively enforced. In practice employers avoided available legal remedies such as secondary boycott injunctions in order to preserve amicable long-term relationships with their unions.

In 2000 the ILO's Committee on Freedom of Association recommended substantial changes to the Workplace Relations Act and the Trade Practices Act after examining complaints of antiunion discrimination raised by both domestic and international trade unions over the Government's role in a 1998 labor dispute involving stevedores. Specifically, the ILO recommended that the Government amend the Workplace Relations Act to eliminate the linkage between restrictions on strike action and legal provisions on interference with trade and commerce. The ILO also criticized the Government's use of serving defense force personnel as replacement workers in the 1998 strike. The Government stated, in response to the recommendations, that the ILO's comments "reflect an inadequate understanding of Australian law." The Government rejected all of the ILO's recommendations.

There are no export processing zones. The Darwin Trade Development Zone, Northern Territory, attempted to increase exports via a geographically defined free trade zone. In practice the Darwin initiative was focused almost exclusively on Asian trading partners to the north and west.

*c. Prohibition of Forced or Bonded Labor.*—Although there are no federal laws prohibiting it, forced labor, including forced and bonded labor by children, generally is not practiced. While there were instances of such practices in the past, there were no reports of this activity during the year.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—There is no federally mandated minimum age of employment, but state-imposed compulsory educational requirements, which were enforced by state educational authorities, effectively prevented most children from joining the work force until they were 15 or 16 years of age. Federal and state governments monitored and enforced a network

of laws, which varied from state to state, governing the minimum school-leaving age, the minimum age to claim unemployment benefits, and the minimum age to engage in specified occupations.

The country has not ratified ILO Convention 182 on the worst forms of child labor.

Federal law does not explicitly prohibit forced and bonded labor by children, but such practices generally were not known to occur, although there have been instances of such abuses in past years (*see* Section 6.f.). As a result of the April 1999 discovery of children working in several clothing sweatshops in Sydney and Melbourne, the Attorney General's Department stated that it would study existing laws and consider whether new legislation would strengthen the Government's ability to combat the problem. The Federal government took no action on this problem during the year; however, the state governments of Victoria and New South Wales enacted legislation to strengthen protections for children in the workplace in 2001. In November 2001, the Victoria state government substantially raised fines for child labor abuses within the state.

Most cases of abuse in the last several years have involved members of ethnic communities from nations where child labor is not uncommon.

*e. Acceptable Conditions of Work.*—Although a formal minimum wage exists, it has not been relevant in wage agreements since the 1960s. Instead, differing minimum wage rates for individual trades and professions covered 80 percent of all workers; all rates were enough to provide a decent standard of living for a worker and family.

Most workers were employees of incorporated organizations. A complex body of applicable government regulations, as well as decisions of applicable federal or state industrial relations commissions, prescribed a 40-hour or shorter workweek, paid vacations, sick leave, and other benefits. The minimum standards for wages, working hours, and conditions were set by a series of "awards" (basic contracts for individual industries). Some awards specified that workers must have a 24- or 48-hour rest break each week while others specified only the number of days off per number of days worked.

Over the past 2 decades, there has been a substantial increase in the percentage of the workforce regarded as temporary workers. In 2001 there were 2.1 million persons (27 percent of the workforce) employed as casual or temporary workers, even though government statistics indicated that over 50 percent had been employed in the same job for over 12 months, and 67 percent worked regular hours. Such employees were not entitled to certain employment benefits such as sick leave or annual leave, but were paid at a higher hourly wage rate.

Federal or state occupational health and safety laws apply to every workplace.

The law provides federal employees with the right to cease work without endangering their future employment if they believe that particular work activities pose an immediate threat to individual health or safety. Most states and territories have laws that grant similar rights to their employees. At a minimum, private sector employees have recourse to state health and safety commissions, which investigate complaints and demand remedial action.

Labor law protects citizens, permanent residents, and migrant workers alike. Migrant worker visas required that employers respect these protections and provide bonds to cover health insurance, worker compensation insurance, unemployment insurance, and other benefits. Reports of abuse of foreign workers generally referred to permanent residents who performed work in their homes in the clothing and construction industries.

*f. Trafficking in Persons.*—Legislation enacted in late 1999 targets criminal practices associated with trafficking, and other laws address smuggling of migrants. Trafficking in persons from Asia, particularly women, was a limited problem that the Government took steps to address as part of a broader effort against "people smuggling," defined as "illegally bringing noncitizens into the country." Smuggling of persons in all forms, including trafficking, is prohibited by the Migration Act, with penalties of up to 20 years' imprisonment. In 2001 Parliament also enacted the Border Protection Act, which authorized the boarding and searching of vessels in international waters, if suspected of smuggling of or trafficking in persons.

In February Indonesia and Australia co-chaired a 38-country Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime. The conference participants established a series of expert working groups to develop ways to combat people smuggling and trafficking.

Also in February, the Government established a new position of Ambassador for People Smuggling Issues, with responsibility for promoting a coherent and effective international approach to combating people smuggling (particularly in the Asia-Pa-

cific region), assisting as appropriate in the negotiation of international agreements for return, readmission, and resettlement of persons brought into Australia, and working for the prosecution of smugglers and traffickers in persons. The Ambassador also was tasked with following up on the results of the Regional Ministerial conferences on People Smuggling, Trafficking in Persons and Related Transnational Crime.

The country is a destination for trafficked women. In 2001 the Australian Institute of Criminology issued a report entitled *Organized Crime in People Smuggling and Trafficking to Australia*, which observed that the incidence of trafficking appeared to be low. However, the Government, NGOs, and journalists agreed that an unknown number of women were being trafficked into the country each year. DIMIA and the Australian Federal Police reported that women from Thailand, the Philippines, Malaysia, China, Indonesia, South Korea, Vietnam, and parts of the former Soviet Union were brought into the country for the purpose of prostitution, entering with fraudulently obtained tourist or student visas. There were also reports of women trafficked into the country from Afghanistan and Iraq. In the past, there were reports of trafficking in women to work in sweatshops in the textile, clothing, and footwear industries as well as in service industries, sometimes as bonded labor. However, there were no such reports during the year.

There have been some instances of organized crime groups forcing foreign women to work as sex workers. Some reports indicated that women working in the sex industry became mired in debt or were physically forced to keep working, and that women in irregular immigration status were pressured to accept hazardous working conditions. Some women were subjected to indentured sexual servitude to pay debts to their traffickers. In the past, women were found locked in safe houses with barred windows or under 24-hour escort, with limited access to medical care or the outside world. Some women were lured by offers of employment as waitresses, maids, or dancers and were not aware that they would be employed as prostitutes after entering the country. In some cases, women were coerced by criminal elements operating in their home countries. There were also reports of young women, primarily from Asia, sold into the sex industry by impoverished families. However, available evidence indicated that such cases were not widespread, and that most women working in the sex industry were not coerced.

Prostitution is legal or decriminalized in many areas of the states and territories, but health and safety standards varied widely and were not well enforced. In 1999 the Criminal Code Amendment (Slavery and Sexual Servitude) Act came into force. The act modernized the country's slavery laws, and contained new provisions directed at slavery, sexual servitude, and deceptive recruiting to address the growing and lucrative trade in persons for the purposes of sexual exploitation. Under the act, conduct that amounts to slavery, or exercising a power of ownership over another person, carries a maximum penalty of 25 years' imprisonment. Where a person engaged to provide sexual services is not free to cease or to leave because of force or threats, those responsible face penalties of up to 15 years' imprisonment, or 19 years if the victim is under age 18. A person who deceptively induces another person to provide sexual services faces a penalty of up to 7 years' imprisonment, or 9 years if the victim is under age 18. The act provides for penalties of up to 25 years' imprisonment and was part of a federal, state, and territory package of legislation. However, prosecution has been hampered by the difficulty of identifying victims or traffickers and the unwillingness or inability of witnesses to testify. No prosecutions have been brought under this federal law to date.

In 1994 the Government amended the Federal Crimes Act to provide for offences such as child sex tourism and related matters. (Under the laws of various states, it already was illegal for an adult to have sexual relations with a child.) These provisions allowed for the investigation and prosecution of citizens who traveled overseas and engaged in illegal sexual conduct with children. Under the act, there have been 16 investigations to date, resulting in 10 convictions and two dismissals. Four cases were pending at year's end.

In 2001 the Government amended the criminal code provisions relating to child sex tourism and sexual slavery and servitude better to protect the interests of child complainants and child witnesses. These amendments recognized that child complainants and child witnesses were particularly vulnerable because of their age and nature of the crime involved. The provisions protect the children's privacy and protect the children from intrusive cross-examination while giving evidence, allowing them to give evidence by means of closed circuit television.

During the year, the Customs Service increased monitoring of all travelers suspected of involvement in the sex trade, either as employees or employers.

In 2001 DIMIA created an antitrafficking unit in New South Wales to assess the extent of trafficking in the Sydney area; at year's end, the assessment was ongoing.

Also in 2001, Australian Aid (AUSAID) began a development project to build the capacity of local agencies working to prevent trafficking in Southeast Asia. Through AUSAID, the country also sponsored training courses for travel agents and others to help prevent child sex tourism. It also contributed \$3.48 million (A\$6.4 million) to a three-year multidonor U.N. Development Program project to combat trafficking in women and children and an International Organization for Migration project to assist in the return and reintegration of trafficked and vulnerable women in Southeast Asian countries.

There were no NGOs devoted specifically to trafficking victims; however, assistance was available through NGOs that ran shelters for women and youth; sex worker organizations; and Project Respect, a consortium of organizations that combat exploitation or trafficking of adults and children for pornography. Some of these NGOs received government funding; others were funded privately.

## BRUNEI

Brunei Darussalam is a small, wealthy Islamic country ruled by the same family for over 600 years. It was a British Protectorate from 1888 until 1959 when a self-governing constitutional monarchy was created, with the British retaining responsibility for foreign affairs and defense until 1984, when the sultanate became a fully independent and sovereign nation. The 1959 Constitution provided for the first delegation of political power by the late Sultan Omar Ali Saifuddin to a council of state with popular representation. After a failed rebellion in 1962, the Sultan invoked an article of the Constitution that allowed him to assume emergency powers for 2 years. These powers were renewed regularly, most recently in June under the present ruler, Sultan Haji Hassanal Bolkiah. In 2000 the Foreign Minister confirmed that a review of the Constitution was submitted to the Sultan for approval, and that "an element of an election" was in this report. However, to date there has been no word on when the revised Constitution might be forthcoming. Although not all the articles of the Constitution were suspended, the state of emergency places few limits on the Sultan's power. The Sultan also serves as Prime Minister, Minister of Defense, Minister of Finance, Chancellor of the national university, Superintendent General of the Royal Brunei Police Force, and Head of the Islamic faith. The Constitution does not specifically provide for an independent judiciary and all higher court judges are appointed by the Sultan; however, in general the courts appear to act independently.

The police force, which has responsibility for internal security, and which includes an Internal Security Department, reports to the Sultan, who maintains firm control over it.

The country's large oil and natural gas reserves, coupled with its population of 345,000, give it a high per capita gross domestic product of over \$14,000. The worldwide recovery in oil prices that began in 1998 helped to restore the country's cash flow; however, the economy still continued to feel the effects of the Amedeo Development Corporation's 1997–98 collapse. The Government accused the corporation's head, the Sultan's brother Prince Jefri, of misappropriating \$16 billion of the country's foreign reserves. In October 2001, the Government set up Global Evergreen Pte Ltd., which by mid-2002 had reached a satisfactory settlement with all of Amedeo's creditors.

The Government generally respected its citizens' human rights in several areas; however, its record was poor in other areas, particularly with regard to civil liberties, and problems remained. Citizens did not have the right to change the Government, and they generally avoided political activity of any kind because of the official atmosphere of disapproval concerning such activities. Citizens do not exercise freedom of speech, freedom of press, freedom of assembly, or freedom of association. Labor rights were circumscribed and foreign workers sometimes were subjected to exploitation. Other human rights problems continued, including restrictions on religious freedom. Occasional spousal violence against women remained a problem, although the Government addressed the issue at many levels. Discrimination against women was a problem.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits mistreatment of prisoners, and there were no reports of such mistreatment. Caning is mandatory punishment for 42 drug related and other criminal offenses. Sentences of caning are carried out in the presence of a doctor who monitors implementation and who has the authority to interrupt and postpone the punishment for medical reasons. Caning was included as part of the sentencing in 80 percent of criminal convictions. Many convicted persons reportedly preferred caning to lengthy incarceration.

Prison conditions generally met international standards. There was no overcrowding and a new facility was opened in Tutong to accommodate a growing prison population. By year's end, there was still a need for a separate juvenile detention facility as juveniles typically served their sentences in adult detention centers. Male and female prisoners were housed separately. Prisoners received regular medical checkups. Remand cells at police stations were Spartan.

Human rights monitors were not reported to have requested prison visits; however, foreign diplomats had consular access to detained nationals. Family members were permitted to visit prisoners and bring food.

*d. Arbitrary Arrest, Detention, or Exile.*—The law provides for a prompt judicial determination regarding the validity of an arrest. However, those provisions, like the Constitution itself, may be superseded, either partially or wholly, through invocation of the emergency powers. The Internal Security Act (ISA) permits the Government to detain suspects without trial for renewable 2-year periods. The Government occasionally used the ISA to detain persons suspected of antigovernment activity; however, information on the detainees was published only after they were released.

There were no known arrests for publishing or distributing antigovernment literature during the year. However, in the past, the Government has not hesitated to arrest and intern citizens for such activities.

There were no arrests for religious missionary activities during the year. In late 2000 and early 2001, the Government used the ISA to detain at least seven Christian citizens, several of whom had converted from Islam, for alleged subversive activities. All were released in 2001. Government officials maintained that the detentions were for security rather than religious reasons (*see* Section 2.c.). Three of the Muslim converts to Christianity were believed to have reverted to their original faith after undergoing "rehabilitation." Rehabilitation may entail pressure, ceremonial renunciations, or schooling.

Normally a magistrate must endorse a warrant for arrest. Warrants were issued without this endorsement on rare occasions, such as when police were unable to obtain the endorsement in time to prevent the flight of a suspect. Police officers have broad powers to make arrests, without warrants, of persons caught in the physical act of committing a crime.

Several detainees, who played a pivotal role in the abortive 1962 rebellion and were detained without trial for 12 years from 1962 to 1973, subsequently escaped to live in self imposed exile in Malaysia. They began to return to Brunei in the mid-nineties and were rearrested. The detainees were released from detention after swearing an oath of loyalty to the Sultan and admitting to political "crimes." Several were given government positions. The leader of the 1962 rebellion, Sheikh Azahari bin Sheikh Mahmud, died in exile in Indonesia during the year.

Under a colonial-era law, the Sultan may forcibly exile, either permanently or temporarily, any person deemed to be a threat to the safety, peace, or welfare of the country. Since independence there have been no cases of banishment of citizens.

*e. Denial of Fair Public Trial.*—The Constitution does not provide specifically for an independent judiciary. However, in 1996 the appellate level High Court ruled that the court had powers independent of the prosecution. The Government has not challenged yet the High Court's finding that magistrates have the legal power to discharge and acquit a defendant, even when the prosecution does not request the discharge. In general the courts appeared to act independently during the year.

The judicial system consists of five levels of courts, with final recourse in civil cases available through the Privy Council in London. Procedural safeguards include the right to defense counsel, the right to an interpreter, the right to a speedy trial, and the right to confront accusers. There were no known instances of government interference with the judiciary and there were no trials of political opponents during the year.

The civil law, based on English common law, provides citizens with a fair and efficient judicial process. Shari'a (Islamic law) supersedes civil law in some areas, including divorce, inheritance, and some sexual crimes. Shari'a law is not applied to non-Muslims. In September the first group of lawyers trained in both civil and

Shari'a law graduated and were expected to assist in the proposed alignment of the two legal systems into a comprehensive legal code. The country does not have a "Law Society" (bar association) to promote lawyers' public accountability. The law lacks provisions to allow companies or individuals to sue the Government, which traditionally resolves disputes with generous, non-negotiable settlements, or, in some cases, simply refuses to settle. There is no legal provision to provide affordable legal counsel for poor defendants, except in capital cases. Such defendants may act as their own lawyers in court.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law permits government intrusion into the privacy of individual persons, families, and homes. However, such intrusion rarely occurred, except in cases of enforcement of "khalwat", an Islamic prohibition on the close proximity of a Muslim and a member of the opposite sex other than a spouse. On these occasions, religious enforcement officers may use appropriate force to enter a home, building or vehicle to detain suspects.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—Under the emergency powers that have been in effect since 1962, the Government restricts significantly freedom of speech and freedom of the press.

On October 1, 2001, legislation that could further reduce press freedom took effect. Among other restrictions, it requires that the local newspapers obtain operating licenses, as well as prior government approval of foreign editorial staff, journalists, and printers. The law also gives the Government the right to bar distribution of foreign publications and requires distributors of foreign publications to obtain a government permit. The new law allows the Government to close a newspaper without prior notice and without showing cause. Journalists deemed to have published or written "false and malicious" reports were subjected to fines or prison sentences.

Prior to the promulgation of this new law, there were no laws specifically restricting freedom of speech and freedom of the press; however, the Government used its authority to protect public safety, morals, health, and domestic security to restrict these freedoms. Editions of foreign newspapers or magazines with articles that were found to be objectionable, embarrassing, or critical of the Sultan, the royal family, or the Government were not allowed into the country at times. Magazine articles with a Christian theme reportedly were censored (*see* Section 2.c.). However, the growing use of fax machines, the Internet, and access to satellite transmissions made it increasingly difficult to keep such material from entering the country.

The country's largest circulation daily newspaper, the Borneo Bulletin, appeared to practice self censorship in its choice of topics to avoid angering the Government. However, letters to the editor often included comments critical of the Government's handling of certain social, economic, and environmental issues. The Government on occasion responded to public opinion on some issues concerning social or environmental problems. There was one Malay language press, the Media Permata, which circulates approximately 5,000 newspapers. There was also one Chinese language newspaper.

A second daily English-language newspaper, the News Express, featured a letters page where citizens and residents expressed their views and complaints, often about government services and, increasingly, about government policy. The newspapers' willingness to publish these expressions of opinion represented a modest extension of press freedom. During the year, the newspaper was raided on several occasions by the Immigration Department and subsequently charged with a number of offenses. In September the News Express and three journalists were sued successfully for slander and defamation by a private legal firm, which was awarded substantial damages. The company that owned the newspaper declared bankruptcy and closed.

Although the only television station was government owned, three Malaysian television channels were received locally. Two satellite television networks were available, offering a total of 28 different channels, including the Cable News Network, the British Broadcasting Corporation World News, and several entertainment and sports channels.

The Government's tolerance of political criticism was not tested because there was no organized opposition. However, the English language newspaper, the Borneo Bulletin was advised by police not to publish any stories about the activities of the Consumers' Association of Borneo's (CAB), a quasi-human rights organization (*see* Section 4). During the year, citizens generally made almost no criticism of the Government for fear of official disapproval and risk of surveillance. In the past, the Government did not hesitate to arrest those who attempted to propagate unwelcome political views. The Government placed no apparent restrictions on Internet use, which



was widespread. Two popular electronic bulletin boards contained postings that sometimes were critical of government actions. The country's primary Internet service provider was state owned.

The Government generally respected academic freedom; however, some researchers chose to publish from overseas and under a pseudonym when they perceived that subject matter pertaining to the country would not be well received.

*b. Freedom of Peaceful Assembly and Association.*—Under the emergency powers in effect since 1962, the Government significantly restricts the right to assemble. Freedom to assemble for political purposes was not tested seriously during the year.

Political parties are allowed, but may not engage in "activities that endanger people." Civil servants and security force personnel, who together make up 60 percent of all employed citizens, are not permitted to join political parties. There are two registered parties in the country: The Brunei Solidarity National Party (PPKB) and the Brunei People's Awareness Party (PAKAR). Both parties pledged their support to the Sultan and the system of government, although they criticized administrative deficiencies. During the year, the parties largely were inactive, their few activities often went unpublicized, their organizations were marred by internal strife, and they were hindered by membership restrictions.

The country had few nongovernmental organizations (NGOs), all of which were based locally and focused on a specific mission. There were no international NGOs active in the country. Most domestic NGOs were business or social associations; none dealt with political or human rights issues. Any NGO seeking to operate in the country is required to apply for permission under the Companies Act. The activities of international service organizations such as Rotary, Kiwanis, and the Lions, which developed out of the established business community, continued to be restricted by the Government. Muslims were not allowed by the Government to be members of these organizations.

*c. Freedom of Religion.*—The Constitution states that "The religion of Brunei Darussalam shall be the Muslim religion according to the Shafeite sect of that religion: Provided that all other religions may be practiced in peace and harmony by the person professing them in any part of Brunei Darussalam." However, the Government routinely restricted the practice of non-Islamic religions.

The Government voiced alarm about "outsiders" preaching radical Islamic fundamentalist or unorthodox beliefs. For example, the Islamist Al-Arqam movement remained banned. Citizens deemed to have been influenced by such preaching (usually students returning from overseas study) were assigned to study seminars organized by mainstream Islamic religious leaders. The Government seemed at least as concerned with these so-called Islamic "opportunists" as with unwelcome political views. The Government investigated and used its Internal Security Apparatus against persons whom it considered to be purveyors of radical Islam or non-Muslims who attempted to proselytize.

The Government reinforces the legitimacy of the hereditary monarchy and the observance of traditional and Islamic values through a national ideology known as the Melayu Islam Beraja or "Malay Muslim Monarchy." In 1993 the Government participated in issuing the Kuala Lumpur Declaration, which affirms the right of all persons to a wide range of human rights, including freedom of religion. Despite this and constitutional provisions providing for the full and unconstrained exercise of religious freedom, the Government routinely restricted the practice of non-Muslim religions by prohibiting proselytizing; occasionally denying entry to foreign clergy or particular priests, bishops, or ministers; banning the importation of religious teaching materials or scriptures such as the Bible; and ignoring requests to expand, repair, or build new churches, temples, and shrines. However, in 1998, the Government allowed the Catholic Church to establish the first apostolic prefecture in the country and to install a Bruneian of Chinese origin as the country's first apostolic prefect. This development constituted a modest step in the direction of improved religious freedom, but in general there was no broad trend toward increased religious freedom during the year.

Non-Muslims who proselytize may be arrested or detained, and possibly held without charges for an extended period of time. In late 2000 and early 2001, the Government used the ISA to detain at least seven Christians, three of whom were converts from Islam, for allegedly subversive activities. The remaining three detainees, Malai Taufick bin Haji Mashor, Awang Yunis bin Marang, and Awang Haji bin Abdullah were released in October 2001, after spending 9 months in detention. There were credible reports that one of the Christian detainees, Taufick, was tortured and beaten during his first month of detention but that his treatment improved when he was transferred to another prison. When released, Taufick was placed under 1-year house arrest. A second detainee, Yunis, reportedly returned to

work and was allowed to attend church services, but was not permitted to speak in public or travel outside of the country. Government officials maintained that the detentions were security-related (*see* Section 1.d.).

The Government routinely censored magazine articles on other faiths, blacking out or removing photographs of crucifixes and other Christian religious symbols during the year. In addition, government officials guarded against the distribution and sale of items featuring undesirable photographs of religious symbols.

The authorities conducted raids sporadically on clubs frequented by foreign residents and foreign workers in order to confiscate alcohol and foodstuffs that were not prepared in accordance with "halal" requirements (the Islamic requirements for the slaughter of animals and the prohibition on inclusion of pork products in any food). The majority of citizens regarded these actions as upholding Islam. In July 2000, the Government briefly detained local members of a small Islamic group for questioning after reports that group members in Malaysia were involved in an arms theft. No new information was available at year's end.

The Ministry of Education requires courses on Islam or the national ideology, the Malay Muslim monarchy, and prohibits the teaching of other religions. The Ministry requires that all students, including non-Muslims, follow a course of study on the Islamic faith and learn Arabic script. The International School of Brunei and the Jerudong International School are exempt from these requirements. Private Christian mission schools were not allowed to give Christian instruction and were required to give instruction on Islam. However, the Government did not prohibit or restrict parents from giving religious instruction to children in their own homes. In January 2000, the Government responded to objections from parents and religious leaders and set aside tentative plans to require more Islamic courses in private, non-Islamic parochial schools.

The Government requires residents to carry an identity card that states the bearer's religion. Visitors to the country must identify their religion on their landing cards.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government restricts the movement of former political prisoners during the first year of their release. Generally the Government does not restrict the freedom of movement of its citizens, visitors, and permanent residents. Government employees, both citizens and foreigners working on a contractual basis, must apply for approval to go abroad which is granted routinely.

In May immigration officials prohibited 13 foreign financial accountants working for Global Evergreen (a quasi-government company established to settle claims against the AMEDEO Development Corporation) from leaving the country based on allegations that the employees held invalid work visas. The group was allowed to leave the country shortly after media reports on their plight appeared in the international press. The Home Affairs Ministry and Immigration Department denied any wrongdoing in the case and indicated that it was routine practice to ensure that all foreign employees used the correct work visa.

No legal provision exists for granting temporary refuge, first asylum, or refugee status to those seeking such refuge or asylum. Under the law, persons arriving without valid entry documents and means of support are considered illegal immigrants and are refused entry. There were no reported cases of individuals seeking temporary refuge during the year.

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

Citizens may not change the Government; the country is a monarchy, and there are no established democratic processes. Under the continuing state of emergency, there is no parliament, and political authority and control rests entirely with the Sultan. Individuals may seek to express their views or to influence government decisions and policies by writing letters to a local newspaper or by petitioning the Sultan or handing him letters when he appears in public (*see* Section 2.a.).

The country attempted to institutionalize a form of popular representation based on a traditional system of village chiefs who are elected by secret ballot by all adults. Candidates must be approved by the Government and must generally be Malay. These leaders communicate constituents' wishes through a variety of channels, including periodic meetings chaired by the Home Affairs Minister, with several officials appointed by the Sultan. In 1996 the Sultan presided at the first, and thus far the only, General Assembly of the Mukim (a group of villages) and village consultative council. Over 1,000 village chiefs from 150 villages and 35 Mukim participated as delegates. The delegates were elected from among individual villagers, and

the Government described the Assembly as a grass-roots level political system. However, the Sultan appoints all of the council's advisors. Meetings between senior government officials and Mukim representatives allowed for airing of local grievances and concerns.

Members of the Sultan's appointed Cabinet serve as his principal advisors.

The lack of a representative, democratic government seriously limited the role of both men and women in government and politics, although women were limited to a greater extent. The Sultan's sister, Princess Masna, was the second ranking official in the Ministry of Foreign Affairs, and a woman was appointed the country's Ambassador to France during the year. In 1999 the first female High Court judge was appointed. The director of the Anticorruption Bureau, the Solicitor General, and the Assistant Solicitor General were women.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

The Consumers' Association of Brunei (CAB), established in March, addresses human rights but is primarily focused on consumer rights. However, after the CAB publicized poor working and living conditions and alleged abuses (including torture) by factory management of Bangladeshi workers involved in protest work stoppages, the organization received a letter from the Commissioner of Police requesting CAB to show reason why it should not be deregistered for exceeding its mandate (*see* Section 6.e.). No new information was available at year's end. However, senior CAB members reportedly were subjected to surveillance during the year.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution does not contain specific provisions prohibiting discrimination based on race, sex, disability, language, and social status.

*Women.*—The extent of spousal abuse is unknown. During the year, cases of abuse occurred, although specific figures were not available. As of 2001, there were 86 reported cases of domestic abuse, 4 reported cases on attacks on ex-wives, and 3 reported cases of child abuse. The criminal penalty for a minor domestic assault is 1 to 2 weeks in jail and a fine. An assault resulting in serious injury is punishable by caning and a longer jail sentence.

A special unit exists within the police department to investigate domestic abuse and child abuse complaints. Female officers staff the unit. A hotline was in service for abused spouses and the public to report domestic violence. The Ministry of Culture's Social Affairs Services (SAS) Unit provided counseling for women and their spouses. During the year, approximately 10 women and at least 7 young female rape victims aged between 9 and 15, stayed at the Taman Noor Hidayah, a women's shelter run by the SAS Unit. The local press reported that female victims were restricted to the shelter while waiting for their cases to be brought to court, resulting in considerable pressure from the victims' families to leave the shelter and drop charges to avoid social stigma.

Islamic courts staffed by both male and female officials offered counseling to married couples in domestic violence cases. However, there appeared to be a movement away from the practice of encouraging wives to reconcile with flagrantly abusive spouses. In November the Government sponsored a seminar entitled the "Loving Nation" in which a number of social problems, such as domestic violence, were discussed. Islamic religious authorities recognize wife beating as grounds for divorce.

In 2000 two members of the Royal Brunei Armed Forces were sentenced to 4 years' imprisonment and three strokes of the cane for the attempted molestation and sodomy of a 20-year-old deaf girl.

Another area of apparent abuse involved female domestic servants, most of whom were foreign workers (*see* Sections 6.c., 6.e., and 6.f.). While the level of violence in society was low, the beating of servants—or refusing them the right to leave the house on days off, sometimes on grounds that they "might encounter the wrong company"—was less socially unacceptable behavior. Since most female domestics were foreign workers who were highly dependent on their employers, those subject to abuse were more likely to be unwilling or unable to bring complaints, either to the authorities or to their governments' embassies. However, when such complaints were brought, the Government generally was quick to investigate allegations of abuse and impose fines and punishment as warranted.

Prostitution is illegal. Women entering the country for purposes of prostitution generally were deported swiftly (*see* Section 6.f.).

In accordance with Koranic precepts, women are denied equal status with men in a number of important areas such as divorce, inheritance, and custody of children. Under the law, citizenship is transmitted through the father. This has resulted in a number of "stateless" residents, who are entitled to live in the country

and to be documented for travel by the Government, but who do not enjoy the full privileges of citizenship, including the right to own land. Recent legislation allows female citizens who are married to foreigners or bear children by foreign fathers to transmit citizenship to their children.

Although men are eligible for permanent positions in government service whether or not they hold university degrees, women without university degrees are eligible to hold government positions only on a month-to-month basis. While some previous inequities have been eliminated, women in month-to-month positions continued to receive slightly less annual leave and fewer allowances than their male and female counterparts in permanent positions.

There were no separate pay scales for men and women, and in recent years there has been a major influx of women into the work force. Women served in a wide variety of capacities in the armed forces. The number of female university graduates increased, and nearly two-thirds of the country's university's entering class was female.

Religious authorities strongly encouraged Muslim women to wear the tudong, a traditional head covering, and most women did so. The custom was practiced in most government departments, all female students in government-operated schools were required to wear the tudong, and female students in nongovernment schools also were encouraged to wear it. However, there was no official pressure on non-Muslim women to wear the tudong.

The 1999 Married Women's Law significantly improved the rights of non-Muslim married women with respect to maintenance, property, and domestic violence. The 1999 changes to the Islamic Family Law (particularly in regard to Women's Position in Marriage and Divorce) were expected to improve the marital rights of Muslim women. Recent changes to the family law facilitated divorce proceedings for women and permitted women to retain the family home after their divorce.

*Children.*—No statistics were published regarding the welfare of children. The strong commitment to family values within society, the high standard of living, and government funding for children's welfare provides most children a healthy and nurturing environment. Education is free, compulsory, and universal for the first nine years; after which, it is still free but no longer compulsory. With a few exceptions, involving small villages in extremely remote areas, nutritional standards were high, and poverty was almost unknown. Medical care for all citizens, including children, was subsidized heavily and widely available. During the year, at least 7 young female victims aged between 9 and 15 years were raped (see Section 5).

*Persons with Disabilities.*—The law does not mandate accessibility or other assistance for persons with disabilities. The Government attempted to provide educational services for children with disabilities, although these efforts were not adequate yet.

*Indigenous Persons.*—Indigenous people comprised 6 percent of the population; they were integrated into society, and enjoyed the same rights as other citizens.

*National/Racial/Ethnic Minorities.*—Some members of non-Malay minorities, such as ethnic Chinese, including those born and raised in the country, were not automatically accorded citizenship and its attendant rights and had to travel abroad as stateless persons.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Trade unions are legal but must be registered with the Government. The Government did not prevent the legal registration of trade unions, nor did it dissolve any. While unions are legal and easy to register, conditions were not conducive to the development of trade unions. There was no encouragement of workers to form trade unions, and existing unions were not active. The three registered trade unions were all in the oil sector and had a total membership of less than 5 percent of that industry's work force. All workers including civil servants other than those serving in the military, working as prison guards, or police officers, may form or join trade unions. Unions are independent of the Government.

The law permits the formation of trade union federations but forbids affiliation with international labor organizations.

*b. The Right to Organize and Bargain Collectively.*—The Government did not interfere with lawful union activity during the year. It is illegal to refuse employment or discriminate against an employee on the basis of membership or nonmembership in a trade union. The law is silent on collective bargaining, and it occurs in only a few industries. Wage and benefit packages were based on market conditions and tend to be generous. An individual contract is required between an employer and each employee, but legal trade union activities may not be deemed to violate employee contracts. Some local legal experts have interpreted this provision as conferring the right to strike. However, under the law, strikes are illegal.

There is a free trade zone in Muara Port, known as the Muara Export Zone (MEZ).

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

There were reports that foreign domestic workers worked extremely long hours and were not permitted rest days during the year. Their passports allegedly were held by employers to prevent their departure, there were anecdotal reports of such workers not being paid. During the year, foreign and domestic employment agents reportedly brought workers to the country from Indonesia, Malaysia, the Philippines, Pakistan, and other countries under false pretenses of well-paying jobs as teachers or shop assistants, only to force them later to accept jobs as laborers. Other workers, most notably in the garment industry, upon their arrival often were obliged to sign new employment contracts in the country that reduced their promised salaries through substantial monthly payments to their employment sponsors or agents. Living and working conditions for these persons generally were poor.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Various laws prohibit the employment of children under the age of 16. Parental consent and approval by the Labor Commission is required for those under the age of 18. Females under age 18 may not work at night or on offshore oil platforms. The Department of Labor (DOL), which is a part of the Ministry of Home Affairs, effectively enforced laws on the employment of children. There were no reports of violations of the child labor laws.

The Government adheres to the standards of ILO Convention 182 on the worst forms of child labor.

*e. Acceptable Conditions of Work.*—Due to the ongoing economic downturn, unemployment has grown in recent years. However, most citizens still commanded good salaries. There is no minimum wage. The standard workweek is Monday through Thursday and Saturday, with Friday and Sunday off, allowing for two 24-hour rest periods each week. Overtime is paid for work in excess of 48 hours per week, and double time is paid for work performed on legal holidays. Occupational health and safety standards are established by government regulations. The DOL inspected working conditions on a routine basis and in response to complaints. The DOL generally enforces labor regulations effectively. However, in the unskilled labor sector enforcement was lax, especially for foreign laborers. The DOL may close any workplace where health, safety, or working conditions are unsatisfactory, and it has done so. The law permits a worker to leave a hazardous job site without jeopardizing his employment, but generally this did not occur.

Approximately 80,000 foreign nationals worked in the country. There were reports of cases of domestic bondage of foreign domestic workers (see Section 6.c.). There also were isolated reports of employers physically beating domestic employees or not providing them with adequate food. The Government prosecuted some such cases. In May 2001 there were 10 reported cases of maid abuse. In one case, an Indonesian maid collapsed at the International Airport while her employer, a captain with the Royal Brunei Armed Forces, was attempting to repatriate her. After being hospitalized, the maid claimed she was subjected to persistent assaults and ill treatment by both her employer and his spouse who allegedly used a hammer to fracture her teeth, ironed her hand with a hot iron for working too slowly, and fractured her ribs by kicking her. The captain also had incarcerated her at a guard “lock-up” room for allegedly stealing. No new information was available at year’s end.

About 20,000 foreigners work in the garment industry. Workers and observers protested conditions in some factories in that industry, including inadequate accommodations, unsanitary facilities, and relatively large deductions from pay for the employers, broker agents and sponsors. The CAB highlighted in the press poor working and living conditions and alleged abuses (including torture) by factory management of Bangladeshi workers who had been involved in protest work stoppages (see Section 4). During the year, approximately 1,000 factory workers were repatriated, factory owners cited the world economic downturn and subsequent decreased demand as reasons.

*f. Trafficking in Persons.*—The Law for the Protection of Women and Girls prohibits trafficking in women and girls. Although there are no laws that specifically refer to trafficking in men and boys, there are laws that criminalize aspects of trafficking. Penalties for traffickers range from 3 years’ imprisonment and a fine to 30 years’ imprisonment and caning of not less than 12 strokes. No official trafficking statistics were available, nor were there any NGOs present in the country to track trafficking. The Government did not provide any specialized training to government officials for the provision of assistance to trafficking victims.

Employment agents in Brunei and in other countries reportedly brought workers to the country from Indonesia, Malaysia, the Philippines, Pakistan, and other countries under false promises of well-paying jobs and later forced them to accept jobs as laborers or agricultural workers. There also were reports of employers confiscating the passports of domestic workers in order to prevent them from leaving the country.

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## BURMA

Burma is ruled by a highly authoritarian military regime. In 1962 General Ne Win overthrew the elected civilian government and replaced it with a repressive military government dominated by the majority ethnic group. In 1988 the armed forces brutally suppressed prodemocracy demonstrations, and a junta composed of military officers, called the State Peace and Development Council (SPDC), led by Senior General Than Shwe, took control. Since then the SPDC has ruled by decree. The judiciary was not independent, and there was no effective rule of law.

The regime reinforced its firm military rule with a pervasive security apparatus, the Office of Chief Military Intelligence (OCMI). Control was implemented through surveillance of government employees and private citizens, harassment of political activists, intimidation, arrest, detention, physical abuse, and restrictions on citizens' contacts with foreigners. The SPDC justified its security measures as necessary to maintain order and national unity. Members of the security forces committed numerous, serious human rights abuses.

The country had a population of approximately 50 million. The country was extremely poor; the estimated annual per capita income was approximately \$300. Four decades of military rule and mismanagement resulted in widespread poverty, poor health care, and declining educational levels. Primarily an agricultural economy, the country also had substantial mineral, fishing, and timber resources. Extensive state influence over the economy, widespread corruption, and poor infrastructure has led to rapidly deteriorating economic conditions.

The regime's human rights record remained extremely poor, and it continued to commit numerous serious abuses. Citizens did not have the right to change their government. In ethnic minority areas, security forces continued to commit extrajudicial killings and rape, forcibly relocated persons, used forced labor, and conscripted child soldiers. Disappearances continued, and members of the security forces tortured, beat, and otherwise abused prisoners and detainees. Citizens were subjected to arbitrary arrest without appeal. Arrests and detention for expression of dissenting political views occurred on numerous occasions. The SPDC arrested approximately 45 persons, including some NLD members, for political activities during the year; most were released within days. The Government also released approximately 550 political prisoners since talks began with the NLD in 2000. By year's end, an estimated 1,300 political prisoners (including members and supporters of ethnic armed groups) remained in prison. Prison conditions remained harsh and life threatening, although conditions improved in some prisons since the International Committee of the Red Cross (ICRC) was allowed access. The judiciary was not independent.

The SPDC continued to restrict severely freedom of speech, press, assembly, association, and travel. During the year, persons suspected of or charged with prodemocratic political activity were subjected to regular surveillance and occasional harassment. The junta restricted freedom of religion, coercively promoted Buddhism over other religions, and imposed restrictions on religious minorities. The regime's control over the country's Muslim minority continued, although acts of violence against Muslims decreased from last year. The regime regularly infringed on citizens' privacy; security forces continued to monitor citizens' movements and communications systematically, search homes without warrants, and relocate persons forcibly without just compensation or legal recourse. The SPDC also continued to forcibly relocate large ethnic minority populations in order to deprive armed ethnic groups of civilian bases of support. The regime continued to restrict freedom of movement and, in particular, foreign travel by female citizens. On May 6, the regime released opposition leader and National League for Democracy (NLD) General Secretary Aung San Suu Kyi from almost 20 months of house detention and has allowed her to travel within the country since that time. The regime also loosened restrictions on NLD activities and generally allowed Aung San Suu Kyi to meet representatives of foreign governments and international organizations. The regime closely monitored NLD activities at NLD offices as well as the activities of other political parties throughout the country. The junta recognized the NLD as a legal entity; however, it restricted their activities severely through security measures, harass-

ment, and threats. The NLD was permitted to reopen approximately 90 out of 300 offices countrywide. The SPDC did not allow domestic human rights organizations to function independently and remained generally hostile to outside scrutiny of its human rights record. However, in 2001 and during the year, it allowed the U.N. Special Rapporteur on Human Rights in Burma to conduct missions to the country. It also allowed the International Labor Organization (ILO) to establish a liaison office in Rangoon. Violence and societal discrimination against women remained problems, as did discrimination against religious and ethnic minorities. There were no policies that discriminated against persons with disabilities. The regime continued to restrict worker rights, ban unions, and used forced labor for public works and for the support of military garrisons. Other forced labor, including forced child labor remained a serious problem, despite recent ordinances outlawing the practice. The forced use of citizens as porters by SPDC troops—with attendant mistreatment, illness, and sometimes death—remained a common practice as did recruitment of child soldiers by the SPDC. Trafficking in persons, particularly in women and girls mostly for the purposes of prostitution, remained widespread, despite increased regime efforts to publicize dangers to potential victims.

Ethnic armed groups including the Karen National Union (KNU), the Karenni National Progressive Party (KNPP), and the Shan State Army-South (SSA) reportedly also committed human rights abuses, although on a lesser scale; abuses included killings, rapes, forced labor, and conscripted child soldiers.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Amnesty International (AI), and groups like the Shan Human Rights Foundation (SHRF) and the Karen Human Rights Group (KHRG), which have been associated with armed ethnic resistance groups, reported numerous cases throughout the year of military troops killing civilians in border areas and areas of ethnic resistance, often after confiscating property or torturing the individuals (*see* Sections 1.g. and 5). Interviews by foreign observers documented similar abuses.

In a July report entitled “Myanmar: Lack of Security in Counter-Insurgency Areas,” AI cited a January 30 killing of six Shan State civilians near the Thai border. The six villagers, who had been relocated forcibly from their original homes by SPDC troops in 1996–97, were attempting to cross into Thailand illegally when reportedly they were robbed and killed by SPDC troops. According to the report, the killings did not appear to be related to counter-insurgency activities. On April 28, the KHRG reported that villagers who recently had been forced from their homes in Karen State were attacked by SPDC troops while sleeping. Ten persons were shot and killed, six of whom were children; and nine others were injured, including a pregnant woman. On May 10, one of the injured died. The regime contended that the casualties were caught in a crossfire during a fight with armed ethnic groups. The SHRF reported that on September 21, a SPDC unit raided a village in Kholam, Shan State, killing 10 villagers in retaliation for an earlier attack by the Shan State Army (SSA) against SPDC troops, which killed one soldier. These reports were not confirmed by independent sources.

Brutal treatment by soldiers also caused deaths among those conscripted as military porters and laborers. There were unconfirmed reports by various groups indicating that porters and laborers who no longer physically were able to work sometimes were abandoned without medical care or were killed (*see* Section 6.c.).

In 2001 according to one report from the KNU, at least 200 prisoners from the Tavoy prison in Tenasserim division were conscripted by SPDC troops as laborers to construct a front line camp. The prisoners were tied together in groups of 5 and were guarded by 40 soldiers. As prisoners weakened and no longer could work, 11 of them were shot and killed. During the year, there were similar credible reports of the military taking over 300 prisoners from jails in Shan State for use as porters. There were no reports that soldiers involved in past killings or other abuses were investigated or punished during the year.

Inmates died in prisons and labor camps, or shortly after being released from them, due to harsh treatment and lack of adequate medical care (*see* Section 1.c.). On July 31, Aik Paung, Secretary of the Palaung Liberation Front, died in Moulmein prison. Although his stomach reportedly was bloated and swollen for 3 days, he was not hospitalized or provided with any type of medical attention. In September political prisoner Aung May Thu died from a bleeding ulcer while in custody (*see* Section 1.c.). In October an NLD Shan State Vice Chairman, U Sai Hpa, died in custody, reportedly from cerebral malaria (*see* Section 1.d.).

Some armed ethnic groups also reportedly committed killings. On April 15, according to the SPDC, the KNU blew up a trishaw in Myawady, Karen State, killing 5 persons and injuring 31 persons. The KNU denied responsibility for the killings.

*b. Disappearance.*—Private citizens and political activists continued to “disappear” for periods ranging from several hours to several weeks or more, and many persons never reappeared. Such disappearances generally were attributed to government authorities detaining individuals for questioning without the knowledge of their family members, or the SPDC troops’ practice of seizing private citizens for portage or related duties, often without the knowledge of their family members (*see* Section 6.c.). In many cases, the individuals who were detained for questioning were released soon afterward and returned to their families. However, the whereabouts of persons seized by SPDC units to serve as porters, as well as of prisoners transferred for labor or portage duties, often remained unknown. There also were reports of private citizens who were killed while serving as porters (*see* Section 1.a.). Family members generally learned of their relatives’ fates only if fellow prisoners survived and later reported information to the families. According to the SHRF, in August a villager returning from gathering wild vegetables allegedly disappeared after being taken by three SPDC troops to the military camp at Naa Kawng Mu village in Mung-Ton township.

During an interview with the Democratic Voice of Burma, Ko Tait Naing, the Secretary of the Association for Assistance to Political Prisoners (AAPP), alleged that several political prisoners were executed secretly by the junta. Naing stated that in July 2001, seven prisoners were taken away from the prison in Beik and that there were unconfirmed reports they were executed. Naing also alleged that in April six prisoners who were taken away from the prison in Kawthaung, were executed at Ngapyawjoaw village tract to the east of Zatekyi naval base.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—There are laws that prohibit torture; however, members of the security forces reportedly tortured, beat, and otherwise abused prisoners, detainees, and other citizens. They routinely subjected detainees to harsh interrogation techniques designed to intimidate and disorient. There were reports in past years that prisoners were forced to squat or assume stressful, uncomfortable, or painful positions for lengthy periods. There continued to be many credible reports that security forces subjected citizens to harassment and physical abuse. The military forces routinely confiscated property, cash, and food, and used coercive and abusive recruitment methods to procure porters. Persons forced into portage or other labor faced extremely difficult conditions, beatings, and mistreatment that at times resulted in death. From June 7 to June 20, SPDC troops forced more than 130 civilians to serve as porters near Keng Tung, Shan State. According to the SHRF at least seven persons died due to mistreatment (*see* Section 6.c.). SPDC soldiers beat, raped, and killed persons who resisted relocation or forced conscription and forced labor. There were numerous reports that SPDC troops looted and confiscated property and possessions from forcibly relocated persons, or persons who were away from their homes; these materials often were used for military construction. There were reports of SPDC troops who confiscated privately owned vehicles for military transport without compensating the vehicle owners.

During the year, there were complaints of government mistreatment and exploitation of farmers. In the past, numerous farmers were held in custody for failing to meet local production requirements, although there were no such reports during the year.

In early March, in downtown Rangoon, residents of 25 homes in Weggi quarter were ordered by the regional military commander to vacate their houses by the end of the month. These persons, many of whom were long time residents, appealed the order to senior SPDC officials to no avail. Under military threats, many accepted relocation to apartments estimated to be worth approximately 10 percent the value of their vacated homes. On April 5, armed military authorities forced remaining tenants to leave their houses, arresting those who refused. The homes were destroyed, reportedly to make way for construction of new residences for families or companies connected to the regime.

In May according to the KHRG, SPDC troops attempted to extort money from villagers in Karen State prior to a forced relocation. The troops reportedly burned homes, tortured a village headman by shooting him in the thighs and cutting tendons in his legs, and beat other villagers (*see* Sections 1.f. and 2.d.).

The KHRG reported that on July 11, soldiers opened fire on Saw Poe Tot, a villager looking for his elephant, in Kameik village in Tenasserim division. He was taken to a hospital by relatives and survived.



On August 17, Captain Zaw Min Oo reportedly entered Yusomoso, a mainly Catholic village in Timoso township in Kaya State (east of Karen State) where, according to a reliable source, the Captain raped a 4-year-old child. Military authorities reportedly offered the villagers approximately \$20 (20,000 kyat) to drop the case. In October the SHRF reported that two SPDC soldiers used their rifle butts to beat and rape a woman who was doing her laundry by the river in Kaen-Tung township. They allegedly threw her into the river while she was still unconscious. The woman survived and she and her husband complained to their village headman and the community leader. No action was taken due to fear of the police and SPDC township authorities. Also in October, a group of six or seven SPDC troops reportedly raped two women in Murng-Khark township.

SPDC troops raped women who were members of ethnic minorities, especially in Shan, Karenni, and Karen States (*see* Section 1.g.).

Corruption among local government officials was widespread and included complicity in the trafficking of persons (*see* Section 6.f.).

During the year, both men and women were conscripted to serve as forced laborers and some of the women subsequently were raped at gunpoint by military personnel (*see* Section 1.g.).

Prison and labor camp conditions generally remained harsh and life threatening. The regime's Department of Prisons operated approximately 35 prisons and approximately 70 labor camps throughout the country (*see* Section 6.c.). In the prisons, food, clothing, and medical supplies reportedly were in very short supply. Bedding consisted of a single mat on the floor. Prisoners were forced to rely on their families, who were allowed to visit once every 2 weeks for 15 minutes per visit, for basic necessities. HIV/AIDS infection rates in prison reportedly were high due to communal use of single syringes for injections. During the year, the health of several political prisoners deteriorated, and at least three political prisoners died in custody (*see* Section 1.a.).

During the year, some prisoners were denied adequate medical care while in prison. In one case, authorities did not provide a prisoner with proper medical attention, and the prisoner subsequently died (*see* Section 1.a.). There were reports during the year that the health of U Win Tin, a 72-year-old journalist who has been in prison since 1989 for his political activities, continued to decline. Similarly, there were serious concerns about the health of Min Ko Naing, a student leader also arrested in 1989 and subjected to years of isolation and torture. The AAPP reported that on May 17 and 18, prison authorities severely beat two political prisoners in Bassein prison because they submitted a complaint to the prison superintendent. AAPP also reported that 22 political prisoners were moved from Kalay prison to Kathar prison, because they smuggled out letters documenting conditions in the prison.

According to the regime, political detainees were separated from common criminals, juveniles from adults, and men from women. According to the ICRC, the regime stated that political prisoners should not be subjected to hard labor.

During the year, the ICRC conducted periodic visits to all prisons in the country, attempting to visit each one a minimum of once a year. ICRC visits to labor camps began in March 2000 and continued during the year. There reportedly were approximately 70 of these camps, but many were temporary, existing only long enough to complete a specific work project. The regime allowed the ICRC to perform its traditional services, such as providing medications, delivering letters to and from prisoners, and providing support for family visits to prisoners.

*d. Arbitrary Arrest, Detention, or Exile.*—There is no provision in the law for judicial determination of the legality of detention, and the SPDC routinely used arbitrary arrest and incommunicado detention. The Penal Code allows authorities to extend sentences arbitrarily after prisoners have completed their original sentence.

From September 2000 until May, Aung San Suu Kyi was held under house detention without charge. Although the regime allowed visitors to meet with her, the visits were controlled.

The regime has released an estimated 550 political prisoners, as well as another 380 political prisoners on humanitarian grounds, since talks began with the NLD in October 2000. However, it also arrested some political activists. In August approximately 20 activists were arrested for distributing pamphlets. There were reports that at least some of the 20 students were beaten during interrogation before being released approximately 10 days after their arrests. Two students arrested for a protest at Rangoon's city hall were held incommunicado for several weeks and then sentenced to 14 years in prison for subversive acts against the state. Family members and the NLD continued to make inquiries to the SPDC regarding their status but to no avail. On August 22, two NLD student members were arrested in Rangoon for possessing an illegal publication. They reportedly were not allowed adequate legal representation at their trial and were sentenced to 3 years in prison.

On September 13, two NLD executive members, U Sai Hpa and U Saw Nan Ti, were arrested in Kengtung, Shan State, apparently for discussing the regime's rice quota increase with local citizens. On October 10, they were scheduled to stand trial but one, Shan State NLD Vice Chairman U Sai Hpa, died in custody on October 9, reportedly of cerebral malaria. Tu Saw Nan Ti was sentenced to 7 years in prison. In September the regime arrested at least 30 political activists in Rangoon. Among those arrested was, U Hla Tun, an NLD Member of Parliament (M.P.) elect from the 1990 elections who had not been active in the NLD since he was released from prison in 1999. As with other arrests, there was incomplete information on these cases. There was no official announcement of the arrests and information was only available from those who witnessed the arrests or from family members who were notified by authorities of relatives who were arrested.

Prior to being charged, detainees rarely had access to legal counsel or their families. Even after being charged, detainees rarely had the benefit of counsel. Political detainees were not released on bail. Some political detainees were held incommunicado for long periods.

In September Aung Mye Thaw died in custody while serving the sixth consecutive extension of his sentence, as permitted under the Penal Code (*see* Section 1.a.). At year's end, there were approximately 50 political prisoners serving extended sentences, including Min Ko Naing, a former political activist and student leader who reportedly was in deteriorating health (*see* Section 1.e.). In Mandalay 11 prisoners sentenced for political reasons, including Zaw Min, Ne Win, U Tin Aye Yu, U Tin Myint, U Tin Aye, U Khin Maung Thant, U Zarni Aung, U Thein Than Oo, U Kyaw Sein Maung, U Naing Myint, U Htay Nyunt, and Soe Myint completed their terms, but were not released.

Since October 2000 when confidence-building talks between Aung San Suu Kyi and the SPDC began, the SPDC has reduced its campaign of detention and intimidation against the NLD. In June 2001, the regime began releasing NLD political prisoners from "guest houses" and prisons. By year's end, the releases totaled approximately 550, including most NLD detainees and all members of the NLD's Central Executive Committee (CEC). However, at year's end, according to ICRC, there were more than 1,300 "security detainees," including approximately 170 NLD members, still incarcerated, 17 of whom were elected (NLD) M.P.s. Included among the 1,300 political prisoners were ethnic leaders, supporters of ethnic opposition groups (some of which were armed), non-NLD politicians, lawyers, journalists, and students (*see* Section 1.e.).

Authorities continued to detain private citizens and political activists, some of whom disappeared, at times temporarily, at the hands of security forces (*see* Section 1.b.).

During the year, the authorities did not detain or deport any foreign journalists.

The Constitution does not provide for forced exile, and the regime did not use forced exile.

*e. Denial of Fair Public Trial.*—The judiciary is not independent of the military junta. The junta appoints justices to the Supreme Court who, in turn, appoints lower court judges with the approval of the junta. These courts then adjudicate cases under decrees promulgated by the junta that effectively have the force of law. The court system includes courts at the township, district, state, and national levels.

During the year, the regime continued to rule by decree and was not bound by any constitutional provisions providing for fair public trials or any other rights. Although remnants of the British-era legal system formally were in place, the court system and its operation remained seriously flawed, particularly in regard to the handling of political cases. The misuse of overly broad laws—including the Emergency Provisions Act, the Unlawful Associations Act, the Habitual Offenders Act, and the Law on Safeguarding the State from the Danger of Destructionists—and the manipulation of the courts for political ends continued to deprive citizens of the right to a fair trial. Pervasive corruption further served to undermine the impartiality of the justice system.

Some basic due process rights, including the right to be represented by a defense attorney, generally were respected in criminal cases, but not in political cases that the regime deemed especially sensitive. In criminal cases, defense attorneys generally were permitted to call and cross-examine witnesses; however, their primary purpose was to bargain with the judge to obtain the shortest possible sentence for their clients. Reliable reports indicated that senior military authorities dictated verdicts, regardless of the evidence or the law. In addition, in political cases, trials were not open to the public. However, during the year, two high profile cases, one involving Ne Win's grandchildren and the other involving Aung San Oo and Aung San Su Kyi, were opened to the public. The press attended and reported on both trials.

In March Professor Salai Tun Than, a 74-year-old academic was sentenced to 7 years' imprisonment for staging a peaceful protest in November 2001; the details of his trial, or if he even had a trial, were not public.

During 2000 the regime initiated an extensive campaign to remove independent lawyers who were capable of providing advice and counsel to the NLD. The regime arrested and sentenced under fabricated charges nearly every lawyer with a perceived connection to the NLD. Cases included those of U Soe Han, a 77-year-old highly respected and nonpolitical lawyer, who was arrested with several others and sentenced to 21 years in prison for sending a letter to Senior General Than Shwe and Secretary One Khin Nyunt, urging the regime to release political prisoners and begin a dialog with the NLD. In 2001 the regime discontinued its campaign against independent lawyers. During the year, there were no new arrests of lawyers perceived to have NLD connections, and NLD members appeared to be able to retain the counsel of lawyers without fear of the lawyers being imprisoned. However, approximately 20 of the more than 40 lawyers jailed in 2000 remained imprisoned at year's end.

During the year, the regime slowly continued to release NLD members from prison and also began releasing a small number of student activists, many of whom had been in prison since 1989–90. The majority of the releases were of prisoners who had completed or almost completed their sentences or who were in poor health. Several political prisoners, who were convicted of crimes against the regime, were required to sign an agreement accepting to serve the remainder of their current sentences if they were rearrested for any reason. Prisoners who were being held in detention, but who had not been convicted of a crime, were not required to sign an agreement. In addition, political prisoners who were released shortly after the October 2000 talks between the regime and Aung San Suu Kyi began, were not required to sign any pre-condition agreement.

The ICRC reported that as of October there were 1,300 "security detainees" in the country. The AAPP estimated that there were approximately 1,400 political prisoners. It also found that some political prisoners remained in custody despite having completed their sentences (*see* Section 1.d.). Of the estimated 1,300 political prisoners, 17 were NLD M.P.s elect from the 1990 elections. Among prisoners released this year was U Aye Tha Aung, who represented four large ethnic groups in the Committee Representing the People's Parliament (CRPP). In August the regime released U Aye Tha Aung, who was arrested in 2000 and whose health was deteriorating rapidly while serving three 7-year sentences. He immediately underwent an operation for a lung tumor. Another prominent political prisoner, U Win Tin, a noted journalist and writer, arrested in 1989, still was in prison at year's end. He was 72-years-old and also reportedly was in poor health. Another high-profile political prisoner was Min Ko Naing, a student leader whose sentence was extended under the penal law and who reportedly was in Sittwe Prison and in deteriorating health. Three political prisoners, Aung May Thu, U Sai Hpa, and Mai Aik Pan, a leader of the Palaung ethnic group, died while in prison during the year (*see* Sections 1.a., 1.c., and 1.d.).

Opposition political parties have attempted to use the courts to enforce their political rights, thus far without success. In April 2000, the Supreme Court dismissed an appeal by the NLD against the regime for illegally detaining and libeling M.P.s elect. The Supreme Court ruled that a case could not proceed against a government official—in this case the head of military intelligence—if the Head of State did not grant permission. In September 2000, lawyers for the NLD began a suit against General Than Shwe and the Chairman of the Election Commission for failing to fulfill commitments made in regard to the transition to democracy. In 2001 the suit was dismissed without a hearing.

In November 2000, the regime allowed Aung San Suu Kyi's brother, a foreign citizen, to file a suit against her seeking half ownership of the family compound in which she resided. The case widely was believed to be motivated politically, because the regime generally did not allow foreigners to file claims for property against citizens. In fact the regime had to grant a special authority to the brother for the case to be filed at all. The trial was public and lasted for several months. The case eventually was dismissed for having been filed improperly, however, the regime granted the brother authority to file a second suit, and in October the judge presiding over the case ruled that Aung San Suu Kyi's brother had the right to inheritance of the property under Buddhist customary law. The case continued at year's end.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution does not provide for these rights, and authorities infringed on citizens' privacy rights. The military regime interfered extensively and arbitrarily in the lives of citizens. Through its pervasive intelligence network and administrative procedures, the regime systematically monitored the travel of all citizens and closely

monitored the activities of many citizens, particularly those known to be active politically.

The law requires that any person who spends the night at a place other than his registered domicile inform the police in advance, and that any household that hosts a person not domiciled there to maintain and submit to the police a guest list. There were reports that this restriction, which appeared to be relaxed somewhat last year, was enforced strictly this year. At least 30 arrests reportedly occurred following house-to-house searches.

Telephone service also was controlled tightly. Security personnel regularly screened private correspondence and telephone calls. The authorities generally continued to discourage citizens from subscribing directly to foreign publications (*see* Section 2.a.). However, in 2001 the regime loosened controls over the use of satellite television that allowed the general population to register satellite receivers for a small fee. Previously only a few businesses and individuals with special connections to the regime were allowed licenses for satellite receivers.

The regime continued to control closely the licensing and rationing of all electronic communication devices, which were monitored closely. Possession of an unregistered telephone, facsimile machine, or computer modem was punishable by imprisonment (*see* Section 2.a.). In April 2000, an Indonesian citizen, Irawan Sidaria, and two local technicians were arrested under the statute for having installed an Inmarsat satellite telephone unit at the Asia Plaza Hotel in Rangoon. In August 2000, Irawan Sidaria was deported to Indonesia. In June 2000, according to the SHRF, SPDC troops confiscated approximately 30 mobile phones in Murng-Ton. Although no arrests were reported, troops threatened to punish citizens severely if they refused to turn over their mobile phones. In June 2000, Myanmar Posts and Telecommunications also announced that users of nonregistered cordless telephones in the country would face up to 3 years' imprisonment, and/or a fine of approximately \$75 (30,000 kyat).

Weak private property rights and poor land ownership records facilitated involuntary relocations of persons by the regime. The law does not permit private ownership of land; it recognizes only different categories of land-use rights, many of which are not freely transferable. Postcolonial land laws also have revived the precolonial tradition that private rights to land were contingent upon the land being put to productive use.

For decades successive military regimes have applied a strategy of forced relocation against ethnic minority groups seeking autonomy in an effort to deny support to the armed ethnic groups; such forced relocations continued during the year, particularly along the Thai border. The forced relocations often were accompanied by alleged rapes, executions, and demands for forced labor to build infrastructure for villagers and SPDC units. To make way for commercial or public construction and, in some cases, for reasons of internal security and political control, the SPDC forcibly relocated citizens to "new towns." This practice has become somewhat less common in recent years. Persons relocated to new towns generally suffered from greatly reduced infrastructure support. Residents targeted for displacement generally were given no option but to move, usually on short notice (*see* Sections 1.c. and 2.d.).

A September report by a highly respected private citizen in Thailand estimated more than 2,500 villages have been destroyed or forcibly relocated by SPDC troops since 1996, displacing more than 600,000 citizens. The report estimated that more than 350,000 of these citizens were moved to SPDC-controlled "relocation centers," while the remainder lived in hiding. This practice was particularly widespread in the Shan, Kayah, and Karen States and in areas of Mon State, and Pegu Division. In these areas, thousands of civilian villagers were displaced from their traditional villages, which often were burned to the ground and moved into settlements tightly controlled by SPDC troops in strategic areas. In other cases, villagers who fled or were driven from their homes, found shelter in the forest, frequently in heavily mined areas without adequate food, security, or basic medical care.

The forced relocations often generated large refugee flows to neighboring countries or to parts of the country not controlled by the regime. In some areas, the junta replaced the original ethnic settlements with settlements of ethnic Burmans. In 2000 in Rakhine State, the regime forcibly relocated several largely Muslim villages and resettled the area with Buddhist Burmans, who were forced to move from Dagon township in Rangoon division. In other areas, army units forced or attempted to force ethnic Karen to relocate to areas controlled by the proregime Democratic Karen Buddhist Army (DKBA).

Military units also routinely confiscated livestock, fuel, food supplies, fishponds, alcoholic drinks, vehicles, or money. Such abuses have become widespread since 1997, when the junta ordered its regional commanders to meet their logistical needs locally, rather than rely on the central authorities. As a result, regional commanders

increased their use of forced contributions of money, food, labor, and building materials throughout the country (*see* Sections 1.c. and 6.c.).

In violation of humanitarian law, both army and insurgent units used forced conscription, including conscription of children (*see* Sections 1.g. and 6.c.).

Government employees generally were prohibited from joining or supporting political parties; however, this proscription was applied selectively. In the case of the regime's mass mobilization organization, the Union Solidarity and Development Association (USDA), the regime used coercion and intimidation to induce many persons, including nearly all public sector employees, both to join the union and to attend meetings in support of the regime (*see* Section 2.a.).

In the past, government officials, including senior officials, repeatedly made statements warning parents that authorities could hold them responsible for any political offenses committed by their children; however, there were no reports of this practice during the year.

The regime's intelligence services also monitored the movements of foreigners and questioned citizens about conversations with foreigners. Government employees generally were required to obtain advance permission before meeting with foreigners. During the year, international NGOs officially were required to ensure that a representative from a government ministry accompanied them on all field visits (at the NGOs' expense). However, the requirement appeared impractical and was not enforced fully (*see* Section 4).

Marriages between female citizens and foreigners officially were banned; however, the ban was not enforced.

*g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—Since independence in 1948, SPDC troops have battled a variety of ethnic insurgencies. Ethnic insurgent groups have sought to gain greater autonomy or, in some cases, independence from the ethnic Burman-dominated State. Since 1989, 17 groups have concluded cease-fire agreements with the regime. Under the agreements, the groups have retained their own armed forces and performed some administrative functions within specified territories inhabited chiefly by members of their ethnic groups. However, a few groups remained in active revolt. The KNU continued to conduct insurgent operations in areas with significant Karen populations in the eastern and southern regions of the country. In Kayah State, the KNPP resumed fighting against the regime since the breakdown of a cease-fire negotiated in 1995.

In May the SHRF and Shan Women's Action Network (SWAN) alleged the military used rape as a systematic weapon of war against the ethnic populations in Shan State. The report described 173 incidents of rape or sexual violence against 625 women and girls committed by soldiers from 52 military battalions between 1992 and 2001. Given the brutality of the rapes, (the report stated that 25 percent of the rapes resulted in death), the incidence of rapes by officers (83 percent), and the impunity with which they were carried out, the report concluded that the rapes were condoned by the military regime in order to terrorize and subjugate the Shan. There were corroborating reports on rapes and sexual violence, by the military in Shan State and elsewhere, including first hand accounts from rape victims documented by credible foreign observers. According to a report by Refugees International, rape of ethnic women by the SPDC troops similarly was prevalent in Karen, Mon, and Karenni regions.

The SPDC denied the report and ordered three internal reviews. In August the junta claimed that no soldiers were involved in the rapes. In October the regime stated it continued to investigate the allegations and had found evidence of five cases of rape similar to those described in the SHRF/SWAN report. The regime stated it provided copies of its report on the investigations to the international community and to the U.N. Special Rapporteur, Paulo Sergio Pinheiro. However, according to Pinheiro, the investigations were undertaken by military and other SPDC personnel with no special skills or experience in investigating human rights allegations. The investigations reportedly consisted of prearranged, large, collective, and public meetings with local officials, organized by military personnel. There has been continued international pressure on the regime to allow an independent assessment of the allegations and to take appropriate actions to prevent rape and sexual abuses by the military.

In central and southern Shan State, government forces continued to engage the SSA. The military maintained a program of forced relocation of villagers in that region to SPDC-controlled sites, that reportedly was accompanied by killings, rapes, and other abuses of civilian villagers. According to AI, 90 percent of the civilians from Shan State whom it interviewed in Thailand in February said they had been subjected to unpaid forced labor by the military within the last 18 months.

Border disputes with Thailand during the year exacerbated the plight of civilian populations along the Thailand border (*see* Sections 2.d and 6.c.).

In January 2001, according to a credible but not independently confirmed report, in Murg-Nai, military troops beat to death a Palaung villager, raped his wife, and stole his property. In March 2001, according to the SHRF, SPDC troops gang-raped a woman in Murg-Ton township after troops had tortured and killed her uncle. Also according to the SHRF, in April 2001, SPDC soldiers encountered four villagers near Naa Ing, Shan State. The soldiers found packets of rice, which they claimed the villagers were going to give to the SSA. The soldiers tied up the men and took the woman to a different location, where they reportedly raped her. They then reportedly required the villagers in the area to pay a substantial fine for the release of the four persons.

According to Human Rights Watch (HRW), SPDC troops conscripted children as young as the age of 11, especially orphans and street children (*see* Section 5).

Active insurgent groups included the Chin National Front, the Naga National Council, the Arakan-Rohingya Solidarity Organization (ARNO), the SSA-South, and the KNU (including its affiliate the Karen National Liberation Army). Some members of the insurgent groups committed serious abuses. For example, according to the regime, in December 2001, the KNPP killed seven villagers who refused to join their ranks in Loikaw township. The regime also accused the KNU and the SSA of killings and bombings throughout Shan and Karen States and of recruiting and using child soldiers. UNICEF, AI, and HRW reported that both SPDC troops and insurgent groups recruited child soldiers (*see* Section 5).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law allows the regime to restrict freedom of speech and freedom of the press and, in practice the junta continued to restrict these freedoms severely and systematically during the year. The regime continued to arrest, detain, convict, and imprison citizens for expressing political opinions critical of the junta, and for distributing or possessing publications in which opposition opinions were expressed (*see* Sections 1.d. and 1.e.). Security services also monitored and harassed persons believed to hold such political opinions.

Legal restrictions on freedom of speech have intensified since 1996, when the junta issued a decree prohibiting speeches or statements that “undermine national stability.” In all regions of the country, the regime continued to use force to prohibit virtually all public speech critical of it by all persons, including persons elected to Parliament in 1990, and by leaders of political parties. The regime has pursued this policy consistently since 1990, with few exceptions.

There was an unconfirmed report from the Democratic Voice of Burma that in August 2001, military security personnel arrested a monk for delivering a sermon criticizing the economic and political conditions in the country during a ceremony at the Mahamyatmuni Payagyi Pagoda in Mandalay. The monk, Ashin Pandita, reportedly was derobed and detained at the police station. No additional information was available at year’s end.

The regime permitted the NLD to resume some public meetings during the year. In keeping with the confidence-building that has surrounded the talks between the regime and Aung San Suu Kyi, the NLD moderated its criticism of the regime in these meetings. The NLD continued to press for substantive dialog with the regime as quickly as possible, and has refrained from any direct attacks on the policies or actions of the regime.

Many prominent writers and journalists remained in prison for expressing their political views. The Paris-based organization Reporters Sans Frontieres reported that at least 18 journalists remained in prison at year’s end, including Ohn Kyaing, better known by his pen name Aung Wint, who wrote articles in favor of democracy and also was a NLD M.P., elect from Mandalay. He has been in prison since 1990. Government censorship boards prohibited publication or distribution of works authored by those in prison, although in 2000 the regime allowed former political prisoners Ma Thida and U Sein Myint (also known as U Moe Thu), to write several magazine articles following their release from prison. In 2001 at least one well-known publisher, Tin Maung Than, departed the country for fear that his activities would lead to imprisonment.

Between April and June 2000, the junta arrested 11 persons for distributing antijunta leaflets and allegedly planning attacks on government buildings. In September 2000, the junta sentenced Chein Poh, a highly respected, 77-year-old lawyer in Rangoon, for allegedly distributing foreign publications with antiregime annotations written on the back. Although the regime presented no credible evidence to prove the charge, Chein Poh was sentenced to 14 years in prison. Chein Poh was released from prison early in the year and died approximately 6 months later.

The regime owned and controlled all daily newspapers and domestic radio and television broadcasting facilities. These official media remained propaganda organs of

the junta and normally did not report opposing views except to criticize them. The only partial exception was the Myanmar Times, an expensive English-language weekly newspaper, targeted at the foreign community in Rangoon, which occasionally reported on criticisms of regime policies by the U.N. and other organizations.

All privately owned publications, including the Myanmar Times, remained subject to prepublication censorship by state censorship boards. Due in part to the time required to obtain the approval of the censors, private news periodicals generally were published monthly. However, since 1996 the regime has given transferable waivers of prepublication censorship for weekly periodicals. As a result, weekly tabloids proliferated. Regime controls encouraged self-censorship, and publications generally did not report domestic political news.

Imported publications remained subject in principle to predistribution censorship by state censorship boards, and possession of publications not approved by the state censorship boards remained a serious offense. Cases involving prodemocracy literature, including two such cases during the year, were punished by imprisonment. The regime also restricted the legal importation of foreign news periodicals and discouraged subscriptions to foreign periodicals. However, foreign newspapers may be purchased in Rangoon. Prior to August 2000, such foreign newspapers and magazines were censored regularly at the airport on arrival, but starting in 2001 they were distributed uncensored.

Since 1997 the regime issued few visas to foreign journalists and has held only a handful of press conferences on political subjects. Journalists occasionally were blacklisted. In previous years, several journalists who entered the country as tourists were detained and deported by the regime. During the year, the regime began holding more frequent press conferences and invited foreign journalists to the country, including some who previously were blacklisted. Cable News Network, the British Broadcasting Corporation (BBC), and other foreign news organizations filed reports from the country during the year. However, the regime refused visas to Australian reporters seeking to cover Australian Foreign Minister Downer's visit to the country in October.

Due to widespread poverty, limited literacy, and poor infrastructure, radio remained the most important medium of mass communication. News periodicals rarely circulated outside urban areas. The junta continued to monopolize and control the content of the two domestic radio stations. Foreign radio broadcasts, such as those of the BBC, Voice of America, Radio Free Asia, and the Democratic Voice of Burma, remained the principal sources of uncensored information.

The regime continued to monopolize and to control tightly all domestic television broadcasting, offering only a government channel and an armed forces channel. However, in 2001 the regime loosened restrictions on the reception of foreign satellite television broadcasts by allowing new licenses to be purchased. Previously, new licenses were not available and the operation of an unlicensed satellite television receiver was a crime punishable by up to 3 years in prison and or a fine. The Television and Video Law makes it a criminal offense to publish, distribute, or possess a videotape not approved by a state censorship board.

The junta systematically restricted access to electronic media. All computers, software, and associated telecommunications devices were subject to government registration, and possession of unregistered equipment was punishable by imprisonment (*see* Section 1.f.).

The Ministry of Defense operated the country's only known Internet server and offered expensive, limited Internet services to a small number of customers. During the year, a café that was billed as a cybercafé opened, but it did not have access to the Internet, only CD-ROM and other such games.

The regime continued to restrict academic freedom severely. University teachers and professors remained subject to the same restrictions on freedom of speech, political activities, and publications as other government employees. The Ministry of Higher Education routinely warned teachers against criticizing the regime. It also instructed them not to discuss politics while at work; prohibited them from joining or supporting political parties or from engaging in political activity; and required them to obtain advance ministerial approval for meetings with foreigners. Like all government employees, professors and teachers have been coerced into joining the USDA, the regime's mass mobilization organization. Teachers at all levels also continued to be held responsible for the political activities of their students.

In June and July 2000, the regime reopened the remainder of the institutions of higher education that were closed in 1996 following widespread student demonstrations. However, the regime took a number of special measures to limit the possibility of student unrest. Campuses were moved to relatively remote areas, teachers and students were warned that disturbances would be dealt with severely, and on-campus dormitories were closed, which disrupted university life. There was evidence

that many students chose to continue with self-study because the quality of education deteriorated to such an extent that many students opted to stay with self-study or tutoring. The regime tightly controlled the limited number of private academic institutions in the country as well as what they were allowed to teach.

*b. Freedom of Peaceful Assembly and Association.*—The law limits the freedom of assembly, and the regime restricted it in practice. An ordinance officially prohibits unauthorized outdoor assemblies of more than five persons, although the ordinance was not enforced consistently. The 10 existing political parties also are required to request permission from the regime to hold meetings of their members; nevertheless, meetings occurred without regime permission.

The military junta continued its decade-long policy of preventing the Parliament elected in 1990 from convening. During the year, the regime loosened its restrictions on the activities of the main opposition party, the NLD, and allowed 90 of NLD's 300 offices to reopen (*see* Section 3).

In May and September 2001, the regime forced the closure of three Shan National League for Democracy (SNLD) offices in townships near the capital of Shan State. In September 2001, the regime reportedly told the SNLD Chairman to disregard the regional authority's directive and to continue with normal operations.

In previous years, authorities used force to prevent prodemocracy demonstrations, punish participants and organizers in prodemocracy demonstrations and meetings, and detained or imprisoned persons suspected of planning and organizing such demonstrations. During the year, there were no reports of such practices (*see* Section 1.c.). However, authorities did attempt to prevent the public from coming out to see Aung San Suu Kyi when she traveled to Rakhine State, ostensibly on the grounds that outdoor political gatherings of any type were illegal. Organizations affiliated with the SPDC handed out leaflets that questioned Aung San Suu Kyi's patriotism and discouraged citizens from showing any support for her. The authorities blocked off streets and told citizens to stay home. Her party experienced similar, though less pronounced, harassment on visits to Mon and Shan States during the year (*see* Section 2.d.).

The regime at times interfered with the assembly of religious group members (*see* Section 2.c.).

The Government restricted freedom of association, particularly in regard to members of the main opposition political party, the NLD. The law prohibits more than 5 persons from meeting outdoors without prior government approval. In the past, while the regime allowed the NLD to celebrate certain key party events with public gatherings, it restricted the size of the gatherings and the individuals who were allowed to attend. For example, in September 2001, the NLD held a ceremony to commemorate the third anniversary of the CRPP and the regime responded with Military Intelligence (MI) personnel surrounding NLD headquarters. In 2000 the regime prevented Aung San Suu Kyi from traveling to Rangoon to attend party meetings. During the year, the regime lifted most of these restrictions on NLD activities but, through mutual agreement, the NLD attempted to avoid large gatherings in order not to alarm the regime.

Since the initiation of talks between Aung San Suu Kyi and the junta in October 2000, there have been no reports of coerced resignations or recall motions. The regime-controlled media ceased its campaign against the NLD, and the regime loosened some restrictions on NLD party activity.

In general the right of association existed only for government-approved organizations, including trade associations and professional bodies, such as the Forest Reserve Environment Development and Conservation Association. Few secular, non-profit organizations existed, and those that did took special care to act in accordance with government policy. There were 10 legal political parties but most were moribund.

*c. Freedom of Religion.*—The 1974 Constitution permits restrictions on religious freedom, stating that "the national races shall enjoy the freedom to profess their religion . . . provided that the enjoyment of any such freedom does not offend the laws or the public interest." Most religious adherents duly registered with the authorities generally were free to worship as they chose; however, the regime imposed restrictions on certain religious activities. In practice the regime restricted efforts by Buddhist clergy to promote human rights and political freedom, and coercively promoted Buddhism over other religions in some ethnic minority areas.

The regime's pervasive internal security apparatus sought to infiltrate or monitor meetings and activities of virtually all organizations, including religious organizations. Religious activities and organizations also were subject to restrictions on freedom of expression and association. In addition, the regime controlled and censored all publications, including religious publications (*see* Section 2.a.).



Although a government directive exempts “genuine” religious organizations from registration, in practice only registered organizations were allowed to buy or sell property or open bank accounts. In addition, the regime provided some utilities at preferential rates to recognized religions. There was no official state religion; however, the regime continued to show preference for Theravada Buddhism, the majority religion. For example, the regime funded the construction of the International Theravada Buddhist Missionary University in Rangoon. State-controlled news media frequently depicted junta members paying homage to Buddhist monks; making donations at pagodas throughout the country; officiating at ceremonies to open, improve, restore, or maintain pagodas; and organizing ostensibly voluntary “people’s donations” of money, food, and uncompensated labor to build or refurbish Buddhist religious shrines. Buddhist doctrine remained part of the state-mandated curriculum in all elementary schools; however, individual children generally were permitted to choose not to receive instruction in Buddhism. There continued to be widespread reports that regime officials compelled both Buddhists and non-Buddhists to contribute money, food, or uncompensated labor to state-sponsored projects to build, renovate, or maintain Buddhist religious shrines or monuments. However, there were no known reports of forcing persons to build pagodas during the year.

The regime has attempted to control the Buddhist clergy (“sangha”). The regime authorized military commanders to try members of the sangha before military tribunals for “activities inconsistent with and detrimental to Buddhism,” and imposed on the sangha a code of conduct that was enforced by criminal penalties. The junta also subjected the sangha to special restrictions on freedom of expression and freedom of association (*see* Section 2.a.). The military junta prohibited any organization of the sangha other than nine state-recognized monastic orders under the authority of the State Clergy Coordination Committee (“Sangha Maha Nayaka Committee,” SMNC). The regime prohibited all religious clergy from being members of any political party.

The regime continued to restrict the building activities, education, and proselytizing of minority religious groups.

Christian groups continued to have difficulties in obtaining permission to build new churches. The regime reportedly denied permission for churches to be built along main roads in cities such as Myitkina, the capital of Kachin State. In 2001 in Rangoon, authorities closed more than 80 home-churches because their operators did not have proper authorizations to hold religious meetings. There were no reports of authorities closing home-churches this year.

Muslims reported that they essentially were banned from constructing any new mosques during the year. Early in 2001, local authorities in Rakhine State scheduled approximately 40 mosques for destruction because reportedly they were built without permission. Thirteen mosques were destroyed before the authorities intervened at the request of the UNHCR. To ensure mosques were not rebuilt, they were replaced with government owned buildings, monasteries, and Buddhist temples.

In most regions of the country, Christian and Muslim groups that sought to build small churches or mosques on side streets or other inconspicuous locations at times usually were able to proceed, but only based on informal approval from local authorities. These groups reported that formal requests encountered long delays and generally were denied.

The Government discriminated against non-Buddhists at upper levels of the public sector. Only one non-Buddhist served in the Government at the ministerial level, and the same person, a Brigadier General, was the only non-Buddhist known to have held flag rank in the armed forces since the 1990s. The regime actively discouraged Muslims from entering military service, and Christian or Muslim military officers who aspired to promotion beyond the middle ranks were encouraged by their superiors to convert to Buddhism. In some ethnic minority areas, such as Chin State, there were reports that SPDC troops offered financial and career incentives for Burman soldiers to marry Chin women, teach them Burmese, and convert them to Buddhism.

The regime discourages proselytizing by all clergy. Evangelizing religions, like Christianity and Islam, are most affected by these restrictions. In general the regime has not allowed permanent foreign religious missions to operate in the country since the mid-1960s, when it expelled nearly all foreign missionaries and nationalized all private schools and hospitals.

Religious publications, like secular ones, remained subject to control and censorship (*see* Section 2.a.). Translations of the Bible and Koran into indigenous languages could not be imported legally; with the regime’s permission, Bibles in indigenous languages were allowed to be printed locally.

In the past, there were credible reports that in Karen State’s Pa’an township, SPDC units repeatedly conscripted young men as porters who were leaving Sunday

worship services at some Christian churches, which caused them to avoid church attendance. Soldiers led by officers repeatedly disrupted Christian worship services and celebrations. In 2000 local government officials reportedly ordered Christian Chins to attend sermons by newly arrived Buddhist monks who disparaged Christianity. In addition, there were reports that Christian Chins were pressured to attend Buddhist seminaries and monasteries and were encouraged to convert to Buddhism. Local government officials reportedly separated the children of Chin Christians from their parents under the pretense of providing them free secular education, and lodged the children in Buddhist monasteries in which they were instructed in and converted to Buddhism without their parents' knowledge or consent. Reports suggested that the regime sought to induce members of the Naga ethnic group to convert to Buddhism by means similar to those it used to convert members of the Chin to Buddhism.

Religious affiliation at times was indicated on government-issued identification cards that citizens and permanent residents of the country are required to carry. There appeared to be no consistent criteria governing whether a person's religion is indicated on his or her identification card. Citizens also are required to indicate their religions on some official application forms, such as passports.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The regime restricted freedom of movement. Most citizens were able to travel within the country, although their movements were monitored and they were required to notify local officials of their whereabouts (see Section 1.f.). Movement was limited in areas of armed conflict. Urban and rural residents were subjected to relocation.

In past years, the freedom of movement of opposition political leaders also was curtailed rigorously. Between 1995 and 2000, the junta allowed NLD general secretary Aung San Suu Kyi to travel outside the capital only once, on a visit to a monastery, and until May 6, she remained under house detention. While the Government has relaxed restrictions on Aung San Suu Kyi, generally allowing her freedom of movement and association, some restrictions remained. Since her release from house detention in May, Aung San Suu Kyi has traveled to Mon, Shan, and Rakhine States, as well as to Mandalay, Magwe, and Irrawaddy divisions. Although she generally was allowed to meet with international visitors, including the foreign ministers of Japan and Australia, the Government did not allow either Malaysia's Prime Minister Mahathir or the Malaysian Foreign Minister to call on her when they visited in August. Aung San Suu Kyi and her party also were harassed by government-affiliated groups on some of her visits to various regions of the country (see Section 2.b.). During the year, the regime loosened travel restrictions on all NLD members including the most senior members. NLD M.P.'s elect who were released from prison were able to travel between their electoral districts and Rangoon to coordinate with NLD leaders.

During the year, the regime reportedly implemented policies to consolidate the border with Bangladesh and to further control the movement of Muslim Rohingyas in Rakhine State (see Section 6.c).

The regime refused to accept Burmese deportees from other countries, but accepted the return of approximately 4,000 illegal migrants from Thailand. The regime allegedly refused to document Burmese seafarers who were stranded abroad due to the sinking of their ship or bankruptcy of the ship owners.

The regime also carefully scrutinized prospective travel abroad. Such control facilitated rampant corruption, as many applicants were forced to pay large bribes. Bribes for passports were sometimes as high as \$3,000 (approximately 3.6 million kyat), the equivalent of more than 10 years' salary for the average citizen. The official board that reviews passport applications has denied passports on political grounds. All college graduates who obtained a passport (except for certain government employees) were required to pay a special fee to reimburse the regime for the cost of their education. Citizens who emigrated legally generally were allowed to return to visit relatives, and some who lived abroad illegally and acquired foreign citizenship also were able to return.

Residents unable to meet the provisions of the citizenship law, such as ethnic Chinese, Arakanese, Muslims, and others, must obtain prior permission to travel internally. Since the mid-1990s, the Government also has restricted the issuance of passports to female citizens (see Sections 5 and 6.f.).

The regime prohibited foreign diplomats and foreign employees of U.N. agencies based in Rangoon from traveling outside the capital without advance permission. All residents, foreign and local, were required to apply for authorization to leave the country.

Restrictions on foreign travelers to the country were eased as part of an effort to promote tourism. Burmese embassies now generally issue tourist visas, valid for 1 month, within 24 hours of application. However, certain categories of applicants, such as foreign human rights advocates, journalists, and political figures were denied entry visas regularly unless traveling under the aegis of a sponsor acceptable to the regime and for purposes approved by the Government.

There was a large number of internally displaced persons (IDPs) in the country. NGOs based in Thailand estimated that the regime moved forcibly more than 250,000 citizens from their villages and districts to live near or along the Thai border (see Section 5). These NGO estimated that more than 350,000 IDPs resided in SPDC relocation sites.

During the year, the military continued to abuse thousands of villagers and drove them from their homes, including during the course of military campaigns in Karen, Kayah, and Shan States (see Section 1.f.). In January AI reported that a 75-year-old Shan man said that he and his family fled to Thailand after SPDC troops and United Wa State Army (UWSA) troops confiscated all their land, arrested villagers, looted homes, raped numerous women, and drove them out of their village. He reported that between 500 to 600 UWSA troops occupied the area, and that he received no compensation for the loss of his woodlands, orchards, or fields.

Ethnic minority areas previously affected by conflict, such as the large Karen areas of Irrawaddy division, experienced tighter controls on personal movement, including more frequent military checkpoints, closer monitoring by military intelligence, and larger military garrisons. "Informal taxes", or bribes, were extracted from all nationalities at checkpoints in border areas. In Rakhine State, many controls and checkpoints applied only to the Muslim population (see Section 5).

Harassment, fear of repression, and deteriorating socio-economic conditions continued to force many citizens into neighboring countries and beyond. In the border regions populated by minority ethnic groups, the regime continued its policies of forced labor, confiscation of lands, compulsory contributions of food, and forced relocations. These policies produced thousands of refugees in neighboring countries such as Thailand, China, and India. One report from Kachin State alleged that in May 2001, 3,000 Naga villagers fled the country into northeastern India when SPDC troops launched an offensive against Naga separatists. The security forces reportedly burned villages and laid landmines to discourage villagers from returning. Harsh conditions in Shan State compelled an exodus to Thailand, with unconfirmed estimates that approximately 10,000 Shan citizens may have relocated there during the year (see Section 1.f.). There were approximately 150,000 persons in refugee camps on the country's borders. Of these at least 135,000 Karen, Mon, and Karenni resided in refugee camps in Thailand. In addition, there were tens of thousands of Shan refugees in Thailand not living in camps. On the country's western border, 22,000 Rohingya Muslims remained in refugee camps in Bangladesh (see Section 5). More than 100,000 Rohingyas lived outside the refugee camps in Rakhine State with no formal documentation as refugees. In addition, Rohingyas who have returned to Rakhine State claimed that they faced government restrictions on their ability to travel and to engage in economic activity.

The regime did not allow refugees or displaced persons from abroad to resettle or seek safe haven in the country and has not formulated a policy regarding refugees, asylum, or first asylum. There were no reports that persons formally sought asylum in the country during the year. There were no reports of forced repatriation.

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

Citizens did not have the right to change their government. The junta continued to prevent the Parliament elected in 1990 from convening.

Since 1962 active duty military officers have occupied most important positions in both the central government and in local governments. Since 1988 a military junta has held all state power. All members of the regime have been military officers on active duty, and the junta has placed military or retired military officers in most key senior-level positions in all ministries. At year's end, active duty or retired military officers occupied 37 of the 39 ministerial-level positions.

Following the NLD's victory in the 1990 elections, the military junta refused to implement the election results and disqualified, detained, or imprisoned many successful candidates (see Sections 1.d. and 1.e.). Many other M.P.s elect fled the country. Following an aborted effort from 1993-96 to draft a new constitution assigning the military the dominant role in the country political structure, the military junta continued its systematic use of coercion and intimidation to deny citizens the right to change their government.

In September 1998, the NLD leadership organized a CRPP on the basis of written delegations of authority from a majority of the surviving members elect of the 1990 Parliament, in view of the junta's refusal to allow the entire Parliament to convene. The committee was empowered to act on behalf of the Parliament until the Parliament was convened. In retaliation the junta launched a sustained and systematic campaign to destroy the NLD without formally banning it; the authorities pressured many thousands of NLD members and local officials to resign and closed party offices throughout the country. Military intelligence officials also detained more than 200 members elect of Parliament in 1998. At year's end, a total of 19 M.P.s elect remained in prison. According to AAPP, two of these M.P.s elect have been in prison since 1990 (*see* Section 1.d.).

In October 1999, the Multiparty Democracy General Election Commission announced, that of 392 NLD members elected to Parliament in 1990, only 92 remained both NLD members and M.P.s elect. It claimed that 105 had resigned their parliamentary status, 139 had been disqualified by the commission, 27 had resigned from the NLD, and 31 had died. In contrast, in September 2000, the CRPP claimed to enjoy the support of 433 of the 485 members elect of Parliament.

Late in 2000, with encouragement from the U.N. Special Envoy Razali Ismail, the regime initiated talks with Aung San Suu Kyi that produced some relaxation in the restrictions on the NLD. In subsequent years, the NLD was able to resume some normal party activities. Press attacks on the NLD and Aung San Suu Kyi also ceased. However, since 2000, the regime has not opened a substantive dialog with the NLD and still held more than a 1,000 political prisoners at year's end.

Women were excluded from military leadership. There were no female members of the regime, ministers, or Supreme Court judges.

Members of certain minority groups also were denied full citizenship and a role in government and politics (*see* Section 5).

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

The Government did not allow domestic human rights organizations to function independently, and it remained generally hostile to outside scrutiny of its human rights record.

The regime's restriction on travel by foreign journalists, NGO staff, U.N. agency staff, and diplomats; its monitoring of the movements of such foreigners; its frequent interrogation of citizens concerning contacts with foreigners; its restrictions on the freedom of expression and association of citizens; and its practice of arresting citizens who passed information about government human rights abuses to foreigners all impeded efforts to collect or investigate information regarding human rights abuses. Reports of abuses, especially those committed in prisons or ethnic minority areas, often emerged months or years after the abuses allegedly were committed and seldom could be verified with certainty.

There were approximately 25 nonpolitical, international humanitarian NGOs working in the country. A few others have established a provisional presence while undertaking the protracted negotiations necessary to establish permanent operations in the country. Beginning in 2001, international NGOs sometimes were required to have a government ministry representative accompany them on all field visits, at the NGOs expense (*see* Section 1.f.).

The regime permitted the U.N. Special Rapporteur, Paulo Sergio Pinheiro, to visit the country three times during the year. In his reports, Pinheiro cited instances of positive change and pledged to work with the regime, the opposition, members of civil society, and the international community to promote human rights in the country. He also cited problems, including the denial of fundamental freedoms of assembly, association, expression, and movement, and encouraged the regime to correct these deficiencies. He also called for the release of all political detainees. In addition, he cited "the gross violations of human rights of civilians" living in areas of conflict in eastern Karen and Kayah States, southern Shan State, northern Sagaing division, Rakhine, and Chin States.

In 2001 the regime announced the creation of a Human Rights Committee, chaired by the Minister of Home Affairs and including the Chief of Police as one of the members. Several human rights workshops that targeted abuses and were sponsored by the Australian government were held in Rangoon.

#### *Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The military junta continued to rule by decree and was not bound by any constitutional provisions concerning discrimination.

*Women.*—Domestic violence against women, including spousal abuse, appeared to be relatively infrequent, although there was little data available. The regime did not

release statistics regarding spousal abuse or domestic violence. Married couples often lived in households with extended families, where social pressure tended to protect the wife from abuse.

Rape is illegal; however, spousal rape is not a crime unless the wife is under 12 years of age. The regime stated that rape was not common in populous urban areas but occurred more often in remote areas. The Government did not release statistics regarding rape.

Prostitution is prohibited by law and punishable by 3 years in prison; however, it was becoming an increasing problem, particularly in some of Rangoon's "border towns" and "new towns," which were populated chiefly by poor families that were relocated forcibly from older areas of the capital. There were credible reports that a large number of female prostitutes were imprisoned and often subjected to abuse while incarcerated. One estimate put the number of women detained for prostitution at 400 at any given time in Mandalay prison alone.

There were no laws against sexual harassment.

In general women traditionally enjoyed a high social and economic status and exercised most of the same basic rights as men. Consistent with traditional culture, women kept their names after marriage and often controlled family finances. However, women remained underrepresented in most traditional male occupations, and women continued to be barred effectively from a few professions, including the military officer corps. Poverty, which was widespread in rural areas, affected women disproportionately. Women did not receive equal pay for equal work on a consistent basis. Women legally were entitled to receive up to 26 weeks of maternity benefits; however, in practice these benefits often were not accorded them.

There were no independent women's rights organizations. The National Committee for Women's Affairs in the Ministry of Social Welfare was responsible for safeguarding women's interests. The Government and at least one international NGO operated schools and other rehabilitation programs for former prostitutes. The Myanmar Maternal and Child Welfare Association, a government-controlled agency, provided assistance to mothers. A professional society for businesswomen, the Myanmar Women Entrepreneurs' Association, provided loans to women starting new businesses.

*Children.*—The regime continued to allocate minimal resources to public education. According to the latest available statistics, government expenditures for all civilian education were equivalent to less than 1 percent of gross domestic product (GDP) during the year and have declined by more than 70 percent in real terms since 1990. According to government studies conducted with U.N. assistance, only 37 percent of children finished fourth grade in urban areas and only 22 percent did so in rural areas. Rates of school attendance and educational attainment decreased during the year, largely due to rising formal and informal school fees as the junta diverted expenditures from health and education to the armed forces. On average teacher's pay was equal only to approximately \$7.00 (10,000 kyats) a month, far below subsistence wages and has forced many teachers to quit teaching out of economic necessity. Only relatively prosperous families were able to afford to send their children to school, even at the primary level. In ethnic minority areas, the regime often banned teaching in local languages. In some areas where few families were able to afford unofficial payments to teachers, teachers generally no longer came to work and schools no longer functioned. In response to government neglect, private institutions began to provide assistance in education, despite an official monopoly on education.

Children also suffered greatly from the junta's severe and worsening neglect of health care. The junta cut government expenditures on public health care even more sharply than it cut spending for education. Government expenditures for civilian health care in 1998–99 were equivalent to only 0.3 percent of GDP. Government studies sponsored by U.N. agencies in 1997 found that, on average, 131 of 1,000 children died before reaching the age of 5 years, and that only 1 out of 20 births in rural areas was attended by a doctor. Those same studies indicated that, among children under 3 years of age, 37 percent were malnourished, and 13 percent were malnourished severely. The World Health Organization considered the country's health care system to be extremely poor.

Child abuse is prohibited by law. The Government stated that child abuse was not a significant problem; however, the regime did not release supporting statistics.

Child prostitution and trafficking in girls for the purpose of prostitution—especially Shan girls who were sent or lured to Thailand—continued to be a major problem (see Section 6.f.).

The official age of enlistment in the ostensibly all-volunteer army is 18 years. However, the authorities reportedly rounded up orphans and street children in Rangoon and other cities and forced them into military service. An October HRW report

entitled *My Gun Was As Tall As Me*, alleged widespread forced conscription of children into the SPDC army, and, to a lesser extent, into armed groups fighting against the regime (see Section 6.c.).

Several international NGOs and agencies promoted the rights of children in the country, including World Vision, Save the Children UK, CARE, UNICEF, UNDP, and foreign governments.

*Persons with Disabilities.*—In principle official assistance to persons with disabilities includes two-thirds of pay for up to 1 year of a temporary disability and a tax-free stipend for permanent disability; however, in practice assistance was limited severely. There was no law mandating accessibility to buildings, public transportation, or government facilities. While there were several small-scale organizations to assist persons with disabilities, most must rely on their families to provide for their welfare. Military veterans with disabilities received available benefits on a priority basis. Because of landmine detonations, there were a large number of amputees in the country.

*National/Racial/Ethnic Minorities.*—Wide-ranging governmental and societal discrimination against minorities persisted. Animosity between the country's many ethnic minorities and the Burman majority, which has dominated the Government and the armed forces since independence, continued to fuel active conflict that resulted in serious abuses during the year. These abuses included reported killings, beatings, torture, forced labor, forced relocations, and rapes of Chin, Karen, Karenni, and Shan by SPDC soldiers and the armed ethnic groups (see Sections 1.a., 1.c., 1.f., and 1.g.).

The Government continued to discriminate systematically against non-Burmans. Because the regime reserved secondary state schools for citizens, Rohingya Muslims did not have access to state run schools beyond primary education and were ineligible for most civil service positions.

There were reports that forced labor of Muslims occurred in Rakhine State (see Section 6.c.).

Since only persons who were able to prove long familial links to the country were accorded full citizenship, nonindigenous ethnic populations (such as Chinese, Indians, and Rohingya Muslims) were denied full citizenship and were excluded from government positions. Members of the Rohingya Muslim minority in Rakhine State, on the country's western coast, continued to experience severe legal, economic, and social discrimination. The Government denied citizenship status to most Rohingyas on the grounds that their ancestors did not reside in the country at the start of British colonial rule in 1824, as required by the country's highly restrictive citizenship law. Persons without full citizenship faced restrictions in domestic travel (see Section 2.d.). They also were barred from certain advanced university programs in medicine and technological fields.

Ethnic minority groups generally used their own languages. However, throughout all parts of the country controlled by the regime, including ethnic minority areas, Burmese remained the language of instruction in state schools. Even in ethnic minority areas, most primary and secondary state schools did not offer instruction in the local ethnic minority language. There were very few domestic publications in indigenous minority languages.

There were reports that the junta resettled groups of Burmans in various ethnic minority areas (see Section 1.f.). There were ethnic tensions between Burmans and nonindigenous ethnic populations, including Indians, many of whom were Muslims, and a rapidly growing population of Chinese, most of whom immigrated from Yunnan Province and increasingly dominated the economy of the northern part of the country. Both groups tended to be more commercially oriented and hence more prosperous and economically powerful than Burmans.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The 1926 Trade Unions Act, which remained in effect, permits workers to form trade unions only with the prior consent of the Government; however, no free trade unions existed in the country, and the junta dissolved even the Government-controlled union that existed before 1988.

In June 2001, the Committee on the Application of Convention and Recommendations of the International Labor Conference once again expressed profound regret regarding the persistence of serious discrepancies between the law and practice with respect to freedom of association. The committee criticized the regime for not implementing the provisions of the ILO Convention 87 on Freedom of Association and Protection of the Right to Organize, which the Government ratified in 1955. In 2001 a government representative testified to the committee that the Trade Unions Law was being revised, but that he could not provide the draft text at that time.

The International Confederation of Free Trade Unions (ICFTU) reported that in August, army troops killed an official of the Free Trade Union of Burma (the Kawthoolei Education Workers Union). U Saw Mya Than, a village headman who was widely known for his trade union activities, forcibly was recruited as a porter by the army and then killed in retaliation for an attack by opposition forces.

No unions in the country were affiliated internationally. The Government forbade seafarers who found work on foreign vessels through the Seafarers Employment Control Division from contacts with the International Transport Workers' Federation and the regime often refused to document seafarers who were stranded abroad (see Section 2.d.).

*b. The Right to Organize and Bargain Collectively.*—Workers did not have the right to organize and bargain collectively. The Government's Central Arbitration Board, which once provided a means for settling major labor disputes, has been dormant since 1988. Township-level labor supervisory committees existed to address minor labor concerns.

The regime unilaterally set wages in the public sector. In the private sector, market forces generally set wages. However, the regime has pressured joint ventures not to pay salaries greater than those of ministers or other senior government employees. Some joint ventures circumvented this with supplemental pay or special incentive systems. Foreign firms generally set wages near those of the domestic private sector but followed the example of joint ventures in awarding supplemental wages and benefits.

According to the law, workers generally are prohibited from striking, although a small number of workers purportedly are accorded the right to strike. The last reported strike was in 2000, when an employer retracted a promise to pay piece rates. Subsequently 30 employees were detained, many for up to 3 months. All employees lost their jobs.

There were no export processing zones (EPZs). However, there were special military-owned industrial parks, such as Pyin-Ma-Bin, near Rangoon, which attracted foreign investors. Another example was the 2,000-acre Hlaingthaya Industrial Zone in Rangoon; at least four companies were known to operate on its premises (see Section 6.c.).

*c. Prohibition of Forced or Bonded Labor.*—Forced or bonded labor remained a widespread and serious problem. Although the Penal Code provides for the punishment of persons who imposed forced labor on others, there were no known cases of the application of this provision. Throughout the country, international observers verified that the regime routinely forced citizens to work on construction and maintenance projects. The law does not specifically prohibit forced and bonded labor by children, and forced labor by children was also a serious problem.

In 2000 the ILO determined that the regime had not taken effective action to deal with the "widespread and systematic" use of forced labor in the country and, for the first time in its history, called on all ILO members to review their relations with the regime and to take appropriate measures to ensure that the regime would not be able to take advantage of such relations to perpetuate or extend the system of forced labor. Initially the regime rejected the ILO's actions and statements; however, during the year, it began to work with the ILO by allowing visits and a liaison office to be opened in the country. In February an ILO team visited the country and an agreement was reached to establish a permanent ILO office in Rangoon to assist in dealing with continued problems of forced labor. In August the ILO began field visits to sites along the Thai border which were identified by AI and other organizations as "hot spots" for forced labor and SPDC abuse of ethnic populations. In 2001 when the regime allowed an ILO high-level team to visit the country to assess the situation, the team concluded that the regime had made "an obvious, but uneven" effort to curtail the use of forced labor, and that forced labor persisted, particularly in areas where the regime was waging active military campaigns.

Human rights groups and the ILO continued to receive allegations of forced labor from around the country, including Rangoon division, Rakhine State, and areas along the Thai border. In an October report, the ICFTU reported that the military continued to use forced labor on a massive scale. The ICFTU report echoed allegations contained in a July report by AI, Myanmar: Lack of security in counter-insurgency areas, which contained a number of specific allegations of human rights abuses by the armed forces, including forced labor. The AI allegations related primarily to areas of Shan, Karen, and Mon States, and Tenasserim division.

The ICFTU reported that women, children (including orphans and street children), and elderly persons were required to perform forced labor; that porters often were sent into dangerous military situations, rarely received medical treatment, and almost never were compensated; that forced laborers frequently were beaten; and

that some women performing forced labor were raped or otherwise abused sexually by soldiers. The ICFTU reported several cases of the military pressuring civilians to conceal the incidence and extent of forced labor from the ILO investigation team during the year. Government authorities often allowed households or persons to substitute money or food for labor for infrastructure projects, but widespread rural poverty forced most households to contribute labor. Parents routinely called upon children to help fulfill their households' forced labor obligations (see Section 6.d.). According to SHRF, in June 2001, SPDC troops forcibly conscripted 250 civilian porters, including 108 women and children, many of whom were between the ages of 8 and 16 years. Some children were forced to carry 6 cans of milk and some were forced to carry 10 mortar rounds each. Many of the children were kicked and beaten when they could not move fast enough.

According to an HRW report, Crackdown on Burmese Muslims, there was increased repression of Muslims and increased use of forced labor in Rakhine State. According to Forum Asia, the establishment of new "Model Villages" resulted in a higher demand for forced labor and land confiscation. However, other credible reports suggested that forced labor in Rakhine State had declined overall; however, army demands for forced labor reportedly continued to occur in selected townships, as did demands for portage and other army services. There also were reports of further control on the activities and movements of Rohingyas in Rakhine State (see Section 2.d.).

There were no accurate estimates of the number of citizens forced to provide labor each year but the practice was common. The regime has taken some limited measures toward eliminating the practice; however, the measures did not appear to have reduced significantly the use of forced labor, especially by the military. The regime has established a committee to implement measures against forced labor and has allowed the ILO to open an office in Rangoon and to travel throughout the country. The implementation committee, however, has not identified or prosecuted any instances of forced labor and did not appear to have the authority to intervene in allegations of military use of forced labor. The committee has not implemented adequate mechanisms for the reporting, investigation, and prosecution of incidents of forced labor.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Although the law sets a minimum age of 13 for the employment of children, in practice the law was not enforced. Child labor has become increasingly prevalent and visible. Working children were highly visible in cities, mostly working for small or family enterprises. In the countryside, children worked in family agricultural activities. Children working in the urban informal sector in Rangoon and Mandalay often began work at young ages. In the urban informal sector, child workers were found mostly in food processing, street vending, refuse collecting, light manufacturing, and as tea shop attendants. According to government statistics, 6 percent of urban children worked, but only 4 percent of working children earned wages; many were employed in family enterprises.

The law does not specifically prohibit bonded labor by children; while bonded labor was not practiced, forced labor by children occurred (see Section 6.c.). The authorities reportedly rounded up orphans and street children in Rangoon and other cities and forced them into military service. Children also were forced to serve as porters in combat areas, during which beatings and other mistreatment reportedly occurred (see Section 6.f.).

The Department of Social Welfare provides support and schooling for a small number of children (approximately 3,000) who were orphaned or in some other way estranged from their families.

The Government has not ratified ILO Convention 182 on the worst forms of child labor.

The military regime reportedly used children as porters, in infrastructure development, and in providing other services to military forces. Children often built or repaired roads and irrigation facilities. Households reportedly satisfied forced labor quotas by sending their least productive workers (usually children). In recent years, there have been reports that military units in various ethnic minority areas either forced children to perform support services, such as fetching water, cleaning, cutting bamboo, or cultivating food crops, or allowed households or villages to use children to satisfy SPDC orders to perform such services (see Sections 5 and 6.c.).

*e. Acceptable Conditions of Work.*—Only government employees and employees of a few traditional industries were covered by minimum wage provisions. The minimum daily wage for salaried public employees was \$0.10 (100 kyats) for what was in effect a 6 hour workday. Various subsidies and allowances supplemented this sum. Neither the minimum wage nor the higher wages earned even by senior gov-



ernment officials provided a worker and family with a decent standard of living. Low and falling real wages in the public sector have fostered widespread corruption. In the private sector, urban laborers earned approximately \$0.20 (200 kyat) per day, while rural agricultural workers earned approximately half that rate. Some private sector workers earned substantially more; a skilled factory worker earned approximately \$4.00 (4,800 kyat) per day.

Surplus labor conditions, a poor economy, and lack of protection by the regime continued to dictate substandard conditions for workers. The 1964 Law on Fundamental Workers Rights and the 1951 Factories Act regulate working conditions. There are legally prescribed 5 day, 35-hour workweek for employees in the public sector and a 6 day, 44-hour workweek for private and state enterprise employees, with overtime paid for additional work. The law also allows for a 24-hour rest period per week, and workers were permitted 21 paid holidays per year. However, in practice such provisions benefited only a small portion of the country's labor force, since most of the labor force was engaged in rural agriculture.

Numerous health and safety regulations existed, but in practice the regime did not make the necessary resources available to enforce the regulations. Although workers may in principle remove themselves from hazardous conditions, in practice many workers could not expect to retain their jobs if they did so.

*f. Trafficking in Persons.*—Trafficking in women and children was a serious problem during the year. There reportedly was widespread complicity among local regime officials in trafficking in persons.

The law does not prohibit trafficking in persons and there were reports that persons were trafficked from and within the country. There are laws which are used against traffickers such as the Penal Code which prohibits kidnaping; the Suppression of Prostitution Act; and the Child Law, which includes provisions against the sale, abuse, or exploitation of children. According to the regime, traffickers have received sentences of between 3 and 14 years for trafficking in persons. According to the regime's figures, investigations have resulted in jail sentences being handed out in approximately 90 cases. Between 1999 and June, the Myanmar National Committee on Women's Affairs and other NGOs held more than 10,000 village-level seminars to educate families regarding the dangers of trafficking. In Mon State, eastern Shan State, and Kayin State, these seminars were carried out in cooperation with the U.N. Inter-Agency Project on Trafficking in Women and Children in the Mekong Sub-region (UN-IAP). In two reports during the year, the regime highlighted the prevention, repatriation, and prosecution actions taken under a newly formed Working Committee for the Prevention of Trafficking in Persons, chaired by the Minister of Home Affairs. While there were still many weaknesses in the program, the regime has made progress, particularly in the area of prevention and prosecution, and to a lesser extent, repatriation. Regime officials recognized the need for continuing engagement on preventing trafficking and the prosecution of traffickers. Although the regime was active on these fronts, its effectiveness still was unclear by year's end. In addition, the regime reported that it was in the process of gathering data on the incidence of trafficking and expanding cooperation with international and local NGOs. However, during the year, the regime did not cooperate with neighboring countries, most significantly Thailand, on trafficking in persons.

Trafficking of women and girls to Thailand and other countries, including China, India, Bangladesh, Taiwan, Pakistan, Malaysia, Singapore, Japan, and countries in the Middle East, for sexual exploitation, factory labor, and as household servants was a problem. Shan women and girls were trafficked across the border from the north; Karen and Mon women and girls were trafficked from the south. There was evidence that internal trafficking generally occurred from poor agricultural and urban groups to areas where commercial sex work flourished (trucking routes, mining areas, and military bases) as well as along the borders with Thailand, China, and India. Men and boys also reportedly were trafficked to other countries for sexual exploitation and labor, but this appeared to be a small percentage of overall trafficking. While most observers believed that the number of these victims was at least several thousand per year, there were no reliable estimates of the total number.

While laws exist against child prostitution and child pornography, they were not enforced well. Reports from Thailand indicated that the rising incidence of HIV infection there increased the demand for supposedly "safer," younger prostitutes, many of whom came from Burma. Trafficking in persons within the country appeared to be a growing problem; however there were no reliable statistics regarding its extent. The regime has begun to help locate families of freed child trafficking victims and to assist in their repatriation from Thailand.

In recent years, the regime has made it difficult for women to obtain passports or marry foreigners in order to reduce the outflow of women both as victims of trafficking (*see* Sections 1.f. and 2.d.). In addition, there are regulations forbidding girls

under the age of 25 from crossing the border unless accompanied by a guardian. However, most citizens who were forced or lured into prostitution crossed the border into Thailand without passports.

Corruption among local government officials was widespread and included complicity in the trafficking of persons. The regime's efforts to stop international and internal sex and exploitative trafficking were limited given the magnitude of the problem.

A number of NGOs offered poverty alleviation and education programs designed to counter trafficking. Reportedly these programs have been moderately successful.

While the Government has made limited progress on trafficking in persons during the year, baseline information on the extent to which trafficking occurs and the success of the Government's activities is not available. The Government's pervasive security controls, restrictions on the free flow of information, and lack of transparency prevent a meaningful assessment of trafficking in persons activities in the country. For example, while experts agree that human trafficking from the country was substantial, no organization, including the Government, was able or willing to estimate the number of trafficking victims.

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## CAMBODIA

Cambodia is a constitutional monarchy. Hun Sen of the Cambodian People's Party (CPP) is Prime Minister, Prince Norodom Ranariddh of the National United Front for a Neutral, Peaceful, Cooperative, and Independent Cambodia (FUNCINPEC) is President of the National Assembly, and Chea Sim of the CPP is President of the Senate. King Norodom Sihanouk is the constitutional monarch and Head of State. Most power lies within the executive branch and, although its influence continues to grow within the coalition structure, the National Assembly does not provide a significant check to executive power. The Khmer Rouge no longer is a political or military threat. The judiciary was not independent; it frequently was subject to legislative and executive influence, and suffered from corruption.

The National Police, an agency of the Ministry of Interior, has primary responsibility for internal security, but the Royal Cambodian Armed Forces (RCAF), including the military police, also have domestic security responsibilities. Security forces nominally are under the control of civilian authorities, but in practice answer to persons within the CPP. The responsiveness of local police and military commanders to civilian authorities varies by location. Members of the security forces committed many documented human rights abuses.

The country has a market economy in which approximately 80 percent of the population of 12.5 million persons engage in subsistence farming, with rice as the principal crop. Economic deprivation and poor health characterized life for most citizens. Annual per capita gross domestic product (GDP) was \$257. Average life expectancy is approximately 50 years. Foreign aid was an important component of national income. The economy grew at an estimated real rate of 6.3 percent during the year. The country has a thriving garment export industry, but has difficulty attracting foreign investment and mobilizing domestic savings to support economic development.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. The military forces and police were responsible for both political and nonpolitical killings. There were politically motivated killings by nonsecurity force persons as well. Police participated in or failed to stop lethal mob violence by citizens against criminal suspects. The Government rarely investigated or prosecuted suspects in such killings, and impunity remained a problem. There were credible reports that members of the security forces tortured, beat, and otherwise abused persons in custody, often to extract confessions. Prison conditions remained harsh, and the Government continued to use arbitrary arrest and prolonged pretrial detention. National and local government officials often lacked the political will and financial resources to act effectively against members of the security forces suspected of human rights abuses. Through September 20, landmines killed 102 persons and injured 521 persons. Democratic institutions, especially the judiciary, remained weak. The judiciary was subject to influence and interference by the executive branch and was marred by inefficiency and corruption. Politically related crimes rarely were prosecuted. Citizens often appeared without defense counsel and thereby effectively were denied the right to a fair trial. During the year, the Supreme Council of Magistracy disciplined judicial officials for misconduct but did not impose harsh penalties. In August 2001, a law was passed that established a special tribunal to bring Khmer Rouge leaders to justice for genocide and war crimes committed from 1975 through 1979. The Govern-

ment largely controlled and influenced the content of the electronic broadcast media, especially television. The authorities sometimes attempted to interfere with freedom of assembly. Levels of campaign related violence and intimidation during the February local elections were similar to those in the 1998 national election. The Government inconsistently took action against some perpetrators of campaign violence. Societal discrimination against women remained a problem. Domestic violence against women and abuse of children were common. Discrimination against persons with disabilities was a problem. The ethnic Vietnamese minority continued to face widespread discrimination. There were frequent land disputes, and the Government and courts did not consistently resolve them in a just manner. Although the number of trade unions grew and became more active, antiunion activity also continued. The Government continued to express support for freedom of association, but in practice it did not enforce freedom of association provisions of the Labor Law. Other provisions of the Labor Law also were not enforced effectively. Bonded and forced child labor continued to be a problem in the informal sector of the economy, especially in the commercial sex industry. Domestic and cross-border trafficking in women and children, including for the purpose of prostitution, was a serious problem.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Allegations of politically motivated killings continued before and after the February 8 commune level elections. The U.N. High Commission for Human Rights (UNHCHR) reported that prior to the election, 22 political activists (5 in 2000, 12 in 2001, and 5 this year), including candidates and family members, were killed in 20 separate incidents under suspicious circumstances. Human rights monitoring groups agreed that at least seven of these cases were motivated politically. All of those killed, with the exception of one CPP candidate, were members of the FUNCINPEC Party or the opposition Sam Rainsy Party (SRP). Of these 20 cases prior to the election, the Government made arrests in 14 cases and convictions in 11 cases. UNHCHR reported that following the election, nine additional FUNCINPEC and SRP political activists were killed under suspicious circumstances in eight separate cases. Arrests were made in four of these cases and the accused remained in pretrial detention at year's end. UNHCHR reported that there were serious shortcomings in the police investigations.

In some cases, the authorities failed to execute summonses or search warrants against suspects believed to be protected by the military. Government officials also declared the crimes were not motivated politically before investigations were completed. The investigation of some cases proceeded very slowly. On February 1, a Battambang provincial court sentenced seven persons, including one in absentia, to 15-year prison terms for the November 2001 killing of a SRP candidate. On May 2, a Kampong Cham provincial court sentenced a former militia chief to an 8 year prison term and 2 members of the military, in absentia, to 18 year terms for the November 14 killings of an SRP activist and a FUNCINPEC activist. On July 15, a Svay Rieng provincial court sentenced one policeman and two civilians to 18 years' and 5 years' imprisonment respectively for the January 5 killing of an SRP candidate. On September 7, the press reported three uniformed men shot and killed a SRP activist in Kompong Cham Province. There was no consensus on whether the killing was motivated politically. At year's end, no one had been held accountable. There were numerous allegations of beatings of prisoners in police custody, including one case in Prey Veng Province in July 2001 in which a prisoner died. The Government has not arrested or prosecuted anyone in connection with the killing of three persons by soldiers in Kratie Province in May 2000. Human rights organizations continued to investigate these killings.

On June 6, the UNHCHR issued a report that documented 65 cases of mob assaults and killings from mid-1999 through May of this year. Mob attacks rose to an average of two per month through May, compared to one per month for the second half of 2001. The UNHCHR reported that for the first time police showed a willingness to intervene in such cases. In March a crowd dragged two men away from police custody and beat them to death. At year's end, no one had been held accountable. Also in March, police intervened to save the life of a Phnom Penh student who was beaten severely by a crowd that had been told he was a thief. On May 6, police intervention saved two men from a mob attack who had been accused of stealing a motorbike. On September 16, a Phnom Penh Municipal Court convicted seven persons, including five in absentia, for the December 2001 beating to death of two teenagers wrongly accused of theft. The five who were sentenced in absentia have appealed the verdict but still had not been arrested by year's end. Government prosecutions of those responsible for mob violence were rare.

According to the Cambodian Red Cross, through September 20, 102 persons were killed and 521 persons were injured by landmines deployed by the Khmer Rouge or various government forces during previous conflicts. The number of casualties was similar to those in 2001, but substantially lower than in previous years.

Former Khmer Rouge officials Ta Mok and Kang Kek Iev (“Duch”), who were accused of mass killings and other crimes between 1975 and 1979, remained in jail. Government efforts to bring senior Khmer Rouge officials to justice continued. In August 2001, a law was passed to establish a special tribunal to prosecute Khmer Rouge leaders who committed human rights abuses between 1975 and 1979 (*see* Section 1.e.).

On September 4, the Supreme Court upheld a 1999 Appeals Court conviction of former Khmer Rouge Commander Nuon Paet who was sentenced to life in prison for his role in a 1994 train ambush that resulted in the deaths of 3 foreigners and at least 13 citizens. On September 6, an Appeals Court reversed the July 2000 acquittal of Chhouk Rin, a former Khmer Rouge Commander who allegedly was involved in the same ambush, and sentenced him to life in prison. On December 23, a Municipal Court sentenced Sam Bith, a third Khmer Rouge Commander implicated in the attack, to life in prison.

On February 18, a municipal court tried and convicted 19 persons to 5 to 20 years on charges of terrorism or conspiracy and membership in the armed group the Cambodian Freedom Fighters (CFF). In March a Battambang court tried and convicted 18 members to sentences of 7 to 17 years for their roles in the November 2000 CFF attack in Phnom Penh in which 8 persons were killed and 14 other persons were injured. In April a Siem Reap provincial court tried 12 alleged CFF members for their roles in the attack; 8 were convicted to sentences of between 1 and 10 years and 2 were acquitted and released. In June 2001, a municipal court tried 30 alleged CFF members, including 2 in absentia, and convicted them to sentences of 3 years to life. In November 2001, a municipal court tried and convicted 26 alleged CFF members to 3 to 15 years in prison and acquitted 2 others in connection with the November 2000 incident. Human rights groups and other observers criticized the Government and the courts for the way they conducted their investigations and trials (*see* Section 1.d.). Some of those convicted have appealed but there were no developments in their cases by year’s end.

*b. Disappearance.*—There were no confirmed reports of politically motivated disappearances, but local NGOs investigated cases in several provinces in which individuals allegedly disappeared after having been held in police detention. The UNHCHR and a local NGO also continued to investigate the May 2000 disappearance of five persons from various parts of Kratie Province after they were detained by security officials. These disappearances were unrelated to the May 2000 disappearance of 23 persons. All five remained missing, and government and NGO efforts to establish their whereabouts continued at year’s end.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture and physical abuse of prisoners; however, torture, beatings, and other forms of physical mistreatment of persons held in police or military custody continued to be a serious problem throughout the country. There were credible reports that both military police and police officials used physical and psychological torture and severely beat criminal detainees, particularly during interrogation. Police and security force perpetrators of torture and abuse frequently were protected from prosecution or disciplinary action by local government authorities, despite some central government efforts to curtail or eliminate violations of prisoners’ rights and to address problems of accountability.

During the year, the Ministry of Interior was slow to investigate allegations by the UNHCHR of torture and severe abuse of individuals in detention in various parts of the country. During the year, three police officers were charged with voluntary manslaughter for the July 2001 beating to death of a prisoner in Prey Veng Province. In August a Kamong Cham provincial court acquitted five prison guards who were charged for alleged mistreatment of prisoners following a 1999 attempted escape. However, the judge, in an apparent acknowledgement of the guards’ wrongdoing, recommended that the Ministry of Interior impose an administrative sanction against the guards. Also in August, a local NGO reported that of 2,324 inmates surveyed, 11.7 percent claimed they were tortured in police custody while another 1.2 percent claimed they were tortured in prison.

Government officials and security officials were complicit in trafficking in both women and children (*see* Sections 5 and 6.f).

The Ministry of Interior’s Prisons Department is responsible for both pretrial detainees and convicted prisoners held inside prisons. During the year, prison conditions remained harsh, and government efforts to improve them and to implement

new regulations were hampered by lack of funds and weak enforcement. Human rights organizations cited a number of serious problems, including overcrowding, health problems, food and water shortages, malnutrition, and poor security. A local NGO, which monitors 20 of the country's 25 prisons, noted that the population of those prisons decreased by 10 percent during the year. However, an August report by the same NGO noted that at one prison in Kampong Cham prisoners were allotted 0.93 square meters of space. In most prisons, there was no separation of adult prisoners and juveniles, or of persons convicted of serious crimes and persons detained for minor offenses. There was inadequate separation of male and female prisoners. In some prisons, after escape attempts, use of shackles and the practice of holding prisoners in small, dark cells continued. Government ration allowances for purchasing prisoners' food routinely were misappropriated and remained inadequate, which exacerbated malnutrition. Regulations permitted families to provide prisoners with food and other necessities, and prisoners depended on such outside assistance; however, families often were compelled to bribe prison officials in order to be allowed to provide assistance.

The Government continued to allow international and domestic human rights groups to visit prisons and prisoners and to provide human rights training to prison guards. However, NGOs reported that on occasion cooperation from local authorities was limited (*see* Section 4). The Ministry of Interior continued to require lawyers, human rights monitors, and other visitors to obtain letters of permission from the Ministry prior to visiting prisoners. The Ministry withheld such permission in some cases, particularly for individuals in detention in connection with the crackdown on the CFF (*see* Section 1.d.).

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, the Government generally did not respect these prohibitions. A Penal Code drafted by the U.N. Transitional Authority in Cambodia (UNTAC) in 1992 remained in effect, as does the 1993 Criminal Procedure Law. The Criminal Procedure Law provides protection for criminal suspects; however, in practice the Government sometimes ignored its provisions.

A number of the defendants were arrested without warrants and were held longer than the 6 month maximum period of detention permitted by the law. Starting in September 2001, the Government initiated a crackdown on the CFF and arrested over 100 suspects, including dozens without arrest warrants. The Government held some suspects incommunicado and denied them appropriate access to lawyers. Subsequently, many were tried and convicted on the basis of flimsy evidence such as the appearance of their name on a CFF membership list.

Although lengthy detention without charge is illegal, suspects often were held by authorities for long periods before being charged or brought to trial or released. According to the UNHCHR, such prolonged detention largely was a result of a growing prison population and the limited capacity of the court system. Accused persons legally are entitled to a lawyer; however, in practice they often had limited access to legal representation. Prisoners routinely were held for several days before gaining access to a lawyer or family members, although the legal limit is 48 hours. Although there is a bail system, many prisoners, particularly those without legal representation, often had no opportunity to seek release on bail. During the year, one NGO reported that there were 140 complaints of pre-trial detention that lasted longer than the prescribed 6 months.

The Constitution prohibits forced exile, and in practice the Government did not use it. In August one FUNCINPEC member resigned his seat in Parliament and claimed to be in self-imposed exile after certain government officials threatened to arrest him for his involvement in an association that advocated the creation, by force if necessary, of an autonomous ethnic Khmer State in Vietnam.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the Government did not respect this provision in practice. The courts were subject to influence and interference by the executive, and there was widespread corruption among judges, virtually none of whom received a living wage.

A lack of resources, low salaries, and poor training contributed to a high level of corruption and inefficiency in the judicial branch, and in practice the Government did not ensure due process. UNHCHR has on a number of occasions printed and provided copies of all of the country's laws to all judges. Judges and prosecutors, however, often have no legal training. Citizens often effectively were denied a fair trial in jurisdictions without regular access to defense lawyers or international judicial assistance programs. The Judicial Reform Council established in 2000 has made no significant progress in fulfilling its mandate to develop and implement judicial reform measures. On June 19, the Government established a second legal and judicial reform council amid criticisms that its co-chairs, a Cabinet Minister and the Su-

preme Court President, lacked sufficient independence. The Supreme Council of the Magistracy continued to discipline judicial officials for misconduct but did not impose harsh penalties. In June 2001, the Supreme Council of the Magistracy nominated to the Appeals Court a former court president and a former prosecutor who had been suspended from their positions and investigated for accepting bribes in 1999. No information about the investigation was released. Legal observers charged that the Supreme Council of the Magistracy was subject to political influence, and did not protect effectively the independence of the judiciary.

Court delays or corrupt practices often allowed those accused of crimes to escape prosecution, leading to impunity for some government officials or members of their families who committed crimes. Although the courts prosecuted some members of the security forces for human rights abuses, impunity for those who committed human rights abuses remained a problem. With some exceptions, national and local government officials continued to lack the political will and financial resources to act effectively against military or security officials suspected of human rights abuses.

Human rights groups continued to report that the Government demonstrated its control of the courts by ordering the rearrest of suspects released by the courts or through extrajudicial processes. In June the Prime Minister allegedly ordered a government official with key responsibilities in ongoing judicial reform efforts to drop inappropriate criminal charges against his former foreign business partner in a civil dispute involving allegations of breach of contract (*see* Section 1.f.).

In March a Ratanakiri provincial court ruled in favor of a general who claimed to hold the titles to 1,250 hectares of land that members of the ethnic hill tribes apparently had been tricked into giving away (*see* Sections 1.f. and 5).

In January the National Election Commission (NEC) reaffirmed its requirement that commune election committees resolve local election-related disputes (*see* Section 3). As a consequence, many violations of the Election Law, some very serious, were not punished sufficiently. The courts and police often pressured crime victims to accept small cash settlements from the accused instead of seeking prosecution. When a case was tried, a judge sometimes determined the verdict before the case was heard, often on the basis of a bribe. On February 18, a Ratanakiri provincial court sentenced four men to 4 months in prison in spite of finding them guilty of three counts of premeditated killing. Sworn, written statements from witnesses and the accused usually were the extent of evidence presented in trials. Statements by the accused sometimes were coerced through beatings or threats from investigation officials, and illiterate defendants often were not informed of the content of written confessions that they were forced to sign (*see* Section 1.c.). In cases involving military personnel, military officers often exerted pressure on judges to have the defendant released without trial.

The court system consists of lower courts, an appeals court, and a Supreme Court. The Constitution also mandates a Constitutional Council, which is empowered to review the constitutionality of laws, and a Supreme Council of the Magistracy, which appoints, oversees, and disciplines judges. The composition of both of these bodies was viewed widely as biased in favor of the CPP.

Trials are public. Defendants have the right to be present and to consult with an attorney, to confront and question witnesses against them, and to present witnesses and evidence on their own behalf. However, trials typically were perfunctory, and extensive cross-examination usually did not take place. In 1998 the introduction of newly trained lawyers, many of whom received supplemental training by NGOs, resulted in significant improvements for those defendants provided with counsel, including a reduced pretrial detention period and improved access to bail; however, there remained a critical shortage of trained lawyers in all parts of the country. Persons without the means to secure defense counsel often effectively were denied the right to a fair trial.

Defendants are entitled by law to the presumption of innocence and to the right of appeal. However, because of pervasive corruption, defendants often were expected to bribe the judge for a favorable verdict, thereby effectively eliminating the presumption of innocence. Citizens' rights to appeal sometimes were limited by the lack of transportation and other logistical difficulties in transferring prisoners from provincial prisons to the appeals court in Phnom Penh. Many appeals thus were heard in the absence of the defendant. Lawyers also noted that in 2001 and throughout the year, police and prison officials, with apparent support from government officials, began to deny them the right to meet prisoners in private or for adequate lengths of time, in violation of the law (*see* Section 1.c.). In December 2001, an executive decree appointed a single individual as the country's sole notary public, and, by extension, legal arbitrator of everything from documents to land disputes.

There is a separate military court system. The military court system suffered from deficiencies similar to those of the civilian court system. Moreover, the legal distinction between the military and civil courts often was ignored in practice; several civilian persons arrested for crimes that appeared to have no connection with military offenses were detained for trial by the military court.

In August 2001, a law was promulgated to establish Extraordinary Chambers to bring Khmer Rouge leaders to justice for genocide, crimes against humanity, and war crimes committed from 1975 through to 1979. The Government had sought assistance and cooperation from the United Nations (U.N.) since 1997, as well as financial assistance from foreign donors, to make the tribunal operational. In February the U.N. announced that it would no longer participate in negotiations with the country to establish a "mixed" tribunal, because the U.N. was not confident it could reach an agreement to establish a court that was independent, impartial, and objective. In early July, the Government announced that it had sought to revive negotiations. On August 20, the U.N. spokesman announced that the U.N. Secretariat would resume negotiations on a Khmer Rouge Tribunal if it were to receive a "clear mandate" from either the U.N. Security Council or the U.N. General Assembly. On December 19, the U.N. General Assembly approved a resolution calling upon the Secretary General to resume negotiations to conclude an agreement with the Government to establish Extraordinary Chambers to try Khmer Rouge leaders. On December 24, the Government announced that it had accepted an invitation from the U.N. Secretary General to conduct exploratory talks to prepare for resumption of negotiations on the court.

In March and April, human rights groups criticized the convictions of 29 alleged members of the CFF (*see* Section 1.a.). Although some of the defendants freely admitted involvement in an armed attempt to overthrow the Government, observers raised valid criticisms about the lack of thorough investigation or meaningful cross-examination, and the judge's broad use of discretion in accepting or rejecting evidence.

There was cooperation among the Government, foreign government donors, and NGOs to improve the legal system, but progress remained slow.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the privacy of residences and correspondence and prohibits illegal searches; however, the police routinely conducted searches and seizures without warrants. There were no reports that the Government monitored private electronic communications. The Government continued to work on improving the land titling system and to prepare implementing regulations for a July 2001 law clarifying ownership and recognizing various forms of communal property arrangements, including for indigenous minorities.

Citizens were free to live where they wished; however, there were continued frequent reports of land disputes between residents, local authorities, businesspersons, and military officials. Since the forced collectivization during Khmer Rouge rule and the return of thousands of refugees, land ownership often has been unclear, and most landowners lacked adequate formal documentation of ownership. Following the end of the Khmer Rouge insurgency, a rush to gain possession of lands near potentially lucrative cross-border trade routes exacerbated the ownership problem. Several provinces created land dispute settlement committees; representatives of local NGOs and of the military forces frequently attended committee meetings. Members of the committees often had apparent conflicts of interest, and observers criticized dispute resolution as inconsistent and not transparent.

One domestic NGO investigated 63 land disputes involving government officials that affected 2,746 families during the year. On March 27, after a Ratanakiri provincial court ruled in March 2001 in favor of a general who claimed to hold the titles to 1,250 hectares of land that members of ethnic hill tribes said belonged to them, King Sihanouk and Prime Minister Hun Sen effectively overruled the court and settled the land dispute. The settlement awarded the land title to the hill tribes members and \$35,000 (136,500,000 riel) to the General for the amount he claimed he paid local Ratanakiri officials to arrange transactions giving him ownership of the land (*see* Sections 1.e. and 5).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of expression, press, and publication, and the Government generally respected these rights in practice; however, there continued to be some problems. The Constitution implicitly limits free speech by requiring that it does not affect adversely public security. The Constitution also declares that the King is "inviolable." The Press Law provides journalists with a number of rights, including a prohibition on prepublication cen-

sorship and protection from imprisonment for expressing opinions. However, the Press Law also includes a vaguely worded prohibition on publishing articles that affect national security and political stability. There were no reports that print journalists practiced self-censorship. There were a large number of news items critical of the Government, which included frequent, highly personal criticism of the Prime Minister, the President of the National Assembly, and other senior officials.

In November 2000, the Ministry of Information produced a draft regulation that specified professional requirements for new newspaper and magazine publishers, and introduced a mandatory licensing system requiring that newspapers renew their licenses annually and that magazines renew their licenses every 2 years. Some journalists' organizations viewed the draft regulation as an attempt to increase government control over the media. The Ministry was engaged in consultations with these organizations, and had not implemented the regulation by year's end.

Although limited in circulation, newspapers were a primary source of news and expression of political opinion. All major political parties had reasonable and regular access to the print media. In general newspapers were aligned politically. The law permits newspapers to receive financial support from political parties, and some newspapers did receive such support from FUNCINPEC and the SRP. There were an estimated 16 Khmer language newspapers published regularly, approximately the same number as in 2001. Of these, 11 were considered to be progovernment, 4 were considered to support the opposition Sam Rainsy Party (SRP), 1 was considered to support the FUNCINPEC Party, and 1 was considered to be antimonarchy. In addition, there was one French-language daily, one English-language daily, and two other English newspapers published regularly. Many of the Khmer-language newspapers frequently published articles translated from the English language newspapers.

Although the two largest circulation newspapers were considered progovernment, most newspapers criticized the Government frequently, particularly with respect to corruption. Prime Minister Hun Sen and National Assembly President Prince Norodom Ranariddh frequently came under strong attack by opposition newspapers. There was some government intimidation or retribution against local Khmer-language newspapers for reports that were critical of the Government. In April a municipal court ordered a newspaper to pay fines for an article allegedly defaming the National Assembly President. Journalist associations and NGOs publicly criticized these actions. In July the publisher of a newspaper was detained by the Ministry of Interior for 10 hours and questioned about his news sources. In August a newspaper was closed for 30 days after publishing a story critical of the President of the National Assembly. In September a newspaper editor and reporter were detained 2 days for publishing articles critical of the national police.

In August 2001, a municipal judge filed a libel case against an opposition-affiliated newspaper for publishing an article alleging that the judge accepted kickbacks in a property dispute case. The case was settled out of court. In September 2001, the Minister of Foreign Affairs and International Cooperation won a defamation suit against three journalists from an English-language newspaper for an article containing a quote suggesting that during the 1975–1979 Khmer Rouge regime the Minister played a role in sending prisoners to be interrogated and executed from the prison and reeducation camp where he was the head inmate. The court proceedings were marred by irregularities. The judge did not consider relevant evidence offered by the defendants, and collected evidence of her own in violation of her mandate. The judge denied the defendants' request to be tried under the 1995 Press Law rather than the 1991 transitional UNTAC Code, but then ordered them to pay damages to the Foreign Minister and the state under both laws. In November 2001, the journalists appealed the decision. By year's end, there had been no further developments in the case.

The Government, the military forces, and the political parties continued to dominate the broadcast media and to influence their content. According to a 2001 report by the UNHCHR, the procedures for licensing and allocation of radio and television frequencies to the media were not impartial. The opposition party in past years was unable to obtain a broadcast license and, during 2001, briefly broadcasted radio programs from a site in a neighboring country, but subsequently suspended broadcasts for technical reasons. Voice of America and Radio Free Asia made daily broadcasts through lease arrangements with the country's only independent radio station. Broadcast journalists reportedly practiced self-censorship to enhance prospects for keeping their broadcast license. Television stations largely ignored a May government order to broadcast only national language programs during peak viewing hours.

There were six television stations, all controlled or strongly influenced by the Government. Government control severely limited the content of television broadcasting.



At the initiative of the President of the National Assembly, the Ministry of Information's television station did broadcast live telecasts of the National Assembly's sessions; in several instances, these broadcasts were censored. An April UNHCHR report asserted that the Government failed to ensure that all political parties and candidates enjoyed freedom of expression and equal access to the media in the campaign leading up to the commune elections (*see* Section 3). National radio and television stations regularly broadcasted some human rights, social action, public health, and civil society programming produced by domestic NGOs.

In August 2001, the Government issued an order banning the sale of and threatening to confiscate a book published by the SRP entitled *Light of Justice*. A government spokesman described it as "promoting instability" but never specified what law the publication violated. The Government never implemented its confiscation threat. The SRP removed the book from circulation and filed a lawsuit against the Government, which was not settled by year's end.

Internet service, which was available widely in larger towns, was unregulated.

Academic freedom was respected.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly, but the Government did not fully respect this right in practice. The Government requires that a permit be obtained in advance of a march or demonstration. The Government often did not issue a requested permit or took no action on a permit application; however, these actions had no practical effect because demonstrations proceeded anyway.

During the year, numerous groups assembled peacefully, including workers and teachers who protested working conditions or wages, political opposition activists who supported various causes, students who protested border encroachments and the visit of Vietnamese, Chinese, and Thai leaders to the country, and various groups which protested land seizures. On occasion counter-demonstrations by other citizens who supported the Government disrupted the protests, which sometimes resulted in clashes that caused minor injuries to participants. Supporters of both the ruling and opposition parties took part in rallies and street parades throughout the country during the commune election campaigning period. However, the opposition party alleged that local authorities obstructed its campaigning in several locations (*see* Section 3).

On December 5, a crowd of approximately 150 villagers visiting Phnom Penh gathered in front of the offices of the Department of Forestry and Wildlife (DFW) and demanded information about proposed forestry concession management plans. At dusk a group of police aggressively drove the crowd away from the DFW. There were credible reports that the police used electrified batons to disperse the crowd and that several villagers sustained injuries. One protester died later in the evening of a heart attack, but no link between the incident and his death was established. The independent monitor of the country's forestry sector, Global Witness, filmed the incident, but was not involved directly. The Government subsequently decided to terminate Global Witness' role as the official forestry monitor. In the past Global Witness drew criticism from the Government for allegedly overstepping its mandate of monitoring forest crimes to advocating general reform of the forestry sector.

Throughout the year, there were complaints from various organizations that local authorities demanded that they apply for permission to hold meetings and other events, despite the fact that there was no legal basis for such requirements. For example, in June 2001, the Government forbade a private conference on border issues planned by a student group in conjunction with an organization of expatriate Cambodians at a Phnom Penh hotel. The Government never explained the legal basis for its action, but conference organizers canceled the event after the hotel refused to allow the conference on its premises.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. However, the Government did not enforce effectively the freedom of association provisions of the Labor Law (*see* Section 6.a.). In October 2001, the Government adopted a standard Memorandum of Understanding for NGOs, which eliminated provisions from an earlier draft NGO law that the NGO community opposed.

The Government did not coerce or forbid membership in political organizations. Political parties normally were able to conduct their activities freely and without government interference. However, there were several documented cases of harassment of FUNCINPEC and SRP activists and candidates in connection with preparations for the scheduled commune level elections (*see* Section 3).

Membership in the Khmer Rouge, which previously conducted an armed insurgency against the Government, is illegal, as is membership in any armed group.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Constitution also prohibits discrimination based on religion, and minority religions experienced little or no official discrimination. Buddhism is the state religion and over 95 percent of the population is Buddhist. Most of the remaining population is made up of ethnic Cham Muslims, who were well integrated into society.

The law requires all religious groups to submit applications to the Ministry of Cults and Religious Affairs in order to construct places of worship and to conduct religious activities. Religious groups did not encounter significant difficulties in obtaining approvals for construction of places of worship, but some Muslim and Christian groups reported delays by some local officials in acknowledging that official permission had been granted to conduct religious meetings in homes. Such religious meetings took place unimpeded despite delay or inaction at the local level, and no significant constraints on religious assembly were reported. In August the Government deported two Falun Gong members listed as United Nations High Commissioner for Refugees (UNHCR) persons of concern to China (*see* Section 2.d.). Also in August, the Government announced that it would not permit the Dalai Lama to attend an upcoming Third World Buddhism Conference in the country.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution and law provide for these rights and the Government generally respected them in practice. The Government does not restrict domestic or international travel, although the presence of land mines and bandits made travel in some areas of the country dangerous (*see* Section 1.a.).

There were no reports of persecution or discrimination against refugees who returned from abroad. On December 31, 2001, the UNHCR program which assisted in the resettlement of refugees who returned from Thailand, formally was terminated. There was no new resettlement of internally displaced persons (IDPs) during the year. IDPs who resettled in previous years were able to return to their original places of origin, except where land mines were a problem.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, in practice there were cases where persons were deported. During the year, the country granted asylum to persons of various nationalities. The Government also allowed noncitizens to apply to the UNHCR for refugee status and for third country resettlement. On November 23, police tried several times to detain a group of 20 Montagnards in Phnom Penh who were under UNHCR protection. An all night negotiation took place to keep the group from being arrested. In late December, they moved to the site where other Montagnards were awaiting resettlement. There were no further instances of police harassment though the end of the year, and 20 were accepted for resettlement to a third country. The Government authorized resettlement processing for approximately 900 Montagnards who were living in 2 UNHCR camps in Ratanakiri and Mondolkiri Provinces. To ensure their safety, these refugees were moved by UNHCR from the border provinces down to Phnom Penh. During the year, all 583 cases (905 persons) were interviewed and provided refugee status. By the end of the year, approximately 800 Montagnards departed Phnom Penh for third country repatriation.

In March 2001, the Government provided asylum in Ratanakiri and Mondolkiri Provinces for arriving Montagnards. However, in May authorities pushed back approximately 300 asylum seeking Montagnards, in apparent violation of the 1951 U.N. Convention, claiming that they were illegal aliens. In December 2001, authorities intercepted and returned 167 newly arrived Montagnard asylum seekers to Vietnam. NGOs and other organizations continued to claim that groups of Montagnards remained in hiding along the border of Vietnam waiting for an opportunity to seek asylum in the country.

The UNHCR was given permission to establish and monitor camps in both provinces. Although the UNHCR reached an agreement with the Government and with the Government of Vietnam to facilitate voluntary repatriation, the program quickly collapsed. In March the Government deported 98 new Montagnard arrivals back to Vietnam. In July a Vietnamese monk, who was registered with the UNHCR as a person of concern, disappeared from Phnom Penh. Credible reports suggested that either he was kidnaped by Vietnamese agents or that he was deported by government authorities. In August the Government deported to China two practitioners of Falun Gong (*see* Section 2.c.). The couple had been living and working in the country since 1998 and were accorded "person of concern" (refugee) status by the UNHCR in May. The UNHCR was not notified of the deportation until after the fact, in violation of the country's agreement with the U.N.

After opposing repatriation of deportable Cambodian nationals for many years, the Government signed an MOU with the United States in March to facilitate their return. The 36 persons who subsequently were repatriated in four separate groups were detained up to several weeks upon their arrival and there were reports that some were forced to pay bribes during this detention. By year's end, these 36 deportees all were released, and the Government subsequently has respected the rights of these individuals and their efforts to integrate themselves into society.

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

The Constitution provides citizens with the right to change their government peacefully. The coalition government formed in late 1998 between the CPP and the FUNCINPEC, the two parties that won the largest number of votes and National Assembly seats in the 1998 election, established relative political stability. The coalition agreement provided for approximately equal power sharing between the parties, with Hun Sen of the CPP as Prime Minister and Prince Norodom Ranariddh of FUNCINPEC as President of the National Assembly. However, in practice the CPP has been the dominant partner. The coalition agreement also provided for the creation of a Senate, which was formed in March 1999 with Chea Sim of the CPP as President. The Senate's function is to review and to provide advice on the laws passed by the National Assembly; the National Assembly retains final authority over whether to modify legislation based on the Senate's recommendations. In practice the Senate's role largely was perfunctory, while the National Assembly was a more credible forum for national debate.

Although growing in influence, the legislature remained weak in comparison to the executive branch. The coalition government appointed the 24 provincial and municipal governors and their deputies, as well as district officials, all of whom were divided between the CPP and FUNCINPEC parties. Suffrage is universal and voluntary for all citizens over the age of 18. Most citizens participated in national elections in 1993 and 1998.

In February the first ever national commune level elections were held. Over 83 percent of eligible voters registered to vote. More than 76,000 candidates from 8 parties competed and more than 1 candidate was registered in 1,608 of the country's 1,621 communes. The election results broke the CPP's 23 year monopoly control of local governance. The CPP won 7,703 council members seats nationwide, FUNCINPEC won 2,211 member seats and the SRP won 1,346 member seats. The CPP commune chiefs remained in place in 99 percent of the 1,621 communes; however, power was shared with other parties in all but 148 communes. At year's end, an interministerial body supervised by the Ministry of Interior had not developed regulations to implement the Commune Administration Law to describe the power, duties, and functions of the councils.

The levels of election-related violence and intimidation associated with the February local elections were similar to those in the 1998 national election (*see* Section 2.b.). During the campaign period and throughout the year, a total of 25 FUNCINPEC and SRP activists and candidates were killed under suspicious circumstances, including 7 killings that human rights monitoring organizations agreed were motivated politically (*see* Section 1.a.). The Government took action against many alleged perpetrators of killings, but addressed other misconduct inconsistently.

There were more than 200 reported cases of intimidation (vandalism, forced oath taking to the CPP, collection of voter registration cards by local authorities, and death threats), against activists and candidates running against the CPP. The NEC did not use its powers to sanction those involved in voter intimidation and vote buying. According to electoral monitoring organizations, each of the three main parties allegedly was involved in vote buying, although the CPP was cited in the majority of cases. On preelection night, there were reports of illegal gift giving in every province by all major parties, and voter coercion by local CPP officials.

The UNHCHR uncovered no evidence of a centrally organized campaign of violence or intimidation; most cases appeared to be the work of local officials. However, UNHCHR also reported that police investigations of such incidents and subsequent judicial processes were slow and showed serious shortcomings. The NEC did not carry out effectively its legal mandate to investigate election violations and to punish the perpetrators, nor did it permit equal access to the media (*see* Sections 1.e. and 2.a.). These were the first elections the country organized without substantial foreign assistance, and preparations were marked by poor dissemination of information and other logistical and administrative problems. Some political parties and election observers claimed that the authorities did not do enough to ensure that all voters who wished to vote could register.

Media access for opposition parties was more restricted than in the 1998 national elections (see Section 2.a). The NEC did not allow six local level candidate debates to be broadcasted on national television, although one debate was broadcasted on a national radio station. In addition, the NEC reversed its decision to allow broadcasts of 15 prescreened, national-level, election roundtable debates organized by nongovernmental organizations during the campaign period. Voters' choices on election day were limited by their lack of access to broadcast political discussion. The Committee for Free and Fair Elections (COMFREL) reported that the activities of the Government and the CPP dominated news coverage both before and during the campaign period, while negligible exposure was given to opposition parties.

Traditional cultural practices inhibited the role of women in government. However, women took an active part in the 1998 national election and registered for the February elections at approximately the same rate as men. There were 13 women among the 122 members of the National Assembly, 8 women among the 61 members of the Senate, and 2 female Ministers and 3 female State Secretaries in the Cabinet. After February's local elections, women held 933 (8.3 percent) of the 11,261 commune council seats. The country's central bank was headed by a woman.

There were several members of ethnic and religious minorities in the Cabinet and the National Assembly (see Section 5).

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

The large domestic and international human rights community remained active and engaged in diverse activities. The UNHCHR and numerous other human rights organizations conducted monitoring activities and human rights training for provincial officials, military officers, villagers, the legal community, and other groups. These organizations operated relatively freely throughout the country, investigating and publicizing their findings on human rights cases. There were approximately 40 NGOs involved in human rights activities, although only a small portion of them actively were involved in organizing training programs or investigating abuses. The Government generally cooperated with human rights workers in performing their investigations; however, during the year, there were several reports of poor cooperation or intimidation by local authorities throughout the country.

In March the Government and the UNHCHR agreed to a Memorandum of Understanding which extended the UNHCHR's activities in the country for 2 more years. The UNHCHR maintained its headquarters in Phnom Penh and had 2 regional offices in Battambang and Kampong Cham. The UNHCHR visited the country in August, and the U.N. Special Representative for Human Rights visited two times during the year. Both Representatives met with government officials at all levels, as well as with representatives of political parties and NGOs.

During the year, the Government continued to deny lawyers and human rights groups permission to see prisoners, thus inhibiting the ability of lawyers to defend clients and the ability of human rights groups to monitor prison conditions (see Section 1.c.).

The Cambodian Human Rights Committee, which the Government established in 1998, largely was inactive throughout the year, and its activities were not credible.

#### *Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination based on race, sex, color, language, religious beliefs, or political views. Although the Government did not engage actively in discrimination, it sometimes failed to protect these rights in practice.

*Women.*—Domestic and international NGOs reported that violence against women, including domestic violence and rape, was common. Although comprehensive statistics were not available, one local NGO reported 244 cases of domestic violence, 174 cases of rape, and 74 cases of trafficking in persons during the year. Authorities normally declined to become involved in domestic disputes, and the victims frequently were reluctant to issue formal complaints.

The law prohibits rape and assault. Spousal rape and domestic abuse are not recognized as separate crimes. A case of spousal rape could be prosecuted as "rape," "causing injury" or "indecent assault," but women's groups reported that such charges were rare.

Prostitution is prohibited constitutionally; however, there is no specific legislation against working as a prostitute. Trafficking in women for the purpose of prostitution was a serious problem (see Section 6.f.). Although the Government devoted greater attention to the problem of trafficking during the year and initiated several prosecutions, it has not enforced effectively a 1996 law against the exploitation and sale of human beings. Despite sporadic crackdowns on brothel operators in Phnom Penh, prostitution and trafficking related to it continued to flourish. A survey by a local

human rights NGO reported there were approximately 50,000 prostitutes in the country and that an estimated 60 percent of women and girls either were forced to work as prostitutes or were deceived into prostitution. Sex tourism was also a problem.

The Labor Law has provisions against sexual harassment in the workplace, and the International Labor Organization (ILO) reports that in the industrial sector it was rare. Sexual harassment was not known to be a problem in other sectors of the economy.

The Constitution contains explicit language providing for equal rights for women, equal pay for equal work, and equal status in marriage. In practice women had equal property rights with men, the same status to bring divorce proceedings, and equal access to education and some jobs. However, cultural traditions continued to limit the ability of women to reach senior positions in business and other areas.

According to NGO reports, women make up 52 percent of the population, 60 percent of agricultural workers, 85 percent of the business work force, 70 percent of the industrial work force, and 60 percent of all service sector workers. Women often were concentrated in low-paying jobs in these sectors and largely were excluded from management positions. There were a large number of women's NGOs that provided training for poor women and widows and addressed social problems such as spousal abuse, prostitution, and trafficking. A media center produced and broadcasted programming on women's issues. NGOs provided shelters for women in crisis.

*Children.*—The Constitution provides for children's rights, and ensures that the welfare of children is a specific goal of the Government. The Government relied on international aid to fund most social welfare programs targeted at children, resulting in only modest funds for problems that affect children.

Children were affected adversely by an inadequate education system. Education was free but not compulsory through grade nine; many children either left school to help their families in subsistence agriculture, began school at a late age, or did not attend school at all. Despite an extensive government school construction program, schools were overcrowded, lacked sufficient equipment, and often provided only a few years of education, especially in rural areas. Less than 5 percent of primary school teachers completed high school, and teachers' salaries were irregular and inadequate to support a decent standard of living, leading to demands for unofficial payments directly from parents, which the poorest families could not afford. The Government did not deny girls equal access to education; however, in practice, families with limited resources often gave priority to educating boys. In many areas, schools were remote, and transportation was a major problem. This particularly affected girls because of fears for their safety in traveling between their homes and schools.

Children frequently suffered from malnutrition and the inadequacy of the health care system. Infant mortality was reported most recently at 95 per thousand, and 12.5 percent of children did not live to the age of 5 years. Child mortality from preventable diseases was high.

Child abuse was believed to be common, although there were no statistics available. Poverty and domestic violence often drove children to live on the streets; domestic NGOs estimated there were more than 10,000 street children in Phnom Penh alone, who were easy targets for sexual abuse and exploitation. Although sexual intercourse with a person under the age of 15 is illegal, child prostitution and trafficking in children were common (*see* Section 6.f.). In March 2000, the Government adopted a 5-year plan against child sexual exploitation that emphasized prevention through information dissemination and protection by law enforcement (*see* Section 6.f.). During the year, the Government prosecuted at least six cases in which foreigners were charged with pornography violations or pedophilia.

The illegal purchase and sale of infants and children for prostitution and adoption was a serious problem. During the year, raids on brothels rescued several underage girls who were trafficked to the country for prostitution (*see* Section 6.f.). In 2001 and during the year, there were several documented cases in which individuals or organizations purchased infants or children from their natural parents, created fraudulent paper trails to document the children as orphans, and then earned substantial profits from fees or donations from unwitting adoptive families, including foreign families. Some of these children ended up being exploited. In some of these cases, the perpetrators encouraged women to give up their children under false pretenses, for example, by promising to care for the children temporarily but then refusing to return them. During 2001 a court charged at least seven persons in two separate cases involving orphans for adoption. The court subsequently dropped the charges against all seven individuals, following what human rights workers believed were inadequate court investigations. In one of the cases, the court's decision to drop charges was appealed.

Child labor was a problem in the informal sector of the economy (see Sections 6.c. and 6.d.).

*Persons with Disabilities.*—The Government does not require that buildings or government services be accessible to persons with disabilities. According to the Government, approximately 1 in 219 citizens was missing at least one limb. This statistic reflects the continuing effects of landmines. Programs administered by various NGOs have brought about substantial improvements in the treatment and rehabilitation of persons who have lost limbs. However, persons who have lost limbs face considerable societal discrimination, particularly in obtaining skilled employment.

*National/Racial/Ethnic Minorities.*—Citizens of Chinese and Vietnamese ethnicity constitute the largest ethnic minorities. Ethnic Chinese citizens were accepted in society. However, animosity toward ethnic Vietnamese, who were seen as a threat to the nation and culture, continued. The rights of minorities under the 1996 nationality law are not explicit; constitutional protections are extended only to “Khmer people.” During the year, student groups continued to make strong anti-Vietnamese statements; they complained of political control, border encroachments, and other problems for which they held ethnic Vietnamese persons within the country at least partially responsible. In several parts of the country, the opposition party exploited anti-Vietnamese sentiment and effectively disenfranchised thousands of ethnic Vietnamese citizens by successfully challenging their voter registration rights during local elections.

In March 2001, a provincial judge ruled against ethnic hill tribe villagers in a land dispute. Ethnic bias did not appear to be a factor in the judgment, but political influence was seen as important in this affair (see Sections 1.e and 1.f.).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Labor Law provides workers with the right to form professional organizations of their own choosing without prior authorization, and all workers are free to join the trade union of their choice; however, the Government’s enforcement of these rights was inconsistent. Membership in trade unions or employee associations is not compulsory, and workers are free to withdraw from such organizations; however, the Ministry of Social Affairs, Labor, Vocational Training and Youth Rehabilitation (MOSALVY) has accepted the charter of at least one union that requires workers to obtain permission before they may withdraw. The Labor Law does not apply to civil servants, including teachers, judges, and military personnel, or to household servants. Personnel in the air and maritime transportation industries are not subject fully to the law, but are free to form unions.

Most workers were subsistence rice farmers. Only a small fraction (estimated at less than 1 percent) of the labor force were unionized, and the trade union movement was still in its infancy and was very weak. Unions were concentrated in the garment and footwear industries, where approximately 25 to 30 percent of the 160,000 to 170,000 workers were union members. Although there was an expanding service sector, most urban workers were engaged in small-scale commerce, self-employed skilled labor, or unskilled day labor. The Labor Law requires unions and employer organizations to file a charter and list of officers with the MOLSAVY. The MOSALVY registered 322 factory unions and 10 national labor federations since the Labor Law went into effect, including 77 unions and 1 federation during the year. Labor unions continued to expand outside the garment sector as well. In July the Ministry of Interior recognized the country’s first public-sector union, the Cambodia Independent Teachers Association, which registered as an “association.” Regulations issued in 2000 to simplify union registration procedures were effective. Unlike in previous years, there were no complaints that the Government failed to register unions or labor federations, although some unions and federations complained of unnecessary delays and costs. Although all unions collect dues from members, none has been able to operate without outside sources of support. None of the unions has the capacity to negotiate with management as equals.

Five registered labor federations have historical ties to the Government or CPP-affiliated individuals within the Government. Two major labor federations and several unaffiliated factory unions were independent. There was credible evidence of employer involvement in some labor unions. In some factories management appeared to have established their own unions, supported pro-management unions, or had bought off other union leaders. The Cambodian Labor Solidarity Organization (CLSO), a local NGO headed by an advisor to the Minister of Labor, claimed to protect workers and the economy from disruptive union activists and strikes. However, the presence of CLSO at labor disputes often coincided with the presence of hired thugs who intimidated and even became violent with union leaders, union members, and other workers.

The Government's enforcement of provisions that protect the right of association was poor. The Government's enforcement efforts were hampered by a lack of political will and by confused financial and political relationships with employers and union leaders. The Government also suffered from a lack of resources, including trained, experienced labor inspectors, in part because it did not pay staff adequate salaries. Unions also suffered from a lack of resources, training, and experience. There were credible complaints about anti-union harassment by employers, including the dismissal of union leaders, in more than 20 garment factories and other enterprises during the year. In September an appeals court overturned a March lower court order that reinstated two garment factory union leaders who were dismissed in 2000. In July a provincial court arrested two union leaders after taking their depositions on a worker riot and destruction of property incident which occurred at their factory in 2001. An interministerial committee investigating the incident previously had exonerated the two from any wrongdoing. After intervention from the Minister of Labor, the two leaders were released on bail in early December. However, their case was still pending and they had not been reinstated to their positions at the factory by year's end.

The Government never has prosecuted or punished an employer for antiunion activity. The MOSALVY often decided in favor of employees, but rarely used its legal authority to penalize employers who defied its orders. The MOSALVY often advised employees in such situations to sue in court, which labor unions claimed was unnecessary, costly, and ineffective. On several occasions, dismissed union leaders accepted cash settlements after unsuccessfully appealing to the Government to enforce labor law provisions requiring their reinstatement.

In January 2001, the ILO began a program to monitor working conditions in the garment industry. However, senior officials, including the Deputy Prime Minister and the Minister of Commerce, made public statements throughout the year dismissing the labor movement as being made up of political agitators intent on sabotaging the economy.

Unions may affiliate freely, but the law does not address explicitly their right to affiliate internationally.

*b. The Right to Organize and Bargain Collectively.*—The Labor Law provides for the right to organize and bargain collectively; however, the Government's enforcement of these rights was inconsistent. Wages were set by market forces, except in the case of civil servants, for whom wages were set by the Government.

Since passage of the Labor Law in 1997, there has been confusion about the overlapping roles of labor unions and elected shop stewards. The Labor Law provides unions the right to negotiate with management over wages and working conditions and allows unions to nominate candidates for shop steward positions. The law provides shop stewards the right to represent the union to the company management and to sign collective bargaining agreements. However, in practice most factories elected shop stewards before a union was present in the enterprise; thus, many unions had no legally enforceable right to negotiate with management in situations in which there were nonunion shop stewards. In addition, the law specifically protects elected shop stewards from dismissal without permission from the MOSALVY, but grants no such protection to elected union leaders. In November 2000, MOSALVY issued a regulation that gave trade unions roles comparable to those of shop stewards and extended protection from dismissal to certain union officers within an enterprise. However, these protections for union leaders did not prove effective (see Section 6.a.).

There were only 10 collective bargaining agreements registered with the Government, and these did not meet international standards. In addition to difficulties in defining the bargaining unit, collective bargaining was inhibited by the weak capacity and inexperience of unions. In November 2001, the Government issued a regulation establishing procedures to allow unions to demonstrate that they represent workers for purposes of collective bargaining. The new regulation also establishes requirements for employers and unions regarding collective bargaining and provides union leaders with additional protection from dismissal. Nine unions applied with the MOSALVY to establish their right to represent workers for purposes of collective bargaining; however, none were granted this status, and many complained of unnecessary bureaucratic delays.

The Labor Law provides for the right to strike and protects strikers from reprisal. There were 35 strikes through September 15, the vast majority of which took place without the 7 day notice as required by law. The Government allowed all strikes and demonstrations, including some in which demonstrators caused property damage. In June 2001, the authorities arrested several union members for alleged involvement in violent labor demonstrations at a garment factory, fined them, and then released them several days later (see Section 2.b.). However, in general, police

intervention was minimal and restrained, even in cases in which striking workers caused property damage. In spite of the provisions in the law protecting strikers from reprisals, there were credible reports of workers being dismissed on spurious grounds after organizing or participating in strikes. In some cases, strikers were pressured by employers to accept compensation and to leave their employment.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Labor Law prohibits forced or bonded labor, including forced labor by children; however, the Government did not enforce its provisions adequately. Involuntary overtime remained widespread. Workers faced fines, dismissal, or loss of premium pay if they refused to work overtime.

During the year, government officials took action to rescue women and children from prostitution, but did not do so consistently (*see* Section 6.f.). There also were reports of isolated cases of forced labor by domestic servants.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Government has adopted laws to protect children from exploitation in the workplace. In March the Government ratified the Optional Protocol to the U.N. Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography. In November 2001, the Government signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol Against Transnational Crime.

The Labor Law establishes 15 years as the minimum age for employment, and 18 years as the minimum age for hazardous work. The law permits children between 12 and 15 years of age to engage in “light work” that is not hazardous to their health and that does not affect school attendance. A tripartite Labor Advisory Committee is responsible for defining what constitutes work that is hazardous to the health, safety, and morality of adolescents, as well as consulting with the MOSALVY to determine which types of employment and working conditions constitute “light work.” The MOSALVY identified six industries as priorities for clarification of what constitutes hazardous work and light work, but has not placed the subject on the agenda of the Labor Advisory Committee.

Children under the age of 15 years account for more than half of the population. Approximately 16.5 percent of children between the ages of 5 years and 17 years were employed. More than half of these children were over the age of 14 years, and 89 percent of them were engaged in small-scale agriculture. Only 4 percent of working children were engaged in larger scale enterprises, including brick factories and rubber plantations.

Child labor was not prevalent in the garment industry, although there was at least one instance early in the year of a young worker misrepresenting her age to gain employment in a garment factory. Lack of credible civil documents made it difficult to guard against this practice. Most garment factories have policies that set the age of employment above the legal minimum of 15 years. The most serious child labor problems were in the informal sector.

The MOSALVY was hampered by inadequate resources, staff, and training. Law enforcement agencies had authority to combat child prostitution, but did not do so in a sustained, consistent manner. Some observers noted that existing regulations do not address the problem of child labor in the informal sector adequately. With assistance from the ILO, MOSALVY established a child labor unit to investigate and combat child labor. In 1997 the Government, in conjunction with the ILO and NGOs, also approved a national action plan on child labor (*see* Section 6.f.). The Government has not ratified ILO Convention 182 on the elimination of the worst forms of child labor, and has not established a definition for worst forms of child labor.

The Ministry of Labor participated in one project to remove children from hazardous work in the salt, fishing, and rubber industries and to provide them with education.

The Constitution prohibits forced or bonded child labor; however, forced child labor was a serious problem in the commercial sex industry. In 1999 the ILO’s International Program for the Elimination of Child Labor (ILO-IPEC) reported that more than 15 percent of prostitutes were between 9 and 15 years of age (*see* Section 6.f.).

*e. Acceptable Conditions of Work.*—The Labor Law requires the MOSALVY to establish minimum wages based on recommendations from the Labor Advisory Committee. By law the minimum wage can vary regionally. In July 2000, the Labor Advisory Committee approved a minimum wage of \$45 (175,500 riel) per month, but this covered only the garment and footwear industries. Most garment and footwear factories respected the minimum wage. There was no minimum wage for any other industry.



According to a survey taken in 2001 by a local economics research center, garment workers, earned an average of \$61 (232,761 riels) per month, including overtime. However, prevailing monthly wages in the garment sector and many other professions were insufficient to provide a worker and family with a decent standard of living. Civil service salaries also were insufficient to provide a decent standard of living, requiring government officials to secure outside sources of income, in many cases by obtaining second jobs or collecting bribes.

The Labor Law provides for a standard legal workweek of 48 hours, not to exceed 8 hours per day. The law stipulates time-and-one-half for overtime and double time if overtime occurs at night, on Sunday, or on a holiday. The Government does not enforce these standards effectively. Despite reminders from the Government concerning hours of work, workers in many garment factories complained that overtime was excessive or involuntary, or that they were required to work 7 days per week. Some factories did not pay the legally mandated premiums for overtime, night, or holiday work properly. Another common complaint was that management violated the law by paying the overtime rate only for the salary component of workers' pay, leaving piece rates unchanged regardless of the number of hours worked. Outside the garment industry, regulations on working hours rarely were enforced.

The Labor Law states that the workplace should have health and safety standards adequate to ensure workers' well being. The Government enforced existing standards inconsistently, in part because it lacked trained staff and equipment. Work related injury and health problems were common. Most large garment factories producing for markets in developed countries met relatively high health and safety standards as conditions of their contracts with buyers. Working conditions in most small scale factories and cottage industries were poor and often did not meet international standards. The Government issued several instructions on workplace standards, and more detailed regulations awaited approval by the Labor Advisory Committee before they could be promulgated. Penalties are specified in the Labor Law, but there are no specific provisions to protect workers who complain about unsafe or unhealthy conditions. Workers who removed themselves from unsafe working conditions risked loss of employment.

The Labor Law applies to all local and foreign workers. A Ministry of Labor regulation, however, limits to 10 percent the number of foreign workers an employer can hire.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports that persons were trafficked to, from, and within the country. The Law on the Suppression of Kidnaping, Trafficking, and Exploitation of Humans (The Trafficking Law) establishes a jail sentence of 15 to 20 years for any person convicted of trafficking in persons under 15 years of age. The current trafficking law contains no provisions that would protect victims from charges under the country's immigration laws and enforcing the Trafficking Law in general was a problem.

The majority of trafficking occurred within the country, providing both adults and children for exploitation in the country's sex industry. The sex industry was estimated to employ 50,000 prostitutes, a sizable proportion of whom were victims of trafficking. The International Organization for Migration (IOM) estimated that at least 3,000 women and girls from southern Vietnam were trafficked to the country to work as prostitutes, with more than 15 percent being younger than 15 years of age. The ILO-IPEC reported in 1999 that more than 15 percent of female prostitutes in the country were between 9 and 15 years of age, and that 78 percent of these girls were Vietnamese and 22 percent were Cambodians. Women were trafficked from European countries such as Moldova and Romania, as well, for purposes of prostitution. A UNICEF study reported that one-third of the country's prostitutes were under 18 years of age. Some Vietnamese women and girls were trafficked through the country for exploitation in the commercial sex trade in other Asian countries. One NGO estimated that 30,000 women and girls were trafficked to neighboring countries, especially Thailand. Women and children, especially those in rural areas, were the most likely to become victims of trafficking. One study estimated that 88,000 Cambodians worked in Thailand as bonded laborers at any given time; many were exploited in the sex industry or, particularly young boys and girls, were employed as beggars. There was also trafficking of boys and girls to Vietnam for begging.

The Trafficking Law establishes a jail sentence of 15 to 20 years for any person convicted of trafficking in persons under the age of 15; however, the Government did not enforce the law effectively due in part to budget limitations and a lack of implementing regulations.

Although prosecutions of traffickers increased, and the Government devoted greater attention to trafficking in persons during the year, enforcement of antitrafficking laws and prosecution of perpetrators continued to be inconsistent. The Government

conducted several raids throughout the year, and rescued numerous prostitutes, including underage workers, and provided them with protection while working with NGOs to either reunite the victims with their families or to place them in a shelter operated by an NGO or other private charity.

In May, 14 Vietnamese trafficking victims were rescued by the Ministry of Interior's special anti-trafficking police unit from three brothels in Phnom Penh's Svay Pak community, an area notorious for underage prostitution, and were taken to a shelter operated by a local NGO. Police briefly detained one brothel manager and an alleged foreign pedophile during the May raids, but both escaped. On June 20, the same police unit that conducted the raids was ordered to arrest all 14 girls on charges of illegal immigration. On June 24, a judge released the three youngest girls who were between the ages of 12 and 13, as well as one other girl who demonstrated her Cambodian citizenship. At the time of the arrests, government officials said that the individuals being held were voluntary prostitutes and the arrests were a legal immigration issue. In August six of the girls were sentenced to 2 months in prison and four others were sentenced to 3 months in prison. After serving their sentences, the 10 girls were held at the country's immigration detention center. Credible sources report that the 10 girls never were deported, but that they were released back into society in exchange for payments to immigration authorities. However, there was no confirmation that traffickers paid off immigration officials. Credible reports suggested that in some cases the girls paid \$20 (78,000 riel) themselves, and in other cases supposed family members paid the fee.

On August 7, the Ministry of Interior's special police unit rescued another 17 Vietnamese girls from brothels in Svay Pak. The police arrested two of the brothel owners on charges of illegal confinement. Approximately half of the girls were under the age of 15 and the other half were between the ages of 16 and 20. The girls were placed in a local NGO shelter. However, a police officer from the anti-trafficking unit later signed out one of the girls from the shelter and allegedly turned her over to her parents in return for a payment of \$100 (390,000 riel).

These cases sparked widespread condemnation from international organizations, NGOs, and other governments. Subsequently senior officials declared that government policy was not to consider trafficking victims as criminals; however, some courts did not abide by this approach. In addition, Vietnamese authorities apparently were reluctant to cooperate with Cambodian authorities in accepting back Vietnamese trafficking victims. The Government actively negotiated with the Governments of Thailand and Vietnam to establish Memoranda of Understanding on the repatriation of women and children who were victims of trafficking.

The Ministry of Interior's anti-trafficking unit reported that during the year it rescued 193 victims, placed 127 of the victims in shelters and vocational training centers, and returned 66 victims to their families. The unit also submitted 53 cases for prosecution and 41 perpetrators (traffickers, pedophiles and rapists) were sentenced to prison, including 8 Cambodians, 28 Vietnamese, 3 Chinese, 1 Italian, and 1 Australian.

Working with IOM, the Government rescued 73 Cambodian forced laborers from Thai fishing vessels who were arrested by the Indonesian navy in July 2001.

Surveys conducted by domestic NGOs in 1995 indicated that from 40 to 50 percent of young women who were trafficked were victimized by a relative or friend of the family, and were offered money or promises of a better life. Poverty and ignorance in villages was a major factor in contributing to the trafficking problem. Young children, the majority of them girls, often were "pledged" as collateral for loans by desperately poor parents to brokers or middlemen; the child then was held responsible for repaying the loan and accumulated interest. In other cases, parents were tricked into believing the child would be given legitimate work in the city. There was also a problem with the illegal purchase and sale of infants and children. Sometimes this was for the purpose of adoption, including by foreign couples, but some of these children ended up abused and exploited (*see* Section 5).

Given the lucrative nature of trafficking in persons and the widespread nature of the problem in the country, it was believed that organized crime groups, employment agencies, and marriage brokers all had some degree of involvement. In one area on the Thai border, a recent report estimated that as many as 100 traffickers were carrying out operations. A local NGO revealed clear patterns and networks in the process of buying babies or children for the purposes of adoption and trafficking. Recruiters preyed on poor women, especially divorcees or widows, who were pregnant and about to give birth, or who had young children. Official paperwork was signed by orphanage directors and local officials who falsely stated that the children were found abandoned in provinces outside of Phnom Penh. Many times these officials were bribed. A variety of methods were used by traffickers. In many cases, victims were led astray by promises of legitimate employment. In other cases, ac-

quaintances, friends and even family members sold the victims outright or received payment for having helped deceive them.

Corruption was endemic in the country, and it was believed widely that some law enforcement and other government officials received bribes that facilitated the sex trade and trafficking in persons. There were credible reports that high ranking government officials or their family members operated, had a stake in, or received protection money from brothels which housed trafficking victims, including underage sex workers.

Trafficking victims, especially those trafficked for sexual exploitation, faced the risk of contracting sexually transmitted diseases, including HIV/AIDS. In some cases, victims were detained and physically and mentally abused by traffickers, brothel owners, and clients.

The Government had several programs underway in conjunction with the IOM, the UNHCHR, and UNICEF to combat trafficking, including one program to provide training and capacity-building for government officials with antitrafficking responsibilities. In September 2000, the Ministry of Women's and Veterans' Affairs launched a public education campaign against trafficking, focusing on border provinces. A number of local NGOs and international organizations investigated trafficking cases, provided assistance to victims, conducted research and advocacy on trafficking and human rights issues in general, and provided human rights education to members of the authorities and general public.

In March 2000, the Government adopted a 5-year plan against child sexual exploitation that emphasized prevention through information dissemination and protection by law enforcement (*see* Section 5). In October 2001, a national workshop assessed the national plan's progress and priorities for action. In October 2002, the Government established mechanisms for monitoring and reporting on the national plan with all relevant ministries and provincial authorities.

Assistance was available for trafficking victims through projects run by local NGOs and international organizations. The Government participated as a partner in a number of these efforts, however, its contributions were hampered severely by the limited resources at its disposal. Some victims were encouraged by NGOs and the Ministry of Interior to file complaints against perpetrators. However, in the general climate of impunity, victim protection was problematic and victims often were intimidated into abandoning their cases. Trafficking victims, especially those who were exploited sexually, faced societal discrimination, particularly in their home villages and within their own families, as a result of having been trafficked.

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## CHINA

The People's Republic of China (PRC) is an authoritarian state in which the Chinese Communist Party (CCP or Party) is the paramount source of power. Party members held almost all top government, police, and military positions. Ultimate authority rested with members of the Politburo. Leaders stressed the need to maintain stability and social order and were committed to perpetuating the rule of the CCP and its hierarchy. Citizens lacked both the freedom to peacefully express opposition to the party-led political system and the right to change their national leaders or form of government. Socialism continued to provide the theoretical underpinning of national politics, but Marxist economic planning had given way to pragmatism, and economic decentralization increased the authority of local officials. The Party's authority rested primarily on the Government's ability to maintain social stability; appeals to nationalism and patriotism; party control of personnel, media, and the security apparatus; and continued improvement in the living standards of most of the country's 1.3 billion citizens. The Constitution provides for an independent judiciary; however, in practice the Government and the CCP, at both the central and local levels, frequently interfered in the judicial process and directed verdicts in many high-profile cases.

The security apparatus is made up of the Ministries of State Security and Public Security, the People's Armed Police, the People's Liberation Army (PLA), and the state judicial, procuratorial, and penal systems. Security policy and personnel were responsible for numerous human rights abuses.

The country's transition from a centrally planned to a market-based economy continued. Although state-owned industry remained dominant in key sectors, the Government privatized many small and medium state-owned enterprises (SOEs) and allowed private entrepreneurs increasing scope for economic activity. Rising urban living standards, greater independence for entrepreneurs, and the expansion of the nonstate sector increased workers' employment options and significantly reduced state control over citizens' daily lives. The country had large industrial and agricul-

tural sectors and was a leading producer of coal, steel, textiles, and grains. Major exports included electronic goods, toys, apparel, and plastics. The official gross domestic product growth rate for the year was approximately 8 percent.

The country faced many economic challenges, including reform of SOEs and the banking system, growing unemployment and underemployment, the need to construct an effective social safety net, and growing regional economic disparities. In recent years, between 80 and 130 million persons voluntarily left rural areas to search for better jobs and living conditions in the cities, where they were often denied access to government-provided economic and social benefits, including education and health care. In the industrial sector, continued downsizing of SOEs contributed to rising urban unemployment that was widely believed to be higher than the officially estimated 7 percent, with many sources estimating the actual figure to be 15 to 25 percent. Income gaps between coastal and interior regions, and between urban and rural areas, continued to widen. Urban per capita income in 2001 was \$830 and grew by 8.5 percent over the previous year, while rural per capita income was \$286 and grew by 4.2 percent. Official estimates of the number of citizens living in absolute poverty showed little change from the previous year, with the Government estimating that 30 million persons lived in poverty and the World Bank, using different criteria, estimating the number to be 100 to 150 million persons.

The Government's human rights record throughout the year remained poor, and the Government continued to commit numerous and serious abuses. However, the Government took some steps to address international concerns about its human rights record during the year: A number of prominent dissidents were released; senior representatives of the Dalai Lama were allowed to visit the country; the Government agreed to extend, without conditions, invitations to visit to the U.N. Special Rapporteurs on Torture and Religious Intolerance and the U.N. Working Group on Arbitrary Detention; reform of the legal system continued; and the scope of religious activity allowed in Tibetan areas expanded slightly. Late in the year, these positive developments were undermined by arrests of democracy activists, the imposition of death sentences without due process on two Tibetans, and the trials of labor leaders on "subversion" charges. Authorities were quick to suppress religious, political, and social groups, as well as individuals, that they perceived to be a threat to government power or to national stability. Citizens who sought to express openly dissenting political and religious views continued to face repression.

Abuses included instances of extrajudicial killings, torture and mistreatment of prisoners, forced confessions, arbitrary arrest and detention, lengthy incommunicado detention, and denial of due process. Conditions at most prisons remained harsh. In many cases, particularly in sensitive political cases, the judicial system denied criminal defendants basic legal safeguards and due process because authorities attached higher priority to suppressing political opposition and maintaining public order than to enforcing legal norms or protecting individual rights. The Government infringed on citizens' privacy rights. The Government continued to implement its coercive policy of restricting the number of children a family could have. The Government maintained tight restrictions on freedom of speech and of the press; self-censorship by journalists and writers also continued. The Government continued and at times intensified its efforts to control and monitor the Internet. The Government severely restricted freedom of assembly and continued to restrict freedom of association and freedom of movement. While the number of religious believers continued to grow, government respect for religious freedom remained poor and crackdowns against Muslim Uighurs, Tibetan Buddhists, and unregistered groups, including underground Protestant and Catholic groups, continued. The Government denied the United Nations High Commissioner for Refugees (UNHCR) permission to operate along its border with North Korea and deported thousands of North Koreans, many of whom faced persecution upon their return. Citizens did not have the right peacefully to change their government. The Government did not permit independent domestic nongovernmental organizations (NGOs) to monitor human rights conditions. Violence against women (including imposition of a birth limitation policy coercive in nature that resulted in instances of forced abortion and forced sterilization), prostitution, discrimination against women, abuse of children, and discrimination against persons with disabilities and minorities all were problems. In Xinjiang, where security remained tight, human rights abuses intensified. The Government continued to deny internationally recognized worker rights, and forced labor in prison facilities remained a serious problem. Trafficking in persons was a serious problem. The Government's violation of internationally accepted human rights norms stemmed from the authorities' extremely limited tolerance of public dissent, fear of unrest, and the limited scope or inadequate implementation of laws protecting basic freedoms.

The authorities released several prominent political prisoners before their terms were over. Tibetans Ngawang Choephel, Jigme Sangpo, Ngawang Sangdrol, Tenzin Thubten, Ngawang Choekyi, Ngawang Choezom and Gyaltzen Drolkar were released early (see Tibet Addendum). Also released was China Democracy Party co-founder Xu Wenli. Nonetheless, at year's end several thousand others, including China Democracy Party co-founders Wang Youcai and Qin Yongmin, Internet activists Yang Zili and Huang Qi, Uighur businesswoman Rebiya Kadeer, journalist Jiang Weiping, labor activist Liu Jingsheng, political activist Han Chunsheng, Catholic Bishop Su Zhimin, house church leader Xu Guoxing, Tibetan nun Phuntsog Nyidrol, Uighur historian Tohti Tunyaz, and political dissident Yang Jianli, remained imprisoned or under other forms of detention.

The judiciary was not independent, and the lack of due process in the judicial system remained a serious problem. Few Chinese lawyers were willing to represent criminal defendants. During the year, defendants in only one of every seven criminal cases had legal representation, according to credible reports citing internal government statistics. A number of attorneys were detained for defending their clients. The authorities routinely violated legal protections in the cases of political dissidents and religious leaders and adherents. Over 200,000 persons were serving sentences, not subject to judicial review, in reeducation-through-labor camps. The country's criminal procedures were not in compliance with international standards, and new regulations and policies introduced in recent years were not widely implemented. Some lawyers, law professors, and jurists continued to press publicly for improvements of the criminal defense system, including a more transparent system of discovery, abolition of coerced confessions, a presumption of innocence, an independent judiciary, the right to remain silent, mechanisms for judicial review, appropriate protections for criminal defense lawyers, and improved administrative laws giving citizens recourse against unlawful acts by the Government.

Approximately 1,300 individuals were serving sentences under the Law Against Counterrevolutionary Activity, a law that no longer existed; many of these persons were imprisoned for the nonviolent expression of their political views. Credible sources estimated that as many as 2,000 persons remained in prison for their activities during the June 1989 Tiananmen demonstrations. Since December 1998, at least 38 leaders of the China Democracy Party have been given long prison sentences on subversion charges.

Throughout the year, the Government continued a national "strike hard" campaign against crime, characterized by round-ups of suspects who were sometimes sentenced in sports arenas in front of thousands of spectators. At year's end, this campaign, which was originally scheduled to last for 3 months at its inception in April 2001, showed no signs of abating in some areas. Some dissidents, "separatists," and underground church members were targeted. The campaign has been especially harsh in Xinjiang, where those deemed to be "splittists" by the Government were targeted. As part of the campaign, officials reportedly carried out over 4,000 executions during the year, frequently without due process. Amnesty International reported that the country executed more persons than all other countries combined. Moreover, the actual number of persons executed likely was far higher than the number of reported cases. The Government regarded the number of death sentences it carried out as a state secret.

Many observers raised concerns about the Government's use of the international war on terror as a justification for cracking down harshly on suspected Uighur separatists expressing peaceful political dissent and on independent Muslim religious leaders. According to reports from Xinjiang's Uighur community, authorities continued to search out and arrest Uighurs possessing written or recorded information containing unapproved religious material. The human rights situation in Tibet and in some ethnically Tibetan regions outside Tibet also remained poor, and the Government continued to impose restrictions on some forms of religious practice (see Tibet Addendum).

Labor protests occurred with increasing size and frequency. For example, thousands of workers in the northeast protested such problems as nonpayment of back wages, loss of benefits, reduced severance pay, and managerial corruption. Leaders of the largest of these demonstrations—Yao Fuxin, Xiao Yunliang, Wang Zhaoming, and Pang Qingxiang—were detained by officials. Yao Fuxin and Xiao Yunliang were charged with subversion after the Government alleged that the two had made contact with international organizations and with the China Democracy Party several years before the labor protests occurred.

While the number of religious believers in the country continued to grow, some religious groups, including unregistered Protestant and Catholic congregations and members of nontraditional religious groups, continued to experience varying degrees of official interference, harassment, and repression. However, other religious groups

noted a greater freedom to worship than in the past. The Government continued to enforce regulations requiring all places of religious activity to register with the Government or to come under the supervision of official, "patriotic" religious organizations. In some areas, authorities made strong efforts to control the activities of unapproved Catholic and Protestant churches; religious services were broken up and church leaders or adherents were harassed, and, at times, fined, detained, beaten, and tortured. At year's end, some religious adherents remained in prison because of their religious activities. No progress was made in improving relations between the Government and the Vatican, although both sides claimed to be ready to resume negotiations aimed at establishing diplomatic relations.

The Government continued its crackdown against the Falun Gong (FLG) spiritual movement. Thousands of practitioners were incarcerated in prisons, extrajudicial re-education-through-labor camps, psychiatric facilities or special deprogramming centers. FLG adherents conducted far fewer public demonstrations than in past years, which some observers attributed to the effectiveness of the Government's crackdown. Several hundred Falun Gong adherents reportedly have died in detention due to torture, abuse and neglect since the crackdown on Falun Gong began in 1999.

The Government strictly regulated the establishment and management of publications, controlled the broadcast media, censored foreign television broadcasts, and at times jammed radio signals from abroad. During the year, publications were disciplined for publishing material deemed objectionable by the Government, and journalists, authors, and researchers were harassed, detained, and arrested by the authorities. Internet use continued to grow in the country, even as the Government continued, and in some periods intensified, efforts to control and monitor such use. During the year, the Government blocked many Web sites, using increasingly sophisticated technology; led a drive to close unlicensed Internet cafes, in part to address safety concerns after a deadly fire; and urged Internet companies to pledge to censor objectionable content. At year's end, the Committee to Protect Journalists reported that 36 journalists were imprisoned in the country, including 14 Internet journalists.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The official press reported a number of extrajudicial killings, but no nationwide statistics were available. During the year, deaths in custody due to police use of torture to coerce confessions from criminal suspects continued to be a problem. Several hundred Falun Gong adherents reportedly have died in detention due to torture, abuse and neglect since the crackdown on Falun Gong began in 1999. For example, Zheng Fangying of Weifang, Shandong Province, was arrested in December 2001 after she tried to unfurl a pro-FLG banner in Beijing's Tiananmen Square. Zheng was taken to a detention center where she was punched and shocked with electric batons. Police released her after she staged an 18-day hunger strike. Three days later, she reportedly died from her injuries at her home.

During the year, officials reportedly carried out over 4,000 executions after summary trials as part of a nationwide strike hard campaign against crime. The actual number of persons executed likely was far higher than the number of reported cases. Some foreign academics estimated that as many as 10,000 to 20,000 persons are executed each year. The Government regarded the number of death sentences it carried out as a state secret.

Trials involving capital offenses often took place under circumstances where the lack of due process or a meaningful appeal bordered on extrajudicial killing. For example, according to domestic press reports, 23 suspects in Harbin, Heilongjiang Province, were sentenced to death in front of 5,000 spectators in April 2001. Seven of the condemned were immediately taken to an execution ground where they were shot.

*b. Disappearance.*—There were reports of temporary disappearances during the year. For example, dissidents Wang Bingzhang, Zhang Qi and Yue Wu were reported missing on June 26 in Vietnam. They were held incommunicado and their whereabouts were unknown until December, when Chinese authorities confirmed that the three were in China, where they had been in custody for several months. Zhang Qi and Yue Wu were released, but Wang Bingzhang was still in custody at year's end, detained on charges of espionage and terrorism.

In addition, the Government has not provided a comprehensive, credible accounting of all those missing or detained in connection with the suppression of the 1989 Tiananmen demonstrations.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture; however, police and other elements of the security apparatus employed torture and degrading treatment in dealing with some detainees and prisoners. The Prison Law forbids prison guards from extorting confessions by torture, insulting prisoners' dignity, and beating or encouraging others to beat prisoners. While senior Chinese officials acknowledged that torture and coerced confessions were chronic problems, they did not take sufficient measures to end these practices. Former detainees reported credibly that officials used electric shocks, prolonged periods of solitary confinement, incommunicado detention, beatings, shackles, and other forms of abuse. Persons detained pending trial were particularly at risk due to systemic weaknesses in the legal system and lack of implementation of the Criminal Procedure Law. Reports of torture increased during the ongoing strike hard campaign against crime in which police were encouraged to achieve quick results.

During the year, deaths in custody due to police use of torture to coerce confessions from criminal suspects continued to be a problem. For example, Zeng Lingyun, a villager in Longxing Town, Chongqing Municipality, was detained by public security personnel on July 26 on suspicion of petty theft. On July 28, Zeng's family was informed that Zeng had died. When they examined the body, they noticed extensive bruises and a bullet wound. Local officials initially told Zeng's family that he had been shot by police. They later claimed to be investigating the case, but refused to answer questions posed by foreign NGOs. As of year's end, the case had not been resolved. Since the crackdown on Falun Gong began in 1999, there reportedly have been several hundred deaths in custody of FLG adherents, due to torture, abuse, and neglect. A 2001 pilot program in Liaoning Province, intended to institute the right to remain silent in criminal trials as a way to combat torture, was discontinued. In September 2000, the National People's Congress (NPC) carried out an independent study of the use of torture in Tianjin, Inner Mongolia, Heilongjiang, Zhejiang, Hebei, and Shaanxi. The group discovered 221 cases of confessions coerced by torture and 21 criminal suspects who died as a result of the torture.

During the year, there were many reports of persons, especially FLG adherents, sentenced to psychiatric hospitals for expressing their political or religious beliefs (see Section 1.d.).

Conditions in penal institutions for both political prisoners and common criminals generally were harsh and frequently degrading. Prisoners and detainees often were kept in overcrowded conditions with poor sanitation, and their food often was inadequate and of poor quality. Many detainees relied on supplemental food and medicines provided by relatives, but some prominent dissidents reportedly were not allowed to receive supplemental food or medicine from relatives. According to released political prisoners, in many provinces it was standard practice for political prisoners to be segregated from each other and placed with common criminals. Released prisoners reported that common criminals have beaten political prisoners at the instigation of guards. However, some prominent political prisoners received better than standard treatment.

The 1994 Prison Law was designed, in part, to improve treatment of detainees and increase respect for their legal rights. Some prisoners were able to use administrative procedures provided for in this law to complain about prison conditions. The Government has created some "model" facilities, where inmates generally received better treatment than those held in other facilities.

Adequate, timely medical care for prisoners continued to be a serious problem, despite official assurances that prisoners have the right to prompt medical treatment if they become ill. Nutritional and health conditions were often grim. Political prisoners who continued to have difficulties in obtaining medical treatment, despite repeated appeals on their behalf by their families and the international community, included China Democracy Party co-founders Qin Yongmin and Wang Youcai, labor activist Hu Shigen, Liberal Democratic Party activist Kang Yuchun, labor activist Liu Jingsheng, and Uighur businesswoman Rebiya Kadeer. Zhang Shanguang, who was serving a 10-year sentence for disclosing news of labor demonstrations to Radio Free Asia, suffered from tuberculosis. Prison officials in Xinjiang have not allowed family members of businesswoman and prominent Uighur activist Rebiya Kadeer to bring her medicine for heart disease since her arrest in August 1999. Chinese authorities claimed Kadeer was in good health and received special medical treatment, but others claimed that she continued to be in poor health. There also were allegations that she had been abused physically. Officials reportedly denied repeated requests for her to be hospitalized. In July Hunan officials rearrested political activist Li Wangyang, who had demanded that the Government pay his medical bills to treat ailments he contracted while serving an earlier 13-year prison sentence. How-

ever, in December the Government released China Democracy Party co-founder Xu Wenli, who suffered from Hepatitis B.

Conditions in administrative detention facilities, such as reeducation-through-labor camps and “custody and repatriation” centers, were similar to those in prisons.

Forced labor in prisons and reeducation-through-labor camps was common. At the Xinhua Reeducation-Through-Labor Camp in Sichuan Province, inmates were forced to work up to 16 hours per day breaking rocks or making bricks, according to credible reports. Former inmates reported that there were several deaths from overwork, poor medical care, and beatings by guards in 2000.

The Government did not permit independent monitoring of prisons or reeducation-through-labor camps, and prisoners remained inaccessible to international human rights organizations. By year’s end, Chinese officials had not announced any progress in talks with the International Committee of the Red Cross (ICRC) on an agreement for ICRC access to prisons. However, limited cooperation was renewed on the U.S.-China Prison Labor Memorandum of Understanding, and U.S. officials inspected one prison where prison labor had allegedly occurred (*see* Section 6.c).

*d. Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention remained serious problems. The law permits authorities, in some circumstances, to detain persons without arresting or charging them, and persons may be sentenced administratively to up to 3 years in reeducation-through-labor camps and other similar facilities without a trial. Because the Government tightly controlled information, it was impossible to determine accurately the total number of persons subjected to new or continued arbitrary arrest or detention. Official government statistics indicated that there were 230,000 persons in reeducation-through-labor camps. According to a 2001 article by the official news agency, 300 reeducation-through-labor facilities have held more than 3.5 million prisoners since 1957. In addition, it was estimated that before 1996 as many as 1.7 million persons per year were detained in a form of administrative detention known as custody and repatriation; the number of persons subject to this form of detention reportedly has grown since 1996 to approximately 2 million per year. The Government also confined some Falun Gong adherents and labor activists to psychiatric hospitals. Although the crime of being a “counterrevolutionary” was removed from the criminal code in 1997, western NGOs estimated that as many as 1,300 persons remained in prison for the crime. Another 600 were serving sentences under the State Security Law, which covers the same crimes as the repealed law on “counterrevolution.”

In some cases, police could unilaterally detain a person for up to 37 days before releasing him or formally placing him under arrest. Once a suspect is arrested, the Criminal Procedure Law allows police and prosecutors to detain him for months before trial while a case is being “further investigated.” The Criminal Procedure Law stipulates that authorities must notify a detainee’s family or work unit of his detention within 24 hours. However, in practice failure to provide timely notification remained a serious problem, especially in sensitive political cases. Under a sweeping exception, officials were not required to provide notification if doing so would “hinder the investigation” of a case. Police continued to hold individuals without granting access to family members or lawyers, and trials continued to be conducted in secret.

The Criminal Procedure Law does not address the reeducation-through-labor system, which allows nonjudicial panels of police and local authorities, called Labor Reeducation Committees, to sentence persons to up to 3 years in prison-like facilities. The committees could also extend an inmate’s sentence for an additional year. Defendants were legally entitled to challenge reeducation-through-labor sentences under the Administrative Litigation Law. They could appeal for a reduction in, or suspension of, their sentences; however, appeals rarely were successful.

The Criminal Procedure Law also does not address the custody and repatriation system, which allows authorities to detain persons administratively without trial to “protect urban social order.” Until they were returned to their home provinces, those detained were held in custody and repatriation centers, and could be required to pay for the cost of their detention and repatriation by working while in detention. Persons who could be detained under this provision included the homeless, the unemployed, petty criminals, Falun Gong practitioners, persons without permission to live or work in urban areas, and, in some provinces, additional categories of persons such as the mentally ill and persons with mental disabilities. According to one report, as many as 20 percent of those detained were children. If the location to which they were to be repatriated could not be determined, or if they could not be repatriated for financial reasons, persons could be sent to “resettlement farms.” Those unable to work could be sent to “welfare centers.” Many other persons were detained in similar forms of administrative detention, known as “custody and education” (for prostitutes and their clients) and “custody and training” (for minors who committed



crimes). Persons could be detained for long periods under these provisions, particularly if they could not afford to pay fines or fees.

According to researchers, the country had 20 “ankang” institutions, high-security psychiatric hospitals for the criminally insane, directly administered by the Ministry of Public Security (MPS). Dissidents and other targeted individuals were housed with mentally ill patients in these institutions. The regulations for committing a person into an ankang psychiatric facility were not clear. Credible reports indicated that a number of political and trade union dissidents, “underground” religious believers, persons who petitioned the Government for redress of grievances, and hundreds of Falun Gong adherents were incarcerated in such facilities during the year. For example, political activist Wang Wanxing, originally held for trying to unfurl a banner on Tiananmen Square to commemorate the third anniversary of the June 4, 1989 massacre, was confined in a Beijing ankang facility. Huang Jinchun, a judge in Beihai, fired from his job and admitted to a psychiatric hospital in November 1999 for refusing to renounce his belief in Falun Gong, also remained in an ankang facility at year’s end. He reportedly displayed no signs of mental illness but was given daily injections of narcotics. According to NGO reports, more than 30 persons were committed during the year to the Harbin Psychiatric Hospital against their will after petitioning authorities for redress of various personal grievances. In August The Royal College of Psychiatrists sponsored a motion to expel China from the World Psychiatric Association (WPA) for using psychiatric facilities to incarcerate political prisoners; a decision was pending at year’s end.

The campaign that began in 1998 against the China Democracy Party (CDP), an opposition party, continued during the year. Scores of CDP leaders, activists, and members were arrested, detained, or confined as a result of this campaign. Since December 1998, at least 38 core leaders of the CDP have been given severe punishments on subversion charges. For example, Hu Mingjun and Wang Sen, CDP leaders in Sichuan, were sentenced in May to 10- and 11-year sentences, respectively (see Section 3). In what some experts described as an attempt by authorities to tarnish the public image of the democracy movement, officials accused a number of democracy activists of soliciting prostitutes, distributing pornographic videos, or committing petty theft or other crimes unrelated to their political activities. For instance, in September Shanghai CDP activist Yao Zhenxiang was sentenced to 3 years of reeducation-through-labor for soliciting prostitutes.

Immediately before and after the 16th Party Congress in November, authorities rounded up a number of activists who had signed an open letter calling for political reform and a reappraisal of the official verdict on the 1989 Tiananmen massacre. At year’s end, a number of these persons, including He Depu, Sang Jianchen, Zhao Changqing, Ouyang Yi, Dai Xuezhong and Jiang Lijun, remained in detention.

The authorities also used laws on subversion, endangering state security, and common crimes to arrest and imprison political dissidents, activists, and others. Li Wangyang, released from prison in June 2000 and rearrested on subversion charges in May 2001, was sentenced to 10 years in prison in September 2001 for “incitement to subvert state power.” Li had served 11 years in prison for his role in presiding over the Shaoyang Workers Autonomous Federation, a Tiananmen-era free trade union.

Police sometimes detained relatives of dissidents (see Section 2.a.).

Persons critical of official corruption or malfeasance also frequently were threatened, detained, or imprisoned. On January 25, Jiang Weiping, who had written a series of articles exposing official corruption, was sentenced to 8 years in prison for “subverting state power” (see Section 2.a.).

The police continued to target minority activists. As part of the nationwide strike hard campaign, many seeking to express legitimate political grievances or views were labeled splittists or separatists. For example, Xinjiang official Abulahat Abkurixit told the newspaper *Xinjiang Legal* in April 2001 that authorities would use the campaign to strike at Muslim separatists and illegal religious activities. After a January incident in which a jobless worker read a poem at the end of a concert in the Xinjiang People’s Hall in Urumqi that allegedly obliquely advocated a separate Uighur state, Abkurixit further announced that artists, writers, performers, historians, and others who advocated separatism through art would be strike hard targets. As part of the campaign, local courts in Xinjiang meted out death sentences or long prison terms to those persons accused of separatist activity. In November 2001, Abdehelil Zunun, who had translated the Universal Declaration of Human Rights into Uighur, was sentenced to 20 years in prison. In early 2000, a court sentenced Uighur businesswoman Rebiya Kadeer to 8 years in prison for passing “state intelligence” information to foreigners. The state intelligence she was accused of attempting to pass consisted of newspaper articles published in the official press and a list of individuals whose cases had been handled by judicial organs.

The strike hard campaign was characterized by large-scale sentencing rallies and parades of condemned prisoners through the streets of major cities, followed by public executions. More than 4,000 persons reportedly were executed as part of the strike hard campaign during the year. According to local newspapers, on June 29, in Toksu County, Xinjiang, 5,000 persons attended a public sentencing rally in which 13 suspects were arrested on the spot, 6 common criminals were sentenced to 2 to 7 year terms, and 5 political offenders were sentenced to 3 to 5 year terms. The rally concluded when three brothers, Turdi, Muhammad, and Imin Hashim, were sentenced to death for killing two persons and executed the next day. In November harsh sentences were given to 28 Uighurs accused of separatist and terrorist activities at a combined Aksu and Uchturpan county mass rally. In April 2001, local newspapers in Sichuan Province reported that more than 3,000 criminals were sentenced publicly in 123 rallies held across the province. Of those more than 900 were "severely punished," a category that includes the death sentence and lengthy prison terms.

Journalists also were detained or threatened during the year, often for reporting on subjects that met with the Government's or the local authorities' disapproval (see Section 2.a.).

Local authorities used the Government's campaign against cults to detain and arrest large numbers of religious practitioners and members of spiritual groups (see Section 2.c.).

Throughout the year, the official press published numerous articles to raise public awareness of recent laws meant to enhance the protection of citizens' rights, including the Criminal Procedure Law, the State Compensation Law, the Administrative Procedure Law, and others. A number of citizens used the State Compensation Law, which provides a legal basis for citizens to recover damages for illegal detentions, to sue the Government for damages. According to a March 12 China Youth Daily article, in 2001 courts nationwide handled 6,753 such cases, and compensation was granted in 777 cases. Legal experts acknowledged that the introduction of the new law was a positive step but called on the Government to increase the amount of compensation provided to victims.

The law neither provides for a citizen's right to repatriate nor otherwise addresses exile. The Government continued to refuse reentry to numerous citizens who were dissidents and activists. For example, Chinese consular officers repeatedly refused U.S.-based dissident Yang Jianli's requests for a renewal of his passport.

The Government's refusal to permit some former reeducation-through-labor camp inmates to return to their homes constituted a form of internal exile.

*e. Denial of Fair Public Trial.*—The Constitution states that the courts shall, in accordance with the law, exercise judicial power independently, without interference from administrative organs, social organizations, and individuals. However, in practice the judiciary received policy guidance from both the Government and the Party, whose leaders used a variety of means to direct courts on verdicts and sentences, particularly in politically sensitive cases. At both the central and local levels, the Government and the CCP frequently interfered in the judicial system and dictated court decisions. Corruption and conflicts of interest also affected judicial decision-making. Judges were appointed by the people's congresses at the corresponding level of the judicial structure, which sometimes resulted in local politicians exerting undue influence over the judges they appointed.

The Supreme People's Court (SPC) is the highest body of the criminal and civil court system, followed in descending order by the higher, intermediate, and basic people's courts. There were special courts for handling military, maritime, and railway transport cases.

Corruption and inefficiency in the judicial system were serious problems. Safeguards against corruption were vague and poorly enforced. According to Zhu Mingshan, Vice President of the SPC, in 2001 114 presidents of local courts had to make self-criticisms for "errors" ranging from nepotism to a lack of due diligence in supervising corrupt subordinates. In 2001 the SPC punished 1,292 judges for violating party or administrative regulations, while 46 were prosecuted for violating the law.

In recent years, the Government has taken steps to correct systemic weaknesses in the judicial system and to make the system more transparent and accountable to public scrutiny. In 1999 the Supreme People's Court issued regulations requiring all trials to be open to the public, except for those involving state secrets, personal privacy, or minors; divorce cases in which both parties request a closed trial; and cases involving commercial secrets. In practice, many trials were not open. Several courts reportedly did open their proceedings to the public as required by law. The legal exception for cases involving state secrets, privacy, and minors was used to keep politically sensitive proceedings closed to the public and closed even to family

members in some cases. Under the new regulations, “foreigners with valid identification” are to be allowed the same access to trials as citizens. As in past years, foreign diplomats and journalists sought permission to attend a number of trials only to have court officials reclassify them as “state secrets” cases, thus rendering them closed to the public. Since 1998 trials have been broadcast, and court proceedings have become a regular television feature. In 2000 courts in Shanghai became the first to publish verdicts on the Internet.

Lawsuits against the Government continued to increase as a growing number of persons used the court system to seek legal recourse against government malfeasance. In 1998, the last year for which statistics were available, Chinese citizens brought almost 98,000 cases against the Government, a 10-fold increase from 1989. The Beijing Higher People’s Court reported that when Beijing citizens sued the Government, citizen plaintiffs won in 23 percent of cases (832 of 3,632) between 1990 and 1999. In addition, a large percentage of such cases were settled out of court. The term “administrative omission” refers to cases in which government organizations do not respond or delay response to applications lodged by citizens. According to SPC statistics, the number of administrative omission lawsuits filed by individuals against government organizations rose 7.6 times between 1990 and 1998. In July the SPC established guidelines, which went into effect on October 1, setting out the rights of litigants to access government files to facilitate lawsuits against government bodies.

Although some plaintiffs have successfully filed suit against the Government, decisions of any kind in favor of dissidents remained rare. In particular, appeals of prison sentences by dissidents rarely were granted.

Court officials continued efforts to enable the poor to afford litigation by exempting, reducing, or postponing court fees. In 2001 the courts reduced, exempted or postponed more than \$100 million (RMB 839 million) in litigation costs for more than 300,000 litigants.

According to the SPC’s annual report to the NPC, in 2001 the country’s courts handled 5,927,660 cases, 730,000 of which were criminal cases, a 33 percent increase over the previous year, as well as more than 100,000 appeals of administrative decisions. According to the report, more than 340,000 criminal cases were adjudicated in 2001, and more than 150,000 criminal defendants were sentenced to jail terms of 5 years or more, life imprisonment, or death, a 15 percent increase over 2000 that may be due to the ongoing strike hard campaign.

Police and prosecutorial officials often ignored the due process provisions of the law and of the Constitution. For example, police and prosecutors subjected many prisoners to severe psychological pressure to confess, and coerced confessions frequently were introduced as evidence. The Criminal Procedure Law forbids the use of torture to obtain confessions but does not expressly bar the introduction of coerced confessions as evidence. Defendants who failed to show the correct attitude by confessing their crimes received harsher sentences. During the year, the conviction rate in criminal cases remained at approximately 90 percent, and trials generally were little more than sentencing hearings. In practice criminal defendants only were assigned an attorney once a case was brought to court; some observers noted that at this point, it was too late for an attorney to assist a client in a meaningful way, since the verdict often had already been decided. The best that a defense attorney generally could do for a client was to get a sentence mitigated. In many politically sensitive trials that rarely lasted more than several hours, the courts handed down guilty verdicts immediately following proceedings. There was an appeals process, but in practice appeals rarely resulted in reversed verdicts.

The lack of due process was particularly egregious in death penalty cases. There were 65 capital offenses, including financial crimes such as counterfeiting currency, embezzlement, and corruption, as well as some other property crimes. A higher court nominally reviewed all death sentences, but the time between arrest and execution was often days and sometimes less, and reviews consistently resulted in the confirmation of sentences. Minors and pregnant women were expressly exempt from the death sentence. The strike hard campaign begun in April 2001 was characterized by mass arrests, lack of due process, and summary public executions of several thousand persons (*see* Section 1.d.). In December an appeals court upheld death sentences against Tibetans Tenzin Delek Rinpoche and Lobsang Dhondup, who were arrested and sentenced earlier in the year for alleged involvement in a series of bombings in Sichuan. The two men’s trials were closed to the public on “state secrets” grounds. Many observers expressed serious concerns about the lack of due process.

The revised Criminal Procedure Law, which took effect in 1997, gives most suspects the right to seek legal counsel shortly after their initial detention and interrogation. However, police often used loopholes in the law to circumvent a defendant’s

right to seek counsel, and political activists in particular rarely succeeded in obtaining competent legal representation of their own choosing. In some cases, defendants and lawyers in politically sensitive cases were not allowed to speak during trials. Even in nonsensitive trials, criminal defense lawyers frequently had little access to their clients or to evidence to be presented during the trial.

The Criminal Procedure Law also falls short of international standards in many other respects. For example, it has insufficient safeguards against the use of evidence gathered through illegal means, such as torture. Its appeals process failed to provide sufficient avenue for review, and there were inadequate remedies for violations of defendants' rights. In some cases, police could detain unilaterally a person for up to 37 days before releasing him or formally placing him under arrest. Once a suspect was arrested, the law allowed police and prosecutors to detain him for months before trial while a case was "further investigated." Detained criminal suspects, defendants, their legal representatives, and close relatives were entitled to apply for a guarantor to enable the suspect or defendant to await trial out of custody; however, in practice few suspects were released on bail pending trial. Also, in state secrets cases, the Criminal Procedure Law authorizes officials to deny suspects access to a lawyer while their cases are being investigated. The definition of state secrets is broad, vague, and subject to independent interpretation by police, prosecutors, and judges, throughout the various stages in a criminal case.

Furthermore, under the law, there is no right to remain silent, no right against double jeopardy, and no law governing the type of evidence that may be introduced. The mechanism that allows defendants to confront their accusers was inadequate; according to one expert, only 1 to 5 percent of trials involved witnesses. Accordingly, most criminal "trials" consisted of the procurator reading statements of witnesses whom neither the defendant nor his lawyer ever had an opportunity to question. Defense attorneys have no authority to compel witnesses to testify.

Anecdotal evidence indicated that implementation of the Criminal Procedure Law remained uneven and far from complete, especially in politically sensitive cases. Differing interpretations of the law taken by different judicial and police departments and various implementing regulations contributed to contradictory as well as incomplete implementation. The SPC, the Supreme People's Procuratorate, the Ministry of Public Security, the Ministry of State Security, the Ministry of Justice, and the Legal Work Committee of the NPC issued supplementary implementing regulations to address some of these weaknesses.

Defendants in sensitive political cases frequently found it difficult to find an attorney. Defendants in only one of every seven criminal cases had legal representation, according to credible reports citing internal government statistics. government-employed lawyers still depended on official work units for employment, housing, and other benefits, and therefore many were reluctant to represent politically sensitive defendants. The percentage of lawyers in the criminal bar reportedly declined from 3 percent in 1997 to 1 percent in 2001. However, there were no new reports of the Government revoking the licenses of lawyers representing political defendants, as it sometimes had done in the past.

Lawyers who tried to defend their clients aggressively continued to face serious intimidation and abuse by police and prosecutors. For example, according to Article 306 of the Criminal Law, defense attorneys could be held responsible if their clients commit perjury, and prosecutors and judges in such cases have wide discretion in determining what constitutes perjury. On May 3, Zhang Jianzhong, head of the lawyers' rights committee of the Beijing Lawyers' Association, was detained on such charges and denied the right to counsel. Chinese legal scholars almost uniformly criticized Zhang's detention and claimed he was singled out for being too effective at representing criminal defendants. According to sources at the All-China Lawyers Association, since 1997 more than 400 defense attorneys have been detained on similar perjury charges. Ma Wenlin, a legal advisor in Zizhou County, Shaanxi, continued to serve a 5-year sentence for "disturbing the social order" for having represented peasants in a legal action to reduce taxes. During the year, state secrets arrests and prosecutions were used by officials to suppress political dissent and social advocacy and to intimidate criminal defense lawyers. Lawyers' professional associations called for better protection of lawyers and their legitimate role in the legal process.

In recent years, the Ministry of Justice (MOJ) has drafted regulations to standardize professional performance, lawyer-client relations, and the administration of lawyers and law firms. The regulations set educational requirements for legal practitioners, encourage free legal services for the general public, grant lawyers formal permission to establish law firms, and provide for the disciplining of lawyers. A growing number of lawyers organized private law firms that were self-regulating and did not have their personnel or budgets determined directly by the State. More

than 60 legal aid organizations, many of which handled both criminal and civil cases, have been established around the country, and the MOJ established a nationwide legal services hot line. Government officials also stated that there were insufficient numbers of lawyers to meet the country's growing needs.

The Supreme People's Court, Procuratorate, and the MOJ jointly released a notice in December 2001 stipulating that only those persons who passed an exam and obtained a "Certificate of Legal Profession" could apply for a lawyer's license or serve as a judge or a prosecutor. The regulation entered into force on January 1 but was not widely enforced in practice. In March the first exam was administered. New regulations passed during the year require new judges to pass both a national and a provincial examination and receive specialized training before they could be appointed. Recent regulations also require judicial or prosecutorial appointees to be law school graduates who have practiced law for at least 2 years or postgraduates who have practiced law for at least 1 year. In July SPC President Xiao Yang announced that the Government would trim the number of judges over the next few years to raise professional standards. Coupled with other reforms, the SPC set up a new rank-in-person system with 1 Chief Grand Justice, 41 Grand Justices, 30,000 senior judges, and 180,000 normal judges across the country. However, there were still a great number of sitting judges and procurators, often in positions of authority, who were appointed to their positions before these reforms were enacted and who had little or no legal training.

During the year, some lawyers, law professors, and jurists continued publicly to press for faster and more systemic legal reform. Major newspapers and legal journals called for the introduction of a more transparent system of discovery, the abolition of coerced confessions, a legal presumption of innocence, an independent judiciary, improved administrative laws, and adoption of a plea bargaining system. During the year, Western scholars and journalists also criticized shortcomings of the justice system, such as the use of psychiatric facilities to house political or religious dissidents, absence of legal provisions specifically guaranteeing a suspect's right to remain silent, coerced confessions, torture, and the presumption of guilt.

Government officials denied holding any political prisoners, asserting that authorities detained persons not for their political or religious views but because they violated the law; however, the authorities continued to confine citizens for reasons related to politics and religion. Thousands of political prisoners remained incarcerated, some in prisons and others in labor camps.

The 1997 Criminal Law replaced "counterrevolutionary" offenses, which, in the past, often had been used against political activists, with loosely defined provisions barring "crimes endangering state security." Persons detained for counterrevolutionary offenses included labor activist Hu Shigen, Liberal Democratic Party member Kang Yuchun, and June 4, 1989, dissidents Yu Zhijian, Zhang Jingsheng, and Sun Xiongying. Several foreign governments urged the Government to review the cases of those charged before 1997 with counterrevolution, since the crime was no longer on the books, and to release those who had been jailed for non-violent offenses under the old statute. Officials indicated that a case-by-case review of appeals filed by individual prisoners was possible under the law, and there was one known case of a successful appeal. However, the Government also indicated that it would neither initiate a comprehensive review of cases nor grant a general amnesty, arguing that there was no law on retroactive decriminalization and that the law against endangering state security covered the same crime. Approximately 1,300 persons remained in prison for the crime.

Amnesty International has identified 211 persons who remained imprisoned or on medical parole for their participation in the 1989 Tiananmen demonstrations; other NGOs estimated that as many as 2,000 persons remained in prison for their actions at that time.

The Government released several political prisoners early, including Tibetans Ngawang Choephel, Jigme Sangpo, Ngawang Sangdrol, Tenzin Thubten, Ngawang Choekyi, Ngawang Choezom and Gyaltsen Drolkar, and China Democracy Party co-founder Xu Wenli. However, many others, including China Democracy Party co-founders Wang Youcai and Qin Yongmin, Internet activists Yang Zili and Huang Qi, Uighur businesswoman Rebiya Kadeer, journalist Jiang Weiping, labor activist Liu Jingsheng, political activist Han Chunsheng, Catholic Bishop Su Zhimin, house church leader Xu Guoxing, Tibetan nun Phuntsog Nyidrol, Uighur historian Tohti Tunyaz, and political dissident Yang Jianli remained imprisoned or under other forms of detention during the year. Political prisoners generally benefited from parole and sentence reduction at significantly lower rates than ordinary prisoners.

Criminal punishments could include "deprivation of political rights" for a fixed period after release from prison, during which the individual is denied the rights of free speech and association granted to other citizens. Former prisoners also some-

times found their status in society, ability to find employment, freedom to travel, and access to residence permits and social services severely restricted. Economic reforms and social changes have ameliorated these problems for nonpolitical prisoners in recent years. However, former political prisoners and their families frequently still were subjected to police surveillance, telephone wiretaps, searches, and other forms of harassment, and some encountered difficulty in obtaining or keeping employment and housing.

Officials confirmed that executed prisoners were among the sources of organs for transplant but maintained that consent was required from prisoners or their relatives in advance of the procedure. There was no national law governing organ donations, but a Ministry of Health directive explicitly states that buying and selling human organs and tissues is not allowed. There were no reliable statistics on how many organ transplants occurred each year using organs from executed prisoners, but according to press reports, hundreds of persons from other countries who were unable to obtain transplants at home travel to the country each year for organ transplants. Recipients reported paying for the transplants, and some reported that treatment could be terminated or delayed for a lack of funds or a delay in payment.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution states that the “freedom and privacy of correspondence of citizens are protected by law”; however, the authorities often did not respect the privacy of citizens in practice. Although the law requires warrants before law enforcement officials can search premises, this provision frequently was ignored; moreover, the Public Security Bureau and the Procuratorate could issue search warrants on their own authority. During the year, authorities monitored telephone conversations, facsimile transmissions, e-mail, and Internet communications. Authorities also opened and censored domestic and international mail. The security services routinely monitored and entered residences and offices to gain access to computers, telephones, and fax machines. Government security organs monitored and sometimes restricted contact between foreigners and citizens. All major hotels had a sizable internal security presence, and hotel rooms were sometimes searched for sensitive materials.

In urban areas, many persons depended on government-linked work units for housing, healthcare, approval to apply for a passport, and other aspects of ordinary life. However, the work unit and the neighborhood committee, which originally were charged with monitoring activities and attitudes, have become less important as means of social and political control, and government interference in daily personal and family life continued to decline for most citizens. In many areas, citizens still were required to apply for government permission before having a child, and the Government continued to restrict the number of births.

Some dissidents were under heavy surveillance and routinely had their telephone calls monitored. The authorities blocked some dissidents from meeting with foreigners during politically sensitive periods. Police in Beijing ordered several dissidents not to meet with Western journalists or foreign diplomats during the visits of high-level foreign officials. The authorities also confiscated money sent from abroad that was intended to help dissidents and their families.

Major political events and visits by high-ranking foreign officials routinely sparked round-ups of dissidents. For example, immediately before and after the 16th Party Congress in November, authorities detained a number of activists who had signed an open letter calling for political reform and a reappraisal of the official verdict on the 1989 Tiananmen massacre (*see* Section 1.d.).

Authorities also harassed relatives of dissidents and monitored their activities. Security personnel kept close watch on relatives of prominent dissidents, especially during sensitive periods. For example, security personnel followed the wife of Xu Wenli to meetings with Western reporters and diplomats on numerous occasions. Dissidents and their family members routinely were warned not to speak with the foreign press. Police sometimes detained the relatives of dissidents (*see* Section 2.a.).

Official poverty alleviation programs and major state projects, such as environmental and reforestation programs, have included forced relocation of persons to new residences. The Government estimated that by the completion of the Three Gorges Dam, at least 1.2 million people will have been relocated for this project alone.

The Government codified its comprehensive birth planning policies, which include coercive elements intended to limit births. The State Family Planning Commission (SFPC), with a staff of 400,000, enforces the law and formulates and implements policies with assistance from the Birth Planning Association, which had 83 million members working part-time at 1 million branches nationwide.

The new Population and Family Planning Law, the country’s first formal law on this subject, entered into force on September 1. The law is intended to standardize the implementation of the Government’s birth limitation policies. The law grants

married couples the right to have a single child and allows eligible couples to apply for permission to have a second child if they meet conditions stipulated in local and provincial regulations. Many existing provincial regulations require women to wait 4 years or more after their first birth before making such an application. The law requires counties to use quotas or other measures to limit the total number of births in each county. The law further requires couples to employ birth control measures and, according to a 2001 SFPC survey, over half of the couples subject to this requirement did not choose their birth control method themselves. The law requires couples who have an unapproved child to pay a "social compensation fee" and grants preferential treatment to couples who abide by the birth limits. Although the law states that officials should not violate citizens' rights, neither those rights nor the penalties for violating them are defined. In contrast, the law provides significant and detailed sanctions for officials who help people evade the birth limitations.

The law delegates to the provinces the responsibility of drafting implementing regulations, including establishing a scale for assessment of social compensation fees, but State Council Decree 357 provides general principles to guide local authorities. This decree also requires birth planning officials to obtain court approval for taking "forcible" action, such as confiscation of property, against families that refuse to pay social compensation fees.

A strict one-child limit applied in the cities, except for couples meeting certain conditions (e.g., both parents are only children). In most rural areas (including towns of under 200,000 people), where almost two-thirds of citizens lived, the policy was often relaxed to a "1+1" limit, generally allowing only one child, but permitting a second if the first was a girl. Families whose first child is disabled also were allowed to have another child. In some other, generally poorer, rural areas, couples were permitted to have two children. Ethnic minorities, such as Muslim Uighurs and Tibetans, were subject to less stringent population controls; however, authorities increasingly pressured minorities to limit births to the same number as Han Chinese. In remote areas, limits generally were not enforced, except on government employees and party members.

Local officials, caught between pressures from superiors to show declining birth rates, and from local citizens to allow them to have more than one child, frequently made false reports. The SFPC estimated fertility at 1.8 births per woman, a figure roughly confirmed by the 2000 census, and claimed that the yearly growth rate of the population has dropped to less than 1 percent per year. However, many Chinese and international demographers estimated the fertility rate to be up to 2.0–2.3 births per woman.

Authorities continued to reduce the use of targets and quotas, although approximately 2,000 of the country's 2,800 counties continued to use such measures. Authorities using the target and quota system required each eligible married couple to obtain government permission before the woman becomes pregnant. Only a limited number of such permits were made available each year, so couples who did not receive a permit were required to wait at least a year before obtaining permission. Counties that did not employ targets and quotas allowed married women of legal child-bearing age to have a first child without prior permission.

The country's population control policy relied on education, propaganda, and economic incentives, as well as on more coercive measures such as the threat of job loss or demotion and social compensation fees. Psychological and economic pressure were very common; during unauthorized pregnancies, women sometimes were visited by birth planning workers who reminded the parents of their potential liability to pay the social compensation fees. The fees were assessed at widely varying levels and were generally extremely high, sometimes equaling several years' wages for an average worker. Additional disciplinary measures against those who violated the limited child policy by having an unapproved child or helping another to do so included the withholding of social services, higher tuition costs when the child goes to school, job loss or demotion, loss of promotion opportunity for 1 or more years, expulsion from the Party (membership in which was an unofficial requirement for certain jobs), and other administrative punishments, including in some cases the destruction of property. Government employees were particularly vulnerable to loss of employment when they had a child without permission. In many provinces, penalties for excess births in an area also can be levied against local officials and the mother's work unit, creating multiple sources of pressure. These Draconian penalties sometimes left expecting mothers with little choice but to undergo abortion or sterilization.

According to previously published local regulations in at least one province, women who do not qualify for a Family Planning Certificate that allows them to have a child must use an intrauterine device (IUD) or implant. The regulations further require that women who use an IUD undergo quarterly exams to ensure that

it remains properly in place. Rewards for couples who adhere to birth limitation laws and policies include monthly stipends and preferential medical and educational benefits. In some counties, women of childbearing age were required periodically to undergo pregnancy tests. In the cases of families that already have two children, one of the parents is “encouraged” to undergo sterilization. According to a credible report, the number of couples undergoing sterilization procedures after giving birth to two children increased significantly in at least one province. In another province, rules state that “unplanned pregnancies must be aborted immediately.”

At the same time, the Government maintained that due to economic development and other factors such as small houses, both parents working full-time, and high education expenses, couples in major urban centers often voluntarily limited their families to one child. There were indications in recent years that, due to the effectiveness of the one-child policy in urban areas, the Government was beginning to relax its policies in the cities.

The new Population and Family Planning Law delegates to the provinces the responsibility of implementing appropriate regulations to enforce the law. By year’s end, several had amended their regulations. Anhui Province, for example, passed a law permitting 13 narrow categories of couples, including coal miners, some remarried divorcees, and some farm couples, to have a second child. The law does not require such amendments, however, unless existing regulations conflict with it. Existing regulations requiring sterilization in certain cases, or mandatory abortion, are not contradicted by the new law, which says simply that compliance with the birth limits should “mainly” be achieved through the use of contraception.

Central government policy formally prohibits the use of physical coercion to compel persons to submit to abortion or sterilization. However, intense pressure to meet birth limitation targets set by government regulations has resulted in instances in which local birth planning officials reportedly have used physical coercion to meet government goals. Because it is illegal, the use of physical coercion was difficult to document, even for government authorities. Still, it was believed that some isolated incidences may persist, even as the frequency of such cases was believed to be declining. One documented case in 2000 resulted in the arrest and punishment of the involved officials.

Senior officials stated repeatedly that the Government “made it a principle to ban coercion at any level,” and the SFPC has issued circulars nationwide prohibiting birth planning officials from coercing women to undergo abortions or sterilization against their will. However, the Government does not consider social compensation fees and other administrative punishments to be coercive. Under the State Compensation Law, citizens also may sue officials who exceed their authority in implementing birth planning policy, and in a few instances, individuals have exercised this right.

Corruption related to social compensation fees was a widespread problem. In response, State Council Decree 357 established during the year that collected “social compensation fees” must be submitted directly to the National Treasury, rather than retained by local birth planning authorities. During the year, SFPC officials reported that they responded to more than 10,000 complaints against local officials.

From 1998 through 2002, the U.N. Population Fund (UNFPA) conducted a 4-year pilot project in 32 counties. Under this program, local birth planning officials emphasized education, improved reproductive health services, and economic development, and they dropped the target and quota systems for limiting births. The SFPC worked closely with the UNFPA to prepare informational materials and to provide training for officials and the general public in the project counties. However, these counties retained the birth limitation policy, including the requirement that couples employ effective birth control methods, and enforced it through other means, such as social compensation fees.

In order to delay childbearing, the Marriage Law sets the minimum age at marriage for women at 20 years, and for men at 22 years. Although it continued to be illegal in almost all provinces for a single woman to bear a child, during the year Jilin Province passed a law making it legal, within the limits of the birth limitation law, for an unmarried woman who “intends to remain single for life” to have a child.

Laws and regulations forbid the termination of pregnancies based on the sex of the fetus, but because of the intersection of birth limitations with the traditional preference for male children, particularly in rural areas, many families used ultrasound technology to identify female fetuses and terminate pregnancies (see Section 5). The use of ultrasound for this purpose is prohibited specifically by the Population Law and by the Maternal and Child Health Care Law, both of which mandate punishment of medical practitioners who violate the provision. According to the SFPC, a few doctors have been charged under these laws. However, enforcement of this provision has been rare. The most recent official figures, from November 2000,



put the overall male to female birth ratio at 116.9 to 100 (as compared to the statistical norm of 106 to 100). For second births, the national ratio was 151.9 to 100. The skewed ratio was also thought in part to reflect underregistration of female children whose parents wished to avoid paying social compensation fees. Because the Maternal and Child Health Law mandates that medical facilities provide basic child health services, including immunization, to all children regardless of registration status, parents could delay registration of female children until it was necessary for enrollment in education programs. Such underregistration was common among rural parents, but parents often later were forced to pay the fee in order to give the children access to schooling and other social benefits.

The Maternal and Child Health Care Law requires premarital and prenatal examinations in part to determine whether couples have acute infectious diseases or certain mental illnesses (not including mental retardation) or are at risk for passing on debilitating genetic diseases. The law recommends abortion or sterilization in some cases. The law states that patients or their guardians must give written consent for such procedures, but lack of informed consent was a general problem in the practice of medicine in the country. There have been numerous cases in which informed consent cards have been forged or were not obtained in the administration of medical tests and medical trials. However, specific information was not available regarding the obtaining of informed consent for sterilization procedures. In practice, however, most regions of the country still did not have the medical capacity to determine accurately the likelihood of passing on debilitating genetic diseases.

As of 2001, the China Psychiatric Association no longer listed homosexuality as a mental illness. Many Chinese gays and lesbians saw the move as a sign of increased tolerance. Nonetheless, most gatherings of gays and lesbians still took place clandestinely.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution states that freedom of speech and freedom of the press are fundamental rights to be enjoyed by all citizens; however, the Government tightly restricted these rights in practice. The Government interpreted the Party's "leading role," as mandated in the preamble to the Constitution, as circumscribing these rights. The Government strictly regulated the establishment and management of publications. The Government did not permit citizens to publish or broadcast criticisms of senior leaders or opinions that directly challenge Communist Party rule. The Party and government continued to control many and, on occasion, all print and broadcast media tightly and used them to propagate the current ideological line. All media employees were under explicit, public orders to follow CCP directives and "guide public opinion," as directed by political authorities. Both formal and informal guidelines continued to require journalists to avoid coverage of many politically sensitive topics. The State Security Law forbids journalists from divulging state secrets. These public orders, guidelines, and statutes greatly restricted the freedom of broadcast journalists and newspapers to report the news and led to a high degree of self-censorship. The Government continued an intense propaganda campaign against the Falun Gong.

Some dissidents remained active and continued to speak out, despite the Government's restrictions on freedom of speech. For instance, AIDS activist Wan Yanhai publicly continued to press the Government for more transparency in the fight against HIV/AIDS despite being detained by the authorities for 27 days in August and September. Labor lawyer Zhou Litai continued to draw attention to the plight of Chinese workers, despite harassment by local officials in Shenzhen. Members of the China Democracy Party continued to issue public statements calling for political reform and for President Jiang Zemin to step down. In March 114 relatives of victims of the 1989 Tiananmen Square massacre, led by activist Ding Zilin, sent an open letter to the nearly 3,000 members of the NPC asking that the NPC's chairman, Li Peng, be put on trial for his role in the massacre.

Immediately before and after the 16th Party Congress in November, authorities rounded up a number of activists who had signed an open letter calling for political reform and a reappraisal of the official verdict on the 1989 Tiananmen massacre. At year's end, a number of these persons remained in detention (*see* Section 1.d.).

However, the Government continued to threaten, arrest and imprison persons exercising free speech. In March Li Yanling, wife of imprisoned journalist Jiang Weiping, was detained by Dalian officials for having written a letter to President Jiang Zemin calling for her husband's release from prison. In August the International Confederation of Trade Unions (ICTU) formally filed a complaint with the International Labor Organization (ILO) criticizing the detention of labor activist Di Tianguai. Di has been detained by Taiyuan police since June 1 for trying to set up an organization for retired workers.

Although there were a few privately owned print publications, all articles had to be vetted by the authorities before publication. There were no privately owned television or radio stations, and all programming had to be approved by the Government. Commercial program producers sought to expand the limits of broadcast content.

With the Government's consent and sometimes open support, the press published some stories related to citizens' rights, legal reform, official corruption, and official misconduct and gross abuses, particularly by law enforcement officials. For example, a number of newspapers, including the English-language *China Daily*, were very critical of an official letter issued in August by public security officials in Lanzhou, Gansu Province, claiming that anticorruption stories written by local newspaper reporters damaged the image of the police.

However, newspapers could not report on corruption without government and party approval, and publishers published such material at their own risk. In recent years, journalists and sometimes editors were harassed, detained, threatened, and even imprisoned for reporting on subjects that met with the Government's or local authorities' disapproval, including corruption. During the year, journalists and editors who exposed corruption scandals frequently faced problems with the authorities, and the Government continued to close down publications and punish journalists for printing material deemed too sensitive. On January 25, Jiang Weiping, formerly a reporter for the Hong Kong-based *Wen Wei Bao* newspaper and the official Xinhua news agency, was sentenced to 8 years in prison for "subverting state power." Jiang had written a series of articles exposing official corruption in Dalian, Shenyang, and Daqing. On March 24, Beijing photographer Yang Wei was assaulted by employees of a local company after they discovered he was working on a corruption story about the company. Local police released all suspects in the case. Also in March, the Guangzhou-based newspaper *Southern Weekend* was forced to stop its print run and remove a story critical of financial mismanagement at one of the country's top charities, Project Hope. In June Canadian journalist Jiang Xueqin was deported after covering labor unrest in Daqing. In December 2001, Wang Jinbo was sentenced to 4 years in prison for having e-mailed articles to overseas publications advocating a review of verdicts issued regarding the June 4, 1989, Tiananmen massacre. In March the Committee to Protect Journalists (CPJ) declared China "the world's leading jailer of journalists for the third year in a row," with 35 journalists imprisoned. As of year's end, CPJ reported that the total had risen to 36, including 14 Internet journalists.

Government restrictions on the press and the free flow of information continued to prevent accurate reporting on the spread of HIV/AIDS and the role of blood collection procedures in the spread of the disease in rural areas.

For several years, journalists openly have called for legislation granting press freedom protection. In May 2000, the legal affairs bureau of Anhui Province issued a regulation banning government departments from refusing press interviews.

The Government kept tight control over the foreign press during the year and continued efforts to prevent foreign media "interference" in internal affairs. The June 15 edition of the *Economist* was banned due to an editorial it ran entitled "Set China's Politics Free." *Time Magazine* was temporarily banned after an article appeared on the Falun Gong. In July BBC World Television was blocked for several weeks after it ran a report about the banned Falun Gong spiritual movement.

The publishing industry consists of three kinds of book businesses: Approximately 500 government-sanctioned publishing houses, smaller independent publishers that cooperate with official publishing houses to put out more daring publications, and an underground press. The Government-approved publishing houses were the only organizations legally permitted to print books. The Government exerted control by issuing a limited number of publishing licenses, which were required for each edition of any book. A party member at each publishing house monitored the content of the house's publications and used the allocation of promotions, cars, travel, and other perks to encourage editors to exercise "proper" judgment about publications. Overt intervention by the State Publications Administration and Party Propaganda Bureau occurred strictly post-publication. Some independent publishers took advantage of a loophole in the law to sign contracts with government publishing houses to publish politically sensitive works. These works generally were not subjected to the same multilayered review process as official publications of the publishing houses.

Underground printing houses, which grew in number, have been targets of periodic campaigns to stop all illegal publications (including pornography and pirated computer software and audiovisual products). These campaigns had the effect of restricting the availability of politically sensitive books.

Formal censorship of written material came at the time of publication. Many intellectuals and scholars, anticipating that books or papers on political topics would be deemed too sensitive to be published, exercised self-censorship. In areas such as economic policy or legal reform, there was far greater official tolerance for comment and debate.

In March the Department of Cultural Affairs in Urumqi, Xinjiang, ordered the destruction of thousands of books on Uighur history and culture. Among the 330 titles were "A Brief History of the Huns and Ancient Uighur Literature," "Ancient Uighur Craftsmanship," and other books deemed "problematic." The books detailing and documenting Uighur history originally had been published with the approval of the authorities.

In September the Government launched a 2-month campaign to ban books that threatened the Party. Among the banned books was the best-selling "Villains Holding Sway," an indictment of corrupt officials; "I Have a Mother Like This," a sarcastic look at a matriarch so committed to the Party that she abandons her family; and "The Unequal Treatment of Nationals," focused on the widening wage gap between the country's urban and rural citizens. "A Tale of Migrants of the Big River" was banned because of its open discussion of social unrest among persons relocated by the construction of the Three Gorges Dam.

Customs officials seized shipments of Bibles that were not authorized by the Government (*see* Section 2.c.).

The authorities continued to jam, with varying degrees of success, Chinese- and Tibetan-language broadcasts of the Voice of America (VOA), Radio Free Asia (RFA), and the British Broadcasting Corporation (BBC). English-language broadcasts on VOA generally were not jammed, unless they immediately followed Chinese-language broadcasts, in which case portions of the English-language broadcasts were sometimes jammed. Government jamming of RFA and BBC appeared to be more frequent and effective. In the absence of an independent press, overseas broadcasts such as VOA, BBC, RFA, and Radio France International had a large audience, including activists, ordinary citizens, and even government officials.

On January 1, a policy requiring foreign television outlets to use a government "rebroadcast platform" to distribute their channels reportedly went into effect. Some observers, including Human Rights Watch, expressed concern that this requirement heightened official censorship capabilities. In addition, universities, hotels, residences, and government institutions were reportedly required to reapply for access to foreign cable and satellite broadcasts.

In 2001 some government-owned local cable television networks began providing uncensored foreign news programming, including programs from CNN and European news services, to cable television customers for a fee. Prior to 2001, only major hotels and residence compounds for foreigners could legally show uncensored television news from outside of the country.

During the year, Falun Gong followers overrode television broadcasts several times to broadcast pro-FLG statements during regular programming. In September 15 persons were given sentences ranging from 4 to 20 years in prison for interfering with a cable television system in the northeastern city of Changchun in March. On December 30, the Intermediate People's Court in Xining sentenced four FLG adherents to up to 20 years in prison for tapping into cable television signals. The Government also reported several instances of individuals interfering with domestic broadcasts transmitted via satellite, replacing regular programming with pro-FLG material.

In January Zhang Yongning, producer of "Lan Yu," a motion picture filmed clandestinely in Beijing and centered on a homosexual love story set during the 1989 Tiananmen Square uprising, applied for approval from the Bureau of Film to show the film in the country. Although permission was denied, illegal DVD copies of "Lan Yu," like most other banned films, were readily available in major cities.

The Government continued to encourage expanded use of the Internet; however, it also took steps to increase monitoring of the Internet and continued to place restrictions on the information available. While only a very small percentage of the population accessed the Internet, use among intellectuals and opinion leaders was widespread and growing rapidly. According to a report released by the China Internet Network Information Center, the number of Internet users in the country grew by 75 percent during the year to 59.1 million.

During the year, a Harvard Law School report concluded that China had the most extensive Internet censorship in the world. According to the report, the Government blocked at least 19,000 sites during the 6-month study, and may have blocked as many as 50,000. Blocked sites included those of major foreign news organizations, health organizations, educational institutions, Taiwanese and Tibetan businesses and organizations, democracy activists, and religious and spiritual organizations. In

September the Government blocked Google, a foreign-based search engine. After 2 weeks, during which the Government allegedly enhanced blocks on sensitive sites, access was restored. Altavista, another foreign-based search engine, was also blocked. The Government denied that it ever blocked the search engines. The authorities reportedly began to employ more sophisticated technology, such as “packet sniffers,” enabling the selective blocking of specific content rather than entire Web sites in some cases. Such technology was also used to block e-mails containing sensitive content. The Government generally did not prosecute citizens who received dissident e-mail publications, but forwarding such messages to others sometimes did result in detention.

The Ministry of Information Industry regulated access to the Internet while the Ministries of Public and State Security monitored its use. Regulations prohibit a broad range of activities that authorities have interpreted as subversive or as slanderous to the state, including the dissemination of any information that might harm unification of the country or endanger national security. Promoting “evil cults” was banned, as was providing information that “disturbs social order or undermines social stability.” Internet service providers were instructed to use only domestic media news postings, record information useful for tracking users and their viewing habits, install software capable of copying e-mails, and immediately end transmission of so-called subversive material. Many Internet service providers practiced extensive self-censorship to avoid transgressing the very broadly worded regulations. Another regulation requires Internet cafe patrons to register with “software managers” and produce a valid identification card to log on. The State Council also has promulgated a comprehensive list of prohibited Internet activities, including using the Internet to “incite the overthrow of the Government or the Socialist system” and “incite division of the country, harming national unification.” In April the Ministry of Public Security announced a campaign to “clean up the Internet environment” before the 16th Party Congress.

During the year, authorities arrested dissidents for disseminating information through the Internet. In the most serious punishment yet for an Internet-related crime, Li Dawei, a former police officer from Gansu, was sentenced in July to 11 years in prison for downloading “reactionary” articles and maintaining contacts with foreigners. On September 14, Chen Shaowen was detained for subversion by local officials in Lianyuan, Hunan, for having posted almost 40 articles deemed “reactionary.” On November 7, 22-year-old Beijing Normal University Student Liu Di was arrested after expressing views critical of the Government in an online essay. At year’s end, according to the international NGOs Reporters Without Borders and the Committee to Protect Journalists, 14 persons were being held for publishing or distributing information online.

In March the Government began a “Public Pledge on Self Discipline for China’s Internet Industry” drive. More than 300 companies signed up, including the popular Sina.com and Sohu.com, as well as foreign-based Yahoo!’s China division. Those who signed the pledge agreed not to spread information that “breaks laws or spreads superstition or obscenity.” They also promised to refrain from “producing, posting, or disseminating pernicious information that may jeopardize state security and disrupt social stability.” In protest against the self-censorship pledge, a group of 18 dissidents published a “declaration of Internet users’ rights” in July. The declaration called for complete freedom to surf the Internet, with restrictions placed only on sites with pornographic, slanderous, or violent content.

Provisional figures issued in March showed that the country had more than 200,000 Internet cafes. On June 16, a fire at an unlicensed Internet cafe in Beijing’s university district killed 25 persons and injured 12. In response, authorities closed down more than 14,000 Internet cafes nationwide, 3,100 of them permanently, and in October issued more restrictive regulations governing the operation of such businesses. The new regulations limit hours of operation, allow authorities to view records of Internet use, and require identification card registration.

The Government did not fully respect academic freedom and continued to impose ideological controls on political discourse at colleges, universities, and research institutes. Scholars and researchers reported varying degrees of control regarding the issues that they could examine and the conclusions that they could draw. On January 29, Xu Zerong, a scholar who wrote his doctoral dissertation on the Korean War, was sentenced to 13 years in prison for “illegally providing state secrets” by sending confidential reference materials on the Korean War to a contact in Hong Kong.

The Government continued to use political attitudes as criteria for selecting persons for government-sponsored study abroad but did not impose such restrictions on privately sponsored students, who constituted the majority of students studying abroad.

Researchers residing abroad also have been subject to sanctions from the authorities when their work did not meet with official approval. Other foreign-resident Chinese scholars were detained in previous years.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly; however, the Government severely restricted this right in practice. The Constitution stipulates that such activities may not challenge “Party leadership” or infringe upon the “interests of the State.” Protests against the political system or national leaders were prohibited. Authorities denied permits and quickly moved to suppress demonstrations involving expression of dissenting political views.

At times police used excessive force against demonstrators. Demonstrations with political or social themes were often broken up quickly and violently. The most widely publicized demonstrations in recent years were those of the Falun Gong spiritual movement. The Government continued to wage a severe political, propaganda, and police campaign against the FLG movement during the year. Since the Government banned the FLG in 1999, mere belief in the discipline, without any outward manifestation of its tenets, has been sufficient grounds for practitioners to receive punishments ranging from loss of employment to imprisonment, and in many cases, to suffer torture and death. Several hundred practitioners have been tried and convicted of crimes, including that of “using a heretical cult to disturb social order,” which was established in the 1999 anticult legislation. However, the great majority of practitioners were punished without a trial, primarily in the reeducation-through-labor system. Many thousands of persons have been detained in reeducation-through-labor and custody and repatriation camps; others have been confined to psychiatric hospitals. In 2001 facilities were established specifically to “rehabilitate” practitioners who refused to recant their belief voluntarily (*see* Section 2.c.).

The tactic used most frequently by the central government against the FLG, however, has been to make local officials, family members, and employers of known practitioners responsible for preventing FLG activities by their family members or associates. In many cases, practitioners were subject to close scrutiny by local security personnel and their personal mobility was tightly restricted, particularly at times when the Government believed public protests were likely.

The number of protests by individuals or small groups of FLG practitioners at Tiananmen Square remained very low during the year. Some observers attributed this to the effectiveness of the sustained government crackdown, which by the end of 2001 had essentially eliminated public manifestations of the movement. Authorities also briefly detained foreign practitioners who attempted to unfurl banners on Tiananmen Square or pass out leaflets, in most cases deporting them after a few hours.

In many cases, the authorities dealt with demonstrations about economic issues more leniently than with those that addressed political issues, but some economic demonstrations were dispersed by force. During the year, Ministry of Public Security publications indicated that the number of demonstrations was growing and that protesters were becoming more organized. According to the most recently available MPS report, in 1999 more than 100,000 demonstrations took place, up from 60,000 in 1998. Some of these demonstrations included thousands of participants.

On February 21, during President Bush’s visit to Beijing, MPS officials detained 47 Christians, who managed an elder care facility in a Beijing suburb, for holding an illegal gathering. The leader of the group, Chen Zhongxin, and his followers were released after the President left the country.

In March, over several weeks, tens of thousands of workers in Liaoyang and Fushun, Liaoning Province, and Daqing, Heilongjiang Province, protested against non-payment of back wages, loss of benefits, and inadequate severance pay. Many alleged that managers and local government officials had stolen funds earmarked for plant modernization and pension plans. Police detained four leaders of the protests—Yao Fuxin, Pang Qingxiang, Xiao Yunliang, and Wang Zhaoming—without charge. Their families had serious difficulties finding defense attorneys. After 9 months, Pang Qingxiang and Wang Zhaoming were released on probation but barred from meeting with other laid-off workers. On December 31, Wang Zhaoming was detained again after he hired a lawyer to sue the police over his 9 months of detention. Yao Fuxin and Xiao Yunliang were charged with subversion for political activities they allegedly had engaged in several years before the labor protests occurred.

The Constitution provides for freedom of association; however, the Government restricted this right in practice. Communist Party policy and government regulations require that all professional, social, and economic organizations officially register with, and be approved by, the Government. Ostensibly aimed at restricting secret societies and criminal gangs, these regulations also prevent the formation of truly

autonomous political, human rights, religious, environmental, labor, and youth organizations that might directly challenge government authority. Since 1999, all concerts, sports events, exercise classes, or other meetings of more than 200 persons required approval from Public Security authorities.

There were no laws or regulations that specifically governed the formation of political parties. The Government moved decisively, using detentions and prison terms, to suppress the China Democracy Party, which activists around the country have tried since 1998 to organize into the country's first opposition political party.

According to government statistics, at the end of 2001, there were 129,000 social organizations, including 1,687 national-level and cross-provincial organizations, 19,540 provincial organizations, and 50,633 local and county-level organizations registered with the Ministry of Civil Affairs. There were 82,000 private, nonprofit corporations registered. Experts estimated that there were at least 1 million, and perhaps as many as 2 million, unregistered NGOs. Although these organizations all came under some degree of government control, they were able to develop their own agendas. Some had support from foreign secular and religious NGOs. Some were able to undertake limited advocacy roles in such public interest areas as women's issues, the environment, health, and consumer rights. To register, NGOs were required to obtain an organizational sponsor, typically a government agency carrying out work in a similar subject area. In addition, local-level NGOs must have an official office and at least \$3,600 (RMB 30,000) in funds, and national-level groups must have at least \$12,000 (RMB 100,000). Applications must be vetted by the Government, which has 2 months in which to grant approval. Once established, groups were required to submit to regular oversight by both the organizational sponsor and the Ministry of Civil Affairs. NGOs must not violate the "four cardinal principles" by advocating nonparty rule, "damage national unity," or "upset ethnic harmony." Groups that disobeyed guidelines and unregistered groups that continued to operate could face administrative punishment or criminal charges. It was difficult to estimate how many groups may have been discouraged from organizing NGOs because of these regulations. However, preexisting groups reported little or no additional interference by the Government since the regulations came into effect in 1998.

In April the Central government allowed an international NGO to establish branches and recruit members in the country. Lions Clubs International was allowed to officially establish two chapters, one in Shenzhen city and a second in Guangdong Province.

*c. Freedom of Religion.*—The Constitution provides for freedom of religious belief and the freedom not to believe; however, the Government sought to restrict religious practice to government-sanctioned organizations and registered places of worship and to control the growth and scope of the activity of religious groups. There are five officially recognized religions—Buddhism, Taoism, Islam, Protestantism, and Catholicism. A government-affiliated association monitored and supervised the activities of each of the five faiths. Membership in religions was growing rapidly; however, while the Government generally did not seek to suppress this growth outright, it tried to control and regulate religious groups to prevent the rise of groups or sources of authority outside the control of the Government and the Communist Party.

Overall, government respect for religious freedom remained poor, and crackdowns against unregistered groups, including underground Protestant and Catholic groups, Muslim Uighurs, and Tibetan Buddhists continued. The Government continued its repression of groups that it determined to be "cults" and of the Falun Gong in particular. Various sources reported that thousands of FLG adherents have been arrested, detained, and imprisoned, and that several hundred or more FLG adherents have died in detention since 1999; many of their bodies reportedly bore signs of severe beatings or torture or were cremated before relatives could examine them. The atmosphere created by the nationwide campaign against the FLG reportedly had a spillover effect on unregistered churches, temples, and mosques in many parts of the country.

All religious groups and spiritual movements were required to register with the State Council's Religious Affairs Bureau (RAB), which was responsible for monitoring and judging the legitimacy of religious activity. The RAB and the CCP's United Front Work Department (UFWD) provided policy "guidance and supervision" over implementation of government regulations on religious activity. The Government continued and in some areas intensified a national campaign to enforce the State Council and provincial regulations that require all places of religious activity to register with the RAB or to come under the supervision of official "patriotic" religious organizations. Some groups registered voluntarily, some registered under pressure, some avoided officials in an attempt to avoid registration, and authorities refused to register others. Some unofficial groups reported that authorities refused

them registration without explanation. The Government contended that these refusals were mainly the result of failure to meet requirements concerning facilities and meeting spaces. Many religious groups were reluctant to comply with the regulations out of principled opposition to state control of religion or due to fear of adverse consequences if they revealed, as required, the names and addresses of church leaders and members. In some areas, efforts to register unauthorized groups were carried out by religious leaders and civil affairs officials. In other regions, police and RAB officials performed registration procedures concurrently with other law enforcement actions. Police closed scores of "underground" mosques, temples, seminaries, Catholic churches, and Protestant "house churches," including many with significant memberships, properties, financial resources, and networks.

Leaders of unauthorized groups were sometimes the targets of harassment, interrogations, detention, and physical abuse. Authorities particularly targeted unofficial religious groups in Beijing and the provinces of Henan, Shandong, and Guangxi, where there were rapidly growing numbers of unregistered Protestants, and in Hebei, a center of unregistered Catholics. For example, police arrested more than 20 Christians gathered in the Shanghai home of house church leader Xu Guoxing for a worship service on December 8. All were eventually released except Xu, who was sentenced, without trial, to 18 months of reeducation-through-labor.

However, many small "family churches," generally made up of family members and friends, that conducted activities similar to those of home Bible study groups, usually were tolerated by the authorities as long as they remained small and unobtrusive. Family churches reportedly encountered difficulties when their memberships became too large, when they arranged for the use of facilities for the specific purpose of conducting religious activities, or when they forged links with other unregistered groups.

In some areas, harassment of churches by local RAB officials was attributed, at least in part, to financial issues. For example, although regulations require local authorities to provide land to church groups, some local officials tried to avoid doing so by denying registration. Official churches also sometimes faced harassment when local authorities wished to acquire the land on which a church was located. In addition to refusing to register churches, there also were reports that RAB officials have pressed for "donations" from churches in their jurisdictions as a means of raising extra revenue.

In certain areas in the southeast, government supervision of religious activity was minimal, and registered and unregistered churches were treated similarly by authorities, existing openly side by side. Coexistence and cooperation between official and unofficial churches in such areas, both Catholic and Protestant, was close enough to blur the line between the two. In those areas, many congregants worshipped in both types of churches.

Authorities also have destroyed or seized unregistered places of worship. Early in the year, according to the Guangzhou-based Southern Metropolis Daily, a small Taoist temple in a central residential area of that city was demolished by a squad of 90 policemen. The temple, which had escaped official notice for 20 years, was branded a "center of superstitious activity." In April police demolished a partially constructed Catholic Church in Xiao Zhao village, Hebei Province, for not having a proper building permit.

However, the Government continued to restore or rebuild some churches, temples, mosques, and monasteries damaged or destroyed during the Cultural Revolution and allowed the reopening of some seminaries during the year, although implementation of restoration activity varied from locality to locality. Nonetheless, there were far fewer temples, churches, and mosques than existed 50 years ago, despite the recent increase in number of religious believers. Christian leaders in several parts of the country reported that local officials have been reluctant to return Church property that was confiscated before the 1949 Communist revolution. The difficulty in registering new places of worship led to serious overcrowding in existing places of worship in some areas. Some observers cited the lack of adequate meeting space in registered churches to explain the rapid rise in attendance at house churches and "underground" churches.

In December 2001, all seven members of the Politburo attended a Party Work Conference on religion. President Jiang Zemin and Premier Zhu Rongji gave speeches praising the social work being done by numerous religious institutions and urged "mainstream" religious groups that were underground to register with the RAB. At the same time, the leaders called for stepped-up measures to eliminate "nonmainstream" religious groups.

Some Protestant house church groups reported that after the December 2001 State Council Work Conference on Religion, police raids on worship services increased, resulting in greater numbers of detentions. On February 5, Huang Aiping,

Li Wulong, and Ji Qingjun were sentenced to 7 years in prison for “using a cult organization to violate the law” in Xiamen, Fujian Province. The three were members of the Blood and Water Holy Spirit Full Gospel Preaching Team, which was founded in Taiwan and was banned on the mainland in 1996 as an “illegal infiltration organization.” In December 2001, Gong Shengliang, founder of the South China Church, was sentenced to death on a wide range of criminal charges, including rape, arson and assault. His niece, Li Ying, was sentenced to death with a 2-year reprieve. In September an appeals court overturned the death sentences, and in October Gong was sentenced to life in prison and Li to 15 years. In the retrial, the court dropped all “evil cult” charges against the members of the South China Church. Other church members, Xu Fuming and Hu Yong, received life sentences. Four members of the congregation, Li Yingping, Meng Xicun, Xiang Fengping, and Liu Xianzhi, claimed that they were tortured by police until they agreed to sign accusations claiming they had been raped by Gong. The four women, found not guilty in the retrial, were immediately detained after the trial and sent to reeducation-through-labor camps.

The law does not prohibit religious believers from holding public office; however, most influential positions in government were reserved for party members, and party officials stated that party membership and religious belief are incompatible. This had a disproportionate effect in such areas as Xinjiang and Tibet, where the minority populations are adherents of Islam or Buddhism. Party membership also was required for almost all high-level positions in government and in state-owned businesses and organizations. The Party reportedly issued circulars ordering party members not to adhere to religious beliefs, and reminding cadres that religion is incompatible with party membership, a theme reflected in authoritative media. The Routine Service Regulations of the People’s Liberation Army state explicitly that servicemen “may not take part in religious or superstitious activities.” Party and PLA personnel have been expelled for adhering to Falun Gong beliefs.

Despite official regulations encouraging officials to be atheists, in some localities as many as 20 to 25 percent of party officials engaged in some kind of religious activity. Most of these officials practiced Buddhism or a folk religion. Religious figures, who were not members of the CCP, were included in national and local government organizations, usually to represent their constituency on cultural and educational matters. The NPC included several religious leaders, including Pagbalha Geleg Namgyai, a Tibetan reincarnated lama who was a vice chairman of the Standing Committee of the NPC. Religious groups also were represented in the Chinese People’s Political Consultative Conference, a forum for “multiparty” cooperation and consultation led by the CCP, which advises the Government on policy.

The authorities permitted officially sanctioned religious organizations to maintain international contacts that did not involve “foreign control.” What constitutes “control” was not defined. Regulations enacted in 1994, and expanded in September 2000, codified many existing rules involving foreigners, including a ban on proselytizing by foreigners. For the most part, authorities allowed foreign nationals to preach to foreigners in approved, registered places of worship, bring in religious materials for personal use, and preach to citizens at churches, mosques, and temples at the invitation of registered religious organizations. Collective religious activities of foreigners also were required to take place at officially registered places of worship or approved temporary locations. Foreigners legally were barred from conducting missionary activities, but foreign Christians teaching English and other subjects on college campuses openly professed their faith with minimum interference from authorities as long as their proselytizing was low key. Many Christian groups throughout the country have developed close ties with local officials, in some cases running schools to help educate children who otherwise would receive a substandard education and operating homes for the care of the aged. Likewise, Buddhist-run private schools and orphanages in the central part of the country not only educated children but also offered vocational training courses to teenagers and young adults.

Official religious organizations administered local religious schools, seminaries, and institutes to train priests, ministers, imams, Islamic scholars, and Buddhist monks. Students who attended these institutes had to demonstrate “political reliability,” and all graduates must pass an examination on their theological and political knowledge to qualify for the clergy. The Government permitted limited numbers of Catholic and Protestant seminarians, Muslim clerics, and Buddhist clergy to go abroad for additional religious studies. In most cases, funding for these training programs was provided by foreign organizations. Both official and unofficial Christian churches had problems training adequate numbers of clergy to meet the needs of their growing congregations. Since no priests or other clergy in the official churches were ordained between 1955 and 1985, the shortfall was most severe for persons between the ages of 40 and 70. Due to government prohibitions, unofficial churches



had particularly significant problems training clergy or sending students to study overseas, and many clergy received only limited and inadequate preparation. Members of the underground Catholic Church, especially clergy wishing to further their studies abroad, found it difficult to obtain passports and other necessary travel documents (see Section 2.d.). In 2001 RAB officials started to interview candidates for ordination to the Catholic priesthood in Shenyang. Some Catholic clerics also complained that they were forced to bribe local RAB officials before being allowed to enter seminaries.

Traditional folk religions have been revived in recent years and were widespread. They were tolerated to varying degrees, often seen as loose affiliates of Taoism or as ethnic minority cultural practices. However, at the same time, folk religions have been labeled as “feudal superstition” and sometimes were repressed because their resurgence was seen as a threat to party control. Local authorities have destroyed thousands of shrines.

Buddhists made up the largest body of organized religious believers. Tibetan Buddhists in some areas outside of the Tibet Autonomous Region (TAR) had growing freedom to practice their faith. Diplomats have seen pictures of a number of Tibetan religious figures, including the Dalai Lama, openly displayed in parts of Sichuan, Qinghai, and Gansu Provinces. Likewise, abbots and monks in those predominantly Tibetan areas outside the TAR reported they had greater freedom to worship and conduct religious training than their coreligionists within the TAR. However, restrictions remained, especially at monasteries with close ties to foreign organizations. Some monks who studied abroad were prevented from returning to their home monasteries. (A discussion of government restrictions on Tibetan Buddhism in the TAR can be found in the Tibet Addendum.)

During Tibetan New Year in February, a monk in Aba City in Sichuan Province was arrested for passing out pictures of the Dalai Lama, posting pro-democracy leaflets, and distributing information on China’s human rights violations. The materials notably did not advocate Tibetan independence. Following the arrest, authorities tightened security and further restricted travel to the area. In October in Ganzi city, also in Sichuan Province, more than 10 persons were arrested in connection with foreign-sponsored long-life ceremonies for the Dalai Lama that had been held earlier in the year, and hundreds of PLA troops were stationed in the area. At least five of those arrested were sentenced to 2 to 3 years of reeducation-through-labor.

In 2001 the Government expelled thousands of Tibetan nuns, monks, and students from the Serthar Tibetan Buddhist Institute (also known as the Larung Gar Monastic encampment) located in the Ganzi Tibetan Autonomous Prefecture in Sichuan Province. The Government maintained that the facility, which housed the largest concentration of monks and nuns in the country, was reduced in size for sanitation and hygiene reasons. Authorities demolished hundreds of residential structures. Foreign observers believed that the authorities moved against the Institute because of its size and the influence of its charismatic founder, Khenpo Jigme Phuntsok. After a year’s absence, during which time he underwent medical treatment, Khenpo Jigme Phuntsok was allowed to return to Serthar in July. Thousands of monks and nuns also returned.

In the past, official tolerance for religions considered traditionally Chinese, such as Buddhism and Taoism, was greater than that for Christianity. However, as these non-Western faiths have grown rapidly in recent years, there were signs of greater government concern and new restrictions, especially on syncretic sects.

Regulations restricting Muslims’ religious activity, teaching, the religious education of youths under the age of 18, and places of worship continued to be tight in Xinjiang, and the Government dealt harshly with Muslims who engaged in political speech and activities that the authorities deemed separatist. Regional-level party and government officials repeatedly called for stronger management of religious affairs and for the separation of religion from administrative matters. Authorities reportedly reserved the right, in some cases, to censor imams’ sermons particularly during sensitive religious holidays. In 2000 the authorities began conducting monthly political study sessions for religious personnel; the program continued during the year. In addition they required every mosque to record the numbers and names of those attending each day’s activities. The official Xinjiang Daily reported that early in 2000 Yining county reviewed the activities of 420 mosques and implemented a system of assigning ethnic party cadres to mosques in order to improve vigilance against “illegal religious activities.” The authorities also initiated a campaign to discourage overt religious attire such as veils and to discourage religious marriage ceremonies. In addition, in some areas fasting reportedly was prohibited or made difficult during Ramadan. There were numerous official media reports that the authorities confiscated illegal religious publications in Xinjiang. The Xinjiang

People's Publication House was the only publisher allowed to print Muslim literature in Xinjiang.

In some areas where ethnic unrest has occurred, particularly among Central Asian Muslims (and especially the Uighurs) in Xinjiang, officials continued to restrict the building of mosques. However, in other areas, particularly in areas traditionally populated by the non-Central Asian Hui ethnic group, there was substantial religious building construction and renovation.

The Government permitted Muslim citizens to make the Hajj to Mecca, and in some cases subsidized the journey. According to the China Islamic Association, 2,000 Muslims took part in the Hajj as members of official delegations in 2001. According to some reports, the major limiting factors for participation in the Hajj were the cost and controls on passport issuance. Other Muslims made the trip to Mecca via neighboring countries, especially Pakistan, and may not have been counted in government statistics.

The Government refused to establish diplomatic relations with the Holy See, and there was no Vatican representative in the country. The Government's refusal to allow the official Catholic Church to recognize the authority of the Papacy in matters such as the ordination of bishops led many Catholics to refuse to join the official Catholic church on the grounds that this refusal denies one of the fundamental tenets of their faith.

Some bishops in the official Catholic Church were not openly recognized by the Holy See, although many have been recognized privately. Frequently, bishops were first consecrated and later sought Papal approval of their consecrations, sometimes secretly, causing tensions between the Government and the Vatican. While both government and Vatican authorities stated that they would welcome an agreement to normalize relations, issues concerning the role of the Pope in selecting bishops and the status of underground Catholic clerics have frustrated efforts to reach this goal. Some underground Catholic priests, as well as some church members, indicated they were unwilling to accept the authority of bishops selected without Vatican approval. Newly nominated bishops seeking unofficial Papal approval frequently found themselves at odds with other church leaders, who were sympathetic to the central government, and who insisted that consecrations of new bishops be conducted by more senior bishops not recognized by the Vatican. Catholic priests in the official church also faced dilemmas when asked by parishioners whether they should follow Church doctrine or government policy restricting the number of children per family. This dilemma was particularly acute when discussing abortion.

There were many religious detainees and prisoners. In some cases, officials have used prison or reeducation-through-labor sentences to enforce regulations.

A number of Catholic priests and lay leaders were beaten or otherwise abused during the year. In Hebei Province, where an estimated half of the country's Catholics reside, friction between unofficial Catholics and local authorities continued. Hebei authorities have forced many underground priests and believers to choose between joining the Patriotic Church or facing fines, job loss, periodic detentions, and, in some cases, the barring of their children from school. Some Catholics have been forced into hiding. The whereabouts of underground Bishop Su Zhimin, whose followers reported that he was arrested in 1997, remained unclear. Underground Catholic sources in Hebei claimed that he still was under detention, while the Government denied having taken any "coercive measures" against him. Reliable sources also reported that Bishop An Shuxin, Bishop Zhang Weizhu, Father Cui Xing, and Father Wang Quanjun remained under detention in Hebei. Underground Bishop Joseph Fan Zhongliang of Shanghai remained under surveillance and often had his movements restricted. During the year, underground Bishop Jia Zhiguo of Hebei was again detained for several days before the start of Holy Week, allegedly in an attempt to pressure him to join the Chinese Catholic Patriotic Association. Fujian Province clerics reported that, while there had been no recent signs of a general crackdown against underground Catholics, as was seen in 1999 and 2000, the April detention of two underground priests created a generalized fear that other detentions might follow.

There was evidence that the official Protestant seminary's "theological reconstruction campaign," during which some professors were purged from the Nanjing Seminary, had ended. There were no new reports of seminary professors or Protestant preachers purged for theological perspectives different from those held by Bishop Ding Guangxun, national leader of the official Protestant church. Foreign teachers were officially invited to teach at both Catholic and Protestant seminaries during the year.

The increase in the number of Christians resulted in a corresponding increase in the demand for Bibles, which were available for purchase at most officially recognized churches. However, foreign experts confirmed reports of chronic shortages of

Bibles, primarily due to limited print runs at the one government-approved publisher and logistical problems in disseminating Bibles to rural areas. The situation has improved in recent years. Customs officials continued to monitor for the “smuggling” of Bibles and other religious materials into the country. Hong Kong resident Li Guangqiang (Lai Kwong-keung), arrested in July 2001 for smuggling Bibles into the mainland, was sentenced on January 28 to 2 years in prison. He was released in early February on medical parole. Two Chinese men arrested with Li, Yu Zhudi and Lin Xifu, were sentenced to 3 years in jail. There were also credible reports that the authorities sometimes confiscated Bibles in raids on house churches.

Religious groups that preached beliefs outside the bounds of officially approved doctrine (such as the imminent coming of the Apocalypse, or holy war) or that had charismatic leaders often were singled out for particularly severe harassment. Some observers attributed the unorthodox beliefs of some of these groups to undertrained clergy. Others acknowledged that some individuals may have been exploiting the re-emergence of interest in religion for personal gain. Police continued their efforts to close down an underground evangelical group called the “Shouters,” an offshoot of a pre-1949 indigenous Protestant group. Many groups, especially those in house churches, reportedly were viewed by officials as “cults.” The Government continued a general crackdown on groups it labeled cults, such as Eastern Lightning, the Association of Disciples, the Full Scope Church, the Spirit Sect, the New Testament Church, the Way of the Goddess of Mercy, the Lord God Sect, the Established King Church, the Unification Church, the Family of Love, the Dami Mission, and other groups. According to reports, the crackdown on the Falun Gong in 1999 led to a tightening of controls on all non-officially sanctioned groups.

Weekly services of the foreign Jewish community in Beijing have been held uninterrupted since 1995 and High Holy Day observances have been allowed for more than 15 years. The Shanghai Jewish community was allowed to hold services in an historic Shanghai synagogue, which has been restored as a museum. Local authorities indicated that the community could use the synagogue in the future for special occasions on a case-by-case basis. The Church of Jesus Christ of Latter-day Saints meets regularly in a number of cities, but its membership was strictly limited to the expatriate community.

During the year, the Government continued its harsh and comprehensive campaign against the Falun Gong. There were many thousands of cases of individuals receiving criminal, administrative, and extrajudicial punishment for practicing FLG, admitting that they believed in FLG, or simply refusing to denounce the organization or its founder. By mid-year 2001, the campaign against FLG appeared to have abated somewhat in eastern and southern China, perhaps due to the decreased number of practitioners in those regions, but the campaign in Sichuan Province and the northeast continued.

Since the Government banned the FLG in 1999, the mere belief in the discipline (and since January, even without any public manifestation of its tenets) has been sufficient grounds for practitioners to receive punishments ranging from loss of employment to imprisonment. Although the vast majority of practitioners detained since 2000 were released, those identified by the Government as “core leaders” have been singled out for particularly harsh treatment. More than a dozen FLG members have been sentenced to prison for the crime of “endangering state security,” but the great majority of FLG members convicted by the courts since 1999 have been sentenced to prison for “organizing or using a sect to undermine the implementation of the law,” a less serious offense.

However, most practitioners were punished administratively. Many thousands of persons were in reeducation-through-labor camps. Other practitioners were sent to detention facilities specifically established to “rehabilitate” practitioners who refused to recant their belief voluntarily. In addition, hundreds of FLG practitioners have been confined to mental hospitals (*see* Section 1.d).

Police often used excessive force when detaining peaceful FLG protesters, including some who were elderly or who were accompanied by small children. During the year, there were numerous credible reports of abuse and even killings of FLG practitioners by the police and other security personnel, including police involvement in beatings, detention under extremely harsh conditions, and torture (including by electric shock and by having hands and feet shackled and linked with crossed steel chains). Various sources reported that since 1997 several hundred FLG adherents have died while in police custody (*see* Section 1.a.). In February Chengdu University Associate Professor Zhang Chuansheng, a longtime FLG practitioner, was arrested in his hometown and taken to Chengdu’s main prison. He died there 3 days later. Prison authorities claimed the 54-year-old had died of a heart attack, but his family, who saw his body after Zhang’s death, claimed he had been severely beaten.

FLG practitioners continued their efforts to overcome government attempts to restrict their right to free assembly, especially in Beijing, but the number of protests at Tiananmen Square decreased considerably during 2001 and remained low during the year (*see* Section 2.b.).

In 2001 the Government launched a massive anti-FLG propaganda campaign, initiated a comprehensive effort to round up practitioners not already in custody, and sanctioned the use of high pressure indoctrination tactics in an effort to force practitioners to renounce the FLG. Neighborhood committees, state institutions (including universities), and companies reportedly were ordered to send all known FLG practitioners to intensive anti-FLG study sessions. Even practitioners who had not protested or made other public demonstrations of belief reportedly were forced to attend such classes. Those who refused to recant their beliefs after weeks of intensive anti-FLG instruction reportedly were sent to reeducation-through-labor camps, where in some cases, beatings and torture were used to force them to recant; some of the most active FLG practitioners were sent directly to reeducation-through-labor camps. These tactics reportedly resulted in large numbers of practitioners signing pledges to renounce the movement.

Authorities also detained foreign practitioners. For example, in November 2001, more than 30 foreigners and citizens resident abroad were detained in Beijing as they demonstrated in support of the FLG. They were expelled from the country; some credibly reported being mistreated while in custody.

During the year, the authorities also continued a general crackdown on other groups considered to be “cults,” often using the 1999 decision to ban cults under Article 300 of the Criminal Law. Regulations require all qigong meditation and exercise groups to register with the Government. Those that did not were declared illegal. The Zhong Gong qigong group, which reportedly had a following rivaling that of FLG, was banned in 2000 under the anticult application of the Criminal Law, and its leader, Zhang Hongbao, who resides abroad, was charged with rape, forgery, and other crimes. This created an atmosphere of uncertainty for many qigong practitioners, and there were reports that some qigong practitioners feared practicing or teaching openly. During the year, authorities and experts wrote articles characterizing the rise of religious groups that failed to register and “cults” such as Falun Gong as part of a plot by the West to undermine Chinese authority. In February 2001, Zhang Xinying, vice chairman of the Chinese Society of Religious Studies, said that the rise of “cults” was due to frequent abuse of the concept of “religious freedom” by “some people with ulterior motives.” Other senior leaders made similar comments in the context of criticizing FLG.

The Government taught atheism in schools. While the Government claimed that there were no national-level regulations barring children from receiving religious instruction, in some regions local authorities barred persons under 18 from attending services at mosques, temples, or churches.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government restricted freedom of movement within the country and restricted the freedom to change one’s workplace or residence. The Government’s national household registration and identification card system, used to control and restrict the location of an individual’s residence, remained in place but continued to erode, and the ability of most citizens to move around the country to work and live continued to improve. However, the Government retained the ability to restrict freedom of movement through other mechanisms. Authorities heightened restrictions during the year, especially before politically sensitive anniversaries and to forestall Falun Gong demonstrations.

The “floating population” of economic migrants who left their home areas to seek work was estimated to be between 80 and 130 million. This itinerant population lacked official residence status, which was required for full access to social services. These migrant workers were generally limited to types of work considered least desirable by local residents, and they had little recourse when subject to abuse by employers and officials. However, some cities, such as Beijing, were beginning to offer some social services free of charge.

In 1998 the Ministry of Public Security issued revised regulations that allow persons from the countryside to apply for permanent residence in a city if: 1) they have investments or property in a city; 2) they are elderly and have children who live in a city; or 3) their spouses live in a city. There were separate, more liberal, regulations for some persons with advanced degrees.

Landmark regulations under consideration at year’s end would give rural migrants a legal right to work in cities, prohibit job discrimination based on residency,

require employers to sign contracts with migrant workers, and encourage urban schools to enroll the children of rural migrants.

Prior to sensitive anniversaries, authorities in urban areas rounded up and detained some “undesirables,” including the homeless, the unemployed, migrant workers, those without proper residence or work permits, petty criminals, prostitutes, and the mentally ill or disabled. These persons often were detained or expelled under custody and repatriation regulations or similar administrative regulations (see Section 1.d.). There were reports of spot checks of identification documents, housing raids, and harassment of migrants at train and bus stations in Beijing during the year, particularly prior to the October 1 National Day holiday.

Dissidents reported that the authorities restricted their freedom of movement during politically sensitive periods and while foreign dignitaries visited the country.

Under the “staying at prison employment” system applicable to recidivists incarcerated in reeducation-through-labor camps, authorities have denied certain persons permission to return to their homes after serving their sentences. Those persons sentenced to a total of more than 5 years in reeducation-through-labor camps on separate occasions also could lose their legal right to return to their home area. For those assigned to camps far from their residences, this practice constituted a form of internal exile. The number of prisoners subject to this restriction was unknown. Authorities reportedly forced other recently released prisoners to accept jobs in state enterprises where they could be closely monitored. Other released or paroled prisoners returned home but were not permitted freedom of movement. Former senior leader Zhao Ziyang remained under house arrest, and security around him was tightened routinely during sensitive periods. Zhao was allowed approximately one trip outside of Beijing per year.

Official poverty alleviation programs and major state projects, such as environmental and reforestation programs, have included forced relocation of persons to new residences. The Government estimated that by the completion of the Three Gorges Dam, at least 1.2 million people will have been relocated for this project.

The Government permitted legal emigration and foreign travel for most citizens. Passports were increasingly easy to obtain. The Government continued to use political attitudes as criteria for selecting persons for government-sponsored study abroad; however, the Government did not control privately sponsored students, who constituted the majority of citizens studying abroad. Business travelers who wished to go abroad could obtain passports relatively easily.

There were reports that some academics faced travel restrictions around the year’s sensitive anniversaries, particularly the June 4 anniversary of the 1989 Tiananmen Square massacre, and there were instances in which the authorities refused to issue passports or visas on apparent political grounds. Members of the underground Catholic Church, especially clergy wishing to further their studies abroad, found it difficult to obtain passports and other necessary travel documents. Some FLG members also reportedly had difficulty in obtaining passports during the year. In May 2001, the Government prevented Dr. Gao Yaojie, who had exposed the cause of an AIDS epidemic in several villages, from traveling abroad to receive an award.

Similarly, visas to enter the country also were denied. For example, some foreign academics continued to be denied visas. International observers and human rights organizations reported that they could substantiate claims that border control points kept background records of certain individuals who were to be denied entry. Authorities denied these reports.

The Government continued efforts to attract persons who had studied overseas back to the country. Official media have stated that persons who joined foreign organizations hostile to the country should quit them before returning home and refrain while abroad from activities that violate China’s laws.

Although a signatory of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, the country has no law or regulations that authorize the authorities to grant refugee status. The Government reportedly continued to draft working rules on granting such status. The Government cooperated with the UNHCR when dealing with the resettlement of ethnic Han Chinese or ethnic minorities from Vietnam and Laos resident in the country; the Government was less cooperative when dealing with some other refugees. The Government does not provide first asylum. However, since the late 1980s, the Government has adopted a de facto policy of tolerance toward the small number of persons—fewer than 100 annually—from other nations who registered with the Beijing office of the UNHCR as asylum seekers. The Government permitted these persons to remain in the country while the UNHCR made determinations as to their status and, if the UNHCR determined that they were bona fide refugees, while they awaited resettlement in third countries. However, the Government continued to deny the UNHCR permission to

operate along its northeastern border with North Korea because it considered North Koreans who crossed the border to be illegal economic migrants.

During the year, thousands of North Koreans were seized, detained, and forcibly returned to their homeland, where many faced persecution. In recent years, crackdowns on prostitution and forced marriages have resulted in increased deportations of North Korean women. During the year, the Government did permit approximately 130 North Koreans to travel to Seoul after they had entered diplomatic compounds or international schools in China, and hundreds more arrived in South Korea via third countries such as Mongolia, Vietnam and Cambodia after transiting through China. In response to these high profile incidents, the Government tightened border controls, and border crossings declined significantly late in the year.

The Government also arrested and detained some foreign missionaries and activists, as well as some Chinese citizens, for providing food, shelter, transportation, and other assistance to North Koreans. For example, Reverend Bong-il Choi was detained on April 12, humanitarian worker Hee-tae Kim was detained on August 31, and humanitarian worker Hiroshi Kato was detained in October.

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

Citizens lack the right to change their government peacefully and cannot freely choose or change the laws and officials that govern them. Rural citizens voted directly for their local village committees, which were not considered to be government bodies, and for party-reviewed candidates for delegate positions in township and county-level people's congresses. However, people's congress delegates at the provincial level were selected by county-level people's congresses, and in turn provincial-level people's congresses selected delegates to the National People's Congress. Although the CCP vets candidates for all elections above the village level, many county and provincial elections were competitive to some degree, with more candidates running than there were seats available.

According to the Constitution, the NPC is the highest organ of state power. Formally, it elects the President and Vice President, selects the Premier and Vice Premiers, and elects the Chairman of the State Central Military Commission. In practice the NPC Standing Committee oversees these elections and determines the agenda and procedure for the NPC under the direct authority of the CCP's Politburo Standing Committee. The NPC does not have the power to set policy or remove government or party leaders.

In general the election and agenda of people's congresses at all levels remained under the firm control of the CCP, the paramount source of political authority. By year's end, 19 provincial party leaders had been named to head provincial people's congresses in order to reassert party control over the legislatures. The CCP retained a tight rein on political decisionmaking and forbade the creation of new political parties. The Government continued efforts to suppress the China Democracy Party, an organization that had attracted hundreds, perhaps thousands, of members nationwide since its founding in 1998. Public security forces had previously arrested nearly all of the CDP's leaders, and late in the year a renewed crackdown targeted remaining activists. For example, CDP activists He Depu, Sang Jianchen, Zhao Changqing, Ouyang Yi, Dai Xuezhong, and Jiang Lijun were among those persons arrested in November after signing an open letter calling for political reform and a reappraisal of the official verdict on the 1989 Tiananmen massacre.

Scores of CDP members were detained in cities throughout the country in the period prior to the 10th anniversary of the Tiananmen massacre in 1999. The CDP's three best known leaders, Xu Wenli, Wang Youcai, and Qin Yongmin, were sentenced in 1998 to prison terms of 13, 12, and 11 years, respectively. Xu Wenli was released on medical parole to the United States in December. Since December 1998, at least 38 core leaders of the CDP have been sentenced to long prison terms on subversion charges. Hu Mingjun and Wang Sen, CDP leaders in Sichuan, were sentenced in May to 10- and 11-year sentences, respectively, on subversion charges for supporting protesting workers at the Dazhou Iron and Steel Plant in December 2000. In December 2001, Lu Xinhua, one of the founders of the Hubei chapter of the CDP, was sentenced to 4 years in prison for writing an article saying that President Jiang Zemin's political theory was a vestige of feudalism and the imperial system. Also in December 2001, Wang Jinbo, a CDP activist in Shandong Province, was sentenced to 4 years for subversion after posting on the Internet articles from foreign Web sites and urging the Government to reassess the 1989 crackdown on Tiananmen Square democracy advocates.

Under the Organic Law of the Village Committees, all of the country's approximately 1 million villages were expected to hold competitive, direct elections for sub-governmental village committees. A 1998 revision to the law called for improve-

ments in the nominating process and improved transparency in village committee administration. The revised law also explicitly transferred the power to nominate candidates to the villagers themselves, as opposed to village groups or party branches.

According to the Ministry of Civil Affairs, the majority of provinces have carried out at least four or five rounds of village elections. Foreign observers who monitored local village committee elections judged the elections they observed, on the whole, to have been fair. However, the Government estimated that one-third of all elections had serious procedural flaws; reballoting occurred in some of these cases and many villages had yet to hold truly competitive elections. Corruption and interference by township level officials continued to be a problem in some cases.

Since 1998 there has been experimentation at the township level designed to expand the role of township residents in the selection of their leaders; these experiments initially went forward at the recommendation of the NPC despite provisions in China's Constitution which forbid direct election of officials above the village level. Such experimentation came to favor a system of "elections" incorporating open nomination of candidates by township residents and pro forma confirmation by the township people's congress, selected either directly by residents or indirectly by "residents' representatives." However, in July 2001, the NPC issued a directive reminding those responsible that such procedures need to be consistent with the Constitution. While limited experimentation continued to take place, the results of such elections were vulnerable to being overturned as "unconstitutional."

Candidates favored by local authorities have been defeated in some elections, although in general the CCP dominates the local electoral process. Approximately 60 percent of the members elected to the village committees were party members. National-level election procedures mandate secret ballots and require villagers to be given ballots with space for write-in candidates, and these requirements were implemented in most cases.

In 2001 the SPC found 17,931 government officials guilty of corruption or of accepting bribes during the year. In addition, according to the Supreme People's Procuratorate's report to the NPC, in 2001 procuratorates at all levels investigated 40,195 public officials for graft or bribery and sentenced 20,120 persons for those crimes during the year.

The Government placed no restrictions on the participation of women or minority groups in the political process. However, women still held few positions of significant influence at the highest rungs of the party or government structure. One member of the 22-member Politburo was a woman, and only one of 29 ministerial-level positions was held by a woman. Women freely exercised their right to vote in village committee elections, but only a small fraction of elected members were women. The Government and party organizations included approximately 12 million female officials out of 61 million party members. Women constituted 21.83 percent of the NPC. The 16th Party Congress elected 27 women to serve as members or alternates on the 198-person Central Committee, an increase over the total of the previous committee.

Minorities constituted 14 percent of the NPC, although they made up approximately 9 percent of the population. All of the country's 56 nationalities were represented in the NPC membership. The 16th Party Congress elected 35 members of ethnic minorities to serve as members or alternates on the Central Committee. Minorities held few senior party or government positions of significant influence.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

The Government did not permit independent domestic NGOs to monitor openly or to comment on human rights conditions. It was difficult to establish an NGO, and the Government tended to be suspicious of independent organizations; most existing NGOs were quasi-governmental in nature and were closely controlled by government agencies (see Section 2.b.). However, an informal network of dissidents in cities around the country has become a credible source of information about government actions taken against activists. The information was disseminated outside of the country through organizations such as Hong Kong-based Information Center for Human Rights and Democratic Movement and New York-based Human Rights in China. The press regularly printed articles about officials who exceeded their authority and infringed on citizens' rights. However, the Government remained reluctant to accept criticism of its human rights record by other nations or international organizations and criticized reports by international human rights monitoring groups, claiming that such reports were inaccurate and interfered with the country's internal affairs. The Government maintained that there are legitimate, differing approaches to human rights based on each country's particular history, culture, social

situation, and level of economic development. The Government established the China Society for Human Rights, a “nongovernmental” organization whose mandate was not to monitor human rights conditions but to defend the Government’s views and human rights record.

The Government had active human rights dialogs with many countries, including Australia, Canada, Chile, Hungary, Norway, Switzerland, the United Kingdom, and the United States, as well as with the European Union.

In May 2000, the U.N. Committee Against Torture issued a report expressing concern about continuing allegations of serious incidents of torture, especially involving Tibetans and other national minorities. It recommended that the country incorporate a definition of torture into its domestic law in full compliance with international standards, abolish all forms of administrative detention (including reeducation-through-labor), promptly investigate all allegations of torture, and provide training courses on international human rights standards for police. Government officials who appeared before the Committee stated that the country had done a great deal in recent years to address torture by officials but noted that problems remained in supervising the judicial system. In November 2000, the Government signed a Memorandum of Understanding (MOU) with the U.N. High Commissioner on Human Rights that was designed to help the country comply with the terms of the International Covenant on Civil and Political Rights, which the Government has signed but not ratified, and the International Covenant on Economic, Social, and Cultural Rights, which the Government has ratified. Under the MOU, programs to be implemented include human rights education for judges, prosecutors, and police; other human rights education programs; the publication of reports; and fellowships for experts to study abroad. At year’s end, the Government made a commitment to extend invitations, without conditions, to the U.N. Special Rapporteur on Torture, the U.N. Special Rapporteur on Religious Intolerance, the U.N. Working Group on Arbitrary Detention, and the leaders of the U.S. Commission on International Religious Freedom.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

There were laws designed to protect women, children, persons with disabilities, and minorities. However, in practice societal discrimination based on ethnicity, gender, and disability persisted. The concept of a largely homogeneous Chinese society pervaded the thinking of the Han majority.

*Women.*—Violence against women was a significant problem. There was no national law specifically targeting domestic violence, although amendments to the Marriage Law, adopted in April 2001, were aimed in part at providing protection against spousal abuse. NPC members claimed that most of the 33 changes to the law were designed to support the rights of women and children victimized by family violence. In recognition of the seriousness of spousal abuse, 13 provinces and provincial level cities have passed legislation to address the problem. Sociologists noted that there has been no detailed research on the extent of physical violence against women. However, anecdotal evidence suggests that the reporting of domestic abuse was on the rise, particularly in urban areas, because greater attention has been focused on the problem. A July 2000 survey report by the All-China Women’s Federation (ACWF) found that violence occurred in 30 percent of families, and 80 percent of cases involved husbands abusing their wives. Actual figures may be higher because spousal abuse still went largely unreported. The survey found that domestic violence occurred at all socioeconomic levels. According to experts, domestic abuse was more common in rural areas than in urban centers. In response to increased awareness of the problem of domestic violence, there were a growing number of shelters for victims. Rape is illegal, and some persons convicted of rape were executed. The law does not expressly recognize or exclude spousal rape.

Central government policy formally prohibits the use of physical coercion to compel persons to submit to abortion or sterilization. However, intense pressure to meet birth limitation targets set by government regulations has resulted in instances in which local birth planning officials reportedly have used physical coercion to meet government goals (see Section 1.f.). In addition, women faced a disproportionate burden due to the Government’s enforcement of its birth limitation laws and practices, which require the use of birth control methods (particularly IUDs and female sterilization, which according to government statistics accounted for over 80 percent of birth control methods employed) and the abortion of certain pregnancies.

According to some estimates by experts, there were 4 to 10 million commercial sex workers in the country. The increased commercialization of sex and related trafficking in women trapped thousands of women in a cycle of crime and exploitation and left them vulnerable to disease and abuse. According to the official Xinhua News Agency, one in five massage parlors in the country was involved in prostitu-



tion, with the percentage higher in cities. Unsafe working conditions were rampant among the saunas, massage parlors, clubs, and hostess bars that have sprung up in large cities. Research indicated that up to 80 percent of prostitutes in some areas had hepatitis. In light of this and, in particular, of the growing threat of AIDS among sex workers, the U.N. Convention on the Elimination of Discrimination Against Women (CEDAW) Committee in 1998 recommended that due attention be paid to health services for female prostitutes. Although the Central government and various provincial and local governments have attempted to crack down on the sex trade, there have been numerous credible reports in the media of complicity in prostitution by local officials. Thus far, actions to crack down on this lucrative business, which involved organized crime groups and businesspersons as well as the police and the military, have been largely ineffective.

Trafficking in women and children and the kidnaping and sale of women and children for purposes of prostitution or marriage were serious problems (*see* Section 6.f.).

No statute outlaws sexual harassment in the workplace. The problem remained unaddressed in the legal system and often in society. There were reports that due to the lack of legal protections and to women's economic vulnerability, many victims of sexual harassment did not report it out of fear of losing their jobs. However, experts stated that more women were raising their concerns about sexual harassment because of greater awareness of the problem.

The Government has made gender equality a policy objective since 1949. The Constitution states that "women enjoy equal rights with men in all spheres of life." The 1992 Law on the Protection of Women's Rights and Interests provides for equality in ownership of property, inheritance rights, and access to education. Women's economic and political influence has increased. Nonetheless many activists and observers increasingly were concerned that the progress that has been made by women over the past 50 years was being eroded and that women's status in society had regressed during the 1990s. They asserted that the Government appeared to have made the pursuit of gender equality a secondary priority as it focused on economic reform and political stability.

The Law on the Protection of Women's Rights and Interests was designed to assist in curbing gender-based discrimination. However, women continued to report that discrimination, sexual harassment, unfair dismissal, demotion, and wage discrepancies were significant problems. Efforts have been made by social organizations as well as by the Government to educate women about their legal rights, and there was anecdotal evidence that women increasingly were using laws to protect their rights.

Nevertheless, women frequently encountered serious obstacles to the enforcement of laws. According to legal experts, it was very hard to litigate a sex discrimination suit because the vague legal definition made it difficult to quantify damages. As a result, very few cases were brought to court. Some observers also noted that the agencies tasked with protecting women's rights tended to focus on maternity-related benefits and wrongful termination during maternity leave rather than sex discrimination and sexual harassment. The structure of the social system also prevented women from having a full range of options. Women who sought a divorce faced the prospect of losing their housing since government work units allot housing to men when couples marry.

Women have borne the brunt of the economic reform of state-owned enterprises. Of the millions of workers laid off due to the reform of state-owned enterprises, a disproportionate percentage were women, many of whom did not have the skills or opportunities to find new jobs. Discriminatory hiring practices appeared to be on the increase as unemployment rose. Increasingly, companies discriminated by both sex and age, although such practices violate labor laws.

Many employers preferred to hire men to avoid the expense of maternity leave and childcare, and some even lowered the effective retirement age for female workers to 40 years of age (the official retirement age for men was 60 years and for women 55 years). Lower retirement ages also had the effect of reducing pensions, which generally were based on years worked.

The law provides for equal pay for equal work. However, a recent government survey found that women were paid only 70 to 80 percent of what men received for the same work. Most women employed in industry worked in lower skilled and lower paid jobs.

According to official figures, in 1995 there were 145 million illiterate persons above the age of 15. Women made up approximately 70 percent of this total. A 1998 Asian Development Bank report estimated that 25 percent of all women were semi-literate or illiterate, compared with 10 percent of men.

A high female suicide rate continued to be a serious problem. According to the World Bank, Harvard University, and the World Health Organization, some 56 percent of the world's female suicides occur in China (approximately 500 per day). The World Bank estimated the suicide rate in the country to be three times the global average; among women, it was estimated to be nearly five times the global average. Many observers believed that violence against women and girls; discrimination in education and employment; the traditional preference for male children; the country's birth limitation policies; and other societal factors contributed to the especially high female suicide rate.

While the gap in the education levels of men and women was narrowing, men continued to constitute a disproportionate number of the relatively small percentage of the population that received a university-level education. According to figures released by the All-China Women's Federation, at the end of 1997, women made up 36 percent of all university students, and 30 percent of all graduate students. However, educators in the large cities reported that there was a trend toward greater gender balance in universities. Some academics have reported that in some undergraduate and graduate departments women were beginning to outnumber men. However, women with advanced degrees reported an increase in discrimination in the hiring process as the job distribution system opened up and became more competitive and market driven.

*Children.*—The Constitution provides for 9 years of compulsory education for children, but in economically disadvantaged rural areas, many children did not attend school for the required period. Public schools were not allowed to charge tuition, but after the central government largely stopped subsidizing primary education in the early 1990s, many public schools began to charge mandatory fees to meet revenue shortfalls. Such fees made it difficult for poorer families to send their children to school or to send them on a regular basis. Some charitable schools have opened in recent years in rural areas, but not enough to meet demand. Children of migrant workers in urban areas also often did not attend school, although they could be allowed to do so if they pay required school fees, which usually were higher for non-residents and which their parents generally could not afford. The Government campaign for universal primary school enrollment by 2000 (which was not met) helped to increase enrollment in some areas. It also reportedly led school officials to inflate the number of children actually enrolled.

An extensive health care delivery system has led to improved child health and a continued decline in infant mortality rates. According to the most recent official figures, the infant mortality rate was 32 per 1,000 in 1996. According to UNICEF statistics, the mortality rate for children under 5 years of age was 40 per 1,000 live births.

The Law on the Protection of Juveniles forbids infanticide; however, there was evidence that the practice continued. According to the SFPC, only a handful of doctors have been charged with infanticide under this law. The law prohibits discrimination against disabled minors and codifies a variety of judicial protections for juvenile offenders. The physical abuse of children can be grounds for criminal prosecution.

Despite government efforts to prevent kidnaping and the buying and selling of children, these problems persisted in some rural areas (*see* Section 6.f.). There were no reliable estimates of the number of children trafficked. Domestically, most trafficked children were sold to couples unable to have children; in particular, boys were trafficked to couples unable to have a son. Children also were trafficked for labor purposes. Girls and women were trafficked for prostitution and for sale as brides (*see* Section 6.f.).

Children were reportedly detained administratively in custody and repatriation centers, some in the company of their parents. Others were detained for minor crimes they committed or because they were homeless. According to a credible report, children at times accounted for as many as 20 percent of those detained in custody and repatriation centers. Such children routinely were detained with adults and sometimes were required to work (*see* Sections 1.d. and 6.c.).

Female infanticide, sex selective abortions, and the abandonment and neglect of baby girls remained problems due to the traditional preference for sons, and the birth limitation policy. Many families, especially in rural areas, used ultrasound to identify female fetuses and terminate pregnancies. An official study in Hainan found that 68 percent of abortions were of female fetuses. Official figures from November 2000 put the overall male-female birth ratio at 116.9 to 100 (as compared to the statistical norm of 106 to 100). For second births, the ratio was 151.9 to 100 (*see* Section 1.f.). Female babies also suffered from a higher mortality rate than male babies, contrary to the worldwide trend. Neglect of baby girls was one factor in their lower survival rate. One study found the differential mortality rates were highest

in areas where women had a lower social status and economic and medical conditions were poor.

The Law on the Protection of Juveniles forbids the mistreatment or abandonment of children. According to the latest available figures, compiled in 1994, the number of children abandoned annually was approximately 1.7 million, despite the fact that, under the law, child abandonment is punishable by a fine and a 5-year prison term. The vast majority of children in orphanages were female, although some were males who were either disabled or in poor health. The treatment of children at these institutions has improved, especially with the increased attention created by foreign adoptions, but serious problems remained and mortality rates in some institutions were high. Medical professionals frequently advised parents of children with disabilities to put the children into orphanages. In recent years, some private orphanages (not funded by the Government), in which conditions may be generally better for children, have started to operate. In areas where such orphanages existed, some state-run orphanages exhibited a willingness to learn from them and to adopt some of their more modern practices, including the use of foster care.

The Government denied that children in orphanages were mistreated or refused medical care but acknowledged that the system often was unable to provide adequately for some children, especially those who were admitted with serious medical problems. In an effort to address this problem, in 1997 the NPC revised the adoption law to make it easier for couples to adopt. The new law dropped a restriction that parents who adopt a child must be childless. It also allows for multiple adoptions and lowers the age at which couples were eligible to adopt. Since 1997 there have been credible reports of renovation and new construction of orphanages and of improved care of children in some areas. Over \$30 million (RMB 248.4 million) reportedly has been allocated for this program since 1997.

*Persons with Disabilities.*—The law protects the rights of the country's persons with disabilities. According to the official press, all local governments have drafted specific measures to implement the law. The press publicized both the plight of persons with disabilities and the Government's efforts to assist them. The Government, at times in conjunction with NGOs such as the Lions Club International, sponsored a wide range of preventive and rehabilitative programs, including efforts to reduce congenital birth defects, treat cataracts, and treat hearing disorders. The goal of many of these programs was to allow persons with disabilities to be integrated into the rest of society.

However, reality for persons with disabilities lagged far behind legal dictates, and many did not receive or have access to special assistance or to programs designed to assist them. Misdiagnosis, inadequate medical care, pariah status, and abandonment remained common problems. According to reports, doctors frequently persuaded parents of children with disabilities to place their children in large government-run institutions, often far from the parents, and in which care was often substandard. Those parents who chose to keep children with disabilities at home generally faced difficulty in getting adequate medical care, day care, and education. Government statistics showed that almost one-quarter of the approximately 60 million persons with disabilities lived in extreme poverty. Unemployment among disabled adults remained a serious problem. The Government's official strategy was to integrate persons with disabilities into the mainstream work force, but efforts to do so must confront a cultural legacy of discrimination and neglect. Standards adopted for making roads and buildings accessible to persons with disabilities were subject to the Law on the Handicapped, which calls for their "gradual" implementation; compliance with the law was lax.

The Maternal and Child Health Care Law forbids the marriage of persons with certain specified contagious diseases or certain acute mental illnesses such as schizophrenia. If doctors find that a couple is at risk of transmitting disabling congenital defects to their children, the couple may marry only if they agree to use birth control or undergo sterilization. The Population and Family Planning Law, which went into effect September 1, requires local governments to employ such practices to raise the percentage of healthy births.

Persons in urban areas with mental illness or disability who were found on city streets could be detained administratively under custody and repatriation regulations, ostensibly for their protection (*see* Section 1.d.). The conditions under which they were held in such centers reportedly were poor, and they were sometimes required to work.

*National/Racial/Ethnic Minorities.*—According to the 2000 census, the total population of the country's 55 ethnic minorities was 106.43 million, or 8.41 percent of the total population. Most minority groups resided in areas they traditionally have inhabited. The Government's avowed policy on minorities calls for preferential treat-

ment in marriage regulations, birth planning, university admission, and employment. However, in some areas, ethnic minorities, especially those living in urban areas, have been pressured to limit births to the lower number Han Chinese are allowed (*see* Section 1.f.). Programs have been established to provide low-interest loans, subsidies, and special development funds for minority areas. Nonetheless, in practice minorities faced discrimination. Most of the minorities in border regions were less educated than the national average, and job discrimination in favor of Han migrants remained a serious problem. Racial discrimination was the source of deep resentment on the part of minorities in some areas, such as Xinjiang and Tibet. The Government did not openly recognize racism against minorities or tension among different ethnic groups as problems. Ethnic Uighurs in Xinjiang did not have equal access to newly created construction jobs associated with development projects; Han workers were brought in from Sichuan and elsewhere to work, especially on technical projects such as oil and gas pipelines.

Government development policies have long been in place to improve minority living standards. However, real incomes in minority areas, especially for non-Han groups, remained well below those in other parts of the country, and the majority Han Chinese have benefited disproportionately from government programs and economic growth. Many development programs have disrupted traditional living patterns of minority groups, including ethnic Tibetans and the Muslim Turkic majority of western Xinjiang. There was evidence that official poverty alleviation programs and major state projects, such as building dams and environmental/reforestation projects, included the forced evacuation of persons (*see* Section 2.d.).

Since 1949 government policy has resulted in a significant migration of Han Chinese to Xinjiang. According to a government white paper, in 1998 there were approximately 8 million Uighurs, 2.5 million other ethnic minorities, and 6.4 million Han in Xinjiang, up from 300,000 Han in 1949. The Government does not count "temporary workers" as part of the official population in the area in which they work. Temporary workers may spend several years at their new location, and there was no evidence to suggest that they were required to return to their home province within any specific time limit. The migration of ethnic Han into Xinjiang in recent decades has caused the Han-Uighur ratio in the capital of Urumqi to shift from 20:80 to 80:20 and was a source of Uighur resentment. By some estimates, 250,000 Han annually have moved into the region in the last few years. Similarly, many non-Tibetan residents of the Tibet Autonomous Region have lived there for years as "temporary" residents (*see* Tibet Addendum).

In many areas with a significant population of minorities, there were two-track school systems using either Mandarin or the local minority language. Students can choose to attend schools in either system. Designed to protect and maintain minority cultures, this divided education system placed those graduating from minority schools at a disadvantage in competing for jobs in government and business, which required good Chinese-language skills. Graduates of these schools typically needed 1 year or more of intensive Chinese before they could handle course work at a Chinese-language university. The vast majority of Uighur children in Xinjiang attended Uighur-language schools, and generally received an hour's Chinese language instruction per day. Tuition at Chinese-language schools in Xinjiang was generally more costly and thus most Uighur children living in rural areas were unable to afford them.

The Communist Party has an avowed policy of boosting minority representation in the Government and the CCP, and minorities constituted 14 percent of the NPC, which was higher than their percentage in the population. A September 1999 government white paper reported that there were 2.7 million minority officials in the Government. Many members of minorities occupied local leadership positions, and a few held positions of influence in the local party apparatus or at the national level. However, in most areas, ethnic minorities were shut out of positions of real political and economic power, which fed resentment of Han officials holding the most powerful party positions in minority autonomous regions.

Tensions between ethnic Han citizens and Uighurs in Xinjiang continued, and the authorities imposed heightened restrictions on political, civil, and religious freedoms in the region. A campaign that began in 1997 to stress unity and to condemn "splittism" and religious extremism showed no signs of abating. During the year, authorities continued to prohibit activities it deemed separatist in nature, announced tightened security measures, and mounted campaigns to crack down on opposition. Because the Xinjiang Uighur Autonomous Region government regularly lists together those involved in "ethnic separatism, illegal religious activities, and violent terrorism," it was often unclear whether particular raids, detentions, arrests, or judicial punishments targeted those peacefully seeking their goals or those engaged in violence. The strike hard campaign in Xinjiang specifically targeted the "three

evils” of extremism, splittism, and terrorism as the major threats to Xinjiang’s social stability. Many observers raised concerns about the Government’s use of the international war on terror as a justification for cracking down harshly on suspected Uighur separatists expressing peaceful political dissent and on independent Muslim religious leaders.

In 2001 there were numerous reports that Uighurs were being executed or sentenced to long prison terms for separatist activities. In April 2001, immediately after the start of the strike hard campaign, 25 political activists in Kashgar prefecture were arrested for allegedly conspiring to set up an “Eastern Turkestan Republic.” Charges ranged from “endangering state security” to “illegally setting up an organization,” although human rights groups stated that no specific act committed by the group was mentioned. In April 2001, three Uighurs were sentenced for being members of the “1999 August 9 disturbances,” which refers to a demonstration held in front of the local Communist party building to protest the arrest of an imam. Also in 2001, police arrested 186 persons in Aksu prefecture for offenses such as “endangering state security” and seized illegal religious publications, while in the capital, Urumqi, eight persons accused of having endangered social stability were sentenced to prison terms of between 4 and 13 years. According to official accounts, by May 2001 the authorities were prosecuting more than 3,000 cases, and massive public sentencing rallies attended by more than 300,000 persons had been held throughout the region.

In March 2000, a Xinjiang court sentenced Rebiya Kadeer, a prominent Uighur businesswoman and former member of the provincial-level Chinese People’s Political Consultative Conference, to 8 years in prison on charges of “passing state intelligence” to foreigners; according to an official press report, the intelligence she was accused of passing included newspaper articles and a list of names of persons whose cases had been handled by the courts. Kadeer, her son, and her secretary were arrested in 1999 while on their way to meet a visiting foreign delegation. Kadeer’s son and the secretary were sentenced administratively to 2 and 3-year reeducation-through-labor terms, respectively, in November 1999. Kadeer was reported to be in poor health but has been unable to get adequate medical treatment. Government officials claimed she was well cared for and received better medical treatment than ordinary prisoners. Many foreign observers believed Kadeer was singled out for her activism on behalf of Uighurs and for her husband’s involvement with Uighur causes and Radio Free Asia. In December Kadeer’s family was briefly detained and questioned during a visit of senior foreign officials.

In late 2001, the U.N. Human Rights Committee ruled that Uighur scholar Tohti Tunyaz had been arbitrarily detained. He was sentenced in 1999 to an 11-year term for “inciting separatism” and “illegally acquiring state secrets” after he returned to Xinjiang in connection with his research studies on ethnic minorities at the University of Tokyo.

Possession of separatist publications or audiovisual materials was not permitted, and, according to reports, possession of such materials resulted in lengthy prison sentences. The author of a history of the Uighurs that was severely criticized by provincial-level and national authorities in the mid-1990s remained prohibited from publishing or from meeting with foreigners. A Uighur-language press existed in Xinjiang, but it had a very small circulation.

Han control of the region’s political and economic institutions also contributed to heightened tension. Although government policies brought tangible economic improvements to Xinjiang, Han have received a disproportionate share of the benefits. The majority of Uighurs were poor farmers, and 25 percent were illiterate.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for freedom of association. However, in practice workers were not free to organize or join unions of their own choosing. The All-China Federation of Trade Unions (ACFTU), which was controlled by the Communist Party and headed by a high-level party official, was the sole legal workers’ organization. The Trade Union Law gives the ACFTU control over the establishment and operation of all subsidiary union organizations and activities throughout the country, including enterprise-level unions that, according to otherwise unsubstantiated ACFTU claims, increased threefold in the last 5 years to more than 1.6 million unions. Independent unions are illegal. The Tangxia Migrant Workers’ Association, although established with the approval of local authorities in April, was shut down after 3 months of operation when authorities became concerned that it was exhibiting the characteristics of an independent union. The Trade Union Law allows workers to decide whether to join official unions in their enterprises. There were no reports of repercussions for the small percentage of workers in the state-owned sector who had not joined.

Although the ACFTU and its constituent unions had a monopoly on trade union activity, their influence over the workplace diminished with the economic reforms of recent years. ACFTU unions were relatively powerless to protect the tens of millions of members who have lost their jobs or had their wages or benefits delayed or cut in the massive restructuring of state-owned enterprises (SOEs). The unions have, however, provided some benefits and reemployment assistance to affected workers.

The ACFTU had difficulty organizing in the country's rapidly growing private and foreign-invested sectors, where union membership during the year was estimated to be less than 20 percent. With declines in the state-owned sector and organizational weakness outside the state sector, the ACFTU's membership declined from nearly 100 percent of the urban workforce during the height of the planned economy to approximately 50 percent in recent years. According to the ACFTU, this figure rebounded to approximately 60 percent (131 million) by the end of June.

The existence of an enormous rural labor force—some 550 million out of a total labor force of approximately 750 million—also complicated the organization and protection of workers. Farmers did not have a union or any other similar organization. Of some 130 million rural residents working in township and village enterprises, only a very small percentage were represented by unions. A “floating” migrant labor force of 80 to 130 million persons has proven especially difficult to organize and protect. Some of these migrants gravitated to temporary or seasonal low-wage work in urban areas where their residence, under the country's registration system, often was illegal. Many migrants, including substantial numbers of young women, were attracted to the growing private sector where unions were few and where their desire to earn more than they could in rural areas made them easy to exploit.

The ACFTU strongly supported major amendments to the Trade Union Law, passed by the NPC in October 2001. The amended law gives the ACFTU clearer responsibility to represent workers' interests first and foremost. The amendments also give union organizing activities in the private sector the legal protection that they previously lacked. The amended law provides specific legal remedies against attempts by employers to interfere with organizing activities or to punish union officials for failure to carry out official duties. However, the amendments did not include any change in the legal monopoly of the ACFTU.

During the year, the Government, as in the past, took specific actions against illegal union activity, including the detention or arrest of labor activists. Four leaders of a large workers' protest in Liaoyang city in Liaoning Province were detained in March (*see* Section 2.b.). Two of the four, Yao Fuxin and Xiao Yunliang, remained in detention at year's end, charged with subversion. In May two worker activists, Hu Mingjun and Wang Sen, were found guilty of subversion for supporting December 2000 worker protests in Sichuan Province. In June Di Tianguai was detained after trying to organize a national federation of retired workers. Di also was charged with subversion.

Other labor activists, detained in previous years, were reportedly still in detention at year's end. Shanghai labor dissident Wang Miaogen, detained in 1996, was still being held in a psychiatric hospital. Li Wangyang, who was released from prison in June 2000 after serving 11 years of a 13-year sentence for organizing an independent union during the 1989 prodemocracy movement, and who was sentenced to a second prison term in 2001 for “incitement to subvert state power,” remained in prison. Other labor activists reportedly still in detention included Zhang Shanguang, Li Jiaqing, Miao Jinhong, Ni Xiafei, Li Keyou, Liao Shihua, Yue Tianxiang, Guo Xinmin, He Zhaohui, Liu Jingsheng, and labor lawyer Xu Jian.

The country was a member of the ILO and had ratified core ILO conventions prohibiting child labor, including the worst forms of child labor, and discrimination in remuneration for male and female workers. At year's end, the Government had not ratified other core conventions regarding the right of association, the right to collective bargaining, and the prohibition against compulsory labor. However, in 2001 the Government signed a memorandum of understanding with the ILO for cooperation in such areas as industrial relations, employment promotion, and occupational safety.

At year's end, the Government had not replied to an ILO request for further information in connection with a 1998 complaint brought to the ILO by the International Confederation of Free Trade Unions (ICFTU) alleging the detention of trade unionists and violations of the right to organize. During the year, the ICFTU submitted another complaint to the ILO alleging repression of independent workers' protests in Liaoyang and Daqing and calling attention to the sentencing of two worker activists in Sichuan Province.

The ACFTU maintained active relations with international trade union organizations and established exchanges and cooperative relations with more than 400 trade

unions and international and regional trade organizations in more than 130 countries and regions. In 2000 the ACFTU received its first-ever visit from the head of the ICFTU, and during the year reportedly hosted another ICFTU team. Also during the year, an ACFTU representative was, for the first time, elected to the governing body of the ILO.

In 2001 one of the first free elections, by secret ballot, of the leadership of a factory's ACFTU-affiliated union was held at a foreign-owned factory in Guangdong. In October a second such election was held at a foreign-owned factory in Fujian Province.

*b. The Right to Organize and Bargain Collectively.*—The Labor Law permits collective bargaining for workers in all types of enterprises. Under the law, collective contracts are to be developed through collaboration between the labor union (or worker representatives in the absence of a union) and management and should specify such matters as working conditions, wage scales, and hours of work. The law also permits workers and employers in all types of enterprises to sign individual contracts, which are to be drawn up in accordance with the collective contract.

The country's shift toward a market economy and changing labor-management relations created pressures for collective bargaining that would include more genuine negotiations and take workers' interests into greater account. The amended Trade Union Law specifically addresses unions' responsibility to bargain collectively on behalf of workers' interests; however, in practice genuine collective bargaining still did not occur. The ACFTU continued to rely on arrangements among party representatives, management, and union leaders, in which workers had virtually no input.

In the private sector, where official unions were few and alternative union organizations were unavailable, workers faced substantial obstacles to bargaining collectively with management.

Workplace-based worker committees were common. These committees were expected to guide union activities and be the vehicle for worker input into enterprise policies. However, in SOEs, many were little more than rubber stamps for deals predetermined by enterprise management, the union, and the CCP representative.

The amended Trade Union Law strengthens the longstanding prohibitions against antiunion discrimination by providing specific legal remedies for such actions (*see* Section 6.a.). The law also specifies that union representatives may not be transferred or terminated by enterprise management during their term of office. These provisions were aimed primarily at the private sector, where resistance to unions was common. Antiunion activity was virtually unknown in the state-owned sector.

Neither the Constitution nor the law provides for the right to strike. The amended Trade Union Law acknowledges that strikes may occur, in which case the union is to reflect the views and demands of workers in seeking a resolution of the strike. Some observers have interpreted this provision to offer at least a theoretical legal basis for the right to strike. However, government treatment of worker protests as illegal demonstrations established that there was still no officially accepted right to strike. In addition, no other types of planned worker action were allowed.

As the pace of economic change accelerated, changing relationships between workers and management, growing unemployment, wage and benefit arrearages, and uncertainties about the viability of a new social safety net system resulted in a growing number of labor disputes and spontaneous protests.

The number of labor disputes and protests continued to rise during the year, and the intensity of these protests increased. In March thousands of oil workers in Daqing, Heilongjiang Province, publicly protested the terms of their severance from a state-owned oil company. Also in March, thousands of workers in Liaoyang and Fushun cities in Liaoning Province protested unpaid wages, layoffs, and alleged corruption. As in previous years, officials largely avoided using violence to end the protests and relied on the police to control and disperse protesters. High-level government officials investigated the circumstances of the Daqing protests and were reported to have concluded that the oil company followed the law in its severance policies. In the Liaoyang protests, police detained four protest leaders.

The Labor Law provides for mediation, arbitration, and court resolution of labor disputes. Under these procedures, cases are to be dealt with first in the workplace, through a mediation committee, then, if unresolved, through a local arbitration committee under government sponsorship. If no solution is reached at this level, the dispute may be submitted to the courts. According to Ministry of Labor and Social Security (MOLSS) statistics, 64,000 labor disputes were settled through mediation in 2001. Arbitration committees nationwide handled 155,000 disputes in 2001, an increase of approximately 14 percent over the previous year. Of these cases, 150,000 were resolved.

Observers differed over the effectiveness of these dispute resolution procedures in protecting workers' rights and interests. Workers were reported to have little trust

in the fairness of workplace mediation. They viewed unions, which played a major mediation role, as inclined to favor management. A 1999 ICFTU report contended that mediation efforts often were preferential to employers and were largely ineffective in advocating worker rights. Workers appeared to favor arbitration over workplace mediation. While workers had little say in the choice of arbitrators and often looked with suspicion on the local government role in the process, the majority of arbitration decisions favored workers. In the view of some observers, this fact helped to explain the rapid rise in the number of arbitration cases.

Laws governing working conditions in Special Economic Zones (SEZs) were not significantly different from those in effect in the rest of the country. Lax enforcement of these laws by provincial and local officials was a serious problem in the SEZs, as in other parts of the country. Wages in the SEZs and in the southeastern part of the country generally were higher for some categories of workers than in other parts of the country because high levels of investment have created a great demand for available labor. As in other areas of the country, officials have admitted that some investors in the SEZs were able to negotiate “sweetheart” deals with local partners that bypassed labor regulations requiring the provision of benefits and overtime compensation. Some foreign businesses in the SEZs had ACFTU-affiliated unions, and management reported positive relations with union representatives, in part because the ACFTU discouraged strikes and work stoppages.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced and bonded labor, and the Government denied that forced or bonded labor was a problem. However, forced labor was a problem in penal institutions. Prisoners regularly worked in prisons and reeducation-through-labor institutions. In some cases, prisoners worked in facilities directly connected with penal institutions; in other cases, they were contracted to nonprison enterprises. The economic benefits that penal institutions received from prisoners’ work and the inconsistent application of standards of official accountability increased the chance that prison labor was coerced and abusive.

Some persons in pretrial detention also were required to work. Inmates of custody and repatriation centers, who were detained administratively without trial, were required to perform labor while in detention, often to repay the cost of their detention (see Section 1.d.). Most such inmates performed agricultural labor.

In 1992 and 1994, the U.S. and Chinese governments signed agreements that allow U.S. officials, with the approval of the Government, to visit prison production facilities to check specific allegations that prisoners in these facilities have produced goods exported to the United States. Some, although not all, of these allegations claimed that these goods were produced under conditions of forced labor. Since these agreements were signed, the Government’s cooperation with U.S. officials has been poor. Between 1997 and 2001, the Government allowed U.S. officials to conduct only one visit to a prison labor facility. During the year, limited progress was made with the initiation of regular meetings between U.S. Embassy and Ministry of Justice officials. Embassy officials conducted one prison visit during the year. However, the Government did not change its position that reeducation-through-labor facilities were not prisons, and no progress was made in allowing Embassy officials to visit them under the prison labor agreements.

Most anecdotal reports contended that working conditions in the penal system’s light manufacturing factories were similar to those in other factories, while conditions in prison farms and in mines were often particularly severe. In May 2001, 39 prisoner-miners were killed in a coal mine flood in Sichuan Province. There were no comprehensive statistics for work-related deaths and injuries among prisoners.

The Government prohibits forced and bonded labor by children, but some child trafficking victims were reportedly sold into forced labor (see Section 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits the employment of children, but the Government had not adopted a comprehensive policy to combat child labor. The labor law specifies that, with a few strictly supervised exceptions, “no employing unit shall be allowed to recruit juveniles under the age of 16.” The Labor Law specifies administrative review, fines, and revocation of business licenses of those businesses that illegally hire minors. The law also stipulates that parents or guardians should provide for children’s subsistence. Workers between the ages of 16 and 18 were referred to as “juvenile workers” and were prohibited from engaging in certain forms of physical work, including labor in mines.

The Government maintained that the country did not have a widespread child labor problem, and it was generally believed that the majority of children who worked did so at the behest of their families, especially in impoverished rural areas, to supplement family income. Apart from agricultural work, child workers in rural



areas appeared to work primarily for township and village enterprises. In urban areas, they worked as car washers, garbage collectors, and street vendors. Some observers believed that coal mines, which often operated far from urban centers and out of the purview of law enforcement officials, also occasionally employed children. The existence of a large adult migrant labor force, often willing to work long hours for low wages, reduced the attractiveness of child labor for employers.

However, in an apparent shift from the Government's previous reluctance to acknowledge that child labor was a problem, in 2001 the Government publicly convened an interagency commission, under the leadership of the Ministry of Public Security, to study the issue. In October the State Council issued regulations updating and strengthening existing child labor prohibitions. For example, the regulations require employers to check the identity cards of all applicants and specify fines for violations.

Some students worked in light industrial production within or for their schools. In 2001 an explosion at an elementary school in Jiangxi Province killed 42 persons, most of them school children. Local residents credibly claimed that fireworks, assembled by pupils in the school, caused the explosion. The Government initially denied this allegation but later implicitly acknowledged its accuracy. In the wake of the accident, the Jiangxi Provincial Education Department ordered all primary and secondary schools to conduct safety inspections, to limit outsiders' access to school facilities, and to ensure that "production activities that might compromise the safety of teachers and students" were prohibited. In addition, some local and provincial officials were dismissed.

In June the Government ratified ILO Convention 182 on the worst forms of child labor.

*e. Acceptable Conditions of Work.*—The Labor Law provides for broad legal protections for workers on such matters as working hours, wages, and safety and health. The amended Trade Union Law strengthens the authority of unions to protect workers against violations of their legal rights or contractually agreed conditions of work. The Law on the Prevention and Treatment of Occupational Diseases, passed in 2001, and the Production Safety Law, passed during the year, clarify responsibilities for work-related illness and accidents and provide for specific penalties for violation of the law. Nonetheless, lax enforcement of these laws and related regulations was a problem.

There was no national minimum wage. The Labor Law allows local governments to determine their own standards for minimum wages. Local governments generally set their minimum wage at a level higher than the local minimum standard income but lower than the average wage. Widespread official corruption and efforts by local officials to attract and keep taxpaying, job-producing enterprises that might otherwise locate elsewhere undercut enforcement of the minimum wage provisions.

The Labor Law mandates a 40-hour standard workweek, excluding overtime, and a 24-hour weekly rest period. It also prohibits overtime work in excess of 3 hours per day or 36 hours per month and mandates a required percentage of additional pay for overtime work. However, these standards were regularly violated, especially in the private sector. They were particularly ignored in enterprises that could rely on a vast supply of low-skilled migrant labor. In many industries such as textile and garment manufacturing, compulsory overtime reportedly was common, often without overtime pay. During the year, auditors found that some factories routinely falsified overtime and payroll records. There also were reports of workers being prevented from leaving factory compounds without permission.

Occupational health and safety concerns remained serious. The poor enforcement of occupational health and safety laws and regulations continued to put workers' lives at risk. The State Administration for Work Safety (SAWS), which was administratively joined with the State Administration for Coal Mine Safety Supervision (SACMSS), was responsible for providing a nationwide framework for work safety. The Ministry of Health was responsible for prevention and treatment of occupational illness. SAWS/SACMSS staffed nearly 70 field offices throughout the country. Some provincial and local governments have followed the national pattern of establishing separate work safety agencies. However, enforcement of national health and safety standards, which was the responsibility of governments below the national level, remained very weak.

Workplace health and safety did not improve significantly during the year, and there continued to be a high rate of industrial accidents. According to official statistics, 87,320 workers were killed in work-related (including traffic) accidents in the first 9 months of the year. Of these, 9,216 were killed in industrial and mining accidents. Of the 9,216, 4,205 were killed in coal mining accidents.

These official statistics almost certainly underestimated the real scope of workplace deaths and injuries. Enterprise owners and managers sometimes failed to re-

port accidents and health problems. Local officials also often underreported such incidents.

The high rate and seriousness of coal mining accidents highlighted serious enforcement problems in that sector. For example, on December 6 a fire in an illegal single-shaft mine run by government-owned Wanbao Coal Mine in Taonan City, Jilin Province, killed 30 persons. In recent years, the Government shut tens of thousands of small coal mines and announced tougher mine inspection and closure standards. Some of the worst mining accidents occurred in mines that had reopened illegally after being officially closed. Observers attributed the enforcement problem in the coal mining sector primarily to corruption; a need to sustain employers in small localities, where many of the most dangerous mines were located; and a paucity of inspectors.

Less than half of rural enterprises met national dust and poison standards. Many factories that used harmful products, such as asbestos, not only failed to protect their workers against the ill effects of such products, but also failed to inform them about the hazards.

Approximately 43.5 million workers were reported to be participating in the country's new work-injury insurance system at the end of 2001. This total represented an increase from the 42 million workers covered at the end of 2000 but fell short of the announced target of 50 million.

In recent years, small but growing numbers of workers began to use lawsuits to pursue work injury and illness claims against employers.

*f. Trafficking in Persons.*—The law prohibits trafficking in women and children; however, trafficking in persons and the abduction of women for trafficking were serious problems. The country was both a source and destination country for trafficking in persons. Most trafficking was internal for the purpose of providing lower-middle income farmers with brides or sons, but a minority of cases involved trafficking of women and girls into forced prostitution in urban areas, and some reports suggested that some victims, especially children, were sold into forced labor.

Internal trafficking was a significant problem. Some experts, including the CEDAW Committee, have suggested that the serious imbalance in sex ratios in some regions (*see* Section 1.f.) has created a situation in which the demand for marriageable women cannot be met by local brides, thus fueling the demand for abducted women. The problem of a shortage of marriageable women was exacerbated by the tendency for many village women to leave rural areas to seek employment. In addition, the cost of traditional betrothal gifts given to a bride's family sometimes exceeded the price of a trafficked bride and thus made purchasing a bride more attractive to poor rural families. Some families addressed the problem of a shortage of women by recruiting women in economically less advanced areas. Others sought help from criminal gangs, which either kidnaped women and girls or tricked them by promising them jobs and an easier way of life and then transported them far from their home areas for delivery to buyers. Once in their new "family," these women were "married" and raped. Some accepted their fate and joined the new community; others struggled and were punished. According to reports, many of the kidnappings also occurred in provinces where the male to female ratio was generally balanced.

There were reports that women and girls from Burma, Laos, North Korea, Vietnam, and Russia were trafficked into the country either to work in the sex trade or to be forced to marry Chinese men. Trafficking of North Korean women and girls into the country to work in the sex industry was reportedly widespread in the northeastern part of the country; border guards reportedly were involved. Many such women, unable to speak Chinese, were virtual prisoners. Others chose to stay in their new situation because China was less poverty-stricken than North Korea. A few of the Korean women were sold against their will to rural men in both ethnic Korean and ethnic Han areas. Others ended up working as prostitutes. According to press reports, North Korean brides were sold for approximately \$38 (RMB 315) to \$150 (RMB 1,245). Women reportedly also were trafficked from Vietnam into the country for purposes of forced marriage.

Chinese citizens were trafficked from the country for sexual exploitation and indentured servitude in domestic service, sweatshops, restaurants, and other services. There were reports that Chinese citizens were trafficked to Belgium, Burma, Canada, Hungary, Italy, Japan (illegal immigrants held in debt bondage), Malaysia, the Netherlands (for the purpose of sexual exploitation), Singapore, Sri Lanka (for sexual exploitation), Taiwan, the United Kingdom (for sexual exploitation), and the United States. A large number of citizens were trafficked through Hong Kong.

Most trafficked Chinese women in Malaysia were from the coastal areas of Guangdong, Fujian, and Shanghai; they were trafficked by ethnic Chinese gangs.

Most Chinese women trafficked to Australia reportedly came from Shanghai, Hong Kong, and Guangzhou.

In February a Singapore court jailed for 30 months a man who trafficked four Chinese women to be waitresses on a Singapore-based cruise ship. The young women were forced to work as prostitutes on the ship after their arrival. In 2000 authorities in Italy reported that an estimated 30,000 illegal Chinese immigrants worked in sweatshop conditions outside of Florence, with many children working alongside their parents in the production of scarves, purses, and imitations of various brand name products.

Alien smuggling rings often had ties to organized crime and were international in scope. Persons trafficked by alien smugglers paid high prices for their passage to other countries, where they hoped that their economic prospects would improve. There were credible reports that some promised to pay from \$30,000 to \$50,000 (RMB 248,000 to 415,000) each for their passage. Upon arrival, many reportedly were forced to repay the traffickers for the smuggling charges by working in specified jobs for a set period of time. They often also were forced to pay charges for living expenses out of their meager earnings. The conditions under which these trafficked persons had to live and work were generally poor, and they were often required to work long hours. The smuggling rings that trafficked them often restricted their movements, and their travel documents, which were often fraudulent, frequently were confiscated. Victims of trafficking faced threats of being turned in to the authorities as illegal immigrants and threats of retaliation against their families at home if they protested the situation in which they found themselves.

Kidnaping and the buying and selling of children continued to exist, especially in poorer rural areas. There were no reliable estimates of the number of children trafficked. Domestically, most trafficked children were sold to couples unable to have children; in particular, boys were trafficked to couples unable to have a son. Children were also trafficked for labor purposes. Children trafficked to work usually were sent from poorer interior areas to relatively richer areas; traffickers reportedly often enticed parents to relinquish their children with promises of large remittances that their children would be able to send to them. In an effort to gain a degree of control over this problem, in mid-2000, the Government began to use DNA technology to confirm parentage. The Chinese Ministry of Public Security reportedly invested millions of dollars to establish a national DNA databank. During the year, the databank was operational.

The purchase of women was criminalized in 1991, with the enactment of the NPC Standing Committee's "Decision Relating to the Severe Punishment of Criminal Elements Who Abduct and Kidnap Women and Children." This decision made abduction and sale separate offenses.

Beginning in 2000, authorities organized a nationwide crackdown aimed at stemming the growth of trafficking in women and children. As part of that program, according to official media reports, 110,000 women and 13,000 children who had been abducted were rescued. Authorities have continued to combat the problem of trafficking; in 2000 they arrested more than 19,000 persons, and sentenced more than 11,000 to punishments including, in a few cases, death.

However, despite government efforts to crack down on trafficking in women and children, the demand far outstripped the available supply, making trafficking a profitable enterprise for those willing to risk arrest and prosecution.

The Government continued to struggle with the pervasive problem of official corruption, as demonstrated by the prosecution and sentencing of roughly 18,000 officials on corruption-related charges in 2000. There were foreign reports of complicity of local officials in the related problem of alien smuggling, as well as reports of the complicity of local officials in prostitution, which sometimes involved trafficked women. Disregard of the law also manifested itself at the village level, where village leaders have in some cases sought to prevent police from rescuing women who have been sold as brides to villagers.

Agencies involved in combating trafficking included the Ministry of Public Security, the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Civil Affairs, the Central Office in Charge of Comprehensive Management of Public Order, and the Legislative Office of the State Council.

Some victims of domestic trafficking were given assistance and returned to their homes. It was central government policy to provide funds to provincial and local police to house victims and return them to their homes. Government-funded women's federation offices provided counseling on legal rights, including the options for legal action against traffickers, to some victims. The All-China Women's Federation assisted victims in obtaining medical and psychological treatment.

Persons who were trafficked from the country and then repatriated sometimes faced fines for illegal immigration upon their return; after a second repatriation,

such persons could be sentenced to a term in a reeducation-through-labor camp. Alien smugglers were fined \$6,000 (RMB 50,000) and most were sentenced to up to 3 years in prison, although some have been sentenced to death.

Although the central government and various provincial and local governments have attempted to crack down on the sex trade and thus on one type of trafficking, there were numerous credible reports in the media of complicity in prostitution by local officials. Actions to stop this lucrative business were largely ineffective. According to press reports, at least eight persons convicted of trafficking women and children for prostitution were executed during a 2001 campaign, and at least seven others were sentenced to long prison terms. The effort to combat trafficking continued during the year. On September 10, death sentences were granted to 10 members of a gang of child traffickers based in Hebei for kidnaping and selling 16 children between June 2000 and April 2001. Eight other gang members were given life sentences. The Government also maintained a national telephone hot line on abduction, as well as a national databank on victims and traffickers. Nongovernmental experts observed that the national campaign against trafficking focused primarily on the criminal aspects of the trafficking problem and less on the reintegration of victims into their communities, despite the involvement of the ACWF.

UNICEF trained law enforcement personnel to work with trafficking victims. During the year, the Government conducted public education campaigns in provinces and counties against trafficking as a preventive measure. The campaigns included speeches by national and provincial leaders, newspaper articles, and television programs. In addition, the Government-funded ACWF and its subsidiary women's federations at the provincial level conducted educational activities. In some cities, signs in bus and train stations warned women of potential dangers, and police in the stations were trained to look for women who might be traveling against their will.

#### TIBET

(The United States recognizes the Tibet Autonomous Region (TAR), hereinafter referred to as "Tibet," to be part of the People's Republic of China. The preservation and development of Tibet's unique religious, cultural, and linguistic heritage and protection of its people's fundamental human rights continue to be of concern. For information on ethnic Tibetans living in other regions of China outside the TAR, see the China Country Report on Human Rights Practices.)

*Respect for the Integrity of the Person.*—The Government's human rights record remained poor, although there were some positive developments. The year was marked by the first early releases of Tibetan political prisoners, with seven prisoners released before serving their full sentences. The Government also permitted visits to Tibet by emissaries of the Dalai Lama and provided reporters and foreign officials with somewhat greater access to the region. However, authorities continued to commit serious human rights abuses, including instances of torture, arbitrary arrest, detention without public trial, and lengthy detention of Tibetan nationalists for peacefully expressing their political or religious views. The overall level of repression of religious freedom in Tibet, while somewhat less oppressive for lay followers than in previous years, remained high. Individuals accused of political activism faced ongoing harassment during the year. There were reports of imprisonment and abuse of nuns and monks accused of political activism. Security was intensified during sensitive anniversaries and festival days, while activities viewed as vehicles for political dissent, including celebration of some religious festivals, were suppressed. There were reports of small-scale political protests by ethnic Tibetans in a number of ethnic Tibetan areas, including areas outside Tibet.

There were no reports of prisoner deaths during the year. Deaths of at least 41 Tibetan political prisoners since 1989 can be attributed to severe abuse under detention; at least 20 of those prisoners had been in Lhasa's Drapchi Prison. In 2001 Ngawang Lochoe (also known as Dondrub Drolma), a 28-year-old nun at Sandrup Dolma Lhakang temple, reportedly died after serving 9 years of a 10-year sentence for participating in "counterrevolutionary propaganda and incitement." She died the same day that she was moved to a hospital from Drapchi Prison, reportedly from respiratory and heart failure.

During the year, Chinese authorities granted early releases to seven Tibetan political prisoners, with sentence reductions ranging from 2 months to 12 years. Ngawang Choephel, a Tibetan ethnomusicologist sentenced in 1996 to 18 years in prison on charges of espionage, was released on medical parole in January.

Five nuns serving long prison terms for protest-related activity were released prior to the end of their prison terms; three of these terms were due to expire within a year. Ngawang Sangdrol, the longest-serving female political prisoner in Tibet, was released on medical parole on October 17. Her prison sentence had been ex-

tended three times for her involvement in prison demonstrations but in 2001 was reduced by 18 months for good behavior. She was due for release in 2011. During her incarceration, she was beaten severely on multiple occasions and held in solitary confinement for an extended period. On March 21, Gyaltzen Dolkar was released after serving more than 11 years of a 12-year sentence for demonstrating and recording patriotic Tibetan songs. In May Tenzin Thubten and Ngawang Choekyi were released. They were also among the group of 14 nuns who received lengthy sentence extensions for recording songs in prison in 1993. Tenzin Thubten was 2 months short of serving her full 12-year sentence when released, while Ngawang Choekyi was released almost 3 years before the end of her term. Ngawang Choezom was released in June, 9 months before the end of her 11-year sentence.

In March Tibet's longest-serving political prisoner, Takna Jigme Sangpo, was released from Drapchi Prison into the custody of a Lhasa relative. He subsequently left the country for medical treatment and, at year's end, resided in Europe. Sangpo, who in the 1960s and 1970s had served 13 years in prison, was given a 15-year sentence in 1983 for "spreading and inciting counter-revolutionary propaganda." He subsequently received two sentence extensions for protest activity in prison and was scheduled for release in September 2011.

There were credible reports that prisoners continued to be mistreated. Many former prisoners maintained that authorities used electric shocks, suspension in painful positions, and other forms of torture and abuse. Prisoners routinely were subjected to "political investigation" sessions and were punished if they were deemed to be insufficiently loyal to the state. Unrepentant political prisoners at Lhasa's Drapchi Prison were sent to "isolation cells" for 6 months to 1 year to "break their spirit." Prisoners in this detention area were kept isolated from other prisoners, and sometimes were confined to solitary cells. Sangpo described six other prisoners as having served some portion of their sentences there.

According to Chinese officials, Chadrel Rinpoche, who was accused of betraying state secrets while helping the Dalai Lama choose the 11th reincarnation of the Panchen Lama, was released from prison in February, having served his full sentence. Officials claimed that since his release he has been "studying scriptures in seclusion," but credible reports indicated that he effectively was held under house arrest.

In December an appeals court upheld death sentences against Tenzin Delek Rinpoche and Lobsang Dhondup, who were arrested and sentenced earlier in the year for alleged involvement in a series of bombings in Sichuan (*see* Section 1.e.).

Jigme Tenzin Nyima and Nyima Choedron, owners of a Lhasa orphanage closed by officials in 1999, were convicted of "espionage and endangering national security" and were serving sentences, according to a Prison Administration Bureau official. The status of a third orphanage staff member, reportedly still under detention at year's end, was unknown.

Legal safeguards for ethnic Tibetans detained or imprisoned were the same as those in the rest of China and were inadequate in both design and implementation. A majority of judges were ethnic Tibetans, but most had little or no legal training. Authorities worked to address this problem through increased legal education opportunities. Trials were brief and were closed if issues of state security were involved. Maximum prison sentences for such crimes were 15 years for each count, not to exceed 20 years in total. Such cases mainly concerned actions in support of Tibetan independence, and such activities did not have to be violent to be illegal or to draw a heavy sentence.

The lack of independent access to prisoners and prisons made it difficult to assess the extent and severity of abuses and the number of Tibetan prisoners. According to the Tibet Information Network (TIN), there were 160 to 170 Tibetan political prisoners imprisoned in China, a majority of whom were monks and nuns imprisoned in Tibet. A Prison Administration Bureau official told a foreign delegation in May that of the 2,300 prisoners currently serving sentences in Tibet, 5 percent were incarcerated for "endangering state security or national unity." He reported that, due to releases, the number decreased from 115 such prisoners in 2001 to 110 prisoners as of May. Based on TIN's February report, these included approximately 90 monks and 15 nuns. In August three monks at Drepung Monastery and two at nearby Nechung Monastery were detained after a picture of the Dalai Lama was found in the car of one of the monks. Two of the monks also were implicated in an attempt to raise the Tibetan flag at a ceremony celebrating the "50th Anniversary of Tibet's Peaceful Liberation" in 2001.

Family planning policies permit most ethnic Tibetans, as well as other minority groups resident in Tibet, to have more children than Han Chinese, who were subject to the same limits as Han Chinese in other areas of the country. Urban Tibetans were permitted to have two children, while those in rural areas often had three or

more. In practice, Tibetans working for the Government, especially Communist Party members, were pressured to limit themselves to one child.

The Government regulated foreign travel to Tibet, requiring individual travelers to secure permits for entry to Tibet. Movement of foreigners within Tibet also was controlled tightly. Official visits were supervised closely and afforded delegation members very few opportunities to meet local persons not previously approved by the local authorities. Travel of foreigners and foreign NGO staff was closely monitored, although some foreign NGOs reported fewer restrictions on their travel.

During the year, there were many reliable reports of increased difficulties for ethnic Tibetan residents in obtaining passports. The Government also placed restrictions on the movement of ethnic Tibetans during sensitive anniversaries and events and increased controls over border areas at these times. There were numerous reports of arbitrary detention of persons, particularly monks, returning to Tibet from Nepal. Detentions generally lasted for several months, although in most cases no charges were brought formally.

Forced labor reportedly was used in some prisons, detention centers, reeducation-through-labor facilities, and at work sites where prisoners were used as workers. Prisoners at many sites received some remuneration and could earn sentence reductions by meeting or exceeding work quotas.

Chinese law mandates that prisoners may be required to work up to 12 hours per day, with 1 rest day every 2 weeks. However, some former prisoners reported that work requirements were more onerous than those set forth in the law. At Drapchi Prison, male prisoners reportedly worked in vegetable fields and in factories at the prison. Female prisoners cleaned toilets and also were involved in tailoring, cleaning, or spinning and sorting wool to be used in the manufacture of carpets and sweaters.

*Freedom of Religion.*—The overall level of religious repression in Tibet, while less oppressive for lay followers than in previous years, remained high. The Government maintained tight controls on some religious practices and some places of worship. While it allowed many types of religious activity, the Government did not tolerate religious manifestations that it viewed as advocating Tibetan independence or any expression of separatism, which it describes as “splittism.” The Government remained suspicious of Tibetan Buddhism in general because of its links to the Dalai Lama, and this suspicion extended to religious adherents who did not explicitly demonstrate their loyalty to the State. Security was intensified during sensitive anniversaries and festival days, while activities viewed as vehicles for political dissent, including celebrations of some religious festivals, were suppressed.

Early in the year, the Government continued its practice of harshly criticizing the Dalai Lama’s political activities and leadership of a government-in-exile. However, the criticism was muted somewhat after the Government extended invitations to several emissaries of the Dalai Lama to visit Tibet and other areas of China. Gyalo Thondup, the Dalai Lama’s elder brother, visited in July, making his first trip to Tibet since he left in 1959. In September Lodi Gyari and Kelsang Gyaltzen, the Dalai Lama’s representatives to the United States and Europe respectively, traveled to Beijing, Lhasa, and other cities where they met with a number of government officials. It was unclear whether the Government viewed these visits as first steps toward dialog with the Dalai Lama’s representatives. The ban on the public display of photographs of the Dalai Lama continued, and such pictures were not readily available except illegally in many parts of Tibet.

Government officials stated that the “patriotic education” campaign, which began in the mid-1990s and dispatched work teams to conduct intensive mandatory political training sessions for nuns and monks at religious sites, was completed in 2000. Officials acknowledged, however, that patriotic education activities for monks and nuns continued on a regular basis at some monasteries and nunneries. There were several credible reports during the year of work teams conducting mandatory political training for monks and nuns at specific religious sites in advance of important anniversaries or other events. Training sessions, which addressed such topics as relations between Tibetans and Han Chinese, Tibet’s historical status as a part of China, and the role of the Dalai Lama in attempting to “split” the country, were aimed at enforcing compliance with government regulations and policies, and either cowing or weeding out monks and nuns who resisted political indoctrination and remained politically loyal to the Dalai Lama.

According to regulations posted at the entrances of many monasteries, monks were required to be “patriotic,” and authorities often required monks and nuns to: Sign a declaration agreeing to reject independence for Tibet; reject Gendun Choekyi Nyima, the boy recognized by the Dalai Lama as the 11th reincarnation of the Panchen Lama; reject and denounce the Dalai Lama’s political authority; recognize the unity of China and Tibet; and not listen to the Voice of America or Radio Free Asia.

Some noncompliant monks and nuns have been expelled from religious sites. Others departed “voluntarily” rather than denounce the Dalai Lama.

Ongoing political education requirements were resented deeply by monks, nuns, and lay Buddhists. Although there was some reduction of patriotic education activities throughout the region as the objectives of increasing control over the monasteries and reducing the numbers of monks and nuns were achieved, many monasteries and nunneries were disrupted severely, and some monks and nuns fled to India to escape the campaigns.

The number of Tibetans who entered Nepal seeking refugee status to escape conditions in Tibet decreased from approximately 3,000 in 2000 to 1,268 during the year, according to the UNHCR. It was difficult for Tibetans to travel to India for religious purposes. Nevertheless, many Tibetans, including monks and nuns, visited India via third countries and returned to Tibet after temporary stays. In May TIN reported that the Chinese government appeared to be making greater efforts to encourage exiles to return to Tibet. While some exiled Tibetans have returned, the approval process remained cumbersome.

Chinese officials stated that Tibet had more than 46,000 Buddhist monks and nuns and more than 1,700 monasteries, temples, and religious sites. However, officials have cited these same figures since 1996, despite the fact that the numbers of monks and nuns have dropped significantly at many sites as a result of the patriotic education campaign and the expulsion of “unpatriotic” monks and nuns. These figures encompass only Tibet; tens of thousands of monks and nuns live in other ethnic Tibetan areas of China, including parts of Sichuan, Yunnan, Gansu, and Qinghai Provinces. The Government stated that there were no limits on the number of monks in major monasteries, and that each monastery’s “democratic management committee” (DMC) could decide on its own how many monks the monastery could support. However, these committees were government-controlled, and in practice the Government generally imposed strict limits on the number of monks in major monasteries. Some monasteries reportedly were required to decrease the number of monks associated with them.

In 2001 Chinese authorities ordered thousands of monks and nuns to leave the Serthar Tibetan Buddhist Institute, also known as the Larung Gar monastic encampment, located in the Ganze Tibetan Autonomous Prefecture in Sichuan Province. The Government maintained that the facility, which housed the largest concentration of monks and nuns in the country, was reduced in size for sanitation and hygiene reasons. Foreign observers believed that the authorities moved against the Institute because of its size and the influence of its charismatic founder, Khenpo Jigme Phuntsok. After a year’s absence, during which time he underwent medical treatment, Khenpo Jigme Phuntsok was allowed to return to Serthar in July, and thousands of monks and nuns were again in residence at year’s end.

The Government had the right to disapprove any individual’s application to take up religious orders; however, it did not exercise this right uniformly. In some areas, it was against regulations to join a monastery before the age of 18, but many younger boys continued the tradition of entering monastic life. Young novices, who traditionally served as attendants to older monks while receiving a basic monastic education and awaiting formal ordination, continued to be admitted to some TAR monasteries.

Most Tibetans practiced Buddhism to some degree. This held true for many ethnic Tibetan government officials and Communist Party members. Some 1,000 Tibetan Buddhist religious figures held positions in local people’s congresses and committees of the Chinese People’s Political Consultative Conference. The Government continued to insist that party members adhere to the Party’s code of atheism. A 3-year drive to promote atheism and science among government workers, first begun in January 1999, had apparently ended. During the year, some reports indicated that government workers felt reduced pressure to restrict their personal expressions of religious belief. However, authorities continued to pressure public sector employees, through political training and threats of termination, to demonstrate their loyalty to the State and refrain from actions that could be construed as lending explicit or tacit support to the Dalai Lama. Public sector employees were reportedly pressured not to send their children to India to be educated and to refrain from going on pilgrimages to Mt. Kailash, a holy site in Western Tibet believed by Tibetan Buddhists to be the abode of Lord Shiva, during the Sagadawa festival. Restrictions prevented the celebration of the Dalai Lama’s birthday in July. However, major religious festivals such as Monlam, Sagadawa, and the Drepung Shodon were celebrated in a slightly more open atmosphere than in previous years.

The Government continued to oversee the daily operations of major religious sites. The Government, which did not contribute to the regular operating funds of monasteries, retained management control of the monasteries through democratic man-

agement committees and local religious affairs bureaus. In recent years, DMCs at several large monasteries began to collect all funds generated by sales of entrance tickets or donated by pilgrims, which previously were disbursed to monks engaged in full-time religious study for advanced religious degrees. As a result, such "scholar monks" had to engage in income-generating activities at least part-time. Experts expressed concern that fewer monks would be qualified to serve as teachers in the future as a result. In addition, the Government moved in recent years to curb the proliferation of monasteries, which it contended were a drain on local resources and a conduit for political infiltration by the Tibetan exile community.

During 1999 the TAR Religious Affairs Bureau confirmed that its officers were members of the Communist Party and that members were required to be atheists; a large percentage of the members of the religious affairs bureaus were non-Tibetans. Regulations restrict leadership of DMCs to "patriotic and devoted" monks and nuns, and they specify that the Government must approve all members of the committees. At some monasteries, government officials also sat on the committees.

Following the December 1999 flight to India of the Karmapa, leader of Tibetan Buddhism's Karma Kargyu school and one of the most influential religious figures in Tibetan Buddhism, authorities restricted access to Tsurphu monastery, the seat of the Karmapa. In several public statements, the Karmapa asserted that he left because of controls on his movements and the refusal either to allow him to go to India to be trained by his spiritual mentors or to allow his mentors to come to him. The Karmapa alleged that several of his personal attendants were detained during the year. In August foreign officials were allowed to visit the Tsurphu monastery, where approximately 300 monks were said to be in residence. There were few monks or other visitors present during the visit. Officials claimed that the monks were away on summer holiday visiting their families. According to credible reports, no new monks have been permitted to enter Tsurphu monastery since the Karmapa left, but religious activity at the monastery continued.

The departure of the Karmapa increased tensions and heightened the authorities' efforts to exert control over the process for finding and educating reincarnated lamas. The Dalai Lama, who by tradition plays a role in the selection of important religious figures, continued to refuse to recognize the selection of Sonam Phuntsog as the seventh reincarnation of the Reting Rinpoche, and many of the monks at Reting Monastery reportedly also did not accept the child as the Reting Rinpoche. Sonam Phuntsog lived with his family under heavy guard in his residence near the monastery. Authorities tightly controlled access to the area. Another young reincarnate lama, 9 year-old Pawo Rinpoche, lived under effective house arrest at Nenang monastery and reportedly was denied access to his religious tutors. The Pawo Rinpoche, recognized by the Karmapa, was one of the senior Karma Kargyu lamas remaining in Tibet.

The Panchen Lama is one of Tibetan Buddhism's most prominent figures. The Government continued to insist that Gyaltzen Norbu, the boy it recognized and enthroned in 1995, was the Panchen Lama's 11th reincarnation. The authorities tightly controlled all aspects of his life, and he made a highly orchestrated visit to Tibet in July. His public appearances were marked by a heavy security presence, and the authorities strictly limited access to the boy. Meanwhile, repeated requests for access to Gendun Choekyi Nyima, the boy recognized by the Dalai Lama as the 11th Panchen Lama, to confirm his well-being and whereabouts, were denied. He first disappeared in 1995, when he was 6 years old. Government officials stated that the boy was being held for his own protection and that he lived in Tibet and attended classes as a "normal schoolboy." The authorities also maintained that both boys were well cared for and were receiving a good education. The vast majority of Tibetan Buddhists continued to recognize Gendun Choekyi Nyima as the Panchen Lama. The Communist Party urged its members to support the "official" Panchen Lama, and government authorities at both the regional and city levels had pictures of the boy printed for use in public and private religious displays; however, very few photographs of him were on display. Instead, more prominently displayed were pictures of the 10th Panchen Lama, which some foreign observers interpreted as a rejection of Gyaltzen Norbu, the boy recognized by the Government to be the Panchen Lama. Pictures of Gendun Choekyi Nyima were banned by the Government.

The Government stated that since the end of the Cultural Revolution, it had contributed sums in excess of \$36 million to \$48 million (RMB 300 to 400 million) toward the restoration of a number of important Buddhist sites that were destroyed before and during the Cultural Revolution. Government funding of restoration efforts ostensibly was done to support the practice of religion but also was done in part to promote the development of tourism in Tibet. Most recent restoration efforts were funded privately, although several large religious sites also received government support for reconstruction projects during the year.



*Economic Development and Protection of Cultural Heritage.*—Tibetans, as one of China's 55 minority ethnic groups, receive preferential treatment in marriage and family planning policies, and, to a lesser extent, in university admissions and government employment. According to official government statistics, 74 percent of all government employees in Tibet were ethnic Tibetans. Nonetheless, many positions of political authority were held by ethnic Han Chinese, and most key decisions in Tibet were made by ethnic Han. Although the TAR government passed a law in May making Tibetan the official language of Tibet and promoting its development, the widespread teaching and use of Mandarin Chinese undermined the ability of younger Tibetans to speak and read their native language.

Tibet is one of China's poorest regions, and ethnic Tibetans are one of the poorest ethnic groups. The central government and other provinces of China heavily subsidized the Tibetan economy, which, according to official statistics, grew by an average annual rate of over 10 percent for the last decade. Over 90 percent of Tibet's budget came from outside sources. Tibet also benefited from a wide variety of favorable economic and tax policies. Government development policies have helped raise the living standards of most ethnic Tibetans, particularly by providing better transportation and communications facilities. However, in recent years, freer movement of persons throughout China, government-sponsored development, and the prospect of economic opportunity in Tibet have led to a substantial increase in the non-Tibetan population, including China's Muslim Hui minority as well as Han Chinese, in Lhasa and other urban areas as migrant workers from China's large transient population sought to take advantage of the new economic opportunities. Most of these migrants professed to be temporary residents, but small businesses run by ethnic Han and Hui citizens, mostly restaurants and retail shops, predominated in almost all Tibetan cities.

The Dalai Lama, Tibetan experts, and others expressed concern that development projects and other central government policies initiated in 1994 and reemphasized and expanded at the Fourth Tibet Work Forum in 2001 would continue to promote a considerable influx of non-Tibetan Chinese into Tibet. They feared that Tibet's traditional culture and ethnic Tibetan demographic dominance will be overwhelmed by such migration.

Tibetans were reportedly discriminated against in employment in some urban occupations; ethnic Han were hired preferentially for many jobs and received greater pay for the same work. In addition, many jobs required proficiency in Chinese, which limited opportunities for many ethnic Tibetans. Connections also reportedly worked to the advantage of the ethnic Han, who tended to hold most of the higher ranking positions, and it was more difficult for Tibetans than Han to get permits and loans to open businesses. Other fundamental worker rights recognized by the International Labor Organization, including the right to organize and the right to bargain collectively, that were broadly denied in the rest of China were also denied in Tibet.

Rapid economic growth, the expanding tourism industry, and the introduction of more modern cultural influences also have disrupted traditional living patterns and customs and threatened traditional Tibetan culture. In Lhasa the Chinese cultural presence was obvious and widespread. Buildings were of Chinese architectural style, the Chinese language was spoken widely, and Chinese characters were used in most commercial and official communications. A traditional Tibetan-style building complex located in the UNESCO-protected downtown area of Lhasa was demolished during the year to make way for a more modern structure.

Chinese officials asserted that 95 percent of Tibet's officially registered population was Tibetan, with Han and other ethnic groups making up the remaining 5 percent. However, officials acknowledged that these figures did not include the large number of "temporary" Han residents, including military and paramilitary troops and their dependents, many of whom had lived in Tibet for years. Many observers estimated that more than half of Lhasa's population was Han Chinese, and even official estimates put the number of temporary Han Chinese residents at over 100,000; elsewhere in Tibet, the Han percentage of the population was significantly lower. In rural areas, the Han presence often was negligible.

Malnutrition among Tibetan children has historically been widespread in many areas of the TAR. This was particularly true of rural areas and resulted in high rates of stunted growth among children. Nutritional deficiency ailments, such as goiter (from a lack of iodine), night blindness (from a lack of Vitamin A), and rickets were said to be relatively common among children in some areas. Special programs, sponsored by both government bodies and foreign NGOs, were in place in some areas to address these problems.

According to official government statistics, 42 percent of persons in Tibet were illiterate or semi-literate. Illiteracy and semi-literacy rates were as high as 90 percent

in some areas. Approximately 87 percent of eligible children attended primary school. Most pupils in rural areas received only 1 to 3 years of education.

Primary schools at the village level followed a Tibetan curriculum. According to local education officials, Tibetan was the main language of instruction in 60 percent of middle schools, especially in more remote areas, although there were special classes offering instruction in Chinese. However, some NGOs maintained that the official figures were inaccurate, claiming that fewer Tibetan children received instruction in the Tibetan language. Most of those who attended regional high schools continued to receive some of their education in Tibetan, but knowledge of Chinese was essential as most classes were in Chinese. Tibetan curriculum high schools existed in a few areas. The Government continued to allocate funds to enable Tibetan secondary students to study in schools elsewhere in China. According to government figures, there were 13,000 Tibetan students studying in approximately 100 schools in different parts of China. Knowledge of Chinese usually was necessary to receive a higher education, although some colleges established to serve ethnic minorities allowed for study of some subjects in Tibetan.

Tibet University was established to train Tibetan teachers for the local educational system. Ethnic Tibetans resented the fact that Han representation in the student body and faculty far exceeded their proportion of the total TAR population. Although Tibetans were given admission preference, Han Chinese students frequently gained admission because they scored higher on admission exams due to stronger Chinese-language skills and educational backgrounds. Authorities reportedly required professors, particularly those from Tibet University's Tibetan Language Department, which was viewed as a potential source of dissent, to attend political education sessions and limited course studies and materials in an effort to prevent separatist political and religious activity on campus. Many ancient or religious texts were banned from the curriculum for political reasons.

Prostitution was a growing problem in Tibet, as it was elsewhere in the country. Hundreds of brothels operated semi-openly in Lhasa. Up to 10,000 commercial sex workers may have been employed in Lhasa alone. Some of the prostitution occurred at sites owned by the Party, the Government, and the military. Most prostitutes in Tibet were ethnic Han women, mainly from Sichuan. However, a substantial number of ethnic Tibetans, mainly young girls from rural or nomadic areas, also worked as prostitutes. The incidence of HIV/AIDS among prostitutes in Tibet was unknown but was believed to be relatively high.

During the year, there were reports that TAR authorities were pressuring employers of ethnic Tibetans who were raised or educated in India to dismiss such employees, especially in the tourism industry. Lhasa tour agencies were forced to dismiss ethnic Tibetan tour guides educated in India and Nepal. These guides were required to seek employment with the Government's Tibet Tourism Bureau (TTB). Prior to gaining employment with the TTB, applicants were required to pass an examination on tourism and political ideology. Many Tibetan tour guides educated abroad reportedly failed the exam.

Tibet Autonomous Regional Television, a Tibetan-language satellite television channel, broadcast in Tibetan for 12 hours each day. There also were two bilingual channels on which Tibetan language programs made up 15 percent of the total. The Tibetan language services of Voice of America (VOA) and Radio Free Asia (RFA), as well as of the Oslo-based Voice of Tibet, suffered from the same jamming of their frequencies by Chinese authorities as their Chinese language services. However, Tibetans were able to listen to the broadcasts at least some of the time. RFA stated that Tibetans were subject to intimidation and fines for listening to foreign-language broadcasts.

The Internet has been available in Tibetan cities since 1999. Lhasa had numerous Internet cafes, and the number of Internet users in Tibet continued to grow rapidly.

China's economic development policies, supported in Tibet by government subsidies, were modernizing parts of Tibetan society and changing traditional Tibetan ways of life. Although the Government made efforts in recent years to restore some of the physical structures and other aspects of Tibetan Buddhism and Tibetan culture damaged or destroyed during the Cultural Revolution, repressive social and political controls continued to limit the fundamental freedoms of ethnic Tibetans and risked undermining Tibet's unique cultural, religious, and linguistic heritage.

#### HONG KONG

Hong Kong is a Special Administrative Region (SAR) of the People's Republic of China (PRC), and maintains a high degree of autonomy except in matters of defense and foreign affairs. It has well-established institutions that support the rule of law and a vigorous civil society. The Basic Law, the SAR's constitution, was approved

by the PRC in 1990. It provides for the protection of fundamental rights and calls for progress toward universal suffrage and further democratization after a 10-year period, starting with Hong Kong's July 1, 1997 reversion to Chinese sovereignty.

The Chief Executive is chosen by an 800-person selection committee composed of individuals who are either directly elected, indirectly elected, or appointed. The Chief Executive supervises a cabinet of principal officers whom he appoints. The power of the Legislative Council (legislature) is significantly circumscribed by the Basic Law. The legislature is composed of 24 directly elected members representing geographic districts, 30 indirectly elected members representing functional (occupational) constituencies, and 6 members elected indirectly by an election committee. Majorities are required in both the geographic and the functional constituencies to pass legislation introduced by individual legislators. Members could not initiate legislation involving public expenditure, political structure, government operations, or government policy.

By law and tradition, the judiciary is independent and the Basic Law vests Hong Kong's highest court with the power of final adjudication; however, under the Basic Law, the Standing Committee of the PRC's National People's Congress (NPC) has the power of final interpretation of the Basic Law.

A well-supervised police force under the firm control of civilian authorities maintained public order. An Independent Police Complaints Council, made up of public members appointed by the Chief Executive, monitored and reviewed the work of an office that investigated public complaints against the police. The 4,000 Chinese troops sent to Hong Kong in 1997 to replace the British military garrison have maintained a low profile and have not performed or interfered in police functions.

Hong Kong, with a free market economy, is an international trade, shipping, and finance center and is a principal platform for trade and investment with the PRC. The economy has suffered 5 years of deflation and was stagnant in 2002 with gross domestic product (GDP) growth of approximately 1.5 percent. Per capita GDP was approximately \$24,000; the population was approximately 6.8 million.

The Government generally respected the human rights of residents, and the law and judiciary generally provided effective means of dealing with individual instances of abuse. Human rights problems that existed both before and after the handover included: limitations on residents' ability to change their government and limitations on the power of the legislature to affect government policies; some degree of media self-censorship; violence and discrimination against women; discrimination against the disabled and ethnic minorities; restrictions on workers' rights to organize and bargain collectively; intimidation of domestic workers of foreign origin; and trafficking in persons for the purposes of forced labor and prostitution. Despite the ban on the Falun Gong in mainland China, the Falun Gong remained legally registered, and practitioners continued their activities in Hong Kong. In September the Government issued a consultation paper to elicit public discussion of legislation to implement Article 23 of the Basic Law, which triggered intense public debate about the impact of such legislation on civil liberties and fundamental freedoms. Article 23 calls for the Government to draft and implement laws that criminalize subversion, secession, treason, sedition, and theft of state secrets, and to criminalize links with foreign political organizations that are harmful to national security.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of arbitrary or unlawful deprivations of life committed by the Government or its agents.

There were two cases of death in police custody in the first 6 months of the year. In May there were two cases of suicide involving prison inmates. One case of death in police custody from 2001 was pending results of an inquest.

*b. Disappearances.*—There were no reports of politically motivated disappearances.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law forbids torture and other abuse by the police. There were no reports that police used excessive force against persons in custody during the year. The law stipulates punishment for those who violate these prohibitions. Disciplinary action could range from warnings to dismissal. Criminal proceedings could be undertaken independently of the disciplinary process. Allegations of excessive use of force are required to be investigated by the Complaints Against Police Office (CAPO), whose work was monitored and reviewed by the Independent Police Complaints Council (IPCC), a body composed of public members appointed by the Chief Executive.

There were no complaints of forced confessions during the year.

In the first 8 months of the year, CAPO received 322 complaints of assault by the police against persons not in custody. Of the 107 cases in which investigations were completed and endorsed by the IPCC, none were substantiated. Seventy-six were withdrawn, 22 were deemed “not pursuable,” 1 was judged to be “no fault,” 4 were judged to be false, and 4 were judged “unsubstantiated.” The remaining 215 cases were pending at year’s end.

In February three police officers were jailed for fabricating allegations against a disco manager to cover up a January 2001 assault on him by one of the officers. In 2001 six police officers accused of assaulting a television cameraman during interrogation were acquitted in District Court. An internal police disciplinary inquiry was completed; at year’s end, the case was pending required follow-up hearings.

The U.N. Human Rights Committee and local human rights groups have called for a more independent and efficient monitoring body with statutory powers, noting long delays in hearing some allegations, the large difference between the number of complaints received and the few that are substantiated, the light punishment that police officers received when complaints were found to be substantiated, and the unwillingness of some witnesses to pursue complaints for fear of retribution. Various observers have expressed concern that police responsibility for investigation of police misconduct undermined the credibility of IPCC investigations and called on the Government to reconsider its approach. At year’s end, the Government was considering legislation to provide a statutory basis for the IPCC, which would allow it to set up its own secretariat, receive funding to hire its own permanent staff, and initiate investigations.

Prison conditions generally met international standards. Men and women were housed separately, juveniles were housed separately from adults, and pretrial detainees were held separately from convicted prisoners. From April 2001 to April 2002, the average occupancy rate for Hong Kong’s main prison facility was 131 percent, and the rate for all other penal institutions was 113 percent. The Government began to address the problem of prison overcrowding by converting buildings in three locations to provide space for 520 additional prisoners and redistributing the prison population. In addition, completion of the Immigration Department’s Detention Center in Tuen Mun in 2005 is expected to provide 400 additional places and eliminate the housing of immigration offenders in prison or detention facilities managed by the Correctional Services Department.

The Government permitted prison visits by human rights monitors. Local justices of the peace regularly inspected prisons, and most of these visits were unannounced. However, the justices of the peace spoke with prisoners in the presence of Correctional Services Department staff. Human rights monitors have called for revisions to the inspection system.

*d. Arbitrary Arrest, Detention, or Exile.*—Common law, legal precedent, and the Basic Law provide substantial and effective legal protection against arbitrary arrest or detention, and the Government generally observed these provisions. Suspects must be charged within 48 hours or released. The average length of preconviction incarceration did not exceed 80 days.

The law does not provide for, and the Government did not use, forced exile.

*e. Denial of Fair Public Trial.*—The Basic Law provides for an independent judiciary, and the Government generally respected this provision in practice. The judiciary generally provided citizens with a fair and efficient judicial process. The judiciary has remained independent since the handover, underpinned by the Basic Law’s provision that Hong Kong’s common law tradition be maintained. Under the Basic Law, the courts may interpret on their own provisions of the Basic Law that are within the limits of the autonomy of the region. The courts also may interpret other provisions of the Basic Law that touch on PRC central government responsibilities or on the relationship between the central authorities and the SAR. Before making final judgments on these matters, which are unappealable, the courts must seek an interpretation of the relevant provisions from the Standing Committee of the PRC’s National People’s Congress. The Basic Law requires that when the Standing Committee makes an interpretation of Basic Law provisions, the courts, in applying those provisions, “shall follow the interpretation of the Standing Committee.” Judgments previously rendered are not affected. The National People’s Congress’ mechanism for interpretation is its Committee for the Basic Law, composed of six mainland and six Hong Kong members. The Hong Kong members are nominated by the Chief Executive, the President of the Legislative Council, and the Chief Justice. Human rights and lawyers’ organizations long have expressed concern that this process, which circumvents the Court of Final Appeal’s power of final adjudication, could be used to limit the independence of the judiciary or could degrade the courts’ authority.

In a controversial 1999 “right of abode” case (concerning the right of certain persons to reside in Hong Kong), the Government, after losing the case in the Court of Final Appeals, sought a reinterpretation of relevant Basic Law provisions from the Standing Committee of the PRC’s National People’s Congress. This action raised questions about the independence and ultimate authority of the judiciary. After the controversy, the Government expressed its intention to make recourse to the NPC interpretation mechanism a rare and exceptional act, and there have been no such occurrences since the one instance in 1999.

The Court of Final Appeal is the SAR’s supreme judicial body. An independent commission nominates judges; the Chief Executive is required to appoint those nominated, subject to endorsement by the legislature. Nomination procedures ensure that commission members nominated by the private bar have a virtual veto on the nominations. Legal experts and legislators have complained that the commission’s selection process is opaque. The Government responded that privacy concerns prevented opening the process to the public. The Basic Law provides that, with the exception of the Chief Justice and the Chief Judge of the High Court, who are prohibited from residing outside of Hong Kong, foreigners may serve on the courts. Approximately 40 percent of judges were expatriates from other common law jurisdictions. Judges have security of tenure until retirement age (either 60 or 65, depending on the date of appointment).

Under the Court of Final Appeal is the High Court, composed of the Court of Appeal and the Court of First Instance. Lower judicial bodies include the District Court (which has limited jurisdiction in civil and criminal matters), the magistrates’ courts (which exercise jurisdiction over a wide range of criminal offenses), the Coroner’s Court, the Juvenile Court, the Lands Tribunal, the Labor Tribunal, the Small Claims Tribunal, and the Obscene Articles Tribunal.

The law provides for the right to a fair public trial, and an independent judiciary generally enforced this right. Trials were by jury except at the magistrate-court level, and the judiciary provided citizens with a fair and efficient judicial process.

Under corruption prosecution rules, there is a presumption of guilt in official corruption cases. Under the Prevention of Bribery Ordinance, a current or former government official who maintains a standard of living above that which is commensurate with his official income or who is in control of monies or property disproportionate to his official income is, unless he can satisfactorily explain the discrepancy, guilty of an offense. The courts have upheld this practice.

Human rights activists remained concerned that the legal system may favor those closely aligned with China. However, other observers pointed out that significant convictions of mainland Chinese entities or those close to them continued to occur, suggesting that the courts were operating without undue bias.

According to the Basic Law, English may be used as an official language by the executive, legislative, and judicial branches. For historical reasons and because of the courts’ reliance on common law precedents, almost all civil cases and most criminal cases were heard in English. In recent years, the Government has developed a bilingual legal system. It has increased the number of officers in the Legal Aid Department proficient in Chinese and extended the use of bilingual prosecution documents and indictments. All laws are bilingual, with the English and Chinese texts being equally authentic. All courts and tribunals could operate in either Chinese or English. Judges, witnesses, the parties themselves, and legal representatives each could decide which language to use at any point in the proceedings.

Some human rights groups alleged that the Government has not protected vigorously enough the interests of Hong Kong residents arrested in mainland China. There was no agreement allowing Hong Kong officials access to Hong Kong residents arrested or detained in mainland China. Under an agreement signed in 2000 and in effect since 2001, PRC and SAR public security authorities were required to notify each other of certain categories of detentions of each other’s residents.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits arbitrary interference with privacy, family, home, and correspondence, and the Government generally respected these prohibitions in practice. Interception of communications was conducted under the Telecommunications Ordinance and the Post Office Ordinance. Wiretaps required high-level authorization for interception operations, but a court-issued warrant was not required. The Government did not release information regarding how often the Chief Executive used his powers to authorize telephone wiretaps and interception of private mail.

The Office of the Privacy Commissioner for Personal Data (PCO), established under the Personal Data (Privacy) Ordinance (PDPO), is tasked with preventing the misuse and disclosure of data such as medical and credit records. The PDPO also prohibits matching sets of personal data without the consent of the subject indi-

vidual or the commissioner, although some government departments were exempted in order to combat social welfare abuse and tax evasion. Some violations of the PDPO constitute criminal offenses. In other cases, an injured party could seek compensation through civil proceedings. If the PCO believes that violations may continue or be repeated, it may issue enforcement notices to direct remedial measures. Between June 2001 and June 2002, the PCO investigated 1,027 complaints of suspected breaches of the ordinance, completing action on 956. The PCO found violations of the PDPO in 30 of these cases, resulting in 1 successful prosecution leading to a fine. The rest resulted in issuances of warning notices and requirements for remedial action to comply with the Ordinance. The Personal Data Privacy Ordinance is not applicable to PRC government organs in Hong Kong. At year's end, the Government was considering whether it should be made applicable to PRC bodies.

In March the Government introduced a draft privacy code that seeks to outlaw secret video cameras and monitoring of e-mail and phone calls in the workplace by employers. At year's end, the draft legislation awaited action by the Legislative Council.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. A wide range of views and topics appeared in the press, including articles critical of the PRC and Hong Kong SAR governments. Some who monitored press freedom asserted that some journalists and news media practiced self-censorship, mainly in PRC-related reporting. Overall, the media has been outspoken in defending civil liberties; however, the Telecommunications Ordinance potentially allows limits on some speech and press freedoms by granting the Government wide-ranging powers to ban messages whenever it “considers that the public interest so requires.” In practice, the Government has never invoked this law to limit freedom of speech.

The Basic Law's Article 23 requires that the Government enact legislation prohibiting treason, secession, sedition, subversion against the Central People's government, and theft of state secrets, and to criminalize links with foreign political organizations that are harmful to national security. The process of introducing this legislation began in September with the Government's release of a consultation document proposing guiding principles for the legislation. Legislative Council members, human rights groups, business associations, representatives of the media, foreign governments, and others voiced concern that when enacted these laws and other provisions passed to implement Article 23 could restrict fundamental rights and freedoms. Of particular concern were the proposed extension of treason, sedition, secession, and subversion criminal offenses to permanent residents, without regard to nationality or legal domicile; the proposal to ban organizations affiliated with mainland political organizations that have been banned by the PRC on national security grounds; the proposal for extended emergency powers for the police; new uncertainty about the parameters of “unlawful disclosure” of state secrets; and other proposals perceived as potentially limiting freedom of speech and press. Some concern derived from the Government's decision to provide a consultation document, but not a draft of the legislation itself, for public discussion. The Government stated repeatedly that civil liberties were guaranteed by the Basic Law and the ICCPR and that it had revised its proposal to accommodate public concerns. Opponents of the proposed legislation conducted a series of protests, including a December 15 march in which tens of thousands of persons participated. A counter-rally in support of the legislation also drew thousands of participants. At year's end, the process of developing the legislation continued, and the Government expressed the goal of passing the new provisions before the end of the legislative session in July 2003.

Individuals could criticize the Government publicly or privately without reprisal, and many persons spoke freely to the media and used the media to voice their views. Political debate was vigorous, and numerous viewpoints, including stories and opinions critical of the SAR and PRC governments and statements by leading Chinese dissidents and proindependence Taiwan activists, were provided in the mass media, in public forums, and by political groups.

During the year, newspapers published a wide variety of opinions, including opinions on Taiwan, Tibet, PRC leadership dynamics, Communist Party corruption, and human rights. There were some 15 daily newspapers, all privately owned in name although 4 were supported financially—and guided editorially—by the PRC (Wen Wei Po, Ta Kung Pao, the Hong Kong Commercial Daily, and the China Daily). The non-PRC-owned newspapers, hundreds of periodicals, four commercial television stations (broadcast and cable) and two commercial radio stations functioned with virtually no government control. International media organizations operated freely.

Foreign reporters needed no special visas or government-issued press cards for Hong Kong.

China still requires some journalists to apply for permission to make reporting trips to the mainland, but in October the Government somewhat eased those requirements, announcing that it would simplify visa application procedures and drop the requirement for a host organization for foreign journalists from Hong Kong, if their organizations have offices in Beijing, Shanghai, or Guangdong Province. All local journalists from Hong Kong can cover mainland stories, but must register with the Hong Kong Macau Affairs Office. At least three Hong Kong publications that were banned on the mainland were blocked from registering their reporters for mainland reporting.

Despite regular coverage of sensitive subjects in print and in the broadcast media, professional journalist groups and NGOs asserted that media self-censorship continued. The Hong Kong Journalists Association, for example, commented in a June report that self-censorship was on the rise. The Association reported that subjects avoided included topics of particular sensitivity to China, leadership dynamics, and Taiwanese and Tibetan independence. In April the South China Morning Post (SCMP) dismissed its Beijing bureau chief, Jasper Becker. Becker asserted that he was dismissed because the paper was increasingly steering clear of controversial mainland stories. The SCMP's editor, in turn, asserted that Becker would not follow instructions from the paper's China editor, and that the newspaper was not changing its policy on China coverage and had not been directed by Beijing to dismiss Becker. The SCMP continued to cover a number of sensitive political issues involving the PRC and Hong Kong SAR governments. In August a leading scholar of Chinese law submitted an article on the obstacles faced by criminal defense lawyers in the PRC to "China Law and Practice." Despite an initial commitment, the publishers of the journal ultimately withdrew their offer to publish the article, citing "political realities." The publisher later denied self-censorship, stating that the article contained comments that could result in defamation and contempt of court charges.

The Government-owned Radio Television Hong Kong (RTHK) continued to enjoy the editorial independence granted to it in its framework agreement between the Government and the station's Director of Broadcasting. Local pro-PRC figures have called for the station to be more supportive of the PRC and Hong Kong governments and for RTHK to conform to PRC political usage, for example by not referring to Taiwan leader Chen Shui-bian as "president" on the grounds that Taiwan is not a country. In August a government official contacted RTHK's director of broadcasting about the station's plans to conduct a phone interview with Taiwan Vice President Annette Lu. The interview did not take place. The Government official denied pressuring RTHK and stated that the Government respected the editorial independence of all media organizations.

The Basic Law provides for academic freedom, and the Government generally respected that freedom in practice. There was independent research, a wide range of opinions, and lively debate on campuses.

In June a U.S.-based academic who has been refused a visa to enter China since 1996 was questioned for 40 minutes by immigration officials upon his entry to Hong Kong. He was subsequently allowed to enter.

There were no restrictions on the use of the Internet.

The Falun Gong was able to print flyers and small items in Hong Kong, despite reported concerns of some printers about associating with the group, but most of its publishing took place outside the SAR. One bookstore, owned by a practitioner, carried Falun Gong books.

In August the Government issued warnings against distributing a catalog for an art exhibition at a public venue that showcased the work of an Australian Falun Gong practitioner. The Government requested that the exhibit organizer not distribute the catalog, which noted that the artist had been imprisoned in China for several months in 2000 for being a Falun Gong practitioner. In the end, the organizer ignored the requests and the Government neither stopped the exhibition nor restricted distribution of the catalog. However, the artist was denied entry into Hong Kong to attend the exhibit. The Government stated that the decision to deny entry was based on immigration irregularities, not on her Falun Gong affiliation.

*b. Freedom of Peaceful Assembly and Association.*—The Basic Law provides for freedom of assembly and the Government generally respected this right in practice. The Government routinely issued the required permits for public meetings and demonstrations.

Under the law, demonstration organizers must notify the police of their intention to demonstrate 1 week in advance (shorter notice is accepted when the Commissioner of Police is satisfied that earlier notice could not have been given) for a march

involving more than 30 persons and for an assembly of more than 50 persons. The police must give a clear reply within 48 hours if they object; no reply indicates no objection. In practice, demonstrators could assume “no objection” if they were not notified to the contrary 48 hours in advance of the planned demonstration. The posthandover provision in the Public Order Ordinance that empowered police to object to demonstrations on national security grounds has never been invoked. Appeals of a denial to demonstrate could be made to a statutory appeals board comprising members from different sectors of society. Both the board’s proceedings and the police’s exercise of power were subject to judicial review.

In September some organizations held a protest march asking the Government to abolish provisions in the Public Order Ordinance requiring prior approval for assemblies and demonstrations. The organizations also urged the Government to withdraw charges against three political activists arrested in May for organizing an unauthorized rally in February. In November the three activists were convicted and sentenced to a 3-month probation. This was the first case since 1997 in which protestors were charged for not obtaining advance permission from police for holding a demonstration.

Since the handover, there have been over 11,000 public meetings and public processions. Approximately half of these demonstrations required notification. Since the handover, the police have objected to six demonstrations, three of which proceeded after the demonstration organizers altered their plans. In the first 6 months of the year, police objected to 3 out of 1,145 demonstrations.

Demonstrators have complained that demonstrations often were limited to “designated areas” where they received little public attention and that police sometimes outnumber demonstrators. A police order issued in 1998, while underlining that it is police policy “to facilitate, as far as possible, all peaceful public order events,” also stipulated that certain “internationally protected persons” are, in addition to security, entitled to “protection of their dignity.” In July these issues were prominent when some groups were required by police to hold their demonstrations during the fifth anniversary handover ceremony, attended by PRC President Jiang Zemin, in protest zones that were 200 meters further away from dignitaries than in 1997.

In addition to holding assemblies and marches on Hong Kong-related issues, groups continued to be free to demonstrate on issues of sensitivity in mainland China. In May approximately 1,500 persons marched through central Hong Kong to commemorate the 13th anniversary of the June 4, 1989, massacre in Beijing’s Tiananmen Square. On June 4, tens of thousands attended the annual candlelight vigil to commemorate the anniversary. The Public Meetings and Processions Appeal Board overturned a police decision to ban the Hong Kong Alliance in Support of the Patriotic Democratic Movement in China from holding a June 4 rally outside the Central government Offices.

Falun Gong practitioners regularly conducted public protests against the crackdown on fellow practitioners in the PRC, holding some protests in front of the Hong Kong offices of the Central government. In August a group of 16 Falun Gong practitioners, including 4 from Switzerland and 1 U.S. legal permanent resident, were convicted and fined for obstruction after refusing repeated police instructions to remain in a designated demonstration zone. This was the first time that Falun Gong practitioners were convicted of an offense in Hong Kong. The group’s appeal was pending at year’s end.

The Basic Law provides for freedom of association and the Government generally respected this right in practice. Since the handover, no applications for registration have been denied. From January through October, the Societies Licensing Office of the police registered 1,157 new organizations for a total of 7,104 registered since the 1997 handover. Pro-Taiwan groups also have expressed concern that the amended Societies Ordinance—which like the amended Public Order Ordinance was passed by the Provisional Legislature—could be used to restrict political activity. The Societies Ordinance requires that new societies must apply for registration within 1 month of establishment. The Government may refuse registration if it believes that the refusal is in the interests of national security, public safety, public order, or the protection of the rights and freedom of others. The Government also may refuse to register a political body that receives support from a foreign political organization or a Taiwan-based political organization.

*c. Freedom of Religion.*—The Basic Law provides for freedom of religion, the Bill of Rights Ordinance prohibits religious discrimination, and the Government generally respected these provisions in practice.

The Government does not recognize a state religion but does grant public holidays to mark numerous special days on the traditional Chinese and Christian calendars, as well as the Buddha’s birthday.



Religious groups were not required to register with the Government and were exempted specifically from the Societies Ordinance, which requires the registration of nongovernmental organizations. Some groups, such as the Falun Gong and various other martial arts/meditation groups, known collectively as qigong groups, that did not consider themselves religions, have registered under the Societies Ordinance. Catholics freely and openly recognized the Pope as the head of the Catholic Church. The Vatican maintained a Diocese overseen by a local Bishop.

According to the Basic Law, the PRC government had no authority over religious practices in the SAR. PRC representatives in the SAR and two PRC-owned newspapers nonetheless have criticized some religious and other spiritual groups and individuals. Local religious leaders also have noted that the Basic Law provision that calls for ties between local religious organizations and their mainland counterparts to be based on “nonsubordination, noninterference, and mutual respect” could be used to limit such ties. Similarly, the Catholic Bishop of Hong Kong expressed concern that religious groups could be negatively affected by Article 23 laws.

During the year, Falun Gong, a spiritual movement that has explicitly characterized itself as “not a religion,” practiced freely and held regular public demonstrations against PRC policies. In 2001 a series of developments sparked concerns about pressures on the Government to constrain the group’s criticism of the PRC’s anti-Falun Gong policies. In particular, statements by Chief Executive C.H. Tung in May and June 2001 that the group was “no doubt an evil cult” and that the Government would not let the Falun Gong “abuse Hong Kong’s freedoms and tolerance to affect public peace and order” prompted concern. In May 2001, the Government barred the entry into Hong Kong of approximately 100 overseas-based Falun Gong practitioners during President Jiang Zemin’s visit, although several hundred local and foreign Falun Gong practitioners demonstrated freely on numerous occasions and at numerous venues during the visit. In June 2002, over 90 foreign practitioners were denied entry upon arrival at the Hong Kong international airport (see Section 2.d.). Falun Gong representatives claimed that Hong Kong practitioners remained generally undeterred by these developments, but stated that the number of practitioners in Hong Kong had dropped from approximately 1,000 to approximately 500 since the PRC government began its mainland crackdown in mid-1999.

Other qigong groups, including Zhong Gong (which was banned in the PRC in late 1999), Xiang Gong, and Yan Xin Qigong, also were registered as societies and practiced freely. Another group allegedly listed as an “evil cult” by the PRC, the Taiwan-based Quan Yin Method, was registered legally and practiced freely.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement, Foreign Travel, Emigration, and Repatriation.*—The Basic Law provides residents freedom of movement within Hong Kong, freedom of emigration, and freedom to enter and leave the territory, and the Government generally respected these rights in practice with some prominent exceptions. Travel documents were obtained freely and easily. There were limits on travel to the mainland imposed by the mainland government.

As was the case before the handover, the Taiwan passport is not recognized as valid for visa endorsement purposes.

Since the handover, several prominent overseas dissidents have been denied entry or visas to enter Hong Kong. In April exiled mainland dissident Harry Wu, who held foreign citizenship, was refused entry to Hong Kong, on the grounds of protecting Hong Kong’s security. The Government asserted that the denial of Wu’s entry was in accordance with the law. In June Wu was denied a visa to come to Hong Kong, where he had been invited to address a seminar. Also in June, over 90 foreign Falun Gong adherents who intended to stage protests during the fifth anniversary of the handover celebration were denied entry upon arrival at the Hong Kong international airport.

In August the Court of Final Appeals upheld the right of nonpermanent residents to return after leaving, a right that in practice had been treated as requiring case-by-case consideration.

Chinese authorities did not permit a number of Hong Kong human rights activists and prodemocracy legislators to visit the mainland.

The 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol does not extend to Hong Kong, and the SAR eliminated its first asylum policy (extended only to Vietnamese) in 1998. On a case-by-case basis, the Director of Immigration had discretion to grant refugee status or asylum in cases of exceptional humanitarian or compassionate need. The general practice was to refer refugee and asylum claimants to a lawyer or to the office of the U.N. High Commissioner for Refugees (UNHCR). Those granted refugee status, as well as those awaiting UNHCR assessment of their status, received a subsistence allowance from the

UNHCR, but were not allowed to seek employment or enroll their children in local schools. The UNHCR worked with potential host country representatives in Hong Kong to resettle those few persons designated as refugees. Government policy is to repatriate all illegal immigrants, including those that arrive from the mainland, as promptly as possible. From January to October, a total of 4,927 illegal PRC migrants were repatriated to the mainland.

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

Residents' right to change their government is limited by the Basic Law, which provides for the selection of the Chief Executive by an 800-person selection committee (composed of individuals who are either directly elected, indirectly elected, or appointed), the direct election of only 26 of 60 Legislative Council members (to become 30 of 60 in 2004), and the inclusion of appointed members to the elected district councils. The approval of the Chief Executive, two-thirds of the legislature, and two-thirds of Hong Kong's National People's Congress delegates is required to place an amendment to the Basic Law originating in Hong Kong on the agenda of China's National People's Congress. The National People's Congress has the sole power to amend the Basic Law. Procedures for amendment or interpretations that originate in the mainland were unclear.

The Government is executive-led, with a two-tiered legislative system consisting of the Legislative Council and 18 district councils, and is staffed by a professional and independent civil service. The Basic Law provides for elections for Chief Executive in 2002 and 2007 by a selection committee of 800 local residents. The selection committee was composed of the 60 members of the Legislative Council, the 36 Hong Kong delegates to the National People's Congress, 41 representatives of the Hong Kong members of the Chinese People's Political Consultative Conference, 40 representatives from religious groups, and 623 persons elected by the same approximately 180,000 voters (some representing organizations; others voting as individuals) who choose the functional constituency representatives of the Legislative Council. In February C.H. Tung, unopposed, won his second 5-year term, which began in July.

The Basic Law permits amendment of the Chief Executive selection process after 2007 by a two-thirds majority of the Legislative Council, with the consent of the Chief Executive and the National People's Congress Standing Committee. Article 45 of the Basic Law states that "the ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures." As of year's end, the Government had not initiated steps to prepare for a change in the procedure for choosing the Chief Executive as provided for under the law.

In July the introduction of a new "Principal Officials Accountability System" changed the SAR's government system by adding a layer of 11 political appointees to run the 11 policy bureaus. Three other civil service positions—Chief Secretary, Financial Secretary, and Justice Secretary—also were converted to political appointments, although without a change in personnel. These 14 political appointees were chosen by the Chief Executive and approved by the PRC government. They served as members of the Executive Council, which functioned as the Chief Executive's cabinet. The restructured Executive Council also includes members of two political parties, a labor leader, and two other private citizens, also appointed by the Chief Executive.

The members of the Legislative Council were elected in 2000 to 4-year terms; 24 members were elected directly from geographic districts through universal suffrage, 30 from functional (occupational) constituencies, and 6 by votes of the 800-person selection committee. Prodemocracy candidates won 17 of the 24 seats elected on a geographic basis (including 1 in a December 2000 by-election) and 22 seats overall.

In both the 1998 and 2000 elections, the functional constituencies were drawn more narrowly than the nine broad functional constituencies of the 1995 Legislative Council, reducing the total number of potential voters in functional constituencies from 1.15 million in 1995 to 180,000 in 1998. Human rights and democracy groups contended that the election of functional constituency representatives by so few persons was fundamentally undemocratic. There was general acceptance of the geographic electoral districts, which included over 3 million registered voters. Article 68 of the Basic Law states that the "ultimate aim is the election of all the members of the Legislative Council by universal suffrage." As of year's end, the Government had not initiated steps to prepare for a change in Legislative Council electoral arrangements as provided for under the law.

The ability of the legislature to influence policy is limited substantially by Basic Law provisions that require separate majorities among members elected from geo-

graphical and functional constituencies to pass a bill introduced by an individual member. Another Basic Law provision prohibits the Legislative Council from putting forward bills that affect public expenditure, political structure, or government operations. The Chief Executive's written consent is required before bills affecting government policy may be introduced. The Government has adopted a very broad definition of "government policy" to block private member bills, and the President of the Legislative Council has upheld the Government's position. However, the Legislative Council's degree of popular representation and outspokenness resulted in its having some influence over the Government's positions. During the year, the Government took into consideration the views of an eight-party coalition on the Government's budget presentation. Similarly, legislators' views influenced the final text of an anti-terrorism bill presented by the Government as required by U.N. Security Council Resolution 1373.

The November 1999 elections for Hong Kong's District Councils were generally free and fair; however, democratic legislators and human rights activists argued that the appointment of nearly one-quarter of District Councilors by the Chief Executive was an undemocratic procedure. According to the District Councils Ordinance, the District Councils are responsible for advising the Government on matters affecting: (1) the well-being of district residents; (2) the provision and use of public facilities; and (3) the use of public funds allocated for local public works and community activities. The next District Council elections were scheduled for 2003.

In 2000 the Court of Final Appeal ended a century-old practice of excluding non-indigenous villagers (residents who were not members of long-term local families) from participating in some rural elections. The Court unanimously found that the practice violated both the Bill of Rights and the Sex Discrimination Ordinances. In October the Government introduced a bill on village elections to the Legislative Council that proposed to elect two village heads in the 2003 rural elections. Under this proposal, one village head would represent indigenous residents to deal with traditional affairs such as burial grounds, while the other leader would handle general affairs. In September approximately 4,500 village residents demonstrated against the Government's proposal, objecting to the inclusion of nonindigenous (persons not from the village's original families) village heads. At year's end, the bill was still under consideration in the Legislative Council.

Hong Kong sends 36 delegates to China's National People's Congress (NPC). The NPC requires the approval of two-thirds of Hong Kong's NPC delegates to place an amendment to the Basic Law on the NPC's agenda. Hong Kong's NPC delegates also were members of the selection committee that chose six of the Hong Kong legislators in 2000. In December Hong Kong's NPC delegates were elected to a 5-year term by an NPC-appointed committee of 955 residents, up from 424 residents voting in the previous (1997) NPC election. Politicians and human rights activists have criticized the election process as undemocratic and lacking transparency.

Larger numbers of women sought public office than ever before. Women held 11 of the 60 Legislative Council seats, and made up between 5 and 33 percent of membership in political parties. The President of the Legislative Council is a woman, as are the heads of several government departments. Three of the 15 most senior government positions were held by women. The Equal Opportunities Commission, itself headed by a woman, noted that women were a minority in government advisory bodies.

Minorities also were represented in senior civil service positions.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases (see Section 2.b.). These organizations had unrestricted contacts with the local community and with groups overseas. Government officials were generally receptive to, and respectful of, their views. Prominent human rights activists critical of mainland China also operated freely and maintained permanent resident status in Hong Kong, but overseas dissidents sometimes had difficulty gaining entry to the SAR.

Under the Basic Law, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights apply to Hong Kong. The central Chinese government transmits Hong Kong's reports under these covenants, without editing, to the U.N. The SAR government and several domestic NGOs have testified before several U.N. human rights committees, including the United Nations Human Rights Commission in Geneva. The hearings, including concerns of the Commission, have received widespread and balanced press coverage.

The Office of the Ombudsman has wide powers to investigate and report on grievances from members of the public as a result of administrative actions of the executive branch and other designated public bodies. The Ombudsman may publish investigation reports in which the identity of the complainant is protected. In addition to responding to public complaints, the Ombudsman may initiate investigations. The Ombudsman may report to the Chief Executive if recommendations to the organizations under his jurisdiction have not been acted upon or if there are serious violations. The Chief Executive is bound by law to present such reports to the legislature. The Ombudsman (Amendment) Ordinance, in December 2001, helped strengthen the independence of the Ombudsman by delinking the office from government systems and processes. It empowered the office to set terms and conditions of appointment for staff and to have full powers to conduct its own financial and administrative matters.

The Ombudsman does not have oversight authority over the police, the Independent Commission Against Corruption, the Equal Opportunities Commission, or the Office of the Privacy Commissioner for Personal Data, although it may investigate complaints of noncompliance with the law on access to information by government departments, including the police and the Independent Commission Against Corruption. With regard to election-related complaints, the Ombudsman only is empowered to investigate complaints made against the Registration and Electoral Office, but not those made against the Electoral Affairs Commission.

The U.N. Human Rights Committee and U.N. Committee on Economic, Social, and Cultural Rights (UNCESCR) expressed particular concern that Hong Kong had failed to establish a broadly-mandated human rights institution. Human rights groups also have complained that Hong Kong does not have a human rights commission.

#### *Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Basic Law provides that all Hong Kong residents are equal before the law. The Bill of Rights Ordinance, which provides for the incorporation into law of the International Covenant on Civil and Political Rights as applied to Hong Kong, entitles residents to the civil and political rights recognized therein “without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” However, the ordinance binds only the Government, public authorities and persons acting on their behalf; that is, not private persons or entities. Three pieces of antidiscrimination legislation—the Sex Discrimination Ordinance, the Disability Discrimination Ordinance, and the Family Status Discrimination Ordinance—have made it illegal for any person or entity (public or private) to discriminate on the grounds of sex, marital status, pregnancy, disability, or family status, and prohibits behavior such as sexual harassment, harassment or vilification on the grounds of disability, and discriminatory advertising.

An Equal Opportunities Commission (EOC) was established in 1996 to work toward the elimination of discrimination and to promote equality of opportunity with specific reference to gender, disability, and family status. During the year, the Government extended the term of the EOC’s chairperson by just 1 year and said that it would keep the Commission’s work under review.

The EOC and human rights groups continued to call for laws specifically targeting, among other problems, public or private discrimination based on race and age. In 2001 the UNCESCR concluded that Hong Kong’s failure to prohibit race discrimination in the private sector constituted a breach of its obligations under the International Covenant on Economic, Social, and Cultural Rights. The UNCESCR also urged Hong Kong to prohibit discrimination on the basis of sexual orientation and age. The U.N. Committee on the Elimination of Racial Discrimination (UNCERD) recommended that “appropriate legislation be adopted to provide appropriate legal remedies and prohibit discrimination based on race, color, descent or national or ethnic origin.” Meanwhile, press reports continued to identify examples of strong societal prejudice against minority groups and newly arrived mainland Chinese migrants. In addition, the EOC, on the basis of the large number of complaints and inquiries, continued to maintain that the elderly were discriminated against in the allocation of public housing, but noted that it was powerless to help, because there was no legislation prohibiting age discrimination.

During the year, the EOC received 785 total complaints for investigation and conciliation. The Commission handled 1,710 cases (including complaints from previous years) and concluded 1,403 cases. Of these, 741 cases were discontinued for various reasons, including withdrawal by the complainant; agreement reached before an investigation was completed; and a lack of substance. Of the remaining concluded

cases, 60 percent were successfully conciliated. Legal assistance was available for unsuccessful complainants.

*Women.*—Violence against women remained a problem, particularly among new immigrants from the mainland. The Domestic Violence Ordinance allows a woman to seek a 3-month injunction against her husband (extendable to 6 months). Domestic violence also may be prosecuted as common assault. The Government enforced the law and prosecuted violators, but sentences generally were lenient, consisting only of injunctions or restraining orders. During the year, there were 3,034 cases of domestic violence reported to the Social Welfare Department, which received reports of domestic violence from the police as well as from social workers, the Health Department, and volunteer organizations.

Cultural factors and inadequate information about available assistance and resources resulted in many cases of spousal abuse going unreported. In 2000 the Government established an interdepartmental Working Group on Sexual Violence to ensure coordination of efforts among various departments and authorities in handling the problem of sexual violence. In 2001 the Government established a Women's Commission to address women's concerns in a comprehensive and systematic manner. In May the Commission held a conference to help raise public awareness of gender-related issues and provide a forum for local, foreign and mainland experts to promote the well-being of women. The Government also funded programs such as family life education counseling, a hot-line service, temporary housing, legal aid, and child protective services; it also has initiated public education and media programs to promote public awareness and encourage women to seek professional assistance.

The reported incidence of rape was low. There were 59 cases reported to the police in the first half of the year and 95 in 2001. However, underreporting was a serious problem. The amendment to the Crimes Ordinance proposed in 2001, to expressly clarify that marital rape is a crime, had not yet passed as of year's end. Indecent assault cases reported to the police totaled 574 in the first 7 months of the year and 1007 in 2001.

Prostitution is not illegal, but there are laws against activities such as causing or procuring another to be a prostitute, living on the prostitution of others, or keeping a vice establishment. Some women working in the sex industry have been trafficked to Hong Kong (*see* Section 6.f.).

Sexual harassment was a problem. The Equal Opportunities Commission reported 50 sexual harassment complaints during the first half of the year, with 99 such complaints reported in 2001. However, government and NGO surveys conducted in 2000 suggested that sexual harassment was seriously underreported.

Women faced discrimination in employment, salary, welfare, inheritance, and promotion (*see* Section 6.e.). During the year, a 2-month study of government and Hospital Authority jobs, commissioned by the EOC's task force on Equal Pay for Work of Equal Value, was conducted. The results were not yet available at year's end. The press reported occasional stories of women alleging discrimination in the workplace. Official unemployment figures for the second quarter of the year were 8.8 percent for men and 6.1 percent for women. However, human rights organizations and unions have asserted that the statistics inaccurately recorded many unemployed women as housewives and that, in fact, the unemployment rate for women was actually higher than the unemployment rate for men.

Women entered professional fields, including law and medicine, in growing numbers. Nonetheless, female judicial officers and judges made up only 19 percent of the judiciary. A July government survey showed that the number of female senior government officials had increased more than nine-fold in the past 2 decades but that women as a whole still earned only approximately two-thirds as much as men. In the Legislative Council, women held 11 of the 60 seats. Women held 20 percent of the most senior government positions and 23 percent of the senior policy level positions in the civil service.

Women were disproportionately represented in the lower echelons of the work force, holding positions such as retail sales assistants and office clerks. The law treats men and women equally in inheritance matters, although women still faced discrimination based on traditional practices (such as in the inheritance of small homes in rural areas of the New Territories).

The High Court ruled in 2001 that the 23-year-old practice of separately ranking boys and girls for secondary school admission purposes discriminated in favor of boys. Of the 807 cases initiated in 2001, 257 were successfully conciliated, 267 were satisfied with Education Department relief measures, and investigation was discontinued for 283, due to alternate arrangements or findings of no discrimination after 12 months of investigation. There were no pending complaints at year's end.

In 2001 the Government established a Women's Commission to promote and protect the interests and well-being of women. The Commission declared its intention to focus on provision of health services, childcare support, protecting women against violence, promotion of a women-friendly working environment, and legal issues relating to women and the family. However, the UNCECSR expressed concern that the Commission might not have sufficient resources and powers to pursue its mission.

In September the Government issued a draft outline of Hong Kong's second report under the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) to seek views from the public.

*Children.*—The Government was committed firmly to children's rights and welfare through well-funded systems of public education, medical care, and protective services. The Education Department is committed to providing schooling for children between 6 and 15 years of age and provided placement services for non-Chinese speaking children. Education was free and compulsory through grade nine. The Government supported programs for custody, protection, day care, foster care, shelters, small group homes, and assistance to families.

Subsidized, quality medical care was available to all children who are residents.

At year's end, the Government was considering legislation proposed in 2001 to raise the age of criminal responsibility for children from 7 to 10 years. For the first 7 months of the year, there were 49 youths under the age of 16 who were incarcerated: 14 in prison, 9 in training centers, 24 in detention centers, and 2 in drug addiction treatment centers.

Child abuse and exploitation were not widespread. In the first 7 months of the year, there were 645 child abuse cases newly registered with the police: 265 involved physical abuse and 380 involved sexual abuse. The Government reported 99 cases of "cruelty to children" in the first half of the year; there were 181 cases in 2001, and 178 in 2000.

There are no specific laws dealing with child pornography, but child pornography is covered under other anti-pornography laws. A bill on Prevention of Child Pornography, introduced before the Legislative Council in January, would criminalize the making, production, distribution, publication, advertising, and possession of child pornography. The bill would also prohibit the procurement of children for making pornography, extend the application of certain sexual offense provisions to acts committed against children outside of Hong Kong, and prohibit any arrangement or advertising relating to commission of those acts. At year's end, the bill was still being studied in committee.

The Government provided parent education programs in all 50 of the Department of Health's Maternal and Child Health Centers. The police maintained a child abuse investigation unit to improve the treatment of victims, and laws have been passed to make it easier for child victims to testify in court using an interviewing suite for recording statements. There are substantial legal penalties for mistreatment or neglect of minors. A witness support program helped child witnesses in need. A child witness information kit in Chinese, with books explaining legal and court proceedings, helped reduce children's anxiety about testifying. A Child Care Center Law helped to prevent unsuitable persons from providing childcare services and facilitated the formation of mutual help childcare groups.

*Persons with Disabilities.*—Discrimination against the physically and mentally disabled persisted in employment, education, and the provision of some public services. The Disability Discrimination Ordinance called for improved building access and sanctions against those who discriminate, and the amended Buildings Ordinance updated design requirements. Despite inspections and occasional closure of noncompliant businesses, access to public buildings (including public schools) and transportation remained a serious problem for persons with disabilities. Advocates complained that limited access for persons with disabilities at polling stations made voting difficult. The Government offered an integrated work program in sheltered workshops and provided vocational assessment and training. No comprehensive statistics were available on the number of persons with disabilities in the work force, but a consortium of organizations representing persons with disabilities reported that approximately 700,000 residents are disabled, and about half were able to work. Government estimates indicated that during the year there were approximately 265,000 persons with physical disabilities and 53,500 with mental disabilities. Of these, 52,500 were employed and 59,700 were considered "economically active," (such as small business owners and street vendors). As of April, there were 3,408 persons with disabilities employed as civil servants in a total civil service work force of approximately 173,000—approximately 2 percent of all civil servants. During the year, the Labor Department's Selective Placement Division found jobs

for 2,572 of 4,225 disabled job seekers. Approximately 10,000 students in a school population of 960,000, about 1 percent, were disabled. Of these, 3,657 were in mainstream schools where they received special education services.

In 2001 the UNCESCR recommended that the Government undertake a comprehensive review of mental health policy and adopt effective measures to ensure that persons with mental illness enjoyed the right to adequate and affordable health care. The Committee also noted its concern over the Government's "apparent lack of initiative" to undertake public education to combat discrimination against those with mental disabilities. In response, the EOC undertook a variety of activities during the year to address discrimination against persons with disabilities, including co-sponsoring seminars and research.

*National/Racial/Ethnic Minorities.*—The UNCESCR, the UNCERD, Hong Kong legislators, human rights groups, continued to call for laws specifically targeting racial discrimination in the private sector. In response, the Government conducted public consultations on the need for antiracism legislation. The Government's analysis of the consultations, released in August, showed significant support for enacting such legislation. As of year's end, however, the Government had not introduced legislation to prohibit racial discrimination in the private sector.

The Government's non-legally binding "Code of Practice for Employers," put into place in 2001 and designed to prevent discrimination, states that race, among other factors, should not be considered when hiring employees. The Government has undertaken a public education and awareness campaign to combat race discrimination with only limited effect. In July the Government established a new Race Relations Unit to enhance services to ethnic minorities.

Minorities, who made up approximately 5 percent of the population, were well represented in the civil service and many professions. However, there were allegations of racial discrimination in such areas as private sector employment, admission to public restaurants, placement in public schools, treatment in public hospitals, apartment rentals, and acceptance to institutions of higher education. Foreign domestic workers, most of whom were from the Philippines and Indonesia, were particularly vulnerable to discrimination. An Indonesian Migrant Workers Union was established in 2000 to unite Indonesian domestic helpers throughout Asia to protect members from abuse and exploitation. The organization served the approximately 75,000 Indonesian domestic helpers who work in the SAR. Similar organizations worked for the interests of approximately 154,000 Philippine domestic helpers. According to organizations representing migrant workers, police intimidation of migrant workers also was a problem.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right of association and the right of workers to establish and join organizations of their own choosing. Trade unions must be registered under the Trade Union Ordinance. The basic precondition for registration is a minimum membership of seven persons. The Trade Union Ordinance does not restrict union membership to a single trade, industry, or occupation. The Government did not discourage or impede the formation of unions. Trade unions were independent of political parties and the Government.

During the year, 23 new unions were registered, while 11 were deregistered; at year's end, there were 622 registered trade unions. As of 2001, over 22 percent of the approximately 3.3 million salaried employees and wage earners belonged to a labor organization.

The Employment Ordinance includes provisions that protect against antiunion discrimination. Violation of the antiunion discrimination provisions is a criminal offense with a maximum fine of \$12,800 (HK\$100,000). Employees who allege such discrimination have the right to have their cases heard by the Labor Relations Tribunal. The Tribunal may order reinstatement of the employee, subject to mutual consent of the employer and employee. The Tribunal may award statutory entitlements (severance pay, etc.) and compensation. The maximum amount of compensation is \$19,230 (HK\$150,000). Some labor activists complained that the Labor Tribunals tended to push conciliation rather than issue orders.

The Basic Law commits the SAR to 40 International Labor Organization (ILO) conventions, and the Government has amended labor legislation and taken administrative measures to comply (*see* Section 6.b.).

The Employment and Labor Relations (Miscellaneous Amendments) Ordinance permits the cross-industry affiliation of labor union federations and confederations and allows free association with overseas trade unions (although notification of the Labor Department within 1 month of affiliation is required).

*b. The Right to Organize and Bargain Collectively.*—In 1997 the prehandover Legislative Council passed three laws that greatly expanded the collective bargaining powers of workers, protected them from summary dismissal for union activity, and permitted union activity on company premises and time. The new ordinances would have enabled full implementation of ILO Conventions 87, 98, and 154. However, in 1997 after consultation with the Labor Advisory Board, the Provisional Legislature repealed the Employee's Right to Representation, Consultation, and Collective Bargaining Ordinance and the Employment (Amendment) Ordinance, and amended the Trade Union (Amendment) Ordinance. The repeals removed the new legislation's statutory protection against summary dismissal for union activity; the Government argued that existing law already offered adequate protection against unfair dismissal arising from antiunion discrimination. In 2001 the U.N. Committee on Economic, Social and Cultural Rights expressed concern over the absence of protection against unfair dismissal.

The Employment and Labor Relations (Miscellaneous Amendments) Ordinance removed the legal stipulation of trade unions' right to engage employers in collective bargaining; bans the use of union funds for political purposes; requires the Chief Executive's approval before unions can contribute funds to any trade union outside of the SAR; and restricts the appointment of persons from outside the enterprise or sector to union executive committees. Because of this law, the Hong Kong Confederation of Trade Unions promptly filed a complaint against the Hong Kong government for violation of ILO Conventions 87, 98, and 154. In 1999 the ILO Committee on Freedom of Association concluded that the Employment and Labor Relations (Miscellaneous Amendments) Ordinance breached Conventions 87 and 98 and recommended that the Government take legislative action to remedy the situation. The Government provided the ILO progress reports in 1999 and 2000 asserting that it was in compliance with all of the 40 ILO conventions that apply to Hong Kong. In 1999 the Government blocked a legislator's attempt to introduce two bills on collective bargaining and antiunion discrimination on the grounds that they would affect government spending and operations and therefore fell outside the scope allowed for private member bills under the Basic Law. With the repeal of the short-lived collective bargaining legislation, the prehandover framework continued. There were no laws that stipulated collective bargaining on a mandatory basis.

Collective bargaining was not practiced widely. Unions generally were not powerful enough to force management to engage in collective bargaining. The Government did not encourage it, since the Government itself did not engage in collective bargaining with civil servants' unions but merely "consulted" with them. Wage rates in a few trades like tailoring and carpentry were determined collectively in accordance with established trade practices and customs rather than as a statutory mechanism.

In 1998 the Government established the Workplace Consultation Promotion Unit in the Labor Department to facilitate effective communication, consultation and voluntary negotiation between employers and employees. The Government has set up tripartite committees for nine sectors of the economy, each of which has representatives from trade unions, employers and the Labor Department.

Work stoppages and strikes were permitted; however, there were some restrictions on this right for civil servants. Although there was no legislative prohibition of strikes, in practice, most workers had to sign employment contracts that typically stated that walking off the job was a breach of contract which could lead to summary dismissal.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor. The law does not specifically prohibit forced or bonded labor by children; however, there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Employment of Children Regulations prohibit employment of children under the age of 15 in any industrial establishment. Children 13 and 14 years of age could be employed in certain non-industrial establishments, subject to conditions aimed at ensuring a minimum of 9 years' education and protecting their safety, health, and welfare. To enforce compliance with the regulations, the Labor Department conducted regular workplace inspections. During the year, the Labor Department conducted 161,447 inspections, and discovered 12 violations of the Employment of Children Regulations, resulting in the assessment of \$4,102 (HK\$32,000) in fines. Work hours for young persons 15 to 17 years of age in the manufacturing sector remain limited to 8 hours per day and 48 hours per week between 7 a.m. and 7 p.m. Overtime is prohibited for all persons under the age of 18 in industrial establishments. Employment in dangerous trades is prohibited for youths, except for 16- and 17-year-olds.



*e. Acceptable Conditions of Work.*—There is no statutory minimum wage except for domestic workers of foreign origin. Aside from a small number of trades where a uniform wage structure existed, wage levels customarily were fixed by individual agreement between employer and employee and were determined by supply and demand. Some employers provided workers with various kinds of allowances, free medical treatment, and free subsidized transport. The average wage generally provided a decent standard of living for a worker and family. Two-income households were the norm. In 2001 the UNCESCR expressed concern over the lack of adequate regulation on statutory minimum wage, working hours, paid weekly rest, rest breaks and compulsory overtime.

The minimum wage for foreign domestic workers was approximately \$470 per month (HK\$3,666). The standard workweek was 48 hours, but many domestic workers worked far longer hours. The standard contract law requires employers to provide foreign domestic workers with housing, worker's compensation insurance, travel allowances, and food or a food allowance in addition to the minimum wage, which together provided a decent standard of living. Foreign domestic workers were subject to deportation if they were dismissed. There were credible reports of such workers illegally being forced to accept less than the minimum wage and unacceptable living conditions. There have been a number of cases of foreign domestic workers successfully taking their employers to court for mistreatment.

The Occupational Safety and Health Branch (OSHB) of the Labor Department is responsible for safety and health promotion, enforcement of safety management legislation, as well as policy formulation and implementation.

The Factories and Industrial Undertakings Ordinance and its 30 sets of subsidiary regulations regulate safety and health conditions. During the year, the Labor Department conducted 162,417 inspections of workplaces and issued 3,174 summonses, resulting in a total of \$561,186 million in fines (HK\$4,377,250). Worker safety and health has improved over the years, due in part to the transfer of many manufacturing jobs to factories in mainland China, but serious problems remained, particularly in the construction industry. During the first 9 months of the year, there were 35,654 occupational injuries, of which 17,112 were classified as industrial accidents. There were 21 fatal industrial accidents. Employers are required under the Employee's Compensation Ordinance to report any injuries sustained by their employees in work-related accidents. There is no specific legal provision allowing workers to remove themselves from dangerous work situations without jeopardy to continued employment.

*f. Trafficking in Persons.*—There is no specific law prohibiting trafficking in persons; however, there are various laws and ordinances that allowed law enforcement authorities to take action against traffickers. Trafficking in persons was a problem; Hong Kong was both a transit and a destination point for trafficked persons. However, it was difficult for authorities to identify trafficking victims among the larger group of illegal immigrants.

Hong Kong was a transit point for some persons trafficked from China and other nations to third countries, despite active efforts by the Government to stop such trafficking. During the year, authorities caught 3,549 persons with forged travel documents. The most common method used to attempt to traffic persons through the SAR employed forged or illegally obtained travel documents to move through the airport. In past years, traffickers have attempted to smuggle persons in shipping containers. In 2001 the Government uncovered a trafficking ring and arrested 11 Hong Kong residents involved in a forgery operation that produced fraudulent passports.

There were reports that Hong Kong was a destination for women trafficked for the purpose of prostitution. According to a 2001 study, some of the women did not know before coming to Hong Kong that they would be pressured into serving as "escorts" for male customers of the bars where they were given jobs. Large numbers of mainland Chinese women also illegally engaged in prostitution with the reported assistance of organized criminal groups. There were reports as well that criminal elements brought in small numbers of women from the former Soviet Union, Eastern Europe, and Colombia for the purpose of engaging in illegal prostitution.

The authorities sought to combat illegal prostitution by nonresidents through strict immigration controls and by arresting and prosecuting illegal prostitutes and their employers. In the first 9 months of 2001, 982 nonresident women prostitutes and a much smaller number of their employers were arrested. Most of those arrested were deported rather than formally charged.

Persons also were trafficked to the SAR for labor purposes, including domestic labor. Some foreign domestic workers, particularly from Indonesia, have been recruited abroad and brought to Hong Kong only to be placed in coercive working and living conditions. Organized criminal groups generally were behind the illicit activ-

ity and sought to profit from it through forced labor, debt bonded labor, or prostitution.

Government policies to combat fraudulent marriages that could be used to disguise trafficking in persons appeared to be producing results. Immigration officials closely scrutinized applications for the entry of foreigners to take up residence with local spouses, and in cases where the claimed relationship as husband and wife was deemed not credible, applications were rejected.

Provisions in the Immigration Ordinance, the Crimes Ordinance, and other relevant laws enabled law enforcement authorities to take action against trafficking in persons. The courts can impose heavy fines and prison sentences for up to 14 years for such activities as arranging passage of unauthorized entrants into Hong Kong, assisting unauthorized entrants to remain, using or possessing a forged, false or unlawfully obtained travel document, and aiding and abetting any person to use such a document. The Security Bureau has policy responsibility for combating migrant trafficking and oversees the police, customs, and immigration departments, which are responsible for enforcing antitrafficking laws. Law enforcement officials received specialized training on handling and protecting victims and vulnerable witnesses, including victims of trafficking.

Legal aid was available to those who chose to pursue legal proceedings against an employer, and immunity from prosecution was often made available to those who assisted in the investigation and prosecution of traffickers. The Government did not provide funding to foreign or domestic NGOs for services to victims of trafficking. The Government's prevention efforts included providing pamphlets to workers about their rights; the pamphlets were widely distributed and were published in a wide range of languages.

#### MACAU

Macau, a 13 square mile enclave on the south China coast, reverted from Portuguese to Chinese administration on December 20, 1999 (the handover). As a Special Administrative Region (SAR) of the People's Republic of China (PRC), Macau enjoys a high degree of autonomy except in defense and foreign affairs, and its citizens have basic freedoms and enjoy legally protected rights. The Sino-Portuguese Joint Declaration (1987) and the Basic Law—the SAR's mini-constitution promulgated by China's National People's Congress (NPC) in March 1993—specify that Macau is to continue to enjoy substantial autonomy and that its economic system and way of life are to remain unchanged for the first 50 years under PRC sovereignty. The Government is led by a Chief Executive, chosen by a 200-member Selection Committee, which is in turn chosen by a Preparatory Committee composed of 60 Macau and 40 mainland representatives appointed by the NPC. In September 2001, voters elected 10 of the legislature's 27 members in direct elections in geographical constituencies. Ten others were elected by interest groups in functional constituencies, and the remaining seven were appointed by the Chief Executive. There are limits on the types of bills that may be initiated by individual members of the legislature. After the handover, most of the laws previously in force continued to apply. The law provides for an independent judiciary, and the Government generally respected this provision in practice.

The police force is under civilian control. After peaking in 1999, serious organized crime-related violence appeared to have been curbed, and police reported a marked reduction in violent crime. A People's Liberation Army (PLA) garrison of 800 soldiers stationed in Macau played no role in internal security.

The market-based economy was fueled by textile and garment exports, along with tourism and gambling. The economy grew approximately 5 percent during the year. Per capita gross domestic product (GDP) was approximately \$14,300. The population was approximately 450,000.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. These problems included occasional reports of police abuse, the limited ability of citizens to change their government, limits on the legislature's ability to initiate legislation, inadequate provision for persons with disabilities, and a lack of legal protection for strikes and collective bargaining rights.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of arbitrary or unlawful deprivations of life committed by the Government or its agents.

There was one report of a suspicious death in custody. In May a prisoner was taken from his cell and transferred to a police station for interrogation. While at the station he became ill and was taken to a hospital, where he died. A postmortem

examination by the hospital found that he died of acute renal failure caused by assault with blunt force and had suffered from severe hepatic cirrhosis. The police carried out an investigation of possible police wrongdoing and passed their report to the Public Prosecutions Office; an investigation by the Public Prosecutions Office was pending at year's end.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and the Government generally respected these provisions in practice; however, there were reports of police brutality during the year. In February two officers allegedly assaulted two Hong Kong journalists who sought to enter Macau to cover the visit of Li Peng, Chairman of the NPC. The police denied the allegations. Results of investigations into the incident conducted by the police and Procurator's Office were not available at year's end.

Prison conditions met international standards, but in the last few years the prison population has more than doubled to 886 (including male and female inmates), almost two-thirds of whom are from the PRC. Facilities and personnel have failed to keep pace. In 2000 the Secretary for Security announced plans to hold talks with PRC authorities on a prisoner transfer agreement. The two sides had not reached an agreement at year's end.

The Government has permitted prison visits by human rights observers, but there were no such visits during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest and detention, and the Government generally respected these provisions in practice. An examining judge, who conducts a pretrial inquiry in criminal cases, has a wide range of powers to collect evidence, order or dismiss indictments, and determine whether to release detained persons. Police must present persons remanded in custody to an examining judge within 48 hours of detention. The accused person's counsel may examine the evidence. The law provides that cases must come to trial within 6 months of an indictment. The average length of pretrial incarceration was 3 months. Judges often refused bail in cases where sentences exceed 3 years. This practice contributed to overcrowding in prisons.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected this provision in practice. According to the Basic Law, the courts have the power of final adjudication over all cases that are within the autonomy of the SAR. The courts also may rule on matters that are "the responsibility of the Central People's government or concern the relationship between the central authorities and the (Special Administrative) Region," but before making their final (i.e., nonappealable) judgment, the court must seek an interpretation of the relevant provisions from the Standing Committee of the NPC. When the Standing Committee makes an interpretation of the provisions concerned, the courts, in applying those provisions, "shall follow the interpretation of the Standing Committee." The Standing Committee must consult the NPC's Committee for the Basic Law of the Special Administrative Region before giving an interpretation of the law. This Committee is composed of 10 members, 5 from the SAR and 5 from the mainland. The Chief Executive, the President of the Legislative Assembly, and the President of the Court of Final Appeal nominate the SAR members.

The need to translate laws and judgments from Portuguese and a severe shortage of local bilingual lawyers and magistrates may have hampered development of the legal system. At year's end, 94 lawyers were registered with the Macau Lawyers Association, of whom 29 spoke Cantonese and 11 spoke Mandarin. The Government has instituted a rigorous postgraduate training program for magistrates who received legal training outside of the SAR. The judiciary was relatively inexperienced (the first law school opened in the early 1990s), and the lack of locally trained lawyers was a serious impediment to the development and maintenance of an independent judiciary.

According to the Basic Law, the Chief Executive appoints judges at all levels, acting on the recommendation of an "independent commission," which he appoints, composed of local judges, lawyers, and "eminent persons." The Basic Law stipulates that judges must be chosen on the basis of their professional qualifications. According to the law, judges may be removed only for criminal acts or an inability to discharge their functions. Except for the Chief Justice, who must be a Chinese citizen with no right of abode elsewhere, judges may be foreigners.

There are four courts: The Primary Court (with general jurisdiction at first instance); the Administrative Court (with jurisdiction of first instance in administrative disputes); the Court of Second Instance; and the Court of Final Appeal.

The law provides for the right to a fair trial, and the judiciary generally enforced this right. By law, trials are open to the public, except when publicity could cause

great harm to the dignity of the persons, to public morals, or to the normal development of the trial. Such a decision must be revoked if those motives cease to exist, and the verdict must always be delivered in public. The Criminal Procedure Code provides for an accused person's right to be present during proceedings and to choose an attorney or request that one be provided at government expense. The 1997 Organized Crime Ordinance provides that "certain procedural acts may be held without publicity and that witness statements read in court are admissible as evidence." There also are additional restrictions on the granting of bail and suspended sentences in organized crime cases.

The judiciary generally provides citizens with a fair and efficient judicial process, but the average waiting period between the filing of a civil case and its scheduled hearing continued to be nearly 12 months, although it was reduced slightly during the year. Since 1991 all legislation has been issued simultaneously in Chinese and Portuguese. Laws issued between 1976 and 1991 have been translated into Chinese.

The Public Prosecutions Office (headed by a Public Prosecutor General) enjoys substantial autonomy from both the executive and the judiciary. The Basic Law stipulates that the Public Prosecutions Office's functions must be carried out without interference, and the law was generally respected in practice.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice. A judge's authorization is required for any official interference in these areas. Any evidence obtained by means of wrongful interference in private life, home, correspondence, or telecommunications without the consent of the concerned person may not be used in court.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. Local law also protects citizens' right to petition the Government and the legislature.

The print media included eight Chinese-language dailies, four Portuguese-language dailies, and seven weeklies. There were three television networks. Macau Radio broadcast in both Portuguese and Chinese (Cantonese and Mandarin). Hong Kong and international newspapers were freely available. The dominant newspapers were sympathetic to official Chinese positions in their editorial line. Critics charged that these papers did not give equal attention to liberal and pro-democracy voices. The reversion to PRC sovereignty has produced no overt or apparent restrictions of press freedom. Government officials asserted that the local press has grown more aggressive in its demands for accountability from public officials since the 1999 handover.

Article 23 of the Basic Law obliges the SAR to enact legislation that would forbid any act of treason, secession, sedition, subversion against the Central People's government, or theft of state secrets, and links of the foregoing nature that are harmful to national security with foreign political organizations. Human rights groups have voiced concern that when enacted these laws and other provisions passed to implement Article 23 may restrict fundamental rights and freedoms.

Particular concern has been raised regarding the Penal Code's lack of specific sentences for such crimes. A legal vacuum was created when a Portuguese law dealing with crimes against state security became null and void after the handover. In October the Government announced that it was working on draft legislation for the Article 23 antisection law that would undergo a period of public consultation and then be submitted to the Legislative Assembly in 2003. At year's end, that work was still ongoing.

There were no government-imposed limits on Internet access.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly, and the Government generally respected this right in practice. Under local law, individuals and groups intending to hold peaceful meetings or demonstrations in public places are required to notify the president of the relevant municipal council in writing at least 3 days but no more than 2 weeks in advance of the event. No prior authorization is necessary for the event to take place. Local law also provides criminal penalties for government officials who unlawfully impede or attempt to impede the right of assembly and for counter-demonstrators who interfere in meetings or demonstrations.

The law provides for freedom of association, and the Government generally respected this right in practice. The law neither provides for nor prohibits establishment of political parties. Under the Societies Ordinance, however, persons can es-

establish “political organizations,” of which a few existed, including the pro-democracy New Democratic Macau Society, headed by a legislator. Both civic associations and candidates’ committees may present candidates in the elections by direct or indirect suffrage (see Section 3). Article 23 of the Basic Law obliges the Macau SAR to enact laws to prohibit foreign political organizations from establishing ties with domestic political organizations or bodies. The Government had not enacted any legislation to implement Article 23 (see Section 2.a.).

Falun Gong practitioners were allowed to continue their exercises and demonstrations in public parks. In recent years, police photographed practitioners. In the past, police occasionally took practitioners to the police station and made them wait a few hours while police checked their identification documents. Pro-democracy and Falun Gong activists living outside of the SAR stated that they were able to travel to the SAR without interference.

*c. Freedom of Religion.*—The Basic Law provides for freedom of conscience and religious belief as well as freedom to preach and to conduct and participate in religious activities. The Freedom of Religion Ordinance provides for freedom of religion, privacy of religious belief, freedom of religious assembly, freedom to hold religious processions, and freedom of religious education. The SAR government generally respected these rights in practice. There is no state religion.

The Religious Freedom Ordinance requires the registration of religious organizations. Registration is handled by the Identification Services Office. There have been no reports of discrimination in the registration process.

Practitioners of Falun Gong (a spiritual movement that does not consider itself a religion) have not applied for registration because a local lawyer advised them that their application for registration would not be approved since the Falun Gong was banned in mainland China in October 1999. However, the Identification Services Office has not issued any instructions regarding the Falun Gong, and senior SAR government officials have reaffirmed that practitioners of Falun Gong may continue their legal activities without government interference. In recent years, police occasionally photographed practitioners and checked their identification documents (see Section 2.b.).

Religious bodies can apply to use electronic media to preach. The ordinance also stipulates that religious groups may maintain and develop relations with religious groups abroad.

Missionaries are free to conduct missionary activities and were active in the enclave. More than 30,000 children were enrolled in Catholic schools.

The Catholic Church recognizes the Pope as the head of the Church. In April the Holy See appointed a coadjutor Bishop for the Macau diocese. Editorials in the local Catholic newspaper noted this as an example of the Macau government’s independence and respect for religious freedom as provided for in the Basic Law.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice. In 2001 a female Falun Gong practitioner from Hong Kong was barred from entering Macau despite statements by the Chief Executive that there was no political blacklist of persons from Hong Kong. In past years, the police admitted that they kept a list of unwelcome persons who have criminal records and persons whom they believe have criminal intentions. In December 2000, the Government detained and turned back prodemocracy activists and Falun Gong practitioners who tried to enter the SAR during the period observing the anniversary of the handover. A Security Bureau spokesman stated that they were not admitted because it was suspected that they intended to carry out unlawful demonstrations and that the law, which gives residents the right to assemble and demonstrate, does not give nonresidents that right (see Section 2.b.). Foreign Falun Gong and democracy activists have traveled to Macau at other times without incident.

The law provides for the granting of asylum and refugee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the U.N. High Commissioner for Refugees in assisting refugees before the handover. There were no refugee cases during the year. The law makes no provision for first asylum. There were no reports of refugees being forced to return to a country where they feared persecution.

During the year, 1,198 illegal migrants were returned to the mainland, of whom 120 were male and 1,078 female.

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

The ability of Macau citizens to change their government is restricted. The Government is led by a Chief Executive chosen by a 200-member Selection Committee, which is in turn chosen by a 100-member Preparatory Committee, composed of 60 Macau and 40 mainland representatives appointed by the NPC of the PRC. The 27-member Legislative Assembly elected in 2001 is composed of 10 members elected in direct elections; 10 indirectly elected by local community interests such as business, labor, professional, welfare, cultural, educational and sports associations; and seven appointed by the Chief Executive. Prior to the 2001 elections, the Legislative Assembly was composed of 8 members elected directly, 12 elected indirectly, and 7 that were appointed. Elections are held every 4 years, and the number of legislators is to increase gradually in subsequent elections. In 2005 the number of directly elected seats is to be increased to 12, with 10 elected indirectly and 7 appointed. After 2009 the rules on the Assembly's composition may be altered by a two-thirds majority of the total membership and with the approval of the Chief Executive, who has veto power. The Basic Law does not provide for universal suffrage or for direct election of either the legislature or the Chief Executive.

There are limits on the types of legislation that legislators may introduce. Article 75 of the Basic Law stipulates that legislators may not initiate legislation related to public expenditure, the SAR's political structure, or the operation of the Government. Bills relating to government policies must receive the written approval of the Chief Executive before they are submitted.

A 10-member Executive Council appointed by the Chief Executive consists of 2 legislators, 1 former legislator, 5 policy secretaries and 2 prominent businessmen. The Executive Council functions as an unofficial cabinet, approving all draft legislation before it is presented in the Legislative Assembly.

In January a bill approved by the Legislative Assembly in 2001 went into effect, transforming Macau's two provisional municipal councils into a new public body. Under the previous arrangement, a total of eight directly elected members sat on the two councils. The councils were responsible for culture, recreation and public sanitation functions. Under the new system, the councils have been merged into a single public body, called the Institute for Civic and Municipal Affairs, with all of its members appointed by the Chief Executive. The Basic Law states that "municipal organizations are not organs of political power."

Five of the 27 Legislative Assembly members (3 directly elected, 1 indirectly elected, 1 appointed), including the President of the Assembly, were women. Women held a number of senior positions throughout the Government.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Domestic human rights groups generally functioned without government restriction, investigating and publishing their findings on human rights. Local human rights groups, such as the Macau Association for the Rights of Laborers, and the New Democratic Macau Association, continued to operate.

International human rights agreements that formerly were applicable to Macau were approved by the Sino-Portuguese Joint Liaison Group and continued to apply to the SAR. In addition, the International Covenant on Civil and Political Rights is subsumed in the Basic Law.

The Commission Against Corruption received 1,116 complaints against public officials in a variety of agencies during the year. By year's end, the Commission had opened 131 files, of which 115 were criminal cases and 16 were administrative grievances. The Commission transferred 24 cases to the Public Prosecutions Office. A monitoring body established to review complaints of maladministration or abuse by the Commission itself received no such complaints during the year.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Basic Law stipulates that residents shall be free from discrimination, irrespective of their nationality, descent, race, sex, language, political persuasion, ideological belief, educational level, economic status, or social condition. In addition, many local laws carry specific prohibitions against discrimination. For example, under the law that establishes the general framework for the educational system, access to education is stipulated for all residents regardless of race, religious belief, or political or ideological convictions.

*Women.*—The Government enforces criminal statutes prohibiting domestic violence and prosecutes violators. Police and court statistics do not distinguish between spousal abuse and other assault cases. If hospital treatment is required, a medical social worker counsels the victims of abuse and informs them about social welfare

services. Until their complaints are resolved, victims of domestic violence may be provided public housing, but no facilities were reserved expressly for them.

Private and religious groups sponsored programs for victims of domestic violence. The Government supported and helped to fund these organizations and programs. The Bureau for Family Action was created by the Government as a subordinate body of the Department of Family and Community of the Social Welfare Institute. The Bureau helps women who have been victims of domestic violence, providing not only a safe place for them and their children but also advice regarding legal actions against the perpetrators. A special family counseling service performed an average of 150 family services per month, including receiving phone calls and conducting interviews. Two government-supported religious programs also offered rehabilitation programs for women who have been victims of violence. Through September, 19 cases of spousal abuse were reported to the Social Welfare Institute. Between January and July, the Office for Security Co-ordination received 143 reports of offenses against the physical integrity of female spouses. From January to September, the Government received two criminal complaints of statutory rape and one case of ill treatment. The law on rape covers spousal rape. During the year, there were 13 reported rapes.

Prostitution is legal, but procuring is not. Although there was no reliable data regarding the number of persons involved, trafficking in women was a problem (see Section 6.f.).

There is no law specifically addressing sexual harassment, although there is a law prohibiting harassment in general.

Women have become more active and visible in business. A government survey indicated that, as of June, women comprised 47.1 percent of the labor force. Equal opportunity legislation that is applicable to all public and private organizations mandates that women receive equal pay for equal work, prohibits discrimination based on sex or physical ability, and establishes penalties for employers who violate these guidelines. However, there was wage discrimination in some sectors, notably construction. The equal opportunity legislation may be enforced by civil suits, but no cases alleging discrimination have been brought to court.

*Children.*—The Government is committed to protecting the rights and welfare of children; it does so by relying on the general framework of civil and political rights legislation to protect all citizens. For example, the Criminal Code provides for criminal punishment for sexual abuse of children and students, statutory rape, and procuring involving minors.

School attendance is compulsory for all children aged 5 to 15 years. Basic education was provided in government-run schools and subsidized private schools and covers the pre-primary year, primary education, and general secondary school education. The Education Department provided assistance to families of those children that could not pay school fees. The children of illegal immigrants were excluded from the educational system. The Government provided free medical care for all children. Child abuse and exploitation were not widespread problems. Through September 15 cases of child abuse were reported to the Social Welfare Institute. Between January and July, the Office for Security Coordination received 20 reports of child abuse. From January to September, four criminal complaints regarding sexual abuse of children were received.

*Persons with Disabilities.*—The extent to which persons with physical disabilities experienced discrimination in employment, education, and provision of state services was not known fully. A 2001 census stated that there were 5,713 persons with disabilities in the SAR.

The Social Welfare Institute offered financial and rehabilitation assistance to persons with disabilities and helped to fund 5 residential facilities and 14 day centers providing services for the disabled. A few other special programs existed, aimed at helping persons with disabilities gain better access to employment, education, and public facilities. Nineteen nongovernmental entities providing services for persons with disabilities received regular assistance from the Social Welfare Institute and subsidies from other governmental departments. An average of 86 percent of the total income of these nongovernmental entities came from the Government. Four nongovernmental entities were totally funded by the Government, including one residential home and one day training center for mentally retarded persons, one residence for former psychiatric patients and one day center for disabled children. Twenty-two schools had programs for persons with disabilities, providing special education programs for 752 students.

In October a new law was enacted, mandating improved accessibility for persons with reduced mobility to public administration buildings, buildings open to the public, collective dwellings and pavements. The Government's Social Security fund may

grant subsidies for the elimination of architectural barriers in order to facilitate access by persons with a physical or behavioral disability.

*National/Racial/Ethnic Minorities.*—Although no specific laws prohibit discrimination on the basis of racial or ethnic background, the rights of ethnic minorities, particularly the Macanese (Eurasians who comprise roughly 2 percent of the population) were generally respected. Although Portuguese officials no longer dominated the civil service, the Government bureaucracy and the legal system placed a premium on knowledge of the Portuguese language, which was spoken by less than 2 percent of the population. The Chinese language has official status and the use of Chinese in the civil service was growing.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Government neither impeded the formation of trade unions nor discriminated against union members. The Basic Law stipulates that international labor conventions that applied to Macau before the handover shall remain in force and are to be implemented through the laws of the SAR. Human rights groups have expressed concern that local law does not have explicit provisions against antiunion discrimination.

Unions tended to stress the importance of stability and minimum disruption of the work force. Nearly all of the private sector union members belonged to the pro-China Federation of Trade Unions. Many local observers have claimed that this organization was more interested in furthering the Chinese political agenda than in addressing trade union issues such as wages, benefits, and working conditions. Only a small number of unions—six private sector unions and two public sector unions—were independent. All classes of workers have the right to join a union.

Unions may freely form federations and affiliate with international bodies. During the year, the SAR had eight independent industrial (sector-wide) unions. Three of the nearly 20 civil service unions—representing Portuguese, Macanese, and Chinese employees—were affiliated with the major non-Communist Portuguese union confederation, the Macau Sempre (Roots in Macau).

*b. The Right to Organize and Bargain Collectively.*—The Government did not impede or discourage collective bargaining, but there is no specific statutory protection for this right, since Portuguese laws that protected collective bargaining no longer apply. Wages were determined by market forces. Unions tended to resemble local traditional neighborhood associations, promoting social and cultural activities rather than issues relating to the workplace. Local customs normally favored employment without the benefit of written labor contracts, except in the case of migrant labor from China and the Philippines. Chinese unions traditionally have not attempted to engage in collective bargaining.

Labor leaders have complained that there is no effective protection in local law from retribution should they exercise their right to strike. The Government argued that striking employees are protected from retaliation by labor law provisions that require an employer to have “justified cause” to dismiss an employee, and the Government enforced these provisions in practice. Strikes, rallies and demonstrations are not permitted in the vicinity of the Chief Executive’s office, Legislative Assembly and other key government buildings. Although there was at least one protest, there were no work stoppages or strikes during the year.

In August approximately 300 casino workers and their families protested against a new employment contract with their newly formed casino group employer. The employees feared that they would earn less under the new contracts, which required a reduction in tips but an increase in fixed salaries. The Government referred the dispute to the Labor and Employment Bureau for mediation, the results of which were pending at year’s end.

Workers who believe that they have been dismissed unlawfully may bring a case to court or lodge a complaint with the Labor Department or the High Commissioner against Corruption and Administrative Illegality, who also functions as an ombudsman.

There are no export processing zones.

*c. Prohibition of Forced or Compulsory Labor.*—The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits minors under the age of 16 from working, although minors between the ages of 14 and 16 may be authorized to work on an “exceptional basis.” Proposed changes to the law currently under consideration by the Government will prohibit minors under the age of 18 from working, while minors between the ages of 16 and 18 may be authorized to work on an “exceptional basis.” Some children reportedly



worked in family-run businesses and on fishing vessels, usually during summer and winter vacations. Local laws do not establish specific regulations governing the number of hours these children can work, but International Labor Organization (ILO) conventions are applied. The Labor Department enforced the law through periodic and targeted inspections and violators were prosecuted. The incidence of child labor was very low. The Labor Department Inspectorate did not conduct inspections specifically aimed at enforcing child labor laws, but it issued summonses when such violations were discovered in the course of other workplace inspections. No instances of child labor were reported during the year.

In August Macau ratified ILO Convention 182 on Elimination of the Worst Forms of Child Labor.

*e. Acceptable Conditions of Work.*—Local labor laws establish the general principle of fair wages and mandate compliance with wage agreements, but there is no mandatory minimum wage. Average wages generally provided a decent standard of living for a worker and family. There were no publicly administered social security programs, but some large companies provided private welfare and security packages.

Labor legislation provides for a 48-hour workweek, an 8-hour workday, paid overtime, annual leave, and medical and maternity care. Although the law provides for a 24-hour rest period for every 7 days of work, worker representatives reported that workers frequently agreed to work overtime to compensate for low wages. The Department of Labor provided assistance and legal advice to workers on request.

The Department of Labor enforces occupational safety and health regulations, and failure to correct infractions can lead to prosecution. In 2001 the Labor Department inspectorate carried out 1694 inspections and uncovered 29 violations carrying fines worth a total of \$20,814 (166,500 Patacas). There were four work-related death cases during the first half of the year and six cases in 2001. Although the law includes a requirement that employers provide a safe working environment, no explicit provisions protect employees' right to continued employment if they refuse to work under dangerous conditions.

Migrant workers, primarily from China, made up approximately 11 percent of the work force. These workers often worked for less than half of the wages paid to local residents performing the same job, lived in controlled dormitories, worked 10 to 12 hours per day, and owed large sums of money to a labor-importing company for the purchase of their jobs. The U.N. Human Rights Committee has noted the lack of protective measures for working conditions and the absence of social security programs for nonresident workers as problems. Labor interests claimed that the high percentage of foreign labor eroded the bargaining power of local residents to improve working conditions and increase wages.

Due to an economic downturn and high unemployment, the Government has reduced the amount of foreign labor to give job priority to local residents. In a 2001 incident, approximately 40 workers from mainland China were detained after a standoff with their employer over compensation and abrupt dismissal. Some of the workers were deported before a judicial decision could be made on their labor-related claims. In another case, after dozens of foreign workers suddenly were laid off by a garment manufacturer, they petitioned the Government over being paid a fraction of their wages. In response the Government's Labor and Employment Affairs Bureau took action to mediate the pay dispute. The Government claimed that, since the workers' contracts had expired, their removal was lawful. However, a Labor and Employment Affairs Bureau official stated to the press that the dismissal of the workers was "unreasonable" and that the workers' demands were fair. There were no such demonstrations during the year.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons. However, the SAR was both a transit point and a destination for trafficking in illegal aliens. It was also a transit point, and in the past has been a destination, for trafficking in women for the purpose of prostitution. During the year, the Government maintained that the current flow of women into the SAR for the purpose of prostitution was "a result of regional economic migration and not a corollary of trafficking in people."

Trafficking in persons is a crime established and punished under Article 7 of the Law on Organized Crime. The penalty for the crime of trafficking in persons is imprisonment for 2 to 8 years. This penalty is increased by one-third (within minimum and maximum limits) if the victim is under the age of 18 years. If the victim is under 14 years old, the penalty is imprisonment for 5 to 15 years. In cases in which a victim is raped by a trafficker, the two offenses are treated as different crimes.

In the past, there were credible reports that women from Vietnam were trafficked into Macau as mail-order brides, with the assistance of organizations purporting to be travel agencies, international labor organizations, or marriage mediating serv-

ices. Women from Malaysia, who usually were ethnic Chinese, also reportedly have been trafficked into the SAR; law enforcement authorities in Malaysia believed that the women were trafficked by Chinese criminal syndicates. In some cases, trafficking victims from Malaysia were lured by promises of well-paying jobs and then were forced to work as prostitutes.

Prostitution is not a crime in the SAR, but living off the proceeds of prostitution is a crime. In January the police arrested a Taiwan-run gang that allegedly paid Russian prostitutes a small amount of money during the first 6 to 12 months of their employment contracts to force their continued employment.

There were no government assistance programs in place for victims of trafficking. There were no local NGOs specifically dealing with the problem of trafficking, but there were charitable organizations that provided assistance and shelter to women and children who were the victims of abuse.

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## TAIWAN

Taiwan is a multiparty democracy. The 2000 victory of Democratic Progressive Party (DPP) presidential candidate Chen Shui-bian followed more than 50 years of rule by the Kuomintang (KMT) and marked the first transition from one political party to another in Taiwan's history. The president appoints the premier, who heads the Executive Yuan (EY), or Cabinet. Constitutional amendments adopted in 1997 provided the Legislative Yuan (LY) with the authority to dismiss the Cabinet with a no-confidence vote. In 2001 the DPP won a plurality of seats in the LY in free and fair elections. In the 2002 Taipei and Kaohsiung municipal elections, an incumbent KMT mayor in Taipei and an incumbent DPP mayor in Kaohsiung were re-elected in free and fair elections. In addition to the DPP, the KMT, the People First Party, and the Taiwan Solidarity Union played significant roles in the LY. The Judicial Yuan (JY) is constitutionally independent of the other branches of the political system, and the Government respected the judiciary's independence in practice.

The National Police Administration (NPA) of the Ministry of Interior (MOI), the NPA's Criminal Investigation Bureau, and the Ministry of Justice (MOJ) Investigation Bureau are responsible for law enforcement relating to internal security. The police and security agencies are under effective civilian control. The police occasionally committed human rights abuses.

Taiwan has a dynamic, export-oriented, free market economy. Liberalization of the economy has diminished the dominant role that state-owned and party-run enterprises previously played in such major sectors as finance, transportation, utilities, shipbuilding, steel, telecommunications, and petrochemicals. Services and capital- and technology-intensive industries were the most important sectors. Major exports included computers, electronic equipment, machinery, and textiles. Taiwan's more than 22 million citizens generally enjoyed a high standard of living and an equitable income distribution.

The authorities generally respected the human rights of citizens; however, there were problems in some areas. Principal problems included police abuse of detainees; allegations of judicial corruption; violence and discrimination against women; child prostitution and abuse; societal discrimination against Aborigines; restrictions on workers' freedom of association and on their ability to strike; and some instances of trafficking in women and children.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Code of Criminal Procedure stipulates that no violence, threat, inducement, fraud, or other improper means shall be used against accused persons; however, there were credible reports that police occasionally physically abused persons in their custody.

The law allows suspects to have attorneys present during interrogations, primarily to ensure that abuse does not take place (*see* Section 1.d.). The MOJ claimed that each interrogation is audiotaped or videotaped and that any allegation of mistreatment is investigated. Nonetheless lawyers and legal scholars noted that abuses most often occurred in local police stations where interrogations were not recorded and when attorneys often were not present. Police emphasized confessions by sus-

pects as the principal investigative tool, and the judicial system sometimes accepted confessions even when they contradicted available physical evidence or logic. Law enforcement agencies remained weak in scientific investigative skills; however, the NPA continued to make efforts to improve by upgrading its crime laboratory technology and training crime scene examiners.

The NPA stated that regulations forbid the abuse of suspects and that police who abuse suspects are punished. However, there were credible reports that physical abuse or the threat of abuse was a recurring investigative technique. Detainees who are abused physically have the right to sue the police for torture, and confessions shown to have been obtained through torture are inadmissible in court proceedings. According to the Government, there were no such cases during the year and two in 2001, one in Yunlin County and one in Kaohsiung. The policeman in the first case was found guilty and sentenced to 8 months in prison; no information was available regarding the second case. In 2000 the Taiwan High Court began the retrial of the "Hsichih Trio" who alleged police torture in extracting their confessions to a 1991 murder charge; the case remained pending at year's end.

Although the primary responsibility for investigating torture and mistreatment lies with prosecutors, the Control Yuan (CY), a coequal branch of the political system that investigates official misconduct, also investigates such cases. While the authorities stated that instilling respect for human rights was a part of basic police training, human rights groups asserted that the measures the authorities have taken to protect human rights were inadequate.

Corporal punishment is forbidden under military law and strictly prohibited in practice. In the past, military hazing was a problem; however, the Ministry of National Defense (MND) has implemented several programs in recent years to address the problem. In March a law was passed establishing committees for the protection and promotion of servicemen's rights and interests, which demonstrably have served to reduce incidents of hazing and mistreatment.

Prison conditions generally met international standards; however, overcrowding at the 49 prisons and overly long stays at detention centers for illegal aliens remained problems. Recent NPA initiatives have begun to have an impact, reducing the average stay at detention centers for illegal aliens from 98 days to 88 days. Also during the year, the number of inmates that exceeded the capacity of Taiwan's prisons fell to 2,420, or 4.4 percent of total inmates, from 4,940, or 9.6 percent of total inmates, in 2001. During the year, renovation, expansion and construction projects added approximately 3,500 beds.

The authorities permitted prison visits by human rights monitors.

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest and detention, and the authorities generally observed this prohibition. Police legally may arrest without a warrant anyone they suspect of committing a crime for which the punishment would be imprisonment of 5 years or more, when there is ample reason to believe the person may flee. Police may question persons without a formal summons when circumstances are too urgent to report to a public prosecutor. However, immediately after detaining a suspect the authorities must apply to a prosecutor for a warrant to detain the arrestee for up to 24 hours and must give written notice to the detainee or a designated relative or friend, stating the reason for the arrest or questioning. Indicted persons may be released on bail at judicial discretion. In 2000 the NPA ordered all police stations to prohibit the media from photographing persons under detention and to cease providing the names of detainees to the media. In 2001 the MOJ and the NPA strengthened efforts to prevent disclosure of information on detainees to the media; this reduced somewhat the unauthorized release of information.

Under the law prosecutors must apply to the courts within 24 hours after arrest for permission to continue detaining an arrestee. The duration of this pretrial detention is limited to 2 months, and the courts may approve a single extension of 2 months. Limits also apply for detention during trial. If a crime is punishable by less than 10 years' imprisonment then no more than 3 extensions of 2 months each may be granted during the trial and appellate proceedings. During the second appeal, only one extension may be granted. The authorities generally observed these procedures, and trials usually took place within 3 months of indictment.

The Code of Criminal Procedure requires the police to inform a suspect during an interrogation of the specific charges in question, the right to remain silent, the right to counsel, and the right to ask the police to investigate evidence that would be favorable to the suspect. If the charges are amended subsequently, the police must inform the suspect. The authorities generally respected a detainee's request to have a lawyer present during the investigation phase, but defense lawyers and human rights groups continued to complain that the rules did not provide adequate protection since suspects often did not have legal representation during police interroga-

tion. A contributing factor is the lack of a legal requirement that indigent persons be provided counsel during police interrogation, although counsel was provided during trials. In addition, informed observers reported that the “public defense counsels” did not provide effective defense assistance. They typically did not appear until the final argument of the trial, and they seldom spent a significant amount of time discussing the case with their clients.

The Constitution does not provide for forced exile, and it was not practiced.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; and the Government generally respected this provision in practice. However, while the Government has made efforts to eliminate corruption and to diminish political influence in recent years, they remained serious problems.

In recent years, the Judicial Yuan (JY) has taken several measures to reduce political influence on judges. An independent committee using secret ballots decides judicial appointments and promotions. Judicial decisions no longer are subject to review by presiding judges, except in the case of decisions by “assistant judges.” The judges themselves decide upon distribution of cases. Finally, judges and the President of the JY are prohibited from taking part in political activities. The Government’s anticorruption campaign also has reinforced the JY’s efforts to eliminate judicial corruption. Although the LY has yet to enact the JY President’s proposed code of judicial conduct, the proposals have resulted in revised precepts for evaluation of judicial performance and strengthened reviews of judges’ financial disclosure reports. In 2000 the JY initiated a human rights course in its judicial training program. These factors have reduced the incidence of judicial misconduct; however, there continued to be complaints of corruption on the part of individual judges. In 2000 a judge in Tainan was arrested on suspicion of running a brothel since 1998 and using his position to protect the business from police scrutiny. In July the judge was sentenced to 12 years in prison and deprived of his right to serve in the Government for 8 years following his release. At year’s end, his appeal was pending in the Taiwan High Court.

The JY is one of the five coequal branches of the political system. The JY is headed by a president and a vice president and also contains the 16-member Council of Grand Justices, which interprets the Constitution as well as laws and ordinances. Subordinate JY organs include the Supreme Court, high courts, district courts, the Administrative Court, and the Committee on the Discipline of Public Functionaries. The Administrative Court also provides judicial review.

The law provides the right of fair public trial, and this generally was respected in practice. Judges, rather than juries, decide cases; all judges are appointed by, and are responsible to, the JY. In a typical court case, parties and witnesses are interrogated by a single judge but not directly by a defense attorney or prosecutor. The judge may decline to hear witnesses or to consider evidence that a party wishes to submit if the judge considers it irrelevant; a refusal to hear evidence may be a factor in an appeal. Trials are public, but attendance at trials involving juveniles or potentially sensitive issues that might attract crowds may require court permission.

A defendant has the right to an attorney. If the defendant is charged with committing a crime for which the penalty is 3 or more years’ imprisonment or if the defendant is indigent, the judge may assign an attorney. Attorneys assigned to defendants generally assisted once an indictment was filed and at trial, but usually were not present during police interrogations. Informed observers reported that public defense counsels did not provide effective defense assistance (*see* Section I.d.). The law states that a suspect may not be compelled to testify, and that a confession shall not be the sole evidence used to find a defendant guilty. Nonetheless convictions frequently resulted from a combination of a confession and circumstantial evidence of varying quality. However, in 2001 a Taipei district court judge acquitted a defendant of theft charges on the grounds that his confession was made involuntarily. All convicted persons have the right to appeal to the next higher court level. Persons sentenced to terms of imprisonment of 3 years or more may appeal beyond that level. The Supreme Court automatically reviews life imprisonment and death sentences.

In May the LY passed criminal procedure legislation making judges impartial adjudicators of lawsuits rather than law enforcers for the Government obligated to personally help gather evidence for prosecutors. The revision, which downgrades the status of prosecutors from a rank similar to that of a judge, requires prosecutors to bear the full responsibility for investigations and charges them with the duty of convincing the judge of the guilt of the accused.

In 2001 the Council of Grand Justices declared certain due process provisions of the 1985 Antihoolum Law to be unconstitutional. The law departed from international standards by allowing police to detain suspects for up to 1 month—extend-

able to subsequent months—while the suspect was under investigation. In April the LY passed legislation eliminating that provision.

At year's end, six District Courts had adopted the new trial system that has been in use in the Shihlin District Court since 1999. Implemented in response to the JY President's 1999 judicial reform proposals and intended to better protect the rights of the accused, the new modified adversarial trial system is a potential model for the rest of the judicial system.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution and the Criminal and Civil Codes contain provisions protecting privacy. In 2001 the LY amended the Code of Criminal Procedure to require prosecutors to obtain judicial approval of search warrants, except when “incidental to arrest” or when there are concerns that evidence may be destroyed. However, critics claimed that the incidental to arrest provision is not only unconstitutional but is also often interpreted broadly by police to justify searches of locations other than actual arrest sites. According to the NPA, warrantless searches are allowed only in special circumstances, such as to arrest an escapee or if facts indicate that a person is in the process of committing a crime. In any such case, the police must file a report with the prosecutor or court within 24 hours. A policeman who carries out an illegal search may be sued for illegal entry and sentenced to up to 1 year in prison; however, few defendants or their spouses have filed charges against policemen found to have obtained evidence illegally. Furthermore, illegally obtained evidence is not excluded automatically from consideration by the court; instead, its admission is left to the discretion of the judge. Judges increasingly excluded illegally obtained evidence, although in the past such evidence was admitted and frequently provided the basis for conviction.

In 2001 the Council of Grand Justices ruled that the Police Administration Law (PAL), which had been used to give police wide discretion in searching persons in public places and stopping vehicles for inspections, did not entitle police to make such searches unless a clear risk to public safety had been established. Noting that such searches could infringe on freedom of movement, privacy, and the right to property, the Council instructed the NPA to revise the PAL in accordance with its ruling immediately. At year's end, the Executive Yuan was debating the revision to be proposed to the LY.

Although the MOJ and the police continued to use wiretapping as an investigative tool, unauthorized wiretapping has become less of a problem following passage in 1999 of the Telecommunications Protection and Control Law, which imposed severe penalties for unauthorized wiretapping. The Telecommunication Law and Code of Criminal Procedure provide that judicial and security authorities may file a written request to a prosecutor's office to monitor telephone calls to collect evidence against a suspect involved in a major crime. The total number of approved wiretaps dropped from 13,000 in 1999 to 3,051 in 2000. Approvals subsequently increased to 7,218 in 2001 and to 8,631 during the first 10 months of the year. Officials attributed the recent increase to investigations into alleged vote-buying cases during local and national elections in the past 2 years. The law also regulates wiretapping by the intelligence services.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the authorities generally respected these rights in practice.

Print media represented the full spectrum of views within society. However, some political influence still existed over the electronic media, particularly broadcast television stations. The ruling DPP was associated with Formosa TV (FTV), the Government was the largest shareholder of Taiwan Television Enterprise (TTV), the military was the largest shareholder of the Chinese Television System (CTS), and the opposition KMT was the largest shareholder of China Television Company (CTV). However, the existence of approximately 100 cable television stations, some of which carry programming openly critical of the various political parties, has diminished the importance of political party influence over the broadcast television stations.

Controls over radio stations were more limited than those over television stations and were gradually being liberalized. In 2001 the Government Information Office (GIO) received 503 applications for radio broadcast frequencies. A total of 77 frequencies were made available, including 45 medium-range and 32 short-range frequencies. As of 2001, 23 medium-range and 10 short-range frequencies had been apportioned. During the year, the Ministry of Transportation and Communications announced no plans to further expand the number of frequencies available.

Observers noted that licensing requirements obliged prospective radio station owners to have more capital than actually was required to operate a station, which

inhibited individuals or groups from applying for radio station licenses. However, the GIO claimed that the \$1.43 million (NT\$50 million) required capitalization was based upon consideration of actual business costs and noted that the required capitalization was reduced to \$28,600 (NT\$1 million) for radio stations serving remote areas or designated ethnic groups and civic organizations, or which promote local development. According to Ministry of Transportation and Communication statistics, more than 130 unlicensed “underground” radio stations, many associated with the ruling or with opposition parties, operated illegally.

Among other restrictions regulating the media were those precluding persons previously convicted of sedition from owning, managing, or working in television and radio stations. DPP leaders, many of whom were convicted of sedition in the aftermath of the 1979 Human Rights Day demonstrations that turned into a riot, which is known as the “Kaohsiung incident,” nevertheless were not affected because their rights were restored through presidential amnesties by the previous administration.

There is a vigorous and active free press. In 1999 the LY abolished the Publications Law, which had empowered the police to seize or ban printed material that was seditious, treasonous, sacrilegious, interfered with the lawful exercise of public functions, or violated public order or morals. However, in March the Government raided the offices of Next Magazine and confiscated 160,000 copies of an issue containing an article about \$100 million (NT\$3.5 billion) in secret funds established by former president Lee Teng-hui and used as well by the current administration for diplomatic missions and policy initiatives. The Taiwan High Court Prosecutor’s Office charged a reporter at the magazine with breaching national security; the case was pending at year’s end.

The GIO required that any publications imported from mainland China be sent to the GIO Publications Department for screening before sale or publication, and still sought to ban the importation of publications that advocated communism or the establishment of united front organizations, endangered public order or good morals, or violated regulations or laws. The GIO also required that China-origin material be converted to traditional characters before being published in Taiwan. However, few local publishing companies observed this regulation, and substantial People’s Republic of China-origin material was imported and was widely available at schools and in research institutes. During the year, some academics and publishing houses called on the GIO to relax its restrictions on the use of simplified Chinese characters. Cable television systems broadcast uncensored television channels from mainland China.

The authorities generally did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the authorities generally respected this right in practice. Permits required for outdoor public meetings were granted routinely.

The Constitution provides for freedom of association; and the authorities generally respected this right in practice. The Civic Organization Law requires all civic organizations to register.

Under the Civic Organization Law the Constitutional Court holds the power to dissolve political parties. Grounds for dissolution include objectives or actions that are deemed to jeopardize the existence of the “Republic of China.” The Constitutional Court heard no cases under this law during the year.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the authorities generally respected this right in practice. Religious organizations may register with the central authorities through their island-wide associations under either the Temple Management Law, the Civic Organizations Law, or the chapter of the Civil Code that governs foundations and associations; however, registration is not mandatory. Registered organizations operate on a tax-free basis and are required to make annual reports of their financial operations. While individual places of worship may register with local authorities, many chose not to register and operated as the personal property of their leaders. In the past, concern over abuse of tax-free privileges or other financial misdeeds occasionally prompted the authorities to deny registration to new religions whose doctrines were not clear, but there were no reports that the authorities sought to suppress new religions during the year. In 2000 the President granted a special amnesty to 19 conscientious objectors who had been imprisoned for refusing military service on religious grounds. In 2001 the LY passed an Alternative Service Law that permits conscientious objector draftees to fulfill their military service commitments through community service.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement, Foreign Travel, Emigration, and Repatriation.*—The authorities did not restrict freedom of internal travel. Foreign travel by passport holders was common.

Nonresident passport holders usually are issued “overseas Chinese” passports and must seek entry permits for travel to Taiwan. According to the National Security Law (NSL), entry permits may be refused only if there are facts sufficient to create a strong suspicion that a person is engaged in terrorism or violence. Reasons for entry and exit refusals must be given, and appeals may be made to a special board. No exit or entry permit refusals were reported during the year. Holders of nonresident passports who normally reside abroad may return and regain their household registration, a document required to vote or participate as a candidate in an election.

Since 1987 the authorities have relaxed substantially strictures against travel by residents to the Chinese mainland, and such travel was common. In 2000 relatively tight restrictions on the entry of Chinese from the mainland for national security reasons, which previously had been relaxed to permit cross-strait exchanges, were further relaxed when the LY passed legislation permitting mainland Chinese to visit for business, academic, or tourism purposes. In 2001 Taiwan further relaxed the regulations to allow PRC correspondents to be temporarily posted to Taiwan for up to 1 month per visit. By the end of July, 98 PRC journalists had taken advantage of this change.

There is no law under which noncitizens may ask for asylum, and there were no applications for refugee status during the year. While the authorities have been reluctant to return to the mainland those who might suffer political persecution, they regularly deported to the mainland, under provisions of the Mainland Relations Act, mainlanders who illegally entered the island for economic reasons. There were no reports during the year of forced return of persons to a country where they feared persecution.

Some detention centers for illegal immigrants continued to be overcrowded, and detainees complained about overly long stays at the centers while waiting to be repatriated. Recent expansion projects sought to relieve overcrowded conditions. The Bureau of Entry and Exit faulted mainland Chinese authorities for delays in repatriation. In 2000 the authorities began allowing some detained illegal aliens from mainland China to return to the mainland by airplane via Hong Kong at their own expense. Also in 2000 the authorities began to repatriate illegal alien mainland Chinese directly from the island of Matsu or allow them to fly back to China via a third country, rather than take them to detention centers in Taiwan.

In 2001 the ship’s master and the chief engineer of the Greek cargo vessel *M/V Amorgos* were prevented from leaving the island while the Environmental Protection Agency negotiated with the shipping company’s agent regarding compensation for damages caused by an oil spill when the ship ran aground off the coast of southern Taiwan. After 8 months, they were allowed to depart the island and given compensation.

The 1999 Entry, Exit, and Immigration Law provides strict sentencing guidelines for alien smuggling. Several cases have been brought before the courts under this law; however, few resulted in convictions.

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

Citizens have the right to change their government peacefully, and citizens exercised this right in practice. In 2000 for the first time an opposition party candidate was elected President, winning a 39 percent plurality in a 3-person race. Generally free and fair popular elections for the LY have taken place four times since 1992.

The Chen administration has made significant progress in its efforts to eliminate corruption and vote buying. In early 2001, the MOJ worked to ensure fair Farmers’ and Fishermen’s Association elections. Investigations of 444 suspected vote-buying cases resulted in the indictment of 43 persons. The MOJ also conducted a concerted campaign against vote buying in the 2001–2002 national and local elections. As of January, the MOJ had investigated 5,794 vote-buying cases and indicted 141 persons.

In 2000 the MOJ also launched a campaign against government corruption. As of May, prosecutors had indicted 12 former and incumbent legislators, 6 former and incumbent city mayors and county magistrates, and 87 local township chiefs, of whom 2 local township chiefs had been convicted. Of the 166 city, county and local officials who were indicted for corruption, 1 council member had been convicted by year’s end. In addition, prosecutors were investigating 3 incumbent legislators, 1 mayor, 1 county magistrate, 19 local township chiefs, and 57 city, county, and township elected representatives at year’s end.

In 2000 the Ministry of Justice Investigation Bureau was ordered to cease political intelligence gathering regarding politicians and political parties, and to concentrate on criminal matters.

The DPP won the largest bloc in the 2001 legislative elections, obtaining 87 of 225 seats. The KMT, which lost the legislative majority for the first time, won 68 seats. The People First Party more than doubled its representation in the LY, winning 46 seats. The newly established Taiwan Solidarity Union, inspired by the pro-Taiwanese ideology of former president Lee Teng-hui, won 13 seats. The New Party won one seat.

The Constitution provides for equal rights for women, and their role in the political sphere is increasing. In 2000 a woman for the first time was elected vice president, and 7 of 40 cabinet officials were women, including the Chairpersons of the Mainland Affairs Council and the Labor Affairs Council. Two of 25 Control Yuan members and 3 of 20 Examination Yuan members were women. A number of women also held important political party positions. Two of the 15 members of the DPP Central Standing Committee were women, as were 8 of the KMT's 31 Central Standing Committee members. Forty-eight members in the 225-member Legislative Yuan were women.

Aborigine representatives participated in most levels of the political system. They held eight reserved seats in the LY, half of which were elected by plains Aborigines and half by mountain Aborigines. The proportion of legislative seats allocated to Aborigines was almost twice their percentage of the population. An Aborigine served as Chairman of the Council of Aboriginal Affairs.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

The most active human rights organizations were the Chinese Association of Human Rights and the Taiwan Association for Human Rights. Both organizations operated freely and investigated human rights complaints, many of which came to public attention through the media and statements by lawmakers from all political parties. The authorities also permitted representatives of international human rights organizations to visit and meet with citizens freely. Amnesty International maintained a Taipei office. Women's and children's human rights groups monitored police and judicial performance and campaigned to address abuses.

In his 2000 inaugural address, President Chen declared that Taiwan must include international human rights in its legal code and establish a national human rights commission. In October the Government issued a report entitled "Taiwan: 2002 Human Rights Policy White Paper," with a timetable for an ambitious human rights promotion program, including planned issuance of a National Human Rights Report in March 2003, a program to examine and revise laws likely to be affected by human rights policies, and preparation of a national Human Rights Action Plan in accordance with the Vienna Declaration and Program of Action. In October the Government cosponsored an international symposium on human rights in Taiwan addressing the implementation of international human rights standards, the establishment of a national human rights commission and the role of NGOs in the advancement of human rights. In December President Chen reported that the Government had submitted a draft organic law for the National Human Rights Commission to the Legislative Yuan for approval and that the LY had begun to screen bills for the localization of international human rights codes. In 2001 the Ministry of Education initiated a program of human rights education at all levels of the educational system.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution provides for equality of citizens before the law "irrespective of sex, religion, race, class, or party affiliation." It also provides for the rights of persons with disabilities. While the authorities were committed to protecting these rights, discrimination against some groups continued.

*Women.*—Violence against women, including domestic violence and rape, remained a serious problem. Domestic violence was especially widespread. The authorities funded domestic violence hot lines, which also handled calls for assistance from victims of sexual assault and child abuse. From January through September, the hot line run by the Domestic Violence Prevention and Control Center under the Ministry of Interior received 55,310 calls. The Ministry of Justice continued to take steps to strengthen the protection of women and children against violence in accordance with the 1999 Domestic Violence and Protection Control Law. The law allows prosecutors to take the initiative in investigating complaints of domestic violence without waiting for a spouse to file a formal lawsuit. Although some cases were



prosecuted, strong social pressure discouraged abused women from reporting incidents to the police in order to avoid disgracing their families.

Rape also remained a serious problem, and its victims were stigmatized socially. One expert estimated that 7,000 rapes—10 times the number reported to the police—occurred annually. In 1999 the LY passed legislation that permits the prosecution of the crime of rape without requiring the victim to press charges. Under the law, rape trials may not be open to the public unless the victim consents. The Code of Criminal Procedure establishes the punishment for rape as not less than 5 years' imprisonment, and those convicted usually were given sentences of 5 to 10 years in prison. There were 2,943 cases of rape or sexual assault reported in 2001. Spousal rape is a crime. In 2001 the Ministry of Interior (MOI) adopted a new procedure under which doctors, social workers, police, and prosecutors jointly question victims of sexual abuse in order to reduce the number of times a victim is questioned. From January through November, 1,431 persons were indicted for rape or sexual assault, and 1,143 persons, most indicted in previous years, were convicted.

The law requires all city and county governments to set up domestic violence prevention and control centers. The centers provided victims with protection, shelter, legal counseling, and other services on a 24-hour basis. From January through September, the city and county domestic violence prevention and control centers consulted with a total of 54,180 persons, set up follow-up files on the cases of 14,903 persons, helped obtain 2,429 court protection orders, and assisted in obtaining emergency shelter for 1,161 persons. Under the law, a judicial order may be obtained to prohibit violators from approaching victims. The MOI also provided assistance, such as financial assistance and shelter, to victims of rape or domestic violence. In 1999 the Ministry established a domestic violence prevention committee to implement a comprehensive program for the protection of women and children. The committee, among other things, worked to ensure that the various prevention and control centers were functioning effectively, and that other government agencies, such as the police, handled domestic violence cases appropriately. The committee also worked with NGOs on these issues.

Prostitution, including child prostitution, also was a problem. The authorities were phasing out legalized prostitution. In 1999 the LY banned prostitution, but exempted 23 brothels and 119 prostitutes already registered with the authorities. Under the law, no new houses of prostitution may be registered. There have been reports of a growing trend of young women, often well educated, entering into part-time prostitution. There also were credible reports of a small number of women being trafficked onto the island for purposes of prostitution (see Section 6.f.), and reports of a larger number of women who entered for purposes of engaging in prostitution.

Sexual harassment was a problem, but the Government actively addressed the issue. During the year, the authorities reacted quickly to investigate allegations of sexual harassment lodged against a high-ranking government official.

The law prohibits sex discrimination. Many sections of the legal code that discriminated against women have been eliminated. For example, women are no longer required to adopt their husband's last name after marriage, and the citizenship law was amended in 2000 to permit transmission of citizenship through either parent.

In March the 2001 Gender Equality in the Workplace Act went into effect, providing for equal treatment with regard to salaries, promotions, and assignments. The law also stipulates that measures be taken to eliminate sexual harassment in the workplace. Women's advocates noted that women were promoted less frequently and worked for lower pay than their male counterparts, and that women were not granted maternity leave or were forced to quit jobs due to marriage, age, or pregnancy, despite the fact that previously existing labor laws afforded women some protections against gender-based discrimination in the workplace. According to the Council on Labor Affairs, salaries for women averaged 85 percent of those for men performing comparable jobs. Most city and county administrations have set up committees to deal with complaints of sexual discrimination in the workplace.

In 2001 the Ministry of Education initiated a program to promote equal educational opportunities for both sexes and to include units on family life, relations between the sexes, and equal opportunity rights in educational material at all levels.

In 2001 60 women's organizations joined together to form the National Union of Taiwan Women to promote women's rights. Also in 2001, President Chen reiterated his administration's determination to protect teenage girls from commercial sexual exploitation and signed a declaration drafted by the Garden of Hope Foundation to increase public awareness of the need to protect the rights of teenage girls.

*Children.*—The Constitution includes provisions to protect children's rights, and the authorities were committed to supporting them. Education for children between

6 and 15 years of age is free and compulsory, and this rule was enforced. The percentage of school age children attending primary school was 99.94 percent, and those attending junior high school 99.86 percent. Children also were provided health care under the national health insurance scheme.

Child abuse was a significant problem. In 2001 there were 4,466 cases of child abuse according to MOI statistics. Following the 1999 enactment of the Domestic Violence Control Law, 21 city and county governments established domestic violence protection centers, the goal of which is to protect women, children and senior citizens from violence. Services include a 24-hour hot line, emergency assistance, shelter, medical treatment and examination, counseling for victims, legal assistance, and education and training. Under the law any persons discovering cases of child abuse or neglect must notify the police, social welfare, or child welfare authorities; child welfare specialists must make such notification within 24 hours; and the authorities involved must issue an investigation report within 24 hours. Both the MOI's Social Affairs Department and nongovernmental specialists asserted that these requirements were followed. In October the Shihlin District Court found a senior member of a Buddhist academy guilty of sexually harassing novice monks in 2000. The defendant was sentenced to 12 years in prison, and has appealed his case to the Taiwan High Court. Financial subsidies were provided to low-income families with children in day care facilities and to local governments to promote child protection efforts. In 2001 the MOI assisted city and county governments in establishing 38 public daycare facilities and 26 child protection centers. The latter facilities have a total capacity of 938 and housed 528 children at year's end. From July to December, the MOI's pilot program in 3 counties provided assistance to aboriginal children in approximately 120 child abuse cases. In 2001 a hot line was established to accept complaints of child abuse and offer counseling. Courts are authorized to appoint guardians for children who have either lost their parents or whose parents are deemed unfit.

In 1999 the first juvenile court was established in Kaohsiung to handle criminal cases. Previously regular courts handled such cases. The court employed 24 juvenile counselors, and was believed to have been effective in dealing with juvenile criminal cases. There were three juvenile detention centers on the island.

Although no reliable statistics were available, child prostitution was a serious problem, particularly among aboriginal children (*see* Section 6.f.). Most child prostitutes ranged in age from 12 to 17 years. The juvenile welfare law enables juvenile welfare bodies, prosecutors, and victims to apply to courts for termination of guardianship of parents and the appointment of qualified guardians if parents have forced their children into prostitution. If children are engaged in prostitution of their "own free will," and the parents are incapable of providing safe custody, the courts may order competent authorities to provide counseling for not less than 6 months and not more than 2 years. However, legal loopholes and cultural barriers remained obstacles to enforcement. According to well-informed observers, the practice of aboriginal families selling their children into prostitution no longer existed.

According to some reports, brothel owners used violence, drug addiction, and other forms of coercion to prevent child prostitutes from escaping. The law provides for up to 2 years' incarceration for customers of prostitutes under the age of 18. The law also requires the publication of the names of violators in newspapers. In the first 10 months of the year, the names of approximately 100 persons convicted of patronizing child prostitutes were published. Under a plan adopted by the NPA, city and county authorities across the island have established police task forces to strengthen their efforts against child prostitution. From January through November, 1,479 persons were indicted and 1,128 were convicted for violations of the law. During this period, the police rescued 346 child prostitutes. The law prohibits the media from running advertisements involving the sex trade and imposes penalties on citizens arrested abroad for having sex with minors, and these laws were enforced in practice (*see* Section 6.f.).

*Persons with Disabilities.*—The law prohibits discrimination against persons with disabilities and sets minimum fines for various violations. New public buildings, facilities, and transportation equipment must be accessible to persons with disabilities, and in practice this requirement was generally met. Violations of the law resulted in fines of US\$1,700 to US\$8,600 (NT\$60,000 to NT\$300,000.) Existing public buildings were to be brought into conformity by 1995; however, as of year's end there did not yet appear to be a substantial effort aimed at refitting older buildings to accommodate persons with disabilities.

According to MOI statistics, there were 790,312 persons with disabilities. One-third of the total were severely disabled and received shelter or nursing care from the authorities. The Disabled Welfare Law requires large public and private organizations to hire persons with disabilities equal to 2 and 1 percent of their work force

respectively. Organizations failing to do so must pay, for each person with disabilities not hired, 50 percent of the basic monthly salary (approximately \$227 (NT\$7,940)) into the Disabled Welfare Fund, which supports institutions involved in welfare for persons with disabilities. Many organizations complained that it was difficult to find qualified workers with disabilities, and they appeared to prefer to pay the fines. Another law requires that, to compete for government contracts, a firm with at least 100 employees must include among its employees a minimum of 2 percent of either persons with disabilities or Aborigines. Both the central and local governments have established committees for the protection of persons with disabilities.

*Indigenous Persons.*—The only non-Chinese minority group consists of the aboriginal descendants of Malayo-Polynesians already well established on the island when the first Chinese settlers arrived. According to MOI statistics, there were 429,534 of these Aborigines. More than 70 percent were Christian, while the dominant Han Chinese were largely Buddhist or Taoist. The civil and political rights of Aborigines are protected under law. The National Assembly amended the Constitution in 1992 and again in 1997 to upgrade the status of aboriginal people, protect their right of political participation, and to ensure their cultural, educational, and business development. In addition the authorities instituted social programs to help Aborigines assimilate into the dominant Chinese society. The cabinet-level Council of Aboriginal Affairs was established in 1996 to protect aboriginal rights and interests. Critics noted that its budget was quite small. The Ministry of Education offered some aboriginal language classes in primary schools. The Ministry of Education subsidized university education for Aborigines and worked to preserve aboriginal culture, history, and language through the establishment of Aborigine studies centers. The law requires that, to compete for government contracts, a firm with at least 100 employees must include among its employees a minimum of 2 percent of either persons with disabilities or Aborigines.

Aborigines have had little impact, over the years, on major decisions affecting their lands, culture, traditions, and the allocation of their natural resources. In addition they complained that they were prevented from owning ancestral lands in mountain areas under the authorities' control, some of which have been designated as national parks or conservation areas. Land rights remained a crucial issue for Aborigines, along with social discrimination, educational underachievement, low economic status, and high rates of alcoholism. Some Aborigine leaders have come to believe that only some form of autonomy can preserve their land rights, which constantly were threatened by Chinese developers who used connections and corruption to gain title to aboriginal land. According to Council of Aboriginal Affairs statistics, only approximately 70 percent of Aborigine children completed elementary school.

The sale of Aborigine children into prostitution by their parents reportedly no longer occurred.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Although the JY ruled in 1995 that the right of association is protected by the Constitution, legislation implementing this decision had not been passed; teachers, civil servants, and defense industry workers were not permitted to form labor unions. In June the LY passed the Civil Servants Association Law, which allows civil servants to organize but forbids them to strike. On September 28, more than 100,000 teachers from around the island gathered in downtown Taipei to demand their right to form unions.

A number of laws and regulations further limit the right of association. Labor unions may draw up their own rules and constitutions, but they must submit these to the authorities for review. Labor unions may be dissolved if they do not meet certification requirements or if their activities disturb public order. However, there were no instances of the authorities dissolving local labor groups or denying certification to new labor unions during the year.

The Labor Union Law requires that labor union leaders be elected regularly by secret ballot, and, in recent years, workers have sometimes rejected management-endorsed union slates. During the year there were no reports of political interference in labor union affairs.

Under the Labor Union Law, employers may not refuse employment to, dismiss, or otherwise unfairly treat workers because they are labor union members. However, in practice employers sometimes have dismissed labor union leaders without reasonable cause, or laid them off first during employee cutbacks, and observers pointed out that the law has no specific penalties for violations. According to the National Federation of Independent Trade Unionists, over 400 trade unionists and supporters have been fired since the labor movement began to expand after the 1987 lifting of martial law.

Labor unions may form confederations, but in the past no administrative district, including a city, county, or province, was allowed to have competing labor confederations. In 2000 the Government significantly eased restrictions on the right of association, and the Council of Labor Affairs (CLA) recognized six new island-wide labor federations, including the Taiwan Confederation of Trade Unions (previously known as the National Federation of Industrial Unions), the Chinese Labor Unions Federation, and the National Trade Union Confederation. Nonetheless the percentage of workers who are labor union members has not increased in recent years in the face of a series of factory closure layoffs, the shift from manufacturing to service industries, the small scale and poor organization of most unions, and past prosecution of labor activists by the authorities. As of June, some 2.9 million workers, approximately 29 percent of the 10.0 million-person labor force, belonged to 3,854 registered labor unions.

In 1971 the People's Republic of China replaced Taiwan in the International Labor Organization (ILO). However, in June the president of the China Federation of Labor (CFL), with assistance from the International Confederation of Free Trade Unions (ICFTU), attended the ILO annual meeting in Geneva. The CFL was affiliated with the ICFTU; the new federations were not internationally affiliated.

*b. The Right to Organize and Bargain Collectively.*—Except for the categories of workers noted in Section 6.a., the Labor Union Law and the Settlement of Labor Disputes Law give workers the right to organize and bargain collectively.

The Collective Agreements Law provides for collective bargaining but does not make it mandatory. The 282 collective agreements in force in June involved roughly 26 percent of industrial labor unions and covered a relatively small proportion of the total workforce. Employers set wages generally in accordance with market conditions.

The law governing labor disputes recognizes the right of labor unions to strike but imposes restrictions that in practice make legal strikes difficult and seriously weaken collective bargaining. For example, the authorities require mediation of labor/management disputes when they deem the disputes to be sufficiently serious or to involve “unfair practices.” The law forbids both labor and management from disrupting the “working order” when either mediation or arbitration is in progress. The law mandates stiff penalties for violations of no-strike and no-retaliation clauses. Employers in the past sometimes ignored the law and dismissed or locked out workers without any legal action being taken against them, although no such cases were reported during the year. The Council of Labor Affairs reported that from 1990 to 1999, there were 34 strikes, of which 23 involved workers at bus companies seeking increased pay and reduced hours. There were no strikes during the year, in 2001, or in 2000.

Firms in export processing zones were subject to the same laws regarding treatment of labor unions as other firms and followed normal practices including honoring collective bargaining agreements with their unions.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or compulsory labor, including forced and bonded labor by children; however, there were several cases of forced child prostitution prosecuted by the authorities (*see* Sections 5 and 6.f.).

In 1992 66 women who were forced to work as “comfort women” (women who, during World War II, were forced to provide sex to soldiers of the Japanese Imperial government) registered with the Taipei Women's Rescue Foundation (TWRFF). In 1999 TWRFF helped nine of those still alive to file a lawsuit in the Tokyo District Court seeking compensation of \$81,300 (10 million Japanese Yen) per person and a formal apology from the Japanese government. On October 15, the Tokyo District Court ruled against the women, who planned to appeal.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Standards Law (LSL) stipulates age 15, the age at which compulsory education ends, as the minimum age for employment. County and city labor bureaus enforced minimum age laws effectively. The Child Welfare Law, Juvenile Welfare Law, and Child and Juvenile Sexual Transaction Prevention Act protect children from debt bondage, prostitution, pornographic performances, and other illicit activities specified in ILO Convention 182.

*e. Acceptable Conditions of Work.*—The Labor Standards Law addresses rights and obligations of employees and employers, but the law was not well enforced in areas such as overtime work and pay or retirement payments. By the end of 2001, the LSL covered 5.74 million of Taiwan's 6.8 million salaried workers. Those not covered included teachers, doctors, lawyers, civil servants, and domestic workers. The CLA conducted publicity campaigns to increase public awareness of the law and operated telephone hot lines to accept complaints of LSL violations.

The CLA did not increase the minimum monthly wage, which has remained at \$452 (NT\$15,840) since 1998. While sufficient in less expensive areas, this wage did not assure a decent standard of living for a worker and family in urban areas such as Taipei. However, the average manufacturing wage was more than double the legal minimum wage, and the average for service industry employees was even higher. In 2000 the LY passed legislation to reduce working hours from 48 hours per week to 84 hours per 2-week period. In the public sector, there is a 5-day workweek. According to a CLA survey, 49 percent of private enterprises also have implemented entire or partial 5-day workweeks.

The law provides only minimal standards for working conditions and health and safety precautions; it gives workers the right to remove themselves from dangerous work situations without jeopardy to continued employment.

Critics alleged that the CLA did not effectively enforce workplace laws and regulations because it employed too few inspectors. During the year, there were 260 inspectors available for the approximately 270,000 enterprises covered by the Occupational Safety and Health Law. However, with new cross-inspection measures, the number of health inspections increased 54 percent from 40,715 in 2000 to 62,840 in 2001, while the number of safety inspections increased by 35 percent from 39,676 to 53,713. The CLA maintains that it has strengthened its safety checks at workplaces with a greater risk of worker injury and it offered training programs to help workers protect their rights. Since many enterprises were small, family-owned operations employing relatives unlikely to report violations, actual adherence to the hours, wage, and safety sections of various labor laws was hard to document but was believed to be minimal in these smaller enterprises.

During the year, there were over 307,000 legal foreign workers, including approximately 122,000 workers from Thailand, 69,000 from the Philippines, and 19,000 from Vietnam. In 2000 the CLA adopted a series of measures to restrict foreign workers in Taiwan's major public construction projects, key manufacturing investment projects, and the manufacturing sector and announced that it intended to reduce the number of foreign workers on the island by 15,000 workers per year.

The law stipulates that foreign workers who are employed legally receive the same protection as local workers. However, the CLA in 1998 allowed family maids, including foreign family maids, to be exempted from the LSL, denying them the right to safeguards provided to citizens. Moreover authorities say that in many cases illegal foreign workers, many from Thailand and the Philippines, received board and lodging from their employers, but no medical coverage, accident insurance, or other benefits enjoyed by citizens. In response to deteriorating economic conditions, the Government adopted a proposal by the Economic Development Advisory Conference allowing room and board expenses for foreign workers, beginning with contracts signed in September 2001, to be treated as in-kind payments and deducted from foreign workers' pay.

Illegal foreign workers also were vulnerable to employer exploitation in the form of confiscation of passports (making it difficult to change employers), imposition of involuntary deductions from wages, and extension of working hours without overtime pay. There also were reports that foreign workers often paid high agency fees to obtain jobs. In addition observers reported that conditions in many small and medium-sized factories that employed illegal foreign labor were dangerous, due to old and poorly maintained equipment. Observers alleged that legal foreign workers were sometimes similarly exploited. The CLA urged employers not to mistreat foreign workers, and employers were subject to the same penalties for mistreating foreign workers as for mistreating citizen workers. In an effort to reduce broker fees, the CLA revoked permits of agencies charging excessive fees, and local governments inspected agency hiring practices. The CLA also negotiated direct hire agreements with labor sending countries, and encouraged NGOs to establish nonprofit employment service organizations to assist foreign laborers in locating employment.

In 2000 the CLA ended the practice of requiring foreign female workers to undergo pregnancy tests. In the past, those who tested positive were subject to immediate deportation. In November the CLA repealed regulations requiring the deportation of foreign laborers who became pregnant and further amended regulations to allow them to switch to jobs with lighter workloads. The CLA has established 20 offices around the island to provide counseling and other services to foreign workers; and it provided financial assistance to city and county governments to conduct inspections of places where foreign workers were employed. It also was attempting to reduce the number of illegal foreign workers.

*f. Trafficking in Persons.*—The Statute for the Prevention of Child and Juvenile Sexual Trafficking empowers the authorities to prosecute any person who forces a child below the age of 18 to engage in sex or sells or pawns such a child by other

means. Provisions in the Criminal Code can also be used to prosecute traffickers in persons above the age of 18. Trafficking in persons was a problem.

The island remained a significant transit point and, to a lesser extent, a destination for trafficked persons. There were reports of organized crime rings trafficking in a small number of women for the purpose of prostitution. The majority of cases involved women from mainland China, Thailand, Cambodia, Vietnam and Indonesia. Criminal gangs in mainland China reportedly used deceptive measures to recruit and procure young women who were then trafficked to Taiwan-based organized crime gangs who arranged sham marriages to enable them to obtain visas to enter Taiwan, and exploited them for purposes of prostitution. Many of the victims were aware that they were to work as prostitutes, but were deceived by the traffickers about what their pay and working and living conditions would be upon arrival. Once in Taiwan, they were kept isolated, their passports were held, and they were threatened with violence if they did not cooperate. Small numbers of young Malaysian women, primarily ethnic Chinese, were trafficked to Taiwan for sexual exploitation. Burmese also were trafficked to Taiwan. The authorities, academic experts, and NGO experts claimed that the number of trafficking victims has decreased significantly in recent years. The authorities reportedly prosecuted eight trafficking cases during 2000.

Taiwan remained a significant transit point for persons from mainland China attempting to travel illegally to the United States and other countries. Some of these illegal migrants became trafficking victims in the destination countries. In 1999 the LY enacted legislation which criminalized alien smuggling (*see* Section 2.d.).

Police were trained in handling trafficking, prostitution, and cases of domestic violence. The Government worked with NGOs to provide counseling and medical assistance to victims as needed. Foreign victims of trafficking were repatriated as quickly as possible.

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## EAST TIMOR

East Timor became a fully independent republic on May 20, following approximately 2 and a half years under the authority of the U.N. Transitional Administration in East Timor (UNTAET). The country has a parliamentary form of government with its first parliament formed from the 88-member Constituent Assembly chosen in free and fair, U.N-supervised elections in August 2001. The 29-member Cabinet is dominated by the Fretilin Party, which won the majority of Assembly seats. Mari Alkatiri, Fretilin's Secretary General, is Prime Minister and Head of government and Xanana Gusmao, elected in free and fair elections on April 14, is President and Head of State. UNTAET's mandate ended with independence but a successor organization, the U.N. Mission for the Support of East Timor (UNMISSET), was established. Under the Constitution ratified in March "laws and regulations in force continue to be applicable to all matters except to the extent that they are inconsistent with the Constitution"; and Indonesian and UNTAET laws and regulations continue to be in effect. Regulations providing for an independent judiciary generally were respected during the year; however, the independence of the judiciary occasionally has been questioned.

UNMISSET maintains responsibility and command of the U.N. Peace Keeping Force (UN-PKF) and the U.N. Police Forces (UNPOL). In addition to providing interim law enforcement and public security, UNMISSET is assisting in the development of the East Timor Police Service (ETPS), which will assume responsibility for internal law and order. The East Timor Defense Force (ETDF) will gradually take over responsibility for external defense from UN-PKF. The UN-PKF continued to reduce its presence during the year. UNMISSET's mandate is scheduled to be phased out completely by June 2004. The ETPS is responsible to the civilian Minister of Internal Administration, and the ETDF is responsible to the civilian Secretary of State for Defense. Some individual members of the ETPS committed some human rights abuses.

East Timor is an extremely poor country, with two-thirds to three-fourths of the population of 775,000 persons engaged in subsistence agriculture. Per capita gross domestic product was estimated to be approximately \$460. An estimated 70 to 80 percent of the country's infrastructure was damaged severely by the systematic scorched-earth campaign that Indonesian military and militia forces conducted in September 1999, as they withdrew. During the year, reconstruction proceeded slowly. The majority of the population has basic shelter and sufficient food supplies. Low-level commercial activity resumed; much of it served the large foreign presence. The rural agricultural economy has recovered significantly, but the country remained dependent on imported food. Coffee remained the territory's only significant

export, but falling world prices hindered export earnings. In July 2001, the country concluded an agreement with Australia to share revenue from the potentially lucrative Timor Gap oil and gas region, from which significant revenues are predicted to begin in 2004. Property ownership disputes and the lack of a comprehensive commercial code hindered investment and related long-term development. Urban unemployment and wage and price inflation remained significant problems. Most observers believed that East Timor would remain heavily dependent on foreign assistance for the next several years.

Both UNTAET and the new government generally respected the human rights of citizens. The arrival of international forces and withdrawal of Indonesian forces in September 1999 largely brought to an end the decades-long pattern of numerous, serious human rights abuses by Indonesian authorities and Indonesia-backed East Timorese militias; however, many serious problems remained. In 2001 militias based in West Timor, Indonesia, some backed by elements of the Indonesian government, at times crossed into East Timor and threatened, robbed, attacked, and occasionally killed local villagers. There were no such attacks during the year, although there were reports of cross-border infiltration throughout the year. On December 4, two persons were killed in violent rioting in Dili; ETPS personnel were believed responsible for at least one of the killings. There was a problem with prolonged pre-trial detention and the vast majority of the prison population is composed of pre-trial detainees. On occasion the independence of the judiciary was questioned, and judicial system resources were inadequate. There has been no sitting appeals court since November 2001. By year's end, over 222,000 refugees had returned to East Timor from West Timor and other areas of Indonesia, but many others remained in West Timor. It was not clear how many of these persons wished to return but felt unable to do so either because of fear of reprisals from militias in West Timor or because of instances of attacks and harassment of returning refugees suspected of being former militia members. Domestic violence against women was a significant problem, and customary practices discriminate against women. The educational infrastructure, while significantly improved since September 1999, suffered from inadequate facilities, poorly trained teachers, and lacked educational materials. Protestants and Muslims occasionally were harassed. Ethnic-Chinese businessmen faced some extortion and harassment, and non-Portuguese speakers reported discrimination in government hiring. Local leaders sometimes forced suspected militia members returning from West Timor, Indonesia, to engage in compulsory labor. East Timor was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

During the year, significant efforts were made to bring to justice those persons responsible for the most serious abuses committed during 1999. UNMISSET includes a Serious Crimes Investigation Unit (SCIU), which issued 46 indictments against 141 accused perpetrators, 129 of whom are charged with crimes against humanity. A judicial body, the Serious Crimes Panel, tried and convicted 26 of these persons and acquitted 2. The SCIU also issued 12 arrest warrants for Indonesian military officers and submitted these arrest warrants to the Indonesian government. By year's end, the Indonesian government had not responded formally. In Jakarta the Indonesian government's East Timor Ad Hoc Tribunal on Human Rights saw prosecutors present weak cases. During the year, the Tribunal completed 12 of 18 trials and convicted 3 defendants of crimes against humanity—2 East Timorese and 1 Indonesian—while acquitting 12 Indonesian defendants. The Tribunal's performance disappointed international observers.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings during the year; police killed a protester in clashes in Baucau on November 23 (*see* Section 1.c.). On December 4, during clashes between rioters and security forces in Dili, 2 persons were killed and 15 injured. It had not been established that the dead and injured were shot by security force personnel, but the ETPS personnel were believed to have committed at least one of the killings, and credible sources reported that the security forces used excessive force (*see* Section 2.b.).

In July 2001, UN-PKF forces based in East Timor shot and killed an Indonesian soldier dressed in civilian attire in West Timor after he reportedly fired across the border.

In March 2000, militia members reportedly killed a villager near Maliana. By year's end, this case remained under investigation, and no charges had been filed.

In July 2000, near Suai, approximately eight militia members shot and killed New Zealand U.N. peacekeeper Private Leonard William Manning and mutilated his corpse. In November 2001, the leader of the group, Jacobus Bere, was put on trial in Jakarta, Indonesia, for first- and second-degree murder following a joint government of Indonesia-UNTAET investigation. Indonesian prosecutors also indicted three of the five militia members involved. Yohanes Timo and Gabriel Hale Noni were charged with premeditated murder, a charge carrying the death penalty. Fabianus Ulu faced up to 15 years in jail if convicted on the lesser charge of homicide. On March 7, the Indonesian court sentenced Bere to 6 years' imprisonment and acquitted the other three accused.

In August 2000, militia members killed Nepalese U.N. peacekeeper Private Devi Ram Jaisi and wounded four other persons. By year's end, UNTAET and the Government of Indonesia had been unable to capture the suspects in this incident.

Elements of the Indonesian security forces (TNI) and prointegration (with Indonesia) East Timorese militias, armed and largely supported by the TNI, were responsible for numerous killings in East Timor throughout 1999, especially after the August 1999 consultation vote resulted in an overwhelming majority for independence. Since 2000 UNTAET and the East Timor government have made efforts to bring to justice those persons responsible for the most serious abuses. In 2000 UNTAET established a Serious Crimes Investigation Unit to address the most recent and serious cases (*see* Section 1.e.). In April 2000, UNTAET concluded a memorandum of understanding with the Government of Indonesia regarding legal, judicial, and human rights cooperation. In December 2000, UNTAET filed indictments against persons suspected of committing war crimes and related atrocities in 1999. The Indonesian government (Attorney General's Office) did not take a position or respond formally. Of the 141 persons indicted by UNTAET, 84 reportedly were at large in Indonesia.

During 2000 UNTAET provided considerable assistance to Indonesian authorities investigating the atrocities committed in East Timor during 1999. In Indonesia the Commission for Investigation of Violations of Human Rights in East Timor (KPP-HAM) submitted its report on human rights violations in East Timor to the Indonesian Attorney General's office in January 2000. The report built on an earlier interim report that held Indonesian security forces responsible for the destruction and violence that followed the East Timor consultation vote in August 1999. The KPP-HAM members recommended the investigation of more than 30 persons, including the commander of the security forces General Wiranto, former Indonesian armed forces intelligence chief Zacky Anwar Makarim, and other high-ranking TNI and police officers. The Indonesian Attorney General announced that his office initially would prosecute five major cases arising from the 1999 violence: The April 1999 massacre in Liquica, in which at least 25 persons died; the April 1999 killings at proindependence activist Manuel Carrascalao's home in Dili, in which at least 15 persons died; the September 1999 attack on the compound of the Catholic Diocese in Dili; the September 1999 massacre of at least 3 priests, and 160 other civilians at a church in Suai; and the September 1999 killing of Dutch journalist Sander Thoenes. In September and October 2000, the Indonesian Attorney General's office named a total of 23 suspects in the cases (1 of whom was killed by fellow militia members in September 2000). In February the Government of Indonesia convened the Ad Hoc Human Rights Tribunal for East Timor to try persons who committed atrocities during April and September 1999 in Liquica, Dili, and Suai. On August 14 and 15, the Tribunal handed down its first verdicts, acquitting six of seven defendants. Former Governor Abilio Soares was convicted and given a 3-year prison term. On November 27, one of the most notorious militia leaders, Eurico Guterres, was convicted of "murder and persecution" and given a 10-year sentence. On December 27, the Tribunal convicted Lieutenant Colonel Sujarwo, who had commanded the Dili military district, and sentenced him 5 years. The Indonesian government prosecutors in these cases did not fully use the resources and evidence available to them from the United Nations and elsewhere. The Tribunal's performance disappointed international observers.

During 2000 there were reports that returning refugees alleged to have militia links were killed. In January and February 2000, two men were killed in Ermera district. In April 2000, Gabriel Alves, a suspected militia member, was beaten and kicked to death in Ulmera, Liquica. A suspect was arrested in 2000, but was released pending trial. By year's end, no trial date had been set.

*b. Disappearance.*—There were no reports of politically motivated disappearances during the year.

There were numerous reports of abductions and disappearances following the flight and forced relocation of more than 250,000 civilians in September 1999. In addition, dozens of prisoners, including political prisoners, previously held in Becora



prison in Dili reportedly were taken to West Timor in September 1999. By the end of 2000, nongovernmental organizations (NGOs) had determined the whereabouts of the vast majority of the former prisoners. Some returned, while others remained in West Timor.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution provides that all persons undertaking public duties or holding public office shall observe internationally recognized human rights standards, as reflected in the U.N. Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and security force and other government and U.N. personnel observed these regulations in practice.

On November 18, in Baucau a police officer and his attacker were both seriously injured and a police pistol was stolen. Subsequently, on November 23, the house of the person who had allegedly stolen the pistol was burned, and this was followed by an attack on Baucau police headquarters. Protesters allegedly bombarded the police station and vehicles with rocks, and one of the protesters was reported to be carrying a firearm. Police responded by firing several hundred rounds, reportedly mainly into the air. One protester was critically injured, apparently by a gunshot wound, and subsequently died. Community residents alleged that ETPS personnel threatened, intimidated, and assaulted them in course of searching for suspects and gathering information. At year's end, UNPOL and a U.N. Human Rights Unit were investigating.

During clashes in Dili between rioters and security forces on December 4, 2 persons were killed and 15 injured; ETPS personnel were believed responsible for at least one of the killings. Credible sources reported that the security forces used excessive force (*see* Section 2.b.).

There were isolated cases of local residents mistreating returning refugees who were suspected of being former militia members or militia sympathizers. In past years, such mistreatment occasionally took the form of interrogation, stoning, beating, and forced labor (*see* Section 6.c.). In 1999 and 2000, local UNTAET and U.N. police officials often permitted irregular security groups to screen returnees to determine if they had been associated with militias or Indonesian intelligence or had committed abuses. This screening usually occurred once the returnees had arrived back in their home areas. Returnees who were suspected of having committed abuses in some instances were beaten during these sessions, at times severely. For example, in early February 2000, an interrogation team beat and stabbed an alleged militia member in Liquica. However, most returning refugees were reintegrated without significant problems (*see* Section 2.d.).

In 1999 TNI-supported militia groups perpetrated numerous acts of rape and sexual abuse against displaced East Timorese women, in addition to the widely reported rapes of women whom one of the militia groups kept as sex slaves in their Dili headquarters (*see* Section 5). In 2000 a Dili court indicted one militia member on a rape charge stemming from the September 1999 violence in Suai; however, the case had not been prosecuted by year's end. An SCIU (*see* Section 1.e.) special team established to address sexual violence continued to investigate numerous other rape cases. Numerous cases of alleged rapes in previous years by Indonesian soldiers and civilian personnel remained unresolved.

Prison conditions generally met international standards. A separate juvenile block at the Becora prison was finished and used to house juvenile prisoners. There were no separate juvenile facilities at the Gleno or Baucau prisons. Two juveniles were incarcerated at Gleno. Female prisoners have segregated housing in Gleno, but shared housing with juveniles in Becora until transferred to Gleno. There were two full-time social workers to deal with juveniles, women, the elderly, and mentally ill inmates.

The Government permitted prison visits by independent human rights observers.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and government regulations require a hearing within 72 hours of arrest to review the lawfulness of the arrest and detention, and provide the right to a trial without undue delay.

Pretrial detention is allowed only for crimes carrying a sentence greater than 1 year. In principle a judge must review pretrial detention every 30 days; however, in practice limited resources hindered this review, and many persons remained in pretrial detention longer than stipulated. The maximum pretrial detention period is not to exceed 6 months for suspects who are charged with crimes carrying a sentence of 5 years or less. In the case of a suspect who is charged with a crime carrying a sentence of more than 5 years, a court panel may extend the pretrial detention for an additional 3 months. For crimes with a sentence of over 10 years, a court panel may order additional pretrial detention beyond 9 months. Upon the expiration

of the maximum detention period, a judge may order the release of a detainee. During the year, approximately 25 percent of all detainees were overdue for review of their pretrial detention. At year's end, two-thirds of the total prison population were pretrial detainees. Of the pretrial detainees, three-quarters were charged with murder, manslaughter, rape, or other violent crimes that carried sentences greater than 10 years. The Government's general policy was to keep the prison population as low as possible. Consistent with this approach, many detainees were released on bail upon review; however, charges against them were not dropped, and their legal status was uncertain. Some detainees were in pretrial detention for periods longer than the maximum sentences for the crimes with which they had been charged. The number of pretrial detainees for serious and ordinary crimes had increased from the previous year.

The Constitution prohibits forced exile, and the Government did not use it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary. The Court Law provides that judges shall perform their duties “independently and impartially” without “improper influence.” UNTAET regulations, still in force, established a Prosecution Law that requires that all public prosecutors discharge their duties impartially. These regulations generally were respected during the year; however, the independence of the judiciary occasionally was questioned. In September 2000, the Dili District Court ordered the arrest of a Japanese reporter for “offending the dignity” of National Council of Resistance President Xanana Gusmao—a crime under the Indonesian Criminal Law Code that the East Timor courts continued to use during 2000, despite Indonesia's revocation of the law. The reporter later was released, and UNTAET subsequently revoked the Indonesian statute used in the case.

The civil law court system includes four district courts and one national Court of Appeal in Dili. In June 2000, UNTAET established a public prosecutor's office. The Ministry of Justice is responsible for administration of the courts and prisons and provides defense representation as well. The Prosecutor General is responsible for initiating indictments and prosecutions. The Government continued to make progress in creating a legal basis for the justice sector, but faced serious challenges in recruiting and training qualified judges, prosecutors, and defense lawyers. The judiciary's shortage of personnel, bureaucratic and managerial inefficiency, failure to appoint a council of magistrates, and a past insistence on Portuguese-language ability for international judges all contributed to the Government's inability to process criminal cases against most detained suspects within a reasonable time (*see* Section 1.d.). Due to the lack of judicial and legal personnel, only two district courts were fully functional. The Appeals Court did not function during the year.

In March 2000, UNTAET established a special Serious Crimes Panel within the Dili District Court to serve as a *de facto* international tribunal to prosecute those Indonesian and pro-Indonesian East Timorese persons responsible for the mass killings in 1999 and other serious human rights abuses. However, insufficient funding and staffing of the UNTAET SCIU limited its ability to investigate the 10 priority incidents related to the 1999 atrocities. In an effort to overcome these difficulties, the SCIU was reorganized in December 2001 and additional resources were allocated. However, insufficient staff and funding continued to slow prosecutions. During the year, there was only one functioning Special Panel to hear serious crime cases. By year's end, the Prosecutor General in Dili had filed 46 indictments against 141 accused militia members for serious crimes, 129 of whom were accused of crimes against humanity.

The Crimes Panel, which consists of two foreign judges and one East Timorese judge, has exclusive and “universal” jurisdiction to adjudicate cases of genocide, war crimes, crimes against humanity, murder, sexual offense, and torture that occurred between January 1 and October 25, 1999. In June 2000, UNTAET created a corresponding Serious Crimes Prosecution Division under the Prosecutor General, which includes an internationally staffed Serious Crimes Investigation and Prosecution Unit. UNTAET adopted international definitions of genocide, war crimes, crimes against humanity, torture, and command responsibility into a criminal code for the Serious Crimes Panel, and in December 2000 filed the first indictments against Indonesian and pro-Indonesia East Timorese suspects. UNTAET requested assistance from the Government of Indonesia in extraditing identified suspects at large in Indonesia; however, the Government of Indonesia refused to extradite suspects to East Timor or to allow UNTAET investigators to question suspects in Indonesia. Nonetheless the Serious Crimes Panel proceeded with its work, and at year's end 24 cases were at various stages in their proceedings before the Panel.

The Constitution makes Portuguese and Tetum the official languages, although only a minority of the population speaks Portuguese. Many laws have been promulgated in Portuguese, and Portuguese was the primary language in which judicial

proceedings were conducted. Many judges, prosecutors, defense counsels, and defendants were unable to read the new laws being promulgated by Parliament. The Government provided Portuguese language lessons for public officials including judges and prosecutors, and regulations provide for interpretation of judicial proceedings into languages understood by the parties. However, translation and interpretation facilities were not able to meet the needs of the judiciary.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution and government regulations provide for the freedom of speech and press as stipulated in the U.N. International Covenant on Civil and Political Rights, and the Government generally respected these rights in practice.

There are two daily newspapers, two weeklies, and several bulletin newspapers that appear sporadically. Their editorials freely criticize the Government and other political entities.

The Government assumed responsibility for a radio and a television station formerly operated by UNTAET, and in May the Constituent Assembly passed legislation creating a Public Broadcast Service. At year's end, the Service was still being organized. The Government radio service was available throughout the country. Broadcast television was available only in Dili. In addition to the Government-operated station, there were six nongovernment radio stations, three in districts outside Dili. Additionally, small community radio stations were being organized.

While insufficient resources constrained development of print and broadcast media, there are no political or legal impediments to new entries to the media market.

In November UNMISSET issued indictments against two Indonesian army officers for the September 1999 killing of Dutch journalist Sander Thoenes in Dili. A spokesman for the Indonesian Attorney General's office was quoted as saying that Indonesia would not send the two officers to East Timor to stand trial. In September 2000, the U.N. announced it was investigating the October 1975 murders of five Australia-based journalists in East Timor; the investigation continued at year's end.

There were no legal or administrative restrictions on Internet access.

The Government did not restrict academic freedom. The University of East Timor, whose facilities were destroyed in September 1999, reopened in a new location in November 2000. Several private, post secondary, educational institutions opened during the year.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provide for the freedoms of assembly and association as stipulated in the U.N. International Covenant on Civil and Political Rights, and the Government generally respected these rights in practice. Many peaceful demonstrations occurred throughout the year. Most centered on complaints over allocation of jobs, salaries, severance pay issues, and admission of students to the university.

On December 4, what began as a student demonstration in Dili degenerated into violence that left 2 persons dead and 15 injured. The police fired warning shots, and there were unconfirmed reports that shots were fired from the crowd. The police were believed to have committed at least one of the killings and wounded those injured. After the shooting, the crowd set fire to several buildings including a house owned by the Prime Minister's family, and a supermarket; an automobile in front of the Dili mosque was burned and many windows in the mosque were broken. At year's end, investigations into the disturbances and the police response were underway. Both U.N. and government officials said that they would provide police additional training in human rights and in appropriate crowd control techniques.

The Constitution recognizes the right to form opposition political parties and the right to be informed regularly and directly on issues of public interest. Although the Government generally respected these rights, opposition parties complained that the ruling Fretilin excluded members of other parties from positions in the executive branch of government including positions which, under the applicable regulations, should have been selected on merit without regard to political affiliation.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion. More than 90 percent of the population is Roman Catholic, and Protestant churches previously were identified with the Indonesian military and with pro-Indonesia East Timorese. Accusations that Protestant clergymen were linked to pro-Indonesia East

Timorese militias sometimes led to harassment of church members; however, there were no reports of such harassment during the year.

The Muslim community consists of ethnic East Timorese, longtime residents of Arab descent, and ethnic Malay migrants from other parts of Indonesia who have lived in East Timor for many years. The former groups were well integrated into East Timorese society, but the latter group experienced some harassment. On December 4, an automobile in front of the Dili mosque, which was inhabited by ethnic Malay Muslim migrants who initially fled from East Timor during the violent period in September of 1999, was burned and windows in the mosque were broken (see Section 2.b.).

Although some of the participants in the wide-ranging December 4 violence were arrested, there were no arrests in most cases related to attacks on churches or mosques, largely because of insufficient resources (see Sections 1.c. and 1.e.).

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

During the year, the Indonesian government restricted the freedom of movement of residents of the Oecussi enclave, physically separated from the rest of the country by Indonesian territory. Restored ferry service between Oecussi and Dili and between Atauro Island and Dili provided greater freedom of movement; however, the land route through Indonesia remained difficult due to security concerns and bureaucratic roadblocks.

Violent activities by pro-Indonesian militias in 2000 and 2001 forced thousands of villagers to abandon their homes temporarily.

During the year, the Government worked closely with the U.N. High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM) to provide for the repatriation of refugees from West Timor, including provision of transportation, shelter, and food. Almost 225,000 of the approximately 250,000 former residents who fled, or whom pro-Indonesia militia removed forcibly to West Timor and elsewhere in September 1999, returned to the country. During the year, the Government of Indonesia announced that it would end aid to the refugee camps in West Timor and revoke refugee status for the individuals remaining. In practice it did stop providing repatriation assistance but did not revoke refugee status. It was not clear how many of these persons wished to return to East Timor but felt unable to do so either because of fear of reprisals from militias in West Timor or because of instances of attacks and harassment of returning refugees suspected of being former militia members.

At year's end, it was not clear whether the Government had formally acceded to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; Parliament reportedly had given its advice and consent. During the year, the granting of asylee and refugee status took place on a case-by-case basis. On July 28, a small boat with 56 Sri Lankans requested assistance. A UNHCR official persuaded them to disembark temporarily and interviewed them. All voluntarily returned to Sri Lanka. The Government appeared inclined to deal with refugee and asylee requests in accordance with international standards.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully through periodic elections. On May 20, Xanana Gusmao was inaugurated as the first President, and, in accordance with the Constitution, the members of the Constituent Assembly were sworn in as the first National Parliament. The 88-member Assembly, elected in August 2001, was charged with writing a constitution, which was completed in March and came into effect with independence. Some observers criticized the provision that saw the Constituent Assembly automatically become the Parliament, and that there is a 5-year gap until the next election.

With independence, UNTAET's mandate expired, and it was succeeded by UNMISSET. UNMISSET maintains responsibility and command of the U.N. Peace Keeping Force and the U.N. Police Forces. The UN-PKF remains responsible for external defense, and UNPOL remains responsible for civil policing in cooperation with the ETPS.

The 29-member Cabinet, consisting of Ministers, Vice Ministers, and Secretaries, is dominated by members of Fretilin, the party that won the majority of seats in the Constituent Assembly.

Under the Constitution ratified in March, "laws and regulations in force continue to be applicable to all matters except to the extent that they are inconsistent with the Constitution"; and Indonesian and UNTAET laws and regulations continue to be in effect.

Both the Government and UNTAET made significant efforts to include women in appointed political bodies. There are 24 women in the 88-seat Assembly. The Minister of Justice, the Minister of Finance, and three vice ministers are women.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views. There are no restrictions on the right of persons to form NGOs, and numerous NGOs were established over the last 3 years, devoted to a wide variety of issues.

The Government actively promoted investigation of human rights abuses. In October 1999, the U.N. Human Rights Commission appointed the International Commission of Inquiry on East Timor (ICIET), which issued a report in January 2000 that made several recommendations, including the establishment of an international tribunal to prosecute those responsible for the mass abuses associated with the events of 1999. UNTAET facilitated visits to East Timor of members of the KPP-HAM (see Section 1.a.). Within UNMISSET there is a Human Rights Unit and an SCIU to investigate past human rights violations and to bring the perpetrators of past abuses to justice. Nevertheless, resource constraints as well as bureaucratic and organizational difficulties within the judiciary hampered progress (see Section 1.e.). Disatisfaction with Indonesia's Ad Hoc Tribunal on East Timor led to discussion of formation of an international truth and justice commission.

In May 2001, an NGO known as the Judicial System Monitoring Program (JSMP) was established. The JSMP monitored the serious crimes trials, provided legal analysis, and disseminated information regarding the judicial system.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

Government regulations prohibit all forms of discrimination. Nonetheless violence against women was a problem, as was discrimination against women and ethnic minorities.

*Women.*—Domestic violence against women was a significant problem. In December 2001, then-chief minister Mari Alkatiri expressed concern over mounting domestic violence against women, stating that "cases of domestic violence are increasing" and that many "consider the beating of women to be a private affair." Reports of domestic violence increased during the year; however, this may indicate more willingness to turn to the police rather than an actual increase in incidence of such violence.

Rape is a punishable offense, as specified by Indonesian law. As of September, 95 cases of rape or attempted rape had been reported to the police, but few of these cases have resulted in prosecutions. Women's groups were concerned that the authorities were encouraging women to resolve rape and domestic violence cases through traditional practices, which usually provide only for compensation to be paid to the victim. In such cases, the perpetrator is not held accountable under criminal laws, and the punishment falls short of international standards. UNTAET attempted to address this issue by establishing a Vulnerable Persons Unit to address cases of violence against women and other vulnerable groups.

On September 12, the Special Panel for Serious Crimes sentenced Francisco Soares, an East Timorese who served in the Indonesian military and as a pro-Indonesian militia leader, to 4 years' imprisonment for raping a woman in Dili in September 1999. This was the only rape conviction by the Serious Crimes Panel.

It was alleged that TNI-backed militias raped numerous women during the September 1999 violence in East Timor and kept many as sex slaves (see Section 1.c.). Kirsty Sword Gusmao, the wife of President Xanana Gusmao, reported to the international press in November 2000 that 33 pregnant East Timorese women returned to East Timor and said that they had been abducted and forced to serve as sex slaves for the TNI in West Timor, Indonesia.

Government regulations prohibit persons from organizing prostitution; however, prostitution itself is not illegal. The Government has deported some alleged prostitutes on the grounds that they violated the terms of their visas.

Customary practices discriminate against women. For example, in some regions or villages where traditional practices hold sway, women may not inherit or own property. UNTAET regulations implemented the U.N. Convention on the Elimination of All Forms of Discrimination Against Women.

nation of All Forms of Discrimination Against Women and during the year the country ratified the Convention; however, discrimination complaints were not a priority, and no cases were reported. UNTAET created a Gender Affairs Unit, and this unit continued under the Government as the Office for the Promotion of Equality within the Prime Minister's office. The unit provided training to women entering public service and attempted to ensure women have a voice in the new government and civil society structures.

There were no reports of gender-based employment discrimination during the year; however, women usually deferred to men when job opportunities arose at the village level.

The East Timorese Women's Forum offered some assistance to women who have been victims of violence and established a women's and children's shelter for victims of domestic violence and incest. East Timor Women against Violence is a human rights NGO that advocates on behalf of women.

*Children.*—The Constitution makes primary education compulsory and free; however, many schools assessed fees to pay for materials or infrastructure needs. Many families cannot afford these fees, which limited the number of children a family will send to school. UNTAET and international donors rebuilt and replaced the educational infrastructure destroyed by the Indonesian military and pro-Indonesia militias in September 1999, and the majority of children returned to school after having fled their villages during the 1999 violence. Shortages of schools and educational materials remained a problem at year's end. In the past, UNTAET coordinated widespread inoculation programs and provided free medical care in some areas of the country; however, these programs were largely inactive during the year.

Over 2,000 children were separated from their parents during the forced exodus to West Timor in 1999, and the UNHCR stated that approximately 1,500 remained separated from their parents. Of these, 431 were in the country, 635 were in West Timor, 380 were in other parts of Indonesia, and the whereabouts of 18 were unknown. An estimated 170 children were taken from the camps in West Timor in 1999 and 2000 to orphanages in Java. Eight of these children were reunited with their families in 2001, 13 were reunited during the year, and approximately 150 remained in the Java orphanages.

*Persons with Disabilities.*—Although the Constitution protects the rights of the disabled, the Government has not enacted legislation or otherwise mandated a provision of accessibility to buildings for persons with disabilities, nor does the law prohibit discrimination against persons with disabilities. Nonetheless there were no reports of discrimination against persons with disabilities in employment, in education, or in the provision of other state services. There was only one school for children with disabilities (in Dili) and its capacity is only one-third of pre-1999 enrollment. Difficult access to school in many districts resulted in many children with disabilities not attending school. Training and vocational initiatives did not give attention to the needs of persons with disabilities.

*National/Racial/Ethnic Minorities.*—Ethnic Chinese (who make up less than 1 percent of the population) and ethnic-Malay Muslims sometimes have been subjected to harassment. Tensions between different language groups also were a problem. Many non-Portuguese speakers claimed that they were discriminated against in filling political and civil service positions.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—During the year, the Government implemented a Labor Code based on the International Labor Organizations standards. The law permits workers to form and join worker organizations without prior authorization. Unions may draft their own constitutions and rules and elect their representatives; however, attempts to organize workers generally have been slowed by inexperience and a lack of organizational skills, as well as by the fact that the Government has not yet appointed a person to head the Office of the Registrar of Trade Unions and Employer Organizations. Trade Unions and employer organizations cannot be registered officially. Labor organizations included the Socialist Workers Union, the Trade Union Confederation, Oxfam Workers Union as well as a teachers' union and a nurses' union. Roughly two-thirds to three-quarters of the country's work force is engaged in subsistence agriculture.

There are no restrictions that would prevent unions from forming or joining federations or from affiliating with international bodies.

*b. The Right to Organize and Bargain Collectively.*—While collective bargaining is permitted, workers in East Timor generally had little experience negotiating contracts, promoting worker rights, or engaging in collective bargaining and negotiations.

Dissatisfied workers or disappointed job applicants frequently resorted to strikes, demonstrations, and sometimes destruction of property. Disputes usually centered on demands for higher salaries or severance pay for jobs in which short-term contracts have expired. Many of these disputes were resolved through the arbitration of local NGOs or the Secretariat of Labor and Solidarity.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—Government regulation prohibit forced labor including by children; however, in the past, local leaders required a number of returnees accused of involvement in the post-September 1999 destruction to engage in compulsory labor as a means of punishing them for their alleged offenses (see Section 1.c.). Examples of such compulsory labor included repairing damaged structures and community service in villages. The Government tolerated this practice. More recently the imposition of compulsory labor gave way to a “reception, truth, and reconciliation” process in which returning ex-militia members agreed to perform community service as a form of reparation for offenses they committed.

Forced or bonded labor by children was not known to occur.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Code largely prohibits children under the age of 18 from working; however, there were circumstances under which children between the ages of 15 to 18 can work, and there were even exceptional exemptions for children under 15. The minimum age did not apply to family-owned businesses, and numerous children work in the agricultural sector. In practice enforcement of the Labor Code outside of Dili is difficult.

*e. Acceptable Conditions of Work.*—An UNTAET directive provided for a minimum wage for civil servants of \$65 per month; however, the new Labor Code does not stipulate a minimum wage. Employers used and employees expect a minimum wage of \$85 per month. The Code provides for a maximum workweek and overtime, minimum standards of worker health and safety, days off, and other standard benefits. In practice the Government has not been able to enforce the Code effectively. The Government has not yet established a national labor board, a labor relations board, and a minimum wage board all of which are stipulated in the Code. There are no restrictions on the rights of workers to file complaints and seek redress. The Secretariat for Labor and Solidarity, which is responsible for enforcing labor laws, tried to be responsive to complaints and pressured local businesses to comply with labor standards.

Workers have the right to remove themselves from hazardous conditions without jeopardizing employment; however, it was not clear that they could avail themselves of this right in practice.

*f. Trafficking in Persons.*—Applicable law prohibits trafficking in women and children, whether for the purposes of prostitution or for forced labor, and there were no reports of trafficking during the year.

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## FIJI

Fiji is a constitutional republic with an elected President, Prime Minister and Parliament. Ethnicity remained a dominant factor in the country’s politics, economy, and society. Following free and fair elections in 2001, its political situation improved; however, concerns remained about the composition of the Cabinet. The 1997 Constitution requires that any party receiving more than 10 percent of the seats in Parliament be given cabinet positions. However, when Prime Minister Laisenia Qarase of the Duavata ni Lewenivanua (SDL) party formed a government in late 2001, it excluded the Fiji Labor Party (FLP) led by deposed Prime Minister Mahendra Chaudhry, although the FLP had won substantially more than 10 percent of the parliamentary seats in the 2001 elections. The FLP took legal action against the Government, and in March the Court of Appeal ruled in favor of the FLP; the Government appealed the decision to the Supreme Court. The case was pending at year’s end. In February coup leader George Speight was sentenced to death for his role in the armed takeover of Parliament in May 2000; however, the sentence was commuted to life imprisonment. Two other prominent members of the rebel group were still awaiting trial at year’s end. The military completed two of four courts martial and convicted over 80 mutineers involved with the coup, including a number of officers. The Constitution provides for an independent judiciary; however, the judiciary at times was subject to political influence.

During the year, civilian authorities generally exercised effective control of an unarmed civilian police force and the small Republic of Fiji Military Forces (RFMF). There were no instances where security forces acted independently of government

authority. There were no reports of human rights abuses by the RFMF. However, there were occasional complaints of human rights abuses by the police.

The population of approximately 845,000 is multiracial and multicultural, with indigenous Fijians making up 51 percent, Indo-Fijians (descendants of immigrants from the Indian subcontinent) 42 percent, and Asians, Caucasians, and other Pacific Islanders making up the rest. Indo-Fijian families dominated the business sector and enjoyed higher average incomes; however, indigenous Fijians were the majority in government ministries and the armed forces. One of the Government's primary goals was an affirmative action program, or "Blueprint," designed to aid indigenous Fijians in education and business. Sugar and tourism accounted for more than half of foreign exchange earnings. The inefficient sugar industry was hampered severely by industrial disputes and an outmoded infrastructure; however, tourism recovered during the year to approximately the levels it occupied before the 2000 coup. Investment was depressed due to continuing concerns over the resolution of land lease issues and the pending Cabinet composition court case. The country's major trading partners, Australia and New Zealand, lifted sanctions imposed after the 2000 coup. Skilled workers and professionals continued to emigrate in large numbers, reflecting a shortage of economic opportunities.

The Government generally respected the human rights of its citizens; however, its record remained poor in some areas. Constitutional provisions maintain an ethnically based electoral system, and a number of government policies on hiring, education, and land tenure preferences provided protection for indigenous Fijian interests in accordance with that Constitution. The ethnic divide between the governing SDL (mainly composed of indigenous Fijians) and the FLP (mainly composed of Indo-Fijians) remained a recognized obstacle to long-term political stability. The Prime Minister increasingly identified himself as the leader of all Fijians rather than of a single ethnic group. Nonetheless, ethnic discrimination remained a serious problem. On several occasions Members of Parliament (M.P.s) made racist remarks against Indo-Fijians. Evictions of Indo-Fijian tenant farmers by indigenous Fijian landowners occurred, often with no government response. Occasional police abuse of detainees and suspects occurred. Other human rights problems included restrictions on freedom of assembly, violence and discrimination against women, and some instances of abuse of children. Human rights advocates and others asserted that the July appointment of Daniel Fatiaki as Chief Justice of the Supreme Court was motivated by the Government's desire to delay the Court's consideration of the case involving the composition of the Cabinet. Fiji was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as an observer.

#### RESPECT FOR HUMAN RIGHTS

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

a. *Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents during the year.

At year's end, the Government had not taken action in the 2001 case of a soldier who fatally shot a farmer cultivating marijuana in the course of a joint military-police drug operation, and no action appeared likely.

The November 2000 mutiny at the Queen Elizabeth Barracks in Suva caused 8 deaths, 3 of them loyalist soldiers, and approximately 24 other military casualties. Five mutineers were killed in the custody of loyalist troops. Many of the mutineers were members of a special forces unit involved with the May 2000 takeover of Parliament. On November 6, 15 members of this unit were convicted of mutiny, and several were also convicted on lesser charges. The mutiny's leader was sentenced to life imprisonment plus 15 years; other defendants received sentences ranging from 18 months to 8 years in prison. Two defendants were still awaiting trial at year's end. In January Amnesty International (AI) expressed concern regarding the deaths in custody of the five mutineers, and alleged efforts by the military to prevent police from interviewing and prosecuting suspects in those deaths. By year's end, no legal or disciplinary action had been taken against soldiers involved in the deaths of the five mutineers.

In August 2000, President Ratu Josefa Iloilo granted immunity from criminal prosecution or civil suits for members of the Disciplined Forces (persons in active or discharged military positions who participated in events while the Emergency Decree was in effect). This announcement, issued under the Emergency Decree, would dismiss any civil or criminal charges brought against a law enforcement officer or soldier in connection with acts related to the May 2000 takeover of Parliament or the November 2000 mutiny.



At year's end, the Government had not taken action against the security officers who killed a prisoner during the prison disorder at Naboro prison in July 2000, and none appeared likely.

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

Following the November 2000 mutiny, a soldier was taken from his home by security forces. His body was discovered a few days later (*see* Section 1.a.). At year's end, no action had been taken in this case, and none was considered likely.

*c. Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution provides for freedom from torture and cruel, inhumane, degrading, or disproportionately severe treatment or punishment; however, there were some reports of abuses by police. In November three Indo-Fijians complained that they were beaten and subjected to racial slurs and extortion by police officers in civilian clothes.

The Police Department's Internal Affairs Unit is required to investigate complaints of police brutality. The law permits corporal punishment as a penalty for criminal acts, but the courts seldom invoked this provision. In response to public concern regarding police brutality, the Human Rights Commission conducted training courses for police field investigators, sergeants, and prison officers in 2001.

Corruption in the police force was a problem. Undertrained police officers received only on-the-job instruction, which may have contributed to the problem of corruption. During the year, the police hired a large number of decommissioned military personnel as special constables. Many had criminal records and had allegedly been involved in robberies and other illegal activities. Police and immigration officials faced serious corruption charges relating to the entry of illegal Chinese immigrants into the country. Newspaper articles linked prominent police figures to an organized crime figure from the People's Republic of China (PRC); police were accused of providing protection, forging documents, and destroying key files relating to criminal activity.

During the year, the son of deposed Prime Minister Mahendra Chaudhry filed suit against the 2000 coup leaders and several government institutions, including the army, seeking damages for abuses allegedly suffered while he was held hostage during the May 2000 armed invasion of Parliament. He indicated that he had been assaulted on several occasions and subjected to severe physical and mental cruelty.

Prison conditions did not meet international standards, and prison conditions, particularly at Suva and Naboro Prisons, remained poor. The prison system was seriously underfunded, with deteriorating infrastructure and poor delivery of essential services including food and sanitation. There were 883 prisoners in 18 prisons countrywide; the combined capacity for all prisons was 1,002 persons. Men and women were held separately; juveniles were held separately from adults; and pretrial detainees were separated from convicted prisoners. The Fiji Human Rights Commission delivered a report to the Government regarding their concerns on conditions for inmates in solitary confinement.

The Government maintained a separate detention center on Nukulau Island outside of Suva for convicted May 2000 coup leader George Speight, and for two of his supporters who at year's end were still awaiting trial for treason. Detainees were granted some freedom of movement, including recreation, but facility access remained tightly controlled. Family members and a few other visitors were permitted to visit; however, the International Committee for the Red Cross (ICRC) was denied access. The police continued to investigate Speight, his supporters, and those who financed the attempted takeover of Parliament in May 2000. At year's end, all but two of the others arrested in connection with the events of May 2000 had been convicted of lesser charges or released.

By year's end, no action had been taken against prison officials involved in the death of 1 inmate and injuries to 15 others at the Naboro prison in 2000 (*see* Section 1.a.).

Aside from the special regime for prisoners on Nukulau Island, the Government permitted visits to prisons by church groups, family members, and the Fiji Red Cross.

*d. Arbitrary Arrest, Detention, or Exile.*—The law provides that a person may be arrested only if police believe that a criminal law has been broken or is about to be broken. Arrested persons must be brought before a court without "undue delay." This requirement normally is taken to mean within 24 hours, with 48 hours as the exception. Detainees have the right to a judicial review of the grounds of their arrest; nonetheless, incommunicado and arbitrary detention continued to occur on occasion. In November three Indo-Fijians alleged that they were beaten by police while attempting to report a theft (*see* Section 1.c.).

Family members and international nongovernmental organizations (NGOs) questioned the lengthy detentions without charge of persons allegedly involved in the November 2000 mutiny (*see* Section 1.a.).

The Constitution prohibits forced exile, and the Government did not practice it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judiciary at times has been subject to political influence.

Controversial Chief Justice Timoci Tuivaga retired in July and the Government appointed Daniel Fatiaki, a High Court judge, to replace him. Fatiaki was reportedly one of the judges who advised the President to abolish the 1997 Constitution and issue emergency decrees, and the media questioned the suitability of this appointment. A domestic human rights group contended that the Government's motivation in appointing Fatiaki was to delay a hearing on the Supreme Court case on the composition of the Cabinet (*see* Section 3). The judicial structure is patterned on the British system. The principal courts are the magistrate courts, the High Court, the Court of Appeal, and the Supreme Court. Expatriate judges are used in key cases. There are no special courts; military courts try members of the armed forces. Magistrate courts continued to try the large majority of cases. In addition to its jurisdiction in serious civil and criminal cases, the High Court is granted special interest jurisdiction on behalf of the public and is empowered to review alleged violations of individual rights.

Defendants have the right to a public trial and to counsel. Trials in the High Court provide for the presence of assessors (citizens randomly selected to represent the community); cases in magistrate courts do not. Many rape and sexual assault cases were heard in the magistrate courts; since magistrates are not authorized to impose sentences longer than 5 years in prison, this resulted in light sentences in most domestic or family law cases. The Legal Aid Commission provided counsel to some indigent defendants, a service supplemented by pro bono services from private attorneys. The right of appeal existed but was hampered by delays in the judicial appeals process. Bail was granted freely. The courts had a significant backlog of cases, with processing slowed further by a shortage of prosecutors. Some defendants faced lengthy pretrial detention. In October the Parliament passed a new bail law, which allows persons in pretrial detention for longer than 2 years to await their trials at home under conditions set by the court.

The law sometimes treated women differently from men. In some instances, there was a presumption of reduced competence and thus reduced responsibility for women. For example, only women could be charged with infanticide; if a man kills an infant, the act is treated as murder, a more serious charge. A female defendant in an infanticide case was presumed to have diminished mental capacity, and sentences were reduced or suspended accordingly. A new Family Law Bill provoked widespread debate during the year. Its provisions included giving illegitimate children the same rights as legitimate children, establishment of "no fault" divorce, and the establishment of a family court. At year's end, the bill was undergoing public hearings.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Government generally respected the privacy of the home. However, the Home Affairs Ministry, as well as the police and the armed forces, have the power and capability to search persons and property, access private financial records, and monitor mail and telephones when a warrant is issued by the National Security Council. Police checkpoints remained common; military checkpoints were not used during the year. The Home Affairs Ministry conducted surveillance of persons whom it believed represented a security threat.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. However, the Government retained controls instituted in July 2000 restricting the right to meet and speak out on human rights and democracy. Civil society groups were required to file a petition regarding proposed meetings: petitions were treated on a case-by-case basis, and several prominent events have been denied permits. These controls are reviewed every 21 days.

The Media Council's Complaints Committee, a private watchdog group of media and academic figures, accepted complaints related to the media and published its findings during the year. Most of the complaints cited inappropriate media coverage, including invasions of privacy, and there were no complaints regarding government pressure on or interference with the media.

A variety of opinions, including criticism of the Government, were heard in all major media outlets. Political figures and private citizens could and did speak out regarding the country's political situation and against the Government. Letters on editorial pages and editorials that ran in the three English-language dailies frequently contained political statements from a wide cross section of society critical of the Government. However, the Public Order Act and other laws prohibited actions that were likely to incite racial antagonisms.

Legislation pertaining to the press is contained in the Newspaper Registration Act and the Press Correction Act. Under these acts, all newspapers had to be registered with the Government before they could publish. The acts gave the Minister of Information sole discretionary power to order a newspaper to publish a "correcting statement" if, in the Minister's view, a false or distorted article was published. Should a newspaper refuse to publish the Minister's correction, it could be sued in court and, if found guilty, fined approximately \$500 (FJ\$1,125). Individuals in such cases could be fined, imprisoned for 6 months, or both. These acts would authorize the Government to arrest any person who published "malicious" material. This would include anything the Government considered false information that could create or foster public alarm or result in "detriment" to the public. However, this authority has never been used.

The country's television news production was owned and operated by Fiji One, one of only two national noncable television stations. A trust operating on behalf of the provincial governments owned 51 percent of Fiji One; the other 49 percent was owned by private individuals and interests. In October the Prime Minister stated publicly that the market was too small for more than one television station; however, a privately owned Christian station opened early in the year. The Government owned the Fiji Broadcasting Corporation, which operated four radio stations. There were several thriving independent radio stations broadcasting in English, Fijian, and Hindi.

Under the Television Act, the Government is allowed to influence programming content. The Government considered legislation requiring Fijian-culture content programming; however, there was no attempt to use the programming authority during the year.

In the past, government holdings in Fiji TV One and the Fiji Post and Fiji Sun newspapers raised questions as to the complete independence of the press. However, these and other media outlets frequently criticized the Government during the year regarding implementation of its affirmative action policies, ministerial competence, alleged scandals, and racist remarks by M.P.s. Muted criticism of the traditional chiefly system has also appeared, with wide coverage of a PriceWaterhouse report on the system.

The Fiji News Council worked to improve journalistic standards, safeguard media independence, and resolve complaints from the public. The Fiji Islands Media Association, an affiliate of the Pacific Islands News Association, also provided training opportunities for journalists and established a media code of ethics.

The Government did not control or limit Internet access.

Academic freedom was generally respected; however, government work-permit stipulations and University of the South Pacific contract regulations effectively deterred most university employees from participating in domestic politics. Many academics wrote for the media and included disclaimers in their work to preclude contract or work permit problems.

*b. Freedom of Peaceful Assembly and Association.*—The 1997 Constitution provides for the right to assemble for political purposes, subject to restrictions in the interest of public order. In practice, most applications for the required meeting permits were denied.

During the Asia Caribbean Pacific (ACP) meeting held in the country in July, the Government refused permits to nongovernmental organizations (NGOs), including the prodemocracy and human rights group Citizens Constitutional Forum (CCF), for the purpose of staging peaceful protests regarding unsettled political issues in the country. The Prime Minister indicated that such protests were foreign to the country and that they would undermine the success of the ACP meeting. Only two permits for protest demonstrations have been granted since the events of May 2000. The first was authorized in November, to a government-supported group contesting the election of a Labor Party candidate as mayor of Lautoka. The second authorized permit was granted to the CCF for a demonstration in December.

The 1997 Constitution provides for freedom of association, and the Government generally respected this provision in practice. Opposition parties operated without government interference. Political organizations operated and issued public statements.

*c. Freedom of Religion.*—The 1997 Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Government did not restrict foreign clergy and missionary activity or other typical religious activities. Religious groups were not required to register. Religious differences are largely along ethnic lines; most ethnic Fijians are Christians, and most Indo-Fijians are Hindu, with a sizable minority of Muslims. The Government protected the rights of all religious groups. However, junior Muslim civil servants in the Revenue and Customs Authority were ordered to shave off their beards, on the grounds that beards were not neat and gave an unprofessional image to the organization. Some of these employees requested a reversal of the order, but it remained in effect at year's end. The major holidays of Christianity, Hinduism, and Islam were celebrated nationally.

The role of religion was tied closely to existing racial antagonisms and continued to be a political issue. Prominent figures in the Methodist Church and allied political parties continued to advocate the establishment of a Christian state. This statement received public support from several M.P.s. The Church has displayed strong nationalist sympathies; former Methodist Church General Secretary Tomasi Kanilagi was appointed a senator in 2001. During the year, Senator Kanilagi made several remarks perceived to be racially biased. Those parties dominated by Indo-Fijians did not support the establishment of a Christian state and insisted that church and state should remain separate.

Religious leaders in the minority Muslim population continued to request the establishment of separate Islamic courts for their community; however, the issue was not prominent during the year. A small Hindu temple suffered minor vandalism during the year; the Government and others condemned the act.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, the Government has broad powers to limit freedom of movement in the interest of national security, and access to Nukulau Island, site of a maximum-security detention center for persons charged with treason, was restricted during the year.

Citizens are free to emigrate. The majority of emigrants have been Indo-Fijians, although many ethnic Fijians have left the country as well. The Government does not restrict the return of citizens. Occasional detentions at the airport occurred, but the courts have ordered redress where warranted.

An internally displaced persons camp near Lautoka was closed; it had housed approximately 200 Indo-Fijians threatened by serious violence after the May 2000 coup. Residents returned home or resettled in Lautoka proper.

The law includes provisions for providing refugee and asylum status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. In the past, the Government has been reluctant to grant first asylum without assurances that the asylum seeker would be moved to a third country.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The 1997 Constitutional amendments reduced the ethnically based factors that previously had abridged the right of citizens to change their government. Under its provisions, the Prime Minister and the President can be of any race. It established a 71-member lower house with 25 seats open to any ethnicity and 46 seats allocated to different ethnic communities. The unprecedented open seats were established by an electoral commission and apportioned into districts of approximately equal population. Of the 46 communal seats, 23 were allotted to indigenous Fijians, 19 to Indo-Fijians, 3 to "general voters" (for the most part Caucasians and East Asians), and 1 to the Rotumans (an ethnically distinct Polynesian group). These allotments were roughly proportional to the current ethnic composition of the country's population. The amended Constitution also contained an alternate voting system for elections to the lower house to replace the first-past-the-post system of the previous constitution. The Senate remained an appointed body, in which the President appoints 32 members, the Great Council of Chiefs nominates 14 members, the Prime Minister nominates 9, the opposition leader nominates 8, and the Council of Rotuma nominates 1 member. Several persons prominently and publicly involved in the 2000 coup were among the Prime Minister's Senate nominees.

In May 2000 the country's first Indo-Fijian Prime Minister, Mahendra Chaudhry, was taken hostage, along with other members of Parliament. Interim civilian au-

thorities, backed by the military, became a caretaker administration pending elections held between August 25 and September 1, 2001. Observers noted that the election process was largely free and fair and reflected the will of the voters, despite some technical problems with polling and ballot counting. Several court challenges based on these irregularities were heard during the year, resulting in the FPL gaining two seats in Parliament. Other challenges were pending at year's end.

Prime Minister Laisenia Qarase's SDL party received the largest number of seats in Parliament; Qarase was asked to form a government by President Iloilo. However, despite a constitutional provision requiring that any party which receives more than 10 percent of the seats in Parliament be offered inclusion in the Cabinet, the Qarase government excluded Mahendra Chaudhry's Fiji Labor Party (FLP). Chaudhry subsequently took legal action against Qarase; due to the appointment of a new Chief Justice in July and to dilatory tactics by the Government, the case was not expected to be heard before mid-2003.

In February George Speight, leader of the May 2000 coup, was found guilty of treason and sentenced to death; however, the sentence was commuted to life imprisonment. Two other prominent members of the rebel group pled not guilty to treason and still were awaiting trial at year's end. The remaining persons charged in the case were found guilty on lesser charges or were released. The police continued to investigate Speight, his supporters, and those who financed the takeover of Parliament in May 2000.

In addition to individuals charged with treason, the police have investigated prominent citizens who allegedly were involved in the takeover of Parliament. The reluctance of witnesses to provide statements reportedly has hampered investigations. During the year, there were renewed calls for action against persons implicated but not charged in the May 2000 coup. The Fiji Law Society called for the arraignment of the current Deputy Speaker of Parliament and former rebel attorney general, Ratu Rakuita Vakalalabure, on treason charges. On December 16, the FLP called for an indictment on treason charges of Vice President Jope Seniloli, who had served as the president of the rebel government. Encouraged by the successful prosecution of some of the military members responsible for the November 2000 mutiny, the public called for additional trials for those implicated in a separate, abortive mutiny conspiracy in December.

In the 2001 elections, 30 ethnic Fijian women and 1 Indo-Fijian woman ran for election to Parliament; 5 women were elected to the 71-seat House of Representatives. Two women were appointed to the 32-member Senate. After the election, four ethnic Fijian women were appointed to the Cabinet (two as ministers and two as assistant ministers) and another was appointed to fill a vacancy in Parliament. Women also played important roles in the chiefly system and could be chiefs in their own right. The wife of former President Ratu Mara is one of the three highest-ranking chiefs.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views.

The CCF challenged the validity of the interim administration in court in 2001 but was deregistered as a nonprofit organization in early February 2001. The interim administration asserted that the CCF had not complied with the standards for nonprofit organizations set in the Charitable Trust Act. The CCF then reorganized as a nonprofit and refiled its case, with a March 2001 judgment rendered in favor of the CCF.

The constitutionally mandated Human Rights Commission (HRC) was operational, with its normal staffing pattern in place. (It essentially had ceased operating from mid-May to mid-September 2000.) During the year, it appeared to be impartial and independent.

The HRC has received approximately 700 requests for assistance since it began operation in 1999. Most involved alleged abuse by police and prison officers. Although it had a backlog, the commission investigated most of the claims, as well as allegations against the military involved in the November 2000 mutiny. The HRC's work was hampered by the Constitutional Redress Rules, which stipulated that the HRC and others had to file human rights cases in the High Court within 30 days of receiving the complaint. The HRC continued to host a weekly radio program to educate citizens about their rights under the 1997 Constitution.

There were also several small, foreign-based organizations that concentrated on local human rights causes, including the Coalition for Democracy in Fiji (with offices

in New Zealand and Australia) and two United Kingdom-based groups, the International Fiji Movement and the Movement for Democracy in Fiji. There was little interaction between the Government and these groups.

The ICRC continued to operate an office in the country.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination based on race, sex, place of origin, political opinion, color, or creed. It also provides specific affirmative action provisions for those disadvantaged as a result of such discrimination. A compact included in the Constitution specifically provides for affirmative action and "social justice" programs to secure effective equality of access to opportunities, amenities, and services for ethnic Fijians and Rotumans and for all disadvantaged citizens and groups. The Constitution cites the "paramouncy" of Fijian interests as a guiding principle for the protection of the rights of indigenous citizens.

*Women.*—Domestic abuse, rape, and incest were major problems. Reliable estimates indicated that 10 percent of women had been abused in some way. An active women's rights movement addressed the problem of domestic violence. Police have adopted a "no-drop" rule, under which they prosecute cases of domestic violence even when the victim does not wish to press charges. Nonetheless, cases of domestic abuse and incest were often dismissed by courts or received minimal sentences. The traditional practice of reconciliation between the aggrieved parties was sometimes taken into account to mitigate sentences in domestic violence cases, particularly in cases of incest.

The women's rights movement pressed for serious punishment for rape. Sentences varied widely but were generally lenient. In April a 28-year-old man convicted of raping his 15-year-old sister was sentenced to 5 years in prison, the maximum penalty a magistrate was permitted to impose. Later the same month, a magistrate told a farmer charged with three counts of rape that women should not be raped even if they were "mentally unstable." The defendant in this case claimed full rehabilitation after undergoing a so-called religious deliverance session of counseling and prayer; the judge found him guilty but suspended the sentence. Women's groups continued to urge that all rape cases be heard in the High Court, where heavier sentences were available. However, by law an accused rapist retains the right to choose between the High Court and magistrates' courts. Only one case in the last 6 years has been sent to the High Court. Marital rape is not a crime, but is included in pending legislation on sexual offenses.

In addition to the rise in domestic violence, in previous years there have been a number of deaths of Indo-Fijian women that appeared to be bride burnings. (Bride burning is an attack on a wife by members of the groom's family dissatisfied with dowry payments. These attacks are often staged as kitchen accidents or suicides and result in the fatal burning of a victim.) Police investigations concluded that the victims had committed suicide, burning themselves so severely as to cause death. However, the women's rights community asserted that these deaths were bride burnings. There were no confirmed reports of such deaths during the year.

Prostitution is illegal; however, it was a growing problem, particularly in Suva. The law prohibits sex tourism as well as sexual harassment; neither was considered to be a significant problem.

Suva, Ba, Labasa, and Lautoka have women's crisis centers funded by foreign governments, which offer counseling and assistance to women in cases of domestic violence, rape, and other problems such as child support. The NGO Fem'link Pacific distributed information at the grassroots level and encouraged community-based dialog. In 2001 the Ministry of Women began a Gender Awareness Program to educate soldiers and police officers about women's issues.

Under the Constitution, male and female citizens enjoy equal rights in regard to the granting of residence for spouses, and with regard to the registration and racial designation of children for purposes of enrollment on electoral rolls and entitlement to ethnic communal property rights.

Women had full rights of property ownership and inheritance, and a number were successful entrepreneurs. Other than a prohibition on working in mines, there were no legal limitations on the employment of women. Women were generally paid less than men.

*Children.*—Although hampered by resource constraints, the Government devoted 19 percent of the national budget to education and also worked to improve children's health and welfare. School is mandatory until age 15. The inability of some families to pay school fees and bus fare limited attendance for some children. During the year, in response to a case brought by the Human Rights Commission, the High Court ruled that corporal punishment in schools was illegal. Before the Court's decision, there were several reports of corporal punishment in schools early in the year.

In October human rights groups criticized Minister of Education Ro Teimuna Kepa for her public endorsement of corporal punishment as an effective means of discipline in schools.

In 2001 the Government launched an education policy designed to narrow the gap in academic achievement between indigenous and Indo-Fijian students. As part of this policy, the Government allocated more resources for schools run by indigenous citizens and for improved training of indigenous Fijian teachers. During the year, a former Indo-Fijian education minister characterized the policy as discriminatory, alleging that the Government was holding back funds for Indo-Fijian-run schools while allocating special funds to indigenous schools for textbooks and other resources.

Societal changes have undermined traditional village and extended family-based structures. Outgrowths of these changes have included increased child abuse and a number of homeless youths in urban areas. Some youths found employment in the informal sector. Homeless children were often seen on the street working as shoeshine boys or involved in prostitution. Children worked on the streets, in homes as domestics, and in auto repair shops. The Ministry of Labor had few or no resources to investigate reports of child labor or to charge offending employers. The legal system was inadequate to protect the rights of children, since children's testimony was largely inadmissible unless corroborated by an adult.

The Government provided free medical care for children at public health centers and hospitals. Government nurses provided free immunizations for children in primary schools.

*Persons with Disabilities.*—The Constitution provides for equality before the law of all persons, including persons with disabilities, and discrimination against the physically disabled in employment, education, and the provision of state services is illegal. However, there was no legislation or mandated provision for accessibility for persons with disabilities, and there was little or no enforcement of laws protecting persons with disabilities.

The Fiji National Council for Disabled Persons worked to protect the rights of persons with disabilities. Several voluntary organizations also promoted greater attention to the needs of persons with disabilities.

Persons with mental disabilities were largely separated from society and were normally supported at home by their families. There were a few special schools for persons with mental disabilities; however, their costs limited access.

*National/Racial/Ethnic Minorities.*—Tension between ethnic Fijians and Indo-Fijians has been a longstanding problem. While 1997 amendments to the Constitution noted that “the composition of state services at all levels must be based on the principle of reflecting as closely as possible the ethnic composition of the population,” it also specified the “paramouncy of Fijian interests” as a protective principle (see Section 5). George Speight, leader of the Parliament takeover in May 2000, professed to be acting on behalf of ethnic Fijians in his attempt to overthrow a government led by the country's first Indo-Fijian Prime Minister (see Section 3).

In July human rights groups strongly criticized Minister of Women, Culture and Social Welfare Asenaca Caucau for comparing Indo-Fijians to “wild grass taking up space” in the country. Despite pressure, Caucau refused to apologize, and the Prime Minister failed to discipline Caucau for the remark. Senators appointed by the Prime Minister have made numerous racial slurs directed against Indo-Fijians.

During the year, the SDL government worked to ensure the political supremacy of ethnic Fijians. During the year, approximately one-fourth of valid complaints to the HRC dealt with racial and ethnic equality issues.

Land tenure remained a highly sensitive issue. Ethnic Fijians communally held over 80 percent of land, the Government held another 8 percent, and the remaining land was freehold. Ethnic Fijians' traditional beliefs, cultural values, and self-identity are tied to the land. Most cash crop farmers were Indo-Fijians, who leased land from the ethnic Fijian landowners through the Native Land Trust Board. Many Indo-Fijians, particularly farmers, believed that the absence of secure land tenure discriminated against them. A number of agricultural landlord and tenant agreement leases have expired, and many more will expire in the next few years. Racial tensions and grievances over low rents for agricultural lands resulted in several highly publicized illegal evictions of Indo-Fijians and reoccupations of land by native Fijian landowners. There were also several cases of Fijian landowners extorting so-called goodwill payments from their Indo-Fijian tenants. Almost none of these violations were prosecuted. The appointment of a respected moderate as head of the Native Land Trust Board during the year assuaged ethnic tension over land issues somewhat.

The Government pressed strongly for changes in the existing Agricultural Land Tenure Agreement (ALTA) to accommodate landowner concerns; however, lacking sufficient support to amend the ALTA, Parliament took no action on the matter during the year.

During the year, the Government implemented a new Rural Housing Assistance Scheme that, unlike the previous housing assistance plan, limited benefits to indigenous communities.

The minority Chinese community continued to grow dramatically, primarily through illegal immigration. There was a steep rise in illegal activities, including murder, that allegedly were connected to Chinese organized crime. A special police unit, the Asian Crime Unit, investigated criminal activity within the ethnic Chinese community.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law protects the right of workers to form and join unions, elect their own representatives, publicize their views on labor matters, and determine their own policies, and the authorities respected these rights in practice. However, the law permitted restrictions to these rights in the interests of defense, public safety, public order, public morality, or public health, or to protect the rights and freedoms of other persons. An estimated 55 percent of the wage-earning workforce was unionized.

All unions must register with, but are not controlled by, the Government. The only central labor body is the Fiji Trades Union Congress (FTUC), which in the past was associated closely with the opposition Fiji Labor Party; unions operated under its auspices. In recent years, the FTUC has adopted a more independent political stance. In August some unions broke away from the FTUC and formed a new labor group, the Fiji Island Council of Trade Unions. While certain unions remained ethnically based, both Indo-Fijians and ethnic Fijians held leadership roles in the trade union movement.

Unions can affiliate internationally; the FTUC is affiliated with the International Confederation of Free Trade Unions and the International Labor Organization (ILO).

In December the Government, the FTUC, and the Fiji Employers' Federation signed a letter of intent reaffirming their commitment to respect the fundamental principles and rights contained in eight core ILO conventions.

*b. The Right to Organize and Bargain Collectively.*—Workers have the right to organize and bargain collectively. Employers are required to recognize a union if more than half of the employees in a workplace have joined it. The Government has the power to order recalcitrant employers to recognize unions, and has done so. Union recognition occurs when a fixed percentage of workers sign membership cards; no ballots are held to determine representation. Key sectors of the economy, including sugar and tourism, were heavily unionized. However, there were no laws to protect workers who organized unions in a factory. While the law encouraged unionization, union organizers' jobs were not protected. Since employers reserved the right to fire union organizers, some workers were afraid to unionize. Thus unions were effective bargaining tools for older, more established industries, such as sugar and mining, but less effective for newer industries, such as the garment industry. Wage negotiations were generally conducted at individual companies rather than on an industry-wide basis.

Strikes are legal, except in connection with union recognition disputes, and trade unions can conduct secret strike ballots without government supervision. In order to carry out a legal strike, organizers must give the employer 28 days' notification. The Ministry of Labor also must be notified of the dispute and receive a list of all striking employees, the starting date of the strike, and location of the strike. This information gives the organizers, unions, employers, and Ministry of Labor time to resolve the dispute prior to a strike. There were 10 industrial disputes during the year, including a strike by Air Pacific workers in July following a refusal by Airports Fiji Limited to recognize the Fiji Public Service Association despite a High Court decision. Most disputes were settled by referral to a Permanent Arbitrator. Both employers and unions made unreasonable requests that prolonged labor disputes. During a September "Summit on Quality" by the Fiji National Training Council, Labor Minister Kenneth Zinck stated that militant unions made it difficult to improve the country's productivity. Union officials operated without interference during the year.

Export processing zones (EPZs) are subject to the same laws as the rest of the country. However, the FTUC has been unsuccessful in obtaining collective bargaining agreements in EPZs and claimed that intimidation of workers by employers was widespread. The FTUC argued that because of illegal and intimidating prac-



tices, including threats of loss of work for those active in organizing workers, unions were effectively prevented from representing workers in the EPZs.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution specifically prohibits forced or bonded labor, including by children, and there were no confirmed reports that such practices occurred. However, media reports and NGOs have alleged that work conditions in some garment factories might include forced or bonded labor and excessive work hours. In November there were media reports of PRC women subjected to bonded labor at a garment factory.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Government has adopted some laws to protect children from exploitation in the workplace, but enforcement of these laws was lax. Children under the age of 12 could not be employed in any capacity. Children under age 15 could be employed only outside of school hours in family enterprises, and not in the industrial sector. Young persons between the ages of 15 and 17 could be employed in certain occupations not involving heavy machinery, with specified hours and rest breaks. In practice enforcement of these regulations by the Ministry of Labor was generally ineffective. There were only two inspectors at the Ministry of Labor, who conducted regular annual workplace inspections, and no investigators to follow up claims or reports of violations. During the year, migration of rural youth to urban areas continued, and youths continued to find employment in the informal sector, including work as shoeshine boys, casual laborers, and in prostitution.

The Government has not ratified ILO Convention 182 on the worst forms of child labor. The law does not define the worst forms of child labor. The laws implementing and enforcing child labor regulations were insufficient; there were no adequate enforcement remedies and no comprehensive policy to eliminate the worst forms of child labor.

*e. Acceptable Conditions of Work.*—There was neither a national minimum wage nor a limit on maximum hours for working. Certain sectors had minimum wages set by the Ministry for Labor. Minimum wage levels provided a sparse but adequate standard of living for a worker and family in all sectors other than the garment industry. There were no regulations on maximum hours of work for adult males. Other than a prohibition from working in mines, there were no limitations on female employment. Workers in some industries, notably transportation and shipping, worked excessive hours. Factory housing for garment workers was overcrowded.

There are workplace safety regulations, a Worker's Compensation Act, and an accident compensation plan. However, government enforcement of safety standards suffered from a lack of trained personnel and lags in compensation hearings and rulings. Unions generally monitored safety standards in organized workplaces, yet many work areas did not meet standards and were not monitored by the Ministry of Labor for compliance. By law employees have the right to remove themselves from a hazardous work site without jeopardizing their employment, but most feared the loss of their jobs if they did so. The ILO maintained an office in Suva.

There were a growing number of nonunionized and sometimes illegal immigrant workers (predominantly ethnic Chinese), particularly in the garment sector.

*f. Trafficking in Persons.*—There are no laws that specifically address trafficking in persons, although laws against procuring a woman to become a prostitute, kidnaping, and bonded and forced labor could be used to prosecute traffickers. There were no substantiated reports of trafficking in persons to, from, or within the country during the year.

There was an increase during the year in persons arriving in or transiting the country with altered or falsified travel documents; the police believed that an organized Asian criminal network in the country coordinated these and other illegal movements of persons. However, most appeared to be economic migrants rather than victims of trafficking. Police have received unsubstantiated reports of the use of forced labor from the PRC in the garment factories in Western Viti Levu, the country's largest island. However, law enforcement has made no arrests and has not investigated the reports. There were media reports during the year of PRC women forced to work as bonded laborers in a garment factory.

A 2001 police report reported increases in the number of street children engaged in prostitution; child prostitution, along with prostitution in general, appeared to increase during the year and affected both the ethnic Fijian and Indo-Fijian communities. There were no confirmed reports that children were trafficked to or from the country for this or any other purpose.

The Government did not sponsor or provide assistance to any programs to combat or prevent trafficking in persons.

## INDONESIA

Indonesia is a republic. The country has a presidential system with three branches of government. The President is the Head of State and serves a 5-year term for a maximum of two terms. In July 2001, Vice President Megawati Soekarnoputri succeeded President Abdurrahman Wahid after he was impeached. The Cabinet consists of 30 Ministers. The People's Consultative Assembly (MPR) is the supreme legislative body and has the power to amend the Constitution. The MPR includes the entire 500 member House of Representatives (DPR), which enacted legislation and appointed regional members. The Government continued to make progress in its transition to a more pluralistic and representative democracy during the year. Since 1999 the MPR has adopted four major constitutional amendments. The Third Amendment was passed in 2001, and the Fourth Amendment, which was passed during the year, provide for direct election of the President and Vice President; create a new legislative body to be made up of regional representatives; and abolish all appointed seats in the legislature, including those for the military (TNI) and the police, known together as the security forces. Some implementing legislation pertaining to these two amendments still was pending at year's end. The amendments established the executive as a separate branch of the Government answerable to the country's citizens rather than to the MPR. During the year, a major decentralization program continued to empower district governments. The Constitution provides for an independent judiciary; however, in practice the courts remained subordinate to the executive.

The TNI is responsible for external defense and the police are responsible for internal security. However, in practice, the division of responsibilities continued to be unclear, with the military playing an overlapping role in internal security matters, particularly in conflict areas such as Aceh, the Moluccas, Central Sulawesi, and Papua (formerly known as Irian Jaya). A civilian defense minister supervises the military, but in practice only exercises limited control over military policy and operations. The TNI continued to wield significant political influence and occupied 38 appointed seats in the DPR. Police and soldiers occasionally clashed, sometimes resulting in the deaths of security force members as well as civilians. Members of the security forces, particularly the Army's Special Forces (Kopassus) and the Police Mobile Brigade (Brimob), committed many serious human rights violations, including extrajudicial killings, torture, rape, and arbitrary detention.

During the year, the economy, which increasingly was market-driven, grew from 3 percent to 3.5 percent; the Government stabilized the country's currency, the rupiah, and reduced annual inflation to 10 percent. A more stable currency encouraged trade, while lower inflation boosted consumption. Government statistics, however, reported 8 million persons unemployed and another 30 million persons underemployed out of a total population of approximately 230 million persons. Per capita gross domestic product (GDP) was \$688 in 2001. Large disparities in the distribution of wealth and political power contributed to social tensions and continued to create demands for greater regional autonomy.

The Government's human rights record remained poor, and it continued to commit serious abuses. Soldiers and police murdered, tortured, raped, beat, and arbitrarily detained both civilians and members of separatist movements. These abuses were most apparent in Aceh Province, on the northwest tip of Sumatra, where members of an ongoing separatist movement killed at least 898 persons, both combatants and non-combatants, during the year. Human rights violations in Aceh were frequent and severe during the year. On December 9, in Geneva, the Government and the separatist Free Aceh Movement (GAM) signed a Framework Agreement on Cessation of Hostilities. Security force members also committed severe abuses in other conflict zones such as Papua, the Moluccas, and Central Sulawesi, but at reduced levels compared with the previous year. In Papua members of the TNI and the Brimob committed assaults, rapes, and supported militias, which raised fears of interreligious conflict. During the year, the Government detained and named as suspects seven soldiers for the killing of Papuan pro-independence leader Theys Hiyo Eluay. The Government also arrested seven men, including GAM member Tengku Don, in connection with the killings of prominent Acehnese.

Retired and active duty military officers who were known to have committed serious human rights violations occupied or were promoted to senior positions in both the Government and the TNI. By year's end, the East Timor Ad Hoc Tribunal on Human Rights had found only one member of the security forces—Army Lt. Col. Soedjarwo—guilty of crimes against humanity. Soedjarwo was convicted and sentenced to 5 years in prison for failing to prevent attacks by anti-independence militiamen against the Dili residence and office of Archbishop Carlos Belo in September 1999, which killed at least 13 civilians (*see* Section 1.e.). During the year, the tri-

bunal completed 14 out of 18 trials and convicted only 3 defendants—Soedjarwo, former East Timor Governor Abilio Soares, who was sentenced to 3 years in prison, and fellow ethnic East Timorese Eurico Guterres, former leader of the Aitarak militia, who was sentenced to 10 years in prison. All three remained free pending appeals at year's end. The tribunal's performance reinforced the impression that impunity would continue for soldiers and police who committed human rights abuses.

Terrorists, civilians, and armed groups also committed serious human rights abuses. On October 12, two bombs exploded in the Bali tourist enclave of Kuta, killing 186 and injuring 328 persons. The Government subsequently issued a regulation that expanded the Government's power to detain and prosecute suspected terrorists. A government investigation resulted in the arrest of 15 suspects in the Bali attack. On August 31, in Papua, unidentified gunmen killed 3 persons, including 2 foreigners, and injured 12 others when they ambushed a civilian convoy near the Freeport mine. In resource rich Aceh, GAM rebels killed, tortured, raped, beat, and illegally detained civilians and members of the security forces.

The eastern part of the country experienced widespread abuses, particularly in the Moluccas and in Central Sulawesi, where ongoing conflicts between Muslims and Christians resulted in violence, segregation, and displacement. The number of serious abuses there, however, declined sharply from the previous year. During the year, conflicts in the Provinces of Maluku and North Maluku killed an estimated 75 persons and prevented at least 300,000 displaced persons from returning home. In Central Sulawesi, violence resulted in the deaths of dozens of persons and kept approximately 70,000 displaced persons from returning home. In Kalimantan occasional killings occurred during clashes between indigenous Dayaks and ethnic Madurese migrants, although the overall level of violence fell sharply from the previous year.

Despite the reduced death toll in most conflict zones, the Government largely failed to deter social, interethnic, and interreligious violence. Mob vigilante action and religious groups purporting to uphold public morality continued to dispense "street justice." Meanwhile, extremist groups increasingly limited freedom of expression by intimidating or attacking news organizations whose content they found objectionable. The DPR passed a restrictive Broadcasting Bill, which alarmed journalists and activists who called it a major threat to press freedom. During the year, the Government strengthened its legal framework to protect children by passing the Child Protection Act and other related forms of legislation; however, child labor and sexual abuse remained major problems, and implementation of the law remained weak. The Government continued to allow new trade unions to form and to operate, but it frequently failed to enforce labor standards or address violations of worker rights. Trafficking, particularly for prostitution, remained a significant problem. Indonesia was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The security forces continued to employ harsh measures against rebels and civilians in separatist zones where most politically motivated extrajudicial killings occurred. The security forces also committed numerous extrajudicial killings that were not politically motivated. The Government largely failed to hold soldiers and police accountable for such killings and other serious human rights abuses.

In Aceh, where separatist GAM rebels remained active, military and police personnel committed many extrajudicial killings and used excessive force against non-combatants as well as combatants; at least 898 persons were killed during the year. This figure included civilians, rebels, and security force members, with civilians accounting for most of the fatalities. However, security forces and rebels gave conflicting information on victims' identities, making it difficult to determine the breakdown of civilian, rebel, and security force deaths. Many of the killings appeared to be executions. The Government and the GAM accused each other of killing captured combatants, and there was evidence to support such claims. Press reports undercounted the number of casualties, and some deaths never appeared in the newspapers. Police rarely investigated extrajudicial killings and almost never publicized such investigations.

On June 7, on Kayee Ciret Mountain in Aceh, TNI soldiers shot and killed two farmers and wounded five others in a raid on a hut in an area suspected as a hide-out for GAM rebels. The attack occurred at dawn, while the farmers slept. On August 3, in the north Aceh village of Kandang, six gunmen stormed into a number

of houses and shot and killed three local women. The GAM accused the Brimob of carrying out the attack because relatives of the victims had links to the GAM. The security forces rejected this allegation, but the NGO Central Information for Aceh Referendum (SIRA) reported that a group of Brimob visited the village on the night in question. Village witnesses identified the gunmen as police and recognized the group's leader, Syarifuddin, a sergeant feared for his alleged brutality. On December 1, in Banda Aceh, a group of unidentified men kidnaped a 26-year-old human rights activist of the Coalition for West Aceh Students Movement (Kagempar). Three days later, villagers found his mutilated body face-down in the water underneath a bridge. Reliable sources said the young man's skull had been penetrated repeatedly with a screwdriver.

Police in Aceh did not announce the results of any investigations into extrajudicial killings carried out by the security forces in previous years. In addition, the Government released soldiers suspected of involvement in the December 2000 slaying of three NGO workers in North Aceh because the suspects already had served the maximum period of detention before trial. During the year, credible sources in North Aceh spotted civilian suspects in the same case who had disappeared from police custody in 2001.

Numerous killings that occurred in Aceh during the year could not be clearly attributed to either the security forces or the GAM rebels. For instance, on March 16, unidentified assailants shot and killed six persons in the town of Lombaro Angan, Aceh Besar district, after 30 police were ambushed while searching for GAM rebels. Local residents said the victims all were politically inactive farmers who were killed while working in a rice field. GAM spokesman Ayah Sofyan later indicated that one of the six persons killed was a GAM member. On September 4, in the village of Gumpueng Tiro, Pidie regency, unidentified persons stopped a public minivan, abducted two high school girls, took them to a nearby forest, and fatally shot them. According to the local press, unidentified gunmen also shot and killed 14 teachers during the year; it was unclear who was responsible for killing schoolteachers in the province.

Investigation continued into the August 2001 massacre of 31 persons at a palm oil plantation run by PT Bumi Flora in Idi Rayeuk, East Aceh. The National Commission on Human Rights (KOMNASHAM) formed an investigation team (KPP HAM), whose members visited the site in July. The team examined evidence, spoke with local residents and met with officials. However, the team did not announce the results of the investigation. Human Rights Watch (HRW) released a report containing the text of interviews with witnesses to the slaughter and noted that "all of the witnesses believed that the Indonesian Army was responsible for the killings."

During the year, GAM members killed many police, soldiers, civil servants, politicians, and other Aceh residents. Although many Acehnese feared and resented the security forces because of their involvement in human rights abuses, local support for the GAM declined during the year, according to neutral Aceh-based observers. The GAM alienated large segments of Acehnese society through a campaign of extortion and kidnaping for profit. On January 31, in Lhokseumawe, suspected GAM members shot and killed Dr. Murdan, as he headed to work at a hospital in the community of Cut Meutia. The killing had a ripple effect, as it discouraged paramedics from providing services to that area. On March 6, at a coffee plantation in the central Aceh town of Linge, GAM rebels apprehended, questioned, and killed Sarifuji, an ethnic Javanese. The GAM subsequently claimed responsibility. The GAM acknowledged that on April 9, its forces shot and killed two soldiers as they traveled by motorbike near the north Aceh town of Kuala Meuraksa. The soldiers' two rifles were captured in the raid, which the GAM acknowledged carrying out. During the year, police made progress in investigating some killings allegedly committed by the GAM. However, the overall amount of progress disappointed NGOs and legal experts. GAM leaders accused the security forces of executing captured rebels, without benefit of a trial. On June 26, Aceh's police chief announced the arrest of seven men, including GAM rebel Tengku Don, in connection with the killings of prominent Acehnese. The police accused Tengku Don of involvement in the September 6, 2001 killing of Dayan Dawood, rector of Banda Aceh's Syiah Kuala University, who was shot after offering to mediate between the GAM and the Government. Tengku Don allegedly possessed one of the pistols used in the killing, and there were indications that the attack was criminally motivated. In August a court convicted five GAM separatists of carrying out an arson attack in Takengon, Central Aceh. The lead conspirator received a 16-year term, while the others, who did not take part in setting the blaze, were sentenced to 10 months in jail. Police did not publicize any other investigations into killings allegedly committed by the rebels in Aceh.

The Government did not announce the results of its investigation into the 2001 killings of Aceh provincial legislator Zaini Sulaiman and prominent politician Teungku Johan. The Government also did not announce any results from its alleged investigations into the deaths of Sukardi, Sulaiman Ahmad, Jafar Siddiq Hamzah, Tengku Safwan Idris, or NGO activist Nashiruddin Daud, all killed in 2000.

In Papua, where separatist sentiment remained strong and a low-intensity conflict continued between the TNI and armed rebels of the Free Papua Movement (OPM), there were no verified cases of politically motivated killings by the security forces during the year; however, many such killings were alleged. There also were deaths that many indigenous Papuans found suspicious. On January 22, in Bonggo, Papua, Kopassus troops shot and killed Leisina Yaneiba, a clerk at a logging company. She had intervened in an altercation between Kopassus guards and a former employee, Martinus Maware, whom the TNI alleged was an OPM rebel (*see* Section 1.b.). On June 21, in the Papuan city of Wamena, Dani tribal chief Yafet Yelemaken died following a trip to Bali, where he had met a police acquaintance; friends concluded that the policeman poisoned Yelemaken during a visit to his hotel room. Despite widespread media coverage, no physical or factual evidence supported this theory. In August on the Papuan island of Biak, NGOs, religious groups, and Adat (traditional) councils accused the military of killing at least three Papuans. Hospital records indicated, however, that two of the persons in question drowned at sea and the third died in a road accident. On August 31, unidentified assailants killed three persons, including two foreigners, and wounded 12 others in an attack close to a large gold and copper mine near Timika, in Papua. The victims were teachers on a recreational outing. Several people dressed in military fatigues reportedly stopped the teachers' convoy in a heavy fog on the Tembagapura-Timika road and fired at the vehicles at close range. The Government quickly alleged that OPM had carried out the attack; the group denied responsibility. During the course of the initial police investigation, senior police officials were quoted in the press about indications that soldiers were involved in the attack. The initial police probe and subsequent military follow-up investigations were followed at year's end by a joint police-military investigation. In addition, the Government agreed to incorporate assistance from the United States Federal Bureau of Investigation.

On June 9, police arrested highland leader Benny Wenda in connection with a December 2000 attack in the northeastern Papuan community of Abepura, which resulted in the deaths of two police officers and one security guard. On October 26, Wenda escaped from prison and was on the run at year's end.

The Government made progress in its investigation into the November 2001 killing of Papuan pro-independence leader Theys Hiyo Eluay, who was found dead in his car outside the provincial capital, Jayapura. Based on a February 5 presidential decree, the Government set up a National Investigation Committee (KPN) made up of government and civil society members to probe the killing. The team traveled to Papua on February 25, and on March 19, the military announced that soldiers had been declared suspects in the case. The KPN delivered its findings to President Megawati on April 29, classifying the killing as an ordinary crime, not a gross human rights violation. The two Papuan KPN members and other Papuan groups rejected this finding, and urged KOMNASHAM to investigate it as a state crime. The Government initially detained nine Kopassus members in connection with the killing and investigated three additional suspects. At year's end, seven soldiers remained suspects, but none of them had been tried.

Other government investigations in Papua made little progress. Police made no perceptible headway in their probe of the 2001 disappearances and suspected killings of Willem Onde, leader of the Papua Liberation Front Army (TPNP), and his friend, Johannes Tumeng. Bodies believed to be theirs and bearing evidence of gunshot wounds were found floating in the Kumundu River with their hands bound. The Government did not report any progress in its investigation into the alleged police killings in 2001 of 12 civilians in the northwest Papua city of Wasior. NGOs claimed the Brimob carried out the killings in revenge of a June 2001 attack on a police post that left 5 police officers dead. Unknown persons returned three of the six weapons seized during that attack following negotiations between police and community leaders. Negotiations for the return of the remaining weapons continued at year's end. In a related case, the Government announced no progress in its probe into the earlier alleged police killings of six Papuan civilians in Wasior in May 2001. The six were apparently returning home from a celebration when they were killed.

In the western Java Province of Banten, on March 23, seven members of the Presidential Guard reportedly kidnaped and then killed Endang Hidayat, village chief of Binuangun, in Lebak regency. Evidence suggested that the guardsmen killed Endang because he had informed police that one of the guards had purchased stolen motorcycles.

Occasional clashes between the police and military resulted in civilian deaths as well as fatalities among the security forces. Chronically underfunded soldiers and police clashed periodically over control of criminal enterprises, including drugs, gambling, illegal logging, and prostitution. In September in the north Sumatran town of Binjai, an armed confrontation between soldiers and police left seven police, one soldier and three civilians dead, and at least four civilians injured. The dispute reportedly began when police arrested a soldier for selling the drug ecstasy. On October 2, Army Chief of Staff Ryamizard Ryacudu dishonorably discharged 20 soldiers who were involved in the dispute. On December 18, a military tribunal sentenced 9 of those soldiers to between 5 months and 30 months in prison.

Police and soldiers clashed 23 times during the year, a decrease of at least 35 percent from the same period a year earlier. During the year in Entiekong, West Kalimantan, a shootout between police and soldiers caused an unknown number of casualties. The clash reportedly occurred when police tried to close a TNI protected gambling operation. On August 12, in the West Java village of Cicurug, Bogor Regency, a brawl between police and soldiers left one policeman dead and three injured. The clash reportedly occurred after police tried to rescue an alleged pick-pocket who was being beaten by troops.

Police frequently used deadly force to apprehend suspects. On September 25 in Makassar, South Sulawesi, police were criticized for fatally shooting Iwan, a suspected gang member, who was in their custody. Police claimed they shot him when he tried to escape; however, an autopsy showed he was shot five times at close range. The Legal Aid Society (LBH) condemned the killing. Reliable statistics on the use of deadly force by police were not available. Senior police officials said they punished officers who used excessive force, but such punishments were not made public. On December 31, the Jakarta police chief said his office fired or suspended 107 officers during the year for misconduct, but he did not identify the types of misconduct. The police did not announce the results of any probe of excessive force from previous years.

The Government followed up on widespread killings in East Timor in 1999 by holding trials under the East Timor Ad Hoc Tribunal on Human Rights; however, the Government failed to prosecute the cases effectively (*see* Section 1.e.).

Of the six former East Timorese militia members who were convicted of killing three UNHCR workers in December 2001 in Atambua, West Timor, two were freed on their own recognizance, according to a reliable source who spotted them during the year. The law allows for appeals of Supreme Court decisions, but the six had not filed an appeal by year's end.

On March 7, the Central Jakarta Criminal Court sentenced former East Timor militiaman Jacobus Bere to 6 years in prison for the 2000 killing of New Zealand U.N. peacekeeper Leonard Manning. Prosecutors had sought a 12-year term. The presiding judge offered no explanation for the light sentence, and the prosecution vowed to appeal but had not done so by year's end. On March 20, the court acquitted three of Bere's accomplices.

During the year, there was no progress in the high profile Semanggi and Trisakti cases. In May 1998, four students at Jakarta's Trisakti University were shot dead, and a number of police officers were implicated. Six months later, also in Jakarta, at least nine demonstrators were shot dead at the Semanggi interchange. In 2002 efforts by KOMNASHAM to move the cases forward met with tremendous resistance from the military, police, Attorney General's office, and DPR. The security forces and many lawmakers maintained that the incidents were criminal and did not constitute major human rights abuses. The Attorney General's office twice returned case dossiers to KOMNASHAM, stating they were incomplete.

In the eastern Provinces of Maluku, North Maluku, and Central Sulawesi, ongoing communal conflicts between Christians and Muslims continued, but at a much lower level than in previous years. Nevertheless, civilians and sectarian civilian militias committed scores of extrajudicial killings. The reduced death toll in those areas resulted mainly from the heavy deployment of security forces and, to a lesser extent, from government-brokered peace agreements between the two sides.

In January 1999, intense sectarian fighting erupted in Maluku and North Maluku, where the population was roughly evenly divided between Christians and Muslims. The fighting followed years of simmering political, economic and territorial tension, and, according to some observers, recent provocation by outsiders. The catalyst most often cited was a dispute between a Christian bus driver and a Muslim passenger. The dispute degenerated into a street brawl and 2 months of rioting, leaving hundreds of persons dead in the Maluku capital, Ambon. The city fragmented into a number of guarded religious enclaves patrolled by militias. The military inserted an elite force, but by 2000 and 2001, virtually no Moluccan island had been spared from the interreligious conflict. In May 2000, thousands of members of

the Java-based Islamic extremist group Laskar Jihad (LJ) arrived in the Moluccas to fight alongside fellow Muslims, escalating the violence to a new level. Scholars said LJ polarized many citizens along religious lines and reversed a conflict in which the Christians previously had had the upper hand. By the end of 2001, inter-religious fighting in the Moluccas had killed thousands of persons and displaced hundreds of thousands.

On February 11 and 12, the Moluccan Christian and Muslim communities reached an agreement to work for peace. A major insertion of security forces bolstered the Government-brokered accord, known as Malino II. Violence subsided quickly and a fragile peace emerged, bringing some stability. On April 28, however, a gang of masked men entered the Christian Ambonese village of Soya and killed at least 12 residents. The attack came hours after LJ's commander, Ja'far Umar Thalib, delivered an incendiary speech, saying there would be no reconciliation with Christians, and that Muslims must prepare for combat. The Government arrested Thalib on May 4 and put him on trial on August 15 for inciting religious violence, insulting the Government, and humiliating the President. On December 19, prosecutors requested that judges sentence Thalib to 1 year in jail, a sentence that some human rights activists rejected as too light. The trial was ongoing at year's end. On October 15, LJ closed its headquarters, and Thalib and other LJ officials later confirmed that the group had been dissolved. Hundreds of former members subsequently left Ambon. On May 25, unidentified attackers in two speedboats opened fire on the passenger ferry Oyo Star off Haruku island and killed five Christians. At year's end, the shaky peace remained in place, but violence in the Moluccas had killed approximately 75 persons and prevented at least 300,000 displaced persons from returning home during the year.

Historically, Central Sulawesi has shared certain similarities with the Moluccas, including an evenly divided population of Christians and Muslims and political and economic tensions. In April 2000, in the city of Poso, communal violence quickly escalated. Mobs killed numerous persons and destroyed vehicles and homes. LJ leveled entire villages, some of them Christian and some of which were home to Hindu migrants from Bali. Muslim and Christian religious leaders were accused of incitement. On September 10, police arrested Christian leader Rinaldy Damanik after they found firearms and ammunition in a vehicle in which he was travelling. Observers said Protestant and Muslim groups overreacted to violent incidents, with the effect that reciprocal attacks became exponentially more lethal. By the end of 2001, interreligious violence in the province had killed approximately 2,000 persons and displaced more than 100,000 persons.

In December 2001, the Government's deployment of 4,000 elite soldiers and police helped dissipate the violence in Central Sulawesi in the wake of the Malino I peace agreement between the province's Christian and Muslim communities. Special police units that kept LJ fighters in check helped to reduce the bloodshed. During the year, amid a heavy security force presence, peaceful conditions prompted many internally displaced persons (IDPs) to return to their homes in the province. Residents removed many barricades, and the local economy revived. However, on June 5, a bomb exploded aboard a crowded passenger bus, killing five persons, including a Protestant minister. The Government responded by inserting additional security forces, which reinstated a fragile peace that held for the rest of the year. During the year, violence in Central Sulawesi killed dozens of persons and prevented at least 113,000 IDPs from returning home, mostly in the Poso area.

In Kalimantan ethnic tensions continued, mainly between indigenous Dayaks and ethnic Madurese settlers. However, the two groups largely avoided bloodshed, unlike in 2001 when Dayaks killed hundreds of Madurese. However, some killings occurred, including the May 26 decapitation of an elderly Madurese man in the Kapuas district of Central Kalimantan (see Section 5). In late July, at least three Madurese were beheaded in the province, but police concluded that those killings were motivated criminally. In August the Norwegian Refugee Council (NRC) reported that approximately 41,000 persons in West Kalimantan were displaced. Virtually all were Madurese, most of whom were driven out of the city of Sambas in 1999 or 2000 and fled to Pontianak, capital of West Kalimantan. The Government relocated many to resettlement sites outside of Pontianak. Madurese groups, including the Madurese Students Association, criticized the Government for relocating Madurese IDPs to new sites, instead of escorting them back to the land they legally owned and ensuring their safety. The Government did not announce any progress in its investigation into the 2001 killings of ethnic Madurese.

Bombs exploded in or near the cities of Ambon, Banda Aceh, Bandung, Denpasar, Jakarta, Kuta, Manado, Medan, Palu and Poso, among others. On August 1, in Jakarta, a car bomb exploded, wounding the Philippine Ambassador and killing an Embassy guard and a woman who happened to be passing by the area. By year's

end, it was still unclear who had carried out the attack, and investigators had not made any arrests. On September 23, in Jakarta, a grenade exploded inside a car as the occupants passed near a residence owned by a foreign embassy, killing the man handling the grenade and injuring the driver and another man, who both fled. The initial police statement indicated that this was a failed attack against a foreign diplomatic residence. Police subsequently captured three suspects. A government investigation continued at year's end. On October 12, two powerful bombs exploded in an entertainment district of Kuta, Bali, killing at least 186 persons, many of them foreign tourists. The bombings also injured 328 persons and destroyed 53 buildings. According to a senior police official, the incident was the most lethal terrorist attack in the country's history. Investigators subsequently arrested 15 suspects, at least 3 of whom reportedly acknowledged ties to Jemaah Islamiyah (JI), a terrorist group linked with al-Qa'ida. The investigation continued at year's end.

The Government made some progress in pursuing justice for previous bombings. On July 24, the Jakarta High Court handed a 20-year sentence to Malaysian citizen Taufik bin Abdul Halim for the August 2001 bombing of the city's Atrium shopping complex, which seriously injured six persons. Abdul Halim was carrying the bomb when it exploded prematurely. At year's end, the Supreme Court was reviewing his case. On July 18, the Supreme Court extended the prison term of 1 of 4 men convicted in the September 2000 bombing of the Jakarta Stock Exchange, which killed 15 persons. The court rejected the appeal by Tengku Ismuhadi Jafar and changed his 20-year sentence to life imprisonment. On October 19, the Government announced the arrest of alleged JI leader Abu Bakar Ba'asyir in connection with the 38 bombs that exploded across the archipelago on Christmas Eve 2000, which killed 19 persons and injured at least 120 others. The investigation continued at year's end.

Mobs carried out vigilante justice on many occasions, but reliable nationwide statistics were not available. Incidents of theft or perceived theft triggered many such incidents. On June 14, in the north Jakarta community of Tanjung Priok, pedicab drivers beat and severely injured two municipal guards. On June 20, in the West Java city of Tangerang, a mob burned to death a man who had allegedly stolen a television and a VCD player from a house. The man's fingers were removed, making a positive identification of the body more difficult. On August 26, hundreds of residents of the West Java town of Majalengka attacked and killed two plainclothes policemen suspected of stealing motorbikes. The victims were investigating reports of motorbike theft. On September 9, in the same city, a mob fatally assaulted a local resident after he attacked a motorcycle taxi driver and tried to steal the vehicle.

*b. Disappearance.*—According to the Committee for Missing Persons and Victims of Violence (Kontras), large numbers of persons who disappeared over the past 20 years, mainly in conflict areas, remained unaccounted for at year's end. In addition, hundreds of new disappearances were reported. Many of the disappearances occurred in Aceh, where according to the Aceh branch of Kontras, approximately 224 persons disappeared during the year.

At least three other disappearances took place in Papua. Some disappearances were motivated politically, while in other cases persons were kidnaped for ransom. Human rights organizations accused police and soldiers in Aceh of involvement in many of the disappearances; however, GAM also kidnaped many civilians for ransom. In many cases, little or no information was available regarding a victim's sudden disappearance. On January 28, in the village of Kuala, West Aceh, three adults and one infant disappeared while enroute to a plantation where the adults worked. On February 13, the village chief of Lhok Leubu, Pidie regency disappeared while returning from a shopping trip to a neighboring town. The Government did not take significant action to prevent the security forces from kidnaping civilians.

GAM rebels kidnaped and subsequently freed many people during the year. On June 30, suspected GAM rebels hijacked the Pelangi Frontier, a supply ship operating off the northern coast of Aceh, and took nine crewmen hostage. They released the crew a week later, with a statement that the release was based on confirmation that the crew was not associated with the military. Credible sources said that no ransom was paid. Also in June, the security forces accused the GAM of kidnaping nine athletes who were returning to the Acehese town of Sigli from a sports competition in the city of Medan. According to a credible witness, armed rebels stopped the athletes' vehicle and released the driver and his assistant, but detained the athletes. In July they were released and no ransom was paid. The GAM denied responsibility and stated that the TNI had fabricated the story. In January in Peureulak, East Aceh, the GAM kidnaped and detained for 4 months nine high school students who were accused of spying for Brimob. The kidnappings came after soldiers located and killed three GAM rebels. One detainee alleged she had been raped. The Govern-



ment did not investigate this allegation during the year and failed to announce any progress in investigations into other GAM-linked disappearances during the year.

The Government did not take significant action to prevent security force members from carrying out kidnappings. According to a credible human rights activist, police and soldiers in Aceh frequently and illegally detained citizens. The activist said dozens were held at any given time. It was unclear whether any such detainees died in custody during the year.

A number of ethnic Papuans disappeared during the year. On February 21, Martinus Maware, a former logging company employee and suspected OPM member, disappeared while under heavy guard at a military hospital, where he was being treated after soldiers guarding the company shot him in the leg during a dispute. On March 2, in the Central Java city of Salatiga, two men on a motorcycle kidnaped Mathius Rumbapuk, one of four students convicted of subversion for a December 2000 demonstration in front of a foreign embassy. Rumbapuk's friends alleged that the kidnapers were plainclothes policemen. There were no developments in the case of missing Papuan Hubertus Wresman, who was kidnaped from his parents' home by Kopassus troops in June 2001 according to Amnesty International (AI) and Wresman's relatives. The Institute for Human Rights Study and Advocacy (ELSHAM) reported that Wresman participated in an attack on a military post that killed four soldiers several months before he disappeared.

The Government made slight progress in its investigation into the July 1996 attack by hundreds of progovernment civilians and soldiers on the Jakarta headquarters of what was then the Indonesian Democratic Party (PDI); 23 persons disappeared and 5 persons died in the attack. In September Jakarta prosecutors said they had received three police dossiers on suspects, who finally were being placed on trial. Prosecutors returned two other dossiers to the police, which they described as incomplete. One named General Sutiyoso, Jakarta's military commander in 1996 and current Governor, as a suspect.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Criminal Code makes it a crime punishable by up to 4 years in prison for any official to use violence or force to elicit a confession. In practice, law enforcement officials widely ignored such statutes. Security forces continued to employ torture and other forms of abuse to produce confessions and as a form of punishment. Police often resorted to physical abuse, even in minor incidents.

During the year, the security forces committed numerous acts of torture in Aceh. According to the Aceh branch of Kontras, 1,472 persons were tortured in the province during the year. On May 6, the military released Acehese Rizki Muhammad, after more than 1 week of detention, during which soldiers allegedly clubbed and burned him with molten plastic. Kontras stated that on May 19, soldiers in the north Aceh village of Alue Dua visited the home of farmer Nurdin Doni, a suspected GAM member. When they learned he was not home, they broke his wife's feet and forced the couple's three children, aged 8 to 14, to stand in a fish pond for 3 hours. The Government did not hold anyone responsible, nor did it launch an investigation into the case. On May 24, a joint military/police squad questioned M. Thaleb, in the village of Meunasah Blouk, Blang Mangat subdistrict. The troops accused Thaleb of being a GAM member and tortured him, peeling some of the skin off his face and causing injuries to his lips and teeth. On June 6, in the north Aceh village of Jawa-Banda Sakti, three Brimob policemen entered the home of Syahrul Gunawan and inflicted severe injuries to his head, eyes, nose, and cheeks.

Police in Papua occasionally also tortured detainees, and in rare cases, their injuries resulted in death. On July 31, according to ELSHAM, Yanuaris Usi died in police custody as a result of torture.

Rapes, some punitive, occurred frequently in conflict zones. Human rights advocates blamed many of the rapes on soldiers and police. Statistics were unavailable, but credible sources provided a number of accounts that involved both soldiers and police. Kontras stated that in April, for an unknown reason, police arrested a 17-year-old girl at her home in the Acehese village of Ulee Blang. They forcibly intoxicated her with alcohol then raped her. An interfaith organization operating in Poso, Central Sulawesi, reported that high rates of depression among female IDPs because many had been raped and impregnated by Brimob members.

There were no reports during the year that East Timorese women were held against their will as sex slaves in West Timor, as had been alleged in previous years.

During the year, there was no progress in the Government's probe into the May 1998 civil unrest in Jakarta and other cities, which included attacks against Sino-Indonesian women. However, in December, KOMNASHAM set up a team to investigate the incident.

Occasionally Brimob personnel used arson as a form of punishment. On October 9, an Aceh police official said 40 police officers, some from Brimob, were questioned for allegedly burning down 80 shops and homes. None were prosecuted. Witnesses said police started the fires after GAM members killed two policemen. The GAM burned numerous rural schools and other government buildings during the year. Credible sources stated that GAM was implicated in the June 14 and 15 torching of seven schools, four of which were located in the city of Lhokseumawe.

During the year, Islamic extremists attacked a number of nightclubs, ostensibly to punish them for tolerating or promoting vice. The Islam Defenders Front (FPI) in Jakarta carried out many such attacks, during which prostitutes sometimes were assaulted. On March 7, the eve of the Islamic New Year, hundreds of FPI members attacked a pool hall in South Jakarta after approaching bars and discotheques in Central Jakarta and demanding that they close out of respect for the holiday. On June 26, approximately 200 FPI members smashed beer bottles, signs and windows in the popular Jaksa street area of Jakarta, in full view of police. On October 4, 400 FPI members attacked a billiard hall and discotheque in West Jakarta, angered that they were open on a Muslim holiday. Following those attacks, however, police arrested 13 FPI members and charged 8 of them with disturbing the peace. Community and religious leaders praised these arrests. On October 16, police also arrested FPI Chairman Habib Rizieq in connection with cases of vandalism and violence going back to 2000.

Prison conditions were harsh, with 12 inmates typically sharing a 2-meter by 4-meter cell. Guards regularly extorted money and mistreated inmates. The wealthy or privileged had access to better treatment in prison. In July Hutomo "Tommy Suharto" Mandala Putra started serving a 15-year sentence at Batu prison on the island of Nusakambangan, off of Java's south coast. Tempo magazine reported that his cell, unlike most, had a bathroom of its own and no bars on the windows. Prison authorities housed female inmates separately from men, but in similar conditions. Juveniles were not separated from adults. There was no official restriction against prison visits by human rights monitors. In practice, prison officials and guards rarely provided access, although the International Committee of the Red Cross (ICRC) visited convicted prisoners on occasion.

*d. Arbitrary Arrest, Detention, or Exile.*—The Criminal Procedures Code contains provisions against arbitrary arrest and detention, but lacks adequate enforcement mechanisms, and authorities routinely violated it. The code provides prisoners with the right to notify their families promptly and specifies that warrants must be produced during an arrest (except if, for example, a suspect is caught in the act of committing a crime). The law allows investigators to issue warrants, but, at times, authorities made arrests without warrants. No reliable statistics exist on how many arbitrary arrests and detentions took place during the year.

A defendant may challenge the legality of his arrest and detention in a pretrial hearing and may sue for compensation if wrongfully detained. However, it was virtually impossible for detainees to invoke this procedure or to receive compensation after being released without charge. Military and civilian courts rarely accepted appeals based on claims of improper arrest and detention. The Criminal Procedures Code also limits periods of pretrial detention and specifies when the courts must approve extensions, usually after 60 days. The courts generally respected these limits. The authorities routinely approved extensions of periods of detention.

In areas of separatist conflict, such as Aceh and Papua, police frequently and arbitrarily detained persons without warrants, charges, or court proceedings. The authorities rarely granted bail. The authorities frequently prevented access to defense counsel during investigations, and limited or prevented access to legal assistance from voluntary legal defense organizations. It was unclear whether any person died while in custody during the year.

On October 18, the Government issued two decrees on terrorism that allow it to use evidence from wiretaps, video recordings, and other surveillance previously inadmissible in court to fight terrorism (*see* Section 1.f.). The first decree loosened restrictions on evidence to prosecute terrorists; allowed up to 7 days of detention based solely on intelligence reports; and provided the police with authority to hold suspects for whom there was stronger evidence for 6 months without the authority of prosecutors or judges. The second decree stipulates that the first decree can be applied retroactively to detain suspects who were involved in the October 12 bombings. The country's largest Islamic organizations and parties across the political spectrum publicly supported the decrees. Some human rights NGOs raised concerns that the decrees could facilitate human rights abuses, but prominent human rights lawyers judged the safeguards were better than those in other parts of the Criminal Code.

In Aceh security forces routinely employed arbitrary arrest and detention without trial. On July 16, in Banda Aceh, local police took seven young members of the Acehese Women's Democratic Organization (ORPAD) into custody following a rally in which they expressed antigovernment views. The police released six of the seven women a day later, but continued to hold Raihana Diani, who helped organize the rally, through the end of the year. The authorities charged her with insulting the President, a violation of Articles 134 and 137 of the Criminal Code. On December 23, prosecutors demanded a sentence of 8 months. At year's end, Diani still was awaiting sentencing. On July 31, in Papua, Yanuarius Usi allegedly died in police custody as a result of mistreatment (*see* Section 1.c.). On September 26, police in Jakarta arrested and briefly detained anticorruption activist Azas Tigor Nainggolan. Tigor, Chairman of the Jakarta Residents Forum (FAKTA), allegedly slandered Jakarta Governor Sutiyoso by claiming that he had bribed city councilors.

On September 11, in southern Aceh, the TNI detained two foreign women in an area off limits to foreigners. The soldiers denied them Consular access and, according to the two women, punched and sexually harassed them. The TNI subsequently turned the two over to police, who transferred them to Banda Aceh, where they were charged with violating the terms of their tourist visas. On December 30, a court convicted them for violating the terms of their tourist visas, sentencing one to 4 months in prison and the other to 5 months.

On April 17, police in Jakarta released imprisoned Acehese student leader Fasial Saifuddin, pending appeal of his 1-year sentence for "spreading hatred toward the state." Saifuddin, of the NGO SIRA, had demonstrated in front of the United Nations (U.N.) building in Jakarta; he had served approximately 6 months of his sentence. In November 2001, police in Banda Aceh released from detention student leader Kautsar Mohammed, who was held on the same charge as Saifuddin.

The Constitution prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for judicial independence. However, in practice, the judiciary remained subordinate to the Executive and was often influenced by the military, business interests, and politicians outside of the legal system. The law requires that the Justice Ministry gradually transfer administrative and financial control over the judiciary to the Supreme Court by 2004. However, judges were civil servants employed by the executive branch, which controlled their assignments, pay, and promotion. Low salaries encouraged corruption, and judges were subject to pressure from governmental authorities, which often influenced the outcome of cases.

Under the Supreme Court is a quadripartite judiciary of general, religious, military, and administrative courts. The law provides for the right of appeal, sequentially, from a district court to a High Court to the Supreme Court. The Supreme Court does not consider factual aspects of a case, but rather the lower court's application of the law. The judicial branch was theoretically equal to the executive and legislative branches and had the right of judicial review over laws passed by the DPR, as well as government regulations and presidential, ministerial, and gubernatorial decrees.

At the district court level, a panel of judges conducts trials by posing questions, hearing evidence, deciding on guilt or innocence, and assessing punishment. Judges rarely reversed initial judgments in the appeals process, although they lengthened or shortened sentences. Both the defense and prosecution can appeal verdicts.

The law presumes that defendants are innocent until proven guilty and permits bail. Defendants have the right to confront witnesses and call witnesses in their defense. An exception is allowed in cases in which distance or expense is deemed excessive for transporting witnesses to court; in such cases, sworn affidavits may be introduced. Prosecutors were reluctant to plea bargain with defendants or witnesses, or to grant witnesses immunity from prosecution. As a result, many witnesses were unwilling to testify, particularly against government officials. The courts often allowed forced confessions and limited the presentation of defense evidence. Defendants did not have the right to remain silent and some were compelled to testify against themselves.

The Criminal Procedures Code gives defendants the right to an attorney from the time of arrest, but not during the prearrest investigative period, which may involve prolonged detention. Persons summoned to appear as witnesses in investigations do not have the right to legal assistance. The law requires counsel to be appointed in capital punishment cases and those involving a prison sentence of 15 years or more. In cases involving potential sentences of 5 years or more, the law requires the appointment of an attorney if the defendant is indigent and requests counsel. In theory indigent defendants may obtain private legal assistance, but in practice authorities persuaded many defendants not to hire an attorney. In many cases, procedural protections, including those against forced confessions, were inadequate to ensure

a fair trial. Widespread corruption continued throughout the legal system. Bribes influenced prosecution, conviction, and sentencing in countless civil and criminal cases.

A military justice system exists and during the course of the year, members of the armed forces were prosecuted, generally for common crimes.

Four district courts exist to adjudicate gross human rights violations. The law provides for each to have five members, including three noncareer human rights judges, who are appointed to 5-year terms. Verdicts may be appealed to the standing High Court and Supreme Court. The law provides for internationally recognized definitions of genocide, crimes against humanity, and command responsibility, but it does not include war crimes as a gross violation of human rights. The law stipulates the powers of the Attorney General, who is the sole investigating and prosecuting authority in cases of gross human rights violations, and who is empowered to appoint ad hoc investigators and prosecutors. The law also empowers the Attorney General (as well as the courts) to detain suspects or defendants for multiple fixed periods in cases of gross human rights violations. However, the law requires the Human Rights Court to approve the extension of any detention of suspected human rights violators. For gross human rights violations that occurred before the enactment of the law, the law allows the President, with the recommendation of the DPR, to create an ad hoc bench within one of the human rights courts to hear cases associated with a particular offense.

On March 14, the Ad Hoc Human Rights Tribunal for East Timor convened in Jakarta after the Government failed to investigate instances of gross human rights abuses within the timeframes stipulated by the Human Rights Tribunal Law. According to a broad interpretation of this law, the Attorney General should have commenced prosecution no later than February 23, 2001, or a maximum of 310 days after the formation of his special investigative team on April 19, 2000. A stricter reading of the statute would have moved forward the deadline for prosecution by approximately 3 months, or 310 days after KOMNASHAM provided the results of its inquiry into the East Timor atrocities on January 31, 2000. The DPR did not recommend the tribunal's establishment until March 2001; the presidential decree authorizing its establishment was withheld until late the following month, and the Government deferred selection of noncareer tribunal jurists until mid-January. The Government's failure to meet statutory deadlines in preparing cases for the tribunal represented a major procedural violation that could provide grounds to overturn any convictions on appeal.

In his April 2001 decree creating the tribunal, former President Wahid limited the tribunal's jurisdiction over East Timor atrocities to those that occurred after the August 30, 1999 referendum. In August 2001, President Megawati allowed the tribunal to also include selected incidents that occurred in East Timor during April 1999, thus retroactively applying the country's human rights statutes to East Timor cases for the first time. However, President Megawati's decree limited the tribunal's jurisdiction to only those atrocities that occurred during April 1999 and September 1999 in 3 locations: Liquica, Dili, and Suai. The time and geographic restrictions placed on the tribunal's jurisdiction complicated prosecutors' ability to demonstrate that the atrocities in East Timor throughout 1999 were gross human rights abuses, defined as a systematic and widespread pattern of abuse by security force officers and their militia proxies. Legal experts said that in order to win a conviction in the tribunal, it was crucial to prove that such a pattern of abuse occurred. Pursuant to the August 2001 presidential decree, prosecutors brought charges against only 18 of the individuals implicated in East Timor atrocities by the January 2000 KOMNASHAM inquiry report.

The East Timor Ad Hoc Human Rights Tribunal convened its first trial in March and concluded 14 of 18 trials during the year. Only one member of the security forces was found guilty in connection with 1999 violence in the former Indonesian territory. The court convicted Army Lt. Col. Soedjarwo of crimes against humanity for failing to prevent pro-Jakarta militiamen from attacking the Dili seaside home and office of Archbishop Belo, where a number of civilians had taken refuge, and at least 13 persons were killed. Soedjarwo was sentenced to 5 years in jail. The tribunal also convicted two other persons, both civilians. Former East Timor Governor Abilio Soares was sentenced to 3 years, and former Aitarak militia leader Eurico Guterres—like Soares an ethnic East Timorese—received a 10-year sentence. Tribunal law mandates a 10-year minimum term of imprisonment. All three persons convicted remained free at year's end, pending their appeals. Most of the 18 persons indicted were low- and mid-level officers and officials. All were charged as responsible parties to the 1999 massacres at Liquica Church (April 6) and at Manuel Carrascalao's home in Dili (April 17), as well as those at the Dili Diocese (September 5), and at Archbishop Belo's home and the Suai Church (September 6).

In all of the trials, prosecutors presented weak cases that failed to prove the defendants' involvement in gross human rights abuses. Prosecutors did not fully use the resources or evidence available to them from the U.N. and elsewhere in documenting the atrocities in East Timor, and called few East Timorese witnesses. Most of their remaining witnesses were themselves defendants in other cases in the tribunal's docket. In some cases, judges harassed witnesses and/or disregarded their testimony, which highlighted concern over the overall fairness of the judicial process. In addition, the regular presence in the gallery of substantial numbers of uniformed military personnel and their East Timorese supporters intimidated witnesses. In one case, judges failed to authorize an interpreter's participation in the trial, with the effect that a witness was unable to testify in her native language, Tetum. Consequently, the witness was compelled to testify in rudimentary Indonesian, which resulted in heckling by soldiers present in the courtroom, which the judges made no attempt to control. U.N. Human Rights Chief Mary Robinson said the results of the trials were "not satisfying in terms of international human rights standards."

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law requires judicial warrants for searches except for cases involving subversion, economic crimes, and corruption. Nevertheless, security officials occasionally broke into homes and offices. The authorities generally did not monitor private communications but they occasionally spied on individuals and their residences, and listened in on telephone calls. There were reports that the Government occasionally infringed upon privacy rights of migrant workers returning from abroad, particularly women. Corrupt officials sometimes subjected the migrants to arbitrary strip searches, expropriated valuables, ordered currency conversions at below-market rates, and extracted bribes at special lanes set aside at airports for returning workers.

On January 8, President Megawati signed the Law on Overcoming Dangerous Situations, which provides the military broad powers in a declared state of emergency, such as limiting land, air and sea traffic, and ordering people to relocate. However, the Government did not implement the law during the year (*see* Section 2.d.). On May 23, in Maluku Province, after attempts to formally impose martial law met widespread opposition, Coordinating Minister for Political and Security Affairs Susilo Bambang Yudhoyono announced that an Army General would lead both the military and the police in the province. Kontras and other NGOs criticized the move, arguing that restructuring the command system amounted to imposition of martial law.

Human rights activists increasingly viewed the national identity card (KTP) system as a form of government interference in the privacy of citizens. The KTPs, which all citizens are required to carry, identifies the holder's religion. NGOs charged that the KTPs undermined the country's secular tradition and endangered cardholders who traveled through an area of interreligious conflict. Members of the five religions officially recognized by the Government—Islam, Protestantism, Catholicism, Hinduism and Buddhism—had little or no trouble obtaining accurate identification cards during the year; however, members of minority religions, frequently were denied a card, or denied one that accurately reflected their faith (*see* Section 2.c.).

In many parts of the archipelago, particularly in Kalimantan and Papua, indigenous persons believed that the Government-sponsored transmigration program interfered with their traditional ways of life, land usage, and economic opportunities. During the year, the program moved 103,218 households from overpopulated areas to more isolated and less developed areas. The Government sent 21,617 households to Central Kalimantan, making that province the top destination.

The Government used its authority, and at times intimidation, to appropriate land for development projects, particularly in areas claimed by indigenous people, and often without fair compensation.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and for freedom of the press, and the Government generally respected these rights in practice; however, various forms of censorship continued to threaten press freedom.

Journalists, human rights activists, and others expressed alarm over the DPR's November 28 passage of a Broadcasting Bill, which would establish an Indonesian Broadcasting Commission (KPI) of questionable independence. Critics said the law would limit foreign-produced news and require broadcasters to make unspecified "corrections" if there were protests over news content. The law's supporters said it would promote local broadcasting after decades of Jakarta-centric news and bring order to the industry. The bill was sufficiently vague to be interpreted in any num-

ber of ways. For this reason, and because lawmakers and the Government put off a crucial decision on whether the KPI would have the sole right to issue broadcasting licenses, it was not immediately clear whether the law would seriously undermine press freedom.

During the year, police used violence and intimidation against journalists. The Alliance of Indonesian Journalists (AJI) stated that from April 2001 through April of this year, 118 journalists were assaulted or threatened. In Aceh GAM rebels frequently intimidated journalists and occasionally used violence against them. In May in the city of Banda Aceh, a car belonging to the Bureau Chief of the Medan newspaper Waspada was burned. This came one week after the paper rejected a demand to print all GAM statements in their entirety. On at least three occasions during the year, suspected GAM supporters stopped a vehicle distributing copies of Waspada and then burned all of the copies. On June 26, in the East Java town of Gedangan, police beat Kompas journalist Wisnu Dewabrata while he was covering a labor dispute. They also seized his camera and press card. On July 10, in the northern Aceh town of Bireun, police entered the bureau of the newspaper Serambi Indonesia and attacked two journalists after the paper published a front-page article that quoted a rebel spokesman. On August 3, in Jakarta, at the annual session of the MPR, a member of the presidential security detail kicked and punched radio reporter Rizky Hasibuan.

During the year, journalists showed greater willingness to speak out against police violence. On July 15, in the East Java city of Surabaya, approximately 50 news workers demonstrated against acts of violence and intimidation against journalists. In July in Jakarta, free press advocates announced a two pronged strategy to protect journalists: Litigating cases of police violence with help from the Association of Legal Aid and Human Rights Organization (PBHI), and urging KOMNASHAM to set up a permanent body to protect journalists.

Foreign journalists based in the country accused the Government of interfering with their work. For instance, the Government declined to renew the work visa of Sydney Morning Herald reporter Lindsay Murdoch. The head of the Foreign Correspondents Club of Jakarta, Atika Shubert, said the Government did not announce why it would not renew the visa, but that some government officials cited Murdoch's scrutiny of the military as a reason.

In June prosecutors in Jakarta closed their investigation into the 1999 slaying in East Timor of Dutch journalist Sander Thoenes. A government spokesman said there was not enough evidence to prosecute, although several eyewitnesses reportedly identified a TNI soldier as the alleged killer.

The law mandates that all television stations, including regional ones, operate from Jakarta. Radio stations also faced restrictions. In June police arrested the director of a regional television station, the Jawa Pos' JTV, and shut down the station for trying to operate from a location other than Jakarta. Police threatened to demolish the station's antenna if it dared transmit again. One radio station claimed it spent a sum equivalent to 2-years' budget on bribes without being any closer to obtaining a broadcast license.

During the year, private citizens increasingly took censorship matters into their own hands. Religious extremists, political hard-liners, student activists, and paid criminals raided news offices in response to news coverage. In some of these raids, they beat journalists and destroyed office equipment. On January 2, 300 members of the youth wing of the ruling PDI-P Party reportedly occupied the Jawa Pos office after the newspaper ran an article that criticized President Megawati.

In August the extremist Indonesian Mujahidin Council (MMI) intimidated a Jakarta-based TV network, SCTV, into pulling a public service announcement promoting tolerance among Muslims. The MMI objected to the spot's assertion that "Islam is varied," calling it blasphemy. Also during the year, an Islamic group extracted a "fine" from the newspaper Republika following the publication of an editorial by a moderate Muslim scholar. In Yogyakarta a Molotov cocktail was thrown at the office of the People's Sovereignty newspaper after its editor said he was not afraid of zealots.

In November a group of Islamic leaders issued a death "fatwa" against Islamic scholar Ulil Abshar Abdalla for writing a Kompas newspaper article that asserted, among other things, that it was not essential for Muslims to wear Islamic dress and that all religions were "different pathways to God." The group, based in Bandung, later retreated from the threat, stating it merely had noted what could happen to those who insulted Islam.

Despite numerous incidents of violence and intimidation of the press, there were some positive developments. Media watch groups, including the AJI and the Institute of Free Flow of Information, increasingly were active. Labor unions at news organizations were more assertive in defending journalists' rights. The dramatic pro-

liferation of publications and news programs resulted in healthy competition and an increase in aggressive reporting. The Government stopped restricting the import of Chinese language publications and music (*see* Section 5). In addition, other foreign magazines and books no longer faced official censorship.

A government-supervised Film Censorship Institute continued to censor imported movies, mainly for pornography. By law Communist teachings cannot be disseminated or developed, and on at least one occasion in October, the Government publicly discussed banning a book because it contained Marxist content.

The law provides for academic freedom, and there were no significant constraints on the activities of scholars. The Government did not restrict or censor course content or curricula, and open discussions, often featuring harsh criticism of the Government, took place at universities.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government restricted this right in certain areas. The law generally does not require permits for public social, cultural or religious gatherings; however, any gathering of five or more persons related to political, labor, or public policy required police notification (*see* Section 6.a.). The law requires that persons planning to hold a demonstration notify police 3 days in advance and appoint someone accountable for every 100 demonstrators.

During the year, many rallies turned violent due to overzealous demonstrators, police, or counter-demonstrators. Some observers believed police exercised greater restraint than in previous years, but others noted that police beat protestors and fired tear gas on a number of occasions. On July 1, in Jakarta, police injured dozens of university students and four journalists in a demonstration in front of the DPR compound. On September 11, Jakarta police fired rubber bullets and water cannons, injuring demonstrators taking part in a massive rally against the reelection of Governor Sutiyoso. At the same rally, unknown persons handed out food containing cyanide, which poisoned, but did not kill, 30 persons.

On many occasions, police stood by as counter demonstrators attacked demonstrators. On May 20, in the Central Java city of Semarang, two persons were injured at a rally held by the Democratic Front for Poverty Eradication (FDPRM) when dozens of persons, who claimed to be members of the ruling PDI-P, attacked the demonstrators. Journalists reported that police did not intervene.

During the year, the Government arrested protestors deemed to have insulted publicly the country's leaders, which is a crime in the country. On June 24, police in Jakarta arrested activists Muzakkir and Nanang Mamija for stepping on pictures of the President and Vice President in a rally in front of the State Palace. Police detained them on a charge of premeditated slander of the President. On October 24, the Central Jakarta District Court sentenced them to 1 year in prison. On June 25, Minister of Manpower Jacob Nuwa Wea warned demonstrators not to deface, kick, or burn pictures of the President and Vice President, or he would "hunt them down." On July 16, in Banda Aceh, police arrested seven young women for displaying defaced pictures of the President and Vice President during a street protest (*see* Section 1.d.). In August police in Medan detained and questioned demonstrators who painted an "X" on photos of the President and Vice President.

The Constitution provides for freedom of association; however, the Government restricted the exercise of this right. Although the Papua Special Autonomy Law permits the flying of a flag symbolizing Papua's cultural identity, the police prohibited the flying of the Papuan Morning Star flag during the year. The police claimed the design of the Papuan flag allowed by law had yet to be negotiated by the Government, and that until that time, it remained banned. However, the Morning Star flag did fly at some public gatherings during the year, and there were no reported incidents of police using excessive force to remove such flags.

In Aceh Province, security forces continued to enforce a ban on the flying of the Acehnese flag. On May 6, in Banda Aceh, a university student carried an Acehnese flag during a peaceful student demonstration that called for a ceasefire. Police took the students into custody, beat him, burned him repeatedly with cigarettes, and struck him with the flag pole. Police officials later said he was "given counseling" at the police station, but this account was contradicted by the injuries visible on the student's body.

Maluku Sovereignty Front (FKM) leader Alex Manuputty, who faced treason charges in 2001 for hoisting the flag of the separatist South Maluku Republic (RMS), returned to court during the year on subversion charges. Police detained Manuputty in Jakarta from March until December 28, when they released him but required him to check in regularly and attend his trial. On December 19, prosecutors demanded a 5-year prison sentence. The trial was ongoing at year's end.

*c. Freedom of Religion.*—Article 29 of the Constitution declares that the state is based upon belief in one god, and that the state provides for every resident to adhere to their respective religion and to perform their religious duties in accordance with their religion and faith. The Government generally respected these provisions, but only five major faiths—Islam, Protestantism, Catholicism, Hinduism and Buddhism—received official recognition in the form of representation at the Ministry of Religious Affairs. Other religious groups were able to register with the Government, but only with the Ministry of Home Affairs, and only as social organizations. By stipulating that the country is based on belief in one God, the Government does not recognize atheism. The Government denied members of some faiths equal treatment in areas such as civil registration. There was no change in the status of religious freedom during the year. The Human Rights Law allows conversions between faiths, but converts to minority religions sometimes felt reluctant to publicize their conversions because they feared some degree of discrimination.

The civil registration system frustrated many members of minority religions. Civil Registry officials refused to register the marriages of Animists, Confucians, members of the Baha'i faith and others because they did not belong to one of the five officially recognized faiths. Hindus, whose religion was recognized officially, often had to travel far to register their marriages, because in many rural areas the local government could not or would not perform the registration.

Persons whose religion was not one of the five officially recognized faiths, or persons of Chinese descent, had difficulty in obtaining a KTP, which was necessary to register marriages, divorces, and births (*see* Section 1.f.). Men and women of different religions had trouble marrying and officially registering their marriages, and first had to find a religious official willing to perform a marriage ceremony; few were willing. Such couples also were required to register the union with the Government, which resulted in persons converting—sometimes superficially—to be married. Others traveled overseas, where they wed and then registered the marriage at an Indonesian Embassy.

Many of the religious groups that suffered discrimination in marriage registration also faced difficulties in registering their children's births. The MATAKIN, a Confucian advocacy group, stated that births of Confucians were recorded at the Civil Registry as out of wedlock, which caused shame or embarrassment.

During the year, several NGOs, including the Indonesia Anti-Discrimination Movement (GANDI), urged the Government to omit the category of religion from KTPs.

Foreign missionaries who obtained visas were allowed to work relatively unimpeded.

Police and soldiers occasionally tolerated illegal actions against religious groups by private parties.

Islamic law (Shari'a) was a source of significant debate during the year. Some small Islamist groups and political parties called for the national adoption of Shari'a by adding a sentence—the Jakarta Charter—to the Constitution, stating that there was an obligation for Muslims to practice Shari'a. Mainstream Muslims, Christians, Buddhists, Hindus, and others all spoke out against the threat that they claimed Shari'a would pose to the country's tradition of religious tolerance. In August the MPR rejected a motion to adopt the Jakarta Charter across the country. Limited efforts to apply Shari'a on regional and local levels met with mixed results. On January 1, the Government announced that the Muslim-majority Province of Aceh was permitted to implement Shari'a, as long as national law was not violated. However, by year's end the provincial legislature had not passed the necessary legislation to implement Shari'a. In other Islamic strongholds, attempts by local legislators and religious leaders to implement Shari'a had little result, in part because they lacked Aceh's legislative prerogatives and faced organized political opposition. Local governments introduced stricter Islamic legal practices in Cianjur and Garut, in West Java; Makassar, in South Sulawesi; and in Gorontalo, formerly part of North Sulawesi.

Churches continued to come under attack during the year, but such incidents were much less frequent than in previous years. According to the Indonesian Christian Communication Forum, attackers destroyed or forcibly closed 20 churches, many of them in Aceh. On September 29, in the South Sulawesi city of Makassar, unidentified residents demolished a Pentecostal church, citing the absence of a building permit.

There were fewer attacks on mosques, but some did occur. On July 14, in the predominantly Catholic town of Maumere, in Flores, thousands of persons attacked a mosque. It was unclear why local residents directed their anger at the mosque. Some residents concluded that outside elements purposely provoked communal unrest. From September 10–13, in the East Lombok town of Selong, thousands of or-



thodox Muslims attacked a mosque belonging to the nonorthodox Ahmadiyah community. Mobs burned the mosque and a number of houses and shops, and 340 residents fled.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution allows the Government to prevent persons from entering or leaving the country, and the Government restricted freedom of movement. The revised Law on Overcoming Dangerous Situations gives the military broad powers in a declared state of emergency, including the power to limit land, air, and sea traffic; order persons to relocate; order house arrests; and prohibit migration into and out of an area. In practice the Government did not use these powers.

During the year, the Government prevented 214 persons from leaving the country and 4,243 persons from entering the country. Some of those barred from leaving were delinquent taxpayers, while others were involved in legal disputes.

Although the law does not provide for the granting of asylum or refugee status, the Government cooperated with the United Nations High Commissioner on Refugees (UNHCR), which maintained an office in Jakarta. During the year, the UNHCR resettled 474 refugees to third countries. At year's end, there were 236 U.N.-recognized refugees still living in the country, many from Iraq, Afghanistan, and Iran.

The above figures did not include East Timorese refugees, who the UNHCR stated numbered approximately 30,000 at year's end. Most of these remaining refugees resided in makeshift camps in the West Timor regencies of Atambua and Kupang. During the year, tens of thousands of East Timorese refugees were repatriated to their homeland, bringing the number who had returned from (Indonesian) West Timor since 1999 to more than 220,000 persons. The Government and UNHCR stated that at year's end, the remaining East Timorese in West Timor would no longer be considered refugees.

As of June, the World Food Program estimated the number of IDPs in the country at 1,413,708. In July the Norwegian Refugee Council (NRC) put the figure at 1,300,000. Other sources provided lower estimates. The NRC reported that most IDPs resided in the Moluccas, Sulawesi, Java, North Sumatra, West Kalimantan, Papua, and Aceh. Some NGOs partially blamed internal displacement on transmigration programs aimed at reducing demographic disparities between different parts of the country. The relocation of large groups of persons, particularly from Java, to under-populated areas led to ethnic imbalances, land disputes, and tensions that were difficult to contain. Separatist struggles underpinned the displacement in Aceh and Papua, while in Central Sulawesi and the Moluccas, inter-religious violence caused displacement.

During the year, tens of thousands of Indonesian workers who were forced to leave Malaysia following its crackdown against undocumented workers were provided with shelters by the Government on Nunukan Island, East Kalimantan. The shelters developed into squalid camps and diseases spread by unsanitary conditions killed at least 70 persons. Government aid was slow to reach the displaced workers on Nunukan. However, it did arrive, and large number of persons eventually left the island several months after the influx began.

In August World Vision reported that there were 2,000 IDP households on the island of Madura, virtually all of whom had fled Central Kalimantan following ethnic clashes in February 2001.

The Government restricted freedom of movement through a system of "travel letters," which were required for travel within Maluku, Aceh, and Papua. Enforcement was inconsistent. In parts of Papua, officials required a travel letter for a resident to walk from one village to another. Some residents complained that the system promoted police graft, while others, including NGO activists, said the system ensured that police always were informed of their activities.

The Government briefly sought to restrict rural migrants from settling in the overcrowded capital city area, but the effort yielded little result. In April the Governor of Maluku Province banned foreigners from visiting to prevent outside provocateurs from aggravating the sectarian conflict there; however, he made a number of exceptions to accommodate foreign aid workers. In July in North Maluku, for the same reason, authorities reportedly declared the province closed to outsiders whose identities were "ambiguous." The Government continued to attempt to ban foreigners from traveling to areas with secessionist conflicts like Aceh and Papua, and also to Central Sulawesi.

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

The Constitution provides for general elections every 5 years. In August the MPR amended the Constitution to introduce direct elections for the President and Vice President beginning in 2004. It also stripped the military and police of uncontested seats in the DPR after the 2004 general elections. During the year, the police and the military continued to hold 38 unelected seats jointly in the DPR and 10 percent of the seats in provincial and district parliaments ostensibly as compensation for not having the right to vote in elections.

DPR members automatically were members of the MPR, which also included 130 regional representatives who were elected by provincial legislatures, and 65 appointed representatives from functional and societal groups.

Domestic and international observers monitored the last elections in June 1999, and generally considered them to be open, fair, and free. Following the 1999 elections, the MPR, in a transparent manner, elected Abdurrahman Wahid as President and Megawati Soekarnoputri as Vice President. In July 2001, the MPR convened an "Extraordinary Session" to require President Abdurrahman Wahid, who was President at the time, to account for his performance. Wahid refused to appear, claiming the charges were politically motivated, and instead issued a directive to "freeze" the MPR, the DPR, the Golkar Party, and to hold new elections. This exceeded his authority under the Constitution, and the military and police refused to enforce these measures. On July 23, 2001, the MPR canceled Wahid's mandate, and Vice President Megawati replaced Wahid as President as provided by law.

During the year, the legislative branch asserted its constitutional prerogatives, including its right to review government proposed legislation, to question and challenge the President and members of the Cabinet, and to provide a forum for public debate and presentation of grievances. However, cumbersome procedures and a lack of staff expertise hampered the DPR's ability to enact legislation. At year's end, there was a significant backlog of pending legislation concerning important political and economic issues.

The MPR has the right to amend the Constitution and issue decrees, functions that it undertook in the first of its newly instituted "Annual Sessions" held in August 2000. A key demand of the reform movement was an overhaul of the 1945 Constitution, which was perceived to have fostered the development of past authoritarian regimes. In the First Amendment of the Constitution, the 1999 MPR passed curbs on executive power, including a limit of two 5-year terms for the President and Vice President. At the same time, the MPR empowered an ad-hoc working committee to consider further amendments and to draft MPR decrees. This effort resulted in the adoption of the Second Amendment to the Constitution during the annual session in August 2000. The Second Amendment included many important changes, including provisions for protections of human rights modeled closely on the U.N. Universal Declaration of Human Rights, regional autonomy, and further separation of powers. During its November 2001 session, the MPR amended the 1945 Constitution to provide, among other changes, for direct presidential and vice-presidential elections, a bicameral legislature with a regional representative's chamber, and a constitutional court with the power of judicial review of legislation.

In August the MPR approved the Fourth Constitutional Amendment, which specifies that candidates for President and Vice President are to run together on a single ticket. It provides for a second round of direct voting if no one candidate gets a majority of votes cast, as well as at least 20 percent of the vote in half of the provinces. The MPR retained the authority to amend the Constitution but was no longer empowered to establish the broad guidelines of state policy. The 1999–2002 amendments, if fully implemented, would make the President and the Vice President directly accountable to constituents.

All adult citizens were eligible to vote, except active duty members of the armed forces, persons in prison convicted of crimes punishable by over 5-years' incarceration, persons suffering from mental disorders, and persons deprived of voting rights by an irrevocable verdict of a court of justice. Former members of the banned Indonesian Communist Party (PKI) may not run for office.

There were no legal restrictions on the role of women in politics. A woman, Megawati Soekarnoputri, served as President, the highest political position in the country (see Section 5). However, women accounted for only 2 of the 30 Cabinet Ministers and 45 of the 500 DPR members, while 7 of the 40 Supreme Court Justices were women. In August and September, women's activists, female legislators, and the Minister of Women's Empowerment called for 30 percent of legislative seats to be set aside for women to address this imbalance. On December 23, in her Women's Day Speech, President Megawati stated her opposition to the proposed quota. The

DPR rejected the quota proposal included in the political party law that would have required parties to put forward women for 30 percent of available elective offices.

In Papua, as part of the province's Special Autonomy status, 30 percent of seats in the proposed Papuan People's Council were slated for women. The council, however, had not been formed yet, and Papua's provincial legislature did not pass implementing regulations in support of the Special Autonomy Program by year's end.

There were no legal restrictions on the role of minorities in politics. Javanese and Sundanese held many key positions, including all but one of the civilian Cabinet level posts for political and security affairs. Java and Madura accounted for approximately 60 percent of the Cabinet, which corresponded to their percentage of the population.

*Section 4. Governmental Attitude Regarding International and NonGovernmental Investigation of Alleged Violations of Human Rights*

Domestic NGOs were subject to monitoring, abuse, and interference by the Government; however, they remained active in advocating improvements to the Government's human rights performance. Many NGOs, particularly those in Papua, accused the security forces of sabotaging their activities, and stated that this prevented exposure of many human rights violations. During the year, organized groups attacked members or offices of a number of NGOs and related organizations, including ELS HAM, Humanika, KOMNASHAM, Kontras, PBHI, and the Urban Poor Coalition (UPC).

On March 13, between 300 and 500 members of the military-backed Solidarity Group for Families of Victims of Bloody Cawang (SWAKARSA) raided the Jakarta office of Kontras, injured two staffers, destroyed office equipment, and stole documents. The attack came a day after members of a militia-organized group, Forum Ekspone 1998, visited the office and demanded to know why Kontras had taken part in a recent demonstration outside the home of former Armed Forces Commander Wiranto. Human rights activists alleged the military instigated the attack. On March 28, hundreds of unidentified persons attacked UPC members at the Jakarta office of KOMNASHAM. The attackers clubbed women and children, and one held a knife to the throat of UPC's coordinator, Wardah Hafidz. Fifteen UPC members needed medical attention. Some of the attackers said they belonged to the Betawi Brotherhood Forum (FBR), but it was unclear whether they were in fact members.

On May 26, in Banda Aceh, a fire destroyed dozens of mostly wooden homes, many of them rented by human rights activists. Hundreds of security force members, particularly Brimob, appeared quickly on the scene, and some activists voiced suspicions regarding their sudden appearance.

On September 27, TNI Chief Endriartono Sutarto said the military planned to sue the Papua-based NGO ELS HAM for "libel against our good name." After the NGO told reporters that Kopassus troops were implicated in the August 31 ambush near Timika that killed three persons, ELS HAM also alleged that security force intelligence agents had threatened to kill members of its staff. On October 12, unknown persons ransacked ELS HAM's Jakarta office and stole computer disks.

On December 28, in Papua, near the border with Papua New Guinea, a group of unidentified gunmen fired on a vehicle carrying several family members of Johannes Bonay, Executive Director of ELS HAM. At least three occupants were wounded. A TNI commander reportedly blamed the attack on OPM, but a rebel official reportedly denied that the group would attack fellow Papuans. Also in December, the Government rejected a Council on Foreign Relations visit to Papua, after objecting to its focus on pro-independence groups and human rights activists, which the Government viewed as support for Papuan separatist efforts. In the aftermath of the Bali bombings, the Government also reportedly believed that the proposed visit presented security risks.

Early in the year, lawyers linked to the military took over the Indonesian Legal Aid Institute Foundation (YLBHI), parent organization of the Legal Aid Foundation (LBH). By year's end, LBH offices in Medan, Padang, Lampung, Palembang, and elsewhere were near financial collapse.

A police investigation into the alleged August 2000 kidnaping of four members of a Bandung, West Java-based NGO, the Agrarian Reform Council (KPA), concluded that the "kidnaping" was staged by KPA itself in an attempt to discredit the security forces. Kontras, which assisted KPA legally, discontinued its involvement in the case.

The Government generally viewed outside investigations or foreign criticism of its human rights record as interference in its internal affairs. The security forces and intelligence agencies tended to regard foreign NGOs with suspicion, particularly those operating in conflict areas. Several NGOs, including Peace Brigades Inter-

national (PBI), reported an increase in government monitoring of foreigners in conflict areas. Some domestic NGOs expressed concern about possible negative consequences of contacting foreigners.

A number of government agencies and affiliated bodies addressed human rights issues, including the Ministry of Justice and Human Rights, the Ministry of Foreign Affairs, the Ministry of Women's Empowerment, and KOMNASHAM. Some activists complained that the division of government responsibilities was unclear and hindered progress in safeguarding human rights.

On July 8, the DPR announced the selection of 23 KOMNASHAM members, 5 of whom were members of the previous panel. Some activists said obstructionists within KOMNASHAM systematically weakened the Commission by suppressing probes and arranging for human rights cases to be transferred to the police. The law provides KOMNASHAM statutory authority to write legislation and allows for a membership of 35. However, the DPR selected only 23 persons. It was unclear how, or whether, the remaining 12 seats would be filled. Critics faulted the legislators for passing over a number of outspoken human rights campaigners. The law also provides KOMNASHAM with subpoena powers. Disputes that were settled by written agreement through the Commission were enforceable legally in court. The law does not give KOMNASHAM the power to enforce its recommendations, however, and in July one former member reported that the Government ignored over 80 percent of the panel's recommendations.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution does not explicitly forbid discrimination based on gender, race, disability, language, or social status. It provides for equal rights for all citizens, both native and naturalized. In practice, however, the Government failed to defend these rights adequately, and the basic rights of women and children were frequently abused. The Government did little to defend the rights of persons with disabilities.

*Women.*—Violence against women remained poorly documented, and NGOs estimated that only 15 percent of domestic violence incidents were reported. On July 17, the Minister of Women's Empowerment said the number of domestic violence incidents had increased 29 percent from the previous year. The NGO Mitra Perempuan reported 111 cases of domestic violence in Jakarta and its suburbs during the first half of the year. In September Jakarta's biggest hospital, Cipto Mangunkusumo, admitted 72 women injured in domestic violence. It was unknown how many spouses were prosecuted for domestic violence due to the fact that police refused to provide relevant information. The UPC studied the problem of domestic violence and concluded that domestic violence was more common than before the 1997–98 financial crisis. Two types of crisis centers were available to women in distress: government-run centers in hospitals and NGO centers operated in the community.

Rape is an offense punishable by 4 to 12 years in jail, and the Government jailed perpetrators for rape and attempted rape. Comprehensive statistics were unavailable, but in the month of September alone, Cipto Mangunkusumo admitted 56 women and 96 girls who were raped and 106 girls who were assaulted sexually. Women's rights activists speculated that these figures were lower than actual occurrences of rape because the social stigma associated with rape resulted in the under-reporting of rape. The law does not treat rape by a spouse as a crime, and requires penile penetration to constitute rape. A women's activist in Aceh said that on several occasions during the year, soldiers used bottles and other foreign objects to violate local women; however, legally this was not considered rape, and no one had been held accountable by year's end.

Rapes committed by members of the security forces were most numerous in Aceh and other conflict zones (see Section 1.c.). In the Papuan provincial capital of Jayapura, human rights activists said at least 82 documented crimes against women and children were committed during the year, including 8 rapes by soldiers or police. A senior police official in Jayapura, however, denied that any of his officers had committed rape. At some police stations the burden of rape was placed on the victims, with posters that exhorted women not to wear revealing clothing lest they be raped.

During the year, some Acehnese women turned down marriage proposals by security force members, only to have their parents threatened. Women who did become engaged to security force members sometimes became targets for GAM rebels.

Women made some progress during the year in promoting awareness of crimes against women. In July in Jayapura, Papua, LBH held an interactive program over national radio, during which rape was discussed. A police representative took part in the dialog.

Female genital mutilation (FGM), also known as female circumcision, was practiced in some parts of the country. The NGO Population Council Indonesia carried out an 18-month study of the nature and scope of FGM, mainly in West Java and on the island of Madura. Researchers found that although FGM was prevalent in those areas, the preliminary findings suggested minimal short-term pain, suffering, and complications. Two types of people performed the procedure: midwives and local traditional practitioners. Researchers said the midwives' procedure involved the tearing, cutting or piercing of part of the genitals, but not the removal of tissue. Most of the local traditional practitioners, on the other hand, said they customarily removed tissue, but the extent of this removal remained unclear. Likewise, it was unclear whether the removed tissue was from the clitoris, labia minora, or elsewhere. Some NGO activists dismissed any claims of mutilation, saying the ritual as practiced in the country was largely symbolic, and involved softly touching a young girl with a metal blade, or at worst, nicking her.

During the year there were reports that in some areas of the country, parents encouraged their daughters to work as prostitutes in large urban areas. Trafficking in women and young girls was a serious problem (see Section 6.f.).

Sexual harassment was not a crime, but "indecent behavior" was illegal. The law reportedly only covers physical abuse and requires two witnesses.

The Guidelines of State Policy, legal statutes adopted by the MPR, explicitly state that women have the same rights, obligations, and opportunities as men. However, the guidelines also state that women's participation in the development process must not conflict with their role in improving family welfare and the education of the younger generation. Marriage law designates the man as the head of the family.

Divorce was a legal option open to both men and women. Muslims who sought a divorce generally had to turn to the Islam-based family court system. Non-Muslims obtained divorce through the national court system. Women often faced a heavier evidentiary burden than men, especially in the family court system. Many divorcees received no alimony, as there was no system to enforce alimony payments. The Citizenship Law states that a child's citizenship is derived solely from the father. Children of citizen mothers and foreign fathers were considered foreigners, and required visas to remain in the country until 18, at which age they could apply for citizenship. These children were prohibited from attending public schools, and many were forced to attend private international schools. In cases in which a citizen mother lived abroad with her foreign husband, a break-up sometimes caused severe child custody problems. The children of foreign women married to Indonesian men also faced difficulties. A foreign woman married to a citizen could obtain Indonesian citizenship after 1 year, if she desired.

In Papua, as part of the province's Special Autonomy status, 30 percent of seats in the proposed Papuan People's Council were slated for women. The Council, however, had not been formed yet, and Papua's provincial legislature did not pass implementing regulations in support of the Special Autonomy Program by year's end.

In Aceh there was no compelling evidence to suggest that women's rights were undermined when the province gained authority to implement Shari'a during the year. However, in January police in Banda Aceh stopped a number of women who were riding on motorbikes and not wearing headscarves. If the woman was a Muslim, the police gave her a headscarf, but did not force her to wear it. This practice did not last long. Women's rights activists reportedly succeeded in halting a plan to create a scarf compulsory zone elsewhere in Banda Aceh.

Women suffered disproportionately from poor health and illiteracy. According to UNICEF, the illiteracy rate among women was 18 percent, compared to 8 percent among men.

A number of regulations that discriminate against women remained in place during the year. At a May 22 forum in Jakarta on the role of the military, an activist criticized the TNI's longstanding practice of requiring female applicants to the military academy to prove they were virgins; males were not asked to meet this requirement.

Although some women had a high degree of economic and social freedom, most remained at the lower end of the socioeconomic scale. The Government stated that 38 percent of civil servants were women, but that only 14 percent of these women held positions of authority. Despite laws that provide women with 3 months of maternity leave, employers sometimes replaced pregnant women while they were on leave from their jobs.

In manufacturing, employers traditionally steered female workers toward lower-paying, lower-level jobs. Many female factory workers were hired as day laborers instead of as full-time permanent employees, and companies were not required to provide benefits, such as maternity leave, to day laborers. According to the Government's Central Statistics Bureau, in May 2002, the unemployment rate for men was

higher than that for women. If a husband and wife both work for a government agency, the couple's head-of-household allowance is given to the husband. There were reports that female university graduates received an average salary that was 25 percent less than their male counterparts.

The Indonesian Women's Association for Justice facilitated public awareness programs in Jakarta to educate young women regarding the dangers of trafficking. The NGO Mitra Perempuan operated a hotline to record abuse cases and help abused women. There were many other NGOs that addressed women's issues, including Yayasan Humi Inana and the International Catholic Migration Commission (ICMC).

*Children.*—The Government stated its commitment to children's rights, education, and welfare, but devoted insufficient resources to fulfill that commitment. Poverty put education out of the reach for many children. Child labor and sexual abuse were serious problems during the year (see Sections 6.d. and 6.f.). Among girls aged 7 to 12, 7 percent, or 923,000, did not attend school. Although girls and boys ostensibly received equal educational opportunities, boys were more likely to finish school. Hairiah, a noted rights activist in West Kalimantan, said many parents could not afford to educate all of their children, and concentrated their resources on their sons.

The Government estimated the number of prostitutes under the age of 18 at 49,500, but the actual number may have been much higher. At the country's biggest red light district, in Surabaya, 40 percent of the prostitutes were under the age of 18. Malnutrition was a growing problem, and more than 70,000 children lived on the streets (see Sections 6.d. and 6.f.).

The Government made some progress in protecting children during the year. On August 13, the President approved a National Action Plan on the Elimination of the Worst Forms of Child Labor. The plan consisted of 5-, 10- and 20-year goals that included raising awareness, policy development, and intervention to eliminate the worst forms of child labor (see Section 6.d.). On September 23, the DPR passed the National Child Protection Act, which addresses economic and sexual exploitation, including child prostitution, trafficking in children, and the involvement of children in the narcotics trade. The legislation also covers adoption, guardianship, and custody, and requires parents who wish to adopt to practice the same religion as the child. The Ministry of Women's Empowerment, responsible for children's issues, opened up the bill to NGO input. On August 16, President Megawati announced the upcoming education budget, which was \$1.46 billion (13.6 trillion rupiah), or less than 4 percent of total government spending. Education experts welcomed the 15 percent increase over the previous year's allocation; however, legislators and officials of the Ministry of National Education stated they would seek a significant additional increase. In August the MPR amended the Constitution to stipulate that a minimum of 20 percent of total state and regional budgets would be allocated to education.

By law children are required to attend 6 years of elementary school and 3 years of junior high school. In practice, however, the Government did not enforce these requirements. According to UNICEF, 96 percent of children aged 7 to 12 were enrolled in school; among children aged 13 to 15, 79 percent were enrolled in school; and among children aged 16 to 18, 49 percent were enrolled in school.

The monthly fees for public schools varied from province to province, and were based on average incomes. During the year, some parents found it more difficult to afford the \$1.20 (10,650 rupiah) to \$5.00 (44,374 rupiah) monthly fee that most public elementary schools charged. It was unclear how many children were forced to leave school during the year to help support their families. Conflicts disrupted the education of many children during the year.

In Maluku and North Maluku, interreligious violence displaced 452,000 persons, many of them children. Some children attended classes in makeshift classrooms at IDP camps. In August in the Maluku capital of Ambon, UNICEF introduced its "school in a box" system to help compensate for the destruction of 118 schools. Muslim-controlled areas reported a severe shortage of teachers, as a majority of teachers in the Moluccas were Christian, and many of them fled to Christian controlled areas when the violence escalated. In Central Sulawesi, bombings near schools disrupted education and displaced many of the children. The provincial capital of Palu suffered a number of such bombings, including two on September 19, which injured three persons. Clashes among student groups also drew increased scrutiny during the year.

The country's infant mortality rate remained high. According to the Indonesian Child Welfare Foundation, there were 38 deaths for every 1,000 newborns during year. Some NGOs attributed the problem to poor service at public health centers. The World Health Organization stated that prenatal care in the country was poor.

Malnutrition remained a serious problem, particularly among younger children. In 2001 UNICEF stated that 31 percent of the country's children under the age of five were moderately or severely underweight. This figure represented an increase from 26 percent recorded in 1999.

On July 29, Aris Merdeka Sirait, the Head of the National Committee for Child Protection (KOMNAS PA), called attention to the plight of child domestic workers. He estimated the child servant population at 1.8 million, based on 2000 data, and said such children faced sexual harassment and physical abuse by employers, due mainly to the absence of any legal protection (*see* Section 6.d.).

In December a study by Family Health International (FHI) estimated the number of street children nationwide at 70,872. This was based on data provided by the Government and a network of NGOs that cooperate with Save the Children. Other sources provided higher estimates. East Java, Jakarta, West Java, North Sumatra, and South Sulawesi Provinces have the largest street children populations (*see* Section 6.f.).

Child abuse is not prohibited specifically by law; however, there were no reliable sources on violence within families. Governmental efforts to combat child abuse have been slow and ineffective due to cultural sensitivities and a lack of monitoring mechanisms and verification.

Accusations of trafficking surrounded some East Timorese children who were in West Timor waiting to be reunited with their families. The UNHCR stated that as of early October, approximately 540 East Timorese children were still in West Timor. Many of the trafficking accusations focused on the Java-based Hati Foundation run by Octavio Soares, nephew of the last Governor of Indonesian East Timor. On July 4, Jesuit Relief Services (JRS) Indonesia reportedly complained to authorities that the Hati Foundation was obstructing its attempts to reunite East Timorese children with their families, which the Hati Foundation denied. HRW reported that requests for reunification of the children by the parents, UNHCR, and the IRC were met with hostile resistance by Soares. Other accusations centered on the Lemorai Foundation run by Hasan Basri (*see* Sections 2.d and 6.f.).

Child prostitution was pervasive during the year. NGO estimates of the number of child sex workers in the country ranged from 40,000 to 300,000. Although some teenage girls entered the sex trade knowingly, many were forced or tricked into the practice. At times law enforcement officials treated child sex workers as perpetrators of crime, rather than victims. The NGOs stated that fewer than 10 percent of child prostitutes were rehabilitated successfully. Women's rights activists and religious groups accused government officials, including police and soldiers, of operating or protecting brothels that employed underage prostitutes. During the year, there were reports that corrupt civil servants issued identity cards to underage girls, facilitating entry into the sex trade (*see* Section 6.f.).

Sexual exploitation of boys was a major problem in Bali, according to NGOs active there. On July 24, in the city of Denpasar, 37 local NGOs discussed the problem and urged the Government to deport foreign pedophiles. Activists also described the island of Batam as a center for child sexual abuse. On July 17, the Minister of Women's Empowerment identified Medan and other parts of Sumatra as trouble spots for child sexual abuse (*see* Section 6.f.).

Trafficking of children was a problem (*see* Section 6.f.).

There was no separate criminal justice system for juveniles. Ordinary courts handled juvenile crime, and juveniles often were imprisoned with adult offenders. The KOMNAS PA stated that more courts were starting to involve social workers in children's trials to safeguard children's rights. At year's end, the Government still had not implemented a Juvenile Justice Law, which was approved in 1997 to establish a special court system and criminal code to handle juvenile cases.

A number of NGOs promoted children's rights. The National Commission for the Protection of Children's Rights (KOMNAS ANAK) campaigned for legislation to protect children. Save The Children worked with street children, while the Institute for Advocacy of Children (Lembaga Advokasi Anak Indonesia) struggled to end child exploitation on fishing platforms.

*Persons with Disabilities.*—The law mandates access to buildings for persons with disabilities; however, the Government generally did not enforce these provisions. The Disability Law requires companies that employ over 100 workers to set aside 1 percent of their positions for persons with disabilities. However, the Government did not enforce the law or pressure any company to comply, and persons with disabilities faced considerable discrimination. The law also mandates accessibility to public facilities for persons with disabilities; however, extremely few buildings and virtually no public transportation facilities provided such accessibility. Recent statistics on the disabled population were not available. In 1999 the U.N. estimated that 5.43 percent of the population (about 10 million persons) was disabled, while the

Government put the number at 3 percent (6 million persons). The Government groups persons with disabilities into four categories: the blind, deaf, mentally disabled, and physically disabled. The Constitution requires the Government to provide them with care; however, "care" was not defined, and the provision of education to disabled children was never inferred from the requirement.

On May 20, hundreds of supporters of an advocacy group, the Forum of Struggle for the Disabled (Forpadi), rallied in the West Java city of Bandung; they accused government institutions and state universities of failing to provide facilities for the disabled. In October a workshop in Jakarta focused on political empowerment of the disabled. Members of the Indonesian Blind People's Association (Pertuni) and the Indonesian Disabled Association (PPCI), among others, called for revisions to the election bill to protect the rights of the disabled. Some called on the Government to provide ballot papers in braille. Facilities such as wheelchair ramps existed mainly in the larger cities, including Jakarta and Yogyakarta. On July 1, eight blind applicants to the University of Indonesia took the entrance examination in Jakarta; it was unclear whether any had been accepted at year's end. However, the Indonesian Union of the Blind (PERTUNI) stated there were a number of blind students studying during the year at public universities, including Jakarta State University.

The law theoretically provides children with disabilities the right to an education and rehabilitative treatment. However, many young persons with disabilities encountered difficulties in receiving an education and rehabilitative treatment; some resorted to begging for a living. According to a UNICEF report in 2000, there were approximately 2 million children with disabilities between 10 and 14 years of age.

NGOs were the primary providers of education for disabled children. There were 1,084 schools for persons with disabilities; 680 were private and 404 were government operated. Of the Government schools, 165 were "integrated," serving both regular and special education students. The Government also ran three national schools for those with visual, hearing, and mental disabilities.

*Indigenous Persons.*—The Government views all citizens as "indigenous," with the notable exception of ethnic Chinese; however, it recognizes the existence of several "isolated communities" and their right to participate fully in political and social life. The Government estimated the number of persons in isolated communities at 1.5 million. This included such groups as the Dayaks of Kalimantan, families living as sea nomads near Riau Province and South Sulawesi Province, and indigenous groups in Papua, where the Government in July revised the official count of tribes from 250 to 312.

Previous improvements in the legal framework, such as the Government's acknowledgement of traditional land rights, did not translate into significant improvements for indigenous people, who remained subject to widespread discrimination during the year. Representatives of indigenous communities complained that religious courts continued to deny the legal status of indigenous belief systems. NGOs stated that mining and logging activities frequently violated the rights of indigenous people, and that many violations resulted from the Government denying indigenous people their ownership of ancestral land, as well as the erosion of their traditional social structure.

Exploitation of rainforest resources contributed to the erosion of traditional land rights, particularly in Papua and Kalimantan. The Government failed to stop domestic and multinational companies from encroaching on indigenous people's land, often in collusion with the local military and police. On May 16, the Head of Papua's Social Welfare Office said excessive logging was pushing at least 51 isolated tribes living in eastern parts of the province to near extinction. Logging companies drove the tribes to mountainous areas around the Mamberamo River. On April 22, in Central Sulawesi, more than 100 indigenous people protested plans by a subsidiary of a multinational mining company to open a gold mine on land traditionally inhabited by the Poboya people, in the Kambuno mountains. In July the Government accused copper and gold mine operator PT Freeport of polluting two Papuan rivers that served as a water source for thousands of indigenous people near the towns of Tembagapura and Timika.

In Southeast Sulawesi, the Moronene people continued their decades-old struggle to secure government recognition of their claim to ancestral land in what is now the Rawa Aopa Watumohai National Park. On May 1, the Brimob raided the villages of Hukaea and Laea, detained 11 residents, and relocated 147 others. The Moronene, however, soon returned to their villages. Plans to permanently relocate them were hindered by the fact that the land set aside for them already was occupied by other civilians.

In Papua tension continued between indigenous Papuans and migrants from other provinces. Some in the indigenous community accused the newcomers of price gouging and condescension, while some newcomers said indigenous Papuans treated



them with resentment and suspicion. During the year, many indigenous Papuans expressed alarm over the influx of migrants who were displaced by violence in the Moluccas and Central Sulawesi. Some indigenous people also expressed concern about the increasing presence of L.J., the Java based Islamic extremist group, fearing that its members would team up with nationalist militiamen to fight proindependence Papuans under the banner of protecting Muslims and the country's unity.

On January 1, the Papua Special Autonomy Law took effect, formally giving the province the right of self-governance, except in the fields of foreign affairs, defense, some monetary matters and judicial appeals. Under the law, only indigenous Papuans can be elected as Governor and Vice Governor, or as members of the planned Papua People's Assembly or the existing regional legislature, the Papuan Provincial Legislative Council (DPRD). Although the central government considered the law generous, many Papuans were skeptical of any arrangement that kept their homeland a part of the country. Many Papuans continued to complain they were treated as second-class citizens in their own land and that they were forced to follow a foreign culture. By year's end, the DPRD had not passed most of the law's implementing regulations, and the effect of special autonomy was unclear.

Human rights activists stated that the Government-sponsored transmigration program violated the rights of indigenous people, bred social resentment, and encouraged the exploitation of natural resources on which many indigenous persons relied. Some human rights activists said the Government used transmigration as a political tool to increase the number of nonindigenous persons in certain areas, in part to preclude secessionist movements. In some areas, such as parts of Sulawesi, the Moluccas, Kalimantan, Aceh, and Papua, relations between transmigrants and indigenous people were hostile. In December in Papua, an OPM unit attacked a migrant settlement and raised the separatist flag until TNI reinforcements arrived. Indigenous groups in various parts of the country said they received less government support than transmigrants, and transmigrants claimed that in some cases they were moved to areas with undesirable land, or where the land's ownership was in dispute.

Tensions continued in West and Central Kalimantan between indigenous Dayaks and Madurese migrants over land issues, economic opportunity, and cultural differences (see Section 1.a.). The Madurese community in Kalimantan developed around an earlier group of government-sponsored transmigrants, although the majority of Madurese in the area migrated spontaneously. In West Kalimantan, an estimated 30,000 Madurese were unable to return home during the year. On May 26, the decapitation of a 65-year-old Madurese man prompted the exodus of dozens of ethnic Madurese families from the Kapuas district of Central Kalimantan. It was unclear who was responsible for the killing. The People's Congress of Central Kalimantan advised the Madurese who had fled to wait between 5 and 25 years before returning.

Members of the Betawi ethnic group, which is indigenous to Jakarta, clashed on several occasions with ethnic Madurese during the year. In one such clash on July 15, fighting in the city's Cakung district left three persons with stab wounds and a number of homes destroyed.

*National/Racial/Ethnic Minorities.*—The Government officially promotes racial and ethnic tolerance.

Ethnic Chinese accounted for approximately 3 percent of the population, by far the largest nonindigenous minority group, and played a major role in the economy. During the year, there were instances of discrimination and harassment. In July in the East Java regency of Garut, an ethnic Chinese businessman reportedly borrowed money from a number of persons, including police and soldiers, but when he was unable to repay his debts, regency officials summoned representatives of the Chinese community and informed them that the community would have to cover the debts. Central government officials later demanded an explanation from the regency officials, and a Chinese community organization, Paguyuban Marga Tionghoa, lodged a complaint.

To obtain a passport, business license, or credit card, or to enroll a child in school, a Chinese-Indonesian must first show a Republic of Indonesia Citizenship Certificate (SBKRI), a document not required of non-Chinese-Indonesians. This requirement provided an extortion opportunity for the many bureaucratic institutions involved in the issuance process. In May a controversy surfaced after a Chinese-Indonesian badminton champion was unable to obtain an SBKRI, which he needed to travel to China to compete. Only the President's personal intervention enabled him to obtain the SBKRI and to participate in the competition.

The Indonesia Anti-Discrimination Movement (GANDI) and other advocacy groups urged the Government to repeal dozens of laws that discriminate against Chinese-Indonesians, including one which prevents mixed-religion marriages.

Chinese language books and music were freely available, and Chinese songs often were heard on radio and TV (*see* Section 2.a.).

During the year, some Chinese-Indonesians complained that the Government had not done enough to investigate the 1998 violence against Chinese-Indonesians and their businesses.

Indigenous Papuans complained that they were underrepresented in the civil service of that province and that government officials discriminated against them. Others expressed fear that the Brimob forces aimed to eradicate indigenous Papuans; however, there were no reports during the year of politically motivated killings.

In Kalimantan, indigenous Dayaks faced discrimination in obtaining civil service jobs and generally were worse off economically than transmigrants. Ethnic Madurese transmigrants, who had clashed frequently with Dayaks in the province, complained that they were driven off of their land and that the Government seemed uninterested in their plight.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Labor Union Act provides broad rights of association for workers. The law stipulates that 10 or more workers have the right to form a union. Union membership must be open to all workers, regardless of political affiliation, religion, ethnicity, or gender. Private sector workers are by law free to form worker organizations without prior authorization, and unions may draw up their own constitutions and rules and elect representatives. The Government records, rather than approves, the formation of the union and provides it with a registration number. In addition, the law provides that union dues must finance union activities, but does not indicate how dues should be collected or whether management has a role in collecting dues.

Employers criticized the provision which permits 10 workers to form a union, claiming that it encouraged the creation of too many unions, which complicated collective bargaining and increased the possibility of strikes. A regulation requires that police be notified of all meetings of five or more persons of all organizations outside offices or normal work sites. The regulation applies to union meetings. The police periodically showed up uninvited at labor seminars and union meetings, which often had an intimidating effect.

Under the law and registration regulations, more than 60 union federations notified the Ministry of Manpower and Transmigration of their existence. In addition, thousands of workplace-level units registered with the Ministry, although some unions complained of difficulty in registering.

During the year, the Government presented two important labor bills to the DPR: the Manpower Development and Protection Act and the Labor Disputes Act. Unions and employers criticized aspects of each bill. Some provisions did not appear to be in accordance with international labor standards, including bureaucratic conditions for legal strike actions and requirements for employers to pay workers who strike legally. In September the DPR delayed consideration of the bills. Meanwhile, the chamber repealed the Suharto-era Labor Act of 1997. The failure to pass new labor legislation to replace outdated and inadequate laws left the industrial relations environment in a state of uncertainty.

Although government regulations prohibited employers from discriminating against or harassing employees because of union membership, there were credible reports of employer retribution against union organizers, including dismissals, that was not prevented effectively or remedied in practice. Some employers warned employees against contact with union organizers. Some unions claimed that strike leaders were singled out for layoffs when companies downsized.

In 2000 the Indonesian Prosperity Trade Union (SBSI) documented 135 cases in which companies violated workers' right to organize by intimidating, punishing, or firing SBSI members because of their affiliation with the union or because they attempted to organize SBSI units within their factories.

In May the management of wood products company PT Taiwi Sidangali in Ternate, North Maluku, fired union leaders and reportedly organized local officials to threaten workers and their families to stop attempts to establish a union branch. Uniformed army members reportedly beat the union officials when the latter attempted to speak with the employer about the intimidation, according to the Solidarity Center and the union. Police then jailed the union organizers. In September the International Federation of Building and Wood Workers (IFBWW) launched an international appeal for Muhammed Opu, who was convicted in August for anti-

social acts by the Tarakan District Court and sentenced to 6 months in prison. By the end of the year, several other union members also awaited trial for the same alleged antisocial acts.

The Confederation of All Indonesian Trade Unions (KSPSI), formed by the Government-directed merger of labor organizations in 1973, is the oldest trade union organization and remained the largest confederation. The leader of KSPSI concurrently served as Manpower Minister. Some employers and some unions questioned whether the dual role created a conflict of interest, for example, in the drafting of the new labor laws.

The law allows the Government to petition the courts to dissolve a union if its basis conflicts with the state ideology of Pancasila or the Constitution, or if a union's leaders or members, in the name of the union, commit crimes against the security of the State and are sentenced to at least 5 years in prison. Once a union is dissolved, its leaders and members may not form another union for at least 3 years.

The law does not address the adjudication of jurisdictional disputes among multiple unions in a workplace, and existing laws and regulations do not provide clear guidance on how jurisdictional disputes should be handled. Such ambiguity occasionally led to clashes between unions.

The law recognizes civil servants' freedom of association and right to organize. Employees of several ministries announced that they would form their own employee associations, and union organizations began to seek members. Unions also sought to organize state-owned enterprise (SOE) employees, although they encountered some resistance from enterprise management, and the legal basis for registering unions in SOE's remained unclear. The Government no longer required teachers to belong to the Teachers' Association (PGRI), which previously served as a mechanism for government control over teachers, and some teachers carried out demonstrations and strikes. Teachers may join other unions or form their own union.

During the year, there were several cases in which workers damaged property and were not arrested. On September 24, several thousand labor demonstrators protested draft labor legislation and destroyed the gates to the DPR. In addition, there were disputes, which sometimes became violent, among different unions represented in the same company. Groups claiming to represent labor also at times resorted to violence. For example, in September thousands of teachers in Bandar Lampung, who tried to enter the office of the mayor, clashed with security forces.

The law stipulates that unions may affiliate and cooperate with international trade unions and organizations. The KSPSI maintained international contacts and was an affiliate of the Association of Southeast Asian Nations Trade Union Council. SBSI was affiliated with the World Confederation of Labor and some international trade union secretariats. Other unions maintained contacts and affiliations with international labor federations.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining and the Manpower Ministry promoted it within the context of Pancasila. The law allows for workers' organizations that register with the Government to conclude legally binding agreements with employers and exercise other trade union functions. In companies without unions, the Government discouraged workers from utilizing non-Government outside assistance, such as during consultations with employers over company regulations. Instead, the Manpower Ministry preferred that workers seek its assistance and stated that its role was to protect workers. However, there were credible reports that for many companies, consultations were perfunctory at best and usually only occurred with management-selected workers. There also were credible reports to the contrary from foreign companies. According to government statistics, approximately 80 percent of the factory-level KSPSI units had collective bargaining agreements. The degree to which these agreements were negotiated freely between unions and management, without government interference, varied. By regulation, negotiations must be concluded within 30 days or be submitted to the Manpower Ministry for mediation and conciliation or arbitration. Most negotiations were concluded within the 30-day period. According to regulations, agreements are for 2 years and can be extended for 1 year.

According to NGOs involved in labor issues, the provision of collective bargaining agreements in practice rarely went beyond the legal minimum standards established by the Government, and the agreements often were presented to worker representatives for signature rather than negotiation.

All organized workers except civil servants have the legal right to strike. State enterprise employees rarely exercised this right, but private sector strikes were common. Before a strike can legally occur in the private sector, the law requires intensive mediation by the Manpower Ministry and prior notice of the intent to strike,

but no approval is required. In practice, workers and employers rarely followed dispute settlement procedures. Workers rarely gave formal notice of the intent to strike because Manpower Ministry procedures were slow and had little credibility among workers. Sudden strikes usually resulted from longstanding grievances, attempts by employers to prevent the formation of union branches, or denial of legally mandated benefits or rights.

Strikes frequently occurred during the year across a wide range of industries. From January to October, the Manpower Ministry recorded 194 strikes involving 84,555 workers. In addition, there was an increase in worker demonstrations and strikes regarding severance pay, particularly in Jakarta, West Java and East Java, related to an increase in company closures during the year.

In July in Jakarta, teachers from Al Alzhar, an elite private school, went on strike to demand higher pay. The school subsequently fired 53 striking teachers. The two sides finally decided to take the matter to court. On October 18, in the city of Tangerang, Banten Province, hundreds of workers at a Korean-owned factory detained the manager and his family for 5 days to demand that the company pay legally required severance packages. The workers released the family when the Korean manager agreed to their demands. According to a November 2001 ILO report, management at the Shangri-La Hotel violated worker rights when it dismissed 580 members of the Independent Worker's Union (SPMS) for striking in December 2000. The ILO report criticized the Government's overnight detention of 20 SPMS members for occupying the hotel lobby during the strike, and characterized the detention as "an obstacle to the exercise of trade union rights." The ILO called on the Government to require the hotel to rehire the fired workers. In March the Jakarta Administrative Court reversed the decision of the local labor dispute resolution committee and ruled that the Jakarta Shangri-La Hotel must rehire 79 workers who did not sign severance agreements. Approximately 500 other workers reportedly signed severance agreements only after they were pressured by the hotel. The hotel stated it would appeal the decision. On December 19, the Supreme Court ruled in favor of the hotel's appeal, invalidating the order to rehire the workers. In January according to the AFL-CIO's Solidarity Center, authorities in the Central Java City of Semarang imprisoned six activists from the National Front for Indonesian Workers' Struggle (FNPBI) on criminal charges of "unpleasant acts" after they led a strike for workers' legal rights in October 2001 at PT Wira Petro Plastindo. According to the Solidarity Center, the activists remained in jail for 6 months before they were released.

Labor activists alleged that factory managers in several locations employed Pancasila Youth, a group with reported links to Brimob, to intimidate and assault trade union members. In January, according to the FNPBI, Pancasila Youth members intimidated workers and beat an FNPBI activist at a latex factory in Sunggal, North Sumatra. According to FNPBI, no one was held accountable for the beating by year's end.

In September a protest in Bandung against pending labor legislation resulted in the arrest of 32 labor activists and demonstrators. According to NGOs, authorities released 27 of the demonstrators after charging them with misdemeanors. Authorities also released the remaining five, but charged them with more serious offenses. Their trials were ongoing at year's end. In May the Mojokerto District Court in East Java sentenced three labor activists to 1 year in jail for antisocial acts, following their efforts to organize a strike for meal and transportation allowances. The Manpower Minister publicly criticized the court's decision. On January 14, in Tangerang, the District Court convicted and released the Deputy Chief of the Karya Utama labor union, Hamdani bin Ijin from prison after sentencing him to time served for stealing a pair of reject sandals produced by the factory at which he formerly worked. Many other workers also wore the reject sandals, a common practice at the factory, but they were not arrested. Many viewed the conviction as politically motivated, constituting an attempt to punish Hamdani for his labor activism. Also in January, a Jakarta district court found labor activists Sofyan Bedot and Surjito innocent of charges of "antisocial behavior." According to the Solidarity Center, the two men argued with managers from footwear company PT Dwi Naga Sakti Abadi for an increase in the workers' daily meal allowance. After the demands were made, the company reportedly fired 35 union members, citing efficiency measures.

Regional and national labor dispute resolution committees adjudicated charges of antiunion discrimination, and their decisions could be appealed to the State Administrative Court. However, due to a history of adverse decisions for labor and the long time necessary to process disputes, sometimes requiring years, many unions believed that these committees were not realistic alternatives for settling disputes. As a result, workers frequently presented their grievances directly to KOMNASHAM, the DPR, or NGOs. Administrative decisions in favor of dismissed workers usually

took the form of monetary awards, but rarely reinstated workers. The law required that employers obtain the approval of the labor dispute resolution committee before firing workers, but employers often ignored the law in practice.

Since 1996 unions affiliated with the KSPSI had been able to collect union dues directly through payroll deductions (the "checkoff" system), rather than having the Manpower Ministry collect dues and transfer them to the KSPSI. Implementation of this system remained uneven. Unions other than the KSPSI alleged difficulties in having companies set up a check-off system for their members.

The police and military continued to be involved in labor matters, although a shift away from open intervention and demonstrations of force by uniformed troops to less visible measures continued.

There were seven export processing zones (EPZs) in the country. Batam Island, near Singapore, was the largest. Labor law applies in EPZs, although nongovernmental observers believed there was an antiunion tradition in EPZs, and that practical enforcement of labor laws was weaker in these zones. The Indonesian Metalworkers' Union (SPMI) reported to the Solidarity Center that electronics manufacturers in Batam frequently fired workers or encouraged resignations of workers who attempted to form unions. The Solidarity Center also reported that garment companies in Jakarta's two EPZs employed thugs to intimidate and assault union organizers. According to information from the ILO, in recent years unions had more success in organizing plants and negotiating with companies in the Batam EPZ.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced labor, and the Government generally enforced this prohibition. The law and regulations forbid bonded labor by children. The Government, however, was not effective in eliminating forced child labor, which remained a serious problem. A significant number of children worked against their will in prostitution, pornography, begging, drug trafficking, domestic servitude, and other exploitative situations, including fishing platforms. NGO estimates of the number of child prostitutes ranged from 40,000 to 300,000, reflecting the difficulty of determining precise statistics. An ILO study indicated that in cases of child prostitution in West Java, parents and other family members commonly were complicit in forcing children to perform this type of work.

The ILO estimated that along the North Sumatra coast approximately 500 children worked on wooden fishing platforms under inhumane conditions. This represented a decrease from previous years. Children working on platforms remained in near-isolation for up to 4 months, without access to sanitary facilities or schooling. The platform workers typically worked 12 to 14 hours per day and carried out hazardous duties which were made even more dangerous by the fact that most children on the platforms could not swim and risked falling into the sea on a daily basis as well as being injured by net-lifting equipment. In 1999 the Government stopped issuing permits to build new platforms. The ILO and NGOs, in coordination with the Government, took steps that helped reduce this problem.

Migrant workers made up a substantial portion of the workforce and received limited protection from the Government. According to press reports and research by the Solidarity Center, recruiters frequently held migrant workers in holding centers (PJKI) for months at a time before sending them abroad. During their stay at holding centers, migrant workers normally did not receive pay and recruiters often did not allow them to leave the centers. In some instances, workers were forced to pay recruiters for the cost of their forced stay, owing large debts to the recruiters.

During the year, the Manpower Ministry revoked the licenses of 40 labor export companies for abuse of migrant workers and other violations. In December police and Manpower officials freed women who had been held forcibly in a migrant worker center near Jakarta (*see* Section 6.f).

A Home Affairs Ministry decree requires that migrant workers sign an agreement not to disclose difficulties encountered abroad, and, in practice, the Government restricted the ability of migrant workers to speak about abuses they faced overseas.

Forced labor and debt bondage was an issue in the informal sector. Private employers, within the country and abroad, at times forced household help to work without pay, for extremely low wages, or in situations of debt bondage. NGOs and the press reported cases of employers locking domestic workers within homes and physically and sexually abusing them.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits children from working in hazardous sectors including mining, skin diving, construction, prostitution, and offshore fishing platforms, but the Government did not enforce these laws effectively. Child labor was a serious problem in the country. Government regulations and practice acknowledged that some children must work for socioeconomic reasons. The law prohibits children under 15 from working more than 4 hours per day. Nevertheless, an estimated 6 to 8 million children exceeded

this daily limit, by working in street vending, mining, construction, and prostitution. There was little government enforcement of the legal requirement that job seekers between the ages of 13 to 15 years first obtain the consent of the Government and a labor association before they begin to work.

During the year, the Government made efforts to strengthen the legal basis for the protection of children from the worst forms of child labor. On September 23, the National Assembly passed the National Child Protection Act. The law specifically addresses economic and sexual exploitation, including child prostitution, child trafficking, and the involvement of children in the narcotics trade. The law provides criminal penalties and jail terms for persons who violate children's rights (*see* Section 5).

The National Action Committee to Eliminate the Worst Forms of Child Labor drafted a National Action Plan, approved by presidential decree in August. The Action Plan establishes a target to eradicate the worst forms of child labor over a 20-year period, and specifies activities for government support. In addition, the Government approved National Action Plans on trafficking of women and children, and on the commercial sexual exploitation of children. On December 23, President Megawati signed the plans. Enforcement of child labor laws remained ineffective during the year.

Despite legislative and regulatory measures, most children who worked, including domestic work, did so in unregulated environments. The ILO sponsored training of labor inspectors on child labor matters under the International Program on the Elimination of Child Labor (IPEC). According to the ILO, labor inspectors in Bandung, West Java, identified and removed some child workers from hazardous conditions in a shoe manufacturing shop during the year.

There were limited social programs to prevent exploitative child labor, conducted with international assistance.

The country's laws and regulations adhere and make reference to the standards set out in ILO Convention 102 on child labor.

More children worked in the informal, rather than the formal, sector. Some children worked in large factories, but their numbers were unknown, largely because documents verifying age could be falsified easily. Some employers hired children because they were easier than adults to manage, and less likely to organize or make demands on employers. Children working in factories usually worked the same number of hours as adults. Children also worked in the rattan and wood furniture industries, the garment industry, the footwear industry, food processing, toy-making, and in small mining operations.

Many girls aged between 14 and 16 worked as live-in domestic servants. On July 29, the head of the National Committee for Child Protection said that in 2000 an estimated 1.8 million children worked as servants, up from 1.5 million in 1999. Many child servants were not allowed to study and were forced to work long hours, received low pay, and generally were unaware of their rights.

Forced or bonded labor by children occurred in some instances. A declining number of children worked for months at a time on isolated fishing platforms in North Sumatra (*see* Section 6.c.).

*e. Acceptable Conditions of Work.*—According to regulations, provincial and district authorities, not the Government, establish minimum wage levels, which vary by province, district, and sector. Provincial authorities determined provincial minimum wage levels based on proposals by tripartite (workers, employers, and government) provincial wage commissions. Local districts set district minimum wages using the provincial minimum wage levels as references. Minimum wages rose significantly in recent years, and on average increased 28 percent from 2001 to 2002. Jakarta had the highest minimum monthly wage at \$67 (591,266 rupiah), while East Java had the lowest at \$28 (245,000 rupiah). Despite recent increases, minimum wage levels in all but three provinces remained below the levels required to provide the Government-determined minimum living standards for a single person, which also varied by province. On average across all provinces, the minimum wage represented 86 percent of the minimum living need. In practice the minimum wage often acted as a market wage, rather than a starting point for salary negotiations. The setting of minimum wage levels often led to protests from workers and employers. Employers complained that workers' productivity gains did not match increases in minimum wages, reduced the price competitiveness of products, and resulted in job losses.

Government enforcement of minimum-wage regulations, along with other labor regulations, remained inadequate, particularly at smaller companies and in the informal sector. In practice official minimum-wage levels applied only to the formal sector, which accounted for just 35 percent of the workforce.

Labor law and ministerial regulations provide workers with a variety of benefits, such as social security. Persons who work at more modern facilities often received health benefits, meal privileges, and transportation.

According to the Solidarity Center, unions reported numerous incidents in which companies reduced benefits when minimum wage levels increased, in violation of government regulations. For example, in February, 850 garment workers in the West Java city of Tangerang launched a strike against manufacturer PT Hyun Indonesia because of its reported intention to stop providing transportation and meal allowances to workers, following minimum wage increases. The company then suspended the legally required minimum wage increase.

The law establishes 7 or 8 hour workdays, with one 30-minute rest period for every 4 hours of work. The law also requires one day of rest weekly. The daily overtime rate was 1.5 times the normal hourly rate for the first hour and two times the hourly rate for additional overtime. Regulations allowed employers to deviate from the normal work hours upon request to the Manpower Minister, and with the consent of the employee. Workers in industries that produced retail goods for export frequently worked overtime to meet contract quotas. Observance of laws regulating benefits and labor standards varied between sectors and regions. Employer violations of legal requirements were fairly common and often resulted in strikes and employee protests. The Manpower Ministry continued to urge employers to comply with the law. However, in general, government enforcement and supervision of labor standards were weak.

Both law and regulations provide for minimum standards of industrial health and safety. According to the state-sponsored worker insurance agency JAMSOSTEK, the number of work-related accidents increased over the past 3 years, from 82,456 in 1999 to 108,774 in 2001. An official of the National Health and Safety Council, which was tasked with supervising the implementation of health and safety systems in almost 170,000 firms, told the press that they did not "have enough personnel to cover all enterprises," and urged companies to be self-compliant. In most of the country's larger registered companies, the quality of occupational health and safety programs varied greatly. Health and safety standards in smaller companies and in the informal sector tended to be weaker or nonexistent. Some foreign buyers also promoted worker health and safety improvements within the operation of their local suppliers. The limited number of qualified labor inspectors, corruption in the inspection system, and the low level of employee appreciation for health and safety practices severely hampered the enforcement of health and safety standards. During the year, there were numerous allegations of corruption on the part of inspectors. Workers are obligated to report hazardous working conditions. Employers are forbidden by law from retaliating against those who do report, but the law was not enforced effectively. As a result, workers who removed themselves from hazardous working conditions risked losing their job.

*f. Trafficking in Persons.*—The country does not have legislation that exclusively addresses trafficking in persons, and persons were trafficked to, from, and within the country during the year for the purposes of prostitution, forced labor, and debt bondage.

During the year, the Government approved a National Action Plan to counter trafficking of women and children. It includes provisions for traffickers to be punished severely, and identifies specific roles for the Government at both the national and local levels. In September the Government also passed a Child Protection Act, which specifically prohibits economic and sexual exploitation of children. This act specifies criminal penalties and jail terms for persons who violate children's rights, including trafficking in persons. The Government also supported programs at two universities, in East and West Java, to develop specific anti-trafficking legislation. In addition, the Government reinvigorated a public education effort on trafficking, which included placing programming with TV and radio outlets. It also started the process of ratifying remaining U.N. protocols related to trafficking and transnational organized crime. The Government formed a team to draft a new trafficking bill.

Although the Criminal Code lacked a legal definition of trafficking in persons, two organizations, the Solidarity Center and the ICMC, identified articles of law that could be applied in cases of trafficking and related offenses. The Penal Code prohibits trade in women and male minors and provides for sanctions of up to 6 years in prison. The law is silent on girls, and judges rarely sentenced traffickers to more than 3 years in prison. Although related laws that deal with crimes against decency were used against traffickers, arrests were rare, and successful prosecutions were rarer. On June 27, in the Sumatran city of Bandar Lampung, a court convicted a 53-year-old trafficker of kidnaping a 14-year-old girl earlier in the year. The woman had promised the victim a restaurant job but instead sent the girl to a brothel.

The Government did not compile statistics on the number of persons trafficked, and reliable figures were not available. The Indonesian Women's Coalition for Justice and Democracy estimated that as many as 400,000 women and children were trafficked from the country during the year. Another domestic NGO estimated that 20 percent of the country's estimated 5 million migrant laborers were trafficked each year. The majority worked as maids, construction, or plantation workers. Prostitution was widespread and was the driving force behind trafficking in persons. Although the Government generally interpreted "crimes against decency/morality" as applicable to prostitution, the latter is not specifically mentioned in the Penal Code. Official statistics were not available, but NGOs estimated that as of 2001, there were as many as 1.3 million prostitutes in the country. The prevalence of fraudulent national identity cards contributed to the trafficking problem.

The Government's 2001 "Working Paper on the Efforts Against Commercial Sexual Exploitation of Children in Indonesia" acknowledged that there have been reports of commercial sexual exploitation of children in two-thirds of the country's 30 provinces. "Back Street" children provided sex and entertainment services in some neighborhoods, urban parks, and cemeteries. More than 70,000 children lived on the streets.

On August 28, in Indramayu, police arrested three suspected child traffickers. The men were holding three girls, aged 14 and 15, who allegedly were being sent to work at a brothel in Riau province. In October in Indramayu, West Java, police apprehended a man and a woman who allegedly were attempting to smuggle seven women to Losari, near the city of Cirebon. The woman reportedly had opened a brothel. During the year, many poor, ethnic Chinese women from Kalimantan married men from Taiwan, sparking accusations of trafficking, but in a majority of cases these claims were unfounded. However, there were credible reports of underage girls, as young as 14 or 15, who obtained fake passports, married Taiwanese men, and moved to Taiwan. There also were unconfirmed reports of some Kalimantan women who were forced into prostitution in Taiwan. Chinese-Indonesian women and teenage girls, between the ages of 14 and 20, from the Singkawang area of West Kalimantan were recruited as mail order brides for grooms in Taiwan, Hong Kong, and Singapore. During the year, there were cases in which parents accepted advances of future salaries from employment brokers in exchange for their daughters. The child was required to repay the employment brokers at a later stage. Researchers described a "culture of prostitution" in some parts of the country, where parents encouraged their daughters to work as big-city prostitutes and send the proceeds home.

NGOs cited credible evidence that between July and September on Nunukan, off East Kalimantan, women migrant workers who had fled Malaysia following a crackdown there against illegal workers became targets of traffickers (see Section 2.d).

Many trafficking victims became vulnerable to trafficking during the process of becoming migrant workers. Although the Government licensed "official" recruiting agents, many unauthorized recruiting agents operated freely throughout the country. These illegal agents often charged exorbitant fees and recruited workers to work illegally overseas (see Section 6.c.).

On December 27, government officials near Jakarta freed 259 women forcibly held at a migrant worker "training center." Many of the female recruits had remained at the company's small site for 6 months and had accumulated thousands of dollars in debt while the company failed to come through with the promised employment. Unable to pay their debts, the women became prisoners within the company's locked and guarded compound.

During the year, there were credible reports that East Timorese children, who were waiting in West Timor to be reunited with their families, were trafficked. Trafficking accusations focused on the Java-based Hati Foundation (see Section 5).

In September 2001, the ILO published a preliminary study of trafficking trends in Jakarta, Batam, Medan, and Bali, that found that many girls were forced into prostitution after the failure of marriages they had entered into when they were as young as 10- to 14-years-old. There was no obvious violation of the law because their paperwork identified them as adults due to the fact they were once married.

In many cases, traffickers recruited girls and women under false pretenses. One tactic was to offer young women in rural areas jobs as waitresses or hotel employees in distant regions, typically at island resorts. After the new recruits arrived, they learned they had been recruited as prostitutes. During the year, it became apparent that some women were trafficked overseas under the guise of cultural performers. In August two Balinese dancers told police that they were hired as dancers to work in Japan, but after their arrival in Tokyo, they were put to work as hostesses. On August 19, Bali's Governor Dewa Made Beratha ordered an investigation. During the year, Indonesian women were trafficked to Malaysia, Singapore, Japan, Saudi



Arabia, United Arab Emirates, Australia, and other destinations. On December 29, 98 Indonesian women returned home from Saudi Arabia and 37 returned from Malaysia after reportedly fleeing abusive situations in those countries. The Government organized and financed their return, along with that of over 100 other abused female migrant workers throughout the year.

In July in the city of Tawau, in the Malaysian state of Sabah, the Indonesian Consul, Makdum Tahir, helped to free at least 10 young Indonesian women forced to work as prostitutes at hotels in the city. The women, who allegedly were trafficked, ranged in age from 16 to 20 years.

Police did not receive specific training with regard to trafficking. The basic 3-month course that all police officers received did not include training on counter-trafficking in persons. Trafficking falls under the purview of the Department of Serious Crimes and Vice. However, coordination within the police force, and between the police and other interested departments on trafficking in persons, was at a rudimentary stage and very weak. NGOs alleged there was, within society and government, considerable reluctance to acknowledge that prostitution was a major industry. Credible sources said many police and soldiers were involved in trafficking young girls and even setting up and protecting brothels. These sources said that even when police were not involved directly, they received payments from traffickers, brothel owners, and organized crime. There was speculation that non-corrupt police were afraid to intervene because of threats from organized crime. Apart from police and soldiers, government officials allegedly were involved in trafficking, according to these sources. Some were involved in the production of false documents, which facilitated trafficking. A researcher at Atma Jaya University stated that law enforcement officials tended to view child prostitutes as criminals, not victims.

Domestic NGOs led efforts to monitor and prevent trafficking, frequently in coordination with government agencies. These NGOs included Bandungwangi, the Consortium for Indonesian Migrant Workers Advocacy (KOPBUMI), Legal Aid for Women (LBH-Apik), Women's Aid and Protection Group (DERAP), and Women's Coalition (Koalisi Perempuan).

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## JAPAN

Japan is a parliamentary democracy based on the 1947 Constitution. Sovereignty is vested in the citizenry, and the Emperor is defined as the symbol of state. Executive power is exercised by a cabinet, composed of a prime minister and ministers of state, which is responsible to the Diet, a two-house parliament. The Diet, elected by universal suffrage and secret ballot, designates the Prime Minister, who must be a member of that body. The Liberal Democratic Party (LDP), the Conservative Party, and the Komeito party formed the Government in July 2000; it is headed by Prime Minister Junichiro Koizumi. The judiciary is generally independent.

The self-defense forces are responsible for external security and have limited domestic security responsibilities. The well-organized and disciplined police force was effectively under the control of the civilian authorities. However, there continued to be credible reports that police committed some human rights abuses.

In spite of a lengthy economic downturn, the industrialized, free market economy continued to provide the approximately 127 million residents with a high standard of living and high levels of employment.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There continued to be credible reports that police and prison officials physically and psychologically abused prisoners and detainees. Officials sometimes were dismissed for such abuse but seldom were tried, convicted, and imprisoned. Violence against women and children, child prostitution, and trafficking in women were problems. Women, the Ainu (the country's indigenous people), the Burakumin (a group whose members historically were treated as outcasts), and alien residents experienced varying degrees of societal discrimination, some of it severe and longstanding. According to Ministry of Justice figures, the Legal Affairs Bureau Offices and civil liberties volunteers dealt with 391,685 human rights-related complaints during 2001. Also during 2001, the Regional Legal Affairs Bureaus and the District Legal Affairs Bureaus received reports of 17,979 suspected human rights violations. However, staffing constraints and limited legal powers kept the administrative system for combating human rights violations weak, and many of these cases were ultimately resolved in the courts.

In 2001 the Justice Ministry's Council for Human Rights Promotion submitted recommendations for stronger governmental measures to address human rights abuses, including the establishment of a human rights commission that would provide relief to victims of human rights violations committed by public authorities and

members of the media through arbitration and administrative guidance. The report also recommended that the proposed body be granted investigative powers. During the year, the Justice Ministry submitted legislation to this effect. At year's end, the legislation was under debate in the Diet.

Japan was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

On October 25, Democratic Party of Japan Lower House Member Koki Ishii was killed outside his home; however, there were no indications that the killing was politically motivated.

*b. Disappearance.*—There were no reports of politically motivated disappearances. The country was riveted, however, by the September admission by Democratic People's Republic of Korea (DPRK) leader Kim Jong Il that the DPRK had kidnaped at least 13 Japanese citizens during the 1970s and taken them to North Korea. The DPRK allowed five surviving victims to visit Japan in October. They have remained in the country since that time. The DPRK alleged that the remaining eight are deceased. There was speculation, not officially confirmed by the Government, that the DPRK had abducted many more citizens over the years.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution provides for freedom from torture and cruel, inhuman, or degrading treatment or punishment, and the Penal Code prohibits violence and cruelty toward suspects under criminal investigation; however, reports by several bar associations, human rights groups, and some prisoners indicated that police and prison officials sometimes used physical violence, including kicking and beating, as well as psychological intimidation, to obtain confessions from suspects in custody or to enforce discipline. Unlike in 2000, there were no allegations of beatings of detainees by employees of private security companies that operated immigration detention facilities at Narita International Airport. The 2000 revision of the National Police Law permits persons to lodge complaints against the police with national and local public safety commissions. These commissions may direct the police to conduct investigations. However, public confidence in this system remained low, and allegations that the police and the public safety commissions remained lax in investigating charges of police misconduct persisted.

The Constitution and the Criminal Code include safeguards to ensure that no criminal suspect can be compelled to make a self-incriminating confession or be convicted or punished in cases where the only evidence against the accused is his own confession. The appellate courts overturned some convictions in recent years on the grounds that they were obtained as a result of coerced confessions. In addition, civil and criminal suits alleging abuse during interrogation and detention have been brought against some police and prosecution officials.

About 90 percent of all criminal cases going to trial included confessions, reflecting the priority the judicial system placed on admission of guilt. Confession was regarded as the first step in the rehabilitative process. The Government pointed out that the high percentage of confessions, like the high conviction rate, was reflective of a higher standard of evidence needed to bring about indictment in the judicial system.

Physical restraints, such as leather belts with attached leather manacles, continued to be used as a form of punishment, and some prisoners were forced to eat and relieve themselves unassisted while wearing these restraints. Ministry of Justice officials stated that restraints were used inside prisons only when prisoners had been violent and posed a threat to themselves and others, or when there was concern that a prisoner might attempt to escape. During the year, however, five Nagoya Prison guards were arrested for abusing a prisoner by using the leather restraining device to inflict serious internal injuries. In December two of the same guards, as well as a separate third guard, were arrested in connection with the death of a 49-year-old prisoner in May. This death was also allegedly the result of abuse with the leather restraining device.

Prison conditions met international standards; however, the National Police Agency and Ministry of Justice reported that some prisons and detention facilities were overcrowded during the year (*see* Section 1.d.). Prisons in most areas of the country were not heated, and prisoners were given only minimal additional clothing to pro-

protect themselves against cold weather. There have been cases of frostbite among the prison population in recent years. In 2001 the Ministry of Justice requested funding for a 3-year plan to install heaters in prison buildings nationwide. Individual cells are to remain unheated. Prisoners were not allowed to purchase or receive supplementary food. They were discouraged strongly from complaining about conditions. Prisoners faced severe restrictions on the quantity of their incoming and outgoing correspondence. The authorities read letters to and from prisoners, and some letters were censored, or, with a court order, confiscated. All visits with convicted prisoners were monitored; however, those prisoners whose cases were pending were allowed private access to their legal representatives. Prison officials claimed that the “no complaining” policy was designed to keep family members from worrying about their relatives. For the same reason, the Justice Ministry usually did not inform a condemned inmate’s family prior to the person’s execution. Human rights organizations reported that lawyers also were not told of an execution until after the fact, and that death row prisoners were held for years in solitary confinement with little contact with anyone but prison guards. Parole may not be granted for any reason, including medical and humanitarian reasons, until an inmate has served two-thirds of his or her sentence.

According to year-end Ministry of Justice data, normal prison facilities were filled to 103 percent of capacity in 2001. Nongovernmental organization (NGO) and press sources indicated that this overcrowding was a contributing factor in the 6,373 reported violent incidents in prisons in 2001, a 1.6 fold increase in incidents since 1996.

In the past, the Japanese Federation of Bar Associations and human rights groups have criticized the prison system, with its emphasis on strict discipline and obedience to numerous rules. Prison rules remained confidential. Wardens continued to have broad leeway in enforcing punishments selectively, including “minor solitary confinement,” which may be imposed for a minimum of 1 and not more than 60 days in which the prisoner is made to sit (for foreigners) or kneel (for citizens) motionless in the middle of an empty cell.

Women and juveniles were housed in separate facilities from men; at times during the year, some women’s detention facilities also were operating over stated capacity. Pretrial detainees were held separately from convicted prisoners (*see* Section 1.d.).

Conditions in immigration detention facilities met most international standards. The Government restricted access to prisons by human rights groups.

*d. Arbitrary Arrest, Detention, or Exile.*—Constitutional provisions for freedom from arbitrary arrest or imprisonment generally were respected in practice. The law provides for judicial determination of the legality of detention. Persons may not be detained without charge, and prosecuting authorities must be prepared to demonstrate before trial that probable cause exists to detain the accused. Under the law, a suspect may be held in detention at either a regular detention facility or “substitute” (police) detention facility for up to 72 hours. A judge must interview suspects prior to detention. A judge may extend preindictment custody by up to 2 consecutive 10-day periods based on a prosecutor’s application. These extensions were sought and granted routinely. Under extraordinary circumstances, prosecutors may seek an additional 5-day extension, bringing the maximum period of preindictment custody to 25 days.

In 1999 the Supreme Court upheld as constitutional the section of the Criminal Procedure Code under which police and prosecutors have the power to control or limit access by legal counsel when deemed necessary for the sake of an investigation. Counsel may not be present during interrogations at any time before or after indictment. As a court-appointed attorney is not approved until after indictment, suspects must rely on their own resources to hire an attorney before indictment, although local bar associations provided detainees with limited free counseling. Critics charged that access to counsel was limited both in duration and frequency; the Government denied that this was the case.

Critics charged that allowing suspects to be detained by the same authorities who interrogated them heightened the potential for abuse and coercion. The Government countered that cases sent to police detention facilities tended to be those in which the facts were not in dispute. A Justice Ministry regulation permits detention house officials to limit the amount of documentation related to ongoing court cases retained by prisoners.

The length of time before a suspect was brought to trial depended on the nature of the crime but rarely exceeded 3 months from the date of arrest; the average was 1 to 2 months. In one case, an accused allegedly was held for 3 years. In 2001 in its final report, an advisory panel to the Prime Minister on judicial reform called for a substantial increase in judges, prosecutors, and Justice Ministry personnel to shorten the time between arrest and trial.

The law does not permit forced exile, and it was not used.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the judiciary generally was independent and free from executive branch interference. The Cabinet appoints judges for 10-year terms, which can be renewed until judges reach the age of 65. Justices of the Supreme Court can serve until the age of 70 but face periodic review through popular referendums.

There are several levels of courts, including high courts, district courts, family courts, and summary courts, with the Supreme Court serving as the final court of appeal. Normally a trial begins at the district court level, and a verdict may be appealed to a higher court, and ultimately, to the Supreme Court.

The Government generally respected in practice the constitutional provisions for the right to a speedy and public trial by an impartial tribunal in all criminal cases. Although most criminal trials were completed within a reasonable length of time, cases may take several years to work their way through the trial and appeals process. Responding to the final report of a government advisory panel established in 1999 to outline structural reforms to the judicial system, in 2001 the Government announced plans to begin drafting legislation aimed at reducing the average time required to complete criminal trials and civil trials that include witness examination, which lasted an average of 20.5 months in 1999. Its proposals included hiring substantial numbers of additional court and Justice Ministry personnel, revising bar examinations, establishing new graduate law schools to increase the overall number of legal professionals three-fold by 2010, and requiring that courts and opposing litigants jointly work to improve trial planning by allowing for earlier evidence collection and disclosure. The advisory panel also stated that it would release the official standards for setting up graduate law schools by March 2003, and at year's end, almost 100 universities had expressed an interest in opening graduate law schools by April 2004. In September the Ministry of Justice, the Supreme Court, and the Japan Bar Association agreed to set up a new bar examination system by 2010. In November a government panel introduced a draft bill that would make the Supreme Court responsible for accelerating proceedings in lower courts. The draft bill imposes a 2-year time limit for courts to bring criminal and civil trials to conclusion and requires the Government to take the legal and financial measures necessary to accomplish these goals.

In the case of the Aum Shinrikyo 1995 sarin gas attack on the Tokyo subway system, the trials of three senior members of the group were concluded during the year and the trials of four other senior members were still underway in district courts at year's end.

There is no trial by jury. The defendant is informed of the charges upon arrest and is assured a public trial by an independent civilian court with defense counsel and the right of cross-examination. However, in 2001 the Government's Judicial Reform Council recommended that randomly chosen members of the public be allowed to participate in determining rulings and penalties in criminal trials by deliberating the cases alongside professional judges. The Diet enacted implementing legislation in 2001, with the aim of adopting all of the advisory panel's reform proposals by 2004.

The defendant is presumed innocent. The Constitution provides defendants with the right not to be compelled to testify against themselves as well as to free and private access to counsel; however, the Government contended that the right to consult with attorneys is not absolute and can be restricted if such restriction is compatible with the spirit of the Constitution. Access sometimes was abridged in practice; for example, the law allows prosecutors to control access to counsel before indictment, and there were allegations of coerced confessions (*see* Sections 1.c. and 1.d.). Defendants are protected from the retroactive application of laws and have the right of access to incriminating evidence after a formal indictment has been made. However, the law does not require full disclosure by prosecutors, and material that the prosecution does not use in court may be suppressed. Critics claimed that legal representatives of defendants did not always have access to all needed relevant material in the police record to prepare their defense. A defendant who is dissatisfied with the decision of a trial court of first instance may, within the period prescribed by law, appeal to a higher court.

No guidelines mandate the acceptable quality of communications between judges, lawyers, and non-Japanese speaking defendants, although the Supreme Court published handbooks explaining the legal procedures and terms for court interpreters. In 2000 the Supreme Court introduced a training system to help court interpreters understand complicated trial procedures. However, no standard licensing or qualification system for certifying court interpreters exists, and a trial may proceed even if the accused does not understand what is happening or being said. The Supreme Court's 1998 statistics showed a chronic shortage of qualified court interpreters,

particularly for non-English-speaking defendants. Foreign detainees frequently claimed that police urged them to sign statements in Japanese that they could not read and that were not translated adequately.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution protects the right to privacy of family, home, and correspondence, and the Government generally respected these rights in practice. Under the Constitution, each search or seizure must be based on a separate warrant issued by a judge. Standards for issuing such warrants exist to guard against arbitrary searches. In 2000 legislation went into effect that allows law enforcement authorities to use wiretaps in certain criminal investigations, including suspected drug offenses, murder, and trafficking in persons. The law also stiffened penalties for the unauthorized use of wiretaps by police authorities. Under this law, wiretaps can only be used if law enforcement officials can demonstrate that all other investigative techniques have been ineffective.

In April the Defense Agency confirmed reports that it had violated a law protecting personal information when it compiled lists of citizens seeking official documents. This inspired public debate on a privacy bill that remained under consideration in the Diet at year's end.

There were no new developments in the longstanding effort by groups representing women and persons with disabilities to obtain a government investigation, a formal apology, and compensation in the case of the several thousand women with disabilities who were sterilized without their consent between 1949 and 1992. A law that the Government revoked in 1996 permitted doctors, after they had received the approval of committees appointed by local governments, to sterilize persons with mental or physical disabilities or certain hereditary diseases without consent.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

Academic freedom was not restricted. The Science, Technology and Education Ministry's authority to order revisions to elementary, middle, and high school textbooks based on national curriculum guidelines remained a source of domestic and international controversy. In 1997 the Supreme Court ruled that state screening of textbooks did not violate the constitutional provisions for freedom of expression. In 2001 police investigated a suspected firebomb attack on the offices of the Japanese Society for History Textbook Reform whose controversial treatment of World War II events in a junior high school textbook sparked domestic and international protests.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the freedoms of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

Following the 1995 Aum Shinrikyo terrorist attacks, a 1996 amendment to the Religious Corporation Law gave government authorities increased oversight of religious groups and required greater disclosure of financial assets by religious corporations. The Government does not require that religious groups be licensed. However, to receive official recognition as a religious organization, which brings tax benefits and other advantages, a group must register with local or national authorities as a "religious corporation." In practice almost all religious groups were registered.

The only group under active government surveillance was Aum Shinrikyo, which the Government considered to be a continuing public danger. Formally renamed Aleph in 2000, Aum Shinrikyo lost its legal status as a religious organization in 1996 following its sponsorship of terrorist attacks. Foreign observers have classified Aum Shinrikyo/Aleph as a terrorist organization. In response to reports of increased Aum Shinrikyo/Aleph fundraising and recruitment activities, local police and communities have taken measures against its members and chapters, including denying residency permits and public school access to Aum Shinrikyo/Aleph leader Asahara's children. In 1999 the Diet passed legislation that allowed the authorities to seize the group's assets more easily, tighten surveillance against it, and force it to pay compensation to victims of its past crimes. The laws are subject to review, including possible repeal, in 2005. The Public Security Investigation Agency (PSIA) placed Aum Shinrikyo/Aleph under continuous surveillance for a 3-year period in January 2000, on the basis of one of the new laws. In December the PSIA filed a request

with the Security Examination Commission to extend the surveillance for another 3-year period, but at year's end, no decision had been made.

Members of the Unification Church and Jehovah's Witnesses have alleged that police do not act in response to allegations of forced deprogramming of church members. They also claimed that police did not enforce the laws against kidnaping when the victim was held by family members, asserting that Unification Church members were subjected to prolonged arbitrary detention by individuals, who were not charged by police.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

Citizens have the right to travel freely both within the country and abroad, to change their place of residence, to emigrate, and to repatriate voluntarily. Citizenship may be forfeited by naturalization in a foreign country or by failure of persons born with dual nationality to elect citizenship at the required age.

Asylum and refugee policy is in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government requires applicants to appear at an immigration office within 60 days of arrival or within 60 days of learning that they are likely to be persecuted in their home country. Individuals who do not present their applications within the 60-day time frame due to extenuating circumstances may apply for an exception. However, the UNHCR estimated that approximately 50 percent of applicants were rejected for failing to meet the 60-day application deadline. In November an advisory group to the Ministry of Justice proposed that the 60-day application deadline be extended to either 6 months or a full year. An alien recognized as a refugee has access to educational facilities, public relief and aid, and social welfare benefits. An alien denied refugee status may appeal the decision to the Ministry of Justice. Rejected applicants also may take their cases to court if Ministry authorities do not recognize their objections. In an effort to make procedures clearer to applicants, the Government distributed a pamphlet in English, Chinese, and eight other languages to those interested in the asylum process.

While the Government sometimes grants first asylum, the Justice Ministry determines such grants on a case-by-case basis. The average processing time for initial case determination was approximately 1 year.

In recent years, the Government has granted refugee and asylum status to those claiming fear of persecution in only a small number of cases. It believes that most persons seeking asylum in the country did so for economic reasons. In 2001 353 persons in the country were either seeking asylum or accorded refugee status. Of these cases, the Government recognized 26 refugee cases. According to UNHCR, most new applicants were from Pakistan, Turkey, Afghanistan, and Iran.

The Government has shown flexibility in dealing with visa extensions for Chinese student dissidents, although it continued to be reluctant to grant permanent asylum. Burmese asylum applicants have complained that asylum cases can continue for years without a formal decision.

In May the country's refugee policy came into the national spotlight when North Korean nationals attempting to claim political asylum were stopped and arrested by Chinese security officials inside of the Japanese Consulate General in Shenyang, China. The harsh public scrutiny and criticism resulting from the incident led the Government to re-examine its refugee policy. An advisory group to the Ministry of Justice also proposed that the Government should provide shelter for asylum seekers.

The 2000 revisions to the Immigration Control and Refugee Recognition Act, which aimed at reducing visa overstays and the smuggling of persons, have the potential to affect asylum seekers. The revised law imposes stiff penalties on persons illegally entering the country, and those deported are denied reentry for at least 5 years instead of the previous penalty of 1 year. However, the Immigration Bureau has given assurances to UNHCR that these new provisions will not be used against genuine asylum seekers. In November an advisory group to the Ministry of Justice proposed that potential refugees who are subject to deportation due to their lack of a visa status should be granted legal protection from deportation until the Justice Minister decides on their refugee applications or complaints. In addition, the Ministry of Justice announced in December that, starting in January 2003, it would give detailed, written explanations of decisions not to grant refugee status to asylum-

seekers and that an information office would be opened at Narita Airport in January 2003 for potential asylum seekers.

There were no reports that persons were forced to return to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. In 1998 the Diet granted citizens living overseas the right to vote for candidates in national elections in races based on proportional representation. In 1999 the Diet extended these absentee-voting privileges to fishermen and mariners.

The country is a parliamentary democracy governed by the political party or parties able to form a majority in the lower house of its bicameral Diet. The Liberal Democratic Party, the Conservative Party, and the Komeito party formed the existing coalition government in July 2000.

In recent years, the numbers of women holding public office has slowly increased. At year's end, women held 34 seats in the 480-member lower house of the Diet (7.08 percent), and 38 of the 247 seats in the upper house (15.4 percent). There were 4 women in the 18-member Cabinet. Women accounted for 5.7 percent of elected members of prefectural assemblies and 10.5 percent of elected members of local assemblies. Three of the country's 47 governors were women; the female Governors of Osaka and Kumamoto were elected in 2000, and a third was elected in Chiba in 2001.

No figures were available at the national level regarding minority political participation.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of local and international human rights organizations functioned freely, without governmental restrictions, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views, although the Government restricted access to prisons and immigration detention facilities by human rights groups (*see* Section 1.c.).

The Justice Ministry's Council for Human Rights Promotion, an advisory panel, continued to work on a 5-year mandate to develop measures to educate citizens about the importance of respecting human rights. In 1999 the Council submitted a report that called for greater attention to human rights education, particularly at the municipal level, and cited a number of ongoing human rights problems, including sexual harassment, domestic violence, and discrimination against the elderly, persons with disabilities, minorities, and foreigners. In 2001 the Council submitted a final set of recommendations that included the establishment of a human rights commission to provide relief through arbitration and administrative guidance to victims of social and racial discrimination, domestic violence, and human rights violations committed by public authorities and members of the media (the recommendations cite breaches of privacy, defamation, and "obstruction of a peaceful private life" as potential human rights violations by the mass media and Internet users). The report recommended that the proposed body be granted investigative powers, but it also recommended that its secretariat be established through a reorganization of the Justice Ministry's existing Civil Liberties Bureau. At year's end, this legislation was under consideration in the Diet.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination on the basis of race, creed, gender, social status, or family origin, and the Government generally respected these provisions.

*Women.*—Violence against women, particularly domestic violence, often went unreported due to social and cultural concerns about shaming one's family or endangering the reputation of one's spouse or offspring. Also, women who were victims of domestic violence typically returned to the home of their parents rather than file reports with the authorities. Therefore, National Police Agency statistics on violence against women probably understated the magnitude of the problem. In 2001 the Diet passed a new law to combat domestic violence which allows district courts to impose 6-month restraining orders on perpetrators and sentence violators to up to 1 year in prison or fines of up to \$7,910 (1 million yen). In addition, the law also covers common-law marriages and divorced individuals; it also encourages prefectures to expand shelter facilities for domestic abuse victims and stipulates that local

governments offer financial assistance to 40 private institutions already operating such shelters. According to National Police Agency statistics, 2,174 rapes and 8,699 indecent assaults were reported during the year. Husbands have been prosecuted for spousal rape; usually these cases involved a third party who assisted in the rape.

Many local governments responded to the need for confidential assistance for abused women by establishing special women's consultation departments in police and prefectural offices. Since the anti-stalking law went into effect in 2000, police have received 25,145 stalking complaints, arrested 164 persons, and issued 988 warnings.

Local governments and private rail operators continued to implement measures designed to address the widespread problem of groping and molestation of female commuters. In 2001 the Tokyo Metropolitan Police organized a council with representatives of train companies to discuss antigroping measures. As a result, several railway companies started a poster campaign to raise awareness of antigroping ordinances and to advertise railway police contact information, including contact information for the molestation complaint offices established by the Metropolitan Police Department in 1995. In 2001 at the suggestion of the Metropolitan Police, the Tokyo Metropolitan Assembly also revised its antigroping ordinance to make first-time offenders subject to imprisonment. Also in 2001, Keio Electric Railway Company decided to make a trial women-only rail car program permanent, reserving one car only for women on all express and limited express trains running after 11 p.m. Monday to Friday. During the year, the Ministry of Transportation collaborated with the Hankyu and Keihan Railways to add women-only rail cars to their limited express trains, with Hankyu becoming the first railway in Japan to offer women-only cars all day long.

Trafficking in women was a problem (*see* Section 6.f.).

The Constitution and the Equal Employment Opportunity (EEO) Law prohibit sexual discrimination; however, sexual harassment in the workplace remained widespread. A National Personnel Authority survey of female public servants conducted in 2000 found that 69.2 percent of all female respondents believed they have been subjected to acts that constituted sexual harassment. The National Personnel Authority established workplace rules in April 1999 in an effort to stop harassment in public servants' workplaces. New survey data indicated that the most severe forms of sexual harassment may be declining in government workplaces; female public servants who stated that their bosses had pressured them into a sexual relationship dropped from 17 percent in 1997 to 2.2 percent in 2000. In 1999 a revision to the EEO Law intended to address problems of sexual harassment and discrimination against women went into effect. The revised EEO Law includes measures to identify companies that fail to prevent sexual harassment, but it does not include punitive measures to enforce compliance, other than allowing names of companies that practice sexual discrimination to be publicized. Under the Labor Standards Law, an arbitration committee is allowed to initiate procedures to help ensure the rights of female workers at a worker's request, without first having to obtain approval from both management and the worker's union. A number of government entities have established hot-lines and designated ombudsmen to handle complaints of discrimination and sexual harassment.

The Labor Standards Law forbids wage discrimination against women. Under the revised EEO Law, women may work overtime shifts.

Women make up 40 percent of the labor force, and women between the ages of 15 and 64 have a labor force participation rate of 51 percent. In response to a 2000 government survey that revealed that potential employers had discriminated against one in five women entering the work force on the basis of gender, in 2001 the Labor Ministry distributed 100,000 manuals outlining 25 hiring or recruiting practices that violated the EEO law. Although the Labor Standards and the EEO laws prohibit wage discrimination against women, in 2001 female workers on average earned only 65.3 percent of average male earnings. In general younger women (age 20–24) tended to make almost as much as men did; older women (50 and older) tended to make much less. Much of this disparity resulted from the “two-track” personnel administration system found in most larger companies under which new hires were put into one of two categories: Managerial track, in which those engaged in planning and decision making jobs had the potential to become top executives, and general track, in which employees engaged in general office work. According to a 2000 survey by the Public Management, Home Affairs, Post and Telecommunications Ministry, women held 8.9 percent of managerial positions. A 2000 Labor Ministry survey found that 52.9 percent of the companies with a two-track personnel system did not have women in managerial track positions. In 2001 the Osaka District Court dismissed a wage bias suit filed by female employees of Sumitomo Chemical Company who had been placed in a non-managerial career track in 1970



when the company introduced a dual-track system. However, in 2001 the Tokyo District Court ruled against conventional wage compensation assessment methods that used existing gender income disparities to determine future earnings potential in the case of minors. During the year, the Supreme Court mediated a settlement to a 1987 lawsuit in which 13 female employees had sued the Shiba Shinkin Bank over discriminatory salary and promotion policies. As a result of the mediation, six retired plaintiffs were retroactively promoted to section chief and paid lost wages worth \$1.86 million. Of the seven currently employed plaintiffs, six received immediate promotions to become section chiefs and one was guaranteed a chance to take the promotion exam.

According to the Prime Minister's Bureau of Gender Equality, women held only 4.1 percent of top local government positions through March 2001, although approximately a third of all local government workers were women. According to the Home Ministry, some of the 4,200 local governments that urged employees to retire before the mandatory age of 60 regularly urged female employees to retire at younger ages than male employees.

In addition to discrimination, the traditional male and female division of labor at home placed disproportionate burdens on working women, who were still responsible for almost all childcare and household duties.

Advocacy groups for women and persons with disabilities continued to press for a government investigation into sterilization cases that were carried out between 1949–92, a formal government apology, and compensation (*see* Section 1.f.).

In 1993 the Government publicly acknowledged and apologized for the former Imperial government's involvement in the army's practice of forcing as many as 200,000 women (including Koreans, Filipinos, Chinese, Indonesians, Dutch, and Japanese) to provide sex to soldiers between 1932–45. A 1999 U.N. Subcommission on Prevention of Discrimination and Protection of Minorities report included a recommendation that the Government provide state compensation to former "comfort women" and prosecute those responsible for setting up and operating "comfort stations" during World War II. The Government has been unwilling to pay direct compensation to individual victims, on the grounds that postwar treaties settled all war claims. In 2001 the Hiroshima High Court reversed a 1998 Yamaguchi District Court ruling that had ordered the Government to pay \$2,542 (300,000 yen) in state compensation to three Korean former comfort women for neglecting its constitutional duty to enact compensation legislation following the Government's 1993 admission. The District Court ruling had been the first court judgment rendered in favor of foreign war victims. Over 50 damage suits have been filed in the courts; approximately 10 cases were pending at year's end. In 2001 a U.S. federal judge dismissed a lawsuit brought by 15 comfort women, ruling that U.S. courts do not have jurisdiction over claims arising from Japan's wartime conduct. During the year, the Hiroshima District Court ruled that although the Yasuno Power Plant had illegally forced five Chinese plaintiffs to work under severe conditions during World War II, the company could no longer be held legally liable as the case exceeded the statute of limitations.

The Asian Women's Fund (AWF) is a private, government-sponsored fund established to "extend atonement and support" to former comfort women. The AWF supported three types of projects: Payments to individual victims; medical and welfare assistance to individual comfort women; and funding projects to improve the general status of women and girls. Projects in the first category were funded by private donations, while the second and third types of projects were financed by the Government and administered by the AWF. At year's end, the AWF had collected donations totaling approximately \$4.91 million (590 million yen) and given lump sum payments of almost \$4.75 million (570 million yen) as well as letters of apology signed by the Prime Minister to more than 285 women from the Philippines, Korea, and Taiwan. These women also received medical and welfare assistance from the AWF. The AWF has reached an agreement with a Dutch affiliate to make compensation payments to former Dutch comfort women; government officials estimated that up to 100 Dutch women were forced to provide sexual services during World War II. The Government's refusal to pay direct compensation continued to draw international criticism.

*Children.*—The Government is committed to children's rights and welfare, and in general the rights of children were protected adequately. Boys and girls have equal access to health care and other public services. Education is free and compulsory through the lower secondary level (age 14, or ninth grade). Education was available widely to students who met minimum academic standards at the upper secondary level through the age of 18. Society places an extremely high value on education, and enrollment levels for both boys and girls through the free upper secondary level (to age 18) exceeded 96 percent.

Public attention was focused increasingly on reports of frequent child abuse in the home. In 2000 the Diet enacted a law granting child welfare officials the authority to prohibit abusive parents from meeting or communicating with their children. This law raised public awareness of the problem of child abuse. The law also bans abuse under the guise of discipline and obliges teachers, doctors, and welfare officials to report any suspicious circumstances to the 174 local child counseling centers located nationwide or to municipal welfare centers. In spite of the Child Abuse Prevention Law, 62 children have died of abuse or neglect since its enactment in November 2000. Fifteen of these children died despite the involvement of a child counseling center. Child protection centers received 24,792 reports of abuse in 2001. A 1999 report by the Ministry of Health and Welfare warned that, since caseloads at counseling centers nearly doubled from 1988–96, cuts in funding by local governments to centers handling child abuse cases were exacerbating the problem.

Incidents of student-on-student violence in schools and severe bullying (“ijime”) also continued to be a societal and government concern. An Education Ministry survey released in 2001 reported 20,751 cases of student-on-student violence in public schools during the 2000–01 academic year, a 10 percent increase from the previous year. In addition to compiling statistics on bullying and consulting with various groups concerned with children’s welfare, the Ministry of Justice’s Office of the Ombudsman for Children’s Rights provided counseling services for children 18 years of age and younger who have been victims of bullying.

In previous years, both the Government and society in general appeared to take a lenient attitude toward teenage prostitution and dating for money (which may or may not have involved sexual activity). However, in 1999 the Diet passed a law banning sex with persons under age 18 as well as the production, sale, or distribution of child pornography. The law was passed following heightened public attention to a growing problem of teenage prostitution and international criticism over the country’s lax laws on child pornography. The law has reduced the open availability of child pornography. Whereas in 1998 INTERPOL estimated that 80 percent of Internet sites with child pornography originated in Japan, by late 1999, after passage of the law, the police reported that most of these sites either had disappeared entirely or were accessible only at random hours to avoid detection and arrest. Since April 1999, operators of pornographic home pages and suppliers of pornographic images have been required to register with local safety commissions and not to offer such pages to persons under the age of 18. According to the National Police Agency, the police arrested 613 persons between January and June for patronizing teenage prostitutes and child pornography, a six-fold increase over the same period in 2001. However, teenage prostitution, dating for money, and child pornography continued to be problems.

In 2001 revisions to the Juvenile Law went into effect that lowered the age at which children can be held criminally responsible for their actions from 16 to 14. Under juvenile law, juvenile suspects are tried in family court and have the right of appeal to an appellate court. Family court proceedings are not open to the public, a policy that has been criticized by family members of juvenile crime victims. The number of juveniles arrested and sent to prosecutors was up 6.8 percent in 2002, according to the National Police Agency. During the year, juvenile crime also showed a trend toward more serious offenses such as murder, robbery, arson, and rape.

In 2000 the Tokyo prefectural government put into effect programs to protect the welfare of stateless children, whose births their illegal immigrant mothers refused to register for fear of forcible repatriation. According to Justice Ministry statistics, 720 stateless minors under the age of 5 were in the country in 2000.

*Persons with Disabilities.*—There were an estimated 2.9 million persons with physical disabilities and roughly 2 million persons with mental disabilities. Although not generally subject to overt discrimination in employment, education, or in the provision of other state services, persons with disabilities faced limited access to public transportation, “mainstream” public education, and other facilities. The Deliberation Panel on the Employment of the Handicapped, which operates within the Ministry of Labor, mandated that private companies with 300 or more employees hire a fixed minimum proportion of persons with disabilities. The penalty for noncompliance is a fine. A 1998 cabinet directive ordered private companies to raise the proportion of persons with physical disabilities in their work force from 1.6 to 1.8 percent and raised the percentage of persons with disabilities among civil servants from 2 to 2.1 percent. Some prefectural governments provided subsidies to companies that employed persons who used wheelchairs. In 2001 the Diet passed legislation amending 27 laws that previously had banned the blind, deaf and those with mental disabilities from working as doctors, dentists, nurses, and pharmacists, and

the Health, Labor, and Welfare Ministry started awarding licenses for these professions on a case-by-case basis.

The law does not mandate accessibility to buildings for persons with disabilities; however, the law on construction standards for public facilities allows operators of hospitals, theaters, hotels, and similar enterprises to receive low-interest loans and tax breaks if they build wider entrances and elevators to accommodate persons with disabilities. In 2000 the barrier-free transportation law took effect, requiring public transport systems to take measures to make their facilities more accessible to persons with disabilities as well as to the elderly. In November the Tokyo District Court declared unconstitutional the Public Offices Election Law, which did not exempt people with severe physical disabilities from the requirement to handwrite the name of the candidate on the ballot when voting by mail. The case had been brought by three Tokyo residents who suffered from Lou Gehrig's disease, a condition which left them unable to write.

The Law to Promote the Employment of the Handicapped includes those with mental disabilities. The law also loosened the licensing requirements for community support centers that promote employment for persons with disabilities, and it introduced government subsidies for the employment of persons with mental disabilities in part-time jobs. Despite the enactment of this law, Health, Labor, and Welfare Ministry data showed that fiscal year 2001 saw the number of persons with disabilities fired from their jobs reach a record high of 4,017, a 1.6-fold increase from the previous year. This dismissal rate is significantly higher than the 1.2-fold increase recorded for the general population. The Headquarters for Promoting the Welfare of Disabled Persons, set up by the Prime Minister's Office, in previous years recommended that municipalities draw up formal plans for the care of citizens with disabilities. The Ministry of Health and Welfare also has instructed local governments to set numerical targets for the number of home help providers and care facilities allocated to the disabled. In 2000 74.9 percent of municipalities had formal care plans for citizens with disabilities. In 2001 the Government abolished Medical Service Law provisions that had exempted mental hospitals from minimum staffing guidelines; however, reports of understaffing persisted.

Advocacy groups for women and persons with disabilities continued to press for a government investigation into sterilization cases that were carried out between 1949 and 1992, as well as a formal government apology and compensation (*see* Section 1.f.).

*Indigenous Persons.*—The Ainu are a people descended from the first inhabitants of the country. Under an 1899 law, the Government pursued a policy of forced assimilation, imposing mandatory Japanese-language education and denying the Ainu their right to continue traditional practices. The law also left the Ainu with control of only approximately 0.15 percent of their original land holdings and empowered the Government to manage communal assets.

In 1997 the Sapporo District Court ruled that the Ainu were a minority aboriginal race, and later that year, the Diet passed the Law to Promote Ainu Culture. The law recognized the Ainu as an ethnic minority, and required all prefectural governments to develop basic programs for promoting Ainu culture and traditions. It also canceled previous laws that discriminated against the Ainu, including the 1899 law, and required the Government of Hokkaido to return Ainu communal assets. However, the law stopped short of recognizing the Ainu as the indigenous people of Hokkaido and also failed to address whether they deserved special rights as a distinct ethnic group. The new law did not mandate civil rights protection for the Ainu. A nonbinding accompanying resolution referred to the Ainu as a legal Japanese minority. A 1998 report submitted by the U.N. Special Rapporteur to the U.N. Working Group on Indigenous Populations stated that the Ainu never had entered into a consensual juridical relationship with any state and stated that the lack of such an agreement deprived them of their rights. Many Ainu criticized the Law to Promote Ainu Culture for not advancing Ainu political rights and criticized the Government for not providing funds for noncultural activities that would improve Ainu living conditions or financial status. The Japan Ainu Association, a nationwide organization of Ainu, lobbied the Government for economic assistance and greater social welfare benefits for Ainu throughout the country. According to a 1999 survey, 3.72 percent of Ainu received welfare benefits, roughly double the national average of 1.84 percent.

The Ainu continued to face societal discrimination while engaging in an uphill struggle against complete assimilation, although Ainu-language newspapers, radio programs, and academic programs studying Ainu culture have increased since 1997. In 2001 the U.N. Committee on the Elimination of Racial Discrimination (CERD) noted that the country "has not taken sufficient steps to address the issue of discriminatory treatment of Koreans and Ainu living in" the country. Also in 2001, sev-

eral nongovernmental groups, including the Ainu Association of Hokkaido and the Citizens' Diplomatic Center for the Rights of Indigenous People, protested the Government's failure to note continuing social and economic discrimination faced by the Ainu in its 2000 report to the CERD.

*National/Racial/Ethnic Minorities.*—Burakumin, Koreans, and alien workers experienced varying degrees of societal discrimination, some of it severe and longstanding.

The Burakumin (descendants of feudal era "outcasts" who practiced "unclean" professions such as butchering and undertaking), although not subject to governmental discrimination, frequently were victims of entrenched societal discrimination, including restricted access to housing and employment opportunities. They were estimated to number approximately 3 million, but most preferred to hide their identities. Beginning in 1969, the Government introduced with some success a number of social, economic, and legal programs designed to improve conditions for the Burakumin and hasten their assimilation into mainstream society. However, in recent years, some within the Burakumin community have questioned whether assimilation is an appropriate goal. When the basic legislation to provide funding for Burakumin programs expired in 1997, the Government enacted legislation effective for 5 years that retained 15 of the original 45 programs for Buraku communities. In March Burakumin relief funds were halved from their previous levels as a result of the expiration of the Special Measures Law for Community Investment. Actual funding was cut to \$408.3 million (49 billion yen) from the previous level of \$875 million (105 billion yen), and the number of Burakumin-related projects was cut from 1,700 to 1,000. A 2001 working paper commissioned by the U.N. Human Rights Commission's Subcommittee on the Promotion and Protection of Human Rights acknowledged that the living standards of the Buraku had improved but noted that discrimination in marriage and employment continued.

In recent years, the Buraku Liberation League placed less emphasis on class struggle and more emphasis on civil rights, social welfare, and the environment. The League also replaced the term Burakumin (hamlet people) with Buraku Jumin (hamlet residents), to try to debunk the false concept that the Burakumin are a different race from other Japanese.

According to the Ministry of Justice, there were nearly 1.77 million legal foreign residents as of 2001, accounting for 1.34 percent of the population. Of these, the largest group at approximately 632,000 were ethnic Koreans, followed by the Chinese, Brazilians, and Filipinos. The number of Korean residents—a record low 35.6 percent of the foreign population in 2001—has been decreasing steadily since 1991 as Korean nationals naturalized or married Japanese, which allows their children to gain citizenship automatically. Despite improvements in legal safeguards against discrimination, Korean permanent residents (most of whom were born, raised, and educated in Japan) still were subjected to various forms of deeply entrenched societal discrimination. In 2001 two associations representing Korean residents in Japan lodged protests against the Public Security Investigative Agency (PSIA) and the Kyoto municipal government when media reports revealed that the PSIA had investigated over 200 persons of Korean ancestry under the Subversive Activities Prevention Law.

Other foreigners also were subject to discrimination. There was a widespread perception that foreigners commit many crimes. In 2001 non-Japanese residents of Nagano prefecture petitioned the governor to remove posters issued by the Nagano Prefectural Police and the Japan Crime and Fire Prevention Communication Association that depicted foreigners committing crimes. Also in 2001, as a result of widespread media attention, appeals by the Justice Ministry, and an antidiscrimination campaign waged by NGOs, several businesses in Hokkaido lifted their bans against foreigners. In 2001 Hokkaido police investigated death threats made against a foreign born naturalized citizen who had sued both a bathhouse for refusing him entrance on the basis of race and the Otaru Municipal government for failing to take measures to stop discriminatory entrance policies. In November the Sapporo District Court ordered the bathhouse to pay the plaintiff \$25,000 (3 million yen) for subjecting the plaintiff to racial discrimination. The court rejected the claim against the Otaru Municipal government, saying that the International Convention on the Elimination of All Forms of Racial Discrimination does not require local governments to institute ordinances to stamp out discrimination.

By law aliens with 5 years of continuous residence are eligible for naturalization and the simultaneous acquisition of citizenship rights, including the right to vote; however, in practice most eligible aliens choose not to apply for citizenship, in part due to fears that their cultural identity would be lost. Obstacles to naturalization included broad discretion available to adjudicating officers and great emphasis on Japanese-language ability. Naturalization procedures also required an extensive

background check, including inquiries into the applicant's economic status and assimilation into society. Koreans were given the option of adopting a Japanese surname. The Government defended its naturalization procedures as necessary to ensure the smooth assimilation of foreigners into society. Alien permanent residents may live abroad for up to 4 or 5 years without losing their right to permanent residence in the country.

In 1995 the Supreme Court ruled that the Constitution does not bar permanent foreign residents from voting in local elections. However, the Court also ruled that existing laws denying voting rights to foreign residents were not unconstitutional. In 2000 the Supreme Court upheld Nagoya and Osaka High Court decisions rejecting appeals by Korean permanent residents demanding the right to vote in local elections. The courts have consistently ruled that limiting the vote to citizens is constitutional, but that the Diet could legislate suffrage for foreign residents. Such legislation was submitted to the Diet during the year; however, at year's end, strong opposition to the legislation within the Diet, particularly within the Liberal Democratic Party, remained. In 1999 the Osaka Prefectural Assembly passed a measure granting permanent residents local suffrage, becoming the third prefecture to pass such a bill.

Under the School Education Law, students attending Chinese, Korean, or other non-Japanese-language schools are not eligible to take national university examinations. However, in 2000 the Education Ministry announced that, beginning in 2001, graduates of non-Japanese-language schools would be eligible to take national university examinations if they passed a state-run high school equivalency test. In 2001 the Education Ministry began studying implementation of a Cabinet report that concluded universities should admit graduates of non-Japanese-language schools without the high school equivalency test. A number of local governments provided subsidies to Korean schools; the central government did not subsidize any non-Japanese-language schools. The Association of National Universities also took action in 2001, urging state universities to scrap nationality clauses from their admissions criteria. A majority of state-run universities are expected to comply with the Association's request, which will open the door for many graduates of non-Japanese-language high schools to gain access to a much broader range of university-level educational opportunities.

In 2000 a revised law to end the practice of fingerprinting permanent foreign residents went into effect. Instead of fingerprinting, the Government established a family registry system that uses the resident's picture and signature and contains information on parents and spouses living in the country, a system similar to that used for citizens. All foreign residents still are required to carry alien registration certificates at all times, but the revised law reduces the penalties imposed on those found without documentation. However, in 2001 the Osaka High Court confirmed the legality of the former fingerprinting procedure and overturned a 1998 lower court ruling that had ordered three prefectures to pay damages to six foreign residents who had been tried for violations of the Alien Registration Law in the 1980s for refusing to be fingerprinted.

In 1996 the Home Affairs Ministry reversed the long-held national policy of opposition to localities lifting the Japanese nationality requirement for public servants. However, the Ministry instructed local governments to restrict noncitizens' access to jobs that involved the exercise of public authority and formation of public opinion. The directive also required local governments clearly to state which jobs were closed to noncitizens. Some of the jobs considered off limits included tax collection, construction permit issuance, sanitation inspection, and firefighting.

Several local governments have changed their rules in response to the Government's position. In 1999 the Hakodate municipal government began to allow foreign residents to take employment tests for all city jobs except firefighters. According to a 1997 joint survey conducted by the All Japan Prefectural and Municipal Workers Union and the Korean Residents Association in Japan, 19.8 percent of local governments forbade hiring noncitizens.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right of workers to associate freely in unions. Approximately 11.2 million workers, 20.7 percent of all employees, belonged to labor unions. Unions were free of government control and influence. Although most unions were involved in political activity as well as labor relations, they were not controlled by political parties. There were no restrictions requiring a single trade union structure, nor were there restrictions on who may be a union official. The Japanese Trade Union Confederation, which represented 7.2 million workers and was formed in 1989 through the merger of several confederations, was the largest labor organization.

Unions were free also to affiliate internationally and were active in international bodies, most notably the International Confederation of Free Trade Unions.

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides unions with the right to organize, bargain, and act collectively. These rights were exercised freely, and collective bargaining was practiced widely. The annual “Spring Wage Offensive,” in which individual unions in each industry conduct negotiations simultaneously with their firms, involved nationwide participation. Management usually consulted closely with its enterprise union. However, trade unions were independent of management and aggressively pursued the interests of their workers. The law prohibits antiunion discrimination, and adequate mechanisms existed for resolving cases that occurred, including the reinstatement with back wages of any workers fired for union activities. The right to strike, implicit in the Constitution, was exercised. During 2001 29,101 workdays involving 223,144 employees were lost to strikes. The law prohibits retribution against strikers and is enforced effectively.

However, some public employees, including members of the armed forces, police, and firefighters are not permitted to form unions or to strike. These restrictions have led to a long-running dispute with the International Labor Organization’s (ILO) Committee on the Application of Conventions and Recommendations over the observance of ILO Convention 98 concerning the right to organize and bargain collectively. The Committee has observed that these public employees have a limited capacity to participate in the process of determining their wages and has asked the Government to consider measures it could take to encourage negotiations with public employees. The Government determines the pay of government employees based on a recommendation by the independent National Personnel Authority.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution provides that no person shall be held in bondage of any kind. Involuntary servitude, except as punishment for crime, is prohibited. Although children were not specified in the provision, this legal prohibition against forced or compulsory labor applies equally to adults and to children.

Former Allied prisoners of war and Chinese and Korean workers continued to press claims for damages and compensation for forced labor during World War II in Japanese civil courts, U.S. courts, and in complaints to the ILO. During the year, 15 Chinese men who were forced to work in coal mines during World War II appealed a decision handed down by the Fukuoka High Court that ordered Mitsui Mining Co., but not the Government, to pay them compensation. In late 2001, 18 Chinese men filed a law suit for damages against the Government and two major construction firms to seek compensation for their forced labor during World War II, seeking \$3.87 million (464.4 million yen) in damages and a public apology. In 2001 the Tokyo and Kyoto District Courts ordered the Government to pay damages in two separate cases. In the first, compensation was ordered to be paid to the family of a Chinese man who died in hiding after escaping from a coal mine where he had been forced to work during World War II. In the second case, compensation was ordered to be paid to 15 survivors of a 1945 explosion that had killed 524 Koreans brought to the country as forced laborers. Both lower courts ruled that the Government had failed to ensure a safe return home for the laborers but rejected further compensation for their forced labor. The Government was appealing both rulings at year’s end. In 2000 the Diet passed a law offering “condolence money” for foreign nationals killed or injured while serving with the Imperial army in response to a 1998 Tokyo High Court recommendation. The Public Management Ministry began accepting applications for condolence money in 2001; the legislation provides for payments of \$33,333 (4 million yen) to seriously injured foreign national soldiers and \$21,667 (2.6 million yen) to the survivors of those foreign nationals killed in service. However, seriously injured Japanese veterans are eligible for \$632,761 (80 million yen) and a lifetime pension. An ILO committee has called on the Government to take additional measures to satisfy individual Chinese and Korean victims of forced labor during the war.

The Asian Women’s Fund continued to support former comfort women, who were forced to provide sexual services to Japanese troops during World War II (see Section 5).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution bans the exploitation of children. Both societal values and the rigorous enforcement of the Labor Standards Law protect children from exploitation in the workplace. By law children under the age of 15 may not be employed, and those under age 18 may not be employed in dangerous or harmful jobs. In 2001 the Labor Inspection Division of the Ministry of Labor, which vigorously enforces the Labor

Standards Law, reported 18 instances of children under the age of 15 being employed and 25 instances of children under the age of 18 being employed in dangerous or harmful jobs.

The Government prohibits forced or bonded labor, including that performed by children, and enforced this prohibition effectively (see Section 6.c.).

*e. Acceptable Conditions of Work.*—Minimum wages are set on a regional (prefectural) and industry basis, with the input of tripartite (workers, employers, public interest) advisory councils. Employers covered by a minimum wage must post the concerned minimum wages, and compliance with minimum wages was considered widespread. Minimum wage rates, effective during the year, ranged from \$18 (2,231 yen) per hour in Tokyo to \$11 (1,358 yen) in Aomori prefecture and were considered sufficient to provide a worker and family with a decent standard of living. The Labor Standards Law provides for a 40-hour workweek for most industries and mandates premium pay for hours worked over 40 in a week, or 8 in a day. However, labor unions frequently criticized the Government for failing to enforce maximum working hour regulations in smaller firms.

The Ministry of Labor effectively administered various laws and regulations governing occupational health and safety, principal among which is the Industrial Safety and Health Law. Standards were set by the Ministry of Labor and issued after consultation with the Standing Committee on Safety and Health of the Central Labor Standards Council. Labor inspectors have the authority to suspend unsafe operations immediately, and the law provides that workers may voice concerns over occupational safety and remove themselves from unsafe working conditions without jeopardizing their continued employment.

The Immigration Bureau of the Justice Ministry estimated that, as of January 1, there were 224,000 foreign nationals residing illegally in the country, a 3.5 percent reduction from the previous year. Illegal immigrants came primarily from South Korea, the Philippines, China, Thailand, and Malaysia. In 2001 the Justice Ministry announced plans to construct a new immigration detention facility in Tokyo and to increase legal immigration numbers by 1,100 over a 5-year period as part of an effort to decrease the numbers of illegal foreign residents. Ministry of Justice sources said that the economic recession, the enactment of a package of measures designed to counter illegal immigration, and the aftershocks of the terrorist attacks of September 11 were among the reasons for the drop in the illegal immigrant population.

While many foreign illegal residents entered the country in search of better paying manufacturing and construction jobs, these opportunities decreased during the economic slowdown. Thus more foreign workers were unemployed or marginally employed. Activist groups claimed that employers exploited or discriminated against foreign workers, who often had little or no knowledge of the Japanese language or their legal rights. In 2001 NGOs held a forum on migrant labor that was attended by 1,000 activists. The forum was held to draw attention to exploitative practices, including unsafe working conditions and unpaid overtime, to which foreign workers were exposed while working on “trainee” visas under the Foreign Technical Trainee and Technical Internship Programs.

The Government tried to reduce the inflow of illegal foreign workers by prosecuting employers. Revisions of the Immigration Law provide for penalties against employers of undocumented foreign workers. Suspected foreign workers also may be denied entry for passport, visa, and entry application irregularities. In addition, the 1999 revision to the immigration law established penalties for illegal stays separate from existing injunctions against illegal entry. The Government continued to study the foreign worker issue, and several citizens’ groups were working with illegal foreign workers to improve their access to information on worker rights.

*f. Trafficking in Persons.*—The Constitution prohibits holding persons in bondage, and the Penal Code contains several provisions that could be used to combat trafficking of persons; however, there are no specific laws that prohibit trafficking in persons, and trafficking of women and girls into the country was a problem. Women and girls, primarily from Thailand, the Philippines, and the former Soviet Union, were trafficked into the country for sexual exploitation and forced labor. Women and girls from Colombia, Brazil, Mexico, South Korea, Malaysia, Burma, and Indonesia also were trafficked into the country in smaller numbers. Japan also was a destination for illegal immigrants from China who were trafficked by organized crime groups who often held such persons in debt bondage for sexual exploitation and indentured servitude in sweatshops and restaurants. The Government has reported that some smugglers used killings and abduction to ensure payment.

There was evidence that trafficking took place within the country to the extent that some recruited women subsequently were forced, through the sale of their “con-

tracts," to work for other employers. Child prostitution was a problem (*see* Section 5).

Reliable statistics on the number of women trafficked to the country were unavailable. During the year, the National Police Agency identified 55 women as potential trafficking victims during criminal investigations involving entertainment businesses. During the course of those investigations, 28 individuals were prosecuted as trafficking brokers under various immigration and entertainment facility laws. However, the Government does not consider an individual who has willingly entered into an agreement to work illegally in the country to be a trafficking victim, regardless of that person's working conditions once in the country. Thus, government figures may understate the problem as persons who agreed to one kind of work found themselves doing another, or were subject to force, fraud, or coercion. Traffickers were prosecuted for crimes ranging from violations of employment law to Penal Code offenses such as abduction, and the Government did not compile statistics on the number of trafficking victims associated with these cases. Since trafficked women generally were deported under immigration law as prostitutes, immigration statistics may provide only a rough picture of the scale of the problem. A government-funded study released in 2000 found that nearly two-thirds of foreign women surveyed following arrests for immigration offenses stated that they were working in the sex industry under duress.

Many women who were trafficked into the country, particularly from the Philippines, entered legally on entertainment visas. In 2001 approximately 72,000 women from the Philippines entered the country on such visas. "Entertainers" are not covered by the Labor Standards Law, and have no minimum wage protections; however, there were indications that they may be somewhat less vulnerable to abuse by employers than female migrant workers entering illegally or on other types of visas. In a move to tighten scrutiny on the entertainer visa system, the Immigration Control and Refugee Recognition Law was revised to give Regional Immigration Bureaus the authority to verify that foreigners entering the country on such visas are abiding by all relevant regulations. Early results of the checks showed that a significant number of entertainer visa holders acquired their visas using fraudulent information, often listing defunct shops or fictitious establishments as employers on immigration documents. Regional Immigration Bureaus planned to file criminal complaints against promoters of entertainer visas who submitted fraudulent information.

Brokers in the countries of origin recruited women and "sold" them to Japanese intermediaries, who in turn subjected them to debt bondage and coercion. Agents, brokers, and employers involved in trafficking for sexual exploitation often had ties to organized crime.

Women trafficked to the country generally were employed as prostitutes under coercive conditions in businesses licensed to provide commercial sex services. Sex entertainment businesses are classified as "store form" businesses such as strip clubs, sex shops, hostess bars, and private video rooms, and as "nonstore form" businesses such as escort services and mail order video services which arrange for sexual services to be conducted elsewhere. According to NGOs and other credible sources, most women who were trafficked to the country for the purpose of sexual exploitation were employed as hostesses in "snack" bars, where they were required to provide sexual services off premises.

Many Thai women were enticed to come to the country with offers of lucrative legitimate employment, only to be sexually exploited; many others reportedly knew that they would work as prostitutes. However, whether or not they understood the nature of the work they would be doing, trafficked women generally did not understand the debts they would be forced to repay, the amount of time it would take them to repay the debts, or the conditions of employment they would be subjected to upon arrival. According to Human Rights Watch, the passports of Thai women trafficked to work in "dating" bars usually were confiscated by their employers, who also demanded repayment for the cost of their "purchase." Typically, the women were charged \$25,000 to \$40,000 (3 million to 5 million yen); their living expenses and expenses for medical care (when provided by the employer) and other necessities, as well as "fines" for misbehavior, were added on to the original "debt" over time. How the debt was calculated was left to the employers; the process was not transparent, and the employers reportedly often used the debt to coerce additional unpaid labor from the trafficked women. Employers also sometimes "resold" or threatened to resell troublesome women or women found to be HIV positive, thereby increasing the debt they must repay and possibly worsening their working conditions. To repay the debts they incurred, trafficked women generally had to work long hours (often with no days off) for several months, essentially without pay. Many women were not allowed to refuse clients, even those known to be physically



abusive. Most Thai women trafficked into the sex trade had their movements strictly controlled by their employers while working off their debt, and were threatened with reprisals, perhaps through members of organized crime groups, to themselves or their families if they tried to escape. Employers often isolated the women, subjected them to constant surveillance, and used violence to punish them for disobedience. Most trafficked women also knew that they were subject to arrest if found without their passports or other identification documents. Few spoke Japanese well, making escape even more difficult.

In 1999 the Diet amended the Law on Control and Improvement of Amusement Businesses in order to supplement the Prostitution Prevention Act as an instrument against trafficking. The amended law sanctions employers rather than just sanctioning victims and requires the Government to refuse to grant or to revoke the business license of anyone convicted of the "crime of encouragement" to engage in prostitution. In 1999 the Diet also enacted a law intended to prevent all forms of sexual exploitation of children, whether trafficked or not, which imposes a 1- to 3-year sentence on anyone convicted of trading in children for the purpose of child prostitution or child pornography. Traffickers can also be prosecuted for violations of employment, immigration, or labor laws, and for Penal Code offenses such as abduction and kidnaping. However, relatively few persons have ever been prosecuted in connection with trafficking and forced sexual servitude; those who were prosecuted generally were prosecuted in connection with violations of immigration law. There were allegations that some law enforcement units have been reluctant to investigate reports of trafficking, and that the Government has not been aggressive in arresting and prosecuting suspected traffickers. The use of suspended sentences in trafficking cases was also a concern.

Domestic NGOs and lawyers compiled credible anecdotal evidence suggesting that some individual police officials returned trafficking victims to their employers when these individuals sought police protection. NGOs also reported that police sometimes declined to investigate suspected brokers when presented with information obtained from trafficking victims.

Except for the Tokyo Metropolitan government, which funded a Tokyo-based NGO assisting victims of trafficking, the Government did not assist victims of trafficking for sexual purposes other than to house them temporarily in facilities established under the Antiprostitution Law, in detention centers for illegal immigrants, or through referrals to shelters run by NGOs; generally they were deported as illegal aliens. Victims often were treated as criminals because the Government does not consider persons who willingly enter for illegal work to be trafficking victims. Women without documentation or sufficient funds to return to their country of origin were sometimes detained for long periods. Several NGOs throughout the country provided shelter, medical aid, and legal assistance to trafficking victims. A domestic violence law passed in April may channel funding to NGOs that are working to provide protection to trafficking victims as well as victims of domestic violence. The Government funded trafficking prevention efforts in Asian source countries, sponsored public information campaigns targeted at potential victims, and provided equipment and training to police and customs officials in those countries.

## KIRIBATI

Kiribati is a constitutional republic that occupies 33 small islands widely scattered across 1.365 million square miles of the central Pacific Ocean. The country has a popularly elected president and a legislative assembly of 42 members; 40 are elected by universal adult suffrage, the Rabi Island Council in Fiji nominates one, and the Attorney General holds an ex-officio assembly position. The judiciary is independent.

A police force of about 250 personnel is controlled effectively by the civilian authorities.

The country has a population of over 90,000 that is primarily Micronesian, with a significant component of Polynesian origin. Economic activity consists primarily of subsistence agriculture and fishing. The islands' isolation and meager resources, including poor soil and limited arable land, severely limit prospects for economic development. The per capita gross domestic product is approximately \$500.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse; however, the Government placed some limits on freedom of the press. In this traditional culture, women occupy a subordinate role and have limited job opportunities. Violence against women and child abuse in urban areas were problems. Kiribati was invited by the Community of Democracies' (CD) Convening Group to attend the No-

vember 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture and inhuman or degrading treatment or punishment and the Government generally observed this prohibition; traditional practice permits corporal punishment for criminal acts and other transgressions. On some outer islands, the island councils occasionally ordered strokes with palm fronds to be administered for public drunkenness and other minor offenses, such as petty theft.

Prison conditions generally met international standards. There are separate prisons for men and women. Children under age 16 are not incarcerated. There is no separate facility for juvenile offenders aged 16 or older. Juveniles aged 16 to 17 may be detained no longer than 1 month in the adult facility. Pretrial detainees who do not meet bail are housed with convicted prisoners. Family members and church representatives are allowed access to prisoners. Both diplomats and senior judicial officials have visited the prisons, including some unannounced visits, and reported no problems. The question of monitoring prison conditions by local human rights groups did not arise, and there were no reported requests by nonresident international human rights observers to visit prisons. No policy concerning such visits has been formulated.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The Constitution prohibits government restrictions on citizens' freedom of movement, but does not restrict such actions by the village councils of elders. The Government does not use forced exile; however, on rare occasions village manebas (councils) have used this punishment. This practice has never been challenged legally.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judiciary consists of a High Court, magistrate courts, a Court of Appeal, and land courts. Litigants also have the right of appeal to the Privy Council in London. The right to a fair public trial is provided by law and observed in practice. The Constitution provides that an accused person be informed of the nature of the offense with which he is charged and be provided adequate time and facilities to prepare a defense. The right to confront witnesses, present evidence, and appeal convictions is provided for in the law. Procedural safeguards are based on English common law.

The Attorney General's office and the courts developed case backlogs during the year due to staffing shortages. This problem had been resolved by year's end, in large part by the appointment of a second High Court judge.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such practices, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, the Government limited these rights in some instances. Under the 1988 Newspaper Registration Act, newspapers are required to register with the Government. In October the legislature amended the act to give the Government the authority to deregister a newspaper if the publication was found to have published material deemed to be offensive to good taste, decency, or public feeling, or likely to encourage or incite to crime. The amendment also required newspapers to ensure that, in an article affecting the "credibility or reputation of any person," the affected individual can respond in the same article. Fines of \$286 (A\$500) may be assessed for each violation of these provisions. As of year's end, no publications had been deregistered or prevented from publishing. Opponents criticized the amendment as an attempt by the Government to restrict press freedom.

In 2000 a former president established the country's first private newspaper, which enabled the opposition to present views divergent from those in the Government-owned newspaper.

The sole AM and sole FM radio stations in Tarawa are government-owned; Radio Kiribati (AM) broadcast live national news and entertainment as well as hourly Radio Australia and Voice of America programming. The Government FM station relayed a continuous feed from BBC Radio. In 1999 an opposition attempt to operate a private radio station was blocked when the Government closed the station and fined the owners for attempting to import broadcasting equipment without a license. The station owner instituted legal action, and New Air FM was issued a government license in December. The former president owns this station and the only regularly published private newspaper. A foreign journalist was barred from entering the country in 1999 after cabinet officials criticized his articles for giving "a bad impression of the country." The journalist did not attempt to reenter the country during the year. Churches published newsletters and other periodicals. High costs limited the availability of foreign print media and Internet access, but there were no government-imposed limitations.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the freedoms of assembly and association, and the Government generally respected these rights in practice. Permits are required for public gatherings, but these were granted routinely.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

There is no national legislation implementing the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government has not formulated a policy regarding refugees, asylees, or first asylum. There were no applications for first asylum or refugee resettlement during the year. However, in 2001 the Government offered temporary protection on Canton Island for a group of Afghans interdicted at sea, pending formal determinations of their asylum claims by the Government of Australia. The offer was considered but not accepted. There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. To be elected, a candidate must secure at least half the valid votes cast; if there is no first-round winner, a runoff election is held. The President exercises executive authority and is elected for a 4-year term. The elected Legislative Assembly nominates no fewer than three and no more than four presidential candidates from among its members. Under the Constitution, the President is limited to three terms. First-round legislative elections were held in November, with runoff elections in December; the elections were free and fair. President Teburoro Tito was reelected to the National Assembly; however, government candidates lost 14 seats, including 7 previously held by government ministers. A separate presidential election was scheduled for February 23, 2003. Three women held permanent secretary positions, and there were 2 women in the 42-member Parliament.

### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were no restrictions on the formation of local human rights nongovernmental organizations, but none have been formed. There were no restrictions on operations by international human rights groups. There were no reported allegations of human rights abuses by the Government during the year, and no known requests for investigations.

### *Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination on the basis of race, creed, national origin, or sex, and the Government observed these prohibitions in practice; however, only native-born I-Kiribati may own land. Society is fundamentally egalitarian and has no privileged class.

*Women.*—Spousal abuse and other forms of violence against women were a significant problem. Frequently, alcohol abuse was a factor in attacks on women. The law does not specifically address domestic violence, but general common law and criminal law make assault in all forms illegal. Rape, including spousal rape, is a crime, and the law was enforced when charges were brought to court. However, it is believed that such prosecutions are relatively infrequent.

Prostitution is not illegal, but it was not common; procuring sex and managing brothels are illegal. The law does not specifically prohibit sex tourism; however, there were no reports of such activity. Obscene or indecent behavior is banned.

The law does not prohibit sexual harassment; however, it generally was not regarded as a problem.

The Constitution prohibits discrimination based on sex; however, the traditional culture, in which men are dominant, has impeded a more active role for women in the economy. Nevertheless, women are slowly finding work in unskilled and semi-skilled occupations. The Government increased its hiring and promotions of women to some extent. Section 77 of the Employment Ordinance prohibits “night work” by women except in seven exempt occupations including health worker, hotel, bar, and restaurant worker, and business manager. However, this ordinance was little known, and there were no reported prosecutions based on its provisions. Statistics on the participation of women in the work force and on comparative wages were unavailable, and statistics were generally not well collected in the country. Women have full rights of ownership and inheritance of property as well as full and equal access to education.

*Children.*—Within its limited financial resources, the Government made adequate expenditures for child welfare. Primary education is compulsory, free, and universal for children between the ages of 6 and 14 years. In practice, the Government did not enforce primary school attendance. Unofficial estimates indicated that over 50 percent of all children attended school with no significant gender discrimination. The approximately 40 percent of primary school graduates who pass a national examination qualify for 3 additional years of subsidized junior secondary and 4 years of subsidized senior secondary education; a small fee was charged to other students who wished to matriculate at these levels.

The Government provided free national medical service; however, there were no doctors on the outer islands. The central hospital in Tarawa provided basic medical services, but not intensive care facilities. There were no reports of gender bias in the provision of health services.

Child abuse was a growing problem, particularly on South Tarawa.

*Persons with Disabilities.*—The law does not prohibit specifically discrimination against persons with disabilities; however, there were no complaints of discrimination in employment, education, or in the provision of other state services for persons with mental or physical disabilities. Accessibility for persons with disabilities has not been mandated; accommodations for persons with disabilities were basically nonexistent.

The central hospital on Tarawa has a wing for persons with mental disabilities. There was a foreign national psychiatrist working in Tarawa. Foreign-based aid workers and the World Health Organization cooperated with the Ministry of Health to conduct outer island workshops for health workers.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Freedom of association is provided for in the Constitution, and workers are free to join and organize unions. Over 90 percent of the work force were occupied in fishing or subsistence farming, but the small wage sector had a relatively strong and effective trade union force. An estimated 10 percent of wage-earning workers were union members. In 1982 seven registered trade unions merged to form the Kiribati Trade Union Congress (KTUC), which has approximately 2,500 members. There are no official public sector trade unions; however, public sector nurses and teachers belonged to voluntary employee associations similar to unions and were approximately 30 to 40 percent of total union and association membership.

Unions are free to affiliate internationally. The KTUC is affiliated with the International Confederation of Free Trade Unions.

*b. The Right to Organize and Bargain Collectively.*—The law protects workers from employer interference in their right to organize and administer unions. The Government did not control or restrict union activities; however, unions must register with the Government. Collective bargaining is provided for under the Industrial Relations Code. The Government sets wages in the large public sector. However, in a few statutory bodies and government-owned companies, employees could

negotiate wages and other conditions. In the private sector, individual employees also could negotiate wages with employers. In keeping with tradition, negotiations generally were nonconfrontational. There were no reports of antiunion discrimination, and there were mechanisms to resolve any complaints that might arise.

The law provides for the right to strike. However, strikes are rare; the last one took place in 1980.

There are no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, and there were no reports that such practices occurred.

The prohibition does not mention specifically forced and bonded labor by children; however, there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits the employment of children under the age of 14. Children through the age of 15 are prohibited from industrial employment and employment aboard ships. Labor officers from the Ministry of Commerce, Industry, and Employment generally enforced these laws effectively, given the rudimentary conditions of the economy. Children rarely were employed outside the traditional economy.

The Government has not ratified ILO Convention 182 on the worst forms of child labor.

*e. Acceptable Conditions of Work.*—There is no minimum wage. There is provision for a minimum wage at ministerial discretion, but it has never been implemented. Income tended to be pooled within the extended family, and the standard income appeared adequate to provide a decent standard of living for a worker and family. There is no legislatively prescribed workweek. Workers in the public sector (80 percent of the wage-earning work force) worked 36 hours per week, with overtime pay for additional hours.

Employment laws provide rudimentary health and safety standards for the workplace. For example, employers had to provide an adequate supply of clean water for workers and ensure the existence of sanitary toilet facilities. Employers were liable for the expenses of workers injured on the job. However, the Government's ability to enforce employment laws was hampered by a lack of qualified personnel. Workers did not have the right to remove themselves from hazardous work sites without risking loss of employment.

There are no laws specifically to protect foreign workers; however, there were no significant numbers of foreign workers and no reports of mistreatment. Some foreign volunteers and missionaries worked in the schools.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, there have been no confirmed reports that persons were trafficked to, from, or within the country.

## DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA <sup>1</sup>

The Democratic People's Republic of Korea (DPRK or North Korea) is a dictatorship under the absolute rule of Kim Jong Il, who has exercised unchallenged authority since his father Kim Il Sung died in 1994. He was named General Secretary of the Korean Workers' Party (KWP) in October 1997. In September 1998, the Supreme People's Assembly reconfirmed Kim Jong Il as Chairman of the National Defense Commission and declared that position the "highest office of state." The presidency was abolished, leaving the late Kim Il Sung as the DPRK's "eternal president." The Korean People's Army continued to displace the KWP as Kim Jong Il's chief instrument for making and implementing policy. The titular head of state is Kim Yong Nam, the President of the Presidium of the Supreme People's Assembly. Both Kim Il Sung and Kim Jong Il continue to be the objects of intense personality cults. The regime continues to emphasize "juche," a national ideology of self-reliance. The judiciary is not independent.

The Korean People's Army is the primary organization responsible for external security. It is assisted by a large military reserve force and several quasi-military organizations, including the Worker-Peasant Red Guards and the People's Security

<sup>1</sup>The United States does not have diplomatic relations with the Democratic People's Republic of Korea. North Korea does not allow representatives of foreign governments, journalists, or other invited guests the freedom of movement that would enable them to assess fully human rights conditions there. This report is based on information obtained over more than a decade, updated where possible by information drawn from recent interviews, reports, and other documentation. While limited in detail, this information is nonetheless indicative of the human rights situation in North Korea today.

Force. These organizations also assisted the Ministry of Public Security (MPS) and the KWP in maintaining internal security. Members of the security forces committed serious human rights abuses.

The State directed all significant economic activity, and only government-controlled labor unions were permitted in this country of 22 million persons. Industry continued to operate at significantly reduced capacity, reflecting antiquated plant and equipment and severe shortages of inputs, due in part to the sharp decline in trade and aid that followed the collapse of the former Soviet Union and East European Communist governments. Efforts at recovery have been hampered by heavy military spending, which amounted to approximately one quarter of gross domestic product (GDP) before the economy went into decline and was probably an even larger share of national output during the year. The economy was also hampered by a lack of access to commercial lending stemming from the country's default on its foreign debt and its inability to obtain loans from international financial institutions. Rarely food self-sufficient, the country relied on international aid and trade to supplement domestic production, which has been hobbled by disastrous agricultural policies. From 1995 to 1997, famine caused internal dislocation and widespread malnutrition, and an estimated 1 to 2 million persons, or possibly as much as 10 percent of the population, died from starvation and related diseases.

Economic and political conditions have caused at least tens of thousands of persons to flee their homes. The Government continued to seek international food aid, produce "alternative foods," and take other steps to boost production. It permitted the spread of farmers' markets to compensate for the contraction of food supplied through the public distribution system. Food, clothing, and energy were rationed throughout the country. The U.N.'s World Food Program provided assistance to children and mothers, and the elderly. According to South Korean figures, North Korea's GDP began to grow slightly in 2000, but this was due largely to international aid and South Korean investment and followed years of steady decline during which GDP was estimated to have shrunk by half since 1993. In mid-year, North Korea raised wages and prices drastically and announced a shift in management methods towards granting managers more responsibility. However, these changes failed to have the desired impact on the country's economy, as inflation rose dramatically in the later months of the year. The creation of a Special Administrative Region (SAR) in Sinuiju was announced but encountered immediate difficulties; the Sinuiju SAR is planned as an autonomous region with its own legislative, administrative, and judicial systems, intended to specialize in light industries in line with the July economic reform measures.

The Government's human rights record remained poor, and it continued to commit numerous serious abuses. Citizens did not have the right peacefully to change their government, and the leadership viewed most international human rights norms, particularly individual rights, as illegitimate, alien, and subversive to the goals of the State and Party. There continued to be reports of extrajudicial killings and disappearances. Citizens were detained arbitrarily, and many were held as political prisoners. Prison conditions were harsh, and torture was reportedly common. Female prisoners underwent forced abortions, and in other cases babies reportedly were killed upon birth in prisons. The constitutional provisions for an independent judiciary and fair trials were not implemented in practice. The regime subjected its citizens to rigid controls over many aspects of their lives. A human rights dialogue initiated by the European Union in 2001 led to another exchange of views in June 2002 in Pyongyang, but the Government did not acknowledge that international standards of human rights apply to North Korea. The Penal Code is Draconian, stipulating capital punishment and confiscation of assets for a wide variety of "crimes against the revolution," including defection, attempted defection, slander of the policies of the Party or State, listening to foreign broadcasts, writing "reactionary" letters, and possessing reactionary printed matter. Citizens were denied freedom of speech, the press, assembly, and association, and all forms of cultural and media activities were under the tight control of the Party. Little outside information reached the public except that which was approved and disseminated by the Government. The Government restricted freedom of religion, citizens' movement, and worker rights. There were reports of trafficking in women and young girls among refugees and workers crossing the border into China.

#### RESPECT FOR HUMAN RIGHTS

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

a. *Arbitrary and Unlawful Deprivation of Life.*—Defectors and refugees have reported that the regime executed political prisoners, opponents of the regime, some repatriated defectors, and others, reportedly including military officers suspected of

espionage or of plotting against Kim Jong Il. Criminal law makes the death penalty mandatory for activities “in collusion with imperialists” aimed at “suppressing the national liberation struggle.” Some prisoners were sentenced to death for such ill-defined “crimes” as “ideological divergence,” “opposing socialism,” and other “counterrevolutionary crimes.” In some cases, executions reportedly were carried out at public meetings attended by workers, students, and school children. Executions also were carried out before assembled inmates at places of detention. Border guards reportedly had orders to shoot to kill potential defectors. Similarly, prison guards were under orders to shoot to kill those attempting escape in political concentration camps, according to defectors.

Defectors have reported that government officials prohibited live births in prison. Forced abortion and the killing of newborn babies reportedly were standard prison practices (*see* Section 1.c.).

Religious and human rights groups outside the country reported that some members of underground churches were killed because of their religious beliefs and suspected contacts with overseas evangelical groups operating across the Chinese border (*see* Section 2.c.).

Many prisoners reportedly have died from disease, starvation, or exposure (*see* Section 1.c.).

According to some humanitarian organizations, the Government has channeled international food and medical aid to the party elite, military personnel, and other persons viewed as loyal to the regime.

*b. Disappearance.*—The Government reportedly was responsible for cases of disappearance. According to recent defector reports, individuals suspected of political crimes often were taken from their homes by state security officials late at night and sent directly, without trial, to camps for political prisoners. There are no restrictions on the ability of the Government to detain and imprison persons at will and to hold them incommunicado, without notifying detainees’ relatives.

There also were long-standing reports of past government involvement in the kidnaping abroad of South Koreans, Japanese, and other foreign nationals. On September 17, Kim Jong Il admitted to Japanese Prime Minister Koizumi that the Government had abducted 13 Japanese citizens during the 1970s. According to Japanese government officials, these abductions took place between 1977 and 1983. Government spies used the identities of some of the victims, and some of the victims were forced to provide training in Japanese language and customs. The Government allowed five surviving victims to visit Japan in October for 1 week, but the victims have remained in Japan since that time. The Government alleged that the remaining 8 are deceased. There was speculation, not officially confirmed by the Japanese government or the DPRK government, that the DPRK government has abducted many more Japanese residents over the years.

In November 1997, the South Korean government arrested several alleged North Korean espionage agents. According to the South Korean government’s report on its investigation, those arrested claimed that three South Korean high school students, missing since 1978, had been kidnaped by the North Korean government and trained as espionage agents. The three were identified as Kim Young Nam, who disappeared from Son Yu beach, and Yi Myong U and Hong Kyun Pyo, both of whom disappeared from Hong To beach. According to those arrested, there were several other kidnapings in the late 1970s and early 1980s. The South Korean government has compiled a list of 486 South Korean citizens, most of whom were fishermen, abducted since the 1950–53 Korean War.

In addition, several suspected cases in recent years of kidnaping, hostage-taking, and other acts of violence, apparently intended to intimidate ethnic Koreans living in China and Russia, have been reported. There were unconfirmed reports that in January 2000 North Korean agents. Despite the unprecedented admission to Prime Minister Koizumi, the Government continued to deny that it had been involved in kidnapings of other foreign nationals.

Numerous reports indicated that ordinary citizens were not allowed to mix with foreign nationals, and Amnesty International reported that a number of citizens who maintained friendships with foreigners have disappeared.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture is not prohibited by law. Methods of torture reportedly routinely used on political prisoners included severe beatings, electric shock, prolonged periods of exposure, humiliations such as public nakedness, and confinement to small “punishment cells,” in which prisoners were unable to stand upright or lie down, where they could be held for several weeks. According to defector reports, many prisoners died from torture, disease, starvation, exposure, or a combination of these causes. The

U.S. Committee for Human Rights in North Korea claimed that approximately 400,000 persons died in prison since 1972.

Recent crackdowns in China on prostitution and forced marriages resulted in the deportation of thousands of North Korean women, some of whom were pregnant, and many were imprisoned upon their return to the country. There were reports that North Korean officials prohibited live births in prison and that a policy of forced abortion was regularly implemented, particularly in those detention centers holding women repatriated from China. In those cases where live births did occur, the babies reportedly were immediately killed. In addition, guards sexually abused female prisoners.

Prison conditions were harsh; starvation and executions were common. Entire families, including children, were imprisoned when one member of the family was accused of a crime. "Reeducation through labor" was a common punishment, consisting of forced labor, such as logging and tending crops, under harsh conditions. Visitors to the country observed prisoners being marched in leg irons, metal collars, or shackles. In some places of detention, prisoners were given little or no food and, when they contracted illnesses, were denied medical care. In one prison, clothing reportedly was issued only once in 3 years.

In June Lee Soon-ok, a woman who spent several years in a prison camps before fleeing first to China in 1994 and then to South Korea, testified before the U.S. Senate that the approximately 1,800 inmates in this particular camp in those years typically worked 16 to 17 hours a day. Lee Soon-ok witnessed severe beatings and torture involving water forced into a victim's stomach with a rubber hose and pumped out by guards jumping on a board placed across the victim's abdomen, and reported that chemical and biological warfare experiments were conducted on inmates by the army. Other defectors reported similar experiences. At Camp 22 in Haengyong, approximately 50,000 prisoners worked under conditions that reportedly resulted in the death of 20 to 25 percent of the prison population annually in the 1990s.

During the year, witnesses testified before the U.S. Congress about the treatment of persons held in prison camps through the early 1990s. Some of these witnesses stated that prisoners held on the basis of their religious beliefs generally were treated worse than other inmates (*see* Section 2.c).

The Government did not permit inspection of prisons by human rights monitors.

*d. Arbitrary Arrest, Detention, or Exile.*—There are no restrictions on the ability of the Government to detain and imprison persons at will and to hold them incommunicado.

Little information was available on criminal justice procedures and practices, and outside observation of the legal system has been limited to show trials for traffic violations and other minor offenses.

Family members and other concerned persons reportedly found it virtually impossible to obtain information on charges against or the length of sentences of detained persons. Judicial review of detentions did not exist in law or in practice.

During the year, an estimated 200,000 persons were in detention for political reasons in camps in remote areas. The Government denied the existence of prison camps for political prisoners, which are marked as military areas to prevent access by the local population. In recent years, the Government reportedly reduced the total number of prison camps from approximately 20 to less than 10, but the prison population was consolidated rather than reduced. In addition to these camps for political prisoners, there reportedly were approximately 30 forced labor and labor education camps in the country for ordinary criminals serving shorter terms. The Government did admit that there were "education centers" for persons who "committed crimes by mistake." A defector who had been a ranking official in the Ministry of Public Security stated that conditions in the camps for political prisoners were extremely harsh and prisoners never emerged. In these camps, prisoners received little food and no medical provisions. In the labor camps, however, prisoners could be "rehabilitated."

The Government is not known to use forced exile. However, the Government routinely used forced internal resettlement and has relocated many tens of thousands of persons from Pyongyang to the countryside. Although disabled veterans were treated well, other persons with physical disabilities, as well as those judged to be politically unreliable, have been sent into internal exile. Often those relocated were selected on the basis of family background. Nonetheless, there was some evidence that class background was less important than in the past because of the regime's emphasis on the solidarity of the "popular masses" and united front efforts with overseas Koreans. According to unconfirmed September 1997 foreign press reports, some 500 senior officials were sent into internal exile.



*e. Denial of Fair Public Trial.*—The Constitution states that courts are independent and that judicial proceedings are to be carried out in strict accordance with the law; however, an independent judiciary did not exist in practice. Furthermore, individual rights were not acknowledged. The Public Security Ministry dispensed with trials in political cases and referred prisoners to the Ministry of State Security for punishment.

The Constitution contains elaborate procedural protections. It states that cases should be heard in public, except under some circumstances stipulated by law. The Constitution also states that the accused has the right to a defense, and when trials were held, the Government apparently assigned lawyers. However, reports indicated that defense lawyers were not considered representatives of the accused; rather, they were expected to help the court by persuading the accused to confess guilt. Some reports noted a distinction between those accused of political crimes and common criminals and stated that the Government afforded trials or lawyers only to the latter. The Government considered critics of the regime to be political criminals.

Numerous reports suggested that political offenses have in the past included such behavior as sitting on newspapers bearing Kim Il Sung's picture, or, in the case of a professor reportedly sentenced to work as a laborer, noting in class that Kim Il Sung had received little formal education. The KWP has a special regulation protecting the images of Kim Il Sung and Kim Jong Il. All citizens are required by this regulation to protect from damage any likeness of the two Kims. Beginning in the 1970s, the Ten Great Principles of Unique Ideology directed that anyone who tore or otherwise defaced a newspaper photo of either of the two Kims was a political criminal and should be punished as such. Defectors have reported families being punished because children had accidentally defaced photographs of one of the two Kims. Families were required to display pictures of the two leaders in their homes, and if local party officials found that the family had neglected its photos, the family could be forced to write self-criticisms throughout an entire year.

A foreigner hired to work on international broadcasts for the regime was imprisoned for 1 year without trial for criticizing the quality of the regime's foreign propaganda. He was then imprisoned for six more years (with trial) shortly after his release for claiming in a private conversation that his original imprisonment was unjust.

Common criminals were occasionally amnestied on the occasion of Kim Il Sung's or Kim Jong Il's birthday.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the inviolability of person and residence and the privacy of correspondence; however, the Government did not respect these provisions in practice. The regime subjected its citizens to rigid controls. The leadership viewed most international human rights norms, especially individual rights, as alien social concepts subversive to the goals of the State and Party. The Government relied upon an extensive, multilevel system of informers to identify critics and potential troublemakers. Whole communities sometimes were subjected to massive security checks. The possession of "reactionary material" and listening to foreign broadcasts were crimes that could subject the transgressor to harsh punishments. In some cases, entire families were punished for alleged political offenses committed by one member of the family, under a policy of "collective retribution." For example, defectors reported that families were punished because children had accidentally defaced photographs of one of the two Kims (*see* Section 1.e.).

The Government monitored correspondence and telephone conversations. Telephones essentially were restricted to domestic operation although some international service was available on a very restricted basis.

The Constitution provides for the right to petition. However, when an anonymous petition or complaint about state administration was submitted, the Ministries of State Security and Public Safety sought to identify the author through handwriting analysis. The suspected individual could be subjected to a thorough investigation and punishment.

Since the late 1950s the regime has divided society into three main classes: "core," "wavering," and "hostile." These three classes are further subdivided into subcategories based on perceived loyalty to the Party and the leadership. Security ratings are assigned to each individual; according to some estimates, nearly half of the population is designated as either "wavering" or "hostile." These loyalty ratings determine access to employment, higher education, place of residence, medical facilities, and certain stores. They also affect the severity of punishment in the case of legal infractions. While there were signs that this rigid system has been relaxed somewhat in recent years—for example, children of religious practitioners were no longer automatically barred from higher education—it remained a basic characteristic of KWP political control.

Citizens with relatives who fled to South Korea at the time of the Korean War still appeared to be classified as part of the “hostile class.” This subcategory alone encompassed a significant percentage of the population. One defector estimated that those considered potentially hostile comprised 25 to 30 percent of the population; others placed the figure at closer to 20 percent. Members of this class still were subject to discrimination, although defectors reported that their treatment had improved greatly in recent years.

The authorities subjected citizens of all age groups and occupations to intensive political and ideological indoctrination. After Kim Il Sung’s death, his cult of personality and the glorification of his family and the official *juche* ideology remained omnipresent, approaching the level of a state religion. The indoctrination was intended to ensure loyalty to the system and leadership, as well as conformity to the State’s ideology and authority. The necessity for the intensification of such indoctrination repeatedly was stressed in the writings of Kim Jong Il, who attributed the collapse of the Soviet Union largely to insufficient ideological indoctrination, compounded by the entry of foreign influences.

Indoctrination was carried out systematically, not only through the mass media, but also in schools and through worker and neighborhood associations. Kim Jong Il has stated that ideological education must take precedence over academic education in the nation’s schools, and he also called for the intensification of mandatory ideological study and discussion sessions for adult workers.

Another aspect of the Government’s indoctrination system is the use of mass marches, rallies, and staged performances, sometimes involving hundreds of thousands of persons. According to news reports, hundreds of thousands of citizens were mobilized to greet and perform for China’s President, Jiang Zemin, when he visited North Korea in September 2001. In September 1998, celebrations of the 50th anniversary of the founding of the country included hours of carefully choreographed demonstration of mass adulation of the leadership, and in October 2000, similar celebrations of the 55th anniversary of the KWP reportedly involved more than 1 million persons.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and the press; however, the Government prohibited the exercise of these rights in practice. Articles of the Constitution that require citizens to follow “socialist norms of life” and to obey a “collective spirit” take precedence over individual political and civil liberties. The regime only permitted activities that supported its objectives.

The Government strictly curtailed freedom of speech. Authorities punished persons for criticizing the regime or its policies with imprisonment or “corrective labor.” Persons reportedly have been placed under surveillance through their radio sets, and imprisoned and executed for statements made at home that were critical of the regime.

The Government attempted to control all information. Claiming that the country was under continuing threat of armed aggression, the Government carefully managed the visits of foreign journalists. On occasion, when it served its agenda, the Government allowed foreign media to cover some events. During the year, foreign journalists were allowed to cover an international marathon and the “Arirang” Festival. During the June 2000 inter-Korean summit and other events involving foreign leaders, groups of foreign journalists were permitted to accompany official delegations and to file reports, although they were strictly monitored. They were not allowed to talk to officials or to persons on the street, and those who arrived with cellular or satellite phones had them confiscated for the duration of their stay. In August 2000, the presidents of 46 South Korean newspaper and broadcast organizations, led by the South Korean Minister of Culture and Tourism, traveled to the country and met with Kim Jong Il. Foreign journalists also were allowed to report on the Korean Peninsula Energy Development Organization (KEDO) light-water reactor groundbreaking at Kumho in 1997 and the concrete-pouring ceremony in August 2002. Although more foreign journalists were allowed into the country, the Government still maintained strict control over the movements of foreign visitors.

Domestic media censorship was enforced strictly, and no deviation from the official government line was tolerated. The regime prohibited listening to foreign media broadcasts except by the political elite, and violators were subject to severe punishment. Radios and television sets received only domestic programming; radios obtained from abroad were required to be submitted for alteration to operate in a similar manner. CNN television broadcasts were only available in a Pyongyang hotel frequented by foreigners. Private telephone lines operated on an internal system that prevents making and receiving international calls; international phone lines were available only under very restricted circumstances. Some deluxe hotels in

Pyongyang offered Internet service for foreign visitors. For citizens, Internet access was limited to high-ranking officials who specialized in science and technology fields. This access was provided via international telephone lines to a provider in China.

The Government severely restricted academic freedom and controlled artistic and academic works. Visitors reported that one of the primary functions of plays, movies, operas, children's performances, and books was to contribute to the cult of personality surrounding Kim Il Sung and Kim Jong Il. The Government reached an agreement with the PRC-based Yanbian University of Science and Technology to allow a branch institution to be set up in Pyongyang to be run jointly by the Government and the University. This would be the first semiprivate educational institution in the country.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government did not respect this provision in practice. The Government prohibited any public meetings without authorization.

The Constitution provides for freedom of association; however, the Government did not respect this provision in practice. There were no known organizations other than those created by the Government. Professional associations existed primarily to facilitate government monitoring and control over the organizations' members.

*c. Freedom of Religion.*—The Constitution provides for "freedom of religious belief"; however, in practice the Government discouraged organized religious activity except that which was supervised by officially recognized groups. In 1992 a constitutional change authorized religious gatherings, provided for "the right to build buildings for religious use," and deleted a clause about freedom of antireligious propaganda. The Constitution also stipulates that religion "should not be used for purposes of dragging in foreign powers or endangering public security." Genuine religious freedom did not exist.

Several government-sponsored religious organizations served as interlocutors with foreign church groups and international aid organizations. Foreigners who met with representatives of these organizations believed that some were genuinely religious but noted that others appeared to know little about religious dogma, liturgy, or teaching.

The number of religious believers was unknown but has been estimated by the media and religious groups at 10,000 Protestants, 10,000 Buddhists, and 4,000 Catholics, in addition to an undetermined number of persons belonging to underground Christian churches. Some sources estimated that as many as 500 informal Christian congregations were active during the year. In its July 30 report to the U.N. Human Rights Committee, the Government reported the existence of 500 "family worship centers," an apparent reference to these congregations. Some reports indicated that such "house churches" have been increasingly tolerated so long as they do not openly proselytize or have contact with foreign missionaries. The Chondogyo Young Friends Party, a government-sponsored group based on a traditional Korean religious movement, also remained in existence.

Most of the 300 Buddhist temples were regarded as cultural relics, but in some of them religious activity was permitted. Buddhist scriptures that had been carved on 80,000 wooden blocks and kept at an historic temple were translated and published. Since 1988 two Protestant churches under lay leadership and a Roman Catholic church (without a priest) have opened in Pyongyang. Several schools for religious education existed, including 3-year religious colleges for training Protestant and Buddhist clergy. A religious studies program also was established at Kim Il Sung University in 1989; its graduates usually go on to work in the foreign trade sector. It was not known whether any Catholic priests remained in the country. In July 2000, Seoul Archbishop Nicholas Jin-Suk Cheong, appointed by the Pope as Apostolic Administrator of Pyongyang, was quoted as stating that while there were 50 priests in the country in the 1940s, it was not known if any were still alive.

Hundreds of religious figures have visited the country in recent years, including papal representatives and religious delegations from South Korea, the United States, and other countries. Overseas religious relief organizations have been active in responding to the country's food crisis. Although some foreigners who visited the country stated that church activity appeared staged, others believed that church services were genuine, although sermons contained both religious and political content supportive of the regime.

Persons engaging in religious proselytizing could be arrested and subjected to harsh penalties, including imprisonment and prolonged detention without charge. The regime appeared to have cracked down on unauthorized religious groups in recent years, particularly on persons who proselytized or who had ties to overseas evangelical groups operating across the border with China. The Government ap-

peared concerned about religiously based South Korean relief and refugee assistance efforts along the northeast border with China becoming entwined with political goals, including opposition to the regime. Some repatriated defectors who had established contacts with religiously based South Korean groups were reportedly executed.

Religious and human rights groups outside the country continued to provide numerous, unconfirmed reports that thousands of members of underground churches were beaten, arrested, detained in prison camps, or killed because of their religious beliefs. One unconfirmed report stated that approximately 400 Christians were executed during 2001. These reports could not be confirmed or disproved because of the effectiveness of the Government's continued ban on outside observers. Nonetheless, the collective weight of anecdotal evidence of harsh treatment of unauthorized religious activity lent credence to such reports.

Little was known about the actual life of religious persons in the country. Members of government-recognized religious groups did not appear to suffer discrimination; in fact, some reports claimed they had been mobilized by the regime. Persons whose parents were believers but who themselves were nonpracticing were able to rise to at least the midlevels of the bureaucracy in recent years. Such individuals, as a category, suffered broad discrimination in the past. However, the regime continued to view religious believers belonging to underground congregations or with ties to evangelical groups in North China as subversive elements.

The Government dealt harshly with all opponents, including those engaging in religious practices deemed unacceptable to the regime. During the year, witnesses testified before the U.S. Congress about the treatment of persons held in prison camps through the early 1990s. Some of these witnesses stated that prisoners held on the basis of their religious beliefs generally were treated worse than other inmates. One witness, a former prison guard, testified that those believing in God were regarded as insane, since authorities taught that "all religions are opiates." He recounted an instance in which a woman was kicked repeatedly and left with her injuries unattended for days because a guard overheard her praying for a child who was being beaten.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for the "freedom to reside in or travel to any place"; however, the Government did not respect these rights in practice. In the past, the regime has controlled strictly internal travel, requiring a travel pass for any movement outside one's home village. These passes were granted only for official travel or attendance at a relative's wedding or funeral. Long delays in obtaining the necessary permit often resulted in denial of the right to travel even for these limited purposes. In recent years, it appeared that the internal controls on travel have eased significantly. Due to the worsening food conditions in the country, the Government at times took a benign approach to those who violated internal travel rules, allowing citizens to leave their villages to search for food, and there were reports of large-scale movement of persons across the country in search of food. Only members of a very small elite had vehicles for personal use. The regime tightly controlled access to civilian aircraft, trains, buses, food, and fuel.

The Government strictly controlled permission to reside in, or even to enter, Pyongyang, where food supplies, housing, health, and general living conditions were much better than in the rest of the country.

The regime issued exit visas for foreign travel only to officials and trusted artists, athletes, academics, and religious figures. It did not allow emigration. Following the collapse of Soviet Communism, the regime recalled several thousand students from overseas, but recently has again allowed small numbers of students to study abroad.

Since the mid-1990s, there have been numerous reports of a steady increase in the substantial number of North Korean refugees arriving in China from which some proceeded to Hong Kong, Vietnam, and other Asian countries. While thousands crossed into China during the year, many returned to North Korea after securing food.

According to the Penal Code, defection and attempted defection (including the attempt to gain entry to a foreign embassy for the purpose of seeking political asylum) are capital crimes. According to many unconfirmed reports, some would-be refugees who were returned involuntarily have been executed (*see* Section 1.a.), while others faced harsh prison terms upon repatriation. Some migrants stated that DPRK border guards received orders to shoot to kill persons attempting to cross the border into China, although some border crossings for family visits and trade were permitted. The regime also reportedly retaliated against the relatives of some of those who managed to leave the country.

During the year, deportations of North Koreans from China increased. While the Chinese government has long maintained that there were only a few hundred North Korean refugees in China, many observers estimated that since 1994 there have been at least tens of thousands, and perhaps a few hundred thousand refugees in China. Most crossed the border clandestinely in small groups to seek food, shelter, and work. Some settled semi-permanently in Northeastern China, while others traveled back and forth across the border. Since 2000 the Chinese government sought out and forcibly repatriated large numbers of these persons, whom authorities regarded as illegal economic migrants. The Chinese government also allowed North Korean security forces to operate within China to track down refugees.

During the year, approximately 130 North Koreans were allowed to travel to South Korea after seeking refuge in foreign missions in China. In response to these high-profile incidents, both China and North Korea tightened border controls, and border crossings declined significantly late in the year.

North Korean workers and refugees living in Russia also suffered serious human rights abuses. There were about 6,000 DPRK workers in North Korean-run camps in the Russian Far East engaged in farming, mining, and construction; these workers were selected by the Government to work in Russia. Conditions in these camps were harsh, food was scarce, and discipline was severe. In the past, there were allegations that discipline included physical torture such as placing wooden logs between the knees of offenders, after which they were forced to sit down, causing them excruciating pain. In recent years, offenders have been sent back to the DPRK for punishment due to the increased scrutiny that the labor camps have been under since Russian and foreign media began reporting on the conditions there in the early 1990s.

Other North Koreans in Russia included those who were sent to work in Russia but refused to return to the DPRK and those who fled into Russia from the DPRK. Under a secret protocol, the Public Security Service reportedly was allowed to work inside Russia until 1993 to track down workers who fled the camps. Since 1993 many of these defectors have been engaged in business in the Russian Far East.

Many North Koreans in Russia faced severe hardship due to their lack of any identification. Workers arriving in Russia usually had their passport and other identification confiscated by North Korean border guards.

The Government reportedly has tried to prevent persons from staying in Russia by using diplomatic channels to influence Russian authorities and international organizations. In a number of cases, North Korean authorities reportedly told Russian authorities that a particular North Korean who had applied for asylum in Russia or elsewhere was a criminal offender in North Korea. An extradition treaty signed by both countries in 1957 requires that persons with criminal records be returned to their country.

From 1959 to 1982, 93,000 Korean residents of Japan, including 6,637 Japanese wives, voluntarily repatriated to North Korea. Despite DPRK assurances that the wives, more than a third of whom still had Japanese citizenship, would be allowed to visit Japan every 2 or 3 years, none were permitted to do so until 1997. Many had not been heard from, and their relatives and friends in Japan were unsuccessful in their efforts to gain information about their condition and whereabouts. The DPRK government and the Japanese government held a series of bilateral meetings in Beijing in the second half of 1997, during which the DPRK government agreed to allow some Japanese wives resident in the DPRK to visit Japan. The first such visit occurred in November 1997 when 15 Japanese wives arrived for a 1-week visit. An additional 12 Japanese wives visited for 1 week in early 1998. However, in June 1999 the DPRK government cancelled a visit by Japanese wives to Japan, citing "artificial hurdles and inhuman acts on the Japanese side." The visits resumed after the Japanese government and the DPRK government restarted normalization talks in April 2000. A group of 16 Japanese wives visited Japan in September 2000; however, no visits took place during 2002.

In September 2001, the wife of a former Japanese Red Army hijacker being sheltered by the North returned to testify about the group in Japan.

Although the Government has permitted an increasing number of overseas Koreans to visit their relatives in North Korea over the past decade, most requests for such visits were denied. In August and December 2000, and in February 2001, the DPRK and the Republic of Korea sent delegations of members of separated families to each other's capitals for family reunion meetings. However, the meetings generally were of limited duration and certain topics were barred from discussion. A fourth reunion was scheduled for October 2001; however, the Government cancelled the meetings citing South Korea's nation-wide security alert issued after September 11, 2001. During the year, the fourth reunion was held, followed by a fifth, and ini-

tial discussions began regarding establishing a permanent reunion center in Mt. Kungang, North Korea.

Although more foreign journalists, diplomats, and representatives of humanitarian organizations were allowed into the country, the Government maintained strict control over the movements of foreign visitors. For example, journalists accompanying one visiting foreign dignitary were not allowed to visit a department store or a train station; they were not allowed to talk to officials or to persons on the street. Those who arrived with cellular or satellite phones had them confiscated for the duration of their stay.

In August 2001, the Government allowed over 300 South Korean citizens to visit the country to participate in Liberation Day festivities; this was reportedly the largest South Korean delegation ever to visit the country. In May another group of 250, from South Korea's Cheju Island, visited the country. Their movements were strictly controlled. International humanitarian relief workers also faced substantial restrictions on their movements within the country (*see* Section 4).

Reports, primarily from refugees, indicated that the Government routinely used forced resettlement, particularly for those deemed politically unreliable and the physically handicapped.

Although a member of the United Nations, the country did not participate in international refugee forums. The Government had no known policy or provision for refugees, asylees, or first asylum.

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

Citizens have no right or mechanisms to change their leadership or government peacefully. The political system was dominated by the Korean Workers' Party and Korean People's Army, with Kim Il Sung's heir, Kim Jong Il, in control. Very little reliable information was available on intraregime politics following Kim Il Sung's death. The legislature, the Supreme People's Assembly (SPA), which meets only a few days per year, served only to rubber-stamp resolutions presented to it by the party leadership. In 1997 Kim Jong Il acceded to the position of General Secretary of the KWP. In 1998 the SPA reconfirmed Kim as the Chairman of the National Defense Commission and declared that position to be the "highest office of State." The Government adopted a "military first" policy that formalized and legitimated the growing power and influence of the military. The presidency was abolished, leaving the late Kim Il Sung as the country's only President. The titular head of state is Kim Yong Nam, the President of the Presidium of the SPA.

The regime justified its dictatorship with arguments derived from concepts of collective consciousness and the superiority of the collective over the individual, appeals to nationalism, and citations of "the *juche* idea." The authorities emphasized that the core concept of *juche* is "the ability to act independently without regard to outside interference." Originally described as "a creative application of Marxism-Leninism" in the national context, *juche* is a malleable philosophy reinterpreted from time to time by the regime as its ideological needs change. It was used by the regime as a "spiritual" underpinning for its rule.

In an effort to give the appearance of democracy, the Government had created several "minority parties." Lacking grassroots organizations, they existed only as rosters of officials with token representation in the SPA. Their primary purpose appeared to be promoting government objectives abroad as touring parliamentarians. Free elections did not exist, and the regime criticized the concept of free elections and competition among political parties as an "artifact" of "capitalist decay."

Elections to the SPA and to provincial, city, and county assemblies are held irregularly. In 1998 SPA elections were held for the first time since 1990. According to the Government-controlled media, over 99 percent of the voters participated to elect 100 percent of the candidates approved by the KWP. Results of previous SPA elections produced virtually identical outcomes. The vast majority of the KWP's estimated 3 million members worked to implement decrees formulated by the Party's small elite.

Women reportedly made up 20 percent of the membership of the SPA, but only approximately 4 percent of the membership of the Central Committee of the KWP.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

The Government did not permit any independent domestic organizations to monitor human rights conditions or to comment on violations of such rights. A North Korean Human Rights Committee, established in 1992, denied the existence of any human rights violations in the country.

The World Food Program (WFP) visited 163 of the country's 206 provinces during the year and completed a nutritional study. However, aid workers representing foreign governments and international organizations, who provided substantial food aid, frequently were denied access to sites where this food was distributed, and thus were unable to verify that the aid consistently reached its intended recipients. Many foreign NGOs reported being charged large fees by government officials to get visas for foreign staff, to set up offices, and to establish programs. There were reports of abduction of ethnic Korean aid workers by government officials; some victims were required to pay large fines to obtain their release.

In July 2001, a North Korean delegate reporting to the U.N. Human Rights Committee dismissed reports of human rights violations in the country as the propaganda of "egoistic" and "hostile forces" seeking to undermine the sovereignty of the country.

In 1996 a delegation from Amnesty International visited the country and discussed legal reforms and prisoner cases with senior government officials. The Government ignored requests for visits by other international human rights organizations, and none were known to have visited.

The Government has reestablished diplomatic ties with a number of countries that have sought to engage it on human rights. In June government officials discussed human rights with EU representatives. As was the case after June 2001 talks, no significant progress resulted. The DPRK participants in the talks told the EU that the Government had ratified all U.N. human rights instruments except those on torture and racial discrimination, which were "being examined."

In August 1997, the U.N. Subcommission on Prevention of Discrimination and Protection of Minorities adopted a resolution criticizing the Government for its human rights practices. The DPRK government subsequently announced that it would withdraw from the International Covenant on Civil and Political Rights (ICCPR), calling the resolution an attack on its sovereignty. In October 1997, the U.N. Human Rights Committee issued a statement criticizing the attempt to withdraw from the ICCPR, noting that countries that had ratified the ICCPR could not withdraw from the covenant, and in August 1998, the Human Rights Committee re-adopted a resolution urging the DPRK government to improve its human rights record. During the year, the Government submitted a report on human rights to the U.N. Human Rights Committee.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution grants equal rights to all citizens. However, the Government denied its citizens most fundamental human rights in practice, and there was pervasive discrimination on the basis of social status.

*Women.*—The Constitution states that "women hold equal social status and rights with men"; however, although women were represented proportionally in the labor force, few women had reached high levels of the Party or the Government. In many small factories, the work force was predominantly female. Like men, working-age women must work. They were thus required to leave their preschool children in the care of elderly relatives or in state nurseries. According to the Constitution, women with large families are to work shorter hours. There were reports of trafficking in women and young girls among North Koreans crossing the border into China (*see* Section 6.f.).

There was no information available on violence against women.

*Children.*—Social norms reflect traditional, family-centered values in which children are cherished. The State provides compulsory education for all children until the age of 15. However, some children were denied educational opportunities and subjected to other punishments and disadvantages as a result of the loyalty classification system and the principle of "collective retribution" for the transgressions of their parents (*see* Section 1.f.).

Like others in society, children were the objects of intense political indoctrination; even mathematics textbooks propound party dogma. In addition, foreign visitors and academic sources reported that children from an early age were subjected to several hours a week of mandatory military training and indoctrination at their schools. School children sometimes were sent to work in factories or in the fields for short periods to assist in completing special projects or in meeting production goals.

The WFP reported feeding 4 million North Korean children during the year. In some remote provinces, many persons reportedly appeared to be suffering from long-term malnutrition. A nutrition survey carried out in 2000 by UNICEF and the WFP in the aftermath of flood disasters found that 16 percent of children under 7 years of age suffered from acute malnutrition and that 62 percent suffered from stunted growth. In 1997 a senior UNICEF official said that approximately 80,000 children

in the country were in immediate danger of dying from hunger and disease; 800,000 more were suffering from malnutrition to a serious but lesser degree.

In practice children did not enjoy any more civil liberties than adults. The U.N. Committee on the Rights of the Child (UNCRC) has repeatedly expressed concern over de facto discrimination against children with disabilities and the insufficient measures taken by the state party to ensure that these children have effective access to health, education, and social services, and to facilitate their full integration into society.

In the fall of 1998, Doctors Without Borders (MSF) and Doctors of the World closed their offices in the country because the Government reportedly denied them access to a large population of sick and malnourished children. MSF officials stated that they had evidence that orphaned and homeless children had been gathered into so-called "9-27 camps." These camps reportedly were established under a September 27, 1995 order from Kim Jong Il to "normalize" the country. Refugees who have escaped from the 9-27 camps into China have reported inhuman conditions. There have been reports that some of the 9-27 camps have been closed in recent years.

Information about societal or familial abuse of children was unavailable. There were reports of trafficking in young girls among persons crossing the border into China (see Section 6.f.).

*Persons with Disabilities.*—Traditional social norms condone discrimination against persons with physical disabilities. Apart from veterans with disabilities, persons with disabilities almost never were seen within the city limits of Pyongyang, and several defectors and other former residents reported that persons with disabilities routinely were relocated to rural areas. Furthermore, some NGO reports claimed that these persons, along with some sick and elderly persons from the capital, were predominantly sent to the northeastern part of the country, where international food aid reportedly was no longer distributed by the Government. However, recent visitors to Pyongyang have reported seeing handicapped people on the streets of the capital. There are no legally mandated provisions for accessibility to buildings or government services for persons with disabilities.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Nongovernmental labor unions did not exist. The KWP purported to represent the interests of all labor. There was a single labor organization, the General Federation of Trade Unions of Korea, which was affiliated with the formerly Soviet-controlled World Federation of Trade Unions. Operating under this umbrella, unions functioned on the classic "Stalinist model," with responsibility for mobilizing workers behind production goals and for providing health, education, cultural, and welfare facilities.

The country was not a member of, but had observer status with, the International Labor Organization.

*b. The Right to Organize and Bargain Collectively.*—Workers have no right to organize or to bargain collectively. Government ministries set wages. The State assigned all jobs. Ideological purity was as important as professional competence in deciding who received a particular job, and foreign companies that have established joint ventures reported that all their employees had to be hired from lists submitted by the KWP. Factory and farm workers were organized into councils, which did have an impact on management decisions. Unions do not have the right to strike.

There is one free enterprise zone (FEZ) in the Rajin-Songbon area, and the creation of a Special Administrative Region in Sinuiju was announced. The same labor laws that applied in the rest of the country applied in the Rajin-Songbon FEZ, and it was believed that workers in the FEZ were carefully screened and selected. The Korean Peninsula Energy Development Organization (KEDO) negotiated in 1994 a separate protocol and service contracts for workers at the site of its light water nuclear reactor project. The Government agency, which supplied the labor to KEDO, bargained on the workers' behalf (see Section 6.e.).

*c. Prohibition of Forced or Bonded Labor.*—In its 2000 and 2001 reports to the U.N. Human Rights Committee, the Government claimed that its laws prohibit forced or bonded labor. However, the Government frequently mobilized the population for construction projects. Military conscripts routinely were used for this purpose as well. "Reformatory labor" and "reeducation through labor" were common punishments for political offenses. Forced labor, such as logging and tending crops, was common among prisoners. School children were assigned to factories or farms for short periods to help meet production goals (see Section 5).

The Constitution requires that all citizens of working age must work and "strictly observe labor discipline and working hours." The Penal Code provides for the death penalty for any individual who hinders the country's industry, trade, or the trans-



port system by purposely failing to fulfill a specific duty. It also states that anyone failing to carry out an assigned task properly is subject to at least 5 years in prison (see Section 6.e.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—According to the Constitution, the State prohibits work by children under the age of 16 years. There was no prohibition on forced labor by children, and school children were assigned to factories or farms for short periods to help meet production goals (see Section 6.c.).

*e. Acceptable Conditions of Work.*—No data was available on the minimum wage in state-owned industries. Until the recent food crisis, wages and rations appeared to be adequate to support workers and their families at a subsistence level; however, in recent years that has no longer been the case. Wages were not the primary form of compensation since the State provided all educational and medical needs free of charge, and only token rent was charged. The minimum wage for workers in the FEZ was approximately \$80 per month; in foreign-owned and joint venture enterprises outside the FEZ the minimum wage was reportedly close to \$110 per month. It was not known what proportion of the foreign-paid wages went to the worker and what proportion remained with the State. KEDO, the international organization charged with implementation of a light-water reactor and other projects, concluded a protocol and a related memorandum of understanding concerning wages and other working conditions for citizens who work on KEDO projects. Unskilled laborers received approximately \$110 per month while skilled laborers were paid slightly more depending on the nature of the work performed (see Section 6.b.).

The Constitution states that all working-age citizens must work and “strictly observe labor discipline and working hours.” The Penal Code states that anyone who hampers the nation’s industry, commerce, or transportation system by intentionally failing to carry out a specific assignment “while pretending to be functioning normally” is subject to the death penalty; it also states that anyone who “shoddily carries out” an assigned duty is subject to no less than 5 years’ imprisonment.

Even persistent tardiness could be defined as “anti-Socialist wrecking” under these articles, although as a result of food shortages absenteeism reportedly became widespread as more time must be spent finding food. A government official described the labor force to an audience of foreign business executives by noting that “there are no riots, no strikes, and no differences of opinion” with management.

In 1994 the authorities reportedly adopted new labor regulations for enterprises involving foreign investments. The regulations on labor contracts set out provisions on the employment and dismissal of workers, technical training, workhours, rest periods, remuneration, labor protection, social security, fines for violations of regulations, and settlement of disputes.

The Constitution stipulates an 8-hour workday; however, several sources reported that most laborers worked from 12 to 16 hours daily when factories were operating. Some of this additional time appeared to include mandatory study of the writings of Kim Il Sung and Kim Jong Il. The Constitution provides all citizens with a “right to rest,” including paid leave, holidays, and access to sanitariums and rest homes funded at public expense. Paid leave was provided on public holidays, but on some holidays some persons were required to participate in mass demonstrations involving extra hours of preparation.

Many worksites were hazardous, and the rate of industrial accidents was high. It was believed that workers did not have the right to remove themselves from hazardous working conditions.

*f. Trafficking in Persons.*—There were no known laws specifically addressing the problem of trafficking in persons, and trafficking was a serious problem. There were widespread reports of trafficking in women and young girls among citizens crossing the border into China. Some were sold by their families or by kidnapers as wives to men in China. A network of smugglers reportedly facilitated this trafficking. Many such women, unable to speak Chinese, were held as virtual prisoners, and some were forced to work as prostitutes.

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## REPUBLIC OF KOREA

The Republic of Korea (Korea) is governed by a directly elected president and a unicameral legislature. On December 19, Roh Moo-hyun was elected to the Presidency for a single 5-year term of office in a free and fair election. A free and fair National Assembly election was held in April 2000. The Constitution provides for an independent judiciary, and in recent years, the judiciary has shown increasing independence.

Responsibility for maintaining internal security lies with the National Intelligence Service (NIS), the National Police Administration (NPA), and the Defense Security Command (DSC). Legislation passed in 1993 bars the NIS and the DSC from involvement in domestic politics and grants the NIS investigative authority only in cases involving terrorism, espionage, and international crime organizations. The Government revised this law in 1996 to allow the NIS to investigate members of domestic organizations that are viewed as supporting the Government of the Democratic People's Republic of Korea (North Korea). Some members of the police were responsible for occasional human rights abuses.

During the year, the country's economy grew by 6 percent. Unemployment remained under 4 percent. However, the country's economic growth was dependent on key export products, and weakness in the financial system left the economy susceptible to unpredictable external conditions. The country's population was 47,600,000.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. The police at times physically and verbally abused detainees, although human rights groups reported that the number of such cases continued to decline. Under the Social Surveillance Law, some released prisoners were required to report to the police when moving or traveling. The use of the National Security Law (NSL) continued to infringe upon citizens' civil liberties, including the right to free expression. In 2001 a foreign citizen was convicted under the NSL for the first time. Domestic violence, rape, and child abuse remained serious problems. Women continued to face legal and societal discrimination. Ethnic minorities, very small in number, faced legal and societal discrimination. Many public sector employees did not enjoy the right of association. Trafficking in persons was a problem; the country was considered a major transit point for alien smugglers, including traffickers of primarily Asian women and children for the sex trade and domestic servitude. The Ministry of Gender Equality was established in January 2001 to deal with issues including women's rights, violence against women, and discrimination against women. In April 2001 the Government created a National Human Rights Commission to investigate allegations of rights violations. A separate commission, the Presidential Truth Commission on Suspicious Deaths, established to investigate suspicious deaths under previous military-backed governments, has investigated a total of 83 cases, 68 during the year. The Republic of Korea hosted the second Ministerial Meeting of the Community of Democracies in Seoul, Republic of Korea, in November.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—During the year, there was one report of arbitrary or unlawful deprivation of life committed by the Government or its agents. On October 26, murder suspect Cho Cheun-hun collapsed at the Seoul District Public Prosecutor's Office; he died 8 hours later after being taken to a hospital. An autopsy concluded that he died from either shock or a cerebral hemorrhage. President Kim Dae-jung issued an apology for the death, and Justice Minister Kim Jung-kil, as well as Chief Prosecutor Lee Myung-jae, resigned. In November the prosecutor in charge of questioning Cho, Hong Kyeong-ryong, as well as two investigators and one policeman, were indicted on charges of violating the Additional Punishment Law on Specific Crimes, misconduct in office, and brutality. They were tried and convicted, the sentence was upheld on appeal, and they were awaiting the outcome of their second appeal at year's end.

In 2000 the Government enacted the Special Act on the Investigation of Suspicious Deaths to investigate and redress complaints that officials of past military governments had tortured and killed prodemocracy activists. As a result of this legislation, in August 2000 a nine-person panel was commissioned as the Presidential Truth Commission on Suspicious Deaths to review cases such as the 1960 student uprising and the 1980 Kwangju civil uprising and to shed light on the circumstances surrounding the arrests and deaths of prodemocracy activists. During the year, the Commission reviewed 68 cases. It concluded that the deaths of ex-professor Choi Jong-kil, Kwangju University student activist Kim Joon-bae, and army private Huh Won-keun were all caused by beating. In September it revealed that evidence in the cases of eight student activists and dissidents executed in 1974 was falsified and that confessions were extracted under torture. The eight allegedly belonged to the "People's Revolutionary Party." In June 2001, the Commission determined that the 1984 death of Park Young-doo in Chungsong Prison was an extrajudicial killing.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Penal Code prohibits the mistreatment of suspects. The Government has ordered investigating authorities to protect the human rights of suspects, and allegations of abuse by authorities of those in custody continued to decline. Nonetheless police sometimes abused persons in custody. Prosecutors continued to place emphasis on securing convictions through confessions, a focus driven by cultural factors, with confession viewed as a necessary basis for the reform and rehabilitation of convicted defendants. The Supreme Court has ruled that confessions obtained after suspects have been deprived of sleep during an interrogation cannot be used in court, but police sometimes questioned suspects throughout the night. Credible sources also reported that in some cases police verbally or physically abused suspects, dispensing beatings, threats, and sexual intimidation in the course of arrest and police interrogation. However, human rights groups reported that the number of such cases continued to decline. Criminal suspects, who previously had been required to wear prison garb in court, were allowed to wear street clothes until proven guilty.

On October 26, murder suspect Cho Cheun-hun was beaten to death in custody (see Section 1.a.).

In 2001 police forcibly broke up three demonstrations, which had turned somewhat violent. In April 2001, 40 demonstrators and 55 police officers were injured at a demonstration near a Daewoo automobile factory. President Kim later expressed deep regret for the police's excessive use of force. Numerous Daewoo workers and police were also injured at the same location in February 2001, when police intervened at the request of Daewoo management because of alleged vandalism and destruction of company property.

In the past, police and security officials who abused or harassed suspects rarely were punished. However, in recent years, under the National Public Service Law and criminal law, a number of police and security officials accused of abuse or harassment have been punished or disciplined through demotion, pay cuts, and dismissal. In addition, 10 police officials were charged under criminal law during the year for abuses committed while on duty.

To investigate and redress the complaints of former detainees who claimed that officials of past military-backed governments tortured them or inflicted excessive punishments, in May 2000 the Government enacted the Special Act on the Investigation of Suspicious Deaths (see Section 1.a.) and the Act on the Restoration of the Honor of and Compensation for Persons Engaged in the Democratic Movement. In 2000 the Commission for the Restoration of Honor and Compensation to Activists of the Democratization Movement was established to review cases. As of September, this Commission had determined that, in the over 1,835 cases reviewed to date, compensation was due in 33 cases, the names of 1,600 activists should be cleared, and students Park Ching-chul and Lee Han-yeul should be recognized posthumously as democracy activists.

Prison conditions were Spartan but generally met international standards. Prison diets were adequate, but the facilities offered little protection against cold in the winter and heat in the summer. Some prisoners claimed that these conditions damaged their health and that medical care was inadequate. By year's end, the Government had installed floor heating and cooling systems in 21 of 44 prisons nationwide as part of a multi-year plan to upgrade the entire prison system. Traveling clinic teams visited prisons, and prison clinics were equipped with x-ray machines.

Inmates occasionally criticized guards for using excessive force or needlessly putting prisoners in manacles.

Inmates had access to reading materials, telephones, and television broadcasts. Education in computers and foreign languages, occupational training programs, and an inmate employment center helped inmates prepare to resume normal lives. Most prisoners were allowed to receive up to five visitors four to six times per month. Some prisoners were allowed unlimited visits. Model prisoners who had served more than one-third of their sentences were allowed unsupervised meetings with visitors and were exempt from mail censorship. Some were eligible for overnight leave. Pregnant inmates received special treatment, including supplementary food, for the full term of their pregnancies and for an additional 6 months after giving birth. Pregnant inmates also received prenatal care for the full term of their pregnancies. Female inmates were not searched by male prison guards without the prior consent of a prison warden, and a female guard was present during such searches.

Among the mandates of the newly established National Human Rights Commission were the inspection of prisons and the compiling of recommendations for improvement of prison conditions. During the year, the Commission began to monitor prison conditions through a prisoner petition system. Petitions were submitted via a petition box placed in each prison in April. The Commission also conducted investigations and studies on medical equipment and facilities in prisons, provision of

medical services, and conditions in military prisons. According to the Ministry of Justice, human rights nongovernmental organizations (NGOs) were allowed to visit prisons by appointment and to submit recommendations to prison authorities.

*d. Arbitrary Arrest, Detention, or Exile.*—Laws regarding arrest and detention often are vague, and prosecutors have wide latitude to interpret them. For example, the National Security Law (NSL) defines espionage in broad terms and permits the authorities to detain and arrest persons who commit acts viewed as supporting North Korea, which are therefore deemed dangerous to the country. The NSL permits imprisonment for up to 7 years of anyone who “with the knowledge that he might endanger the existence or security of the State or the basic order of free democracy, praised, encouraged, propagandized for, or sided with the activities of an antistate organization.” The legal standard for what constitutes endangering the security of the State was vague. Thus a number of persons have been arrested for what appeared to be the peaceful expression of views that the Government considered pro-North Korean or antistate. Among those arrested under the NSL were persons who praised North Korea, its former leader Kim Il Sung, or North Korea’s “self-reliance” philosophy.

In February 2001, a foreign citizen was arrested and charged with violating the NSL. The basis for prosecution was publishing a book on North Korean leader Kim Jong-il, contact with allegedly pro-North Korean figures abroad, and travel to North Korea. In July 2001, he was convicted of violating the NSL and sentenced by the Seoul District Court to 3 years’ imprisonment, with the sentence suspended.

In August 2001, 16 members of a group that went to Pyongyang as a delegation to an inter-Korean Independence Day Festival allegedly broke a pledge not to engage in political activities. They were arrested for violating the NSL. Seven of them, including Professor Kang Chung-koo of Dongkook University, were indicted. Professor Kang was released after being held for 2 months, and was awaiting trial at year’s end. In February four of the other six were sentenced to 2 years and 6 months in prison, with suspension of imposition of sentence for 3 years (essentially a parole). The two others were sentenced to 2 years and 6 months in prison, and both were released on bail by June.

The U.N. Human Rights Committee termed the NSL “a major obstacle to the full realization of the rights enshrined in the International Covenant on Civil and Political Rights.” President Kim Dae-jung, who himself was arrested and sentenced to death under the NSL, acknowledged in August 2000 that the law had “problematic areas” and announced his intent to pursue major revisions, especially in light of improvements in relations between North and South Korea since the June 2000 summit. During the year, 131 persons were arrested for violating the NSL, and 31 persons remained in custody at year’s end.

The Government’s rationale for retaining the NSL was that North Korea actively was trying to subvert the Government and society and as a result, some forms of expression had to be limited to block the greater danger to freedom and democracy posed by North Korean totalitarianism. The effect sometimes was to relieve the Government of the burden of proof that any particular speech or action in fact threatened the nation’s security. Thus, although the Government strove to expand North-South exchanges, citizens were prosecuted in the past for unauthorized travel to North Korea (*see* Section 2.d).

The Criminal Code requires warrants to be issued by judges in cases of arrest, detention, seizure, or search, except if a person is apprehended while committing a criminal act or a judge is not available and the authorities believe that a suspect may destroy evidence or escape capture if not quickly arrested. In such emergency cases, judges must issue arrest warrants within 48 hours after apprehension or, if a court is not located in the same county, within 72 hours. Police may detain suspects who appear voluntarily for questioning for up to 6 hours but must notify the suspects’ families. The police generally respected these requirements.

Authorities normally must release suspects after 30 days unless an indictment is issued. Consequently, detainees were a relatively small percentage of the total prison population.

The Constitution provides for the right to representation by an attorney, and a suspect may have a lawyer present during police interrogation. The Ministry of Justice announced in May 2000 that all prosecutors’ offices had installed rooms where suspects could consult with their lawyers. In 2000 individual police stations began to employ lawyers as legal advisors to aid in examining relevant legal clauses in charging suspects. There were no reports of access to legal counsel being denied. There was a bail system, but human rights lawyers said that bail generally was not granted when detainees were charged with committing serious offenses, when they might attempt to flee or harm a previous victim, or when they had no fixed address.

In an August 2001 tax investigation, judges allowed prosecutors to arrest Bang Sang-hoon, president of the newspaper Chosun Ilbo; Kim Byung-kwan, former honorary chairman of the newspaper Dong-A Ilbo; and Cho Hee-joon, former president of the newspaper Kookmin Ilbo; stating that they might flee or destroy evidence if allowed to remain free (*see* Section 2.a). All three were released from detention by November 7, 2001. In January Cho was sentenced to 3 years' imprisonment and fined \$2,465,000 (3 billion won). In February Kim was sentenced to 3 years and 6 months' imprisonment and was fined \$3.7 million (4.5 billion won). Both sentences were appealed and a hearing on these appeals was still pending at year's end. On September 30, the first trial of Bang began; the outcome was pending at year's end. In December the Fair Trade Commission canceled \$15.3 million in fines levied against 15 newspapers and broadcasters for illegal business practices, citing the firms' weakened financial condition and the public interest.

The Constitution and law neither provide for nor prohibit forced exile. The Government does not use forced exile, although some persons living abroad would face criminal charges if they returned to the country.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and in recent years, the judiciary has shown increasing independence. The Prosecutor's Office, which is under the jurisdiction of the MOJ, has been accused of influence peddling and cronyism, and the independence of the Prosecutor's Office (especially in cases involving government officials or political figures) was often called into question by the media and the political opposition. The President appoints the Chief Justice and most justices of the Constitutional Court. Although judges do not receive life appointments, they cannot be fired or transferred for political reasons. During the year, 10 members of the National Assembly lost their seats for election law violations.

Local courts were presided over by judges who render verdicts in all cases. There was no trial by jury. Defendants could appeal a verdict to a district appeals court and to the Supreme Court. Constitutional challenges could be taken to the Constitutional Court.

The Constitution provides defendants with a number of rights in criminal trials including the presumption of innocence, protection against self-incrimination, freedom from retroactive laws and double jeopardy, the right to a speedy trial, and the right of appeal. When a person is detained physically, the initial trial must be completed within 6 months of arrest. These rights generally were observed. Trials were open to the public, but a judge could restrict attendance if he believed spectators might seek to disrupt the proceedings.

Judges generally allowed considerable scope for examination of witnesses by both the prosecution and defense. Cases involving national security and criminal matters were tried by the same courts. Although convictions rarely were overturned, appeals often resulted in reduced sentences. Death sentences were appealed automatically.

Human rights groups believed that many dissidents tried by past military governments during the 1970s and 1980s were sentenced to long prison terms on false charges of spying for North Korea. These persons reportedly were held incommunicado for up to 60 days after their arrest, subjected to extreme forms of torture, forced to make "confessions," and convicted after trials that did not conform to international standards for a fair trial. In 2000 the Government enacted the Act on the Restoration of the Honor of and Compensation for Persons Engaged in the Democratic Movements (*see* Section 1.c.). However, these former prisoners were still required to report their activities regularly to the police after their release. In September 2000, 63 North Korean spies, who had been released from South Korean prisons, were allowed to return to North Korea according to their wishes. According to the Ministry of Justice, no long-term, unconverted prisoners remained incarcerated.

It was difficult to estimate the number of political prisoners because it was not clear whether particular persons were arrested for merely exercising the rights of free speech or association or were detained for committing acts of violence or espionage. One human rights group reported that, as of September, 93 persons, including 36 students, 37 laborers, and 20 other assorted dissidents, were imprisoned. However, this group's definition of political prisoners included all persons imprisoned for politically motivated acts, including violations of the NSL, the Assembly and Demonstration Act, and the Trade Union Act, and for violence or interference with official duties in the course of demonstrations or strikes.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Government generally respected the integrity of the home and family. In the past, the security services conducted varying degrees of surveillance, including wiretaps of political dissidents. The Antiwiretap Law and the law to reform the NIS were

designed to curb government surveillance of civilians and appeared to have succeeded. The Antiwiretap Law lays out broad conditions under which the monitoring of telephone calls, mail, and other forms of communication are legal. It requires government officials to secure a judge's permission before placing wiretaps or, in the event of an emergency, soon after placing them, and it provides for jail terms for persons who violate this law. In March a revised law took effect which reduced the monitoring period to 2 months in criminal investigations and 4 months in national security cases. There was no consensus on whether those monitored subsequently should be informed after the wiretap is discontinued or on the legal procedure required by investigating authorities to gain access to telephone records. Some human rights groups argued that a considerable amount of illegal wiretapping, shadowing, and surveillance photography still occurred. They asserted that the lack of an independent body to investigate whether police have employed illegal wiretaps hindered the effectiveness of the Antiwiretap Law.

Several legislators alleged that they were under surveillance by the Government and that their homes, offices, and cellular telephones were tapped. They called for either tightening or abolishing a provision in the existing law that allows government officials to obtain retroactive judicial permission to monitor a conversation (especially a cellular telephone call) in the event of an emergency.

The Government continued to require some released prisoners to report regularly to the police under the Social Surveillance Law.

The NSL forbids citizens from listening to North Korean radio in their homes or reading books published in North Korea if the Government determines that they are doing so to help North Korea. However, this prohibition was rarely enforced, and the viewing of North Korean satellite telecasts in private homes was legal. The Government also allowed the personal perusal of North Korean books, music, television programs, and movies as a means to promote understanding and reconciliation with North Korea. North Korean books were sold openly in a few shops.

Student groups made credible claims that government informants were posted on university campuses.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—While most political discourse was unrestricted, under the NSL the Government limited the expression of ideas that authorities consider Communist or pro-North Korean. Broad interpretations of the NSL allowed for restrictions on peaceful dissent. The President continued to urge that areas of the NSL be revised to protect human rights and make the law conducive to North-South détente, and the National Assembly frequently debated the issue.

Although the Government abandoned direct control over the news media, it continued to exercise indirect influence, and government officials vigorously lobbied reporters and editors. In 2001 the Government conducted a massive tax and trade law investigation of major media firms, prompting protests and suspicion that it was attempting to curb media criticism. The Government responded that the tax audit was legitimate and long overdue. Hundreds of auditors examined the records of 23 newspapers for 130 days. The audit resulted in the indictment and arrest of owners or major shareholders of three newspapers, including the Chosun Ilbo and the Dong-A Ilbo, which were considered the most critical of President Kim Dae-jung's policies and administration. However, even though the companies faced penalties of \$398 million, and their owners were on trial for tax evasion and embezzlement, the papers continued to criticize the Government. In September 2001, the International Press Institute and the World Association of Newspapers placed the Republic of Korea on a media watch list and concluded that the Government was harassing the independent media. These organizations expressed concern that the threat of tax investigations against media companies and pressure on advertisers could induce newspapers and broadcasters to mute their criticism of the Government. However, also in September 2001, the International Federation of Journalists stated that the tax probe had nothing to do with freedom of the press and that there was no evidence that freedom of the press was being suppressed.

The state-owned radio and television network maintained a considerable degree of editorial independence in its news coverage.

Journalists alleged that libel laws were used to harass publishers for articles that were unflattering but not necessarily untrue, and in the past some journalists were arrested and jailed for libel. There were no such detentions during the year.

Prosecutors continued to indict dissidents under the NSL for producing, selling, or distributing pro-North Korean or pro-Communist materials. Court precedents allowed citizens to possess these kinds of publications for purely academic use, profit, or curiosity, but not with the intent of subverting the Government. Prosecutors had wide discretion in determining motives for possessing or publishing such materials.

There was wide reporting on North Korea and North-South issues in the media. The Government Censorship Board, which screened movies for sex and violence, followed more liberal guidelines in recent years and allowed the release of a broader range of films.

The Government blocked violent and sexually explicit Internet sites, and required site operators to rate their site as harmful or not harmful to youth. Some homosexual groups charged that the Government acted discriminatorily in blocking their Internet sites.

The Government did not restrict academic freedom. However, student groups credibly claimed that government informants were posted on university campuses.

*b. Freedom of Peaceful Assembly and Association.*—The Law on Assembly and Demonstrations prohibits assemblies that are considered likely to undermine public order. The law requires that the police be notified in advance of demonstrations of all types, including political rallies, and the police must notify organizers if they consider an event impermissible under this law.

On November 4, approximately 30,000 civil servants took leave in protest against the Government Employees Association Act (GEAA), in the first organized labor action taken by civil servants, and 770 persons were arrested in a related rally. On November 5, approximately 100,000 workers participated in a general strike. The Government initiated disciplinary actions against some civil servants involved in these actions (see Section 6.b).

In February and April 2001, police and demonstrators clashed at a Daewoo automobile factory, and dozens of police and striking workers were injured (see Section 1.c.). President Kim expressed deep regret for excessive use of force, and two police chiefs were transferred. Police and demonstrators also clashed during a series of general strikes in June 2001 (see Section 1.c.).

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Associations operated freely, except those deemed by the Government to be seeking to overthrow the Government.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. There is no state religion, and the Government did not subsidize or favor a particular religion. Government policy continued to contribute to the generally free practice of religion.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Most citizens could move freely throughout the country; however, police had discretion to restrict the movements of some former prisoners. Foreign travel generally was unrestricted, but the Government required approval for travel to North Korea. To obtain approval, potential visitors were required to demonstrate that their trip did not have a political purpose or aim to praise North Korea or criticize the South Korean government. During the year, the Government continued to promote the expansion of North-South government, economic, cultural, and tourism-related contacts. However, travelers to North Korea who did not receive government permission were likely to be arrested upon their return. There was reportedly only one such case during the year.

In the past, the Government forbade some citizens convicted of politically related crimes from returning to the country, and some citizens still face sanctions should they choose to return.

The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. Government guidelines provided for offering temporary refuge in the case of a mass influx of asylum seekers. However, procedures for receiving and adjudicating asylum applications did not always appear to be in keeping with either the letter or the spirit of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol.

In 2001 the UNHCR reported the forced return of three persons to countries where they claimed to fear prosecution; each of these persons had an active asylum application being reviewed by the Government and were deported without the knowledge of, or contact with, the UNHCR.

At the beginning of the year, there were seven persons of concern to the UNHCR in the country: one convention refugee, three persons with UNHCR mandate refugee status, and three persons recommended for temporary protection against return to their home country on humanitarian grounds. There were also 68 refugee applicants awaiting a decision by the Minister of Justice. During the year, 30 additional persons filed applications for refugee status. In December the Government granted convention refugee status to one person. The UNHCR conferred mandate refugee status

on two persons during the year, and recommended temporary protection against return for three additional persons. There were approximately 10 negative decisions during the year, and 88 cases remained pending at year's end.

The Government handling of asylum applications, although slow, became more flexible toward cases under review by the UNHCR. The Government suspended temporarily exit orders for these individuals. It also showed flexibility toward persons whose applications were rejected in the Government review process, but whom the UNHCR found met the definition of refugee. In June 2000, the Seoul District Court held that the Immigration Office had exceeded its authority by refusing to accept an asylum seeker's application based on an initial assessment of the claim.

The Government extended the right to work to refugees, but did not provide any social assistance to either refugees or asylum seekers. Asylum seekers were given 90-day extensions of their temporary stay permits while their applications were under review and they legally were not able to work during this period. In practice most asylum seekers entered the labor market, as did other undocumented foreign workers.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The Constitution provides for the direct election of the President. In the past, the Constitution was interpreted as providing for a mixed system of direct and proportional election of legislators to the unicameral National Assembly. However, in 2001 the system of proportional election was declared unconstitutional by the Constitutional Court; future legislators are to be elected directly. The President serves a single 5-year term and may not be reelected. The National Assembly members serve terms of 4 years. All citizens 20 years of age or older have the right to vote, and elections are held by secret ballot.

The 273-seat National Assembly included 17 female legislators. One of them chaired a special committee on women's affairs. Two of the 19 Cabinet ministers are women: the Minister of Environment and the Minister of Gender Equality. Due to cultural traditions and discrimination, women occupied few important positions in government, although this was slowly changing.

### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Many domestic NGOs were active in promoting human rights, and they generally operated without government restriction. Chief among these groups were the Lawyers for a Democratic Society, Sarangbang, the Human Rights Committee of the National Council of Churches in Korea, the Korean Bar Association, People's Solidarity for Participatory Democracy, and Mingahyup, an association of the families of political prisoners. These groups published reports on human rights and made their views known both inside and outside the country. Government officials generally were willing to meet with international human rights groups.

In 2001 the President established the National Human Rights Commission according to legislation passed by the National Assembly. In April the Commission began to operate. It monitored and investigated human rights violations and complaints of discrimination, including during interrogations and in correctional facilities. Members of the National Human Rights Commission were not to be present at interrogations, but they had the right to visit those who had been arrested and were in custody. They also were authorized to visit prisons and correctional institutions.

There was also a Presidential Truth Commission on Suspicious Deaths (*see* Section 1.a.) and a Commission for the Restoration of Honor and Compensation to Activists of the Democratization Movement (*see* Section 1.c.).

### *Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution and law forbid discrimination on the basis of race, sex, religion, disability, or social status, and the Government generally respected these provisions. However, traditional attitudes limited opportunities for women and the disabled. Ethnic minorities were very small in number and faced both legal and societal discrimination.

*Women.*—Societal violence against women remained a problem. The Ministry of Gender Equality, established in 2001, reported that more women were coming forward to report abuse. The Prevention of Domestic Violence and Victim Protection Act defines domestic violence as a serious crime. Authorities can order offenders to



stay away from victims for up to 6 months and to be put on probation or to see court-designated counselors. The law also requires police to respond immediately to reports of domestic violence. Women's groups praised the law as a significant step in combating domestic violence.

Rape remained a serious problem. During the year, 7,200 cases of rape were reported, and 3,450 cases were prosecuted. Many rapes went unreported because of the stigma associated with being raped. The activities of a number of women's groups increased awareness of the importance of reporting and prosecuting rapes, as well as of offenses such as sexual harassment in the workplace. According to women's rights groups, cases involving sexual harassment or rape frequently went unprosecuted, and perpetrators of sex crimes, if convicted, often received light sentences. In September 2001, the Seoul District Prosecutor's Office established the Female Prosecutor's Office dealing with sex and family violence cases and also separately established a counseling service for women.

The Sexual Equality Employment Act, which went into effect in 1999, was enacted to combat sexual harassment in the workplace. During the year, 738 cases were filed under the Gender Discrimination Prevention and Relief Act; 48.7 percent of these cases dealt with sexual harassment and 36.9 percent concerned employment discrimination (pregnancy, promotion, or salary). Under the law, companies can be fined up to \$2,500 (3 million won) for failing to take steps to prevent sexual harassment in the workplace or failing to punish an offender. The law also requires companies to establish in-house sexual harassment complaint centers and forbids firms from punishing employees for taking their complaints to outside organizations. In addition, the Ministry of Education announced in 2000 that the law's guidelines would apply at the nation's schools and that teachers who made gender-discriminatory remarks would be disciplined. As examples of gender-discriminatory remarks, the Ministry cited statements that emphasized women's traditional roles in families, stressed men's leadership in society, and encouraged female students to work for good marriages instead of embarking on a career after graduation.

The Family Law permits women to head a household, recognizes a wife's right to a portion of the couple's property, and allows a woman to maintain greater contact with her children after a divorce. Although the law helped abused women who chose to divorce, including victims of domestic violence, the stigma of divorce remained strong, and there was little government or private assistance for divorced women. These factors, plus the fact that divorced women had limited employment opportunities and had difficulty remarrying, led some women to stay in abusive situations. The Government has established some shelters for battered women and has increased the number of child care facilities, giving women in abusive situations more options, but women's rights groups said that they fell far short of effectively dealing with the problem.

The country's conservative traditions left women subordinate to men socially and economically. Despite the passage of equal employment opportunity legislation, few women worked as company executives, and sexual discrimination in the workplace remained a problem. The Equal Employment Act was revised to impose tougher penalties on companies found to discriminate against women in hiring and promotions. Under the law, the Presidential Commission on Women's Affairs (the precursor of the existing Ministry of Gender Equality) was granted the authority to investigate sexual discrimination cases in the workplace. A company found guilty of practicing sexual discrimination could be fined up to \$3,873 (5 million won) and have its name published in the newspaper. The law also provides for a public fund to support victims in seeking legal redress. Nevertheless some government agencies' preferential hiring of applicants with military service (nearly always men) led to continued legal barriers against women. In 1999 the Constitutional Court ruled that government agencies' preferential hiring practices for those who have performed military service discriminate against women and disabled persons and are unconstitutional.

Women had full access to education, and social mores and attitudes were changing gradually. For example, the major political parties made more efforts to recruit women; an increasing number of women occupied key positions within political parties; and the military and service academies continued to expand opportunities for women. With the establishment of the Ministry of Gender Equality, the Government strove for increased employment opportunities for women and also for an enhanced role and stronger rights for women in society, while closely monitoring violations and instances of discrimination.

The Government provided an allowance of \$442 (535,000 won) per month to 137 former "comfort women," women who, during World War II, were forced to provide sex to soldiers of the Japanese Imperial Army.

The country was a major origin and transit point for trafficking in Asian women and children destined for the sex trade and domestic servitude (*see* Section 6.f.).

*Children.*—The Government demonstrated its commitment to children's rights and welfare through its well-funded system of public education. The Government provided high-quality elementary education to all children free of charge. Education was compulsory through the age of 15, and most children obtained a good secondary education. High-quality health care was widely available to children.

As public awareness of the problem of child abuse continued to grow, the number of reported cases increased. According to one NGO's figures, approximately 600 cases were reported during the year. The Seoul metropolitan government ran a children's counseling center that investigated reports of abuse, counseled families, and cared for runaway children. The Prevention of Domestic Violence and Victim Prevention Act of 1998, which defines domestic violence as a serious crime, allows a child to bring charges against a parent in cases of abuse. In July 2001 the Government enacted a revised Child Protection Law that mandates the establishment of a child abuse hot line and the dispatch of trained personnel to take preliminary measures for the protection of an abused child. Under the revised law, the Government established temporary protection facilities, counseling centers, communal homes, and other appropriate protection services and facilities. Revisions also included increased penalties for convicted child abusers, who faced up to 5 years in prison (compared to the previous 2 years) for child abuse.

Since 1999 the Youth Protection Law has provided for prison terms of up to 10 years and a fine of \$7,747 (10 million won) per minor hired for owners of entertainment establishments who hired minors under the age of 19. The Commission on Youth Protection also expanded the definition of "entertainment establishment" to include facilities, such as restaurants and cafes, where children were hired illegally as prostitutes. In 2000 the Government enacted the Juvenile Sexual Protection Act. It established a maximum sentence of 20 years for the sale of the sexual services of persons less than 19 years of age. It also established prison terms for persons convicted of the purchase of sexual services of youth under the age of 19 (*see* Section 6.f.). Based on this law, the Commission enforced a decree to publicize the names of those who had committed sex offenses against minors. As of year's end, the names of 1,114 sexual offenders had been made public.

The traditional preference for male children continued, although it was less evident among persons in their twenties and thirties. Although the law bans fetal testing except when a woman's life is in danger, when a hereditary disease would be transmitted, or in cases of rape or incest, such testing and the subsequent termination of pregnancies with female fetuses frequently occurred. The Government expressed concern over the widening disparity between male and female birth rates.

*Persons with Disabilities.*—Although measures aimed at creating opportunities for persons with disabilities have been taken, public facilities remained inadequate. However, discrimination against persons with disabilities in employment, education, or the provision of other state services was illegal. The law states that "no one shall be discriminated against in all areas of political, economic, social, and cultural life on the grounds of disability."

Firms with over 300 employees are required by law either to hire persons with disabilities or pay a fine. Surveys indicated that most companies either paid the fine or evaded the law; one 1999 survey indicated that 9 out of 10 firms with more than 300 employees failed to meet the mandated 2 percent job quota for persons with disabilities. The hiring of persons with disabilities remained significantly below target levels. Persons with disabilities made up less than 1 percent of the work force. New public buildings were required to include facilities for persons with disabilities such as ramp access to entrances, a wheelchair lift, and special parking spaces. The Health and Welfare Ministry announced that existing government buildings must be retrofitted with these facilities, and, as of April, 98 percent of major public buildings had facilities for persons with disabilities. According to the Health and Welfare Ministry, of 388 subway stations nationwide, wheelchair lifts were installed at 247 stations and elevators were installed at 110 stations. After two disabled people were killed in accidents involving wheelchair lifts, the Government drew up a plan to install elevators at all subway stations by 2004. In 1999 the Constitutional Court ruled that government agencies' preferential hiring practices for those who had performed military service discriminated against persons with disabilities and were unconstitutional.

*National/Racial/Ethnic Minorities.*—The country is racially homogeneous, with no sizable populations of ethnic minorities. Except in cases of naturalization, citizenship is based on parentage, not place of birth, and persons must show their family genealogy as proof of citizenship. Thus ethnic Chinese born and resident in Korea

obtained citizenship only with great difficulty. Without citizenship they could not become public servants and had difficulty being hired by some major corporations. Due to legal as well as societal discrimination, many ethnic Chinese have emigrated to other countries since the 1970s. There were approximately 20,000 ethnic Chinese residents, who represented 0.05 percent of the population. In June 1998, the Government passed legislation to allow a female citizen to transmit citizenship to her child regardless of the citizenship of the child's father. Amerasians faced no legal discrimination, but informal discrimination was prevalent.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides workers, except public sector employees, with the right to associate freely. Since 1999 government white-collar workers have been allowed to form “workplace councils.” Blue-collar workers in government agencies were allowed to organize unions. Until 1997 the Trade Union Law specified that only one union was permitted at each workplace. Labor law changes in 1997 authorized the formation of competing unions starting in 2002, but implementation of these changes was postponed until 2006 by mutual agreement among members of the Tripartite Commission, which included representatives of the Government, labor, and management (*see* Section 6.b.). All unions were required to notify the authorities when formed or dissolved. As of June, 1,551,532 workers—approximately 11.6 percent of employed workers—were union members, and there were 4,381 trade unions according to the Ministry of Labor.

In the past, the Government only formally recognized two labor federations, the Federation of Korean Trade Unions (FKTU) and the Independent Korean Federation of Clerical and Financial Workers. In recent years, the Ministry of Labor officially recognized some independent white-collar federations representing hospital workers, journalists, and office workers at construction firms and at government research institutes. The courts have ruled that affiliation with the FKFTU is not required for an entity to be registered as a legal labor federation. In 1999 the legalization of the teachers' unions paved the way for government recognition of the dissident Korean Confederation of Trade Unions (KCTU). In practice labor federations not formally recognized by the Ministry of Labor have operated without government interference.

On March 23, at the inaugural congress of the Korean government Employees Union, approximately 1,000 police arrested 192 of the 268 delegates in attendance on the grounds that white-collar government employees may not legally organize unions. Most of those arrested were questioned and released, but 4 of the 192 remained imprisoned at year's end.

The two teachers' unions, the KCTU-affiliated Korean Teachers' Union (Chonkyojo) and the FKFTU-affiliated Korean Union of Teachers and Educational Workers, had the right to bargain collectively with the Ministry of Education on wages and working conditions but not school curricula, and it was illegal for the unions to take collective action. In October 2001, teachers demonstrated twice.

Election laws prohibit donations by unions (and other social organizations) to political parties. Some trade unionists have temporarily resigned from their union posts to run for office. In December Kwon Young-kil ran for President as the candidate of the KCTU-affiliated Democratic Labor Party. In the April 2000 National Assembly election, several candidates from the Democratic Labor Party made unsuccessful bids for Assembly seats.

The FKFTU and KCTU were affiliated with the International Confederation of Free Trade Unions (ICFTU). Most of the FKFTU's 20 constituent federations maintained affiliations with international trade secretariats, as did the KCTU Metalworkers Council.

*b. The Right to Organize and Bargain Collectively.*—The Constitution and the Trade Union Law provide for the right of workers to collective bargaining and collective action. This law also empowers workers to file complaints of unfair labor practices against employers who interfere with union organizing or who discriminate against union members. Employers found guilty of unfair practices could be required to reinstate workers fired for union activities. According to the FKFTU, this occurred frequently. The Tripartite Commission established a subcommittee on the protection of civil servants' basic rights and has discussed the establishment of a civil servants' union.

Extensive collective bargaining was practiced, even with unions whose federations were not recognized legally by the Government. The labor laws do not extend the right to organize and bargain collectively to defense industry workers or white-collar government employees, although since 1999 these workers have been allowed to form “workplace councils,” which may make recommendations, but may not engage in collective bargaining.

The Labor Dispute Adjustment Act requires unions to notify the Labor Ministry of their intention to strike. It mandates a 10-day "cooling-off period" before a work stoppage legally may begin and 15 days notice in public interest sectors. Labor laws prohibit retribution against workers who have conducted a legal strike and allow workers to file complaints of unfair labor practices against employers.

Strikes are prohibited in government agencies, state-run enterprises, and defense industries. By law, unions in enterprises determined to be of "essential public interest," including public transportation, utilities, public health, banking, and telecommunications, can be ordered to submit to government-ordered arbitration. However, in practice, the Government rarely imposes arbitration.

On November 4, in the first organized labor action taken by civil servants, approximately 30,000 government workers took leave in protest against the Government Employees Association Act (GEAA), which denied the rights to collective action and collective bargaining, and the right to affiliate with an umbrella union. As many as 4,000 police officers dispersed a rally of approximately 900 civil servants and 100 students at Han Yang University. Following violent clashes, 770 people were detained. On November 5, approximately 100,000 workers participated in a general strike in opposition to the GEAA, to certain provisions in the proposed bill on the 40-hour workweek, and to a bill creating special economic zones that would be exempt from some provisions in the Labor Standards Act. The Government initiated disciplinary actions against 588 civil servants involved in these actions.

In June 2001, the Government declared strikes by workers of two main airlines to be illegal because workers did not submit to arbitration. The Seoul District Prosecutor's Office indicted Yang Kyung-kyu, the chairman of the Korean Federation of Transportation, Public, and Social Services Workers' Unions on charges of leading the strike at Korean Air Lines.

There were 322 strikes and 16 lockouts during the year, involving a total of 93,859 workers and a loss of 1,580,404 working days.

In February a number of strike organizers were arrested during a power workers' strike, and on September 11, police intervened to break up a strike at two hospitals, Kang Nam Hospital and Kyung Hee Medical Center, arresting several of the leaders. According to the KCTU, 130 persons were arrested for allegedly instigating violent strikes or illegally disrupting business during the year, of whom four were still imprisoned at year's end. In February and April 2001, police and demonstrators clashed at a Daewoo automobile factory (*see* Section 1.c and 2.b.).

There was no independent system of labor courts. The central and local labor commissions formed a semiautonomous agency of the Ministry of Labor that adjudicates disputes in accordance with the Labor Dispute Adjustment Law. Each commission was composed of equal numbers of representatives of labor and management, plus neutral experts who represented the public interest. Local commissions can decide on remedial measures in cases involving unfair labor practices and to mediate and, in some situations, arbitrate labor disputes. Arbitration can be made compulsory in sectors of the economy (for example, utilities and transportation) deemed essential to public welfare.

In 1998 the Government established the Tripartite Commission, with representatives from labor, management, and the Government to deal with labor issues related to the economic downturn. The Tripartite Commission concluded an agreement that covered, among other things, unemployment policy, corporate restructuring, labor conditions, labor market flexibility, and the promotion of basic labor rights. The work of the Commission made it legal for companies to lay off workers due to economic hardship and authorized temporary manpower agencies.

Under the 1997 labor laws, persons who assisted trade unions or employers in a dispute were required to register with the Ministry of Labor. Those who failed to do so faced a large fine or a maximum sentence of 3 years' imprisonment. However, no one had been charged for failing to register.

Enterprises in the two export processing zones (EPZs) had been designated by the Government as public interest enterprises. Workers in these enterprises gradually have been given the rights enjoyed by workers in other sectors of the economy. Labor organizations were permitted in EPZs. At year's end, a bill creating "special economic zones," which are to be exempt from certain provisions of the labor code, was pending in the National Assembly.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including forced or bonded labor by children, and it was not known to occur. The Constitution provides that no person shall be punished, placed under preventive restrictions, or subjected to involuntary labor, except as provided by law and through lawful procedures. Some illegal foreign workers alleged beatings, forced detention, withheld wages, and seizure of passports by their employers (*see* Section 6.e.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Standards Law prohibits the employment of persons under age 15 without a special employment certificate from the Labor Ministry. Because education was compulsory through middle school (approximately age 14), few special employment certificates were issued for full-time employment. To obtain employment, children under age 18 had to have written approval from both of their parents or guardians. Employers could require minors to work only a limited number of overtime hours and were prohibited from employing them at night without special permission from the Labor Ministry. Child labor laws and regulations are clear and were usually enforced when violations were found, but critics claimed that the Government employed too few inspectors to carry out regular inspections.

*e. Acceptable Conditions of Work.*—The minimum wage was reviewed annually. As of September, the minimum wage was \$1.90 (2,275 won) per hour, \$15.17 (18,200 won) per day, or \$428.46 (514,150) per month. Companies with fewer than 10 employees were exempt from this law. The FKTU and other labor organizations asserted that the existing minimum wage did not meet the basic requirements of urban workers. However, the money an average blue-collar worker took home in overtime and bonuses significantly raised the total compensation package. According to the Ministry of Health and Welfare, 1,390,000 people, slightly less than 3 percent of the population, lived below the poverty level.

The Labor Standards Law provides for a maximum regular workweek of 44 hours and provides for a higher wage for overtime. The law also provides for a 24-hour rest period each week. Labor laws also provide for a flexible hours system, under which employers can require laborers to work up to 48 hours during certain weeks without paying overtime, so long as average weekly hours for any given 2-week period do not exceed 44. If a union agrees to a further loosening of the rules, management may ask employees to work up to 56 hours in a given week. Workers may not work more than 12 hours in a working day. Labor groups claimed that the Government did not enforce adequately the maximum workweek provisions at small companies.

Foreign workers, most of whom came from China, the Philippines, Bangladesh, Nepal, Vietnam, Indonesia, Sri Lanka, and Pakistan, often faced difficult working conditions. The Government created a program that allowed certain foreign workers to enter the country legally to work at established wages with legal safeguards. In 2000 the Government announced that industrial trainees would be allowed to remain in the country for as long as 5 years, as opposed to 3 years previously. The Government reported that approximately 23,300 foreign workers and 70,500 industrial trainees were in the country legally and that there were an additional 220,000 illegal residents. Illegal workers who sought relief for loss of pay or unsatisfactory living and working conditions faced deportation. However, the Government established counseling centers that heard complaints from illegal foreign workers about issues such as overdue wages and industrial accidents, and in January the MOJ announced that foreigners residing illegally would be allowed to stay to finish medical treatment, seek compensation for industrial accidents, and collect back wages. The Labor Standards Law also prohibits the abuse of workers.

In 2000 the MOJ announced that it would establish a human rights committee for foreign workers to address mistreatment that some foreign workers faced from their employers, such as beatings, forced detention, withheld wages, and seizure of passports. The Government also announced that employers reported to abuse foreign workers would be subject to criminal charges and be disadvantaged in the Government's allocation of jobs for overseas workers. However, as of year's end, the human rights committee for foreign workers had not been established, and there were no reports that abusive employers had been charged. Foreign workers have submitted complaints to the National Human Rights Commission and have on occasion sought assistance from regional labor offices in collecting back wages and addressing other grievances.

Foreigners working as language teachers have complained that the language institutes frequently violated employment contracts, for which the legal system provided insufficient redress.

The MOJ instituted a 1-year amnesty under which all illegal workers who reported their presence by May 25 would be allowed to remain in Korea until March 25, 2003.

The Government set health and safety standards, but the accident rate was unusually high by international standards. However, this rate continued to decline gradually due to improved occupational safety programs and union pressure for better working conditions. Although the number of inspectors has increased, the Labor Ministry still lacked sufficient inspectors to enforce the laws fully. The law does not

provide job security for workers who remove themselves from dangerous work environments.

*f. Trafficking in Persons.*—There is no single law that specifically prohibits trafficking in persons; however, various laws can be used to prosecute traffickers, including laws against kidnaping, inducement to prostitution, and laws protecting juveniles. These laws stipulate that proper security measures as well as financial assistance must be provided to trafficked victims when they report a trafficking crime. The Labor Standards Law prohibits the employment of any person under 18 years of age in work that “is detrimental to morality or health.” The Juvenile Sexual Protection Act, which took effect in July 2000, imposes lengthy prison terms for persons convicted of sexual crimes against minors (*see* Section 5).

Trafficking was a problem. The Republic of Korea was a country of origin, transit, and destination for trafficking in persons. Young female Koreans were trafficked primarily for sexual exploitation, mainly to the United States, but also to other Western countries and Japan. Female aliens from many countries, primarily Chinese women, were trafficked through Korea to the United States and many other parts of the world. In addition to trafficking by air, much transit traffic occurred in the country’s territorial waterways by ship. Women from the Philippines and Russia were trafficked to the country for sexual exploitation. They were recruited personally or answered advertisements, and were flown to Korea, often with entertainer visas. In some cases, victims’ passports were held by their employers.

The country was considered a major transit point for alien smugglers, including traffickers of primarily Asian women and children for the sex trade and domestic servitude. Relatively small numbers of Korean economic migrants, seeking opportunities abroad, were believed to have become victims of traffickers as well. There were reports of the falsification of government documents by travel agencies; many cases involved the trafficking or smuggling of citizens of China to Western countries.

In August 2001, the Supreme Prosecutor’s Office established joint investigation centers in collaboration with the police force and local governments to address trafficking and inveigling of women for forcible sexual exploitation, for the forcible transfer to foreign territory for employment in “service establishments of indecent nature,” for granting illegal entry into the country for purposes of sexual exploitation, for the sale of women between prostitution establishments, and for the illegal departure from the country through fake employment or marriage overseas.

During the year, the Government tightened restrictions on the “entertainer” visas by which many trafficked persons formerly entered Korea. Applicants for this type of visa must now be interviewed in their home country by a Korean consular official. The Government also instituted restrictions on the types of establishments in which foreign entertainers may be employed. The National Police Administration initiated a program of informing foreign employees of bars and similar establishments of their rights, and, in cooperation with the Ministry of Gender Equality, established a multilingual hotline for victims of trafficking.

During the year, 445 people were investigated for suspected trafficking, of whom 64 were arrested. In addition, 118 suspected visa brokers and alien smugglers were investigated for violation of the Stowaway Control Law, of whom 40 were arrested.

Various laws stipulate that appropriate facilities, such as temporary shelters, as well as counseling assistance, medical treatment, and occupational training programs, be provided to protect and assist trafficking victims. During the year, 91,978 calls were received by hot lines dealing in women’s issues. There were 23 guidance and protection facilities that were used by 1,457 persons; 92 sexual assault counseling centers, with 39,627 cases reported; 8 protection facilities for victims of sexual violence and trafficking that were used by 129 persons; 142 counseling centers for family violence, with 114,612 cases reported; and 30 protection facilities for victims of family violence that were used by 3,023 persons.

In November 2001, the Ministry of Gender Equality published booklets to publicize counseling centers and protection facilities for victims of family violence, sexual assault, and commercial sex. The Ministry of Gender Equality conducted a comprehensive survey of the sex industry; as of year’s end, the results of the survey were not available.

The Government worked with various NGOs to develop awareness of the issue and help prevent trafficking. Some foreign women working in the entertainment industry were advised of their rights in an orientation program organized by the National Police Agency. The police cooperated with officials of various embassies in investigating and attempting to resolve various trafficking-related issues and disputes.

## LAOS

The Lao People's Democratic Republic is an authoritarian, Communist, one-party state ruled by the Lao People's Revolutionary Party (LPRP). Although the 1991 Constitution outlines a system composed of executive, legislative, and judicial branches, in practice the LPRP continued to control governance and the choice of leaders at all levels through its constitutionally designated "leading role." In February national elections were held to select a new 109-person National Assembly, and at its inaugural session in April, the Assembly reelected the President and ratified the President's selection of a prime minister and cabinet. The judiciary is subject to executive influence.

The Ministry of Public Security (MOPS, formerly known as the Ministry of Interior) maintains internal security but shares the function of state control with the Ministry of Defense's security forces and with party and popular fronts (broad-based organizations controlled by the LPRP). The Ministry of Foreign Affairs, with MOPS support, is responsible for oversight of foreigners. The MOPS includes local police, immigration police, security police (including border police), and other armed police units. Communication police are responsible for monitoring telephone and electronic communications. The armed forces are responsible for external security but also have some domestic security responsibilities that include counterterrorism and counterinsurgency activities and control of an extensive system of village militias. Civilian authorities generally maintained effective control over the security forces. Some members of the security forces committed serious human rights abuses.

Laos is an extremely poor country with an estimated population of 5.5 million. The economy is overwhelmingly agricultural, with 85 percent of the population engaged in subsistence agriculture. The sharp income inequality between participants in the monetary economy and those in the subsistence economy is demonstrated by the fact that the mean annual income is about \$335 and the per capita gross domestic product about \$1,700. Since 1986 the Government has abandoned most of its socialist economic policies in favor of market-based ones. It officially welcomes foreign investment, and is gradually strengthening its legal framework, including laws to protect property rights, but the domination of the state-owned banks and enterprises and a reluctance to embrace far-reaching reforms have slowed the process. The country is heavily dependent on official foreign aid and on remittances from Lao living abroad.

The Government's human rights record remained poor, and it continued to commit serious abuses. Citizens do not have the right to change their government. Members of the security forces abused detainees, especially those suspected of insurgent or antigovernment activity. Prisoners were abused and tortured, and prison conditions generally are extremely harsh and life threatening. Police used arbitrary arrest, detention, and surveillance. Lengthy pretrial detention and incommunicado detention were problems. The judiciary was subject to executive, legislative, and LPRP influence, was corrupt, and did not ensure citizens due process. The Government infringed on citizens' privacy rights. The Government restricted freedom of speech, the press, assembly, and association. The Government continued to restrict freedom of religion, and police and provincial authorities arrested and detained more than 60 members of Christian churches, with 4 members of religious communities in custody or incarcerated for their religious beliefs at year's end. Unlike in previous years, there were no reports of forced renunciations of faith involving profane rituals such as drinking animal blood, although there were isolated reports from some areas that ethnic minority Protestant communities continued to be pressured to renounce their faith. Authorities in some provinces allowed Christian communities to reopen churches that had previously been closed, and in July the Government issued the Decree on the Administration and Protection of Religious Practice aimed at providing guidelines to both religious groups and authorities on permissible religious activities. The Government imposed some restrictions on freedom of movement. Societal discrimination against women and minorities persisted, although the Government actively supported a policy of encouraging greater rights for women, children, persons with disabilities, and minorities. The Government restricted some worker rights. Trafficking in women and children was a problem.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no confirmed reports of politically motivated killings by government officials during the year. There were unconfirmed reports of deaths of Hmong villagers in connection with security force

operations against insurgents in remote parts of Saisomboun Special Zone and in Xieng Khouang, Vientiane, and Bolikhamsai Provinces.

Small bands of Hmong insurgents, known as the "Chao Fa," launched several attacks against government and civilian targets during the year, with sporadic insurgent attacks on military posts reported during the January-May dry season. In March suspected insurgents shot at a low-flying military aircraft in Xieng Khouang Province, killing a policeman and injuring a pilot. In June insurgents raided villages in Vientiane Province but reportedly caused no casualties. According to Lao press reports, six of the attackers were killed, and a seventh subsequently died in Thailand of wounds received in the attack.

In September two men threw an explosive device into a crowd of people gathered for a religious ceremony at a Buddhist temple in Vientiane, seriously injuring a young child. According to subsequent police reports, both suspects were apprehended at the scene of the attack. Although officials stated the attack was the result of a "dispute" between youth groups, there were credible indications the attack was politically motivated.

*b. Disappearance.*—There were no confirmed reports of politically motivated disappearances during the year.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution and the Penal Code prohibit torture; however, in practice members of the security forces subjected prisoners to torture and other abuses. Credible sources reported that detainees sometimes were subjected to beatings, long-term solitary confinement in completely darkened rooms, and burning from cigarettes. In some cases detainees were held in leg chains or wooden stocks. During the year, several persons arrested for religious activity were held in wooden stocks or shackles for part of their confinement. At least one religious detainee was seriously beaten by authorities while under detention.

Prison conditions generally were extremely harsh and life threatening. Food rations were minimal, and most prisoners relied on their families for their subsistence. The Government discriminates in its treatment of prisoners, restricting the family visits of some and prohibiting visits to a few. Credible reports indicated that ethnic minority prisoners and some foreign prisoners were treated particularly harshly. Prison authorities used degrading treatment, solitary confinement, and incommunicado detention against perceived problem prisoners, especially suspected insurgents. On occasion the authorities used incommunicado detention as an interrogation method; in isolated cases, this was life threatening when prisoners were detained in such conditions for lengthy periods. There were confirmed reports that a few jails placed prisoners in leg chains, wooden stocks, or fixed hand manacles for extended periods (see Section 2.c.). Medical facilities were extremely poor or nonexistent. Some prisoners died as a result of abusive treatment and lack of medical care. Prison conditions for women were similar to those for men. Prisons hold both male and female prisoners, although they were placed in separate cells. Juveniles were housed together with adult prisoners.

Several international human rights groups continued their longstanding requests to the Government to move two political prisoners to a prison with better conditions, including more modern medical facilities (see Section 1.e.). The Government continued to ignore these pleas, as well as other representations regarding use of torture and abusive treatment.

The Government has provided limited access to some detention facilities to Lao U.N. personnel monitoring the status of juveniles in the prison system; however, the Government generally did not permit independent monitoring of prison conditions, including by foreign individuals or organizations, and has denied the International Committee of the Red Cross access to its prisons.

*d. Arbitrary Arrest, Detention, or Exile.*—The law provides for arrest warrants issued by the prosecutor, and the Constitution provides for procedural safeguards; however, in practice the Government did not respect these provisions, and arbitrary arrest and detention remained problems. Police sometimes used arrest as a means of intimidation or to extract bribes. Police exercised wide latitude in making arrests, relying on exceptions to the requirement for arrest warrants for those in the act of committing a crime or for "urgent" cases. Incommunicado detention was a problem (see Section 1.c.). There is a 1-year statutory limit for detention without trial; the length of detention without a pretrial hearing or formal charges by law also is limited to 1 year; however, these limits often were ignored in practice. The Office of the Prosecutor General must authorize police to hold a suspect pending investigation. Authorization is given in 3-month increments, and, in theory, after a maximum of 1 year, a suspect must be released if police do not have sufficient evidence to bring charges. Access to family or a lawyer is not assured. There is a bail system,



but its implementation was arbitrary. A statute of limitations applies to most crimes. In practice, alleged violations of criminal laws involving national security led to lengthy pretrial detentions without charge and minimal due process protection of those detained. Authorities sometimes continued to detain prisoners after they had completed their sentences, especially in cases where prisoners were unable to pay court fines.

During the year, government authorities arrested and detained more than 60 Christians, at times holding them in custody for months (*see* Section 2.c.). According to confirmed reports, those detained without trial at year's end for their religious activities included one person in Phongsaly and one person in Houaphanh; one person detained in Savannakhet was released in December. Seven lowland Lao men who returned from China have been detained without trial since 1997. An eighth member of this group was released in 2001.

Some sources reported that in June authorities in Vientiane Province arrested six Hmong villagers in Muang Feuang district, reportedly because of suspicion that the six had some involvement with antigovernment insurgents.

Police in some instances administratively overruled court decisions, at times detaining a defendant exonerated by the court, in violation of the law (*see* Section 1.e.). There were no known instances of the police being reprimanded or punished for such behavior.

An unknown number of persons, perhaps over 100, were in detention for suspicion of violations of criminal laws concerning national security. Security-related laws were sometimes applied to routine criminal actions to justify long periods of incarceration without trial.

The Government does not use forced exile; however, a small group of persons who fled the country at the time of the change in government in 1975, and who were tried in absentia for antigovernment activities, does not have the right of return (*see* Section 2.d.).

*e. Denial of Fair Public Trial.*—The Constitution provides for the independence of the judiciary and the prosecutor's office; however, senior government and party officials influenced the courts, although perhaps to a lesser degree than in the past. Impunity was a problem, as was corruption. Many observers reported that judges can be bribed. The National Assembly Standing Committee appoints judges for 5-year terms; the executive appoints the Standing Committee. The Assembly may remove judges from office for "impropriety." Since 1991 one judge at the district level has been removed for improper behavior.

The People's Courts have three levels: District; municipal and provincial; and a Supreme Court. Decisions of the lower courts are subject to review by the Supreme Court, but decisions by military courts are not subject to the Supreme Court's review. Both defendants and prosecutors in civilian courts have the right to appeal an adverse verdict. There are instances in which civilians may be tried in the military courts, but this reportedly was rare.

The Constitution provides for open trials in which defendants have the right to defend themselves with the assistance of a lawyer or other person. The Constitution requires that the authorities inform persons of their rights. The law states that defendants may have anyone assist them in preparing a written case and accompany them at their trial; however, only the defendant may present oral arguments at a criminal trial. For several reasons, including lack of funds, a near absence of attorneys, and a general perception that attorneys cannot affect court decisions, most defendants did not have attorneys or trained representatives. In theory, under the law defendants enjoy a presumption of innocence; however, in practice trial judges usually decided a defendant's guilt or innocence in advance, basing their decisions on the result of police or Prosecutor's Office reports. Reliance on these reports created a presumption that the defendant was guilty. Most trials were little more than pro forma examinations of the accused, with a verdict having already been reached. Most criminal trials reportedly ended in convictions. Defendants sometimes were not permitted to testify on their own behalf. Trials for alleged violations of some criminal laws relating to national security and trials that involve state secrets, children under the age of 16, or certain types of family law, are closed.

Most of the country's 450 judges had only basic legal training, and many had few or no references upon which to base their decisions. The National Assembly's Law Committee routinely reviewed Supreme Court decisions for "accuracy" and returned cases to the Court or the Prosecutor General's Office for review when it felt a decision had been reached improperly.

In some instances, police administratively overruled court decisions, at times detaining a defendant exonerated by the court, in violation of the law.

In addition to the hundreds of short- and long-term political detainees (*see* Section 1.d.), there were nine known political prisoners. Two prisoners from the pre-1975

regime, Colonel Sing Chanthakoumane and Major Pang Thong Chokbengvoun, were serving life sentences after trials that did not appear to be conducted according to international standards. Two former government officials, Latsami Khamphoui and Feng Sakchittaphong, were detained in 1990 for advocating a multiparty system and criticizing restrictions on political liberties and were not tried until 1992. They were serving 14-year sentences based on their 1992 convictions. Five persons arrested in October 1999 for attempting to organize a prodemocracy demonstration in Vientiane were sentenced to 20 years' imprisonment for antigovernment activities in a closed trial; they were incarcerated in Vientiane at year's end.

Other political prisoners may have been arrested, tried, and convicted under laws relating to national security that prevent public court trials; however, the Government is silent on the matter, and there is no reliable independent method to ascertain accurately their total number. There have been no verifiable reports of other political prisoners in the last few years.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Government limits citizens' privacy rights, and the Government's surveillance network is vast. Security laws allow the Government to monitor individuals' private communications (including e-mail) and movements. However, some personal freedoms accorded to citizens expanded along with the liberalization of the economy.

The Constitution prohibits unlawful searches and seizures; however, police at times disregarded constitutional requirements to safeguard citizens' privacy, especially in rural areas. By law security police may not authorize their own searches; they must have approval from a prosecutor or court; however, in practice police did not always obtain prior approval. The Penal Code generally protects privacy, including that of mail, telephone, and electronic correspondence; however, the Government often violated such legal protections.

MOPS monitored citizens' activities; in addition, an informal militia in both urban and rural areas, operating under the aegis of the military, has responsibility for maintaining public order and reporting "undesirable elements" to the police. The militia usually was more concerned with petty crime and instances of moral turpitude than with political activism, although some rural militia may be used for security against insurgents. A sporadically active system of neighborhood and workplace committees under the control of the popular front organizations played a similar monitoring role.

Although the Government permitted the public sale of leading foreign magazines and newspapers, restrictions on publications mailed from overseas were enforced, albeit loosely (*see* Section 2.a.). The Government allowed citizens to marry foreigners but only with prior approval. Although the Government routinely granted permission, the process was lengthy and burdensome. Marriages to foreigners without government approval may be annulled, with both parties subject to arrest or fines. During the year, at least one foreign person was separated from his citizen wife and their child and deported (*see* Section 2.d.).

The Government displaced internally hundreds of persons during the year, mainly as a result of infrastructure development programs. During the year, hundreds of families were relocated from downtown Vientiane to make way for a new city park. Although the Government provided compensation to displaced persons in the form of land and household supplies, this compensation was often inadequate.

Local officials in Kasi district of Vientiane Province and Khamkeut district of Bolikhamsai Province reportedly forced a number of Christians out of their villages because they had refused to change their religious beliefs (*see* Section 2.c.).

There are three Internet service providers. The Prime Minister's Office has stated that it intends to monitor and control more actively Internet communications by the country's 3,200 subscribers. However, most Internet sites, including those critical of the Government, were accessible to users. Vientiane and most larger towns had numbers of Internet cafes that catered primarily to foreign travelers but were also accessible to citizens.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government severely restricted political speech and writing in practice. The Government also prohibited most criticism that it deems harmful to its reputation. The Penal Code forbids slandering the State, distorting party or state policies, inciting disorder, or propagating information or opinions that weaken the State. Citizens who lodged legitimate complaints with government departments generally did not suffer reprisals, but criticism of a more general nature, or targeting the leadership, may lead to arrest.

All domestic print and electronic media were state-owned and controlled. Local news in all media reflected government policy. Television talk shows and opinion

articles referred only to differences in administrative approach. Although domestic television and radio broadcasts were closely controlled, the Government made no effort to interfere with television and radio broadcasts from abroad. In practice many citizens routinely watched Thai television or listened to Thai radio, including news broadcasts. A few Asian and Western newspapers and magazines were available through private outlets that had government permission to sell them.

Foreign journalists must apply for special visas. Although such visas normally were granted, persons traveling on journalist visas were restricted in their activities. The authorities did not allow journalists free access to information sources or to travel without official escort. In addition, they must pay a daily fee for the services of their escort.

The authorities also prohibited the dissemination of materials deemed to be indecent, to undermine the national culture, or to be politically sensitive. Any person found guilty of importing a publication deemed offensive to the "national culture" faces a fine or imprisonment for up to 1 year. Until July the Government did not permit the printing of non-Buddhist religious texts or their distribution outside a congregation and restricted the import of foreign religious texts and artifacts. A new Prime Ministerial Decree issued in July, however, allows for the printing and distribution of religious material, providing the authorities first grant permission (*see* Section 2.c.).

Films and music recordings produced in government studios must be submitted for official censorship. However, in practice most foreign films and music were easily available in video and compact disc format. Government enforcement of restrictions on nightclub entertainment generally was lax during the year.

Citizens had 24-hour access to Cable News Network and the British Broadcasting Corporation, among other international stations accessible via satellite television. The Government required registration of receiving satellite dishes and a one-time licensing fee for their use, largely as a revenue-generating scheme, but otherwise made no effort to restrict their use.

The Government controlled all domestic Internet servers and occasionally blocked access to those Internet sites that were deemed pornographic or were critical of government institutions and policies. The Government also sporadically monitored e-mail. In October 2000, the National Internet Control Committee promulgated highly restrictive regulations regarding Internet use by citizens. The regulations significantly curtailed freedom of expression and made "disturbing the peace and happiness of the community" and "reporting misleading news" criminal acts. In addition, in 2001 the Prime Minister's Office issued orders consolidating government control over Internet service (*see* Section 1.f.). However, the Government in the past was limited in its ability to enforce such regulations.

The Constitution provides for academic freedom; however, the Government restricted it, although over the past several years it has relaxed its restrictions in certain areas. Both citizen and noncitizen academic professionals conducting research in the country may be subject to restrictions on travel and access to information and to Penal Code restrictions on publication. As the sole employer of virtually all academic professionals, the Government exercised some control over their ability to travel on research or to obtain study grants. However, the Government, which once limited foreign travel by professors, actively sought out these opportunities worldwide and approved virtually all such proposals.

In recent years, credible reports have indicated that some state and party officials denied some academically qualified ethnic minorities, including Hmong, opportunities for foreign fellowships and study abroad. This discriminatory behavior went unchecked. On rare occasions in previous years, the Government denied government employees who were not party members permission to accept certain research or study grants, apparently because they had chosen not to join the LPRP. No such cases were known to have occurred during the year.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government restricted this right in practice. The Penal Code prohibits participation in an organization for the purpose of demonstrations, protest marches, or other acts that cause "turmoil or social instability." Such acts are punishable by a prison term of from 1 to 5 years. If defendants are tried for crimes against the State, they may face much longer sentences of up to 20 years or possible execution.

The Constitution provides citizens with the right to organize and join associations; however, the Government restricted this right in practice. The Government registers and controls all associations and prohibits associations that criticize it. Political groups other than popular front organizations approved by the LPRP are forbidden. Although the Government restricted many types of formal professional and social associations, in practice informal nonpolitical groups met without hindrance. The

Foundation for Promoting Education, a private voluntary organization in Vientiane Municipality, operated independently under its own charter; however, it reported to the Ministry of Education. The Buddhist Promotion Foundation, a semiprivate group founded in 1998 by the Lao Buddhist Fellowship Association, reported to the LPRP Lao Front for National Construction, an LPRP popular front organization responsible for overseeing all religions.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion; however, the authorities, particularly at the local level, interfered with this right in practice.

The Constitution prohibits “all acts of creating division of religion or creating division among the people.” The LPRP and the Government apparently interpreted this section as inhibiting religious practice by all persons, including the Buddhist majority and a large population of animists. Although official pronouncements acknowledged the positive benefits of religion, they also emphasized its potential to divide, distract, or destabilize.

In July the Prime Minister’s Office issued a Decree on the Administration and Protection of Religious Practice. The decree, which has the effect of law, was designed to specify clearly the range of activities permitted religious groups or practitioners. The decree permits minority religious groups to engage in a number of activities that had previously been considered by most authorities to be illegal, such as proselytizing and printing religious material. However, it requires religious groups or individuals to obtain permission in advance for these activities, in most cases from the Lao Front for National Construction, the party-controlled organization that oversees religious issues on behalf of the Government. Although most religious leaders were hopeful that the new decree would lead to increased religious freedom, some were concerned that its requirements for advance permission would actually hamper religious activity.

The Constitution notes that the State “mobilizes and encourages” Buddhist monks, novices, and priests of other religions to participate in activities “beneficial to the nation and the people.”

During the year, government authorities arrested and detained more than 60 Christians, at times holding them in custody for months. In several cases, the prisoners were handcuffed, detained in leg chains and stocks, and subjected to psychological pressure. At least one detainee was severely beaten while in detention.

In Oudomxay one person was serving a 12-year sentence and another a 15-year sentence at year’s end for religious proselytizing, purportedly in coordination with foreigners. Three prisoners serving 3-year terms in Luang Prabang for religious practice found by the courts to be “creating social turmoil” were released in July after completing their sentences.

A campaign begun in 1999 and continuing into early 2001 in some provinces to close churches and force Christians to renounce their faith appeared to have largely dissipated or at least to be confined to just a few districts. Religious leaders reported no incidents of persons being forced by authorities to give up their faith during the year. However, Christians in some areas reported that authorities continued to tell them that Christianity was illegal or that they should give up their faith. A 2-year-old campaign to close churches continued early in the year in some areas. However, as the year progressed, authorities in a number of provinces, including Vientiane, Savannakhet, and Luang Prabang, permitted many churches to reopen. There were no reports of security forces stopping vehicles that carried multiple passengers during Sunday worship hours in order to prevent villagers from traveling to attend worship services as had occurred in the past (*see* Section 2.d.).

The LPRP controls the Buddhist clergy (“Sangha”) in an attempt to direct national culture. Although the state is secular in both name and practice, the Party and the Government pay close attention to Theravada Buddhism, which is followed by more than 60 percent of the population. The Government’s observation and control of the training of clergy and support for and oversight of temples and other facilities constituted means for overseeing the dominant Buddhist faith as well as promoting Buddhism as an integral part of the national culture and identity.

There is only one semireligious government-recognized holiday—Boun That Luang—which also is a major political and cultural celebration. However, the Government recognized the popularity and cultural significance of Buddhist festivals, and most senior officials openly attended them. Buddhist clergy were featured prominently at important state and party functions. The Lao Front for National Construction directed the Lao Buddhist Fellowship Association. Since 1996, monks studying at the National Pedagology School are no longer required to study Marxism-Leninism as part of their curriculum, and the integration of Communist ideology in Buddhist instruction has waned greatly in recent years. Some temples have been permitted to receive support from Theravada Buddhist temples abroad, to ex-

pand the training of monks, and to focus more on traditional teachings. In addition, many monks traveled abroad, especially to Thailand, for formal religious training.

The authorities continued to be suspicious of non-Buddhist religious communities, including some Christian groups, in part because these faiths do not share Theravada Buddhism's high degree of direction and incorporation into the Government structure. Some authorities criticized Christianity in particular as a Western or imperialist "import" into the country. Local authorities, apparently with encouragement from some officials in the Central government or Communist Party, have singled out Protestant groups as a target of persecution. Protestant churches' rapid growth over the last decade, their contact with religious groups abroad, aggressive proselytizing on the part of some members, and independence of central government control all have contributed to government and Communist Party suspicion of the churches' activities. The Government strictly prohibited foreigners from proselytizing, although it permitted foreign nongovernmental organizations with religious affiliations to work in the country. Foreign persons caught distributing religious material may be arrested or deported, although no such incidents were known to have occurred during the year. Although there is no legal prohibition against proselytizing by citizens, local officials investigated and harassed citizens who do so, based upon a constitutional provision against "creating division of religion." The Prime Minister's Decree on the Administration and Protection of Religious Practice permits proselytizing, but only if permission is first obtained from government or party authorities.

The Government's tolerance of religion varied by region. In general central government authorities appeared unable or unwilling to control or mitigate harsh measures that were taken by local or provincial authorities against the practices of members of minority religious denominations. Although there was almost complete freedom to worship in a few areas, particularly in the largest cities, government authorities in many regions allowed properly registered religious groups to practice their faith only under restrictive conditions. In some areas, such as Savannakhet, Luang Prabang, and Vientiane Provinces, the authorities continued to arrest and detained some religious believers without charges (*see* Section 1.d.). There were no reports during the year that local officials in isolated areas monitored and arrested persons who converted to Christianity, as had occurred in the past. Efforts by some officials to force Christians to renounce their faith apparently have ceased in most areas, and there were no reported instances of forced religious renunciation during the year, although Protestants reportedly were forced out of their villages in a few areas because of their unwillingness to renounce their faith (*see* Section 1.f.). Followers of Islam and the Baha'i faith were able to practice their religion without hindrance from authorities.

In some parts of the country, particularly the south, the authorities generally tolerated diverse religious practices; however, a pattern of petty local harassment persisted in other areas. Many converts must undergo a series of harsh government interviews; however, after overcoming that initial barrier, they generally were permitted to practice their new faith unhindered. Members of long-established congregations had few problems in practicing their faith; however, some churches established a century ago continued to be subjected to harassment and closure by local government officials in Savannakhet. Many groups of coreligionists seeking to assemble in a new location were prevented from meeting, practicing, or celebrating major religious festivals.

The authorities sometimes advised new congregations to join other religious groups with similar historical roots, despite clear differences between the groups' beliefs. Some groups did not submit applications to establish places of worship because they did not believe that their applications would be approved. In recent years, some minority religious groups have reported that they were unable to register new congregations or receive permission to establish new places of worship, including in Vientiane.

The Roman Catholic Church is unable to operate effectively in the highlands and much of the north, and the Catholic Church in northern Laos is largely moribund. The small Catholic communities in Luang Prabang, Sayaboury, and Bokeo Provinces sporadically held services in members' homes, but there are no priests resident in the area and pastoral visits from Vientiane were infrequent. However, the church has an established presence in five of the most populous central and southern provinces, where Catholics were able to worship openly. There were three official bishops, one each in Vientiane, Thakhek, and Pakse, as well as a fourth bishop for Luang Prabang whose position had not been approved by the country's authorities and who resided in Vientiane.

Between 250 and 300 Protestant congregations conduct services throughout the country. The Lao National Front for National Construction has recognized two

Protestant groups: The Lao Evangelical Church (the umbrella Protestant church) and the Seventh-Day Adventist Church. Nominally all Protestant congregations in Laos belonged to one of these two organizations, although in practice some congregations operated independently. Both the Lao Evangelical Church and the Seventh Day Adventist Church owned properties in Vientiane and other cities.

Although the Government generally permitted major religious festivals of established congregations without hindrance, local officials have restricted the celebration of major Christian holidays by some congregations. Several Protestant congregations in remote areas of Vientiane, Luang Prabang, Savannakhet, and Syaboury Provinces were not permitted to celebrate Christmas and Easter holidays during the year, and in some areas officials conducted mandatory political training classes on Sunday, preventing villagers from attending worship services. In December over 20 worshippers at several villages in Savannakhet Province were arrested and detained for several days when they gathered for Christmas services. Authorities charged that the congregations had "assembled unlawfully."

Two mosques and two Baha'i centers operated openly in Vientiane municipality; two other Baha'i centers were located in Vientiane Province and Pakse. Five Mahayana Buddhist pagodas were located in Vientiane, and others were found in larger cities and towns.

Animists generally experienced no interference from the Government in their religious practices, which vary extensively among the approximately 70 identified ethnic groups and tribes in the country. However, the Government actively discouraged animist practices that it regarded as outdated, unhealthful, or illegal, such as the practice in some tribes of infanticide of infants born with birth defects or of keeping the bodies of deceased relatives in homes.

Until recently the Government did not permit the printing of non-Buddhist religious texts or their distribution outside a congregation and restricted the import of foreign religious texts and artifacts. The new Prime Ministerial Decree on Religious Practice, promulgated in July, permits the printing of religious material, providing permission is obtained from the Lao Front for National Construction. The Government requires and usually grants its permission for formal links with coreligionists in other countries; however, in practice the distinction between formal and informal links was unclear, and relations with coreligionists generally were established without much difficulty.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Migration, and Repatriation.*—The Constitution provides for these rights; however, the Government restricted some of them in practice. Citizens who travel across provincial borders no longer are required to report to authorities upon their departure and arrival. However, in designated security zones, roadblocks and identity card checks of travelers were conducted occasionally. Citizens who seek to travel abroad are required to apply for an exit visa. The Government usually granted such visas; however, officials at the local level have denied permission to apply for passports and exit visas to some persons seeking to emigrate, and in the case of one foreign individual deported for marrying a citizen without prior permission, government officials were adamant that they would not issue an exit visa for his wife or their dual national infant child (see Section 1.f.). Access by foreigners to certain areas, such as the Saysomboune Special Zone, an administrative area operated by the military forces, is restricted for safety and security reasons.

There were no reports that security forces in villages where churches had been closed stopped large vehicles carrying multiple passengers during Sunday worship hours in order to prevent villagers from traveling to attend worship services, as had occurred in the past (see Section 2.c.).

Although bandit and insurgent attacks on road traffic in northern Laos have occurred in the past, no such attacks were known to have occurred during the year.

Since 1980 more than 29,000 citizens who sought refugee status in Thailand, China, and other countries have returned to Laos for permanent resettlement under monitoring by the U.N. High Commissioner for Refugees (UNHCR). These returnees generally have been subject to more suspicion and scrutiny by the authorities than other citizens. Nevertheless, many who fled after the change of government in 1975 have visited relatives, some have stayed and gained foreign resident status, and some successfully have reclaimed citizenship. A small group, tried in absentia in 1975 for antigovernment activities, does not have the right of return (see Section 1.d.).

The Constitution provides for asylum and the protection of stateless persons under the law. In practice, the Government did not provide first asylum and generally did not cooperate with the UNHCR or other U.N. offices in such cases.

Eight lowland Lao men who returned from China in 1997 were detained without trial. One was released in 2001, but the seven others remained in detention at year's end.

Some refugee returnees carried government-issued identification cards with distinctive markings, ostensibly for use by authorities. Such cards tended to reinforce a pattern of societal discrimination against the returnees.

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

Citizens do not have the right to change their government. The Constitution provides for a representative National Assembly, elected every 5 years in open, multiple-candidate, fairly tabulated elections, with voting by secret ballot and universal adult suffrage; however, it legitimizes only a single party, the LPRP. Election committees, appointed by the National Assembly, must approve all candidates for local and national elections. Candidates need not be LPRP members, but in practice almost all were.

The National Assembly chooses a standing committee generally based on the previous standing committee's recommendation. Upon the committee's recommendation, the National Assembly elects or removes the President and Vice President. The standing committee also has supervision of administrative and judicial organizations, and the sole power to recommend presidential decrees. It also appoints the National Election Committee, which has powers over elections (including approval of candidates). Activities of the standing committee are not fully transparent.

The National Assembly, upon the President's recommendation, elects the Prime Minister and other Ministers in the Government. The 109-member National Assembly, elected in February under a system of universal suffrage, approved the LPRP's selection of the President at its inaugural session in April, and in the same session it ratified the President's selection of a new Prime Minister and cabinet. The National Assembly may consider and amend draft legislation, but only permanent subcommittees of the Assembly may propose new laws. The Constitution gives the right to submit draft legislation to the National Assembly standing committee and the ruling executive structure.

Women increased their representation in the National Assembly in the 2002 elections from 20 to 22 members in the 109-member body. Three members of the 53-member LPRP Central Committee were women, one of whom was also a member of the 7-member standing committee in the National Assembly. There were no women in the Politburo or the Council of Ministers.

The number of ethnic minority members in the 109-member National Assembly—9 Lao Soung (highland dwelling tribes) and 19 Lao Theung (mid-slope dwelling tribes)—was slightly less than in the previous national assembly; most members of the Assembly were ethnic Lao, who also dominated the upper echelons of the Party and government. Three cabinet ministers were members of ethnic minority groups.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There are no domestic nongovernmental human rights organizations, and the Government does not have a formal procedure for registration. Any organization wishing to investigate and publicly criticize the Government's human rights policies would face serious obstacles if it were permitted to operate at all.

The Government in general did not respond to requests for information on the human rights situation from international human rights organizations.

The Government maintained contacts with the International Committee of the Red Cross (ICRC); government officials received ICRC training on human rights law in 1998, and the Government continues to translate international human rights and humanitarian law conventions with ICRC support. The Government permitted U.N. human rights observers to monitor the treatment of almost 30,000 returned refugees in all parts of the country with minimal interference (*see* Section 2.d.). The UNHCR's Lao office closed at the end of 2001, with the Commission's determination that the office's monitoring role had been completed and former refugees had been successfully reintegrated.

A human rights unit in the Ministry of Foreign Affairs' Department of International Treaties and Legal Affairs has responsibility for inquiry into allegations of human rights violations. This government unit rarely responds to inquiries regarding individual cases. In 2000 it published a partial compilation of international conventions on human rights in Lao.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution provides for equal treatment under the law for all citizens without regard to sex, social status, education, faith, or ethnicity. Although the Govern-

ment at times took action when well-documented and obvious cases of discrimination came to the attention of high-level officials, the legal mechanism whereby a citizen may bring charges of discrimination against an individual or organization is neither well developed nor widely understood among the general population.

*Women.*—There were reports that domestic violence against women occurred, although it was not widespread. Spousal abuse is illegal. Rape reportedly was rare. In cases of rape that were tried in court, defendants generally were convicted with penalties ranging from 3-years' imprisonment to execution. Spousal rape is not illegal.

Trafficking in women and girls for prostitution was a problem (*see* Section 6.f.). Prostitution is illegal with penalties ranging from 3 months to 1 year in prison.

Sexual harassment was rare. Although sexual harassment is not illegal, "indecent sexual behavior" toward another person is illegal and punishable by 6 months' to 3 years' imprisonment.

The Constitution provides for equal rights for women, and the Lao Women's Union operated nationally to promote the position of women in society. The Family Code prohibits legal discrimination in marriage and inheritance. Discrimination against women is not generalized; however, varying degrees of traditional, culturally based discrimination persisted, with greater discrimination practiced by some hill tribes. Many women occupied responsible positions in the civil service and private business, and in urban areas their incomes were often higher than those of men.

In recent years, the Government increased support for development programs designed to improve the position of women in society, including in the political system.

*Children.*—The level of budgetary support for education was very low. Education was free and compulsory through the fifth grade; however, fees for books, uniforms, and equipment, among other things, precluded children from rural areas and poor urban families from complying with this requirement. According to government statistics, 80 percent of primary school age children, 50 percent of junior high school age children, and 25 percent of high school age children were enrolled in school; the U.N. Development Program estimated that almost 40 percent of children never attended school at all and only 10 percent entered secondary school. There were significant differences in the treatment of boys and girls in the educational system: Female literacy was 48 percent versus 70 percent for males. However, men and women attended the three universities in approximately equal numbers. Although the Government has made children's education and health care a priority in its economic planning, funding for children's basic health and educational needs was inadequate, and the country had a very high rate of infant and child mortality.

Violence against children is prohibited by law, and violators are subject to stiff punishments. Reports of the physical abuse of children were rare. Trafficking in girls for prostitution and forced labor was a problem (*see* Section 6.f.). Other forms of child labor generally were confined to family farms and enterprises (*see* Section 6.d.).

*Persons with Disabilities.*—With donor assistance, the Government was implementing limited programs for persons with disabilities, especially amputees. The law does not mandate accessibility to buildings or government services for persons with disabilities, but the Labor and Social Welfare Ministry has established some regulations regarding building access and some sidewalk ramps in Vientiane. The Lao National Commission for the Disabled (LNCD) has promulgated regulations to protect the rights of persons with disabilities. In 2000 the Lao Disabled Persons Association set up offices in Champassak and Xieng Khouang Provinces to assist with the rehabilitation, job skills training, and social integration of persons with disabilities. Also in 2000, in Vientiane the LNCD hosted a regional conference on disabilities to promote leadership and organizational skills for persons with disabilities.

*National/Racial/Ethnic Minorities.*—The Constitution provides for equal rights for all minority citizens, and there is no legal discrimination against them. However, societal discrimination persisted.

Approximately half the population is ethnic Lao, also called "lowland Lao." Most of the remainder is a mixture of diverse upland hill tribes whose members, if born in the country, are citizens. There are also ethnic Vietnamese and Chinese minorities, and a small community of South Asian origin, particularly in the towns. The Law on Nationality provides a means for foreigners to acquire citizenship; more than 100 persons, mostly Vietnamese and Chinese, became citizens during the year. The Government encouraged the preservation of minority cultures and traditions; however, due to their remote location and inaccessibility, minority tribes had little voice in government decisions affecting their lands and the allocation of natural resources.



The Hmong are one of the largest and most prominent highland minority groups. There were a number of Hmong officials in the senior ranks of the Government and LPRP, including at least five members of the LPRP Central Committee. However, societal discrimination against the Hmong continued. In recent years, the Government focused some limited assistance projects in Hmong areas in order to address regional and ethnic disparities in income. Some international observers claimed that governmental policies aimed at assimilating the Hmong into the larger society—such as regional boarding schools—were not respectful of Hmong native culture; others saw this approach as an escape from centuries of poverty.

Unlike in past years, there were no reports of government forces mistreating Hmong suspected of harboring insurgents (*see* Sections 1.a. and 1.c.).

During the year, the Government continued to assist citizens, largely members of ethnic minorities, who returned to the country after having fled in 1975. Central and local government officials worked with organizations such as the UNHCR to provide land and a sustainable level of economic security. Repatriated Hmong at times faced greater discrimination than those Hmong who remained. In 1999 and 2000, a number of Hmong returnees were forced to renounce their Christian faith, and the authorities closed one church in a returnee village. However, this church was later allowed to reopen. During the past 2 years, international observers who monitored repatriation efforts reported no significant human rights violations.

The Constitution states that foreigners and stateless persons are protected by “provisions of the laws,” but in practice they did not enjoy the rights provided for by the Constitution. Unlike in previous years, there were no reports of cases of foreigners of Hmong ethnicity who were arrested or detained and suffered discrimination because of their ethnicity.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Under the law, labor unions may be formed in private enterprises as long as they operate within the framework of the officially sanctioned Federation of Lao Trade Unions (FLTU), which in turn is controlled by the LPRP. Most of the FLTU’s approximately 77,000 members worked in the public sector.

The State employed the majority of salaried workers, although this situation was changing as the Government privatized state enterprises and otherwise reduced the number of its employees. Subsistence farmers made up an estimated 85 percent of the work force.

With advice from the International Labor Organization (ILO), including a foreign expert provided by the ILO to work with the Ministry of Labor and Social Welfare, the Government in 1994 revised the Labor Code in an effort to clarify the rights and obligations of workers and employers. However, the 2001 Report of the ILO Committee of Experts cited the Government for its failure to submit reports on ratified conventions required of member states. Furthermore, the Government has not replied to comments from the Committee from 7 years ago.

The FLTU is free to engage in contacts with foreign labor organizations, which during the year included contacts with the Association of Southeast Asian Nations Trade Unions and the Asia-Pacific American Labor Alliance. The FLTU was a member of the World Federation of Trade Unions.

*b. The Right to Organize and Bargain Collectively.*—There is no right to organize and bargain collectively. The Labor Code stipulates that disputes be resolved through workplace committees composed of employers, representatives of the local labor union, and representatives of the FLTU, with final authority residing in the Ministry of Labor and Social Welfare. Labor disputes reportedly were infrequent. The Government sets wages and salaries for government employees, while management sets wages and salaries for private business employees.

Strikes are not prohibited by law, but the Government’s ban on subversive activities or destabilizing demonstrations (*see* Section 2.b.) makes a strike unlikely, and none were reported during the year. However, the Labor Code does not prohibit temporary work stoppages.

The Labor Code stipulates that employers may not fire employees for conducting trade union activities, for lodging complaints against employers about labor law implementation, or for cooperating with officials on labor law implementation and labor disputes. Workplace committees were one mechanism used for resolving complaints.

There were no export processing zones. A law to establish a special economic zone in Savannakhet Province was under consideration.

*c. Prohibition of Forced or Bonded Labor.*—The Labor Code prohibits forced labor except in time of war or national disaster, during which time the State may con-

script laborers. The Code also prohibits forced or bonded labor by children under age 15, and generally this was enforced effectively.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Under the Labor Code, Children under age 15 may not be recruited for employment, except to work for their families, provided that such children are not engaged in dangerous or difficult work. Many children helped their families on farms or in shops. Child labor was rare in industrial enterprises. The Ministries of Public Security and Justice are responsible for enforcing these provisions, but enforcement was ineffective due to a lack of inspectors and other resources. Some garment factories reportedly employed a very small number of underage girls. The Government has not ratified ILO Convention 182 against the worst forms of child labor.

*e. Acceptable Conditions of Work.*—The Labor Code provides for a workweek limited to 48 hours (36 hours for employment in dangerous activities). The Code also provides for at least 1 day of rest per week. The daily minimum wage was about \$0.40 (4,000 kip), which was insufficient to provide a decent standard of living for a worker and family. Most civil servants received inadequate pay. However, few families in the wage economy depended on only one member for income. Some piecework employees, especially on construction sites, earned less than the minimum wage.

The Labor Code provides for safe working conditions and higher compensation for dangerous work. Employers are responsible for all expenses for a worker injured or killed on the job, a requirement generally fulfilled by employers in the formal economic sector. The Labor Code also mandates extensive employer responsibility for those disabled while at work. During the year, this law was enforced adequately. Although workplace inspections reportedly have increased over the past several years, the Ministry of Labor and Social Welfare lacked the personnel and budgetary resources to enforce the Labor Code effectively. The Labor Code has no specific provision allowing workers to remove themselves from a dangerous situation without jeopardizing their employment.

There were a number of illegal immigrants in the country, particularly from Vietnam and China, and they were vulnerable to exploitation by employers. Some illegal immigrant Vietnamese children worked selling goods on the streets of Vientiane.

*f. Trafficking in Persons.*—The Penal Code prohibits abduction and trade in persons as well as the constraint, procuring, and prostitution of persons; however, trafficking in persons, particularly women and children, was a problem. Laos was primarily a country of origin for trafficking in persons and to a lesser extent, a transit country. Although there was no reliable data available on the scope and severity of the problem, rough estimates indicated that from 15,000 to 20,000 Lao girls and young women were trafficked annually for purposes of prostitution mostly to Thailand; a small number were trafficked to China and to the United States. Some young men were also victims. As many as 100,000 citizens annually traveled to Thailand to participate in seasonal agricultural labor and some urban labor; many of these citizens were illegally in Thailand and vulnerable to exploitation and some were trafficked only after their arrival in Thailand. A much smaller number of foreign nationals transited through Laos, including Burmese to China and Thailand, and Vietnamese to Thailand. In recent years, highland minority women from the interior of the country had become the group most vulnerable to traffickers.

Labor recruiters in the country usually were citizens with experience in cross-border labor and, for the most part, with no connection to organized crime, commercial sexual exploitation, or the practice of involuntary servitude. They simply may be assisting fellow villagers.

There were no reports of official involvement in trafficking; however, anecdotal evidence suggested that local officials knew of trafficking activities and a very few profited from them.

In the past, the Government has prosecuted some persons for involvement in such trafficking activities.

The Ministry of Labor and Social Welfare (MLSW) has a five-person unit devoted to children with special needs, including protection from and prevention of trafficking. However, the unit's effectiveness was limited by a small budget, inadequate international assistance, and a lack of trained personnel. The MLSW and the Lao Women's Union have conducted pilot studies on antitrafficking information campaigns. Due to financial constraints the Government has conducted only limited campaigns in a few border towns.

The Government has increased monitoring and educational programs provided by the Lao Women's Union and the Youth Union, both party-sanctioned organizations, designed to educate girls and young women regarding the schemes of recruiters for brothels and sweatshops in neighboring countries and elsewhere.

Some victims were punished for improper documentation or for crossing the border illegally. The victims had no recourse to relief. Some local authorities have ordered trafficking victims into reeducation seminars and subjected them to substantial fines. The Government remained concerned about children being lured into sexual exploitation and slave labor in other countries, but the Government denied that there were any problems in the country that involved child prostitution. The National Commission for Mothers and Children, established in 1992 and chaired by the Foreign Minister, continues an active program with support from UNICEF.

## MALAYSIA

Malaysia is a federation of 13 states and 3 federal territories with a parliamentary system of government based on periodic multiparty elections in which the ruling National Front coalition has held power for more than 40 years. Opposition parties actively contest elections, but face significant obstacles in competing with the long-entrenched ruling coalition. However, in the November 1999 elections, opposition parties won approximately 25 percent of the seats in the Federal Parliament, and an opposition party also retained control of one state government and gained control of another. The Constitution provides for an independent judiciary; however, government action, constitutional amendments, legislation, and other factors undermined judicial independence and strengthened executive influence over the judiciary.

The Royal Malaysian Police have primary responsibility for internal security matters. The police report to and are under the effective control of the Home Minister. Some members of the police committed human rights abuses.

The country has a free market economy and a population of approximately 23.8 million. The economy grew 3.3 percent in 2000, but slowed in 2001 to a growth rate of 0.4 percent growth. Analysts expected the economy to grow from 3.5 percent to 4 percent by year's end. The Government continued its stimulative fiscal and monetary policies, and took an active role in the development of the export-oriented economy. Services and manufacturing accounted for 49.6 percent and 31.5 percent of the gross domestic product (GDP). The unemployment rate was approximately 3.6 percent.

The Government generally respected the human rights of its citizens; however, serious problems remained. Police killed a number of persons, and the authorities prosecuted the perpetrators in some of these cases. Police on occasion tortured, beat, or otherwise abused prisoners, detainees, and demonstrators. Prison conditions were generally satisfactory, although the National Human Rights Commission (Suhakam) publicly noted its concern about prison overcrowding and about the lack of adequate health care and facilities in prisons. The trial of a prominent human rights activist on charges arising from her criticisms of such conditions continued. Police continued to use the Internal Security Act (ISA) as well as other statutes to arrest and detain many persons, without charge or trial. Prolonged pretrial detention was a serious problem.

Although reforms instituted by the new chief justice in 2001 appeared to have led to some improvements, many observers expressed serious doubts about the independence and impartiality of the judiciary, especially in high-profile cases. The politically motivated convictions of former Deputy Prime Minister Anwar on charges of corruption and sodomy in 1999 and 2000 demonstrated the judiciary's lack of independence. In May the Federal Court upheld Anwar's conviction on corruption charges. Politically motivated, selective prosecution decreased during the year but continued to be a concern.

Government restrictions, pressure, and intimidation led to a high degree of press self-censorship. The threat of slander and libel awards against journalists and media publications diminished during the year; however, these awards represented a restraint on press freedom. The Government continued to limit the publication of an opposition party newspaper, and refused to renew the publication permits of several other political weeklies. It also sometimes delayed the release of several foreign weekly magazines. Independent on-line newspapers operated without direct government interference.

The Government increased restrictions on freedom of assembly and some peaceful gatherings, particularly those organized by the political opposition. The Government continued to restrict significantly freedom of association. In 2001 the Government restricted student participation in political activities, and detained several students under the ISA. The Government placed some restrictions on religious freedom, in particular the right of Muslims to practice teachings other than Sunni Islam or to convert to other religions. The Government continued to impose some restrictions

on freedom of movement. Government policies created significant restrictions on opposition parties' ability to compete effectively with the ruling coalition. The Government continued to criticize human rights nongovernmental organizations (NGOs), but also met with several such groups during the year. In 2000 the Government established the National Human Rights Commission, Suhakam. Despite some limitations on its scope, and a lack of enforcement powers, the Commission established several human rights working groups and in certain cases acted as a credible check on government authority and policy.

Despite government efforts, societal violence and discrimination against women remained problems. Sexual abuse of children occurred, although it was punished severely. Indigenous people faced discrimination and often were exploited, especially in regard to land issues. Longstanding policies gave preferences to ethnic Malays in many areas, and ethnic minorities faced discrimination. Some restrictions on worker rights persisted. Child labor persisted, in spite of vigorous government action against it. The country was a source and destination country for trafficking in women and girls for the purpose of prostitution. Malaysia was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as an observer.

#### RESPECT FOR HUMAN RIGHTS

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

a. *Arbitrary and Unlawful Deprivation of Life.*—There were no reports of political killings; however, there were reports of police killing persons while apprehending them. According to press reports, police killed 51 persons in this manner during the year. By year's end the Government had not formed an independent commission to investigate police killings, as was recommended by a group of 119 domestic NGOs in February 1999. According to the Government, however, in 2001 disciplinary action was taken against 577 officers and members of the Malaysian Royal Police. In 2000 1,381 officers and members were disciplined. The disciplinary action cases ranged from bribery and extortion to rape and murder.

According to the Deputy Minister of Home Affairs, 18 persons died in police custody during the year. In September the Attorney General said that whenever a person dies in police custody, the law requires that a magistrate investigate. An inquiry was begun in one of the cases. During the year, police leadership continued efforts to curb such abuses, including inviting the National Human Rights Commission (Suhakam) officials to provide training to police officers.

In May 2001, a Coroner's Court ruled that there was no criminal wrongdoing in the 1998 fatal shooting at close range by police officers of six men. However, in August the High Court overturned the decision and found that police were responsible for murderous assault.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—No constitutional provision or law specifically prohibits torture, although laws that prohibit "committing grievous hurt" encompass torture. At times some police tortured, beat, and otherwise abused prisoners, detainees, and other citizens. The authorities investigated some of the cases; however, the Government routinely does not release information on the results of investigations, and whether those responsible are punished is not always known.

There were several press reports of persons who alleged being tortured or mistreated while detained by the police. In August according to news reports, a man who sued police for being physically brutalized while in detention won \$3,700 (10,000 ringgit) in damages. In 2001 leading members of the opposition party, Parti Keadilan Nasional, were arrested under the ISA and held incommunicado at Bukit Aman police headquarters (see Section 1.d.). One of the opposition activists who was detained in April 2001 under the ISA reported that, among other things, he was knocked from a chair while handcuffed. In response to such reports, the Government continued to require police to attend community relations and ethics courses to address public concerns over police misconduct.

Local NGOs stated that police sometimes subjected criminal suspects and illegal alien detainees to physical and psychological torture during interrogation and detention. In 2001 former Police Chief Rahim Noor was released early for good behavior after serving 40 days of his 2-month prison sentence for "causing hurt" to former Deputy Prime Minister Anwar Ibrahim. Rahim pleaded guilty to beating Anwar in 1998 while Anwar was handcuffed and blindfolded in police custody. Charges of attempted assault were reduced as part of a plea bargain. Rahim earlier paid a fine of \$525 (2,000 ringgit) for assaulting Anwar. Rahim also lost his government pen-

sion. No action was taken against senior police officers who failed to arrest or report Rahim after the beating.

In 2000 the case against fashion designer Mior Abdul Razak bin Yahya for fabricating evidence in former Anwar's trial was dismissed. Mior swore in an affidavit that police threatened and abused him into a false confession of having had sexual relations with the former Deputy Prime Minister after he was detained in September 1998. Two other codefendants recounted similar stories.

At year's end, there was still no government response to the March 1999 police report filed by opposition activist Abdul Malek bin Hussin in which he accused police of torturing him in 1998 while he was detained without charge under the ISA (see Section 1.d.).

Riot police several times, forcibly dispersed peaceful demonstrators around the country, using truncheons, water cannons, and tear gas (see Section 2.b.).

Logging companies reportedly used police force and intimidation to appropriate land from indigenous Iban and Penan communities in Sarawak (see Section 5).

Criminal law prescribes caning as an additional punishment to imprisonment for those convicted of some nonviolent crimes such as narcotics possession, criminal breach of trust, and alien smuggling. The new immigration law, which came into effect on August 1, also prescribes up to six strokes of the cane for both illegal immigrants and their employers. Judges routinely include caning in sentences of those convicted of such crimes as kidnaping, rape, and robbery. Some state Islamic laws, which bind only Muslims, also prescribe caning (see Section 1.e.). The caning which is carried out with a ½-inch-thick wooden cane, commonly causes welts, and it sometimes causes scarring. Male criminals age 50 and above and women are exempted from caning. According to the provisions of the Child Act passed in December, male children from 10 years of age and up may be given up to 10 strokes of a "light cane" (see Section 5).

Prison overcrowding was a serious problem. After visiting a number of prisons, several Suhakam Human Rights Commissioners said that in general they were satisfied that conditions in those prisons were acceptable. During the year there were credible reports by former prisoners who indicated that guards at some prisons regularly beat prisoners convicted of criminal offenses. In June the Director General of Prisons said that the country's 34 prisons, designed to hold 22,000 prisoners, actually held 29,000 inmates. In April 2000, Deputy Prime Minister Abdullah Badawi announced that the Government spent over \$250,000 (1 million ringgit) to provide every prisoner with a mattress, although this was not confirmed by independent monitors. In 2001 a moral rehabilitation center that provides job skills training and education opportunities was built, but two promised juvenile reform schools were not built. According to the Government, 5 new prisons, with the capacity to hold 7,900 prisoners, were in the process of being built at year's end.

The law provides that, unless the Court of Detention determines otherwise, young boys and girls in remand (judicially approved detention) may be placed in prison. According to the law, most children have the right to remain with their imprisoned mothers until the age of 3 years, but can stay beyond that age by special authority of the Director General. In 2000 the local press reported that children as young as 10-years-old were held in prisons for offenses such as petty theft or involvement in school fights. Although kept in a separate cellblock, they reportedly mingled with adult prisoners during communal activities. However, the Government claimed that juvenile prisoners were kept separately from adult prisoners, either in separate cell blocks or separate institutions, at all times. In 2001 the Government identified 2,061 juveniles held in 26 prisons throughout the country.

"Security" prisoners were detained in a separate detention center (see Section 1.d.).

The NGOs and former detainees made credible allegations of inadequate food, inadequate medical care, poor sanitation, and abuse by guards in government camps for illegal immigrants. In recent years, conditions were considered to have improved with increased food and water rations, and vitamin B shots for detainees suffering from beri-beri. In August a new immigration law, which provides for 6 months in prison and up to six strokes of the cane for illegal immigrants, took effect. The law was implemented after a 4-month special amnesty program for illegal immigrants ended. Subsequent to the law's implementation, hundreds of illegal immigrants were detained in camps pending deportation, and there were reports of significant overcrowding during that time. According to some reports, this overcrowding contributed to the deaths of several detainees. During the year, a number of Rohingya asylum seekers were sent to detention camps for illegal immigrants pending deportation to Burma. There were no reports of deaths or mistreatment of Burmese Rohingyas in detention camps during the year.

Immigration officials said that over 450,000 illegal immigrants were deported back to their home countries during the year. They also stated publicly that several hundred individuals convicted of violating the immigration law had been subjected to its provisions, including caning.

The Government does not have any agreement with the International Committee of the Red Cross (ICRC) that permits visits to prisoners. If the ICRC were to request such a visit, it would need to negotiate an ad-hoc agreement with the Government. However, according to one ICRC representative, prison conditions did not represent a significant problem. NGOs and the media generally were not permitted to monitor prison conditions. Access to illegal alien detention camps was restricted, although UNHCR officials were given access to several camps to identify and interview potential refugees at various times during the year (see Section 2.d). In addition, Suhakam officials visited various camps at different times during the year. The Government reportedly has welcomed a proposal for a team to undertake an objective assessment of the situation in detention camps.

*d. Arbitrary Arrest, Detention, or Exile.*—Police continued to use several statutes to arrest and to detain many persons without charge or trial. Suspects in some crimes (called “seizable offenses”) may be arrested without warrants; suspects in other crimes (“nonseizable offenses”) may be arrested only based on a warrant from a magistrate. Crimes characterized as bailable offenses permit suspects to present bail at the police station according to a schedule. The Courts enjoy discretion to deny bail for “nonbailable offenses”, which are typically serious in nature, and in other circumstances, for example, great risk of flight. Police may hold suspects for 24-hours without charge. Police may request a magistrate to extend the period of detention without charge for up to 2 weeks. After this extension, the police, if they wish to hold the suspect, must charge him and seek an order of detention from a magistrate. In some cases, police released suspects under remand and quickly re-arrested them on new but similar charges; however, in general, police practice was in accord with legal provisions concerning detention.

Police may deny prisoners under detention access to legal counsel and routinely did so. Police also may question suspects without giving them access to counsel. Police justify this practice as necessary to prevent interference in ongoing investigations. Judicial decisions generally upheld this practice. Defendants’ advocates claimed that the lack of access to counsel seriously weakened defendants’ legal rights.

Three laws permit the Government to detain suspects without judicial review or the filing of formal charges: the Internal Security Act (ISA), the Emergency (Public Order and Prevention of Crime) Ordinance, and the Dangerous Drugs Act (Special Preventive Measures). The ISA which originally was enacted when there was an active communist insurgency, empowers the police to hold for up to 60 days any person who may act “in a manner prejudicial to the security of Malaysia.” The Home Minister may authorize further detention for periods of up to 2 years. Those released before the end of their detention period are subject to “imposed restricted conditions” for the remainder of their detention periods. These conditions limit their rights to freedom of speech, freedom of association, and freedom to travel outside the country.

According to the Government, the goal of the ISA is to control internal subversion. In October the Deputy Home Minister said that there were 114 persons in detention under the ISA. In July Deputy Home Minister Datuk Zainal Abidin Zin said that since its inception in 1960, 4,190 persons were arrested under the ISA.

The ISA often is used against what the Government considers nonpolitical crimes. The Government states that deviant Muslim groups pose a danger to national security because of their radical beliefs. There were no reports of the Government using the ISA against political opponents during the year. The ISA, and the threat of invoking the ISA, however, are used to intimidate and restrict political dissent. For example, in 2001 the Government used the ISA to detain 10 political activists who were leaders of, or closely associated with, the opposition National Justice Party (Keadilan), claiming that they represented a threat to national security. Six of these individuals received a 2-year detention order and remained in detention at year’s end. Two of the detainees who were released claimed that, during their interrogations while in police custody, they were questioned only about their political beliefs and personal life but not about the alleged offenses for which they initially were detained. In April the six detainees began a hunger strike to protest their detention under the ISA, calling on the Government to release them or to try them in open court. They ceased their hunger strike when Suhakam publicly stated its intention to conduct an inquiry into all aspects of ISA detentions. A small group of sympathizers conducted a parallel hunger strike in front of the Islamic party, Parti Islam Se-Malaysia (PAS) headquarters on the outskirts of Kuala Lumpur.

In June Suhakam conducted the first part of an inquiry into the conditions of the ISA detainees in Kamunting prison camp. According to an observer, 3 Suhakam Commissioners publicly interviewed 17 ISA detainees. The six supporters of imprisoned former Deputy Prime Minister Anwar Ibrahim detained under the ISA boycotted the proceedings and criticized the inquiry for its narrow scope. One attendee said that during the proceedings the detainees were free to speak about almost anything including political issues.

In December, 10 individuals were detained under the ISA for rumor mongering but were released on police bail. The 10 had allegedly forwarded e-mails claiming that a terrorist group was planning to launch a series of attacks at popular locations in Kuala Lumpur.

There were 43 suspected terrorists detained under the ISA during the year. One individual was released conditionally, another was released unconditionally, and the rest remained in detention at year's end. In 2001 two university students were detained under the ISA for participating in opposition political activities, including protesting against the ISA itself. Both were released within 60 days. In November one of these detainees was released after a High Court judge ruled his detention invalid but was then immediately rearrested under the same section of the ISA. In 2001 the Government also detained a number of suspected terrorists. Among those detained reportedly were members of PAS. One, Nik Adli, is the son of the PAS leader and Chief Minister of Kelantan, Nik Aziz. Most of these individuals remained in detention at year's end.

Even when there are no formal charges, the authorities must inform detainees of the accusations against them and permit them to appeal to an advisory board for review every 6 months. However, advisory board decisions and recommendations are not binding on the Home Minister, are not public, and often are not shown to the detainee. In the past, some ISA detainees refused to participate in the review process under these circumstances.

Amendments to the ISA in 1988 circumscribed judicial review of ISA detentions. Although the Bar Council has in the past asserted that detentions under the ISA should be subject to judicial review on both procedural and substantive grounds, the courts did not concur with this interpretation, and they reviewed ISA detentions only on technical grounds. Detainees freed on technical grounds nearly always were detained again immediately. However, in May 2001 Shah Alam High Court Judge Hishamuddin Mohd Yunus ordered the release of two opposition leaders who were detained that April under the ISA, calling their detentions unlawful. In his ruling, the judge said that the police could not simply cite the ISA's function to "preserve national security" as justification for its use. Additionally, the judge included a special provision in his ruling that forbade the police from rearresting the two individuals in the first 24 hours after their release. By the end of the year, neither one had been rearrested.

In August the Federal Court ruled that the detention of the six opposition activists detained under the ISA in April 2001 were unlawful. However, as the Court's ruling focused on the police's initial 60-day detention order and not on the Home Affairs Ministry's subsequent determination to detain the activists for an additional 2 years, the detained activists remained in detention at year's end. In December the ISA advisory board reviewed the case, noted the Federal Court decision, and recommended that the detainees be released. Anti-ISA activists criticized the Government's legal reasoning and its refusal to follow the court's ruling to release the detainees.

Opposition leaders and human rights organizations continued to call on the Government to repeal the ISA and other legislation that deprived persons of the right to defend themselves in court. For example, in 2001 a group of 71 NGOs and opposition parties joined together to form the Abolish the ISA Movement (AIM). The group organized conferences, hosted a web site, and staged other events to broadcast its opposition to the ISA. In 2001 it submitted a proposal to Parliament to repeal the ISA. However, during the year, a number of ruling coalition politicians and government officials continued to state that the ISA remained necessary and would not be repealed. Government Ministers publicly stated that the move by foreign governments to implement preventive detention measures to combat terrorism, underscored the country's continued need for the ISA. Representatives of human rights organizations stated that the international campaign against terrorism dampened support for the anti-ISA movement. Following several successful legal challenges to ISA detentions on procedural grounds, the Government reportedly was reviewing the law to further restrict the scope of judicial review.

Under the Emergency Ordinance, the Home Minister may issue a detention order for up to 2 years against a person if he deems it necessary to protect public order, or for the "suppression of violence, or the prevention of crimes involving violence."

In practice the Government used the Emergency Ordinance for other reasons. According to the human rights NGO, Suaram, as of July, 309 persons had been detained under the Emergency Ordinance.

Provisions of the Dangerous Drugs Act (Special Preventive Measures) give the Government specific power to detain suspected drug traffickers without trial. Such suspects may be held for up to 39 days before the Home Minister must issue a detention order. Once the Ministry has issued an order, the detainee is entitled to a hearing before a court. In some instances, the judge may order the detainee's release. Suspects may be held without charge for successive 2-year intervals with periodic review by an advisory board, whose opinion is binding on the Home Minister. However, the review process contains none of the procedural rights that a defendant would have in a court proceeding. The police frequently detained suspected narcotics traffickers under this act after the traffickers were acquitted of formal charges—often as they left the courtroom. During the year, the Government detained over 1,821 persons under this law.

Immigration laws are used to detain possible illegal immigrants without trial or hearing. The detainees are not accorded any administrative or legal hearings and are released only after their employers prove their legal status. Those who were able to produce legal documents normally were released immediately; those who were unable to prove their legal status often were held for extended periods before deportation. Illegal immigrants were kept in detention centers that were separate from prisons (*see* Section 1.c.).

Crowded and understaffed courts often result in lengthy pretrial detention, sometimes lasting several years.

Law enforcement authorities also used the Restricted Residence Act to restrict movements of criminal suspects for an extended period. The act allows the Home Ministry to place criminal suspects under restricted residence in a remote district away from their homes for 2 years. The Ministry is authorized to issue the banishment orders without any judicial or administrative hearings. Human rights activists questioned the need for this law, which was passed more than 60 years ago (during British sovereignty), and they have called for its repeal. The Government continued to justify the act as a necessary tool to remove suspects out of the area where undesirable activities are being conducted. The Government did not disclose how many persons were subject to the Restricted Residence Act and no accurate estimate was available. In 2000 there were 93 persons held in prison waiting to be placed under restricted residence, and 17 of these persons were released from prison into restricted residence.

Section 396 of the Criminal Procedure Code allows the detention of a person whose testimony as a material witness is necessary in a criminal case, if that person is considered likely to abscond.

The Government does not use forced exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, government action, constitutional amendments, legislation restricting judicial review, and other factors eroded judicial independence and strengthened executive influence over the judiciary. In recent years, a number of high-profile cases cast doubts on judicial impartiality and independence, and raised questions of arbitrary verdicts, selective prosecution, and preferential treatment of some litigants and lawyers. Members of the bar, NGOs, and other observers continued to express serious concern about these problems.

Many observers believe judicial independence improved since Tan Sri Mohamed Dzaiddin Abdullah was appointed Chief Justice in December 2000. Immediately following his appointment, Chief Justice Dzaiddin spoke publicly about the importance of restoring public trust in the judiciary and instituted a rotational case-assignment system intended to ensure impartiality of judges in the assignment of hearing any given case. Dzaiddin also repeatedly stressed that a judge's loyalty must be to the law rather than to outside factors such as politics. Since Dzaiddin's appointment, a number of high-profile cases were decided according to the legal merits of the case. However, some observers, including prominent members of the bar, expressed concern that judicial independence continued to be compromised. Citing, for example, the Federal Court's denial in July of former Deputy Prime Minister Anwar Ibrahim's final appeal on corruption charges, these observers commented that the executive's influence on the judiciary remained a significant problem.

High courts have original jurisdiction over all criminal cases involving serious crimes and most civil cases. Civil suits involving automobile accidents and landlord-tenant disputes are heard by sessions courts. Juvenile courts try offenders under 18 years of age. The Special Court tries cases against the King and the Sultans. The Court of Appeal has appellate jurisdiction over high court and sessions court deci-



sions. The Federal Court, the country's highest court, hears appeals of Court of Appeal decisions.

Islamic religious laws administered by state authorities through Islamic courts bind Muslims, the majority of whom are ethnic Malays. According to the Government, the Conference of Rulers, which consists of nine Sultans and the heads of the other four states, has agreed on the harmonization of Islamic laws. During the year, a committee was established under the Department of Shari'a to recommend ways to carry out this harmonization. However, Islamic law is under the purview of the states, and it is up to the individual states to adopt the recommended laws.

Indigenous peoples in Sarawak and Sabah also have a system of customary law to resolve matters such as land disputes between tribes.

Penghulu (village head) courts may adjudicate minor civil matters, but these rarely are used.

The military has a separate system of courts.

The secular legal system is based on English common law. Trials are public, although judges may order restrictions on press coverage.

Defendants have the right to counsel, bail is sometimes available, and strict rules of evidence apply in court. Witnesses are subject to cross-examination. While the defense in both ordinary criminal cases and special security cases is not entitled to a statement of evidence before the trial, according to the Government, defendants may make statements for the record to an investigative agency. In general limited pretrial discovery in criminal cases hobbles defendants' ability to defend themselves.

Defendants enjoy the presumption of innocence and may appeal court decisions to higher courts. In criminal cases, defendants also may appeal for clemency to the King or local state rulers as appropriate. A single judge hears each criminal trial. There are no jury trials.

A 1997 amendment to the Criminal Procedure Code that may erode defendants' presumption of innocence continued to concern lawyers. Before this amendment, the prosecution was required to prove its case beyond a reasonable doubt or the defendant would receive a summary dismissal without having to present a defense. Since the amendment, the prosecution only needs to prove a legally sufficient case, and the defendant must be given the opportunity to present a defense. The Courts of Judicature Act limits the rights of defendants to appeal in some circumstances. The Government stated that these amendments would expedite the hearing of cases in the upper courts. The president of the Bar Association said that the amendments imposed too many restrictions on appeals.

The Attorney General may restrict the right to a fair trial in criminal cases by invoking the Essential (Security Cases) Regulations. These regulations governing trial procedure normally apply only in firearm cases. In cases tried under these regulations, the standards for accepting self-incriminating statements by defendants as evidence are less stringent than in normal criminal cases. Also the authorities may hold the accused for an unspecified time before making formal charges. The Attorney General has the authority to invoke these regulations in other criminal cases if the Government determines that the crime involves national security considerations, but such cases are rare. The Essential Regulations were invoked in 2000 at the beginning of the trial of 29 members of the Al-Ma'unah sect accused of carrying out arms thefts at two army posts. Defense lawyers argued that the use of the Essential Regulations was unconstitutional, since no certificate of emergency declaring a national emergency had been issued. The judge ruled that the Attorney General has the discretion to opt to use the Essential Regulations, if he saw fit to do so (*see* Section 1.d.).

Even when the Essential Regulations are not invoked, defendants and defense lawyers lack legal protections against interference. For example, during a trial police may call and interrogate witnesses who gave testimony not helpful to the prosecution. Human rights advocates accused police of using this tactic to intimidate witnesses. Police also have used raids and document seizures to harass defendants. Prosecution based on political rather than legal considerations (selective prosecution), is a serious problem in the legal system. According to the law, the decision to prosecute a case rests solely with the Attorney General. Some NGOs made credible accusations of political interference in the judicial process. However, the Chief Justice made clear his opposition to the practices of the past and his intention to make the law, rather than political considerations, hold sway over the legal process, including decisions on whether or not to prosecute. Government officials, including the Minister in the Prime Minister's office responsible for legal affairs, denied that the Attorney General practices selective prosecution.

Contempt of court charges also restricted the ability of defendants and their attorneys to defend themselves. However, the use of contempt of court charges against defendants and their attorneys appeared to be decreasing. For example, in 1998 the

High Court convicted Attorney Zainur Zakaria for contempt of court after he refused to apologize for filing a brief on behalf of his client, former Deputy Prime Minister Anwar Ibrahim. In 1999 the Appeals Court upheld his conviction. However, in 2001 the Federal Court overturned the conviction, and stated that the High Court Judge, in his initial handling of the case, appeared to be acting as an agent for the prosecution.

Following a number of high-profile corruption cases, the Government amended the Anti-Corruption Act in 1997. The law gives the Attorney General powers that impinge on the presumption of innocence and requires accused persons to prove that they acquired their monetary and other assets legally.

Islamic courts do not give equal weight to the testimony of women. Many NGOs have complained that women do not receive fair treatment from Islamic courts, especially in matters of divorce.

The cases against former Deputy Prime Minister Anwar Ibrahim and some of his associates, and against Irene Fernandez, raised serious questions about judicial independence and impartiality (*see* Section 2.a.). According to many legal experts, both domestic and international, former Deputy Prime Minister Anwar Ibrahim is a political prisoner because he was charged, tried, and convicted in a legal process that was politically motivated and patently unfair. In September 1998, after a political conflict, Prime Minister Mahathir Mohammad removed Anwar as Deputy Prime Minister. Later that same month, after a large and mostly peaceful demonstration in which he called for Mahathir's resignation, Anwar was detained for alleged corruption and sodomy. Many observers believe the Government manufactured these charges and used them to remove Anwar, who appeared to be gaining popular support after he was fired from the political scene. While in detention, Anwar was beaten by the former Inspector General of Police Rahim Noor (*see* Section 1.c.). For several days, Anwar was denied medical treatment for the injuries he received at the hands of Rahim. Presumably to avoid bringing a visibly injured Anwar to court, but according to the Government, to prevent social unrest from boiling over, police changed Anwar's status to "detention without charge" under the ISA. Anwar's status subsequently was changed again to criminal detention.

During Anwar's corruption trial, the judge made several questionable rulings that greatly limited Anwar's ability to defend himself. For example, the judge sentenced one of Anwar's attorneys to 3 months' imprisonment for contempt after the attorney raised in court charges of prosecutorial misconduct. The judge greatly restricted the scope of Anwar's defense (on occasions during the trial, the judge explicitly said that he did not care if there was a conspiracy to bring down Anwar) and tolerated improper activities by the police and prosecutors. The judge allowed prosecutors to amend the charges in the middle of the trial, which is permitted under the law but in this case was unfair to Anwar. Anwar was denied the ability to rebut evidence of sexual misconduct presented by prosecution witnesses when the judge, at the end of the prosecution's case, allowed prosecutors to amend the charges and then expunged the record of all evidence of sexual misconduct. Following his arrest, Anwar was denied bail on questionable legal grounds.

At the beginning of the sodomy trial, prosecutors changed the dates of the alleged acts of sodomy, supposedly because the defense discovered that the apartment building where the sodomy allegedly took place had not been completed by the original dates. Despite testimony detailing how police coerced a confession from an alleged homosexual partner, in 1999 the judge ruled that the prosecution proved beyond a reasonable doubt that this confession was voluntary. A few days later, another witness admitted that police coached part of his testimony. In August 1999, the lead police investigator materially contradicted his testimony (in order to make it consistent with the amended dates of the alleged offense); the next day, the judge ruled that the policeman had not lied. In April 2000, the judge ruled that the Prime Minister, who was called by the defense in an attempt to prove a political conspiracy against Anwar, would not be required to testify. Defense attorneys maintained that they were not permitted by the judge to call a number of witnesses. The defense claimed that the judge exerted pressure to bring the trial to an early conclusion. In his written ruling, which was released in June 2001, the judge said that the testimony of the chief prosecution witness—widely viewed as deeply flawed and lacking credibility—was as solid as the "Rock of Gibraltar."

In 1999 Anwar was convicted on four counts of corruption and sentenced to 6 years in prison. In April 2000, Anwar's appeal of the conviction and sentence was denied by the Court of Appeals. In July of this year, the Federal Court rejected Anwar's final appeal on these charges.

In August 2000, Anwar was convicted on a separate charge of sodomy and sentenced to 9 years in prison, to be served consecutively with the 6-year sentence for corruption. Anwar's lawyers requested that this conviction be reviewed by the Ap-

peals Court. At year's end, the date for this appeal had not been set. On May 12, the High Court acquitted Anwar of the four remaining charges of sodomy and one charge of corruption that were pending against him after the prosecution withdrew the charges. Most observers believed this was because the charges were without basis and would have resulted in further government embarrassment should they have been aired in open court. According to the Constitution, Anwar will be disqualified from holding any public office for 5 years once he completes his 15-year sentence.

Anwar's conviction and sentence were criticized strongly by opposition parties, human rights groups, and a number of foreign governments and international human rights organizations. For example, the Bar Council criticized the trial, citing irregularities in the evidence, and characterized the sentence as "manifestly excessive and harsh." After spending nearly 6 months in a hospital receiving treatment for a slipped disk in his back, Anwar was sent back to prison in May 2001. In a May 2001 public statement, Suhakam stated that there were no laws prohibiting Anwar from being sent abroad for medical treatment. The Government denied Anwar's request for medical treatment abroad, claiming that adequate medical treatment for his condition exists in the country. Anwar remained in prison at year's end. He was permitted to receive visits from only his family and lawyers. According to the law, Anwar is a "common criminal" rather than a political prisoner, and therefore does not have the right to receive visits from international human rights organizations.

Anwar Ibrahim is a political prisoner. In addition, the six individuals associated with the Anwar-based National Justice Party who were arrested in 2001 and who remained in detention under the ISA are political detainees. One of the six, Ezam Noor, formally is being detained under the Official Secrets Act (OSA) which restricts freedom of expression, but his detention under the ISA reportedly has not been waived (*see* Section 2.a.).

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law protects against such practices; however, authorities infringed on citizens' privacy rights in some cases. Provisions in the security legislation allow the police to enter and search without a warrant the homes of persons suspected of threatening national security (*see* Section 1.d.). Police also may confiscate evidence under these acts. In some cases each year, police use this legal authority to search homes and offices, seize books and papers, monitor conversations, and take persons into custody without a warrant.

A clause in the Anti-Corruption Act empowers the Attorney General to authorize the interception of mail and the wiretapping of telephones. Information obtained in this way is admissible as evidence in a corruption trial.

The law permits the Home Ministry to place criminal suspects under restricted residence in a remote district away from their homes for 2 years (*see* Section 1.d.).

The Government bans membership in unregistered political parties and in unregistered organizations (*see* Section 2.b.).

Certain religious issues pose significant obstacles to marriage between Muslims and adherents of other religions (*see* Section 2.c.).

Muslim couples must take premarital courses (*see* Section 5).

Two state governments sought to restrict Muslim women's dress (*see* Section 5). In Kelantan the state government decreed that female performers may only appear before female audiences.

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and freedom of the press; however, some important legal limitations exist, and in practice the Government restricted freedom of expression and intimidated most of the print and electronic media into practicing self-censorship. According to the Government, restrictions on this freedom were imposed to protect national security, public order, and friendly relations with other countries.

The Constitution provides that freedom of speech may be restricted by legislation "in the interest of security (or) public order." For example, the Sedition Act prohibits public comment on issues defined as sensitive, such as racial and religious matters. In practice the Sedition Act, OSA, criminal defamation laws, and some other laws were used to restrict or to intimidate dissenting political speech.

The Prime Minister and other senior officials continued to ascribe seditious or treasonous motives to critics of government policies, although many persons still criticized the Government publicly. During the year, according to government officials, 1,385 permit applications to hold public talks were approved and 33 were rejected due to either security reasons, late applications, inappropriate venues, or because there was a potential for causing traffic problems.

Throughout the year, government officials warned that political parties that raised sensitive issues and threatened national stability would be charged under the Sedition Act. However, government and ruling party officials sometimes made statements on sensitive racial and religious issues with no repercussions. In June the opposition leader Lim Kit Siang and a number of his colleagues were arrested for distributing leaflets that criticized the Prime Minister's declaration that the country was an Islamic state. In August the High Court acquitted the Youth Chief of the National Justice Party, Ezam Noor, of sedition charges for his alleged call for street demonstrations in March 2001 to topple the Government (*see* Section 1.e.).

In March opposition politician Marina Yusoff, charged with sedition for comments she made about the 1969 racial violence while campaigning for Parliament in 1999, was fined \$1,300 (5,000 ringgit). In January the sedition charges against opposition leader and prominent attorney Karpal Singh were dropped. Karpal was charged for statements that he made in court during his defense of Anwar Ibrahim that the Government considered seditious.

In the past, the Bar Council and other NGOs called for a review of certain provisions of the OSA that grant considerable discretion to the authorities. Opposition leaders historically accused the Government of using the OSA to cover up corruption. In January 2000, Ezam Noor, also a former Anwar aide, was charged under the OSA with disclosing to reporters secret Anti-Corruption Agency (ACA) reports. Ezam said publicly in August 1999 that Anwar stored documents abroad that corroborated charges of corruption against senior government leaders. Ezam claimed that the reports showed that the ACA was not pursuing corruption cases against senior government officials. In August Ezam was convicted of revealing secret ACA reports to reporters and was sentenced to 2 years in prison. In March 2000, a government official said in Parliament that only six persons had been arrested under the OSA since its inception in 1972, and he claimed that this statistic proved that the Government did not use the OSA to silence critics.

In January 2000, the editor and printer of Harakah, PAS' newspaper, were charged with sedition in connection with a 1999 Harakah article that quoted an opposition politician's comments on the confession of Sukma Darawaman, Anwar Ibrahim's codefendant. In May 2001, the printer pled guilty and was fined slightly over \$1,000 (4,000 ringgit). The editor's case still was pending at year's end.

In March 2000, the Melaka state government announced that it terminated the contracts of an undetermined number of panel doctors, architects, lawyers, and blacklisted contractors who allegedly were aligned with opposition parties. The state government also closed government accounts in banks where the staff was accused of criticizing the Government. According to opposition representatives, these practices continued during the year. In July 2000, the Penang state government also blacklisted contractors for their alleged involvement in antigovernment activities, such as supporting or funding opposition parties. Opposition parties and NGOs criticized these actions as discriminatory, claiming that such steps were inconsistent with the demands of a democratic society.

During 2000 many government officials, opposition figures, and private citizens filed multimillion-dollar lawsuits for libel and slander. In July 2000, the Federal Court upheld a judgment of over \$250,000 (1 million ringgit) against a freelance journalist who was sued for libel by a wealthy businessman in 1994. In 2001 in an unprecedented move, the Federal Court agreed to review this decision. The date of this review was not set by year's end. In September 2000, the Minister in the Prime Minister's department responsible for legal affairs told reporters that the Government would review the defamation law in response to public concern over libel awards which, he noted, frequently exceeded damages handed down in personal injury cases. At year's end, the Government continued to review the issue; however, no results were reported. During the past 2 years there was a noticeable decrease in the number of defamation suits.

The English and Malay mainstream press provided generally laudatory, uncritical coverage of government officials and policies, and usually gave only limited and selective coverage to political views of the opposition or political rivals. Editorial opinion almost always reflected government positions on domestic and international issues. Chinese-language newspapers generally were freer in reporting and commenting on sensitive political and social issues, but they were not immune to government pressure. There was widespread concern that the purchase in May 2001 of two major Chinese-language dailies by the investment arm of the ruling coalition's most influential Chinese party would restrict this freedom and transform the newspapers into progovernment organs. These concerns were magnified when the top management of one of the dailies was removed immediately following the takeover. Most analysts believed that the editorial content of the two newspapers subsequently became less independent. During the year, several newspaper vendors were

the target of official raids for selling opposition party newspapers. However, self-censorship and biased reporting in the print media was not uniform and the English-language, Malay-language, and Chinese-language press all, at times, provided balanced reporting on sensitive issues.

The Printing Presses and Publications Act limits press freedom. Under the act, domestic and foreign publications must apply annually to the Government for a permit. The act was amended to make the publication of "malicious news" a punishable offense, to expand the Government's power to ban or restrict publications, and to prohibit court challenges to suspension or revocation of publication permits. According to the Government, this amendment was made to ensure that "distorted news" was not disseminated to the public. Government power over license renewal and other policies created an atmosphere that inhibited independent or investigative journalism and resulted in extensive self-censorship. In October Deputy Home Affairs Minister Chor Chee Heung told Parliament that from the beginning of 2001 until October, 1,345 publications and printing premises were inspected and 2,305 volumes of publications were confiscated under the act. During the same period, the Home Affairs Ministry brought 199 cases to court for selling and distributing publications without a permit. Government officials continued to argue that the act helped to preserve harmony and to promote peaceful coexistence in a multiracial country.

In October the Deputy Home Affairs Minister said that there were 63 newspapers in the country, including those which were imported. In August 2001, the Deputy Home Minister said that his Ministry approved 2,141 publishing permits and 1,194 printing press licenses during the year and that this showed that the Government had a liberal approach to such permits. In August 2000, the Minister in the Prime Minister's department responsible for legal affairs said that the act would not be repealed, even if a national press council were established to regulate the media.

The Government often conveyed its displeasure with press reporting directly to a newspaper's board of directors or chief editors. In addition, leading political figures in the ruling coalition, or companies controlled by them, owned most major newspapers, thus limiting the range of views. At times the susceptibility of the press to government pressure had a direct and public impact on operations. For example, in January 2000 the group editor in chief of a local press conglomerate was removed after its flagship newspaper, the *New Straits Times*, carried several articles that reportedly angered the United Malay National Organization (UMNO), the most powerful party in the ruling Barisan Nasional (BN) coalition. However, this individual subsequently was appointed for a 1-year term in September 2001 as chairman of *Bernama*, the national news agency.

In September the permit of the Chinese newspaper *Oriental Daily Express* was suspended on the day of the paper's first issue. The Home Affairs Ministry gave no reason for the suspension. However, in December, the Home Affairs Ministry allowed the paper to be published again.

The Government continued to prosecute human rights activist Irene Fernandez under the Printing Presses and Publications Act for charges that she made in 1995 of mistreatment of detainees at illegal alien detention centers. Fernandez's supporters accused the Government of purposely prolonging the trial, the longest in the country's history. At year's end, the trial continued (*see* Section 1.e.).

The Government also sometimes directly restricted the dissemination of information that it deemed embarrassing or prejudicial to national interests. For example, the Government continued its policy of not allowing public disclosure of air pollution index readings.

Publications of opposition parties, social action groups, unions, and other private groups actively covered opposition parties and frequently printed views critical of government policies. However, the Government retained significant influence over these publications by requiring the annual renewal of publishing permits and limiting circulation only to the relevant organization members. *Harakah* was the target of several ruling party-sponsored libel suits. *Harakah* was the only major Malay and English language media forum for opposition views, and its circulation used to rival that of mainstream newspapers. In March 2000, the Government stipulated that *Harakah* publish only twice a month instead of twice a week. Several other opposition newsletters were allowed to publish and be distributed without government permission.

Most major newspapers have an online edition, and during the year, there were two exclusively on-line newspapers. Exclusively online newspapers did not require publication permits. In 2001 the Government engaged in a sometimes intimidating campaign to discredit the independent Internet daily, *Malaysiakini.com*, winner of an International Press Institute 2001 Press Freedom Award. This campaign did not continue during the year, and *Malaysiakini* was able to establish itself as a core

media outlet in the country. While the Government continued to deny them formal press accreditation, Malaysiakini reporters were allowed to cover government functions and ministers' press conferences. Administrators of the on-line newspaper said its principal challenge was economic rather than political, even though the organization's relationship with the Government remained contentious.

Printers who also must have their permits renewed annually, often were reluctant to print publications that were critical of the Government.

Both legal magazines (those with publishing permits) and illegal publications (those lacking publishing permits) frequently printed criticism of the Government. In November 2001, police raided a printing company and seized several thousand pamphlets that accused the Selangor state Chief Minister of being involved in corrupt practices.

During the year, the Government interfered with the release and distribution of several foreign magazines, including the Far Eastern Economic Review and Newsweek. Government officials, including the Prime Minister, continued to accuse the foreign media of harboring ill intentions toward the country and of deliberately misrepresenting the country's political and economic environment by focusing on negative news.

The electronic media was restricted more tightly than the print media. Radio and television almost uniformly were supportive of the Government. News of the opposition was restricted tightly and reported in a biased fashion. Opposition representatives said they were unable to have their views heard and represented on the country's television and radio stations. In the run-up to the February Indira Kayangan by-election, the Government-owned television networks ran a recurring prime-time news clip that portrayed the PAS as a domestic Taliban group. The two broadcast private television stations have close ties to the ruling coalition and were unlikely to provide a forum for the opposition parties. It was unlikely that the Government would grant the opposition a broadcasting license. The Government did not approve a longstanding license application for a state radio station in the opposition-controlled Kelantan State.

In June the Deputy Home Affairs Minister reportedly directed the Government-owned television networks to refrain from broadcasting a program on the Malaysian Chinese Association's controversial acquisition of several Chinese newspapers in 2001.

Internet television faced no such restrictions. In 2001 the opposition Islamic party launched its own Internet television studio, which broadcasted programs daily.

A government censorship board censored films for profanity, nudity, sex, violence, and certain political and religious content. Television stations censored programming in line with government guidelines. The Government banned certain books for political and religious reasons or because of sexual or profane content. Some foreign newspapers and magazines were banned and, infrequently, foreign magazines or newspapers were censored, most often for sexual content. However, the increased prevalence of the Internet undermined such restrictions. The Government maintained a "blacklist" of local and foreign performers, politicians, and religious leaders who were not allowed to appear on television or radio broadcasts. In 2001 the Government announced that it would increase efforts to block the production, distribution, and sales of video compact discs (VCDs), especially those with pornographic or political content.

The Communications and Multimedia Act (CMA) requires certain Internet and other network service providers to obtain a license. In December 2000, the Government stated that it did not intend to impose controls on Internet use, but noted that it would punish the "misuse" of information technology under the CMA, which, while prohibiting censorship, provides for "legal action" against those who post defamatory and false information on the Internet. During the year, the Government did not use licensing provisions under the CMA to interfere with Internet access or to restrict Internet content.

In past years, government officials made contradictory comments about the desirability of censoring the Internet, but the Government took no action to restrict the Internet during the year. According to news reports, in March a high-level government official said that the Government abandoned plans to regulate the Internet because the task was impossible.

The Government generally restricted remarks or publications that might incite racial or religious disharmony; it also attempted to restrict the content of sermons at government-affiliated mosques. Some state governments banned certain Muslim clergymen from delivering sermons, and more recently, active monitoring of sermons began in certain states (*see* Section 2.c.). The Religious Affairs Department continued to conduct background checks on all clergymen. Throughout the year, government officials and ruling coalition politicians complained that opposition Islamic

party members gave political sermons in mosques around the country. In May 2000, members of the opposition Islamic party were banned by the Selangor state government from giving speeches in all mosques, government buildings, and prayer places in the state.

In July 2001, the Government ceased to issue permits for political gatherings and continued to apply the ban during the year (*see* Section 2.b.). This significantly limited the ability of opposition parties, particularly the Islamic party, to communicate with their supporters and to raise funds for their activities. For example, meetings that were scheduled to take place indoors were restricted. On October 1, police blocked a meeting organized by civil society activists to protest the Government's refusal to release the six opposition figures detained under the ISA following the Federal Court's ruling that their initial detentions were unlawful. The meeting was scheduled to take place inside the Selangor Chinese Assembly Hall in Kuala Lumpur. Nonetheless, some opposition rallies continued to be held. Also, in July 2001, the Government began to crack down on the distribution and sale of the opposition party's VCDs and audiocassettes.

The Government places some restrictions on academic freedom, particularly regarding the expression of unapproved political views, and the Government enforced restrictions on teachers and students who expressed dissenting views. In March the Government began to require that all civil servants sign a pledge of loyalty to the Government, and in May it required that university faculty and students sign the same pledge. Opposition leaders and human rights activists claimed that this was intended to restrain political activity among civil servants, academics, and students. Academics sometimes were publicly critical of the Government. However, there was self-censorship among public university academics whose career advancement and funding depended on the Government. In August 2001, a secondary school teacher in the State of Terengganu was charged with sedition for asking his students to answer a test question regarding the erosion of judicial independence in the country.

In 2001 senior government officials said that teachers who opposed the Government and students who took part in antigovernment activities would face disciplinary actions, including dismissal and expulsion. In October 2001, the Education Minister announced that 61 university lecturers were dismissed, transferred, or issued warnings for alleged "antigovernment" activities. In 2001 several university students were expelled or suspended for engaging in activities associated with the political opposition.

Private institution academics practiced self-censorship as well, due to fear that the Government might revoke licenses for their institutions. The law also imposes limitations on student associations and student and faculty political activity (*see* Section 2.b.).

In July 2001, the Government detained two students at the University of Malaya and the Mara Technical Institute under the ISA for engaging in opposition political activities, including demonstrating against the ISA. The two were released before the initial 60-day period elapsed. The Government claimed that student participation in opposition politics threatened national security, and argued that individuals fortunate enough to be enrolled in the university should focus exclusively on their studies. Opposition leaders said that restrictions of political expression on campus would stifle students' intellectual development.

The Government long stated that students should be apolitical and used that assertion as a basis for denying opposition parties access to student forums. According to student leaders, students who signed antigovernment petitions sometimes were expelled or fined. The Government enforced this policy selectively; however, it did not refrain from spreading government views on political issues among students and teachers.

In February 1999, the University of Malaya declined to renew the contract of Professor Chandra Muzaffar. Chandra, a well-known supporter of political reform, charged that the University fired him for political reasons and filed suit. The university stated that it declined to renew Chandra's contract for economic and personnel reasons. In March the High Court ruled in Chandra's favor and awarded him \$30,000 (115,000 ringgit).

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly; however, the Government placed significant restrictions on this right. This right may be limited in the interest of security and public order, and the Police Act requires police permits for all public assemblies except for workers on picket lines. The decision to grant a permit theoretically rests with the district police chief; however, in practice senior police officials and political leaders influence the grant or denial of some permits. Police grant permits routinely to government and ruling coalition supporters; however, they use a more restrictive policy with government critics, although the police did grant permits for many opposition

meetings. In July 2001, the Government ceased issuing permits for all political meetings (ceramah) throughout the country. This was perceived widely as an effort to target the activities of the political opposition, although some opposition rallies continued to be held. In April the Islamic opposition party filed a suit against the Government protesting the ban.

Even before the 2001 ban on political meetings, opposition leaders maintained that police issued permits for public assemblies in a manner that discriminated against the opposition. Various state and local police departments rebutted these allegations by providing statistics that indicated that most requests for permits were granted; however, in certain sensitive cases political considerations led to the denial of permits. Police reaction to opposition rallies that ignored the requirement for a permit or were held after the Government denied a permit varied. In some instances, persons were told to disband immediately or face police action. In other instances, persons were given time to conduct their activities and were not threatened with police action. Opposition politicians noted that ruling coalition parties frequently assembled without the requisite permits.

A university vice chancellor must approve campus demonstrations. Restrictions were not enforced as vigorously on students who participated in political activities in support of the ruling coalition.

In April police broke up an opposition event in the State of Kedah with water cannons that used chemically laced water. In August police broke up a gathering of supporters of former Deputy Prime Minister Anwar Ibrahim who were celebrating Anwar's birthday outside of Sungai Buloh prison. In April 2001, the police mounted an operation to prevent citizens from participating in a Kuala Lumpur demonstration called by the opposition to commemorate the 2-year anniversary of Anwar Ibrahim's 1999 conviction on corruption charges. In the days prior to the event, police detained seven opposition activists under the ISA and claimed they were planning a massive, violent demonstration to overthrow the Government. Three others were detained in the days after the demonstration. Of these 10 individuals, 6 remained under ISA detention at year's end.

In June Suhakam released its second annual report, which reiterated the Commission's earlier criticism of government-imposed restrictions on freedom of assembly. The 2001 report recommended relaxing restrictions on freedom of assembly and noted the need to approve applications for peaceful assemblies as a general rule. In August 2001, the Suhakam also released a report specifically addressing freedom of assembly. Highlighting the fact that the right of assembly is provided for in the Constitution, the report recommended easing police permits for gatherings, setting up a special "speaker's corner," and reviewing laws that restrict the right to free assembly. The Government responded by calling the report "biased and idealistic" and influenced by "western liberal thinking."

The Constitution provides for the right of association; however, the Government placed significant restrictions on this right and certain statutes limited this right. Under the Societies Act, only registered, approved organizations of seven or more persons may function as societies. The Government sometimes refuses to register organizations or may impose conditions when allowing a society to register.

To avoid the burdensome requirements of the Societies Act, many NGOs register under the Companies Act or under the Registration of Businesses Act (*see* Section 4). The Government prohibits the Communist Party and affiliated organizations (*see* Section 1.f.). The Government also has the power to revoke the registration of an existing society for violations of the act, a power that it has enforced selectively against political opposition groups. In July 2001, government officials said that the Government would prosecute or deregister societies that did not accurately declare whether they received foreign funds. In the same month, Parliament amended the Registration of Businesses Act to enable the Registrar to revoke or refuse the registration of organizations deemed to be engaging in unlawful activities or for purposes that were incompatible with national security. Some human rights activists claimed that this could be used to restrict NGOs that were critical of the Government. Amendments to the Companies Act passed in 1998 empowered the Registrar of Companies to refuse registration of a proposed company if he is satisfied that the company is likely to be used for any purpose prejudicial to national security or the public interest. The Registrar also may cancel the registration of an existing company and disband it on the same grounds. Opposition parties and NGO activists claimed that the sweeping powers granted to the Registrar of Companies were designed to stifle criticism. The Government denied such charges and stated that financial irregularities were the amendments' main target.

In August 2000, the High Court heard an appeal from the Socialist Party of Malaysia, whose application to form a new political party was rejected in February 1999 by the Registrar of Societies. The Registrar stated that information on the ap-



plication form was incomplete. Supporters of the Socialist Party claimed that the denial was motivated politically and filed an appeal. The case still was pending at year's end.

The Universities and the University Colleges Act also restricts freedom of association. This act mandates university approval for student associations and prohibits student associations, as well as faculty members, from engaging in political activity. Many students, NGOs, and opposition political parties called for the repeal or amendment of the act. A number of ruling coalition organizations and politicians also supported reexamination of the act, but the Government stated that the act still was necessary.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion; however, the Government placed some restrictions on this right. Islam is the official religion; however, the practice of Islamic beliefs other than Sunni Islam was restricted significantly. Religious minorities, which include large Buddhist, Christian, Hindu, and Sikh communities, generally worshipped freely, although with some restrictions. Government funds support an Islamic religious establishment, and it is official policy to “infuse Islamic values” into the administration of the country. The Government imposes Islamic religious law (Shari’a) on Muslims only in some matters and it does not impose Shari’a beyond the Muslim community. Adherence to Islam is considered intrinsic to Malay ethnic identity and therefore Islamic religious laws administered by state authorities through Islamic courts bind all ethnic Malays (and other Muslims) in some matters. The Government also grants funds to non-Islamic religions, but to a more limited degree.

The Registrar of Societies, under the Ministry of Home Affairs, registers religious organizations. Registration enables organizations to receive government grants and other benefits. In May 2001, the Government decided not to approve the Falun Gong Preparatory Committee’s application to register as a legal organization, but this did not effect the Falun Gong’s ability to carry out activities in public.

Under the law and in practice, it is very difficult for Muslims to change religions. In April 2001, a High Court judge rejected the application of a Malay woman who argued that she converted to Christianity, and requested that the term “Islam” be removed from her identity card. The judge ruled that an ethnic Malay is defined by the Federal Constitution as a “person who professes the religion of Islam.” The judge also reaffirmed the March 1999 High Court ruling and stated that only an Islamic court has jurisdiction to rule on the woman’s supposed renunciation of Islam and conversion to Christianity. The ruling makes conversion of Muslims nearly impossible in practice.

In 2000 the State of Perlis enacted a law that stipulated Muslims found guilty of apostasy by a Shari’a court are to be sent to “faith rehabilitation centers.” Since its enactment, there have been no convictions under this law. Such a bill also was proposed at the highest level of the Government. Leaders of PAS said that the penalty for apostasy should be death.

The Government generally respected non-Muslims’ right of worship; however, state governments carefully controlled the building of non-Muslim places of worship and the allocation of land for non-Muslim cemeteries. Approvals for such permits sometimes were granted very slowly. In 1999 the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, and Sikhism (MCCBCHS) protested the planned implementation of Ministry of Housing and local government guidelines governing non-Muslim places of worship. The MCCBCHS specifically complained that the guidelines required an area to have at least 2,000 to 5,000 adherents of a particular non-Muslim faith for a non-Muslim place of worship to be approved. No such requirement exists for Muslim places of worship. In August 2000, these minimum guidelines were relaxed somewhat. The group also argued that, under the guidelines, the Islamic Council of the state in question must approve the establishment of all non-Muslim places of worship. In addition, after years of complaints by non-Islamic religious organizations about the need for Islamic authorities in each state to approve construction of non-Islamic religious institutions, the Minister of Housing and Local government announced that such approval no longer would be required. However, it was unclear whether this change generally would be reflected in state policies and local decisions. For example, in Shah Alam, the Selangor state authorities continued to block construction of a Catholic church.

During the controversy over the proposed new guidelines on non-Muslim places of worship, the MCCBCHS and the Federal Territory Counseling and Service Center separately urged the Prime Minister to create a national “inter-religious” council, although no such council was created. During the year, Suhakam initiated an inter-religious dialog to improve understanding among different religious groups. Leaders of a number of different faiths, including Islam, Christianity, and Buddhism participated.

The proselytizing of Muslims by members of other religions is prohibited strictly; persons proselytizing non-Muslims face no obstacles. The Government discouraged, and in practical terms forbade, the circulation in the peninsular region of the country Malay-language translations of the Bible and distribution of Christian tapes and printed materials in Malay. However, Malay-language Christian materials can be found. Some states have laws that prohibit the use of Malay-language religious terms by Christians, but the authorities did not always enforce them actively. The distribution of Malay-language Christian materials faced few restrictions in the eastern part of the country. Most visas for foreign Christian clergy were approved. Beginning in March 2000, non-Muslim representatives sat on the immigration committee that approves such visa requests.

The Government opposes what it considers to be deviant interpretations of Islam, maintaining that the “deviant” groups’ extreme views endanger national security. In the past, the Government imposed restrictions on certain Islamic groups, primarily the small number of Shi’a. The Government continues to monitor the activities of the Shi’a minority, including those of 55 religious groups believed to be involved in deviant Islamic teachings. In November 2000, the Shari’a high court in the State of Kelantan sentenced four persons to 3 years in jail for disregarding a lower court order to “recant” their allegedly heretical Islamic beliefs and to “return to the true teachings of Islam.” The High Court rejected their argument that Shari’a law had no jurisdiction over them because they had ceased to be Muslims. In August the Court of Appeals reaffirmed the High Court ruling. The four individuals subsequently have filed an appeal with the Federal Court.

The Government periodically detains members of what it considers Islamic deviant sects without trial or charge under the ISA. After release such detainees are subject to restrictions on their movement and residence. For example, in July 2000, the Government used the ISA to detain at least 33 members of the Al-Ma’unah sect, who reportedly were not suspected of involvement in an early July arms theft incident. Fifteen members remained under ISA detention at year’s end.

The Government generally restricted remarks or publications that might incite racial or religious disharmony. This included some statements and publications critical of particular religions, especially Islam. The Government also restricted the content of sermons at mosques. The Government periodically warned against those who delivered sermons in mosques for “political ends” and, occasionally, state governments banned certain Muslim clergymen from delivering sermons at mosques (*see* Section 2.a.). In November Kedah Chief Minister Syed Razak Zain announced that the Government planned to install voice recording equipment in all mosques in the northern State of Kedah in order to monitor imams who were suspected of straying from their religious texts and criticizing the Government. In October 2000, the Chief Minister of Kelantan, who is also the spiritual adviser for the opposition Islamic party PAS, was banned from speaking at a mosque in Selangor. The Chief Minister spoke despite the ban and vowed that he would continue to speak wherever he was invited. He was warned of prosecution if he defied the ban again. The mosque officers who allegedly allowed him to speak were not prosecuted, but they were required to attend a counseling session.

For Muslim children, religious education according to a government-approved curriculum is compulsory. There were no restrictions on home instruction.

In 2000 the Government announced that all Muslim civil servants must attend religious classes, but only classes in Islam would be held. In addition, only teachers approved by the Government would be employed to conduct these classes. During the year, the Government implemented this rule for civil servants.

In family and religious matters, all Muslims are subject to Shari’a law. In 2001 the PAS-led government of Terengganu State passed the Shari’a Criminal Offence Bill (*see* Section 5). The bill sought to impose Islamic law against theft, robbery, illicit sex, drinking alcohol, and the renunciation of Islam. However, a suit arguing that state governments have no authority to make criminal law was filed in the Federal Court to block the implementation of a similar law in the neighboring State of Kelantan. Both cases were pending at year’s end. According to some women’s rights activists, women were subject to discriminatory interpretations of Shari’a law and inconsistent application of the law from state to state.

The Government has a comprehensive system of preferences for ethnic Malays and members of a few other groups known collectively as “bumiputras,” most of whom are Muslim (*see* Section 5).

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens generally have the right to travel, live, and work where they please; however, the Government restricts these rights in some circumstances. The

eastern states of Sabah and Sarawak have the right to control immigration and to require citizens from peninsular Malaysia and foreigners to present passports or national identity cards for entry. In 1998 the Court of Appeal ruled that Sabah and Sarawak, despite their autonomy, still were bound by the federal Constitution in all matters. Thus, the court voided Sabah's expulsion of an attorney from peninsular Malaysia who was involved in several lawsuits against the state government. In May the Federal Court overturned the Appeals Court decision and ruled that Sabah's exclusive control on immigration was provided for in the Constitution and could not be challenged. In June the Sabah State Immigration Department gave the attorney a work permit enabling him to stay and work in Sabah. In 2001 the Government reportedly prohibited 78 citizens from traveling abroad claiming that they had "tarnished the country's image while abroad." Deputy Home Minister Datuk Zainal Abidin Zin told Parliament that the individuals in question were "blacklisted" and would not be issued passports. Also in 2001, the Sarawak state authorities deported a well-known ethnic Chinese education activist and prohibited his return. The Government regulated the internal movement of provisionally released ISA detainees. The Government also used the Restricted Residence Act to limit movements of those suspected of some criminal activities (*see* Section 1.d.).

Citizens must apply for the Government's permission to travel to Israel. Travel to Jerusalem for a religious purpose is allowed explicitly.

The Government has not ratified the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government does not always abide by customary international law in this area. The Government does not recognize the principle of first asylum; however, it sometimes granted temporary refuge to asylum seekers. In 2001 Foreign Minister Datuk Seri Syed Hamid Albar said that Indonesian refugees fleeing violence in Kalimantan would be prevented from entering the country, and the Government continued to refuse to acknowledge that any Indonesian illegal aliens, including Acehnese, had a claim to refugee status. However, the Government enjoyed a mostly cooperative relationship with the UNHCR and generally did not obstruct the UNHCR's efforts to process refugees, including Acehnese, for third-country resettlement.

Beginning on August 1, when the new immigration law went into effect, the Government temporarily restricted access for asylum seekers and refugees to the UNHCR field office in Kuala Lumpur. (The new immigration law provides for 6 months in prison and up to six strokes of the cane for violators. Prior to the implementation of the law, a 4-month grace period was given for all illegal immigrants to depart the country.) During the approximately 1 week that access to UNHCR was restricted, police arrested over 100 individuals in front of the UNHCR offices. Some individuals may have been refugees and others reportedly were asylum seekers who had scheduled interviews with the refugee agency. However, the Government subsequently granted UNHCR officials access to detention camps to identify and to interview potential refugees who might have been caught in the dragnet for illegal immigrants. The Government reportedly assured UNHCR that no action against possible refugees and asylum seekers would be taken until the refugee agency had identified the ones that merited asylum interviews (*see* Section 1.c.).

According to news reports, three Filipino children died during deportation from Sabah. In September there were allegations that police raped a 13-year-old Filipino girl in an immigrant detention camp in Sabah. Following widespread media coverage and pressure from the Government of the Philippines, Prime Minister Mahathir publicly pledged to have the allegations investigated. Further investigation after the girl was deported to the Philippines revealed that she was a Malaysian citizen, and she subsequently returned to Sabah. No additional information was available at year's end.

In June police arrested 18 Muslim Rohingya asylum seekers whose encampment in the UNHCR compound prevented other asylum seekers from approaching the agency. Newspapers reported they were sent to Semenyih illegal immigrants' detention camp in Selangor for deportation to Burma after their requests for refugee status were denied by the UNHCR (*see* Section 1.d.).

There were some forced expulsions of asylum seekers and refugees during the year.

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

By law citizens have the right to change their government through periodic elections; however, while votes generally were recorded accurately, there were some irregularities that affected the fairness of elections, and in practice opposition parties were unable to compete on equal terms with the governing coalition (which has held power at the national level since 1957) because of significant restrictions on

campaigning, freedom of assembly, freedom of association, and access to the media. Nevertheless, opposition candidates campaigned actively, with some success in state and national elections. For example, a number of opposition parties contested in the state election in Sarawak in 2001 and in five by-elections that were held during the year. In July the opposition retained a seat in the Kedah state assembly but lost a Parliamentary seat in a tightly contested election. In the November 1999 elections, the opposition more than doubled the number of its seats in the national parliament from 20 to 45, out of a total of 193.

The country has a parliamentary system of government. National elections are required at least every 5 years and have been held regularly since independence in 1957. The Malay-based UMNO party dominates the ruling National Front coalition, which has ruled the country continuously since independence. Since 1969 the National Front coalition always has maintained at least a two-thirds majority in Parliament, which enables the Government to amend the Constitution at will. Over the years, power increasingly has been concentrated in the executive branch and in the Prime Minister.

The lack of equal access to the media was the most serious problem encountered by the opposition in the November 1999 elections (*see* Section 2.a.). Government officials frankly said that government television and radio would not carry reporting on the opposition. The country's two private television stations also had virtually no impartial reporting on the opposition. The mainstream English- and Malay-language newspapers carried biased coverage of domestic politics as well. In addition, opposition parties encountered difficulties in placing paid advertisements in newspapers; however, a few opposition advertisements did appear, after editing by the newspapers, in English- and Chinese-language newspapers.

Opposition leaders credibly claimed that the Election Commission, which is responsible for holding and monitoring elections, did not carry out its duties impartially. The Election Commission is nominally independent but is perceived to be under the control of the Government. In June 1999, Deputy Prime Minister and Home Minister Datuk Seri Abdullah Badawi said that there was no need to consult the opposition on the appointment of a new Election Commission chairman. The Election Commission stated that the NGOs were permitted to form an independent election watch organization, but the organization was accorded no special privileges. The Government continued to publicly reject the idea of foreign observers.

Opposition complaints of irregularities by election officials and allegations of other election fraud during the 1999 campaign were not substantiated during the year, and according to most observers, there was no evidence that the conduct of election officers significantly affected the results of the 1999 elections. Opposition leaders complained that in the past local government officials who served as election officers were not always neutral. The Election Commission later announced that it completed its investigation into these complaints, but it did not reveal its findings. In the most recent elections, the Government did not permit international monitoring or adequately allow for domestic NGO monitoring efforts.

Opposition parties and some NGOs alleged that defective voting rolls led to some fraudulent votes. In Sabah state elections in 1999, opposition leaders accused the ruling coalition of employing "phantom" voters (illegal aliens and other fraudulently documented voters). In June 2001, a High Court judge in Sabah ruled that the 1999 election of a ruling coalition candidate, Yong Teck Lee, to the state assembly seat in Likas was null and void due to the presence of phantom voters on the electoral rolls. However, in the by-election that followed, Yong won by a margin wider than that in his 1999 victory. Opposition representatives charged that the Government did nothing to clean the electoral rolls of phantom voters following the judge's ruling and before the by-election was held. In September Yong lost his appeal to the Federal Court on this case, and once again was forced to relinquish his seat. Analysis by NGOs of the voting rolls used in the national elections also revealed irregularities, such as deceased persons on the rolls, multiple voters registered under single identity card numbers, and other anomalies; however, according to most observers, there was no evidence that these irregularities significantly affected the results in more than a handful of races. According to news reports, the Election Commission is in the process of cleaning up the voter rolls and eliminating the names of unauthorized persons from the lists.

Postal votes (absentee ballots) by police and military personnel and their spouses also were a concern. The Government, citing security concerns, did not allow party agents to monitor postal vote boxes placed on military and police installations. Opposition parties questioned the rationale for such security restrictions. Opposition parties and NGOs raised credible allegations of improper manipulation of postal votes, including statements by former military personnel that their ballots were filled out by others or under the eye of commanding officers. For the November 1999

elections, the Election Commission changed some procedures to allow better monitoring by Election Commission officers. Opposition parties continued to call for monitoring absentee votes by party agents.

The anonymity of balloting also was a potential concern. Ballots were marked with a serial number that could be matched against a voter's name. While there was no evidence that the Government ever traced individual votes, some opposition leaders alleged that the potential to do so had a chilling effect on some voters, particularly civil servants.

Gerrymandering diluted the votes of some citizens. The Constitution states that parliamentary constituencies should have approximately equal numbers of eligible voters, although the same section states that greater weight should be given to rural constituencies. In practice these guidelines often were ignored. For example, in Sabah constituencies are weighted strongly against the state's large Christian population. Nationwide, the constitutional provision giving greater weight to rural constituencies greatly dilutes the voting power of urban residents. The single member, winner-take-all system also diminishes the political power of the minority groups. Because of the changing dynamics of ethnic politics, ethnic gerrymandering of parliamentary constituencies, used against the opposition in the past, is believed no longer to be as great an advantage to the ruling coalition. The Government conducted a nationwide electoral redistricting exercise during the year. While the results were not final, preliminary reports suggested that states in which the ruling coalition is strong will gain the majority of the new districts (and parliamentary and state assembly seats) created.

Other government measures hampered the opposition's ability to compete with the incumbent ruling coalition. For example, the Government on several occasions issued public warnings to civil servants, including teachers not to support the opposition (*see* Section 2.a.). Students faced certain restrictions on political activity (*see* Sections 2.a. and 2.b.). Government leaders routinely and openly threatened to suspend the allocation of federal funds beyond the constitutionally mandated minimum to constituencies that elected opposition representatives. Ruling coalition Members of Parliament received a government allocation totaling in aggregate approximately \$25 million (95 million ringgit). Opposition Members of Parliament received no such funds.

In the past, the opposition complained about restrictions on public assemblies during the campaign period (*see* Section 2.b.). However, in the period prior to the November 1999 elections, police did not implement restrictions vigorously, and the opposition held many large rallies. The opposition also stated that the short official campaign period gave an advantage to the incumbent ruling coalition. However, de facto campaigning began long before the elections, and there was little evidence that the short official campaign period had much practical effect. In defending its ban on all political meetings, the Government noted that there was no need for the opposition to continue campaigning in a nonelection year.

In September Parliament passed an amendment to the Election Offenses Act that stated that anyone raising "sensitive issues" such as religion or race before, during, or after an election would be removed from the electoral roles or banned from voting or standing in an election for 5 years. It also prescribed a prison sentence of up to 5 years and a \$13,000 (50,000 ringgit) fine for violators of the law.

Under the electoral law, unsuccessful candidates may appeal election results to special election courts in instances of alleged fraud, vote tampering, or other infractions of electoral rules. According to the Elections Commission, all petitions were either withdrawn by the petitioners or were dismissed due to lack of evidence. In March 2000, the High Court ruled that the Election Commission and returning officers may not be named as "necessary parties" in petitions filed with election courts by unsuccessful candidates. In July Parliament passed an amendment to the electoral law that forbids judicial scrutiny of voter rolls after the Election Commission certified them.

In the past, within the ruling UMNO party, there was active political debate. "No-contest" rules for leadership positions and generally increased intolerance of dissent limited, but did not eliminate, UMNO's role as a vehicle for public debate. However, after the removal of Deputy Prime Minister Anwar in 1998, intolerance of dissent within UMNO increased, and a 1998 extraordinary UMNO Assembly approved a series of measures designed to limit independent grassroots initiatives. There were no contests for the top two leadership positions in UMNO in 2000 and no party Supreme Council elections during the year. At the UMNO General Assembly in May 2000, 3 vice president slots and 25 elected seats on the Supreme Council were contested vigorously, with a number of candidates known not to be favored by party leaders; however, it was announced before the General Assembly that there would

be no contest for the Party President and Deputy President, positions held respectively by Prime Minister Mahathir and Deputy Prime Minister Abdullah.

Elections for key leadership positions in the MCA, originally scheduled for June, were postponed until after the next parliamentary elections. Some observers suggested that the vote was postponed to ensure that deep divisions within the party did not undermine the ruling coalition's electoral prospects.

Over the years, Parliament's function as a deliberative body deteriorated. Legislation proposed by the Government rarely was amended or rejected. Legislation proposed by the opposition never was given serious consideration. Opposition opportunities to hold legislation up to public scrutiny have diminished. In December 2001, a Member of Parliament from the opposition Democratic Action Party was suspended without pay for 6 months after publicly criticizing the parliamentary Speaker for disallowing discussion concerning corruption in the process of certifying lawyers. The 1995 Parliament amended its rules to strengthen the power of the Speaker and to curb parliamentary procedures heavily used by the opposition. The amendments empowered the Speaker to ban members he considered unruly for up to 10 days, imposed limits on deputies' ability to pose supplementary questions and revisit nongermane issues, and established restrictions on the tabling of questions of public importance. Further measures in 1997 and 1998 limited members' opportunities to question and debate government policies even more severely. In 2001 an amendment to the parliamentary Standing Orders permitted the Speaker to edit written copies of members' speeches before the speeches were delivered. Nonetheless, government officials often faced sharp questioning in Parliament, although this was not always reported in detail in the mainstream press. State assemblies also limited debate.

After the 1969 intercommunal riots, the Government abolished elected local government in favor of municipal committees and village chiefs appointed by state governments. Some politicians and NGO activists advocated the reintroduction of local government elections. Even some ruling party municipal officials noted that local bodies were simply "rubber stamps" for the Government.

Women face no legal limits on participation in government and politics, and the Government proposed a "plan of action for the advancement of women" to redress inequalities that do exist. At year's end, 3 of 28 cabinet ministers were women. Women held 20 of 193 seats in the elected lower house of Parliament, and they held 19 of 69 seats in the appointed upper house. In 2001 the Prime Minister established the Ministry of Women's Affairs and Family Development, and appointed a prominent female politician as its first Minister. In 2000 Tan Sri Doctor Zeti assumed the post of Central Bank Governor as the first woman to be appointed to the post. Also in December 2000, Ainum Mohamed Saaid was appointed as the Attorney General, the first woman to hold that position. Originally appointed for a 2-year term beginning in January 2001, Ainum, citing ill health, was replaced at the end of 2001. In 1998 the Minister of National Unity and Social Development said that the country would not achieve its goal of 30 percent female representation in the Government by 2005. The Minister said that the 1998 rate of participation (defined as the percentage of female representatives in Parliament and in state assemblies) was between 6 and 7 percent. The Islamic opposition party does not allow female candidates to stand as candidates for the lower house; however, the party has a female senator. In the past, it has supported female candidates of other parties.

Ethnic minorities are represented in cabinet-level positions in government, as well as in senior civil service positions. The political dominance of the Malay majority means in practice that ethnic Malays held the most powerful senior leadership positions. Non-Malays filled 9 of the 28 cabinet posts and 15 of 28 deputy minister positions. An ethnic Chinese leader of a component party of the ruling coalition held executive power in the State of Penang.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of NGOs, including the Bar Council and other public interest groups, devoted considerable attention to human rights. The Government generally tolerated their activities but often did not respond to their inquiries or press statements. However, government officials met with NGOs on several occasions during the year. Government officials harshly criticized domestic NGOs for collaborating with foreigners, including international human rights organizations. Nonetheless, at year's end, no group was banned or decertified. In the past, public apathy and racial divisions (non-Malays dominated most domestic human rights NGOs) limited the effectiveness of NGOs. However, public discontent over the 1998 removal and subsequent imprisonment of Deputy Prime Minister Anwar encouraged some NGOs to

speak out against the Government, and it led to the increased involvement of ethnic Malays in NGO activity.

In 1998 the Government amended the Companies Act to grant the Registrar of Companies wide powers to block or disband organizations deemed prejudicial to national security or the national interest (*see* Section 2.b.). In 2001 Parliament amended the Registration of Businesses Act to enable the Registrar to refuse or to revoke the registration of organizations deemed to be engaging in unlawful activities. The Government generally did not allow international human rights organizations to form domestic branches; however, it usually did not restrict access by representatives of international human rights organizations. The Government did not allow Amnesty International (AI) to set up a branch as an NGO. However, AI incorporated itself as a business, and it was able to function much like an NGO. In recent years, the Government did not revoke the registration of any human rights NGO.

Since its establishment in April 2000, the National Human Rights Commission, Suhakam, has come to be seen by some analysts as a credible monitor of the human rights situation in the country and a check on police activities that previously lacked oversight. However, civil society leaders expressed skepticism regarding the strong civil-service orientation of the majority of the new commissioners appointed in April, saying that the Commission would adopt a “progovernment” perspective as a result. To register its concern, a group of leading human rights NGOs formally disengaged from the Commission for a period of 100 days.

The legislation that created Suhakam defines human rights as “the fundamental liberties provided for” in the Constitution and restricts the application of the Universal Declaration of Human Rights to those provisions consistent with the Constitution. In 1999 prior to Suhakam’s creation, opposition leaders and NGOs, including the Bar Council, criticized the definition of human rights as too narrow. Further, Suhakam is not empowered to inquire into allegations relating to ongoing court cases and must cease its inquiry if an allegation under investigation becomes the subject matter of a court case.

In June Suhakam released its second annual human rights report. The report criticized detentions without trial and reiterated Suhakam’s opposition to government-imposed restrictions on freedom of assembly but also praised the August 2001 Constitutional amendment prohibiting discrimination based on gender. The report provoked little public response and an ambivalent reaction among civil society groups.

During the year, Suhakam Commissioners continued to travel throughout the country to educate community leaders, including police officials, on the purposes of the Commission and the importance of human rights. Commissioners also made several visits to prisons throughout the country to monitor conditions. Suhakam issued press statements and held press conferences after several of their visits. In its second annual report, Suhakam published its findings regarding the rights of ISA detainees, the rights of remand prisoners, and the rights of young prisoners. In August the Vice Chairman of Suhakam provoked controversy among human rights groups when he said publicly that the Government should organize rehabilitation programs for ISA detainees. In June Suhakam also held an inquiry into the condition of ISA detainees. The report on this inquiry has not been made public yet.

While initially skeptical, some observers acknowledged Suhakam as one of the few institutions in society with any ability to challenge, however distantly, executive control. However, following former Chairman Musa Hitam’s October 2001 statement that human rights would need to take a back seat in the fight against terrorism, the Commission has assumed a lower profile in carrying out its mission and has not often publicly challenged the Government on sensitive subjects. The new Chairman of the Commission, former Attorney General Abu Talib, appeared to favor a low-key, behind-the-scenes approach to promoting human rights.

#### *Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution provides for equal protection under the law and prohibits discrimination against citizens based on religion, race, descent, or place of birth. In 2001 the Parliament unanimously approved a Constitutional amendment barring discrimination on the basis of sex. However, discrimination based on some of these factors persisted. For example, government policies gave preferences to ethnic Malays in housing, home ownership, the awarding of government contracts, educational scholarships, and other areas. Neither the Constitution nor other laws explicitly prohibited discrimination based on physical or mental disabilities, but the Government promoted greater public acceptance and integration of persons with disabilities.

*Women.*—Violence against women remained a problem. Spousal abuse drew considerable government, NGO, and press attention. According to the Family and

Women Development Ministry, there were 3,107 cases of domestic violence reported in 2001, compared to 3,468 in 2000.

The Domestic Violence Act addresses violence against women in the home. However, women's groups criticized the act as inadequate and called for amendments to strengthen it. In their view, the act fails to protect women in immediate danger by requiring separate reports of abuse to be filed with both the Welfare Department and the police, causing delay in the issuance of a restraining order against the perpetrator. Women's rights activists also highlighted the fact that because the act is a part of the Penal Code, legal protection for victims is limited to cases in which visible evidence of physical injury is present, despite its interpretation to include sexual and psychological abuse.

Although the Government, NGOs, and political parties established shelters and offered other assistance to battered spouses, activists asserted that support mechanisms for victims of domestic violence remained inadequate. Police responses and sensitivity to complaints of domestic violence improved, but women's rights activists claimed that the police need additional training in handling domestic abuse as well as rape cases.

Domestic violence complaints are rare under Islamic law. Some Shari'a experts have urged Muslim women to become more aware of the provisions of Shari'a that prohibit spousal abuse and provide for divorces on grounds of physical cruelty. Nonetheless, Shari'a generally (each state has a separate code) prohibits wives from disobeying the lawful orders of their husbands. These provisions often present an obstacle to women pursuing claims, including charges of abuse, in Shari'a courts against their husbands, although Muslim women are able to file complaints in the civil courts.

Spousal rape is not a crime. Theoretically a man who raped his wife could face charges of assault; however, women's rights activists claimed that no man has been convicted under such circumstances.

Reports of rape were common in the press and among women's rights groups and NGOs. According to Royal Malaysian police statistics, as of August there were 984 reported cases of rape during the year. In 1999 a women's NGO issued a report that stated that the incidence of rape had increased 48 percent in the 5-year period from 1993 to 1998; more than 50 percent of all rape victims were under age 16. Many government hospitals have set up crisis centers where victims of rape and domestic abuse can make reports without going to a police station. The NGOs and political parties also cooperate in providing counseling for rape victims. However, cultural attitudes and a perceived lack of sympathy from the largely male police force lead many victims not to report rapes. According to the Ministry of Women and Family Development and a leading woman's NGO, only 10 percent of rape cases are reported to the police. In a 2000 study involving 417 court files from 7 state capitals and Kuala Lumpur, even when alleged rape was reported, only 1 in 5 cases was heard in court, and only 1 percent of the reported cases resulted in a rape conviction. The Penal Code states that a convicted rapist shall be punished with imprisonment for a term not less than 5 years and not more than 20 years. Some rapists received heavy punishments, including caning, but women's groups complained that some rapists received inadequate punishments. In September a police constable was acquitted of charges of raping two foreign women who were in police custody. The Session Court ruled that the acts had been consensual. Following sharp public criticism of the verdict, the Attorney General's office filed an appeal, which was still pending at year's end.

In July the PAS-controlled Terengganu state assembly passed the Shari'a Criminal Offenses Bill (*see* Section 2.c.). The Government, led by Women and Family Development Minister Sharizat Abdul Jalil, argued that the proposed law discriminates against women, especially in regard to rape cases. Under the new state law, conviction for rape would require four Muslim male eyewitnesses of good standing to testify if adequate physical evidence was lacking. Women or non-Muslims would be barred from testifying. An amendment to an earlier version of the law provides for rape convictions (with lesser penalties) even if four male eyewitnesses could not be produced, in the event that circumstantial evidence was deemed sufficient. Illicit sex is still punishable with death by stoning if the man or woman is married. For unmarried offenders, the punishment is 100 lashes and 1 year in prison. One prominent NGO critic of the law said that it was contrary to Islamic teachings, as the provision requiring four male witnesses originally was intended to protect women from false accusations of illicit sex and not as an additional burden of proof for rape victims. However, this law remained in limbo at year's end, as its implementation required an amendment to the Federal Constitution. The suit filed at the Federal Court challenging a similar proposed law in the State of Kelantan on the constitu-



tional grounds that states have no authority over criminal law was pending at year's end.

According to a well known activist, some girls in provincial areas are subject to varying forms of female genital mutilation (FGM). Some Malay girls receive a tiny ritual cut to the clitoris or participate in a ceremony where a blade is brought close to the clitoris. Almost all Malay women, including Muslim women activists, do not believe that this constitutes mutilation.

A 1998 International Labor Organization (ILO) study estimated that there were approximately 40,000 to 140,000 prostitutes in the country. The Government strongly disputed this estimate, and the police stated that they would investigate NGOs that might have provided the information that formed the basis of the study. Since prostitution itself is not illegal, statistics are only available for foreigners arrested for immigration or other offenses with suspected involvement in prostitution. The number of foreign persons arrested with suspected involvement in prostitution increased during the year. Police attributed the increase to more vigorous enforcement efforts. Police also believed that the increasing number of arrests was a result of greater numbers of women trafficked to the country from ASEAN countries, China, and Uzbekistan (*see* Section 6.f.).

The country was a source and destination country for trafficking in women for purposes of prostitution (*see* Section 6.f.).

In 1999 the Ministry of Human Resources issued a Code of Practice on the Prevention and Eradication of Sexual Harassment in the Workplace. Women's groups noted the code's detailed definition of sexual harassment and attempted to raise public awareness of the problem, but they criticized the fact that adherence to the code is voluntary and not legally binding. Women's rights activists claimed that a law on sexual harassment would be more effective than a code of practice. In the first year following the issuance of the code, the Human Resources Minister advocated voluntary compliance by employers and advised unions to incorporate policies against sexual harassment into their collective labor agreements. The Malaysian Employers Federation criticized any attempt to legislate against sexual harassment in the workplace, arguing that government-imposed policies would unduly restrict the management of labor relations.

Since the code's introduction, the number of reported incidents of sexual harassment has risen. The number of cases reported to the Labor Department in 2000 was 61, more than double the 29 cases reported in 1999. However, the Human Resources Ministry acknowledged in 2000 that shame and embarrassment often prevented women from reporting sexual harassment. There still are many cultural obstacles to women who try to pursue sexual harassment charges.

Despite increased public awareness of the problem of sexual harassment in the workplace, in 2000 the Government acknowledged that the reluctance of employers to adopt the code may force it to enact additional legislation regarding sexual harassment. In 2001 the Human Resources Minister announced the creation of a special monitoring unit in the Labor Department to monitor and investigate discriminatory practices, including sexual harassment, against women in the workplace. According to Women and Family Development Minister Shahrizat, by September 2001 only 1 percent of registered companies in the country had adopted the code. Shahrizat also said in September that her Ministry would conduct a review of the code's effectiveness in March 2002. Despite the 2001 approval of a constitutional amendment banning discrimination based on sex, women continued to be the victims of legal discrimination.

In matters of income tax, government pension benefits, and transmission of citizenship, women were disadvantaged. The cultural and religious traditions of the major ethnic groups also heavily influenced the condition of women in society. In family and religious matters, Muslim women are subject to Shari'a, which is not interpreted uniformly among the country's 13 states. Polygyny is allowed and practiced to a limited degree. Islamic inheritance law varies by state, but it generally favors male offspring and relatives. However, one state, Negeri Sembilan, provides for matrilineal inheritance. The number of women obtaining divorces under the provisions of Shari'a that allow for divorce without the husband's consent, while small, is increasing steadily.

A 2001 constitutional amendment rendered gender discrimination in immigration policy illegal. Prior to the change, foreign spouses of male citizens and female citizens were treated differently under the law. Male citizens faced fewer legal and administrative obstacles to obtaining permanent residency status for their foreign wives than did female citizens with foreign husbands. While the change allowed some foreign men to acquire permanent residence, the new regulations do not apply to foreign laborers who marry female citizens. In addition, foreign women who become estranged or divorced from their citizen husbands would no longer face depor-

tation. These women would be eligible for 12-month social visit passes, and they would be able to apply for permanent residency.

Women's rights advocates asserted that women still face discriminatory treatment in Islamic courts due to prejudicial interpretation of Islamic family law and the lack of uniformity in the implementation of family laws among the various states. In July the Sultan of Selangor, who is also head of the Islamic religion in the state, acknowledged the bias against women of Shari'a court judges. An April 1999 press report described complaints by NGOs and women's groups of rude and insensitive treatment by staff and officers of Islamic courts. Women activists asserted that these problems continued.

Muslim couples are required to take premarital courses. In previous years, female activists complained that the courses, as implemented, perpetuated gender discrimination by misinforming women of their rights in marriage. However, there were no reports during the year of such misinformation regarding marriage rights.

State governments in Kelantan and Terrengganu, which are controlled by the Islamic opposition party, made efforts to restrict Muslim women's dress. Between January and May, a local council in Kelantan fined 120 Muslim women for failing to adhere to the dress code while at work. In 2000 the Terrengganu state government introduced a dress code for government employees and workers on business premises. Terrengganu's executive counselor in charge of women's and non-Muslim's affairs claimed that the dress code was designed to protect the image of Muslim women and to promote Islam as a way of life. One Muslim women's NGO criticized the new requirement, stating that forced compliance with a state-mandated dress code is not consistent with the values of the Koran.

Non-Muslim women are subject to civil (secular) law. Changes in the Civil Marriage and Divorce Act increased the protection of married women's rights, especially those married under customary rites. The Guardianship of Women and Infants Act was amended in 1999 to give mothers equal parental rights. Four states extended the provisions of the amended bill to Muslim mothers. Women's groups urged all states to do the same. In September Parliament approved an amendment to the Group Settlement Act that gives wives of settlers joint stake in the land awarded to their husbands.

In 2001 the Prime Minister established a cabinet post for Women's Affairs and Family Development. Shahrizat Abdul Jalil heads the new ministry and is credited with leading the successful effort to amend the federal Constitution to prohibit sex discrimination and launch a public campaign in August 2001 against violence in the home.

Government policy supports women's rights, and the Government undertook a number of initiatives to promote equality for women. The Government also promotes the full and equal participation of women in education and the work force. Women are represented in growing numbers in professional positions, but women's groups argued that the level of participation was still disproportionately low. However, in the scientific and medical fields, women made up more than half of all university graduates and the total representation of women at universities increased from 29 percent in 1970 to over 50 percent of the student population in recent years. According to statistics released in the Government's Economic Report 2000-01, women constituted 44 percent of the labor force. The proportion of women in the civil service rose from approximately 33 percent in 1990 to approximately 44 percent in 2001, and women occupied some high-ranking civil service positions. According to the national union of bank employees, 65 percent of members were women, but only one out of eight principal banking officials was a woman.

*Children.*—The Government has demonstrated a commitment to children's rights and welfare; it spends approximately 20 percent of the national budget on education. The Government provides free education for children through 15 years of age. Although primary education is deemed compulsory by the Government, there is no legal requirement or enforcement mechanism governing school attendance. Actual attendance at primary school is 96 percent. Secondary school attendance is 82 percent. A variety of programs provide low cost health care for most children. An office in the Ministry of National Unity and Social Development oversees children's issues.

In August the Child Act of 2001 went into force. The act incorporates the principles of the U.N. Convention of the Rights of the Child. The act stipulates more severe punishments for child abuse, molestation, neglect, and abandonment. It also mandates the formation of a children's court, which, the Government stated, would better protect the interests of children. The bill allows caning, but this punishment is limited to male children between the ages of 10 and 18 years, who may receive a maximum of 10 strokes with a "light cane." As the new act went into force, three other laws governing child prostitution, child abuse, and delinquency—the Women

and Girls Protection Act, the Juvenile Courts Act, and the Child Protection Act—were repealed.

The Government recognized that sexual exploitation of children and incest were problems. Incest in particular was a problem in rural areas. Child abuse received wide coverage in the press. A July amendment to the Penal Code provides 6 to 20 years' imprisonment and caning for individuals convicted of incest. However, under the Evidence Act, the testimony of children is accepted only if there is corroborating evidence. This poses special problems for molestation cases in which the child victim is the only witness. Some judges and others recommended that the Evidence Act be amended to accept the testimony of children and that courts implement special procedures to hear the testimony of children. In 2001 a women's NGO began promoting an education package about child sexual abuse. The package of booklets, videos, and discussion topics were designed for use in primary schools. Forty schools asked to use the materials, and the NGO hopes the Ministry of Education will introduce the package into the curriculum of all primary schools.

Statutory rape occurred and was prosecuted. However, Islamic law provisions that consider a Muslim girl an adult after she has had her first menstruation sometimes complicated prosecution of statutory rape. Such a girl may be charged with "khalwat" or "close proximity" (the charge usually used to prosecute premarital or extramarital sexual relations), even if she is under the age of 18 and her partner is an adult. Thus Shari'a sometimes punishes the victims of statutory rape. Moreover Shari'a courts sometimes were more lenient with males who were charged with "close proximity." However, in many cases Muslim men are charged and punished for statutory rape under secular law. In 1999 a women's NGO issued a report that stated that the incidence of rape had increased 48 percent in the 5-year period from 1993 to 1998; more than 50 percent of all rape victims were under 16 years of age.

Child prostitution existed. However, child prostitutes often were treated as delinquents rather than victims. According to police statistics, between January and October, 170 underage girls were detained and sent to rehabilitation centers for involvement in immoral activities. Statistics for the apprehension of traffickers were not available (*see* Section 6.f.).

Child labor occurs in certain areas of the country (*see* Section 6.d.).

*Persons with Disabilities.*—The Government did not discriminate against persons with disabilities in employment, education, or in the provision of other state services. There is a public sector regulation reserving 1 percent of all public sector job openings for persons with disabilities. However, few public facilities were adapted to the needs of persons with disabilities, and the Government has not mandated accessibility to transportation or public buildings for persons with disabilities. In December 1999, Former Minister of National Unity and Social Development Zaleha reportedly said that "all buildings" would be made accessible to persons with disabilities within 2 years. Although it was not possible to verify that all buildings were made accessible to persons with disabilities, new government buildings were outfitted with ramps for persons with disabilities.

The Government continued to implement efforts made to address the needs of persons with disabilities. In 2000 the Ministry of Housing and Local government announced that the uniform building by-laws would be amended to ensure that all newly constructed buildings included a full range of facilities for persons with disabilities, including special parking lots, elevators, and restrooms. By year's end, it was not possible to verify whether building by-laws were amended. In 2001 the Human Resources Ministry launched the Code of Practice for the Employment of Persons with Disabilities in the Private Sector. According to the Government, this code is a guideline for all government agencies, employers, employee associations, employees, and others to place suitable persons with disabilities in private sector jobs. In addition, the federal budget for 2001 included several provisions to ease financial burdens on persons with disabilities and to improve work, education, and training opportunities. In its second annual report, Suhakam recommended the passage of a Disabled Persons Bill to address discriminatory practices and to eliminate architectural and communication barriers facing persons with disabilities. However, no such bill has been introduced.

Special education schools exist, but they were not sufficient to meet the needs of persons with disabilities population. However, the Government and the general public were becoming more sensitive to the needs of persons with disabilities. The Government undertook many initiatives to promote public acceptance of persons with disabilities, to make public facilities more accessible to persons with disabilities, and to increase budgetary allotments for programs aimed at aiding them. Provisions for persons with disabilities in the 2001 budget include several allowances for tax relief for working spouses of persons with disabilities, full exemption for all medical fees at government hospitals, and full exemption on fees for travel documents. All equip-

ment designed specifically for use by persons with disabilities would also be exempt from all import duties and sales taxes. Recognizing that public transportation is not disabled-friendly, the Government reduced the excise duty for persons with disabilities on locally made cars and motorcycles by 50 percent. The most recent statistics state that persons with disabilities made up 7 percent of the population.

*Indigenous Persons.*—Indigenous people (the descendants of the original inhabitants of peninsular region of the country and the Borneo states) generally enjoyed the same constitutional rights as the rest of the population. However, in practice federal laws pertaining to indigenous people of the peninsular region known as the Orang Asli vest considerable authority in the Minister for Rural Development, (who oversees the Department of Orang Asli Affairs) to protect, control, and otherwise decide issues concerning this group. The indigenous people of the Borneo states have no special government department dedicated to their concerns. As a result, indigenous people, particularly in peninsular Malaysia, have very little ability to participate in decisions.

The Orang Asli, who number approximately 133,000, were the poorest group in the country. According to government statistics, over 80 percent of the Orang Asli live below the poverty level. The percentage of Orang Asli who led nomadic lifestyles has dropped to less than 1 percent. The Government announced development projects for the Orang Asli from time to time. According to the head of an NGO working with Orang Asli, school dropout rates among Orang Asli increased markedly over previous years, and the percentage of Orang Asli living below the poverty line increased.

Under the Aboriginal People's Act, the Orang Asli who had been granted land on a group basis were permitted to live on Orang Asli reserves but did not possess land rights. The Social Development Ministry announced in 1996 that state governments, which make decisions affecting land rights, agreed to issue titles to Orang Asli. Surveying and transfer of title has proceeded slowly. However, during the year a number of Orang Asli received land titles to leased land. According to the leader of an NGO who worked on Orang Asli issues, over the years the total area of land reserved for Orang Asli has decreased, and some land previously set aside as Orang Asli reserve has been re-zoned for developmental use.

The federal budget for the year did not specify the amount of money allotted to the Orang Asli community. Programs targeting Orang Asli were scattered throughout the budget and included poverty eradication, improvement of education and social welfare, and upgrading the infrastructure of resettlement villages. In addition, in 2000 National Unity and Social Development Minister Siti Zaharah Sulaiman announced a "stay in school" program to address the increasing number of school dropouts in the Orang Asli community. The Government allocated \$1.2 million (4.8 million ringgit) for the project. In August the Cabinet approved the formation of a national advisory council for the development of Orang Asli. Two NGOs criticized the fact that only 5 out of 17 council members were Orang Asli.

The uncertainty surrounding Orang Asli land ownership makes them vulnerable to exploitation. Logging companies continued to encroach on land traditionally held by Orang Asli and other indigenous groups in the Borneo states. In January Orang Asli in the State of Pahang attempted to block logging trucks from entering their land. According to one NGO, the state ministry of Orang Asli Affairs later gave out cash compensation to placate the protesters. During the year, there were continued complaints about land encroachment. In some cases, Orang Asli sued to protect their land. In 1996 a suit was brought by Orang Asli Temuans who lost land during the construction of the Kuala Lumpur International Airport highway. In April the High Court ruled in favor of the Orang Asli Temuans, arguing that they should be considered the rightful owners of the land and ordered the Selangor state government to pay rightful compensation.

Although state law recognizes the right of indigenous people to land under "native customary rights," in the Borneo states the definition and extent of these lands have been in dispute. However, in a judgment in May 2001, the High Court in the provincial capital of Kuching, Sarawak, ruled that native customary rights of the indigenous people of Sarawak do not exist because of statute; rather, they are historically recognized rights which existed long before independence. The judgment further recognized that forests, rivers, and streams adjacent to indigenous communities also are included under native customary rights. The state government of Sarawak appealed the decision. Nonetheless, indigenous people in the State of Sarawak continued to protest the encroachment by state and private logging and plantation companies onto land that they consider to be theirs under customary rights. In July for example, about 200 indigenous people in Miri, Sarawak, failed to get a court injunction to stop two timber companies from conducting logging activities in an area they claimed was their ancestral land. They have appealed the decision.

Laws allowing condemnation and purchase of land do not require more than perfunctory notifications in newspapers to which indigenous people may have no access. The result was that many indigenous people were deprived of their traditional lands with little or no legal recourse. In 2000 the Sarawak state assembly passed amendments to the state land code that the state government stated would increase the rights of indigenous people to exert control over their traditional lands. A group of NGOs disputed the state government's characterization of the legislation and claimed that it would in fact further diminish the ability of indigenous people to defend their rights on land issues. Indigenous people displaced by the Bakun Dam project in Sarawak continued to protest the lack of transparency in the resettlement process, inadequate compensation for their lands and homes, and destruction of their traditional way of life. However, the state government dismissed these complaints, claiming that only the older generation had reservations about the resettlement program. As a result of its October 2001 fact-finding trip, Suhakam reported that the Bakun Dam project in Sarawak encroached upon the native land of the Penans and that this encroachment caused the degradation of the forests around Penan villages and the pollution of their water supply. The Commission also noted that the development of oil palm plantations encroached on traditional lands. In its 2001 annual report, Suhakam recommended that the state government allocate alternative land for settlers who were displaced due to the Bakun Dam project, urged the state government to subsidize the cost of their new homes, and provide adequate and equitable compensation to the families.

Suhakam stated in the same report that indigenous people should be involved in the decision-making process of any development projects that have a direct impact on them. In 2001 an NGO working on behalf of indigenous people in the State of Sarawak expressed deep concern over the passage of the state assembly's Land Surveyors Bill, which requires land surveys to be carried out exclusively by state-licensed land surveyors. The NGO claimed that indigenous people struggle to prove their land rights and depend on NGOs to assist them with mapping. NGOs help to create maps that can then be used in court to protect Nature Conservatory Rights land from logging, development, and palm oil cultivation. The NGO contended that without assistance from independent surveyors, indigenous people were legally powerless to dispute encroachment on their land.

*National/Racial/Ethnic Minorities.*—The Government implemented extensive preferential programs designed to boost the economic position of the Malay majority, which remained poorer on average than the Chinese minority. Such preferential programs and policies limited opportunities for non-Malays in higher education, government employment, business permits and licenses, and ownership of land. According to the Government, these programs were instrumental in ensuring ethnic harmony and political stability. Ethnic Indian citizens remained among the country's poorest groups. The Chinese and Indian minorities did not benefit from the preferential policies that benefited ethnic Malays.

Public questioning of the preference rights of ethnic Malays was a sensitive issue. In 2000 a group of youth members of UMNO became unruly at a rally held outside a Chinese assembly hall in the wake of public comments by a Chinese association that allegedly questioned the granting of special rights and privileges for Malays. Some of the demonstrators threatened to burn down the hall. Chinese groups in the ruling coalition demanded action against the perpetrators. The Government had taken no action by year's end.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—By law most workers have the right to engage in trade union activity, but only 8.49 percent of labor was represented by 599 trade unions. Those who do not have the right include workers labeled "confidential" and "managerial and executive," as well as defense and police officials. With certain limitations, unions may organize workplaces, bargain collectively with employers, and associate with national federations. In theory foreign workers can join a trade union; however, the Immigration Department places conditions on foreign workers' permits that effectively bars them from joining a trade union (*see* Section 6.e.).

The Trade Unions Act prohibits interfering with, restraining, or coercing a worker in the exercise of the right to form trade unions or in participating in lawful trade union activities. However, the act restricts a union to representing workers in a "particular establishment, trade, occupation, or industry or within any similar trades, occupations, or industries," contrary to International Labor Organization (ILO) guidelines. The Director General of Trade Unions may refuse to register a trade union and, in some circumstances, may also withdraw the registration of a trade union. When registration is refused, withdrawn, or canceled, a trade union is considered an unlawful association. The Government justifies its overall labor poli-

cies by positing that a “social compact” exists wherein the Government, employer, and worker are part of an overall effort to create jobs, train workers, boost productivity and profitability, and ultimately provide the resources necessary to fund human resource development and a national social safety net. Trade unions from different industries may join in national congresses, but the congresses must register as societies under the Societies Act (*see* Section 2.b.).

The Malaysian Trade Union Congress (MTUC) officials continued to express frustration about delays in the settlement of union recognition disputes. While the Industrial Relations Act requires a union to be recognized within 21 days, it is not uncommon for unions to go unrecognized for 1 to 2 years. There was an increasing number of private company court challenges to Ministry decisions authorizing the formation of unions. During the year, according to MTUC officials, there have been 10 such challenges. Even in-house unions sometimes faced difficulties. One company resisted concluding a collective bargaining agreement for over 12 years, including by changing its name five times so far. At year’s end, the company union remained in limbo pending a decision by the Court of Appeals.

Government policy inhibits the formation of national unions in the electronics sector, the country’s largest industry. The Government believes that enterprise-level unions are more appropriate for this sector. In February 2000, the Minister for Human Resources said employers should not obstruct the formation of in-house unions. According to MTUC officials, 150,000 electronics workers still were unable to organize and only 8 in-house unions were formed in the electronics industry. Collective bargaining agreements are limited in those companies designated as “pioneer status.” According to the ILO, the Government has been promising to repeal this statute since 1994.

Unions maintain independence both from the Government and from political parties, but individual union members may belong to political parties. Although union officers by law may not hold principal offices in political parties, individual trade union leaders have served in Parliament. Trade unions are free to associate with national labor congresses, which exercise many of the responsibilities of national labor unions, although they cannot bargain for local unions.

There are two national labor organizations. The MTUC is a federation of all unions in the country, in both the private and government sectors. The Congress of Unions of Employees in the Public and Civil Service is a federation of civil servant and teacher unions. Although the law grants public servants the right to organize at the level of ministries and departments, the Government did not respond to ILO requests for specific information on the numbers and categories of civil servant employees covered or details regarding the collective bargaining agreements reached. There are three national joint councils representing management and professional civil servants, technical employees, and nontechnical workers. In June 2001 the Trade Unions Department received an application to register a federation of trade unions representing port workers. The Director General of Trade Unions rejected the application saying it did not fulfill the requirements of the Trade Unions Act. At year’s end, MTUC officials said no decision had been made in this case. In February 2000, the Government approved the establishment of a federation of airline unions that represented approximately 20,000 employees in the aviation industry.

MTUC officials were hopeful that Prime Minister Mahathir would announce the country’s plans to ratify ILO Convention 187 when he addressed the ILO in June, but were disappointed when he made no reference to the convention in his speech. At year’s end, the Government still had not it.

Enterprise unions can associate with international labor bodies and do so. The International Metal Workers Federation was working with enterprise unions in the electronic sector to form a national union.

*b. The Right to Organize and Bargain Collectively.*—Workers have the legal right to organize and bargain collectively, and collective bargaining was widespread in those sectors where labor was organized. Charges of discrimination may be filed with the Ministry of Human Resources or the Industrial Court. Critics say that the Industrial Court is slow in adjudicating worker complaints when conciliation efforts by the Ministry of Human Resources fail. However, others point out that the Industrial Court almost always sides with the workers in disputes. In the past, the press reported that an MTUC survey indicated that employers often ignored Industrial Court judgments with impunity. In January 2000, the Minister of Human Resources said that more Industrial Court chairmen would be appointed to deal with a backlog of more than 100 cases and noted that the courts were so congested that new cases could not be scheduled until January 2001. During the year, the number of Industrial Court chairmen was increased from 14 to 23. According to MTUC officials, the backlog of cases was being addressed and had dropped to 3,000 during the year.

The Government holds that issues of transfer, dismissal, and reinstatement are internal management prerogatives; therefore, they are excluded from collective bargaining, which is not in accordance with ILO standards. The Minister of Human Resources can suspend for up to 6 months any trade union that he deems is being used for purposes prejudicial to or incompatible with security or public order.

Although strikes are legal, the right to strike is restricted severely. The law contains a list of "essential services" in which unions must give advance notice of any industrial action. The list includes sectors not normally deemed essential under ILO definitions. The Government states these essential services are considered crucial to the economy and the public interest. The MTUC officials say that requirements imposed by the authorities are so stringent that it is almost impossible to strike. According to the Ministry of Human Resources statistics up to October, there were 3 strikes and lockouts involving 296 workers during the year. Employees in the public sector do not have the right to collective bargaining.

The Industrial Relations Act requires the parties to notify the Ministry of Human Resources that a dispute exists before any industrial action (strike or lockout) may be taken. The Ministry's Industrial Relations Department then may become involved actively in conciliation efforts. If conciliation fails to achieve settlement, the Minister has the power to refer the dispute to the Industrial Court. Strikes or lockouts are prohibited while the dispute is before the Industrial Court. The act prohibits employers from taking retribution against a worker for participating in the lawful activities of a trade union. When a strike is legal, these provisions prohibit employer retribution against strikers and leaders. Although some trade unions questioned their effectiveness, it is not possible to assess fully whether these provisions were being enforced effectively, given the limited number of cases of alleged retribution. In Johore 120 union members of a large textile manufacturing company were suspended for taking part in a picket protesting the company's refusal to commence collective bargaining. Subsequently, 30 of these workers were dismissed.

Companies in free trade zones (FTZs) must observe labor standards identical to those in the rest of the country. Many workers in FTZ companies are organized, especially in the textile and electrical products sectors. The ILO continues to object to legal restrictions on collective bargaining in "pioneer industries."

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, and the Government generally enforced this prohibition. In theory certain laws allow the use of imprisonment with compulsory labor as punishment for persons who express views opposed to the established order or who participate in strikes. However, the constitutional prohibition renders these laws without effect.

In 2000 the Appeals Court ruled that a company must give proper notification to its workers when selling its business to another entity. The Appeals Court ruled that compelling an employee to work for a new employer without offering the option to terminate the labor contract amounted to a form of forced labor. The Appeals Court ordered the employers to compensate the workers for failing to give proper notification of sale as prescribed by the Employment Act.

The Government prohibits forced and bonded labor by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Children and Young Persons (Employment) Act prohibits the employment of children younger than the age of 14. The act permits some exceptions, such as light work in a family enterprise, work in public entertainment, work performed for the Government in a school or in training institutions, or work as an approved apprentice. In no case may children work more than 6 hours per day, more than 6 days per week, or at night.

Child labor occurred in certain areas of the country. There was no reliable estimate of the number of child workers. Most child laborers worked informally in the plantation sector, helping their parents in the field. However, only adult members of the family received a wage. In urban areas, child labor can be found in family food businesses, night markets, and small-scale industries. Government officials did not deny the existence of child labor in family businesses, but maintained that foreign workers largely have replaced child labor and that the Government vigorously enforced child labor provisions.

*e. Acceptable Conditions of Work.*—There was no minimum wage, as the Government preferred to allow market forces to determine wages. Wage Councils which were established by the Wage Council Act of 1947 to provide a recommended minimum wage in those sectors in which the market wage was determined insufficient, had little impact on wages in any sector. According to MTUC officials, Wage Councils have not met for over 12 years and their recommended wages have been obso-

lete for a longtime. However, prevailing market wages often provided a decent living.

Plantation workers generally receive production related payments or daily wages. In February the National Union of Plantation Workers (NUPW) and the Malaysian Agriculture Producers Association agreed on a monthly minimum wage for palm oil plantation workers of \$84 (325 ringgit) per month. Proponents of the agreement argue that productivity incentives and bonuses raise the prevailing wage to nearly \$184 (700 ringgit). Rubber plantation workers still have no minimum wage.

Under the Employment Act, working hours may not exceed 8 hours per day or 48 hours per workweek of 6 days. Each workweek must include a 24-hour rest period. The act also sets overtime rates and mandates public holidays, annual leave, sick leave, and maternity allowances. The Labor Department of the Ministry of Human Resources enforces these standards, but a shortage of inspectors precluded strict enforcement.

Significant numbers of contract workers, including numerous illegal immigrants, work on plantations and in other sectors. According to statistics from the NUPW, foreign workers made up 39 percent of the plantation work force, although the number could be higher since there were illegal workers. Working conditions for these laborers compared poorly with those of direct-hire plantation workers, many of whom belong to the NUPW. Work-related accidents were especially high in the plantation sector. According to the Human Resources Ministry, 14 percent of all reported industrial accidents during the year occurred on plantations. The NUPW asserted that the number of accidents during the year in the plantation sectors was about equal to the accident rate during 2000. Immigrant workers in the construction and other sectors, particularly if they were illegal aliens, generally did not have access to the system of labor adjudication. Government investigations into this problem resulted in a number of steps to eliminate the abuse of contract labor. For example, besides expanding programs to regularize the status of immigrant workers, the Government investigated complaints of abuses, attempts to inform workers of their rights, encouraged workers to come forward with their complaints, and warned employers to end abuses. Like other employers, labor contractors may be prosecuted for violating the labor laws.

The Workmen's Compensation Act includes both local and foreign workers; however, foreign domestic workers have no protection under the act.

According to the Government, foreign domestic workers are protected under the Employment Act, in particular in regard to wages and termination of contract. However, employers sometimes failed to honor the terms of employment and abused their domestic servants. For example, in 2001 a local women's NGO offered shelter to 13 foreign domestic workers who claimed they had been abused. Some of the victims claimed that their employers subjected them to inhuman living conditions, withheld their salaries, and physically assaulted them.

In 2000 the Minister of Human Resources Datuk Fong Chan Onn announced that abused foreign domestic servants may be eligible for compensation under the Workmen's Compensation Act. The Cabinet commissioned a study of the issue to determine what measures for protection, compensation, and legal course of action should be available to victims under the act, although it was not verified if the study was completed. In October 2000, the local press reported four separate cases of physical abuse against foreign domestic workers that were settled when the accused offered compensation to the victim. The Criminal Procedure Code allows that for certain offenses an offender may, if the parties agree, pay a fee to the victim by way of compensation. The Human Rights Committee of the Bar Council claimed that the settlement gave the public "the overall impression that justice can be bought." A human rights NGO activist called the settlement a "dangerous trend." In order to reinforce its enforcement capabilities in this sector, the Government increased the number of officers assigned to the Department of Occupational Safety and Health Act (OSHA).

The OSHA covers all sectors of the economy except the maritime sector and the military. The act established a national Occupational Safety and Health Council, composed of workers, employers, and government representatives, to set policy and coordinate occupational safety and health measures. It requires employers to identify risks and take precautions, including providing safety training to workers, and compels companies that have more than 40 workers to establish joint management-employee safety committees. The act requires workers to use safety equipment and to cooperate with employers to create a safe, healthy workplace. Trade unions maintained that relatively few committees were established and, even in cases where they did exist, they met infrequently and generally were ineffective. In 2001 the Human Resources Ministry announced a new regulation to protect laborers performing hazardous work in confined spaces such as manholes and storage tanks. Employers are obliged to fulfill certain safety and technical requirements before be-



ginning any projects in confined spaces. Employers or employees that violate the OSHA are subject to substantial fines or imprisonment for up to 5 years. There are no specific statutory or regulatory provisions that provide a right for workers to remove themselves from dangerous workplace conditions without arbitrary dismissal.

In 2000 MTUC president Zainal Rampak called for a review of the three-shift system in the electronics industry, referring to a study that concluded that the system contributed to severe stress and workplace accidents among the industry's mainly female work force. Government health and safety officials defended the system, claiming that it provided adequate safeguards for conscientious employers and workers.

Legal and illegal foreign workers from Indonesia, the Philippines, Burma, Thailand, India, Bangladesh, Nepal, Vietnam, and other countries constituted approximately 20 percent of the work force. However, in the run-up to the implementation of the new immigration law on August 1, thousands of illegal foreign workers, particularly from Indonesia and the Philippines, returned home. Illegal foreign workers have no legal protection under the labor laws and have no legal recourse in cases of abuse. Legal foreign workers are entitled to the same rights and protections under the country's labor law as Malaysian nationals. In addition, the law prohibits discrimination between foreign and local employees in the terms and conditions of employment. However, legal foreign workers are prevented from joining trade unions by Immigration Department restrictions on their work permits. The Government states that it does not encourage foreign workers to join unions and that labor laws are adequate to protect foreign workers' interests. In addition, some foreign workers are victims of unscrupulous agents, and are enticed by promises of a particular job at a particular salary before they leave home but upon their arrival in the country find a contract for a different job at a lower salary.

*f. Trafficking in Persons.*—The Constitution prohibits slavery; however, this provision has not been invoked in cases of trafficking in persons, and trafficking in women, and occasionally girls, for the purpose of prostitution. The country has no law that specifically criminalizes trafficking in persons. The country uses other laws such as the Immigration Act, the Restricted Residence Act, and the ISA to prosecute traffickers. However, authorities generally did not separate trafficking victims from other illegal immigrants. Evidentiary rules made it difficult to obtain convictions of traffickers.

The country was a source and destination country for trafficking in women and girls for sexual exploitation. Young women from primarily Indonesia, China, Thailand, and the Philippines were trafficked into the country for sexual exploitation. These women often worked as karaoke hostesses, "guest relations officers," and masseuses. During the year, there also were reports that Burmese adults were trafficked to the country.

In 2001 The Royal Malaysian Police arrested 4,132 foreign prostitutes. There were allegations that some level of corruption existed among law enforcement since some trafficking victims were known to pass through two or more ports of entry without travel documents.

Malaysian women were trafficked for sexual purposes mostly to Singapore, Macau, Hong Kong, and Taiwan, but also to Japan, Australia, Canada, and the United States. According to police and Chinese community leaders, Malaysian women who were victims of traffickers were almost exclusively ethnic Chinese, although ethnic Malay and ethnic Indian women worked as prostitutes domestically. Police and NGOs believe that Chinese criminal syndicates were behind most of the trafficking (both incoming and outgoing) of women of all nationalities.

The new immigration law, which came into effect on August 1, resulted in a significant decrease in the number of illegal residents in the country, which included persons who were trafficked into the country.

Individual government officials may provide counterfeit documents illicitly to traffickers (although no specific cases were reported), but government agencies try to eradicate corruption and fraud within their ranks. Trafficking within the country's borders was perpetrated by one or two organized criminal groups and a few local operators. Trafficking victims were kept compliant through involuntary confinement, confiscation of travel documents, debt bondage, and physical abuse. During the year, there were a number of reports of foreign women escaping from luxury apartments where they were held and forced to serve as unwilling prostitutes. According to news reports, these women said they were lured to the country by promises of legitimate employment but were then forced into prostitution upon their arrival in the country. In 2001 the police discovered 34 Indonesian and Thai women locked in a shophouse fitted with hidden metal doors and passageways to avoid detection. The women were drugged with sedatives during the day and forced to work as prostitutes at night.

The Penal Code includes special provisions related to trafficking only for purposes of prostitution. For example, specific sections of the Penal Code prohibit the sale or hire of anyone under the age of 21 for purposes of prostitution. Another section prohibits the transport into the country of any woman for purposes of prostitution. Punishment for these offenses includes a maximum 10-year prison term or a fine, to be determined at the discretion of the sentencing judge. Under the Child Act of 2001, which took effect on August 1, brothel owners, pimps, and clients of underage prostitutes may face a fine of up to \$13,000 (50,000 ringgit), a prison sentence of not less than 3 years, and mandatory caning of up to 6 strokes. Repeat offenders face a caning of up to 10 strokes.

The Government assisted underage girls and rescued some kidnaped women during the year. For example, according to police statistics, between January and June 149 underage girls were rescued from vice syndicates. According to Social Welfare Department statistics, 453 women were sent to rehabilitation centers after being detained in suspected places of prostitution in 2001. However, NGOs and women's rights activists complained that police had no coherent policy to protect victims of trafficking. Rather than prosecute traffickers, police generally arrested or deported individual women for immigration offenses. Some trafficking victims who exhibit signs of physical abuse may be sent to a women's shelter instead of being kept by the police; however, permission from the police to allow victims to reside in a shelter was sometimes difficult to obtain. Statistics for apprehension of traffickers were not available. From 1998 through June, 130 individuals involved in the harboring of prostitutes were placed under "restricted residence." The Restricted Residence Act is designed to deter organized criminal activity and requires individuals to temporarily move to a predetermined location far from their usual domicile, and check in regularly with police.

The Government stated it did not prosecute anyone for the specific offense of trafficking in persons but did take concrete steps during the year, including the implementation of the new immigration act, to address the problem of trafficked persons. There were a number of active NGOs that provided assistance to trafficking victims. Several NGOs provided shelter for trafficking victims and assisted them in being repatriated to their home countries. The Government provided direct financial support to 75 different NGOs dedicated to women and girls' welfare. While these NGOs did not specifically target trafficking victims, they were available to help repatriated Malaysian victims and foreign victims who had been released into the custody of their embassy or consulate.

The Government recognized the need to improve the treatment and protection of trafficking victims. A local woman's NGO was working with the Bar Council to draft legislation specifically aimed at prosecuting traffickers and protecting victims. The Government formed an inter-agency trafficking in persons working group to formulate its anti-trafficking in persons strategies and to strengthen inter-agency and public-private cooperation against trafficking in persons. The Ministry of Home Affairs formed a special anti-vice Task Force that aimed to target trafficking and prostitution networks and to identify and deport foreign women who entered the country, legally or illegally, and subsequently engaged in the sex trade.

## MARSHALL ISLANDS

The Republic of the Marshall Islands is a self-governing nation under the Compact of Free Association with the United States. The Constitution provides for free and fair elections and executive and legislative branches. The legislature consists of a 33-member Parliament (Nitijela), as well as a Council of Chiefs (Iroij), which serves a largely consultative function dealing with custom and traditional practice. The President is elected by majority Nitijela vote, and he appoints his Cabinet from its membership. The Constitution provides for an independent judiciary; however, past governments have attempted to influence the judiciary.

Under the Compact of Free Association, the United States is responsible for defense and national security, and the country has no external security force. The national and local police forces have responsibility for internal security. These agencies observed constitutional and legal civil rights protections in executing their responsibilities.

According to 2000 statistics, the population was approximately 57,000, was of Micronesian origin, and was concentrated primarily on the Majuro and Kwajalein Atolls. The economy depended mainly on transfer payments from the United States. Coconut oil and copra exports, a small amount of tourism, import and income taxes, an open ship registry, a tuna loining plant, ship chandlery and fishing licensing fees generated limited revenues.

The Government generally respected the human rights of its citizens, and the law and the judiciary provide effective means of dealing with individual instances of abuse. There were occasional instances of denial of due process for detainees. Violence against women and child abuse were problems. The Republic of the Marshall Islands was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution forbids such practices, and there were no reports that government officials employed them.

Prison conditions, while Spartan, generally met international standards, and the Government permitted prison visits by independent human rights observers. Male juveniles and adults were detained separately, but female juveniles and adults were held at the same facilities. Pretrial detainees were not separated from the general prison population.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. Nonetheless, the Chief Justice of the High Court admitted in 2001 that arbitrary detentions did occur. There were several reported cases of arbitrary detention lasting over 24 hours, in which persons were denied their rights to be charged or released within the specified time, or to be informed of the charges against them. However, it appears that such violations were due mainly to inefficiency; the courts and the Attorney General's office worked with the police during the year to improve communications between the courts and police when suspects were detained.

Families had access to detainees, and detainees had the right to lawyers of their choice. There is a functioning system of bail, and the State provides a lawyer if the defendant is indigent. The Constitution and law do not prohibit forced exile; however, the Government did not employ this practice.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in the past, the Government has attempted to influence judicial matters through legislative or administrative means.

The employment of a foreign national High Court judge, who had disagreements with the previous government, was terminated prematurely in 1999, but he was appointed to the Supreme Court in 2000. In his 2000 inaugural address, President Note pledged to protect the independence of the judiciary, following the previous four years during which three chief justices had resigned or been terminated by the Government. During the year, there were no known incidents of executive pressure on the judiciary. Few citizens are trained in the law. Therefore, the judicial system relied almost entirely on noncitizen judges, public prosecutors, and defense lawyers; most private attorneys were also noncitizens. Since the election of President Note, the Government increased judges' salaries by 20 percent to better attract and retain qualified judges.

The judiciary consists of a Supreme Court with appellate jurisdiction, a High Court with general jurisdiction in civil and criminal matters and appellate jurisdiction over subordinate courts at the district and community levels, and a Traditional Rights Court with jurisdiction in cases involving matters of customary law and traditional practice.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

##### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. In the past, government influence has led to occasional self-censorship by the media in areas of political or cultural sensitivity; however, there were no known instances of self-censorship during the year.

A privately owned weekly newspaper published articles and opinions in both English and Marshallese.

There were two radio stations, one of which was government owned; the other was religious and offered news broadcasts from the Voice of America, the British Broadcasting Corporation, and Radio Australia. In the past, live broadcasts of the legislative session had been interrupted when they included remarks critical of the Government; however, this did not occur during the year. A government station broadcast public service announcements. A cable television company broadcast a variety of foreign news and entertainment programs and occasional videotaped local events.

The Government did not restrict Internet access.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

For more detailed information see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

Beginning in 2000, the Government launched an alien registration drive to counter alleged increases in illegal entries by Chinese and other foreign nationals. During the year, the Government periodically conducted “sweeps” to locate and ultimately deport undocumented aliens. In 2001 the Government enacted regulations restricting the operations of certain businesses to citizens. In 1996, as a means of attracting foreign investment, the Government issued so-called investment passports (which conveyed Marshall Islands citizenship) to approximately 3,000 noncitizens. It halted this practice in 1997 following allegations of abuses and fraudulent passport sales, and the Nitijela officially banned such passport sales in 2001 citizenship legislation. These “investment” passports are expiring, and the Government is examining such passports more closely, denying renewal in cases such as those with no record of first-time issuance. There were no provisions in the 2001 law for the removal of any person who loses citizenship as a result of this review.

Although not a signatory, the Government adheres to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and it cooperates with the U.N. High Commissioner for Refugees. There were no recent reports of refugees. The Government has not formulated a policy regarding refugees, asylees, or first asylum. The issue of the provision of first asylum did not arise during the year. There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections held on the basis of universal suffrage. Executive power is centralized in the President and his Cabinet. This group dominated the legislature as well. The Nitijela (Parliament) and mayors are elected by secret ballot every 4 years by citizens 18 years of age and older. The last Nitijela election was held in 1999. In January 2000, President Kessai Note was selected unopposed by the Nitijela, from among its 33 members. The President subsequently selected 10 cabinet ministers from among the Nitijela members. There were no restrictions on the formation of political parties. Political activity by foreigners was prohibited.

There were no legal impediments to women’s participation in government and politics; however, women’s cultural responsibilities, traditionally passive roles, and the generally early age of pregnancies made it difficult for women to obtain political qualifications or experience. Nevertheless, a woman was elected to the Nitijela in 1999. Society is matrilineal, and those men and women who exercised traditional leadership and land ownership powers derived their rights either from their own positions in the family, or from relationships based on their mother’s and sister’s lineage. However, the traditional authority exercised by women has declined with growing urbanization and movement of the population away from traditional lands.

### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigations of Alleged Violations of Human Rights*

While there are no official restrictions, few local nongovernmental human rights organizations have been formed.

The women's NGO Women United in the Marshall Islands (WUTMI) worked on women's, children's, and family issues and played a greater role in social issues. A WUTMI leader, for example, was named to the Compact Renegotiation Team.

There is a government-sponsored committee to establish a local Red Cross chapter, and the Government hosted a Red Cross Conference on the Geneva Conventions in 2001.

No international human rights organization has expressed interest or concern or visited the country.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination on the basis of sex, race, color, language, religion, political or other opinion, national or social origin, place of birth, family status or descent, and the Government observed these provisions.

*Women.*—Spousal abuse was common. Domestic violence was not condoned in society, and most assaults occurred while the assailant was under the influence of alcohol. The Government's health office provided counseling for reported spousal and child abuse cases but apparently many cases went unreported. Rape and assault were criminal offenses, but women involved in domestic violence were reluctant to prosecute spouses in the court system. Women's groups under the WUTMI umbrella publicized women's issues and promoted a greater awareness of women's rights. Violence against women outside the family occurred, and women in urban centers risked assault if they went out alone after dark.

There is no legal age of consent. The law criminalizes only "forced" rape and does not specifically cite sexual assault, domestic violence, or sexual abuse. There was some national debate regarding criminalizing these acts; however, debate was hampered by cultural norms against discussion of these subjects.

In September the Parliament made prostitution illegal; however, prostitution exists on the Majuro and Kwajalein Atolls. Organized prostitution was run by and catered to foreigners, primarily the crews of foreign fishing vessels. There were no specific reports of violence against prostitutes, although the Government assumed that it existed. There is no law against sex tourism, and none has been reported.

Sexual harassment is not prohibited by law and was not considered a serious problem.

The inheritance of property and of traditional rank is matrilineal, with women occupying positions of importance in the traditional system. No instances of unequal pay for equal work or of sex-related job discrimination were reported. However, while female workers were very prevalent in the private sector, many of them were in low-paying jobs with little hope of advancement.

*Children.*—The Government showed commitment to children's welfare through its programs of health care and free education, but these have not been adequate to meet the needs of the country's sharply increasing population.

Education is free, compulsory, and universal through eighth grade. There was no difference between the attendance rates of boys and girls.

It is estimated that up to 20 percent of elementary school age children did not attend school on a regular basis. The Government did not enforce the compulsory education law. The Government's enrollment report indicated that only two-thirds of those completing eighth grade attended high school. Of that number, 50 percent—or one-third of those who start elementary school—eventually graduated.

The Government provided subsidized essential medical services for all citizens, including children.

Child abuse and neglect are criminal offenses; however, public awareness of children's rights remained low. The law requires teachers, caregivers, and other persons to report instances of child abuse and exempts them from civil or criminal liability as a consequence of making such a report. However, there were few reports and few prosecutions. Child abuse and neglect were considered to be on the increase. In August 2001, two young men sexually assaulted an infant and were later charged with child abuse and sodomy. At year's end, both were still free on bail awaiting further judicial action.

*Persons with Disabilities.*—There was no apparent discrimination against persons with disabilities in employment, education, or the provision of other state services. There were no building codes and no legislation mandating access for persons with disabilities.

There were approximately 50 persons who could be medically defined as psychotic. When these individuals demonstrated dangerous behavior, they were imprisoned and visited by a doctor.

There were no reports of discrimination against persons with mental disabilities.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right of free association in general, and the Government interpreted this right as allowing the existence of labor unions, although none have been formed to date.

*b. The Right to Organize and Bargain Collectively.*—There is no legislation concerning collective bargaining or trade union organization. However, there were no impediments to the organization of trade unions or to collective bargaining. Wages in the cash economy were determined by market factors in accordance with the minimum wage and other laws.

The Constitution does not provide for the right to strike, and the Government has not addressed this issue.

There were no strikes during the year. There have been no strikes since 1999 strikes at the Government hospital and the Government-owned airline.

There are no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits involuntary servitude, and there was no evidence of its practice among citizens of the country. With the increasing presence of illegal aliens, it is possible that forced or bonded labor exists; however, there were no specific reports of the problem during the year. In 2001 there were two separate reports of forced labor involving two noncitizens; one was a domestic worker and the other worked in a restaurant. The domestic employee, whose case awaited review by the Attorney General's Office at year's end, continued to work in the country. The case of the restaurant worker was settled in a civil suit in January 2001, and he returned to his home country.

The law does not specifically prohibit forced and bonded labor by children; however, such practices were not known to occur.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Children typically were not employed in the wage economy, but some assisted their families in fishing, agriculture, and other small-scale domestic enterprises. There is no law or regulation setting a minimum age for employment of children. The Government has not ratified ILO Convention 182 on the worst forms of child labor.

*e. Acceptable Conditions of Work.*—A government-specified minimum wage is established by law, but it was not adequate to maintain a decent standard of living for a worker and family. However, in a subsistence economy extended families are expected to help less fortunate members, and there were often several wage earners to support each family. The minimum wage for all government and private sector employees was \$2.00 per hour. The U.S. dollar is the national currency. The Ministry of Resources and Development oversees minimum wage regulations, and its oversight was regarded as adequate. Foreign employees and Marshallese trainees of private employers who had invested in or established a business in the country were exempt from minimum wage requirements. This exemption did not affect a significant segment of the workforce.

There is no legislation concerning maximum hours of work or occupational safety and health. On Sunday most businesses were closed, and persons generally refrained from working.

A government labor office makes recommendations to the Nitijela on working conditions, such as the minimum wage, legal working hours and overtime payments, and occupational health and safety standards in accordance with International Labor Organization conventions. The office periodically convenes board meetings that are open to the public. No legislation specifically gives workers the right to remove themselves from situations that endanger their health or safety without jeopardy to their continued employment, and no legislation protects workers who file complaints about such conditions.

Foreign workers were protected by the law in the same manner as citizens.

*f. Trafficking in Persons.*—There are no specific laws concerning trafficking in persons, and there were no confirmed cases of persons being trafficked to, from, or within the country during the year. However, there was increasing suspicion that foreign-born Marshallese passport holders might be using the country as a staging point for trafficking of persons to an unconfirmed destination or destinations. The Immigration Office, the Attorney General's Office, the police, and religious communities were all concerned about the issue, but no steps were taken and cooperation on the issue remained limited.

## MICRONESIA (FEDERATED STATES OF MICRONESIA)

The Federated States of Micronesia (FSM), administered by the United States from 1947 to 1979 pursuant to an agreement with the United Nations, is composed of four states: Chuuk (formerly Truk), Kosrae, Pohnpei, and Yap. Political legitimacy rests on the popular will expressed by a majority vote through elections in accordance with the Constitution. There are three branches of government: An executive branch led by a president who also serves as head of state; a unicameral legislature elected from the four constituent states that elects the President from among its members; and an independent judicial system that applies criminal and civil laws and procedures that closely parallel those of the United States. Individual states enjoy significant autonomy and have their own constitutions and governmental systems. Traditional leaders retain considerable influence.

Under the Compact of Free Association, the United States is responsible for the islands' defense. The country has no security forces apart from national police and state public safety officers, who operated under effective civilian control.

The population was approximately 107,000 according to the 2000 census, mostly of Micronesian origin. The economy depended heavily on financial assistance from the United States, and on fishing, tourism, and subsistence agriculture.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse. Traditional customs distinguish among persons on the basis of social status and sex. Neither the Government nor other social organizations have supplanted the role of the traditional extended family in protecting and supporting its citizens. There was growing evidence of spousal abuse and child neglect, and government agencies often did not address such problems due to the constraints imposed by traditional society. Micronesia was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents. There was a suspicious death of a prisoner in custody in 2000 (*see* Section 1.c.). The case remained open but was not known to be under active investigation.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them. In August 2000, two off-duty policemen reportedly beat a foreign national at a bar in Pohnpei. Both officers were dismissed from the police force; however, they were not prosecuted.

Prison conditions generally met international standards. In January the family of a prisoner who died in custody in 1996 won a civil case against the Chuuk state police for violation of civil rights and wrongful death. The family was awarded \$42,000. There was a suspicious death of a prisoner in 2000. The case remained open but was not known to be under active investigation. The question of prison visits by human rights observers did not arise during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. On September 6, officials from the national government attempted to serve a search warrant on the Mayor of Udot in Chuuk State. A crowd made up of the mayor's supporters disarmed the national officials, placed them in handcuffs, and briefly detained them. The Chuuk Director of Public Safety allegedly instructed state policemen not to assist the national officials. The Mayor and the Director of Public Safety were charged respectively with abuse of power and obstruction of justice; at year's end they were awaiting trial.

The Constitution and law do not explicitly prohibit forced exile; however, the Government did not employ it. The courts do not have the option of imposing exile. Punishments for crimes are set out specifically in statutes, which do not provide for the imposition of exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. The President, with the advice and consent of the legislature, appoints the three justices of the Supreme Court. Each state also has a supreme court, and each municipality has

a community court. Some states have established additional courts to deal with land disputes.

The Constitution provides for public trial, and trials generally were conducted fairly. Juveniles may have closed hearings. Despite these provisions, cultural resistance to litigation and incarceration as methods of maintaining public order has allowed some persons to act with impunity. Serious cases of sexual and other assault and even murder have not gone to trial, and suspects routinely were released indefinitely. Bail, even for major crimes, usually was set at low levels.

Delays in some judicial appointments and underfunding of the court system hampered the judiciary's ability to function efficiently. Shortages or unavailability of court personnel and services occasionally hampered the right to a speedy trial.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

The national government and the four states publish newsletters. A biweekly newspaper, the *Kaselehlie Press* (originally known as the *Rohng En Pohnpei*), commenced publication in November 2000. Yap also has a privately published weekly newspaper, the *Yap Networker*. Both newspapers have published politically sensitive stories.

Each of the four state governments controls a radio station that broadcasts primarily in the local language. Credible sources reported that the Chuuk state government censored politically sensitive domestic news for its public radio station. Religious groups operate private radio stations. The populations of Pohnpei, Chuuk, and Kosrae increasingly have access to live satellite-broadcast information from around the world and tape-delayed broadcasts of programming by the major U.S. networks. Yap State planned to introduce satellite cable television, but at year's end, there was no television receiver station, and few residents had individual satellite dishes.

There was an increasing level of open public discussion of social and governmental issues on various Internet sites. The Internet played an important role in allowing citizens in the four states, as well as those residing outside the country, an opportunity to share views and opinions.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the freedoms of assembly and association, and the Government generally respected these rights in practice.

During political campaigns, citizens often questioned candidates at public meetings and social gatherings. Formal associations were uncommon, but nongovernmental organizations increased in number, including organizations for students and women.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. Missionaries of many faiths worked in the country without hindrance.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for freedom of movement within the country. It does not address foreign travel, emigration, and repatriation, but in practice none of these were restricted.

The Government has not formulated a policy regarding refugees, asylees, or first asylum. Three Vietnamese who arrived in Yap by boat in 1998 may be the first case testing political asylum rights. Efforts by the national government in August to deport the Vietnamese as illegal immigrants faced opposition from community and traditional leaders in Yap (Yap's constitution includes the Councils of Traditional Leaders as a fourth branch of government), who argued that Yapese tradition allows for the adoption of "lost souls" who arrive on Yap's shores. The three Vietnamese were granted temporary entry permits restricting them to Yap state only.

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

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



The Congress is elected by popular vote from each state; the Congress then chooses the President and Vice President by majority vote from among its four at-large senators. State governors, state legislators, and municipal governments are elected by direct popular vote. Political campaigning was unrestricted. There were no restrictions on the formation of political groups, but there have been no significant efforts to form political parties, and none exist. Political support generally was sought from family and allied clan groupings, as well as religious groups.

Cultural factors in the male-dominated society have limited women's representation in government and politics. Women held midlevel positions at both the federal and state level. The first woman to hold a national government cabinet-level position was appointed in 1999; she continued to serve in that capacity as Public Defender. In 2000 a woman also was elected to serve in the Pohnpei State Legislature. There were no women in the national legislature.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were no known requests for investigations of alleged human rights violations during the year; international human rights groups never have raised issues with the country. While there were no official restrictions, no local groups concerned themselves exclusively with human rights. However, there were groups that addressed problems concerning the rights of women and children, and the Government cooperated with these groups.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

Although the Constitution provides explicit protection against discrimination based on race, sex, language, or religion, there was extensive societal discrimination, notably discrimination and violence against women. Government enforcement of these constitutional provisions was weak.

*Women.*—Reports of spousal abuse, often severe, continued during the year. There are no laws against domestic abuse, and there were no governmental or private facilities to shelter and support women in abusive situations. Effective prosecution of such offenses was rare. In many cases, the victim decides against initiating legal charges because she is pressured by family, is fearful of further assault, or is convinced that the police will not involve themselves actively in what is seen as a private family problem. The number of reports of physical and sexual assaults against women outside the family context also grew, according to police and women's groups. Such assaults were perpetrated against both citizens and foreigners. Unmarried women sometimes were considered to have invited such violence by living or traveling alone.

In the traditional extended family unit, spouses and children were accorded strong protections from violence, abuse, and neglect. Such actions were deemed offenses against the family, not just the individuals within them, and were addressed by a complex system of familial sanctions. However, with increasing urbanization and monetization of the economy, greater emphasis has been placed on the nuclear family, and the traditional methods of coping with family discord were breaking down. No government agency, including the police, has succeeded in replacing the extended family system or in addressing the problem of family violence directly.

Prostitution is not legal, nor was it a major problem. The law does not prohibit sex tourism specifically; however, it was not a problem. The law does not prohibit sexual harassment; however, it did not appear to be a problem.

Women have equal rights under the law, and there were no institutional barriers to education and employment. Women received equal pay for equal work and were well represented in the lower and middle ranks of government. However, there was extensive societal discrimination against women. Nonetheless, women were active and increasingly successful in private business and enterprises. There was an active National Women's Advisory Council that lobbied the Government, and several small nongovernmental groups were interested in women's issues, particularly those associated with spousal and family violence and abuse.

*Children.*—The Government was committed to children's welfare through its programs of health care and education; however, these programs were inadequate to meet the needs of the country's growing population, particularly in an environment in which the extended family is breaking down. Health officials and religious leaders started peer support and family care groups to address the factors that may be leading to an increase in youth suicides; although there were a number of suicides during the year, there were no comprehensive statistics.

A compulsory education law requires that all children begin school at the age of 6. Education was free, and there was no difference between the education of boys and girls. Education levels differed among the states, but on average 75 percent of

children finish 8th grade, 55 percent finish 9th grade, and 35 percent finish high school. Children may leave school when they reach the age of 14 or after completing the 8th grade, whichever comes first.

The Government administered an immunization program throughout the country and provided some vitamin supplements.

*Persons with Disabilities.*—The law prohibits discrimination in public service employment against persons with disabilities. Children with physical or mental disabilities were provided with special education, including instruction at home if necessary. There were no reports of discrimination against persons with disabilities; however, they usually did not seek employment outside the home.

Neither laws nor regulations mandate accessibility to public buildings and services for persons with disabilities. Some private businesses provided special parking spaces and wheelchair ramps for persons with disabilities. The school system has established special education classes to address problems encountered by those who exhibit learning disabilities, although such classes were completely dependent on foreign government funding.

*National/Racial/Ethnic Minorities.*—The law prohibits noncitizens from purchasing land, and the national Congress grants citizenship to non-Micronesians only in rare cases (an authority that last was exercised during 1998, for the first time in almost 20 years). There is no permanent residency status. However, for the most part, noncitizens shared fully in the social and cultural life of the country.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Under the law, citizens have the right to form or join associations, and national government employees by law may form associations to “present their views” to the Government without coercion, discrimination, or reprisals; however, they have not formed any such associations. For a variety of reasons, including the fact that most private-sector employment was in small-scale, family-owned business and that citizens are not accustomed to collective action, there were neither associations nor trade unions. The country is not a member of the International Labor Organization (ILO).

*b. The Right to Organize and Bargain Collectively.*—No law deals specifically with trade unions or with the right to collective bargaining. Individual employers, the largest of which are the national and state governments, set wages. There is no specific right to strike. There were no reports of strikes or collective bargaining agreements during the year. A dispute between management and Chinese citizen employees of a Chinese fishing firm active in Yap State led to the dismissal of several of the employees and their removal to China in October.

There are no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution specifically prohibits forced or bonded labor, and there were no reports that such practices occurred. This prohibition does not mention specifically forced and bonded labor by children; however, there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—There is no law establishing a minimum age for employment of children. In practice there was no employment of children for wages; however, they often assisted their families in subsistence farming activities. The Government has not ratified ILO Convention 182 on the worst forms of child labor.

*e. Acceptable Conditions of Work.*—The four state governments have established minimum wage rates for government workers. Pohnpei has a minimum hourly wage rate of \$2.00 for government and \$1.35 for private workers. The other three states have established minimum hourly rates only for government workers: \$1.25 for Chuuk; \$1.49 for Kosrae; and \$0.80 for Yap. The minimum hourly wage for employment with the national government is \$1.68. The U.S. dollar is the country’s legal currency. These minimum wage structures and the wages customarily paid to skilled workers were sufficient to provide a decent standard of living for a worker and family. The minimum wage was enforced through the tax system, and this mechanism was believed to be effective.

There are no laws regulating hours of work (although a 40-hour workweek is standard practice) or prescribing standards of occupational safety and health. A federal regulation requires that employers provide a safe workplace. The Department of Health has no enforcement capability; working conditions varied in practice.

There is no law for either the public or private sector that would permit workers to remove themselves from dangerous work situations without jeopardy to their continued employment.

Two states permitted foreign laborers to work in garment manufacturing enterprises. The foreign laborers were paid at a lower rate than citizens who worked at the factories, worked longer hours per day, and worked a 6-day week in contrast to the 5-day week for citizens. However, working and living conditions generally were regarded as good, and workers were not subjected to abuse or deported without cause; they have the right to a hearing under such circumstances. Foreign workers have the right to form unions; however, they have not done so.

*f. Trafficking in Persons.*—The law does not address specifically the subject of trafficking in persons. A series of articles in the U.S. press in September alleged abusive labor situations for some Micronesian workers recruited for low-wage jobs in the United States. The Government introduced draft legislation in the October/November session of Congress to regulate foreign labor recruiters as part of a strategy to control abusive recruitment practices; the legislation still was pending at year's end.

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## MONGOLIA

Mongolia continued its transition from a highly centralized, Communist-led state to a full-fledged, multiparty, parliamentary democracy, although these gains have not yet been consolidated. The Prime Minister is nominated by the majority party and, with the agreement of the President, is approved by the State Great Hural (Parliament), the national legislature. In 2000 the Mongolian People's Revolutionary Party (MPRP), which held power from 1921 to 1996, won a sweeping victory in the parliamentary elections, leaving only 4 of 76 seats to opposition members. In 2001 the MPRP's presidential candidate was elected to his second and constitutionally limited final term. The transition to the new government occurred in accordance with constitutional procedures, and international observers characterized the elections as free and fair. There were 18 political parties, 4 of which held seats in the Parliament. The judiciary is constitutionally independent, but low salaries made it vulnerable to corruption.

Security forces are divided among the Ministry of Defense (MOD), the Ministry of Justice and Home Affairs (MOJHA), and the General Intelligence Agency (GIA). Military forces under the MOD are responsible for external security, but border security forces are under MOJHA control during peacetime. Civil defense is subordinate to the MOD, giving the MOD a role in internal security. National police, with primary responsibility for law enforcement, operate under the MOJHA. The GIA, formerly the State Security Agency, is responsible for internal security; its civilian head has ministerial status and reports directly to the Prime Minister. Under the new Criminal Code, which came into force September 1, the number of types of crimes under the GIA's purview was reduced from 35 to 22. Reduced government spending continued to force downsizing of the military forces and all security forces operated on a minimal budget. The security forces were under civilian control. The Minister of Defense was a civilian (who retired from the military to accept the position). Some police committed human rights abuses.

The economy was stagnant during the year, with an inflation rate of 8 percent. Despite reforms in the 1990s, the larger economic entities remained under state control; however, the private sector produced more than 70 percent of the gross domestic product. Critical agricultural output fell in 2001 and may have continued to fall during the year. The country's population was 2.4 million with a population growth rate of 1.4 percent, and per capita income was approximately \$450 per year. The country relied heavily on foreign economic assistance. The mainstays of the economy continued to be copper production and other mining, livestock raising, and related food, wool, and hide processing industries. A growing trade and small entrepreneurial sector in the cities provided basic consumer goods. Lack of transportation and other infrastructure, legal and regulatory deficiencies, petty corruption, bureaucratic obstacles, and a small domestic market discouraged foreign investment.

The Government generally respected the human rights of its citizens; however, problems remained in some areas. Members of the police at times beat prisoners and detainees. Pretrial detention conditions continued to be poor although prison conditions were improving. There were no deaths reported during the year in detention centers but a number of prisoners died while in prison. Arbitrary arrest and detention were problems, as was corruption. Government attempts to enforce compliance with moral strictures and tax laws may have been an attempt to intimidate the media and may have resulted in self-censorship by the press. In 2001 the authorities determined some persons requesting asylum to be "economic immigrants" and denied them entry. Harassment by some officials of religious groups seeking

registration persisted. Domestic violence against women was a serious problem; however, efforts to assist victims continued to increase during the year. Child abuse and child labor also were problems. There were some instances of forced labor, and some women seeking work overseas may have become victims of trafficking schemes. In 2001 the Government established a National Commission on Human Rights, which published reports in October 2001 and September 2002. Both reports criticized the Government for abuses and faulted the Parliament and the Courts for failure to fully protect human rights. In September a new Criminal Code came into effect, which is expected to provide additional procedural protections to citizens suspected of crimes. Mongolia was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of arbitrary or unlawful deprivations of life committed by the Government or its agents; however, it was suspected that the killing of the Minister of Infrastructure in October 1998 was politically motivated. Although the investigation was ongoing, the inability to solve this case continued to be a major problem for the Government. In November the Parliament announced a reward of \$500,000 (500 million tugriks) for tangible information about the murderers.

During the year, 36 prisoners died in custody, largely due to disease (*see* Section 1.c.).

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, while reports of such actions diminished, the police in rural areas occasionally beat prisoners and detainees, and the use of unnecessary force in the arrest process was not uncommon. During the year, the Prison Administration equipped 11 out of 17 central prisons with television camera monitoring systems, which contributed to a significant decline in the number of prisoners and detainees beaten by guards. In 2001 it was alleged that five persons accused of killing a shopkeeper in 1999 were tortured during 2000 and 2001 while in detention centers in order to extract confessions. One of the five died of tuberculosis while in pretrial detention and the other four reported being subjected to severe abuse such as electrical shocks, threats to family members, and being forced to drink their own blood. A joint monitoring commission from the central police and the state prosecutor's office claimed its investigation found no basis for the allegations. However, the Supreme Court ordered the case reinvestigated in view of questions raised concerning evidence presented at the trial by the prosecution and the absence of legal counsel for the defendants during the early months of their detention; at year's end, the results of this second investigation were pending.

In recent years, reforms undertaken by the Ministry of Justice and Home Affairs upon Parliament's recommendation, following reports by international human rights observers, have changed significantly the way that accused persons and prisoners are treated. Human rights training for prison management and some police guards was implemented in 2001. A training center was established under the Court Decision Enforcement Agency (prison administration). During the year, 250 prison guards received training at the center and 10 went abroad for training. The Ministry's Department for the Enforcement of Court Decisions also monitored conditions, but the new laws and procedures were not publicized widely, especially in the countryside, and citizens were not always aware of their rights with respect to detention and arrest. In general pretrial detention and prison facilities were poor, providing insufficient food, heat, and medical care and thereby threatening the health and life of inmates. Overcrowding declined in prisons but remained common in detention centers.

Many inmates entered prison already infected with tuberculosis or contracted it in prison. In 2001 the Government, with the aid of foreign donors, concluded a program begun in 1997 for surveying and determining methods of treatment of tuberculosis among inmates. As a result of the program, the Government established a tuberculosis hospital that provided treatment for a large number of prisoners and better isolated infected persons from the general prison population. The number of inmates who died of the disease continued to decline significantly from previous years.

Police formerly administered detention centers, and conditions in some respects were worse than in prisons. On September 1, the Revised Criminal Code came into effect, under which the prison administration assumed responsibility for detention centers. At year's end, conditions remained poor but marginal improvements were noted as the prison administration began to address overcrowding; provided improved food, clothing and hygienic items; and began to provide warm meals twice, rather than just once, per day.

Although the number of inmates remained fairly constant, the seriousness of crimes allegedly committed by those detained increased.

Under the continuing reform process, prison inmates in the capital were divided into smaller groups managed by trained personnel and provided health and hygiene instructions. In 2001 a separate facility for juvenile prisoners was established in Ulaanbaatar and designated a training center. As of September, there were 94 children in the facility. Outside of Ulaanbaatar, juveniles between the ages of 14 and 18 who were charged with crimes were kept in the same detention centers as adults, unsegregated from the adult population. Improvements in detention and prison conditions outside of the capital were minimal or nonexistent due to lack of funding. However, families gained better access to inmates, alleviating some of the hardship in obtaining food and clothing. At least two national and six foreign nongovernmental organizations (NGOs) worked to improve conditions in prisons and detention centers, distributing clothing, food, books, and textbooks, and providing English-language instruction and training in computers and trades. All female prisoners were held separately in one central prison in Ulaanbaatar. At year's end, the prisoner population of that facility was 283.

The Government permitted prison visits by human rights monitors, but visits to pretrial detention centers were more difficult to arrange. Nonetheless, Amnesty International and other observers on occasion have visited detention centers as well as prisons.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution provides that no person shall be searched, arrested, detained, or deprived of liberty except by law, and these protections have been incorporated into the Criminal Code; however, arbitrary arrest and detention remained problems. General public awareness of basic rights and judicial procedures was limited. For example, citizens were not always aware of their rights in regard to arrest and detention procedures. Police may arrest those suspected of a crime and hold them for up to 72 hours before a decision is made to prosecute or release. Under the revised Criminal Code, which came into effect on September 1, a court order must be requested to continue holding a suspect after 24 hours have elapsed. If the requested order is not granted within 72 hours, the suspect must be released. In addition, prosecutors no longer have authority to issue warrants. A detainee has the right to a defense attorney during this period and during all subsequent stages of the legal process. If a defendant cannot afford a private attorney, the Government must appoint an attorney. However, in practice many detainees were not made aware of and therefore did not assert this right. There was a shortage of state attorneys, and the low quality of attorney training and the bureaucratic obstacles faced by attorneys and defendants were chronic problems. Detainees may be released on bail with the agreement of the prosecutor. Under the new Criminal Code, the maximum pre-trial detention (with a court order) is 24 months; an additional 6 months are allowed for particularly serious crimes such as murder. According to administrative regulation, if a person was wrongly charged with a crime, the Government must restore the person's rights and reputation and compensate him, but this regulation very rarely was followed in practice.

In 2000 a one-time amnesty law affected 1,000 inmates and detainees by reducing the sentences of inmates and releasing detainees held on insufficient evidence.

There were no reports of political detainees during the year. The Government did not use forced exile, which is prohibited by the Constitution.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the courts were generally independent in practice, although corruption was a problem.

The judiciary consists of local courts, provincial courts, and the Supreme Court. The 11-member Supreme Court is the court of final appeal, hearing appeals from lower courts and cases involving alleged misconduct by high-level officials. Local courts primarily hear routine criminal and civil cases; provincial courts hear more serious cases such as murder, rape, and grand larceny and also serve as the appeals court for lower court decisions. The Constitutional Court, separate from the criminal court system, has sole jurisdiction over constitutional questions. The General Council of Courts, an administrative body within the Ministry of Justice and Home Affairs, nominates candidates for vacancies on both the Supreme and lower courts; the

President has the power to approve or refuse such nominations. The Council also is charged with ensuring the rights of judges and providing for the independence of the judiciary. In 2001 a human rights course became mandatory for all law students.

According to law, all accused persons are provided due process, legal defense, and a public trial, although closed proceedings are permitted in cases involving state secrets, rape cases involving minors, and other cases provided by law. Defendants do not enjoy a presumption of innocence. Defendants may question witnesses and appeal decisions.

There were no reports of political prisoners. Each September the Government publicly pays respect to the memory of victims of the political repression from 1922 through the 1960s. Since 1991 approximately 36,000 persons have been absolved of accusations leveled against them. In 1991 the Government began giving apartments and monetary compensation to surviving victims or to the victims' spouses. Since then the Government has provided approximately 500 apartments and gers (a traditional nomadic dwelling of the Mongols). In 1998 the State Rehabilitation Commission began providing compensation to other family members of victims in the form of cash grants of \$500 and \$1,000 (500,000 and 1 million tugrik). The program subsequently was halted due to a budget shortfall in 2001 but resumed during the year. Since the inception of the program, more than 16,000 persons have received more than \$13 million (13 billion tugrik) in compensation. The program, originally scheduled to end in 2000, was extended to February 2006.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these provisions in practice. The head of the General Intelligence Agency, with the knowledge and consent of the Prime Minister, may direct the monitoring and recording of telephone conversations. The extent of such monitoring was unknown. Police wiretaps must be approved by the Prosecutor's Office and are authorized for only 2 weeks at a time.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech, press, and expression, and the Government generally respected these rights in practice. An increasing variety of newspapers and other publications represented major political party viewpoints as well as independent views. The media law that went into effect in 1999 bans censorship of public information and future legislation that would limit the freedom to publish and broadcast. This law also bars state ownership or financing of the media or media organizations. Nonetheless, the vast majority of radio and television stations and frequency licenses remained state-owned. The law took effect without agreement on regulations and procedures for the privatization of assets, and its implementation has been difficult and controversial. Lack of access to information and of transparency in government continued to inhibit political dialog in the media and led to media complaints.

The Government monitored all media for compliance with antiviolenace, antipornography, antialcohol, and tax laws. On July 31, an Ulaanbaatar Court found the editor-in-chief of "Word" newspaper guilty of libel and sentenced her to 1 year in prison. Journalists accused the Government of overzealous prosecution of the case and believed the trial was an assault on freedom of the press. No newspapers were closed during the year or during 2001. In 2000 two newspapers were closed as a result of government inspections, which journalists viewed as an attempt at intimidation and control. While there was no direct government censorship, the press perceived indirect censorship in various forms of government harassment such as frequent libel lawsuits and tax audits following an inflammatory article. The court system places the burden of proof on the defendants in libel and slander cases. As a result, some media practiced self-censorship, although independent media outlets were at times strongly critical of the Government. All newspapers bought newsprint directly from private suppliers, and neither party-affiliated nor independent news media reported difficulty securing an adequate supply. Due to transportation difficulties, uneven postal service, and fluctuations in the amount of newsprint available, access to a full range of publications was restricted in outlying regions.

There were several television stations, including a government-financed television station with countrywide broadcasting capability, a limited-operation international joint venture private television channel and a second private television station (which did not broadcast nationwide), a local television station controlled by the Ulaanbaatar mayor's office, and several radio stations in Ulaanbaatar. State-owned radio was particularly important as the major source of news in the countryside; however, one independent radio station broadcast widely and there were an increasing number of small local FM stations. The Voice of America and the British Broad-

casting Company broadcast in English only, over FM radio frequencies leased from private media interests. The media presented both opposition and government views. Many residents of the country had access to television, and Ulaanbaatar residents received broadcasts from other countries in Asia and Europe, including China, Russia, Japan, the United Kingdom, France, and Germany, as well as the United States, by commercial satellite and cable television systems. An estimated 70 percent of households had televisions.

Access to the Internet was available, and there were no government attempts to interfere with its use.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of conscience and religion, and the Government generally respected these rights in practice; however, some groups that sought to register faced bureaucratic harassment and the law limits proselytizing.

The Constitution explicitly recognizes the separation of church and state. However, although there is no official state religion, traditionalists believe that Buddhism is the “natural religion” of the country. The Government contributed to the restoration of several Buddhist sites that are important religious, historical, and cultural centers. The Government otherwise did not subsidize the Buddhist religion.

Religious groups must register with the Ministry of Justice and Home Affairs. While the Ministry of Justice and Home Affairs is responsible for registrations, local assemblies have the authority to approve applications at the local level.

Under the law, the Government may supervise and limit the number of places of worship and clergy for organized religions; however, there were no reports that the Government did so during the year. The registration process is decentralized with several layers of bureaucracy, in which officials sometimes demanded financial benefits in exchange for authorization. In general it appeared that difficulties in registering were primarily the consequence of bureaucratic action by local officials and attempts to extort financial assistance for projects not funded by the city. Of the 260 temples and churches founded since 1990, approximately 150 were registered, including 90 Buddhist, 40 Christian, and 4 Baha’i, in addition to 1 Muslim mosque and approximately 15 other organizations. Contacts with coreligionists outside the country were allowed.

The law does not prohibit proselytizing, but limits it by forbidding the use of incentives, pressure, or “deceptive methods” to introduce religion. In addition, a Ministry of Education directive bans mixing foreign language or other training with religious teaching or instruction. The edict was enforced, particularly in the capital area.

The Dalai Lama, a Tibetan Buddhist leader greatly respected by Mongolian Buddhists, visited the country in November, after a series of previous attempts to arrange such a visit failed. The Government actively worked with a number of countries in the region to ensure that the visit of this important religious leader could occur.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for freedom of movement within the country as well as the right to travel abroad and return without restriction, and the Government generally respected these rights in practice. However, due to continued harsh winter weather and drought conditions, an increased number of persons sought shelter in the capital, and the authorities continued to raise bureaucratic obstacles, such as increasing fees for residency applications, to prevent new arrivals from qualifying for residency and social benefits in the capital. Ulaanbaatar was the only city that required a registration fee for those moving into the city from other areas. In 2001 these fees were raised to \$50 (50,000 tugrik) per adult and \$25 (25,000 tugrik) per child.

The country is not a party to the 1951 U.N. Convention Regarding the Status of Refugees and its 1967 Protocol and it has no laws for granting refugee status. The Constitution contains a provision that addresses political asylum, but there were no implementing regulations. The Government continued talks with UNHCR representatives on both issues. Small groups of North Koreans continued to enter the country from China. The Government’s concerns about potentially growing numbers of North Korean migrants increased opposition to accession to the 1951 Convention.

The Government cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. However, in recent years the authorities have denied entry to some persons claiming refugee status, having determined that these persons were “economic immigrants” and not refugees.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free and fair elections by secret ballot and universal suffrage. Presidential, parliamentary, and local elections were held separately. In 2000 parliamentary elections brought the Mongolian People’s Revolutionary Party (MPRP) back into power. In 2001 the MPRP’s presidential candidate was elected to a second term. The Constitution limits the president to two terms. International observers deemed the presidential election generally free and fair; some irregularities in the 2000 parliamentary elections generated improved election practices and procedures in the 2001 presidential election. For example, new rules were introduced requiring two to three observers to be present with election commission representatives when votes are collected by mobile box (a ballot box circulated among rural households). However, no state funds were provided for the observers to accompany the election commission representatives, and corruption remained a problem in some remote areas. Ballot papers were printed and distributed under the strict control of political party observers. Cultural shows and other performances sponsored by candidates and their supporters were prohibited during the election campaign period except at its start and end. Constitutional amendments meant to address questions raised during the formation of the Government in 2000, concerning the President’s relationship to Parliament and the Government, and the right of Members of Parliament to serve in the Government, were passed by the Parliament in 2000 but vetoed by the President. Parliament overrode the veto and the amendments went into effect in 2001 when, following his reelection, the President signed them. The amendments state that the Prime Minister, in consultation with the President, shall submit proposals of the executive branch to the Parliament, and Members of Parliament may serve in the Government (as Cabinet Ministers).

There were 18 registered political parties; 4 were represented in the Parliament.

There were no legal impediments to the participation of women or minorities in government and politics. There were 9 female members in the 76-member Parliament. There were no female ministers, but there was one female vice-minister. Women and women’s organizations were vocal in local and national politics and actively sought greater representation by women in government policymaking.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of national and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

The U.N. High Commissioner for Human Rights closed its separate office in 2001, and complaints were referred to the National Commission on Human Rights (NCHR). Under the direction of the U.N. Development Program, a local representative in each provincial assembly, among other duties, monitored human rights conditions.

In 2001 Parliament established the NCHR to receive complaints from both citizens and foreign residents. The Commission consists of three senior civil servants nominated by the President, the Supreme Court, and the Parliament for terms of 6 years. The independent Commission was responsible for monitoring human rights abuses, initiating and reviewing policy changes, and coordinating with human rights NGOs. The Commission’s first and second public reports in October 2001 and 2002 criticized the Government for abuses of the power of arrest and detention, poor conditions in detention and prison facilities, lengthy detentions without trial, and failure to implement laws. The reports also faulted Parliament and the courts for failure to fully protect human rights. The Commission reports directly to the Parliament.

A human rights course was a requirement in the university law curriculum.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution states that “no person shall be discriminated against on the basis of ethnic origin, language, race, age, sex, social origin, or status,” and that “men and women shall be equal in political, economic, social, cultural fields, and family.” The Government generally enforced these provisions in practice.



*Women.*—Domestic violence against women was a serious problem. Rape and domestic abuse are illegal, and offenders can be prosecuted after formal charges have been filed. There is no law specifically prohibiting spousal rape.

There were no reliable statistics regarding the extent of domestic abuse but qualified observers believed that it was common, affecting as much as one-third of the female population. Approximately 98.5 percent of those who committed violent crimes in the home were male, and women were disproportionately the victims of these crimes. Further, in recent years domestic abuse appeared to become more violent; different statistical sources stated that between 10 and 24 percent of murders occurred in the home. In 1998 murders of women were 8 percent of all murder cases; in 2001 the number had doubled to 17 percent. After many years of government and societal denial, there was increasing public and media discussion of domestic violence, including spousal and child abuse. However, a common perception was that domestic abuse was either a family issue or not a problem at all. The large economic and societal changes underway have created new stresses on families, including loss of jobs, inflation, and lowered spending on social and educational programs. Some statistics showed that more than 60 percent of the cases of family abuse were related to alcohol abuse. The high rate of alcohol abuse contributed to increased instances of family abuse and abandonment and added to the number of single-parent families, most of which were headed by women. Although women's groups advocated new statutes to cope with domestic violence, there was no known police or government intervention in cases involving violence against women beyond prosecution under existing criminal laws after formal charges were filed. Women were hesitant to prosecute because of likely long-term detention of spouses in detention centers and the resulting loss of household income. A draft Law on Domestic Violence has been in circulation since 1997 and is expected to be submitted to the Parliament in spring 2003.

There are no laws against sexual harassment.

The Family Law details rights and responsibilities regarding alimony and parents' rights, and is intended to bring about timely dispute settlement and ameliorate the causes of some domestic violence. The National Center Against Violence operated branches, each staffed by two to three persons, in two districts of Ulaanbaatar and eight provinces. Only one small shelter for victims of domestic abuse existed in the country, largely funded by foreign charitable organizations.

The law stipulates the obligations regarding divorce, custody, and alimony to the benefit of the parent caring for children. It provides for more speedy resolution of divorce cases where the relevant agencies have determined that domestic violence is involved.

There were reports that some women and teenagers worked in the sex trade in Asia and Eastern Europe; an unknown number of them may have been trafficked (*see* Section 6.f.).

The Constitution provides men and women with equal rights in all areas. By law women are to receive equal pay for equal work and have equal access to education. Women represented approximately half of the work force, and a significant number were the primary earners for their families. The law prohibits women from working in certain occupations that require heavy labor or exposure to chemicals that could affect infant and maternal health. The Government enforced these provisions. Many women occupied midlevel positions in government and the professions, and many were involved in the creation and management of new trading and manufacturing businesses.

There is no separate government agency that oversees women's rights; however, there is a National Council to coordinate policy and women's interests among ministries and NGOs, and the Ministry of Social Welfare and Labor has a Division for Women and Youth Issues. There were approximately 40 women's rights groups that concerned themselves with such issues as maternal and child health, domestic violence, and equal opportunity.

*Children.*—Increased stress on the family structure and throughout society has had adverse effects on many children, and the Government has been unable to keep pace with the educational, health, and social needs of the most rapidly growing segment of its population, although it is committed to children's rights and welfare in principle. The Government provides children with free, compulsory public education through the age of 16, although family economic needs and state budgetary difficulties made it difficult for some children to attend school. In practice female children over the age of 15 had better opportunities to complete their education than male children, because teenage males often were required to work at home and schools generally were located far from homes (*see* Section 6.d.). In addition, there continued to be a severe shortage of teachers and teaching materials at all educational levels.

The society has a long tradition of supporting communal raising of children. The Government was more willing to admit the extent of the problem of orphaned children, but it lacked the resources to improve the welfare of children who have become the victims of larger societal and familial changes. NGOs continued to assist orphaned and abandoned children. The Government does not publish statistics on street children; however, the 2002 census identified approximately 1,300 homeless youths between 7 and 18 years of age. Of those, 840 lived in shelters provided by 21 children's centers sponsored by international NGOs. Groups working in the field disagreed on the number of street children but estimated that there were as many as 3,000. Female street children, who accounted for one third of all street children, sometimes faced sexual abuse. The Government established a National Committee for Children to address this and other child welfare issues. The Government supported two private shelters, one for children from birth to age 3, and the other for children from 3 to 16 years of age. While government facilities received government funding, finances were inadequate and the Government used foreign aid to help sustain the orphanages.

There was growing awareness that child abuse, often associated with parental alcoholism, was a problem. In conjunction with efforts to counter violence against women, NGOs have begun to address the issue. The Ministry of Social Welfare and Labor has added a Department for Women and Youth Issues.

*Persons with Disabilities.*—The 1999 Labor Law prohibits discrimination against persons with disabilities in employment and education, and requires the Government to provide benefits according to the nature and severity of the disability, which it did. There was no official discrimination against persons with disabilities in employment and education. However, in practice most could not find jobs. In 2001 the Government began to implement a section of the 1999 Labor Law that requires companies employing more than 50 persons to hire at least 3 persons with disabilities. Those who have been injured in industrial accidents have the right to reemployment when ready to resume work, and the Government offered free retraining at a central technical school. There are several specialized schools for youths with disabilities, but these students also were free to attend regular schools. The Government also provided tax benefits to enterprises that hired persons with disabilities, whom some firms hired exclusively. There is no law mandating access for the disabled; thus it was difficult for the disabled to participate fully in public life. However, in 2001 the Government set aside a small sum to build wheelchair access ramps to public buildings. Disabled citizens' groups have demonstrated for higher government subsidies. Government pensions for the disabled were approximately \$40 (40,000 tugrik) per month. There were approximately 40,000 disabled persons in the country. Approximately 30 NGOs participated in activities assisting persons with disabilities.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution entitles all workers to form or join unions and professional organizations of their choosing. Union officials estimated that union membership remained constant at approximately 400,000, which represented less than half of the workforce. Workers who were self-employed or worked at small, nonunionized firms generally did not belong to unions. No arbitrary restrictions limited who could be a union official, and officers were elected by secret ballot.

During the year, the leadership of the newer Association of Free Trades Unions merged with the Mongolian Trade Unions Confederation, leaving in effect only one trade union confederation in the country. The Mongolian Trade Unions Confederation had ties with international labor organizations and confederations in other countries.

*b. The Right to Organize and Bargain Collectively.*—The law regulates relations between employers, employees, trade unions, and the Government. The Government's role is limited to ensuring that contracts meet legal requirements concerning hours and conditions of work. Wages and other conditions of employment are set between employers, whether state or private, and employees, with trade union input in some cases. The Labor Dispute Settlement Commission resolves disputes involving an individual; disputes involving groups are referred to intermediaries and arbitrators for reconciliation. If an employer fails to comply with a recommendation, employees may exercise their right to strike. The law protects workers' right to participate in trade union activities without discrimination.

Union members have the right to strike; however, those employed in "essential services," which the Government defines as occupations critical for national defense and safety, including police, utility, and transportation workers, do not have the

right to strike. During the year, there were approximately 8 strikes involving over 1,000 workers.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law specifically prohibits forced or bonded labor, including forced and bonded labor by children; however, enforcement was intermittent. In 2000 a foreign-owned garment factory was discovered to be requiring employees to work 14-hour shifts 7 days a week, deducting unreasonable sums from paychecks for miscellaneous expenses, and requiring 16- to 18-year-old workers to work excessive hours. Some members of the military forces in rural areas were required to help with the fall harvest. In many cases, prisoners worked to support the detention facility or prison in which they were held, and detained alcohol abusers and petty criminals sometimes were required, as part of their sentences, to perform menial tasks such as street sweeping. Detainees were compensated financially for their work; prisoners were not, but received credit toward time off of their sentences.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law in general prohibits children under the age of 16 from working, although those who are 14 or 15 years of age may work up to 30 hours per week with parental consent. Those under 18 years of age may not work at night, engage in arduous work, or work in hazardous occupations such as mining and construction. Enforcement of these prohibitions, as well as all other labor regulations, was the responsibility of state labor inspectors assigned to regional and local offices. These inspectors have the authority to compel immediate compliance with labor legislation, but enforcement was limited due to the small number of labor inspectors and the growing number of independent enterprises. In 2000 a foreign-owned garment factory was found to be employing 16- to 18-year-old workers for periods in excess of the legal limits (see Section 6.c.).

Children worked informally in petty trade, scavenging in dumpsites, scavenging coal from abandoned mines and herding animals. Increasing alcoholism and parental abandonment made it necessary for many children to have an income in order to support themselves, their siblings, and sometimes their parents. Estimates of the number of children in the labor force were as high as 58,000.

Also, due to increasing economic pressures, fewer children, especially teenage boys in the countryside, were staying in school until age 18 (see Section 5). These children most often herded family animals, but reports of such children working in factories or coal mines increased.

The Government prohibits forced and bonded labor by children, and generally attempted to enforce this prohibition. However, forced labor by children did exist in a few circumstances. In 2000 the International Labor Organization (ILO) established a national office for the International Program on the Elimination of Child Labor.

*e. Acceptable Conditions of Work.*—The legal minimum wage established for the year was under \$25 (25,000 tugrik) per month. This minimum wage, which applied to both public and private sector workers and was enforced by the Ministry of Social Welfare and Labor, alone was insufficient to provide a decent standard of living for a worker and family. Virtually all civil servants earned more than this amount, and many in private businesses earned considerably more. Some employees received housing benefits.

The standard legal workweek is 40 hours, and there is a minimum rest period of 48 hours between workweeks. By law, overtime work is compensated at either double the standard hourly rate or by giving time off equal to the number of hours of overtime worked. Pregnant women and nursing mothers are prohibited by law from working overtime. For those 16 and 17 years of age, the workweek is 36 hours, and overtime work is not allowed. These laws were generally enforced in practice.

Laws on labor, cooperatives, and enterprises set occupational health and safety standards. However, the near-total reliance on outmoded machinery and problems with maintenance and management led to frequent industrial accidents, particularly in the mining, power, and construction sectors. Enforcement of occupational health and safety standards, provided by the Ministry of Social Welfare and Labor, was inadequate. The labor monitoring unit employed only 70 inspectors to inspect a growing number of enterprises throughout the country. However, 42 additional volunteer inspectors from NGOs assisted the labor monitoring unit in 2001. According to the law, workers have the right to remove themselves from dangerous work situations and still retain their jobs. There were a small number of foreign workers in the country who, in general, enjoyed the same protections as citizens.

*f. Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons, and there was evidence that women and teenagers working in the sex trade

in Asia and Eastern Europe may have been the victims of trafficking rings. The country was both a source and transit point for trafficking. Although most officials and NGOs found it difficult to estimate the extent of the trafficking, increasing attention was focused on the issue.

The primary targets of trafficking schemes were middle class girls and young women, ranging in age from 14 to approximately 28 years of age. These girls and women were lured abroad by offers to study or work. It was not difficult to traffic persons across the country's borders. Some NGO experts believe that members of the police sometimes were involved in trafficking young women and helping facilitate their movement across borders. In 2001 an NGO began providing training and education on trafficking for police officials.

## NAURU

The Republic of Nauru adopted a modified form of parliamentary democracy on gaining independence in 1968. The country is governed by a unicameral Parliament. The Parliament is elected at least triennially and consists of 18 members from 14 constituencies. It elects the President, who is both Chief of State and Head of government, from among its members. The most recent parliamentary elections, held in 2000, were considered free and fair; Parliament elected a new president in April 2001. The judiciary is independent.

There are no armed forces, although there is a small police force, with fewer than 100 members, under civilian control.

The population is approximately 10,500. The economy depends almost entirely on mining of phosphate deposits. The Government-owned Nauru Phosphate Corporation (NPC) controls the mining industry, and a large percentage of its earnings were placed in long-term investments meant to provide national revenue after the phosphate reserves were exhausted. However, financial mismanagement and corruption has led to a shortage of basic goods and utilities and some domestic unrest. During the year, opposition party Naoero Amo (Nauru First) pushed actively for reform of the NPC.

Media reports indicated that substantial offshore deposits were associated with the country's banking facilities. The Organization for Economic Cooperation and Development financial action task force investigated allegations of money laundering and concluded that new banking laws passed in December 2001 did not address adequately the deficiencies in the country's licensing, regulation, and supervision of its offshore banking sector. The Government continued to sell passports openly.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse. However, some human rights advocates expressed concerns about poor living conditions and alleged arbitrary detention of asylum seekers held in the country. The country has a refugee processing and detention center, funded by the Government of Australia, that held approximately 700 asylum seekers at year's end. Most were intercepted at sea en route to Australia; Australian immigration officials continued to process their asylum claims in coordination with the U.N. High Commissioner for Refugees. Societal pressures limited women's economic opportunities. Nauru was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that government officials employed them.

The Government attempted to meet international prison standards within its limited financial means and in accordance with local living standards. However, prison conditions were basic, and food and sanitation were limited. There were separate accommodations for pretrial detainees and convicted prisoners, men and women, and adults and juveniles.

The country hosted a refugee processing and detention center, funded by the Government of Australia, that held approximately 700 asylum seekers at year's end.

Most of the detainees were citizens of Afghanistan, Pakistan, and other South Asian countries, were intercepted at sea en route to Australia, and sought resettlement in Australia or another developed country. Australian human rights organizations expressed concern about conditions at the detention center, including problems with the water quality and the power supply. Water quality and power supply problems were common in the country as a whole.

There were no local human rights groups, and the question of visits to prisons by human rights observers was not raised. Prison visits by church groups and family members were permitted.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. The police may hold a person for no more than 24 hours without a hearing before a magistrate.

In May the Australia-based Catholic Commission for Justice, Development and Peace asserted that the detention of asylum seekers in the country was not being handled in accordance with the Constitution of Nauru, since these individuals had been detained without first being brought before a court for a hearing. The Government had not responded to these assertions by year's end.

The Constitution and law do not prohibit forced exile; however, the Government did not use it.

*e. Denial of Fair Public Trial.*—The judiciary is independent, and constitutional provisions for both a fair hearing and a public trial generally were respected.

The Supreme Court is the highest court when addressing constitutional issues; it is presided over by the Chief Justice of Nauru. The Appellate Court of Nauru, composed of two judges, hears appeals of Supreme Court decisions on other matters. Parliament cannot overturn court decisions. Under the Appeals Act, cases may be reviewed by the High Court of Australia on Criminal and Civil Actions, but this rarely was done. A Resident Magistrate, who is also the Registrar of the Supreme Court, presides over the District Court. The Resident Magistrate also presides over the Family Court as Chairman of a three-member panel. There are two other quasi-courts established under the Constitution, the Public Service Appeal Board and the Police Appeal Board. The Chief Justice of Nauru presides over both as chairman, with two members for each board.

Defendants may have legal counsel, and a representative for the defense is appointed when required "in the interest of justice." However, traditional reconciliation mechanisms were used in many cases rather than the formal legal process—usually by choice but sometimes under communal rather than governmental pressure. Contract workers from Kiribati and Tuvalu working in the mining sector did not have recourse to effective communal assistance, and were disadvantaged in complaints against citizens. There were only three trained lawyers in the country, and many persons were represented in court by "pleaders," trained paralegals certified by the Government (*see* Sections 6.a. and 6.b.).

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution generally prohibits such actions, and the Government generally respected these prohibitions in practice. Searches not sanctioned by court order were prohibited, and there was no surveillance of individuals or of private communications. Citizenship and inheritance rights are traced through the female line. Marriage between women and foreign males may draw social censure. The law extends the right of citizenship to both male and female spouses of citizens, provided that marital and residency requirements are met.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and of the press, including academic freedom.

The country had no regular print media. Occasional publications included the Government bulletin. A newsletter called *The Visionary* was published sporadically by the opposition party Naoero Amo, and provided an independent and critical view of the Government. It was particularly vocal regarding economic crises during the year. In December 2001, Presidential Counsel David Adeang and Senior Medical Officer Dr. Kieren Keke (both members of Naoero Amo) were suspended from and later resigned their government positions following publication in *The Visionary* of their comments criticizing the Government's policy toward asylum seekers. Adeang later became a Member of Parliament. The sole radio station was owned and oper-

ated by the Government; it broadcasts Radio Australia and British Broadcasting Corporation news reports. Local television included Nauru TV, which is government owned, as well as a privately owned sports network.

The Government was the sole Internet service provider in the country, but did not monitor or censor content.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the freedoms of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, the Government restricted this right in some cases. During the year, the Government prevented Mormons and members of Jehovah's Witnesses from practicing their religion freely on some occasions, and members of these religions were subjected to arbitrary licensing and immigration requirements.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

Foreign workers had to apply to their employers for permission to leave during the period of their contracts. They could break the contract and leave without permission but would lose their positions and often a sizable bond as a result. In most cases, foreign employees whose contracts were terminated by their employers had to leave the country within 60 days.

The Government has not formulated a formal policy regarding refugees, asylees, or first asylum. However, the Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The country has accommodated asylum seekers as a processing center for Australia. These asylum seekers were held in facilities funded by the Government of Australia, with day-to-day supervision provided by officials of the International Office on Migration and local authorities. At year's end, some asylum seekers had been resettled, primarily in Australia and New Zealand; however, approximately 700 remained in detention in Nauru. Most of this population had been denied refugee status, but not yet repatriated. None had requested resettlement in Nauru. In May the UNHCR asked the Government to reconsider its denial of admission to the bar for several Australian lawyers offering legal assistance to detained asylum seekers. The Government reportedly had suggested that asylum seekers instead retain local counsel.

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

The Constitution provides citizens the right to change their government. The Government also can be changed through a petition from the members of Parliament. Although the country's politics is based more on clan than party membership, persons with diverse points of view have been elected to Parliament.

Parliament elects the President. There was a change in government in March 2001, the first change in government since the general elections in April 2000. A new President was elected by Parliament, and a new cabinet was convened in April 2001. In March 2002, Chief Secretary Matthew Batsuia resigned, citing a lack of faith in the Government. (Chief Secretary is the senior civil service position in the country.)

During the country's history, all changes in government have been peaceful and in accordance with the Constitution. In parliamentary elections, voting by secret ballot is compulsory for all citizens over the age of 20. There were multiple candidates for all parliamentary seats during the 2000 elections. Naoero Amo member and former Presidential Counsel David Adeang was elected to Parliament during the year, winning a by-election prompted by disputes over the counting of ballots in his 2000 parliamentary race. New nationwide parliamentary elections are scheduled to take place in April 2003.

There are no legal impediments to participation in politics by women. In the past, the dominance of traditional clans in national politics limited participation by women, and there are no female Members of Parliament. However, there is growing participation by women in party-based politics, and women held many senior civil service positions, including Permanent Secretary and Cabinet Secretary-level jobs.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were no restrictions on establishing local groups that concern themselves specifically with human rights, but no groups have been formed. In May the Australian-based Catholic Commission for Justice, Development and Peace raised concerns about alleged arbitrary detention of asylum seekers, asserting that the detainees were not being processed in accordance with the Constitution (*see* Section 1.d.).

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The law prohibits discrimination on the basis of race, sex, disability, language, or social status, and the Government observed these provisions.

*Women.*—The Government did not keep track of incidents of physical and domestic abuse against women. However, credible reports indicated that sporadic abuse, often aggravated by alcohol use, occurred. Families normally sought to reconcile such problems informally, and, if necessary, communally. The judiciary and the Government treated major incidents and unresolved family disputes seriously.

Spousal rape per se is not a crime, but police will prosecute charges of rape leveled against a spouse. Prostitution is illegal and not widespread. Sexual harassment is a crime, and was not a serious problem.

The law grants women the same freedoms and protections as men. The Government officially provided equal opportunities in education and employment, and women were free to own property and pursue private interests. However, in practice societal pressures limited opportunities for women to fully exercise these rights. There was a Women's Affairs Office to promote professional opportunities for women.

*Children.*—The Government devoted adequate resources for education and health care for children. Education was compulsory until age 16. Child abuse statistics do not exist, but alcohol abuse sometimes led to child neglect or abuse. There were no reported cases of child abuse or child prostitution during the year.

*Persons with Disabilities.*—There was no reported discrimination in employment, education, and the provision of state services to persons with disabilities. However, no legislation mandated access to public buildings and services for persons with disabilities. Persons who applied to the Health Department could obtain government assistance in building access ramps to homes and workplaces.

There are no formal mechanisms to protect persons with mental disabilities; however, the Government at times provided essential services to the families of such persons.

*National/Racial/Ethnic Minorities.*—Nonnative Pacific Island workers experienced some discrimination. While foreign workers were provided free housing, the shelters were often poorly maintained and overcrowded. In the past, some foreign workers alleged that the police rarely acted on their complaints against citizens (*see* Section 6.e.).

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right of citizens to form and belong to trade unions or other associations. However, the country has virtually no labor laws, and there were no trade unions. Past efforts to form unions were discouraged officially. The transient nature of the mostly foreign work force also has hampered efforts to organize the labor force. There were no prohibitions or limits on the right of unions to affiliate with international bodies.

*b. The Right to Organize and Bargain Collectively.*—While there were no legal impediments, collective bargaining did not take place. The private sector employed only about one percent of salaried workers. For government workers, public service regulations determined salaries, working hours, vacation periods, and other employment matters.

The right to strike is neither protected, prohibited, nor limited by law. No strikes took place during the year.

There are no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution forbids forced or bonded labor, including forced and bonded labor by children, and the Government effectively enforced these prohibitions.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law sets age 17 as the minimum age of employment. The only two large employers, the Government and the NPC, honored this rule. Some children under the age of 17 worked in small, family-owned businesses.

The country is not a member of the International Labor Organization (ILO) and has not ratified ILO Convention 182 on the worst forms of child labor.

*e. Acceptable Conditions of Work.*—Minimum wage rates for office workers and manual laborers provided an adequate, if modest, standard of living for a worker and family. Most families lived in simple but adequate housing, and almost every family owned some sort of motor vehicle. The Government set the minimum yearly wage administratively for the public sector. Since November 1992, that rate has been \$6,562 (\$A9,056) for those 21 years of age or older. The rate is progressively lower for those under 21 years of age. Employers determined wages for foreign contract workers based on market conditions and the consumer price index. Usually foreign workers and their families received free housing, utilities, medical treatment, and often a food allowance. Some noncitizen contract workers complained about conditions in company living compounds. By regulation the workweek for office workers was 36 hours, and for manual laborers, 40 hours in both the public and private sectors. Neither law nor regulations stipulated a weekly rest period; however, most workers observed Saturdays and Sundays as holidays.

The Government sets health and safety standards. The NPC had an active safety program that included an emphasis on worker education and the use of safety equipment such as helmets, safety shoes, and dust respirators. The NPC had a safety officer who was specifically responsible for improving safety standards and compliance throughout the company.

*f. Trafficking in Persons.*—The law does not specifically prohibit trafficking; however, there were no reports that persons were trafficked to, from, or within the country.

## NEW ZEALAND

New Zealand is a parliamentary democracy, with executive authority vested in a 20-member cabinet led by the Prime Minister. Queen Elizabeth II is Chief of State and is represented by the Governor General. The 120-member Parliament is elected in a mixed-member proportional representation system, with 7 seats reserved for members of the native Maori population. Citizens periodically choose their representatives in free and fair multiparty elections. The judiciary is independent.

The national police maintain internal security under the direction of the Minister of Police. The civilian authorities maintain effective control of the security forces. The police committed some abuses during the year.

The country has a population of approximately 3.9 million. It produces agricultural products and exports wool, meat, and dairy products. Tourism, forestry, fishing, and manufacturing were also significant economic sectors. Disparities in wealth were small but increasing. Government social programs offered substantial benefits to disadvantaged persons.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of addressing individual instances of abuse. There were some complaints of police abuses and of violence against women and children; societal discrimination against persons with disabilities, indigenous people, Pacific Islanders, and Asians was a problem. The Government generally respected the human rights of citizens living in its territories of Tokelau, Niue, and the Cook Islands. New Zealand was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial meeting in Seoul, Republic of Korea, as a participant.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

In a case involving a police officer who fatally shot a Maori youth in 2000, the family of the deceased youth filed the first-ever wrongful death civil suit against a police officer acting in an official capacity. In December a jury exonerated the officer and concluded that he had acted in self-defense. A December investigative report on John David Bryant, struck and killed by a bus while fleeing police custody, determined that arresting officers were not responsible for his death.

An independent Police Complaints Authority handles complaints and can refer cases directly to Parliament. Complaints range from police use of abusive language to allegations of complicity in deaths. During the 12-month period ending June 30, the Authority received 2,792 complaints; only 187 complaints were upheld. There



were 11 convictions and 2 acquittals in these cases; police were exonerated in the four cases involving deaths in custody, pursuit, or while police were present. The remaining cases were pending at year's end.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and the Government generally respected these prohibitions in practice.

There were some instances of police abuse during the year; four cases involved deaths. The Police Complaints Authority accepted 2,792 complaints against the police in the 12-month period ending June 30 and upheld 137 (see Section 1.a.).

Prison conditions generally met international standards. In 2000 prison overcrowding prompted the Government to begin a major building program; the Auckland Central Remand Prison, with capacity for 360 male inmates, opened in July. Four additional men's facilities, with a total combined capacity of 1,470 beds, are scheduled to open between 2003 and 2006. At year's end, the inmate population was 5,968 and total prison bed capacity approximately 6,000. Male and female inmates normally were housed separately, and no women were held in men's prisons during the year. Since 1999 the Government has been adding prison beds for women, and at year's end had a total capacity of 344 beds for a female inmate population of 236. During the year, the Government began a program to reduce recidivism among female inmates by creating mother-baby feeding facilities, parenting programs, and enhanced family visitation opportunities. Babies under 6 months of age were allowed to live with their mothers in prison, where appropriate. Under the Criminal Justice Act of 1985, the Minister of Corrections also may grant early release to an inmate who has given birth while serving a determinate sentence. Assaults in prisons (mostly inmate on inmate) rose to 120 in the period July 1999-June 2000 (the latest available statistics) from 97 during the previous 12-month period. There were 3 suicides during the 12-month period ending in June, a decline from the previous 12-month period. All new corrections officers received suicide awareness training, including tools to manage at-risk inmates effectively.

Maori make up only 15 percent of the general population but were more than half the prison population. The Government sought to reduce Maori recidivism through special programs to integrate Maori cultural values into the rehabilitation program (see Section 5).

Inmates under age 20 constituted approximately 6 percent of the total prison population. Four special units, providing a peer-based approach to rehabilitation for inmates under the age of 17 and vulnerable 17- to 19-year-olds, opened between 1999 and 2001. Juvenile detainees come under the jurisdiction of Child, Youth, and Family Services (CYFS) rather than the police. At year's end, CYFS had a capacity of 143 beds. Despite increases in capacity, a shortage of beds for youthful offenders continued to be a problem during the year. In June the Sentencing and Parole Act was temporarily amended to permit youths aged 15 and older to be remanded to adult facilities. During the year, juveniles were held in adult remand centers in 2 homicide cases involving a total of 10 youths.

Pretrial detainees were housed separately from convicted prisoners to the extent possible.

The Government permitted visits by independent human rights observers.

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

There is no statutory authority for imposing a sentence of exile, and the Government does not practice forced exile. The Bill of Rights guarantees every citizen the right to enter the country.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected this provision in practice.

There is an independent judiciary, with the right of appeal to the Privy Council in London, United Kingdom, although this is rarely invoked. Within the country, the Court of Appeal was the highest appellate court; it heard appeals from the High Court, which has original jurisdiction for major crimes and important civil claims. The High Court also heard appeals from lower courts and reviewed administrative actions. Remaining original jurisdiction rested with 110 judges of the district courts. Special courts included the Employment Court, family courts, youth courts, the Maori Land Court, the Maori Appellate Court, and the Environment Court.

In December the Government introduced a bill to transfer final appeals from the Privy Council to the Supreme Court of New Zealand. Opponents argued that the Supreme Court would be less impartial than the Privy Council, and the bill was still pending in Parliament at year's end.

The law provides for the right to a fair trial and affords defendants the rights found in other common-law jurisdictions. An independent judiciary generally enforced these rights.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and of the press, including academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations assisting refugees. The Government provides first asylum. Under its refugee quota, the Government resettles up to 750 UNHCR-approved refugees per year. There were no reports of the forced return of persons to a country where they feared persecution.

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

The law provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Parliamentarians are elected under a mixed-member proportional representation system; the last general elections were held in July.

Women are accorded full opportunity to participate in political life. There were 34 women in the 120-seat Parliament. There were 9 women (including the Prime Minister) on the Executive Council, which comprises 26 ministers (20 within the Cabinet and 6 outside the Cabinet). The Cabinet included seven women. The Prime Minister, the former opposition leader, the Attorney General, and the Chief Justice are women; the Governor General, who represents the Queen, is a woman. There were 2 women in the 25-seat Parliament of the dependent territory of the Cook Islands, and 2 women in the 20-seat Parliament of the dependent territory of Niue.

There were 20 Maori, 3 members of Pacific Island origin, and 1 member each of East and South Asian heritage in Parliament. The first Muslim Member of Parliament was elected during the year. The Cabinet included at least 6 members with Maori ancestry.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. The Human Rights Commission, a U.N.-accredited national human rights institution, investigates complaints of human rights violations and unlawful discrimination and acts as a conciliator. The Government also funds the office of a race relations conciliator, which was integrated into the National Human Rights Commission in December 2001.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The law prohibits discrimination on the basis of race, sex, religion, disability, and language, and the Government actively enforced it.

*Women.*—Violence against women was a serious and growing problem. Assaults by males against females increased by more than 5 percent from 6,956 for the 12-

month period ending in June 2000 to 7,324 for the 12-month period ending in June 2001. More recent statistics were not available. The total number of breaches of the Domestic Violence Act (including all races) increased from 4,429 for the 12-month period ending in June 2001 to 5,659 for the 12-month period ending in June 2002.

According to a 1996 National Survey of Crime Victims (the latest such statistics available), an estimated 20 percent of all Maori, 11 percent of all persons of European ancestry, and 9 percent of all Pacific Islanders reported domestic abuse by a partner. According to the Injury Prevention Research Center, 15 to 35 percent of all women reported having been hit or forced to have sex by their partners at least once in their lifetime. Although Maori women and children constituted less than 10 percent of the population, half the women and children who used the National Council of Independent Women's Refuges were Maori. According to 1998 government statistics, 5,056 men were prosecuted for domestic assault and approximately 1,000 on less serious family violence charges. In this study, Maori men constituted 41 percent of men convicted of assaulting a woman and 43 percent of men convicted of assaulting a child. Disproportionately high rates of domestic abuse also were documented among Pacific Islander families. Convictions for "male assaults female" (all races) increased 30 percent from 2000 to 2001, rising from 2,240 to 2,921 cases. Assaults on a child increased nearly 60 percent in the same period, from 186 to 296 cases. However, convictions for breaching protection orders under the Domestic Violence Act fell 46 percent, from 4,429 to 2,366.

The law penalizes spousal rape. The Government prosecuted and convicted persons on this charge during the year; however, specific statistics were not available. The National Collective of Rape Crisis groups disbanded during the year; however, local groups continued to be active. Rape crisis groups asserted that most sexual assault cases went unreported and that only a small percentage of reported cases resulted in convictions.

The 1995 Domestic Violence Act broadened the definition of violence to include psychological abuse, threats, intimidation, harassment, and allowing children to witness psychological abuse. It expanded intervention measures, such as the use of protection orders; education programs for men, women, and children; stronger police powers to arrest and detain offenders; improved access to legal services for women eligible for legal aid; and tougher penalties for breach of a protection order. As of June 30, 2001, the family court had received 22,369 applications for protection orders under the Act.

In March the Government introduced "Te Rito," a national strategy to combat domestic violence. It included a range of programs to expand initiatives for prevention of family violence, provide victim support, incorporate best practices from family violence centers into the national family violence programs, ensure safety from violence, and ensure that approaches to family violence were culturally relevant and effective for minority populations, such as the implementation of Maori-designed and delivered programs. The Government partially funded women's shelters, rape crisis centers, sexual abuse counseling, family violence networks, and violence prevention services.

Female genital mutilation (FGM) is not traditionally practiced in the country. However, in the mid-1990s, cases of FGM were documented in the Somali, Sudanese, and Ethiopian immigrant communities. A 1996 law made it illegal to perform FGM or to remove a child from the country to carry out the procedure; violations of the law are punishable by up to 7 years in prison. The Government also funded a national FGM education program. During the year, the Government sponsored ongoing public awareness campaigns to address FGM, a child protection network, and a special clinic at the country's largest women's hospital. There were no FGM cases reported during the year.

Prostitution is legal; however, organizing and recruiting women into prostitution is not. The law prohibits sex tourism, and citizens who commit child sex offenses overseas can be prosecuted in New Zealand courts (*see* Section 5). There were no reports of abuse or the involuntary detention of women involved in prostitution during the year; however, there were several credible reports that women smuggled into the country were forced into prostitution to repay substantial debts to traffickers. There were also reports that some foreign commercial sex workers had their passports withheld by employers until bonds were repaid (*see* Sections 6.c. and 6.f.).

The law prohibits sexual harassment; however, it was a serious problem. In a survey commissioned by the National Human Rights Commission in 2001, 31 percent of women and 13 percent of men reported experiences of sexual harassment. In September 2001, the commission started a Sexual Harassment Prevention Campaign, including a week focused on the issue.

While the law prohibits discrimination in employment and in rates of pay for equal or similar work, the Government acknowledged that a gender earnings gap

persisted in practice. Statistics as of August indicated that women earned 76 percent of men's average total wage and 84.4 percent of men's average ordinary hourly wage.

*Children.*—The law provides specific safeguards for children's rights and protection. The Government demonstrated its commitment to children's rights and welfare through its well-funded systems of public education and medical care. In November 2001, the Government instituted 12 weeks of government-funded, paid parental leave to care for children born after July 2002. Established in 1989, the office of the Commissioner for Children played a key role in monitoring violence and abuse against children.

The law provides for compulsory, free, and universal education through age 16, and the Government effectively enforced the law. The Government provided free health care to all children under age 5.

Child abuse continued to gain significant attention. During the year, there were approximately 2,026 reported cases of physical abuse, 1,262 cases of sexual abuse, and 2,121 cases of severe emotional abuse of children. In 2000 (the most recent statistics available), 2 children under age 15 died in assaults, down from 12 in 1997. In the past, the Government reported that Maori children were four times as likely as non-Maori children to require hospital care for injuries resulting from deliberate harm. In August 2000, the Government instituted an expanded program of information sharing between the courts and health and child protection agencies to identify children at risk of abuse. Notifications to child protection agencies of at-risk children increased by 4 percent on an annualized basis as a result of this program. Applications to family court requested protection for 22,948 children during the year.

A January study published by the Ministry of Justice concluded on the basis of anecdotal evidence that child prostitution was a growing problem throughout the country. In 2001 the Government had published a National Plan of Action against the Commercial Exploitation of Children developed in concert with nongovernmental organizations (NGOS). Assistance programs for victims of debt bondage were implemented through the Human Rights Commission, the Mayor of Auckland, the police, the Immigration Service, and NGOs including ECPAT NZ, the Prostitutes Collective, and Shakti Asian Women's Refuge. Other initiatives included pamphlets about the unacceptability of child prostitution, and peer counseling programs. In August a man was fined \$625 (\$NZ 1,300) and sentenced to community service for possession of child pornography.

In 1995 the Government introduced extraterritorial jurisdiction over child sex offenses committed by the country's citizens abroad. In February an 18-year-old man was convicted under this law for committing indecencies with a 13-year-old child while in a foreign country; he was sentenced to 5 months' imprisonment and a fine. In July a citizen was extradited to India on charges of sexually exploiting children in a Goa orphanage in the mid-1990s.

In the mid-1990s, there were a small number of documented FGM cases, most involving young girls, in Somali, Sudanese, and Ethiopian immigrant communities. However, there were no documented cases of FGM during the year (*see* Section 5, Women).

Incidents of trafficking in children for sexual purposes have been documented; however, there were no such cases during the year. The Government worked with the NGO ECPAT NZ to combat trafficking in children (*see* Section 6.f.).

*Persons with Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, access to places and facilities, and the provision of goods, services, and accommodation. Compliance with access laws varied. The Government is prohibited from discrimination on the basis of disability, mental or physical, unless such discrimination can be "demonstrably justified in a free, democratic society." The Human Rights Commission reported that during the year, it continued to receive more complaints of discrimination based on disability than for any other type of discrimination. The International Labor Organization (ILO) has criticized the Government for not collecting adequate data regarding the employment of persons with disabilities.

In 2001 the Human Rights Commission funded a public campaign featuring prominent citizens who had suffered from mental disabilities, and continued to address mental health issues in its overall antidiscrimination efforts during the year.

*Indigenous Persons.*—Approximately 15 percent of the population claim at least one ancestor from the country's indigenous Maori or Moriori minorities. The law prohibits discrimination against the indigenous population; however, the Government's May 2000 Closing the Gaps report noted a continuing pattern of disproportionate numbers of Maori on unemployment and welfare rolls, in prison, among school dropouts, in infant mortality statistics, and among single-parent households.

For example, the official Maori unemployment rate (12.3 percent) was more than three times that of non-Maori. Maori officials continued to express concern over the Government's November 2000 announcement of a shift in its Closing the Gaps strategy to address socioeconomic rather than race-based disparities.

Maori inmates constituted more than half the prison population. The Government addressed the problem of recidivism among Maori through Maori focus units and special cultural assessments of Maori offenders. Five Maori focus units, involving approximately 300 inmates, integrated Maori values into the prison rehabilitation program. A special program for Maori sex offenders, *Kia Marama*, halved the rate of recidivism among participants.

Government policy recognizes a special role for indigenous people and their traditional values and customs, including cultural and environmental issues impacting commercial development. The Ministry of Maori Development, in cooperation with several Maori NGOs, sought to improve the status of indigenous people. A special tribunal continued to hear Maori tribal claims to land and other natural resources stemming from the 1840 Treaty of Waitangi.

*National/Racial/Ethnic Minorities.*—Pacific Islanders, who make up 5 percent of the population, experienced societal discrimination similar to that experienced by Maori. Pacific Islanders also were overrepresented in the prison system, accounting for 10 percent of inmates. In June the Department of Corrections introduced its first-ever strategy to reduce the crime rate among Pacific Islanders through the use of culturally based techniques. Asians, who make up less than 5 percent of the population, also reported discrimination.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers have the right to establish and join organizations of their own choosing. The principal labor organization is the New Zealand Council of Trade Unions, a federation that includes unions representing various trades and locations. In August 2000, the Council of Trade Unions merged with the second-largest labor federation, the New Zealand Trade Union Federation. As a result, nearly all unionized workers are members of the Council of Trade Unions. A few small, independent labor unions also exist.

Labor organization is rudimentary in the territory of Tokelau (population 1,500) and in the Freely Associated State of Niue (population 1,700). In the more developed Associated State of the Cook Islands (population 19,000), most workers in the public sector, the major employer, belonged to the Cook Islands Workers' Association, an independent local union. Industrial relations in the Cook Islands are governed by a simplified version of national legislation.

The law protects unions from governmental interference, suspension, and dissolution.

The law prohibits uniformed members of the armed forces from organizing unions and bargaining collectively. Under the law, "sworn police officers" (which includes all uniformed and plainclothes police but excludes clerical and support staff) are barred from striking or taking any form of industrial action. However, police have freedom of association and the right to organize and to bargain collectively.

The law prohibits antiunion discrimination against members and organizers. In July the courts fined a major company for a September 2001 incident in which union organizers conducting a labor compliance survey at the company facility were arrested for trespassing.

Unions may affiliate internationally. The New Zealand Council of Trade Unions is affiliated with the International Confederation of Free Trade Unions.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right of workers to organize and contract collectively, and this right was observed in practice.

Unions influenced legislation and government policy. Some unions were affiliated with the Labor Party; others operated independently of political parties; all were free to support parties whose policies they favored. Unions represented approximately 21 percent of all wage earners.

In 2000 the Government significantly changed the law governing industrial relations, repealing the Employment Contracts Act of 1991 and replacing it with the Employment Relations Act (ERA). The ERA promotes collective bargaining, strengthens unions, and requires that parties to an employment agreement bargain in good faith to achieve either a collective or individual employment agreement. The act also promotes mediation and attempts to reduce the need for judicial intervention. Under the ERA, employment relationships are based on contracts. Individual employees and employers may choose to conduct negotiations for employment contracts on their own behalf or may authorize any other person or organization to do

so on their behalf. Although choosing a union is entirely voluntary, unions remained the most common agents used by workers to negotiate with employers. Employers must recognize a representative authorized by an employee or employees.

In 2001 the Freedom of Association Committee of the International Labor Organization (ILO) ruled that the ERA promoted collective bargaining. (In 1994, the ILO had ruled that the Employment Contracts Act of 1991 did not, and that it limited freedom of association and the right to strike in a manner inconsistent with ILO conventions.)

The Government does not control mediation and arbitration procedures. The ERA strongly encourages mediation and requires that the majority of employment disputes first proceed through mediation. It also established the Employment Relations Authority as an investigative body to establish the facts of an employment relationship dispute and to make a determination according to the merits of the case. There is also an Employment Court with exclusive jurisdiction over employment matters. Appeals from the Employment Court to the Court of Appeal are possible. Firing an employee for union activities is grounds for a finding of unjustified dismissal and may result in reinstatement and financial compensation. Other than police and armed forces personnel, public services employees, including essential service employees such as prison workers, may organize and strike. Disputes that cannot be settled by negotiation between the Police Association and management are subject to compulsory, final-offer arbitration.

Sympathy strikes, secondary strikes, and strikes over social or political causes are illegal.

Unions often exercised the right to strike. Significant limitations on the right to strike were eliminated when the ERA replaced the Employment Contracts Act; unions no longer are limited to strikes related to the negotiation of a collective contract and may strike in pursuit of multiemployer contracts across an entire economic sector.

During the 12 months that ended in June, there were 46 work stoppages, involving approximately 24,580 workers and the loss of approximately \$3.8 million (\$NZ7.9 million) in wages and salaries. This represented a 39.4 percent increase in the number of work stoppages compared with the previous reporting period (July 2000-June 2001), involving 350 percent more workers and a 170 percent increase in lost wages and salaries.

There are no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children. Inspection and legal penalties ensured respect for provisions against forced labor. There were no reports of the involuntary detention of women involved in prostitution; however, there were reports that some foreign commercial sex workers had their passports held by employers until bonds were repaid.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Department of Labor inspectors effectively enforced a ban on the employment of children under the age of 15 years in manufacturing, mining, and forestry. Children under the age of 16 may not work between the hours of 10 p.m. and 6 a.m. By law children enrolled in school may not be employed, even outside school hours, if such employment would interfere with their education.

*e. Acceptable Conditions of Work.*—A 40-hour workweek is traditional. There are legal limits regarding hours worked; for example, professional drivers must have a 24-hour rest period after an 11-hour day. There is premium pay for overtime work. The law does not provide specifically for a 24-hour rest period weekly; however, management and labor have accepted the practice, and it was the norm. The law provides for a minimum 3-week annual paid vacation and 11 paid public holidays. In 2000 the Government mandated an hourly minimum wage of approximately \$3.70 (\$NZ7.70) and lowered the minimum age of eligibility for this wage to cover workers ages 18 to 20. Combined with other regularly provided entitlements and welfare benefits for low-income earners, this wage was generally adequate to provide a decent standard of living for a worker and family. There is a separate youth minimum wage for younger workers (ages 16 to 17), which was increased in March to approximately \$2.95 (\$NZ6.15). A majority of the work force earned more than the minimum wage.

Extensive laws and regulations govern health and safety issues. Under these rules, employers are obliged to provide a safe and healthy work environment, and employees are responsible for their own safety and health, as well as ensuring that their actions do not harm others. As a result of union criticism, the law was under review by Parliament; however, at year's end there had been no action resulting from the review. Workers have the legal right to strike over health and safety issues. Unions and members of the general public may file safety complaints on be-

half of workers. Department of Labor inspectors effectively enforced safety and health rules, and they had the power to shut down equipment if necessary. The Department of Labor standard is to investigate reports of unsafe or unhealthy working conditions within 24 hours of notification. Inspectors could issue notices of deficiencies and bring prosecutorial action to enforce workplace safety. Workers had the right to withdraw from a dangerous work situation without jeopardy to continued employment.

Labor laws were applied to foreign workers and citizens in the same manner.

*f. Trafficking in Persons.*—The country has been a destination for internationally trafficked persons and, to a lesser extent, a transit point for persons being trafficked to the United States and other countries. During the year, the Government passed new legislation to criminalize alien smuggling and trafficking in persons, with penalties of up to 20 years in prison and fines of up to \$240,385 (\$NZ 500,000). Laws against child sexual exploitation and slavery carry penalties of up to 14 years in prison. Trafficking in women and children (particularly from Thailand) to work in the sex industry has been a problem. In 1999 a number of women from Thailand coerced into working in the sex industry were identified, rescued, and repatriated. In 1999 and 2000, domestic NGOs and the Human Rights Commission assisted in the repatriation of six of these women. Also in 1999, seven Thai women were freed from slave labor conditions in an Auckland factory. The Government responded to these incidents with assistance programs for affected individuals, and, in January 2001, imposed a visa requirement for Thai nationals. Since that time, no new cases of internationally trafficked persons have been brought to the attention of the authorities; however, there were reports that undocumented Thai and Chinese were forced to work in the sex industry to repay debts to smugglers.

During the year, there was a credible report of a Niuean woman lured onto a cargo ship bound for Ecuador in 1987; she returned home in 2002 and indicated she had been forced into prostitution in Ecuador because of destitution.

The Government worked with an NGO, ECPAT NZ, to combat trafficking in children. There were no documented incidents of trafficking in children for sexual purposes during the year.

The Government provided funding for the Human Rights Commission to coordinate antitrafficking activities, for health services for trafficked persons, and for the New Zealand Prostitutes Collective to provide peer counseling and assistance to trafficked persons. The major urban areas have support networks for trafficked individuals, including mechanisms to provide safehouses and repatriation. Antitrafficking campaigns have included literature on how to escape from prostitution, translated into the Thai language and distributed throughout the commercial sex worker areas in Auckland.

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## PALAU

Palau, formerly a U.N. trusteeship administered by the United States, became an independent nation in free association with the United States on October 1, 1994. The democratically elected government is modeled after that of the United States. The Constitution provides for executive and legislative branches and free and fair elections. Members of the legislature, the Olbiil Era Kelulau, are elected for 4-year terms. The President and Vice President also are elected for 4-year terms. In the November 2000 general elections, Vice President Tommy E. Remengesau, Jr., won the presidential race and Senator Sandra S. Pierantozzi became the first woman Vice President. The country is organized politically into 16 states. The judiciary is independent.

The country has no security forces other than local police and civilian law enforcement personnel; all are under the effective control of the civilian authorities. The country also has a Marine Law Enforcement Division that patrols its borders with assistance from the Australian government. Under the Compact of Free Association, the United States is responsible for the country's defense.

The small, market-based economy was sustained largely by transfer payments from the United States. The country's population is approximately 19,100. The Government employed nearly half of the work force. Tourism and other service sectors accounted for most other paid employment. Tuna, harvested by foreign-operated fleets, was the dominant export. Several small-scale operations, employing foreign workers, assembled clothing from imported materials for export. Traditional subsistence agriculture and fishing diminished as persons moved to urban areas in search of employment. An increasing number of Chinese farmers operated vegetable farms

that competed with indigenous farmers; most indigenous farmers worked and sold what they produced from their own land.

The Government generally respected the human rights of its citizens; however, there were problems in a few areas. Traditional customs sustain a value system that discriminates between persons on the basis of social status and sex. The loosening ties of the extended family and the increasing abuse of alcohol and other drugs were major contributing factors that led to instances of domestic violence and child neglect. Societal discrimination and some abuse against certain foreign workers, who accounted for nearly 30 percent of the population and 73 percent of the paid work force, were also serious problems. There were reports of persons being trafficked to the country from the People's Republic of China (PRC), the Philippines, and Taiwan. Palau was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that government officials employed them.

Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. Members of the Palau Red Cross Society, which is affiliated with the International Federation of Red Cross and Red Crescent Societies, have visited the country's sole prison. The prison also was inspected regularly by government health and sanitation officials. The prison has separate quarters for men, women, juveniles, and pretrial detainees.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

Warrants for arrests are prepared by the Office of the Attorney General and signed by a judge. Detainees had prompt access to families and lawyers. If a detainee could not afford a lawyer, the Public Defender or a court-appointed lawyer was available. There was a functioning system of bail. Lengthy pretrial detention was not a problem.

The Constitution prohibits forced exile, and the Government did not use it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judiciary consists of the Supreme Court, the National Court, and the Court of Common Pleas. The President appoints judges to the Supreme Court and National Court from a list recommended by the Judicial Nominating Commission. Appointments are for life.

The Government has an independent special prosecutor and an independent public defender system. The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right vigorously.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

##### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and of the press.

The Internet was easily accessible; the Government did not control or limit its use.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.



The Government did not promote or restrain religious activities; however, it regulated the establishment of religious organizations by requiring them to obtain charters as nonprofit organizations from the office of the Attorney General. This registration process was not protracted, and the Government did not deny any groups registration during the year.

Employers complained to the Division of Labor in the Ministry of Commerce and Trade that the religious practices of Bangladeshi Muslims interfered both with activity in the workplace and with the living arrangements of the employing families. In response the Ministry decided in 1998 to deny work permits to Bangladeshi workers in the future. On July 21, the Ministry extended this policy to Indians and Sri Lankans, both Muslims and non-Muslims. Workers already in the country were not expelled.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

The Government has not formulated a policy regarding refugees, asylees, or first asylum, and government practice remains undefined. However, there were no reports of the forced return of persons to a country where they feared persecution or the expulsion of anyone having a valid claim to refugee status. The issue of cooperation with the Office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees has never arisen. In late 2001, the Government denied a request by the Australian government that the country become a processing point for asylum seekers trying to reach Australia.

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

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

The Constitution provides for executive and legislative branches. The legislature, the Olbiil Era Kelulau, consists of 2 equal houses: The 9-member Senate and the 16-member House of Delegates. The President and Vice President are elected by popular vote and have no limit on the number of their terms, except that the President may only serve two consecutive terms. Although there have been political parties in the past, there were none during the year. In the November 2000 general elections, Vice President Tommy E. Remengesau, Jr., won the presidential race, and Senator Sandra S. Pierantozzi became the first woman Vice President.

There were no legal impediments to women participating in government and politics. Women constituted 18 percent of state government legislators, up from 11 percent in 2001. A woman is governor of 1 of the 16 states. No women were elected to the Olbiil Era Kelulau in the 2000 election.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restraint, investigating and publishing their findings on human rights issues. Government officials were cooperative and responsive to their views.

The Palau Red Cross Society opened its office in 1996, and in 1997 it joined the International Federation of Red Cross and Red Crescent Societies.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination on the basis of sex, race, place of origin, language, religion or belief, social status, or clan affiliation, and the Government observed these provisions.

*Women.*—There were many incidents of violence against women, mainly domestic abuse. Alcohol and illegal drug abuse increasingly contributed to this problem. According to the Attorney General's office, the Government's Public Health Office, and women's groups, only a few such cases are reported to the authorities every year. Although assault is a criminal offense, women were reluctant to prosecute their spouses.

The law prohibits rape, including spousal rape; however, such crimes were not common. The Bureau of Public Health and the Bureau of Public Safety have urged all victims of crime, including rape, to report offenses.

Prostitution was a problem; during the year, the Attorney General successfully prosecuted three cases of prostitution involving nine PRC citizens. All nine were de-

ported. A citizen accused of employing four of the PRC citizens was successfully prosecuted and sentenced to prison.

The inheritance of property and of traditional rank is matrilineal, with women occupying positions of importance within the traditional system. Women serve by presidential appointment as bureau directors for human resources and clinical services. There were no reported instances of unequal pay for equal work or sex-related job discrimination.

Since 1993 local women's groups have organized an annual women's conference that focuses on women's and children's issues, including health, education, drug abuse, prostitution, and traditional customs and values. Government officials, including the President, Vice President, ministers, and traditional chiefs, have participated in the conference to discuss these issues. Women's group leaders and government officials agreed that changes were needed to improve the country's educational system and to reduce illegal drug use among youth. The women's conference held in March continued its focus on previous issues and problems.

*Children.*—The Government provided a well-funded system of public education and medical care for children. There was no difference in the treatment of girls and boys in educational opportunities, or in the availability of scholarships to attend postsecondary education abroad. Education was mandatory from ages 6 to 17. It was free and universal. Ninety-four percent of school-age children attended school; of these, 97 percent finished elementary school, and 78 percent completed high school. Girls and boys received equal treatment in health care services.

There was no societal pattern of abuse directed against children. While there have been a few instances of child abuse, cases have been prosecuted successfully by the office of the Attorney General. While children's rights generally were respected, there were reports of several instances of child neglect, which was a byproduct of the breakdown of the extended family. Child prostitution was neither accepted within society nor practiced.

Government officials and representatives from nongovernmental organizations agreed that changes were needed to improve the educational system and to reduce illegal drug abuse among youth.

*Persons with Disabilities.*—The National Code includes a Disabled Persons Anti-discrimination Act and a Handicapped Children Act, and the Government enforced the provisions of these acts. No instances of discrimination against persons with disabilities were reported. The law requires building access for persons with disabilities, and most government and business buildings have access for such persons. The public schools have established special education programs to address problems encountered by persons with disabilities.

*National/Racial/Ethnic Minorities.*—Noncitizens are prohibited from purchasing land or obtaining citizenship. The rapid increase in foreign workers, who according to the May 2000 census constituted nearly 30 percent of the population and 73 percent of the work force, was viewed negatively by a majority of citizens. Foreign residents were subject to some forms of discrimination and were targets of petty, and sometimes violent, crimes, as well as other random acts against person and property. Credible complaints were made by foreign residents that crimes against noncitizens were not pursued or prosecuted by authorities with the same vigor as crimes against citizens. Certain foreign nationals experienced generalized discrimination in employment, pay, housing, education, and access to social services, although such discrimination is prohibited by law. While precise data was lacking, there continued to be anecdotal reports regarding the abuse of workers' civil rights perpetrated against domestic servants, female bar workers, construction laborers, and other semiskilled workers, the majority of whom were from the Philippines, the PRC, and Taiwan. The most common abuses included misrepresentation of contract terms and conditions of employment, withholding of pay or benefits, and, at times, physical abuse (see Section 6.e.). In a number of instances, local authorities took corrective action when alerted by social service and religious organizations to which foreign workers had turned for assistance. Nonetheless, foreign workers often were reluctant to seek legal redress for fear of losing their employment and, thus, permission to remain in the country.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right of all persons to assemble peacefully or to associate with others for any lawful purpose, including the right to join and organize labor unions. There were no active employee organizations.

*b. The Right to Organize and Bargain Collectively.*—There is no legislation concerning trade union organization, including collective bargaining, although there

were no legal impediments to either. Wages in the cash economy were determined by market factors.

The Constitution does not provide for the right to strike, and the Government has not addressed this issue. There were no strikes during the year.

There are no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits slavery or involuntary servitude except to punish crime. The law does not prohibit specifically forced and bonded labor by children; however, there were no reports that such practices occurred. Instances were reported of foreign workers, especially domestic helpers and unskilled laborers, who were forced to accept jobs different from those for which they were recruited. The freedom of foreign workers to leave employment situations not to their liking may be hindered by verbal threats or the withholding of passports and return tickets to the country in which they were recruited.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution states that the Government shall protect children from exploitation. There is no minimum age for employment. Children typically were not employed in the wage economy, but some assisted their families with fishing, agriculture, and other small-scale family enterprises. By regulation no foreigner under the age of 21 may be admitted into the country for employment purposes, and the Government enforced this regulation effectively.

The Government has not ratified ILO Convention 182 on the worst forms of child labor.

*e. Acceptable Conditions of Work.*—The law sets the minimum wage at \$2.50 per hour. Foreign workers are not included under the minimum wage law. The minimum wage appeared to be sufficient to provide a decent standard of living for a worker and family. Anecdotal evidence indicated that unskilled workers for commercial firms (usually foreigners) were paid only \$1.50 to \$2.00 per hour. However, foreign workers usually were provided, in addition to their wages, basic accommodations and food at no or nominal cost. Although these wages were low, the country continued to attract large numbers of foreign workers from the Philippines and the PRC. There were more than 7,500 foreign nationals with work permits in the country; over half were from the Philippines, followed by the PRC, Korea, Indonesia, and Vietnam. The Korean, Indonesian, and Vietnamese workers were employed by a Korean-based firm on a road project. Since 1998 the Philippine Embassy has been working closely with the Government's Labor Division to resolve problems created by falsified documents, and it interceded in several cases involving allegations of worker abuse during the year; it also assisted in the repatriation of several workers.

There is no legislation concerning maximum hours of work, although most businesses are closed on either Saturday or Sunday. The Division of Labor has established some regulations regarding conditions of employment for nonresident workers. The Division may inspect the conditions of the workplace and employer-provided housing on specific complaint of the employees, but actual enforcement was sporadic. Working conditions varied in practice. No law specifically gives workers the right to remove themselves from situations that endanger their health or safety without jeopardy to their continued employment, and no law protects workers who file complaints about such conditions.

As the number of foreign workers increased, there continued to be increasing numbers of reports of mistreatment of such workers by their employers. These incidents of alleged mistreatment were common knowledge among the general public but were rarely reported to law enforcement authorities by the foreign workers due to fear of their employers. Some types of mistreatment that foreign workers consistently complained about included physical and verbal abuse; being required to work overtime and on days off without pay; employers withholding monthly salary; employers and recruiters deducting the amount of airfare from salaries; and substandard housing. Some workers also complained that they were not provided sufficient food. The foreign workers most likely to be abused were those who worked under contracts and earned between \$150 and \$300 a month as domestic helpers, construction workers, farmers, waitresses, beauticians, and hostesses in karaoke bars and massage parlors. Under the terms of their contracts, they also were to be provided room and board and air travel from their home country to Palau and back after the termination of their contracts. It was generally assumed that legislators specifically exempted contract workers in the 1998 minimum wage bill to ensure a continued supply of low-cost labor in industries that the legislators often control.

*f. Trafficking in Persons.*—Neither the Constitution nor the law prohibit specifically trafficking in persons; however, there are laws against slavery, fraud, and prostitution. There were reports of women and some men being trafficked to the country from the PRC, Taiwan, and the Philippines to work in karaoke bars as host-

esses and prostitutes, as domestics in private homes, and on construction sites. Following complaints to police by several of the women, four PRC nationals were arrested, tried, convicted of conspiracy to commit prostitution (1-year sentence suspended), fined \$1,000, and deported in 2001. In 1999 six Russian women were lured to the country with promises of legal employment; however, upon arrival they were forced to engage in prostitution. The freedom of foreign workers to leave employment situations not to their liking or into which they were forced may be hindered by verbal threats or the withholding of passports and return tickets to the country in which they were recruited (*see* Section 6.c.).

The Divisions of Immigration and Labor are involved in combating trafficking; however, the Government lacked funding and expertise to address the problem in practice. There was no formalized assistance available for victims, and victims normally were detained, jailed, or deported if they committed a crime such as prostitution. There were no NGOs that specifically addressed trafficking.

## PAPUA NEW GUINEA

Papua New Guinea has a federal parliamentary system, based on universal adult suffrage with periodic free and fair elections. The most recent general elections were in June. The judiciary is independent.

The Government has constitutional authority over the Defense Force, the Royal Papua New Guinea Constabulary, and the National Intelligence Organization. Members of the constabulary committed serious human rights abuses.

The population is just over 5.1 million, and there are more than 800 distinct indigenous languages. The economy relies heavily on commodity exports, and low world commodity prices and lack of political will to implement sound economic policies resulted in persistent macroeconomic stagnation. Crime, especially in urban areas, was a critical problem. Approximately 85 percent of the population resided in isolated villages and engaged in subsistence and smallholder agriculture. For a majority of citizens, income and educational levels were low, and infant and maternal mortality rates were high.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Police committed arbitrary or unlawful killings, used excessive force when arresting and interrogating suspects, and engaged in excessively punitive and violent raids. The Government on occasion investigated allegations of abuse and prosecuted those believed responsible. Prison conditions in several areas continued to be poor. Court understaffing reduced court hearings and increased pretrial detention periods. Police infringed on citizens' privacy rights. The Government continued to limit freedom of assembly in the form of marches or demonstrations. Extensive violence and discrimination against women were problems, and abuse of children appeared to be a growing problem. Discrimination against persons with disabilities persisted, and violence between tribes remained a serious problem. Papua New Guinea was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The police killed several persons during the year. According to police reports, most killings occurred during gunfights with criminal suspects who were resisting arrest. There were no deaths in custody during the year, but incidents of serious beatings were reported.

During the June elections (*see* Section 3), 35 persons were killed in election-related tribal fighting in the Southern Highlands.

In June 2001, police officers fired weapons during demonstrations organized by university students in Port Moresby (*see* Section 2.b.), killing 4 persons and injuring approximately 20 persons. The Government imposed a nighttime curfew in Port Moresby for the following 2 months. The Government also ordered an independent inquiry by a former judge into the shootings. At year's end, the results of the inquiry had not been released to the public.

In 2000 police beat a youth to death in front of bystanders in Port Moresby and, in another Port Moresby case, police apprehended an intoxicated man whose corpse subsequently was discovered in an isolated area. During the year, no action was taken against the police in these cases.

There were several cases of police shootings during the year, particularly during election-related violence in June and July. All police shootings are investigated by

the police department's internal affairs office and reviewed by a coroner's court. If the court finds that the shooting was unjustifiable or due to negligence, the police officers involved are tried. Families of persons killed or injured by police in such circumstances may challenge the coroner's finding in the National Court, with the assistance of the Public Solicitor's Office. Cases of accidental shootings of bystanders by police during police operations are also investigated and reviewed by a coroner's court.

No human rights violations were reported in connection with military operations during the year. Although four soldiers suspected of complicity in the 1996 killing of Bougainville Transitional government Premier Theodore Miriung were questioned in 1999, no arrests were made. In July the Government declared an amnesty for all combatants in the conflict; this ended any possibility of prosecution in this case.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution forbids torture and other cruel or degrading treatment or punishment; however, police often beat suspects during arrests, interrogations, and in pre-trial detention. Although abuses such as citizens being permitted to beat suspects and the rape of female detainees by police reportedly did not occur during the year, no action was taken against offenders from previous years.

Prison conditions were poor. There were more than 3,300 detainees according to the Minister for Correctional Services, of whom 90 percent were male. There were 53 juvenile prisoners. During the year, 15 of the country's 17 jails were operational. The prison system suffered from serious underfunding. Prisons closed in 2000 because of life-threatening conditions remained closed, and there has been no new construction. Some prisons in urban areas were seriously overcrowded. In rural areas, infrequent court sessions and bail restrictions for certain crimes exacerbated overcrowding (see Section 1.d.). There were no reports of deaths in prisons. Male and female inmates were housed separately. Prisoners were often confined in crowded conditions in police stations. Prison guards' living conditions were as poor as those of the prisoners. Prison breakouts were common.

The Government permitted prison visits by human rights observers.

*d. Arbitrary Arrest, Detention, or Exile.*—The courts generally enforced constitutional protections against arbitrary arrest and detention. Under the law, only National or Supreme Court judges may grant bail to persons charged with willful murder or aggravated robbery. In all other cases, the police or magistrates may grant bail. Arrested suspects have the right to legal counsel, to be informed of the charges against them, and to have their arrests subjected to judicial review.

Due to limited police and judicial resources and a high crime rate, suspects were often held in pretrial detention for long periods of time. Pretrial remand is subject to strict judicial review through continuing pretrial consultations, especially at the National Court level; the slow pace of police investigations and occasional political interference frequently delayed cases for months. Additionally, circuit court sittings were infrequent because of a shortage of judges and funds, delaying both the trial process and the rendering of decisions. Some detainees have been held in jail for more than 2 years because of the shortage of judges. During the year, the Government increased the number of full-time judges and took steps to expand training of the judiciary.

Forced exile is prohibited by the Constitution and was not used.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The Supreme Court is the final court of appeal and has original jurisdiction on constitutional matters. The National Court hears most cases and appeals from the lower district courts established at the provincial level. There also are village courts headed by lay persons, who judge minor offenses under both customary and statutory law.

The legal system is based on English common law. The Constitution provides for due process, including a public trial, and the court system generally enforced these provisions. Defendants have the right to an attorney. Legal counsel is provided by the Public Solicitor's office for those accused of "serious offenses" who are unable to afford counsel. Serious offenses are defined as charges for which a sentence of 2 years or more is the norm. Defendants and their attorneys may confront witnesses, present evidence, plead cases, and appeal convictions. The shortage of judges created delays both in the process of trials and in the rendering of decisions (see Section 1.d.).

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such action; however, there were instances of abuse. In Janu-

ary 2000, heavily armed police searched the home of a man accused of a nonviolent offense. Subsequently, the court agreed that the search was politically inspired and police methods were excessive and contrary to constitutional protections of privacy; however, no action was taken against the police. Although provisions in the Constitution require warrants, the police continued to conduct warrantless searches and raids. Paramilitary police units operating in highlands regions used intimidation and destruction of property to suppress tribal fighting (see Section 5). The extent of such tribal fighting was unknown, and many incidents were not reported. During the June elections, 35 persons were killed in election-related tribal fighting in the Southern Highlands (see Section 1.a.).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

The media provided independent coverage and analysis of major issues, including accusations of corruption in government and excessive use of force by police officers.

The combined circulation of 2 daily English-language newspapers was less than 60,000. Two weekly newspapers, one in English and one in Melanesian Pidgin (the national lingua franca) were also published. All freely expressed a variety of editorial viewpoints and reported on controversial issues such as alleged abuses by police, cases of alleged corruption by government officials, and political opposition views.

The television broadcasting company, EMTV, is government controlled; however, two cable companies are independent. Television reception was limited mostly to the capital and provincial centers. The Government-owned National Broadcasting Corporation operated two radio networks whose effectiveness was limited by inadequate funding and deteriorating equipment. A privately owned radio network, NAU-FM, was popular in Port Moresby and was expanding to other areas of the country. There were local radio stations in cities other than Port Moresby.

Internet access was privately operated and becoming common in cities.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government limited this right in practice. Public demonstrations required police approval and 14-days' notice. Police asserted that they feared violence from unruly spectators and rarely gave approval. In June 2001, police fired on students during a demonstration (see Section 1.a.).

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Associations wishing to open a bank account and conduct financial transactions must register. The process of registration was slowed by bureaucratic inefficiency, but there was no policy of denying registration. International affiliation of church and civic groups was permitted freely.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

It was the policy of the Department of Education to set aside 1 hour per week for religious instruction in the public schools. Religious representatives taught the lessons, and the students attended the class operated by the denomination of their parents' choice. Children whose parents did not wish them to attend the classes were excused.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

In August 2001, the Government signed a peace agreement with Bougainville militants. Persons displaced by the civil war have safely returned to their homes.

Although a party to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, the Government has not enacted enabling legislation. A reservation to the Convention regarding the issuance of travel documents restricted the travel of some persons from the Indonesian province of West Papua (formerly Irian Jaya) living in a refugee camp in the western part of the country. There were 340 persons from West Papua living in a camp in Vanimo, near the Indonesian border. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and has not forced any persons to return to countries where they feared persecution. During the year, the Government provided first asylum for several hundred persons who fled West Papua. Several hundred more lived in informal, unrecognized camps adjacent to the border with Indonesia. The Government cooperated with the UNHCR in assisting the West Papuans living in the East Awin refugee

camp in Western Province and has administered the camp since 1996, when the UNHCR office closed. The Government has a policy of limited integration for West Papuans with certain skills or other qualifications, who were accorded limited residency status and permitted to leave the refugee settlement. Those who violated conditions of their residency could be repatriated, but there were no known forced returns of West Papuans to Indonesia. Several thousand persons lived in tribes along the borders and moved freely between the two countries, although border tensions had increased at year's end. The Government, with UNHCR assistance, interviewed claimants in Vanimo for refugee resettlement or possible repatriation. At year's end, approximately 100 persons remained in the camp pending final determination of their claims. Approximately 50 migrants interdicted at sea whose refugee claims were not approved remained at the Manus Island camp pending final appeals and possible repatriation. NGOs were granted access to this population.

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

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

Voters elect a unicameral parliament with 109 members from all 19 provinces and the National Capital District. Any citizen may stand for election. Because of the high number of candidates for Parliament, some members have won election with less than 10 percent of the total votes cast. The most recent general election was held in June. Of the 109 seats in Parliament, 77 changed hands. A coalition government, led by Prime Minister Michael Somare, formed following the election. Fraud, voter intimidation, theft of ballot boxes, and violence including rape and murder marred the election in some parts of the country. As a result, the polls were declared failed in six electoral districts in the Southern Highlands and new elections were projected for an unspecified date in 2003.

The law provides that a losing candidate may dispute the election of the winning candidate by filing a petition with the National Court. Such petitions may question actions of the candidate and his supporters or allege malfeasance by the election officials. The procedure is fair, but time consuming and expensive both to initiate and to defend. Following the June election, 83 such petitions were filed against winning candidates.

A weapons-surrender program mandated in the August Bougainville peace agreement continued under U.N. supervision at year's end.

One woman was elected to the 109-member Parliament in the June elections, compared with two in the previous Parliament. She was named the Minister for Welfare and Social Development, the only Cabinet position held by a woman. There were no women Supreme Court Justices or Provincial Governors.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were no official barriers to the formation of human rights groups. The Government cooperated with human rights nongovernmental organizations (NGOs), both domestic and international, but at times was slow in responding to their requests for information. The International and Community Rights Advocacy Forum, an umbrella group formed in 1993, concentrated on human rights and the environment during the year.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution provides for equal protection under the law irrespective of race, tribe, place of origin, political opinion, color, creed, religion, or sex. Despite these constitutional and other legal provisions, women often faced discrimination.

Geographic diversity prevents any one tribe or clan from dominating the country. The democratically elected government, based on loose coalitions, has consistently avoided favoring any group. Skirmishes and conflicts tend to be based on disputes between clans over issues such as boundaries, land ownership, injuries, and insults suffered by one clan at the hands of another; they are not ethnically based. In the past, clan and tribal warfare was ritualized and fought with traditional weapons; the availability of firearms has made such conflicts deadlier.

*Women.*—Violence against women, including domestic violence and gang rape, was a serious and prevalent problem. Domestic violence was common and is a crime. However, since most communities viewed domestic violence as a private matter, and few victims pressed charges, prosecutions were rare. Traditional village mores, which served as deterrents, were weakening and were largely absent when youths moved from their village to a larger town or to the capital. Although rape was pun-

ishable by imprisonment, and sentences were imposed on convicted assailants, few rapists were apprehended. The willingness of some communities to settle incidents of rape through material compensation rather than criminal prosecution made the crime difficult to combat.

Violence committed against women by other women frequently stemmed from domestic disputes. In areas where polygyny was still customary, an increasing number of women were charged with the murder of another of their husband's wives. According to one report, 65 percent of women in prison were there for attacking or killing another woman.

The Constitution and laws have provisions for extensive rights for women dealing with family, marriage, and property issues. Some women have achieved senior positions in business, the professions, and the civil service. However, traditional patterns of discrimination against women persisted. Many women, even in urban areas, were considered second-class citizens. Village courts tended to impose jail terms on women found guilty of adultery, while penalizing men lightly or not at all. Circuit-riding National Court justices frequently annulled such village court sentences. By law, orders for imprisonment must be endorsed by a district court before the sentence is imposed.

Polygyny and the custom of paying a bride price tended to reinforce the view that women were property. In addition to the purchase of women as brides, women were also sometimes given as compensation to settle disputes between clans. The courts have ruled that such settlements denied the women's constitutional rights.

According to statistics published in the U.N. Development Program's 1999 report on human development, women were gaining rapidly in literacy and education. Adult literacy rose to 73 percent; 65 percent of women were literate, compared with 86 percent of men. However, there were 15 percent fewer girls in primary schools than boys. Maternal mortality levels remained relatively high at 930 deaths per 100,000 live births.

Prostitution is not legal; however, the laws were not enforced and the practice was widespread. Although sex tourism existed, it was not common.

Sexual harassment is not illegal, and it was a widespread problem.

There is an Office of Women's Affairs in the Office of Church and Family Services of the Ministry of Provincial Affairs. It was active during the year; however, it had little effect on the Government's policy toward women.

*Children.*—Most independent observers agreed that the Government did not dedicate significant resources to protecting the rights and welfare of children. Most programs to protect and develop youth and children were operated by NGOs and religious organizations. In the past, children were well cared for within the family and under traditional clan and village controls. However, preliminary, small-scale studies indicated that this situation has changed over the last decade, especially in areas where households have become isolated from the extended family support system and depend on the cash economy for a livelihood. According to a report prepared by the Government and UNICEF, sexual abuse of children was believed to be prevalent. Because of the geographic isolation and remoteness of many villages, malnutrition and infant mortality rates were very high. More than 60 of every 1,000 children born did not survive their first year.

Primary education was not free, compulsory, or universal. Substantial fees were charged. Approximately 80 percent of children attended primary school; many did not progress further. Boys and girls were represented equally; generally either all children in a family attended school or none attended.

The Government provided free medical care for its citizens, including children. However, facilities and resources were very limited, particularly in rural areas, and many children did not have effective medical care.

*Persons with Disabilities.*—Through the National Board for the Disabled, the Government provided funds to a number of NGOs that provide services to persons with disabilities. The Government did not provide programs or services directly. Apart from those provided by the traditional clan and family system, services and health care for persons with disabilities did not exist in several of the country's provinces. There was no legislation mandating accessibility. Persons with disabilities faced discrimination in education, training, and employment. Most persons with disabilities did not find training or work outside the family structure.

The Government provided free consultation and treatment for persons with mental disabilities; however, such services were rarely available outside major cities.

*National/Racial/Ethnic Minorities.*—Centuries-old animosities among isolated tribes, a persistent cultural tradition of revenge for perceived wrongs, and the lack of police enforcement occasionally resulted in violent tribal conflict in the highland



areas. The number of deaths in the last few years has risen due to the availability of modern weapons.

*Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right to form and join labor unions, subject to registration by the Department of Industrial Relations. The Government did not use registration to control unions. However, an unregistered union has no legal standing with the Department of Labor and Employment or before the courts and thus cannot operate effectively. About half of the 250,000 wage earners in the formal economy were organized and were members of approximately 50 trade unions. Most of the unions representing private-sector workers were associated with the Trade Unions Congress. The Public Employees Association represented an estimated 23,000 persons employed by national, provincial, and municipal governments, or one-third of the public sector work force. The law prohibits antiunion discrimination by employers against union leaders, members, and organizers; however, it was selectively enforced. Unions were independent of the Government and of political parties.

Unions may affiliate freely with international organizations, and they have done so.

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides for the right to engage in collective bargaining and to join industrial organizations. These rights are exercised freely. Under the law, the Government has discretionary power to cancel arbitration awards or declare wage agreements void when they are contrary to government policy. This law was criticized by the International Labor Organization (ILO). The Department of Industrial Relations and the courts are involved in dispute settlement. Wages above the minimum wage are set through negotiations between employers and employees or their respective industrial organizations.

There were no government efforts to hinder either public or private sector unions from exercising their right to strike. The law prohibits retaliation against strikers; however, it was not always enforced. Employees of some government-owned enterprises went on strike on several occasions during the year, primarily to protest against privatization policies. These strikes were brief and ineffective.

There are no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution forbids slavery and all forms of forced, compulsory, or bonded labor, including that performed by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Employment Act establishes the minimum working age as 18. However, children between the ages of 11 and 18 may be employed in a family-related business or enterprise provided they have parental permission, a medical clearance, and a work permit from a labor office. This type of employment was rare, except in subsistence agriculture.

The Government has not ratified ILO Convention 182 on the worst forms of child labor. It has no comprehensive policy on the problem; however, child labor outside family subsistence agriculture or enterprises was rare.

*e. Acceptable Conditions of Work.*—The Minimum Wage Board, a quasi-governmental body with labor and employer representatives, sets minimum wages for the private sector. The national youth wage, for new entrants into the labor force between 16 and 21 years of age, was set at 75 percent of the adult minimum wage. The adult minimum wage of \$5.74 (22.96 kina) per week did not provide a decent standard of living for a worker and family who live solely on the cash economy. During the year, the Minimum Wage Board recommended a large increase in the minimum wage, but the Government disagreed, and no increase was implemented. Minimum wage levels, allowances, rest periods, holiday leave, and overtime are regulated by law. Although the Department of Labor and Employment and the courts attempted to enforce the minimum wage law, enforcement was not effective. The law limits the workweek to 42 hours per week in urban areas and 44 hours per week in rural areas. The law provides for at least one rest period of 24 consecutive hours every week; however, enforcement was lax.

Enforcement of the Industrial Health and Safety Law and related regulations is the responsibility of the Department of Labor and Employment. The law requires that work sites be inspected on a regular basis; however, due to a shortage of inspectors, inspections took place only when requested by workers or unions. Workers' ability to remove themselves from hazardous working conditions varied by workplace. Unionized workers had some measure of protection in such situations.

Legal foreign workers were protected by law. The very few illegal foreign workers lacked full legal protection.

*f. Trafficking in Persons.*—While the Constitution does not prohibit trafficking in persons, there was no evidence that persons were trafficked to, from, or within the country. However, in 2000, 2001, and during the year, the Government investigated allegations of corruption among officials dealing with passport issuance and immigration. These allegations centered on the organized circumvention of immigration controls; however, there were no announced results from the investigations. Nevertheless there was concern that the country may be used as a route for trafficking in persons and the smuggling of illegal immigrants to Australia.

## PHILIPPINES

The Philippines is a democratic republic with an elected president, an elected bicameral legislature, and a weak but functioning multiparty system. Although the executive traditionally set the political agenda, the legislature played an active role in policy formation. The Constitution provides for an independent judiciary; however, the judicial system suffered from corruption and inefficiency.

The President is Commander-in-Chief of the Armed Forces of the Philippines (AFP). The Department of National Defense directs the AFP, and the Department of Interior and Local Government has authority over the civilian Philippine National Police (PNP). The AFP, which has primary responsibility for counterinsurgency operations, also has duties in traditional law enforcement efforts, including the pursuit of kidnapers, whose actions remained a chronic criminal problem. The civilian authorities generally maintained effective control of the security forces; however, some elements of the security forces, including police, soldiers, and local civilian militias, committed human rights abuses.

The country has a market-based, mixed economy. The service sector accounted for approximately 45 percent of gross domestic product, the industrial sector 35 percent, and agriculture 20 percent. However, agriculture accounted for approximately 40 percent of total employment. Overseas worker remittances, estimated at \$6–7 billion per year, and tourism were important sources of foreign exchange. The country had a high 2.36 percent annual population growth rate, and a population of nearly 80 million. According to the most recent Family Income and Expenditure Survey, the richest 30 percent of families earned 67 percent of national income, while the poorest 30 percent received approximately 8 percent. The incidence of poverty (measured as the ratio of those below the official poverty threshold to the total population) worsened during the year and approached 40 percent. Poverty was more severe in rural areas, with an estimated 54 percent of the rural population unable to meet basic needs. Poverty in urban centers was approximately 24 percent.

The Government generally respected the human rights of citizens; however, there were serious problems in some areas. Some elements of the security services were responsible for arbitrary and unlawful and in some cases extrajudicial killings, disappearances, torture, and arbitrary arrest and detention. Other physical abuse of suspects and detainees as well as police, prosecutorial, and judicial corruption remained problems. The Government's Commission on Human Rights (CHR), established under the 1987 Constitution, again described the PNP as the worst abuser of human rights. Police and local government leaders at times appeared to sanction extrajudicial killings and vigilantism as expedient means of fighting crime and terrorism. Prison conditions were harsh. Judges and prosecutors remained poorly paid, overburdened, susceptible to corruption and the influence of the powerful, and often failed to provide due process and equal justice. Case backlogs, limited resources, corruption, and a shortage of judges hindered the courts. Long delays in trials were common. Some persons committed abuses with impunity. The Supreme Court undertook efforts to ensure speedier trials and to sanction judicial malfeasance. Despite efforts by reformist leaders in all three branches of the Government to strengthen rule of law and protection of human rights a fundamental and pervasive weakness in the rule of law left citizens with the belief that official justice is beyond reach. Some local military and police forces harassed human rights activists. Violence against women and abuse of children continued to be problems. Discrimination against Muslims persisted. The law provides for worker rights, but implementation and enforcement were not always effective. Child labor continued to be a problem, although the Government and nongovernmental organizations (NGOs) gave the problem increased attention. The use of underage workers in domestic servitude persisted. Child prostitution continued to be a problem. Trafficking in women and children remained a serious problem. The Philippines was invited by the Commu-

nity of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

A large well-funded Communist insurgency continued to operate in various regions of the country; its military arm, the terrorist New People's Army (NPA), committed numerous human rights violations, including political assassinations, kidnappings, and torture. The small, terrorist Abu Sayyaf Group (ASG) committed numerous kidnappings and killings, including summary beheadings of hostages and local residents. The NPA, ASG, and the Moro Islamic Liberation Front (MILF), an insurgent group that signed a cease-fire with the Government in 2001, continued to use children both as soldiers and as noncombatants.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Police forces committed a number of arbitrary and unlawful killings. The CHR investigated 55 complaints of killings for the first 6 months of the year, compared with 40 complaints through June 2001. The CHR included killings by antigovernment insurgents in its investigations. The NGO Task Force Detainees of the Philippines (TFDP) documented 10 summary executions of civilians by government forces and insurgents through July.

Approximately 90 persons (including several candidates) were killed in political violence related to the July local ("barangay") and youth elections. On March 12, a barangay captain shot and killed his opponent in Santa, Ilocos Sur. On July 13, a candidate for barangay chair of Pinukpuk, Benguet, was shot and killed while campaigning. The NPA claimed responsibility for this and many other election-related killings (see Section 3).

In combating criminal organizations, police personnel sometimes resorted to summary execution of suspects, or "salvaging." Police spokesmen frequently explained these killings as the unavoidable result of a shoot-out with suspects or escapees. The CHR suspected that PNP members were the perpetrators of 27 percent of the human rights violations involving deaths that it investigated through June.

In February during what the police described as an exchange of fire, police shot and killed 12 suspected members of a kidnap-for-ransom gang in Alcala, Pangasinan. The CHR reported that by year's end no arrests had been made.

On February 17, suspected PNP members summarily executed three suspected kidnapers in North Cotabato. In April 10 officers, including the regional police chief of central Mindanao and the North Cotabato police chief, were charged with murder.

In May an unidentified person shot and killed a former police chief in South Cotabato suspected of complicity in an Abu Sayyaf shopping mall bombing in 1994 and in the kidnaping of tourists in 1995. The case remained under investigation.

As in 2001, suspected AFP or paramilitary group members shot and killed several officials of the Bayan Muna political party and other leftist organizations. Bayan Muna claimed that 23 of its members have been killed since January 2001, with 12 of the killings in Oriental Mindoro Province. The AFP denied involvement.

In April militiamen connected to the AFP killed an activist associated with Karapatan, a member organization of an NGO umbrella group affiliated with the Communist Party, and her three companions in Cotabato City. The AFP claimed they were NPA members and were killed in an exchange of fire with the Government forces. A National Bureau of Investigation (NBI) report rejected the military's account.

On April 15, a paramilitary unit engaged in a firefight with suspected NPA members at a wedding in southern Mindanao. Six civilians were killed. The CHR investigated and concluded that the civilian deaths were not the result of a paramilitary "massacre" as survivors had alleged.

The authorities made some progress on earlier cases. In December 2001, the Department of Justice filed murder charges in a regional trial court against three suspected NPA members for the June 2001 killing of Cagayan Representative Rodolfo Aguinaldo and his bodyguard. No bail was recommended, and the suspects remained in custody.

On January 8, the Antipolo City prosecutor's office charged three army soldiers with murder for the December 2001 killing of an alleged NPA member. At year's end, the case was pending.

On January 15, NBI agents arrested a suspect in the May 2001 murder of Quezon Province Representative Marcial Punzalan. The NPA previously had claimed responsibility for the killing; the suspect reportedly was a paramilitary member and gun-for-hire with NPA connections. He remained in custody awaiting charges.

On May 10, the Court of Appeals ordered the indictment of three former police generals, all top officials in the now-defunct Presidential Anti-Organized Crime

Task Force, for the November 2000 murders of a publicist for former President Estrada and his driver. According to the Department of Justice, all three remained at large. Two reportedly fled the country and were believed to be in North America.

On June 4, the NBI said it had a new state witness in the 1995 murders of 11 suspected members of the Kuratong Baleleng kidnap-for-ransom gang and petitioned the courts to reopen the case. Senator Panfilo Lacson was implicated in these killings, which occurred when he was a special unit commander in the PNP, but at year's end there were no charges against him in this case.

The terrorist Abu Sayyaf Group kidnaped and tortured many civilians during the year and summarily beheaded many of its captives (*see* Section 1.b.). On June 7, the AFP attempted to rescue three ASG hostages—Martin and Gracia Burnham and Ediborah Yap. During the encounter, Martin Burnham and Yap, died in an exchange of gunfire between the AFP and their ASG captors. AFP forces reportedly shot and killed ASG spokesman Abu Sabaya, one of the individuals believed to be responsible for the kidnaping, during a maritime encounter on June 21.

On June 17, ASG members beheaded a farmer they suspected of being a government informer. On July 10, armed men believed to be ASG members seized and killed three fishermen in the waters off Isabela, Basilan. On July 13, ASG members beheaded an elderly farmer in the same region.

On October 2, a bomb exploded in Zamboanga City, killing a foreign person and two Filipinos. The AFP and PNP identified the perpetrator as a member of the ASG. He was killed when the bomb exploded prematurely.

Communist insurgents, mainly from the New People's Army, took part in killings of political figures, military and police officers, and civilians, including suspected military and police informers and foreign tourists. The NPA also targeted suspected military and police informers and foreign tourists. Peace negotiations between the Government and the political arm of the Communist Party, the National Democratic Front (NDF), made no significant progress.

In January, in two shootings, armed men believed to be NPA rebels killed two foreign tourists and wounded another while they were hiking in Pampanga Province.

In February suspected NPA members shot and killed a barangay official in his house near Ormoc City, Leyte. That same month, suspected NPA members also ambushed and killed a foreign hiker in Porac, Pampanga.

In separate incidents in March, suspected Communist gunmen killed four local officials apparently because they were running against NPA-backed candidates for local office. Also in March, suspected NPA rebels tortured (*see* Section 1.c.), then shot and killed a retired military man and his wife.

On March 29, the NPA violated a self-declared cease-fire by killing a militiaman in Camarines Sur, apparently to mark the NPA's 33rd anniversary.

On April 22, four men shot and killed the mayor of Jones, Isabela inside the municipal hall. The NPA claimed responsibility for the killing, accusing the mayor of corruption and human rights abuses. In June Isabela police charged seven NPA members with the murder, but the suspects had not yet been taken into custody.

On May 28, suspected Communist members shot and killed a former town mayor in Camarines Sur. The former mayor had been an active participant in the Government's counterinsurgency program and had survived three prior murder attempts.

On May 13, police filed murder charges against a member of the Alex Boncayo Brigade (ABB), a breakaway faction of the Communist Party, for the February 2001 killing of a Communist labor leader. As of May, the accused remained at large, and other suspects in the case had yet to be identified.

NGOs expressed concern over killings by vigilantes in several Mindanao cities. Since 1995 so-called death squads reportedly killed more than 180 persons, and NGOs criticized several local officials for encouraging vigilantism and extrajudicial violence. Through August death squads killed at least 18 children. Many reportedly were involved in narcotic sales and petty crimes. There were reports that mayors in Davao del Sur and Misamis Oriental Provinces supported death squads responsible for more than 20 killings of suspected drug dealers.

During the year, unknown persons killed several journalists (*see* Section 2.a.). In May a broadcaster and editor of a community newspaper was killed in Pagadian, in the southern province of Zamboanga del Sur. On August 14, a witness was killed after testifying to authorities that a senior police officer in the area had sought the death of the journalist because he had exposed police corruption. At year's end, the PNP had fired the senior police officer and his superior; however, no charges had been filed and the case remained open.

Reporters Without Borders accused police and military officers in Zamboanga del Sur of blocking investigations and threatening witnesses in the murders of four other journalists since January 2001.

On August 22, an assailant shot and killed a cable television newscaster and publisher of a community newspaper in San Pablo City, Laguna.

On December 24, an explosion at the home of a mayor in Maguindanao Province killed 13 persons and wounded 12 others. On December 31, a grenade explosion in Tacurong City Sultan Kudarat Province killed 6 and wounded 30. Government officials believe that these resulted from a dispute between two clans, at least one of which has links to the MILF.

*b. Disappearance.*—Government forces were believed responsible for disappearances. The domestic NGO, Families of Victims of Involuntary Disappearances (FIND), reported eight disappearances during the year. On February 4, two members of the Bayan Muna political party, which is closely linked to the Communist Party (CPP), disappeared in Aurora Province. FIND suspected the AFP. At year's end, the two remained missing. On February 9, elements of the AFP allegedly seized a Bayan Muna organizer and a former student activist in San Jose, Nueva Ecija. At year's end, the two remained missing. The AFP has denied involvement in these disappearances.

FIND reported that 1,015 cases of disappearance remained unsolved; the majority of these cases date from 1983–85, the peak of the agitation against the Marcos dictatorship, and 1987–89, the height of an Aquino administration crackdown on insurgents.

The courts and the police failed to address adequately complaints of victims' families concerning past disappearances in which government security forces were suspected. Disappearance itself is not a crime under the law; evidence of a kidnaping or killing is required in order for charges to be filed. FIND and Amnesty International's (AI) Manila office continued to support the efforts of victims' families to press charges, but in most cases evidence and documentation were unavailable. Convictions were rare; FIND reported that only 14 cases were pending in court. Judicial inaction on the vast majority of disappearances contributed to a climate of impunity that undermined public confidence in the justice system.

There were no developments in the following disappearance cases: The April 2001 disappearance of a Bayan Muna coordinator from Laguna Province arrested by unidentified military units; the June and July 2001 disappearance of five farmers in Basilan; the September 2001 disappearance of two suspected NPA members who were arrested in Oriental Mindoro by paramilitary or military units; the October 2001 disappearance of three farmers arrested by AFP elements in Zamboanga del Norte.

The Abu Sayyaf Group again engaged in many acts of terrorism during the year. The ASG sometimes claimed that its motivations were political or religious in order to attract sympathy for its actions, but during the year it again used terror mainly for profit. Its victims again included Christians and Muslims, Filipinos and foreigners.

On June 7, a gun battle between the ASG and AFP resulted in the death of hostages Martin Burnham and Ediborah Yap, and the wounding of Gracia Burnham. These three were the last remaining hostages of a group kidnaped from a tourist resort in May 2001.

On June 17, suspected ASG members intercepted an Indonesian tugboat in Mindanao waters and abducted four of its crewmen.

On August 20, suspected ASG members abducted six individuals in Jolo, Sulu. The two men in the group were beheaded. At year's end, at least four persons remained in captivity.

The NPA also was responsible for kidnapings and hostage takings. On February 22, the NPA kidnaped 11 power company workers in Catanduanes Province. They were released several days later after their employers paid ransom.

Criminal gangs with no pretense of political or religious agendas also engaged in kidnapings for ransom.

The police solved some kidnapings and apprehended suspects. The PNP reported that 80 kidnapings have been solved between January 2001 and June 2002. On May 7, police in Zamboanga City filed charges of 52 counts of kidnaping against a high-ranking leader of the ASG who was captured the prior week. Fifty other ASG suspects were awaiting trial in Metro Manila.

On August 9, government officials charged the PNP chief of Sultan Kudarat Province in southwestern Mindanao and a town mayor with complicity in the kidnaping of a foreign national and a Filipino businessman. Several other men were in police custody while awaiting trial in the same case.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture, and evidence obtained through its use is legally inadmissible in court; however, members of the security forces and police continued

to use torture and to abuse suspects and detainees. The CHR provides the police with mandatory human rights training, including primers on the rights of suspects, and higher level PNP officials seemed more receptive to respecting the human rights of detainees; however, rank-and-file awareness of the rights of detainees remained inadequate. Through September the PNP reported investigating 163 human rights complaints against its personnel, leading to the trial of 70 officers. The PNP reported that among the 163 complaints there were 13 allegations of rape. At year's end, 1 of these cases had been dismissed, 2 were under investigation, and 10 individuals were on trial.

TFDP stated that torture remained an ingrained part of the arrest and detention process. Common forms of abuse during arrest and interrogation reportedly included striking detainees and threatening them with guns. Less common forms included the placing of plastic bags over heads to deprive the detainee of air. TFDP reported that such beatings often were carried out in the early stages of detention, often by the arresting officer. During the year, police intensified efforts to dismiss abusive officers and investigate police units nationwide.

Within the AFP, the CHR observed greater sensitivity to the need to prevent human rights violations. Officers with human rights violations cannot be promoted. Nevertheless, abuses still occurred. Human rights activists complained of abuses by government security forces against suspected ASG and NPA members in captivity. According to the Moro Human Rights Center, members of the AFP frequently beat ASG suspects.

The CHR documented one case of torture from January through June; TFDP reported seven cases from January through June. The AFP was implicated in many of these cases.

On March 31, AFP units reportedly beat 27 suspected ASG members in Zamboanga City. The 27 complained that they were tied, blindfolded, and punched until they admitted to membership in the ASG. As of July, the authorities still detained seven, including two minors, in the Basilan provincial jail. The rest had been released.

On April 23, a 19-year-old Muslim male while under police interrogation about the bombing of a department store in General Santos City on April 21 was blindfolded and punched in the stomach.

On May 1, a resident of Barangay Alfonso, Cavite, suspected of membership in an armed dissident group was reportedly kicked, struck with rifle butts, and suffocated with cellophane by PNP units.

The terrorist ASG kidnaped and tortured many civilians during the year. ASG members often beat their captives and handcuffed them to trees overnight. Food and water were inadequate. The ASG summarily beheaded a number of its captives (*see* Section 1.b.).

Prison conditions were harsh. Provincial jails and prisons were overcrowded, had limited exercise and sanitary facilities, and provided prisoners with an inadequate diet. The Government reported that jails in the metropolitan Manila area were operating at 123 percent of capacity. A significant percentage of the inmates were detainees unable to post bail. Administrators budgeted a daily subsistence allowance of about \$0.60 (30 pesos). Prison inmates often depended on their families for food because of the insufficient subsistence allowance, and the need to bribe guards to receive food rations. In February 162 inmates of the Pampanga provincial jail staged a hunger strike to protest inadequate and sometimes rotten food.

Overcrowding appeared to contribute to medical problems among inmates. During the year, at least 80 inmates died of various ailments in city and municipal jails nationwide, with 28 deaths at the Manila City Jail. The poorly ventilated city jail suffered at times from a lack of potable water. As of June, 3,709 prisoners occupied a facility built to accommodate 1,000 inmates.

In national prisons, male and female inmates were held in separate facilities, overseen by guards of the same sex. In provincial and municipal prisons, male guards sometimes supervised female prisoners, directly or indirectly. In Bureau of Immigration and Deportation (BID) detention facilities, male and female inmates were segregated by sex, but male guards oversaw both sexes. Although prison authorities attempted to segregate children, in some instances they were held in facilities not fully segregated from adult male inmates. In 2001 the Supreme Court ordered the transfer of 12 minors from death row to a medium security prison. On August 19, after repeated delays, the Bureau of Corrections transferred them. Pre-trial detainees sometimes were not separated from convicted prisoners.

There were reports of widespread corruption among guards. Guards demanded that prisoners pay in order to receive food, to use sanitary facilities, and to avoid beatings by other prisoners. Jail administrators reportedly delegated to senior inmates authority to maintain order. The CHR and TDFP reported that beatings by

prison guards and other inmates were common, but that prisoners, fearing retaliation, refused to lodge complaints. Corruption appeared to be a problem at higher levels of authority within the prison system as well. Some prominent prisoners and jailed celebrities received preferential treatment. Favored inmates reportedly enjoyed access to outside contacts, enabling them to trade in prostitution and drugs.

There were reports that guards abused prisoners. In March 2001, AI reported that women in police custody were particularly vulnerable to sexual and physical assault by police and prison officials. Victims often were afraid to report incidents (*see* Section 5). Some detainees at BID detention centers reportedly gained their release by making cash payments to guards.

International monitoring groups and the International Committee of the Red Cross are allowed free access to jails and prisons.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution requires a judicial determination of probable cause before issuance of an arrest warrant and prohibits holding prisoners incommunicado or in secret places of detention; however, police in a number of cases arrested and detained citizens arbitrarily. The CHR investigated 17 cases of illegal arrest and detention through March—a decrease from the number recorded during the first quarter of 2001. The TFDP documented 36 cases of politically motivated arrests by the Government through July. TFDP and the NGO Philippine Human Rights Information Center (Philrights) both estimated the total number of political prisoners in the country at about 200. Many of these individuals were charged with common crimes. There were allegations that some of these individuals remained in custody for periods longer than their stated jail terms. The Government denied that there were any political detentions or detainees (*see* Section 1.e.).

Detainees have the right to a judicial review of the legality of their detention and, except for offenses punishable by a life sentence or death (when evidence is strong), the right to bail. Authorities are required to file charges within 12 to 36 hours of arrests made without warrants, depending on the seriousness of the crime. Due to the slow judicial process, lengthy pretrial detention remained a problem (*see* Section 1.e.).

The Moro Human Rights Center reported a significant number of cases of harassment and illegal detention of Muslims by police and military officers. In many cases, police and military officials suspected the targets of belonging to the ASG, and searched them without warrants, and, in one instance, raided an Islamic school in Pampanga Province that authorities suspected had links to the Al-Qa'ida terrorist network.

In other instances, political activists from various parties were the targets of arbitrary arrests and detentions. In January police without warrants detained seven activists from Karapatan, a group linked to the CPP, in Cagayan de Oro, Misamis Oriental. Police released three of the detainees within days. On April 23, police and soldiers arrested three members of a party affiliated with Bayan Muna in General Santos City, South Cotabato. Police reportedly searched their offices without a warrant, and held them in custody at a police station in General Santos for 2 months.

On April 25, Ronald Lumbao, the leader of a group supporting deposed former President Joseph Estrada, was arrested after he was implicated in the May 1, 2001, violent political rally. As of December, he remained in jail charged with rebellion. His petition for bail had not yet been adjudicated and his trial was pending.

The terrorist NPA, as well as some Islamic insurgent groups, were responsible for a number of arbitrary detentions, often in connection with informal courts set up to try military personnel, police, local politicians, and other persons for “crimes against the people” (*see* Section 1.e.).

During the year, police released some individuals allegedly detained for political reasons. On June 6, 31 alleged rebels belonging to the MILF were released from jail in Mati, Davao Oriental. They had been accused of murder and robbery and had been held since July 2000. A Regional Trial Court judge ordered the release because of insufficient evidence and allegations that the military subjected state witnesses to physical coercion.

Forced exile is illegal, and the Government did not use it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judicial system suffered from corruption and inefficiency. Personal ties, and sometimes venality, undermined the commitment of some government employees to ensure due process and equal justice. The result was impunity for some wealthy and influential offenders, and widespread skepticism that the judicial process would produce fair outcomes.

Low pay rendered both judges and prosecutors susceptible to corruption. There were many allegations that judges accepted money or other bribes. Legal experts in-

side and outside the justice system criticized relationships between some judges and individual or corporate litigants. Some lawyers acted as “case fixers,” gaining the favor of judges and other court officials and allegedly bribing some witnesses.

The President and the Chief Justice of the Supreme Court expressed their desire to root out corrupt practices, and both warned judges and prosecutors not to abuse their authority. A high-profile campaign against judicial corruption showed promise, but progress remained halting.

The national court system consists of four levels: Local and regional trial courts; a national Court of Appeals divided into 17 divisions; a 15-member Supreme Court; and an informal local system for arbitrating or mediating certain disputes outside the formal court system. The Sandiganbayan, the Government’s anticorruption court, hears criminal cases brought against senior officials. A Shari’a (Islamic law) court system, with jurisdiction over domestic and contractual relations among Muslim citizens, operates in some Mindanao provinces.

The Constitution provides that those accused of crimes be informed of the charges against them, have the right to counsel, and be provided a speedy and public trial. Defendants are presumed innocent and have the right to confront witnesses against them, to present evidence, and to appeal convictions. The authorities respected the right of defendants to be represented by a lawyer, although poverty often inhibited a defendant’s access to effective legal representation. Skilled defense lawyers staffed the Public Attorney’s Office (PAO), but their workload was great and resources were scarce. The PAO provides legal representation for all indigent litigants at trial; however, during arraignment, courts may at their option appoint any lawyer present in the courtroom to provide counsel to the accused.

According to the Constitution, cases are to be resolved within set time limits once submitted for decision: 24 months for the Supreme Court; 12 months for the Court of Appeals; and 3 months for lower courts. There are no time limits for trials.

The judicial system was unable to ensure expeditious trials for detained persons. Because of numerous technical delays and the frequent failure of judges and prosecutors to appear, many trials lasted for several months. Furthermore, there is a widely recognized need for more prosecutors, judges, and courtrooms. Of the more than 2,100 trial court judgeships nationwide, 32 percent remained vacant at year’s end due to a lack of qualified applicants. Vacancies in Mindanao and other poorer provinces were particularly unattractive to many jurists, and 38 percent of these judgeships were vacant. Also difficult to fill were the Shari’a court positions, in part because of the requirement that applicants be members of both the Shari’a Bar and the Integrated Bar.

Although Shari’a courts do not have criminal jurisdiction, the MILF asserts that its Islamic law courts do. There were no reports of executions resulting from MILF court decisions during the year. The terrorist NPA continued to subject military personnel, police, local politicians, and other persons to its so-called courts for “crimes against the people.” The NPA executed some of these “defendants.”

International and domestic NGOs criticized many court proceedings that resulted in death sentences, stating that the judicial system does not ensure the rights of defendants to due process and legal representation. At times, defendants in death penalty cases lacked adequate legal representation at the time of arrest, indictment, or at trial. By law the Supreme Court reviews all death sentences. In April 2001, senior government officials announced a moratorium on the death penalty, which at year’s end remained in effect.

Various human rights NGOs maintained lists of incarcerated persons they allege to be political prisoners; estimates usually range from 75 to over 250. Typically there was no distinction in these lists between detainees and prisoners, and the majority of persons on these lists have not been convicted. Some face murder, kidnaping, and other serious charges, while others are charged with lesser offenses such as possession of drugs or firearms. Some NGOs asserted that it was frequent practice to arrest political detainees for common crimes and to continue to detain them after their sentences expired. Often it was difficult to distinguish between persons possibly incarcerated for political reasons and those for common crimes. The Government uses NGO lists as one source of information in the conduct of its pardon, parole, and amnesty programs, but it does not consider the persons listed to be political detainees or prisoners. The Office of the President returned to the Board of Pardons and Parole approximately 6,000 requests for presidential action, with instructions to restudy the cases.

The Government permitted access to alleged political prisoners by international humanitarian organizations.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides that a judge may issue search warrants on a finding of probable cause; however, while the Government generally respected restrictions on



search and seizure within private homes, searches without warrants have occurred. Judges declared evidence obtained illegally to be inadmissible.

The Government generally respected the privacy of its citizens; however, leaders of Communist organizations complained of what they described as a pattern of surveillance on their activities. Bayan Muna party members reported the ransacking of a clinic and an office in the Davao City area.

Forced resettlement of urban squatters, who make up at least 30 percent of the urban population, continued during the year, although to a lesser extent than in prior years. The law provides certain protections for squatters; eviction is often difficult, especially because politicians recognize squatters' voting power. However, NGOs complained that in many instances the Government did not adhere to its 2001 suspension of demolitions in urban poor areas. Government relocation efforts were constrained by budget problems, and the issuance of land titles to squatters targeted by displacement was limited. Some squatters removed for flood control projects were relocated to areas far from their places of livelihood and from schools.

The Government did not use forced conscription; however, there were unconfirmed reports of forced conscription into local paramilitary units with links to the AFP. In August persons representing 13 minority tribes from Mindanao accused the AFP of forcing them to join Citizens Armed Forces Geographical Units to fight the NPA. The AFP rejected the claims.

*g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—Some citizens groups complained that the AFP, in confronting the terrorist Abu Sayyaf Group, illegally detained citizens, torched houses, and shelled villages suspected of being ASG strongholds. The AFP defended its actions (*see* Sections 1.a. and 1.d.).

The terrorist ASG kidnaped and tortured many civilians during the year and beheaded a number of its captives. There were reports that the ASG killed citizens whom it suspected of being government or military informants. AFP-ASG clashes occurred intermittently throughout the year, mostly in the Zamboanga peninsula and Sulu archipelago. AFP-ASG clashes displaced approximately 8,000 civilians. By year's end, the majority of these individuals had returned to their homes.

There were some clashes during the year between the AFP and the largest remaining Muslim separatist group, the MILF. However, there were fewer attacks than in 2000 or 2001. At year's end, the August 2001 cease-fire agreement remained in effect, despite sporadic clashes. The MILF recruited children to serve as reserve forces and to provide noncombat support (*see* Section 5).

In February an AFP-MILF encounter in Basilan reportedly affected seven barangays and 1,300 families. Also in February, AFP-MILF fighting in Maguindanao Province displaced 5,508 families, some of whom have returned to their homes. In March AFP-ASG engagements displaced 1,600 families on Basilan. That same month, in Sultan Kudarat, NPA-AFP clashes forced 345 villagers to flee their homes. In May an encounter between the MILF and another Muslim group, the Muslim National Liberation Front (MNLF), displaced 150 families in Maguindanao Province. That same month, military operations against the NPA led 840 residents to leave their homes in Magsaysay, Davao del Sur. In June a battle between the MILF and AFP led to the displacement of at least 150 residents in Datu Piang, Maguindanao.

Of the nearly 1 million persons displaced in 2000 during clashes in Mindanao between the AFP and the MILF, by May approximately 67,000 still had not returned to their homes, according to the Department of Social Welfare and Development (DSWD). Of these approximately 65,000 were living with friends and relatives, while approximately 2,000 remained in government-run evacuation centers. DSWD reported that all but 2 of its nearly 500 evacuation centers that were established in connection with the clashes had been closed.

During the year, the terrorist NPA killed political figures, mayors, military and police personnel, and civilians, including those it suspected of acting as informants for the Government or the AFP. The NPA also harassed businesses and burned buses to enforce the collection of "revolutionary taxes." The NPA continued actively to recruit minors both as combatants and noncombatants (*see* Section 5).

## *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

Most print and electronic media are independent. A few television and radio stations are owned by the state. Broadcast and print media are freewheeling and sometimes criticized for lacking rigorous journalistic ethics. They tend to reflect the particular political or economic orientations of owners, publishers, or patrons, some of whom are close associates of present or past high-level political officials.

Journalists were the targets of several violent incidents during the year. In May a broadcaster and editor of a community newspaper was killed in Pagadian City, in the southern province of Zamboanga del Sur. On August 14, a witness to that murder was himself killed after testifying to authorities that a senior police officer in the area had sought the death of the journalist because he had exposed corruption in the police force. The NBI announced in May that it had identified one of the journalist's killers as a police officer. He was temporarily taken into custody for questioning and later fired from the police force. At year's end the case was still under investigation. Since 2000 four journalists had been killed in the Pagadian area.

On August 22, an assailant killed a cable television newscaster and publisher of a community newspaper in San Pablo City, Laguna. He was known as a crusading journalist and a vocal critic of political corruption.

Some journalists and broadcasters were subjected to occasional harassment. In separate incidents in February two mayors, one in northern Luzon and one in northern Mindanao, attempted to shut down radio stations, allegedly because the stations were critical of the local officials.

Many incidents of violence directed at journalists that date from earlier years remained unsolved. The international NGO Committee to Protect Journalists criticized the Government for its failure to prosecute those responsible for the murder of journalists in the country. The Philippine Press Institute stated that there have been no convictions for the murders of 38 journalists in the country since 1986. The international NGO Reporters without Borders accused police and military officers in Zamboanga del Sur of blocking investigations and threatening witnesses in the murders of four journalists since January 2001.

The Government did not restrict Internet use.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the freedoms of assembly and association, and the Government generally respected them in practice.

Although the law requires that groups request a permit to hold a rally, for much of the year the Government followed an unwritten policy of allowing rallies to occur without requiring the filing of a request; however, in August, in connection with the visit of a foreign official, police required protesters to request official permits. Leftist groups complained that they were not allowed to hold protests in places where the foreign official was scheduled to visit. Police permitted rallies in alternative locales.

Several NGOs also complained about government security forces violently dispersing rallies. Violence generally was limited, and at times some of these groups provoked security forces by shoving or throwing objects. In one instance, participants in a bus caravan in Mindanao claimed that the Government failed to protect them from objects hurled by fellow citizens along the travel route.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. Although Christianity, particularly Roman Catholicism, is the predominant religion, there is no state religion, and under the Constitution church and State are separate.

At least 5 million Muslims, who constitute approximately seven percent of the population, reside principally in Mindanao and nearby islands. They make up the largest single minority group in the country. Historically, they have been alienated from the predominant Christian majority. The national culture, with its emphasis on familial, tribal, and regional loyalties, creates informal barriers whereby access to jobs or resources is provided first to those of one's own family or group network. Muslims reported that they have difficulty renting rooms in boarding houses or being hired for retail work if they use their real name or wear distinctive Muslim dress. Some Muslims therefore used a Christian pseudonym and do not wear distinctive dress when applying for housing or jobs. Muslims continued to be somewhat underrepresented in senior civilian and military positions. Provinces in Mindanao that are predominantly Muslim lag behind the rest of the country in most aspects of socioeconomic development.

While Christian-Muslim relations were generally free of violence, Muslims faced discrimination not because of their religious beliefs or practices, which they were free to celebrate without interference, but because they were culturally different. There also were reports of Muslim discrimination against Christians in areas where Muslims are the majority.

Intermittent government efforts to integrate Muslims into political and economic society have achieved only limited success. Many Muslims claimed that they continue to be underrepresented in senior civilian and military positions, and cited the lack of proportional Muslim representation in national government institutions (*see*

Section 3). Muslims welcomed the approval of a bill to declare the Islamic festival of Eid al-Fitr a national holiday. However, the Government's crackdown on the terrorist ASG led many human rights NGOs to accuse the police and military of unfairly targeting Muslims for arrest and detention (*see* Section 1.d.).

The teaching of religious classes in public schools is permitted with the written consent of parents, provided that there is no cost to the Government. The Department of Education required schools to ensure the protection of the religious rights of students. These measures included allowing Muslim students to wear their head coverings ("hijab") and not requiring Muslim girls to wear shorts during physical education classes.

About 14 percent of the school population in Mindanao attend Islamic schools. The Government's Education for Peace and Development in Mindanao program is working to integrate the Islamic school network into the country's national education system. As of August, less than 10 percent of Islamic schools were fully accredited by the Government.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

Citizens enjoyed the freedom to change their places of residence and employment. Travel abroad is limited only in rare circumstances, such as when a citizen's court case is pending. Government authorities discourage travel by workers deemed vulnerable, such as young women, to areas in which they face personal risk (*see* Section 6.f.). The Philippine Overseas Employment Administration (POEA) seeks to limit departures for work abroad to those persons whom the POEA certifies as qualified for the jobs. More than 7 million citizens worked overseas and remitted money home. Such remittances amount to approximately 10 percent of the gross national product.

The practice of forcible displacement of urban squatters to make room for infrastructure and commercial developments declined notably beginning in February when the Government suspended demolitions in poor urban areas (*see* Section 1.f.).

Of the nearly 1 million persons displaced in 2000 during clashes in Mindanao between the AFP and the MILF, approximately 67,000 were still displaced as of May due to a lack of housing or because of security concerns. The majority of these displaced persons were in the provinces of Maguindanao and North Cotabato (*see* Section 1.g.). The Government still operated two displaced persons centers in predominantly Muslim areas of Mindanao.

During the year, fighting between the AFP and MILF, ASG, or NPA displaced about 17,000 families according to the Ecumenical Commission for Displaced Families and Communities (ECDFC). The majority of armed encounters that led to displacements took place in Muslim areas of Mindanao. ECDFC estimated that 20 percent of these families remained displaced at year's end.

There is no comprehensive legislation that provides for granting refugee and asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Refugee Unit in the Department of Justice determines which asylum seekers qualify as refugees; such determinations in practice implement many of the basic provisions of the 1951 U.N. Convention. The Government cooperated with the U.N. High Commissioner for Refugees and with other humanitarian organizations in assisting refugees. There were no reports of the forced return of persons to a country where they feared persecution. The Government has provided first asylum.

The Government continued to allow approximately 1,800 asylum seekers from Vietnam to remain in the country. All had been precluded from refugee status. Most live on Palawan Island or in major urban areas. There was significant popular support, particularly from the Roman Catholic Church, for allowing permanent residency for those asylum seekers who do not wish to repatriate and are ineligible for resettlement in other countries. The Government continued to encourage voluntary repatriation of such asylum seekers but has not ruled out forcible repatriation.

During the year, an estimated 80,000 Philippine citizens were deported from Malaysia. The Government protested the treatment of thousands of these persons who had been confined in camps in Sabah, Malaysia, while awaiting deportation and assisted in their return by providing naval vessels. Several children died of disease en route. The Government provided the deportees with food, shelter, and, in some cases, medical care following their arrival in the country.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right through periodic elections that largely were free and fair and held on the basis of universal suffrage. At year's end, legislation was pending in Congress to establish an absentee voting system, which is required by the Constitution. The system would enfranchise those eligible to vote among the 7.4 million Filipinos who reside outside the country.

In July barangay elections were held nationwide. The elections were largely free and fair, but approximately 90 persons died and hundreds were injured in election-related violence. The victims included a number of candidates. The terrorist NPA claimed responsibility for several election-related killings, although political rivalries were also a major cause. There were reports that the NPA continued to charge "access fees" to candidates wanting to campaign in remote areas. The NPA also killed local government officials in other instances not related to the barangay elections (*see* Section 1.a.).

In May 2001, midterm elections were held for new senators, representatives, provincial governors, and local government officials. Approximately 100 persons were killed in election-related violence, including two sitting congressmen and a candidate for provincial governor (the NPA claimed responsibility for these and many other election-related killings), and another 140 persons were wounded in more than 200 incidents in the period preceding and following the voting.

In November 2001, elections were held on the question of expanding the Autonomous Region in Muslim Mindanao (ARMM). The elections were marred by violence thought to have been instigated by the outgoing governor, Nur Misuari. The Government filed rebellion charges against Misuari, who fled to Malaysia and later was returned to the Philippines. He remained in detention pending trial.

There were no restrictions in law or practice on participation by women and members of minorities in politics. There were a number of women in positions of leadership and authority, some in highly visible positions. There were 3 female Senators in the 23 member Senate and 39 women in the 216-member House of Representatives. The President was a woman, and there were five female cabinet-level officials. There were 2 women on the 15-member Supreme Court.

Along with many other citizens, Muslims argued that the method of election of senators from a nationwide list favors established political figures from the Manila area, to the disadvantage of Muslims. Election of senators by region would require a constitutional amendment; many Muslims and members of other disadvantaged groups who are underrepresented in the national legislature favor such an amendment. There was one Muslim cabinet member, and one Muslim senior presidential adviser. There were no Muslim senators. The House of Representatives had nine Muslim members, including some elected from Christian majority districts.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A large and active group of human rights NGOs generally operated without government interference, investigating and publishing their findings on human rights cases. Most government officials, including those of the CHR, were responsive to NGO views. Many domestic NGOs were critical of the Government's human rights record; these NGOs also criticized previous governments' human rights records. While acknowledging that respect for human rights has improved under President Macapagal-Arroyo, many NGOs criticized the Government for being overzealous in its efforts to defeat the ASG. These groups cited indiscriminate arrests, torture of suspects, and the shelling of civilian areas the AFP suspected of harboring ASG members. President Macapagal-Arroyo staunchly denied wrongdoing by the AFP.

Some NGOs expressed concern over what they perceived as increasingly hostile government rhetoric toward human rights activists. President Macapagal-Arroyo stated that certain leftist groups committed human rights violations themselves and implied that some groups were merely front organizations for terrorists and criminals. NGOs, including AI, also expressed concerns over statements by the mayor of Davao, whom Macapagal-Arroyo has tapped as an adviser on crime, that condoned extrajudicial killings as an acceptable means to fight crime.

In April a Senator called for an investigation into the killing of a member of a leftist human rights group and three companions during an army operation in Arakan, North Cotabato, on April 5 (*see* Section 1.a.). At year's end, Congress had yet to launch an investigation.

Member organizations of the Philippine Alliance of Human Rights Advocates (PAHRA), a leading NGO network, effectively monitored human rights problems and sought redress through their contacts with government agencies, the Congress,

and the Government's Commission on Human Rights. Human rights activists continued to encounter minor or sporadic harassment, mainly from security forces or local officials from the area in which incidents under investigation took place. Members of TFDP reported incidents of intimidation and harassment, and one case in which allegedly false charges were filed against a TFDP staff member.

CHR monitoring and investigation of human rights complaints remained hamstrung by insufficient resources. Approximately one-third of the country's 42,000 barangays had Human Rights Action Centers, which coordinated with CHR regional offices. However, the CHR's regional and subregional offices remained understaffed and underfunded, detracting from their effectiveness. The new CHR chair has significant experience in the field of human rights and expressed her strong commitment to improve the Commission's effectiveness.

*Section 5. Discrimination based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination against women, children, and minorities; however, vague regulations and budgetary constraints hindered implementation of these protections.

*Women.*—Violence against women, both in and out of the home, remained a serious societal problem. The law does not specifically address the problem of domestic violence; complaints are filed under the charge of "physical injury." The Government did not disaggregate statistics to indicate the number of physical injury cases that result from domestic violence. The Department of Social Welfare and Development assisted an average of 4 women per day who complained of domestic abuse, not including rape.

In June Cebu City legislators passed the country's first local ordinance that penalizes perpetrators of domestic violence and provides protection to victims. Under this law, witnesses may file complaints as well as victims.

The PNP and the DSWD both maintained women's help desks to assist victims of violence against women and to encourage the reporting of crimes. With the assistance of NGOs, officers received gender sensitivity training to deal with victims of sexual crimes and domestic violence. Many PNP stations included female officers. Overall the Government spent an estimated \$1 million (53 million pesos) during the year for medical and psychiatric facilities and shelters for women who are victims of violence.

Rape continued to be a major problem. The PNP reported that it investigated more than 2,500 cases of rape during the year. Of that number, the PNP reported that 90 percent were "solved," that is a suspect was identified and charges were filed or cases were settled out of court between the parties. There were reports of rape and sexual abuse of women in police or protective custody. These often involved women from marginalized groups, such as suspected prostitutes, drug users, and lower income individuals arrested for minor crimes. In April there were allegations of rape and abuse by members of the security force of the Witness Protection Program (WPP). The Department of Justice, which oversees the WPP, investigated the complaints and fired several members of the WPP security force who were alleged to be involved.

The law provides for the death penalty in cases of rape. Spousal rape and abuse also are illegal, but enforcement is ineffective. Some NGOs argued that courts' imposition of death sentences for rape convictions inhibits some victims, particularly relatives of the accused, from pressing charges. During the year, of the eight prisoners sentenced to death, three were convicted of rape. Of all prisoners, those convicted of rape make up 60 percent of those sentenced to death.

Prostitution is illegal. Many women suffer exposure to violence through their recruitment, often through deception, into prostitution (*see* Section 6.f.). A 1998 International Labor Organization (ILO) study estimated that 500,000 women engaged in prostitution within the country. Penalties for the offense are light, but detained prostitutes were subjected to administrative indignities and extortion. The DSWD continued to provide temporary shelter and counseling to women engaged in prostitution. Officials believed that this helped only a small percentage of victims. Local officials condoned a climate of impunity for those who exploited prostitutes.

Sex tourism was a serious problem. Trafficking in women and children for sexual exploitation and forced labor were problems (*see* Section 6.f.).

Sexual harassment in the workplace was thought to be widespread yet underreported due to victims' fear of losing their jobs. Female employees in special economic zones (SEZs) were particularly at risk; most are economic migrants who had no independent workers' organization to assist with filing complaints. Women in the retail industry work on 3- to 5-month contracts, and were reluctant to report sexual harassment for fear their contracts would not be renewed.

In this predominantly Roman Catholic country, the law does not provide for divorce, although the courts generally recognize the legality of divorces obtained in other countries. The process of annulment is cumbersome and costly, which precluded annulment as an option for many women. Many lower income couples simply separate informally without severing their marital ties. The Family Code provides that in child custody cases resulting from annulment, illegitimacy, or divorce in another country, children under the age of 7 are placed in the care of the mother unless there is a court order to the contrary. Children over the age of 7 normally also remain with the mother, although the father can dispute custody through the courts.

In law but not always in practice, women have most of the rights and protections accorded to men. Unemployment rates for women are consistently higher than for men. Women's salaries averaged approximately 47 percent lower than their male counterparts'. Women continued to face some discrimination in employment. More women than men enter secondary and higher education.

The National Commission on the Role of Filipino Women, composed of 10 government officials and 10 NGO leaders appointed by the President, acts as an oversight body whose goal is to press for effective implementation of programs benefiting women.

*Children.*—The Government devoted considerable resources to the education, welfare, and development of children. The Department of Education had by far the largest budget of any cabinet department. Nevertheless, children faced serious problems.

Primary and secondary education is free and compulsory, but poor families often were unable to meet costs for uniforms, supplies, shoes, and transportation. Poverty forced many children throughout the country to drop out of school; during the year, 96 percent of school-age children were enrolled in elementary school and 70 percent in secondary school, but only about 66 percent of children completed sixth grade, and only 50 percent of all children finished secondary school. The overall graduation rate (students who start elementary school and graduate from secondary school) was 71 percent. The Asian Development Bank expressed concern over a growing inequity in educational opportunities for the poor as public spending per pupil declined. In the 1980s, public spending covered 80 percent of the cost of elementary education; however, according to government estimates, this share has declined to less than 60 percent.

According to government reports, 70 percent of children are well nourished and 90 percent are fully immunized. The child mortality rate was 48 out of 1,000 children before the age of 5 years. In 2000 an NGO estimated that 30 to 40 percent of preschool children in the five-province Autonomous Region in Muslim Mindanao suffered from malnutrition. Most of the children were in villages in Maguindanao, Lanao del Sur, and Tawi-Tawi Provinces, areas of heavy insurgent combat. According to the latest UNICEF data, at the end of 1999, 28 percent of children under age 5 nationwide were moderately or severely underweight.

According to UNICEF and ILO studies, approximately 2 million children were exposed to hazardous working environments, such as in quarries, mines, and at docksides (*see* Section 6.d.). Sexual exploitation and trafficking in children for the purpose of sexual exploitation were problems. NGOs estimated that approximately 60,000 children were involved in the commercial sex industry (*see* Section 6.f.).

The Government estimated that there were as many as 200,000 street children nationwide, half of them in the greater Manila area. Welfare officials believed that the number increased as a result of widespread unemployment in rural areas. Many street children appeared to be abandoned children engaged in scavenging or begging. In September 2001, an ILO-sponsored report stated that children as young as 5 years old were involved in the production and sale of illegal narcotics.

Child abuse remained a problem. DSWD offices served nearly 5,900 victims of child abuse during the year, 71 percent of whom were girls. Some 60 percent of the girls were victims of sexual abuse, while the majority of the boys had been abandoned or neglected. Several cities ran crisis centers for abused women and children. The problem of foreign pedophiles continued to be reported in the press, and the Government continued to prosecute accused pedophiles. Children also were victims of police abuse while in detention for committing minor crimes. There were reports that police struck minors, and in one case, poured an adhesive substance over the head of a 14-year-old girl.

There were reports of discrimination against children of single parents at some private Catholic schools. In April the Secretary of Education ordered all private schools to discontinue their practice of refusing admission to children of single or separated parents.

In November 2001, the Supreme Court upheld the conviction of a Congressman for statutory rape; the Congress declared his seat vacant, and a special election was held in August to fill the seat.

The family court system expedites juvenile and domestic relations cases and serves to strengthen safeguards against the sale and trafficking of children abroad. The Supreme Court promulgated rules designed to avoid trauma to child witnesses, which took effect in January 2001. The rules permit nonlawyers to pose questions, allow children to have companions of their own choosing present, provide for the exclusion of persons not having a direct interest in the case, and permit use of videotaped testimony and one-way mirrors.

Children were targeted for recruitment as combatants and noncombatants by the terrorist NPA and ASG, and by the MILF. The NPA claimed that it assigned persons 15 to 18 years of age to self-defense and noncombat duties; however, there were reports that the NPA continued to use minors in combat. A high-ranking AFP official estimated that children make up 30 percent of the NPA's fighting force. In the last several years, the AFP on numerous occasions captured or killed NPA fighters who turned out to be minors. In August an AFP commander presented a list of almost 300 NPA members who had surrendered to his command since May 2001, at least 17 of whom were still minors when they joined the NPA.

The MILF also recruited children. In many instances, children were pressured by their relatives to join as part of family or clan obligations. Cultural perceptions sometimes play a role; teenagers as young as 13 or 14 are considered to be adults. In one town in North Cotabato, a teacher reportedly disclosed that boys as young as 12 disappeared from their classes when the MILF was engaged in encounters with government troops. The MILF responded that it used children for training but not for combat. The AFP disagreed, stating that many MILF members killed or captured were children, some as young as 12.

The ASG also recruited teenagers to fight and participate in criminal activities. There were reports that a significant number of ASG members staffing the groups' camps were teenagers. The AFP said that some Islamic schools in Mindanao served as fronts to indoctrinate children, and that the ASG used children as couriers and spies. In February the DSWD reported that seven former "child warriors" ages 11 to 15 admitted to having fought with the ASG against the AFP on Basilan island.

In November 2001, the Government adopted a Comprehensive Program Framework for Children in Armed Conflict, encompassing prevention, advocacy, rescue, and reintegration. The Government noted that children accounted for many of the casualties and captured elements during military-insurgent clashes, that many of the children recruited by the NPA and by the MILF came from indigenous communities, that some of the children were forcibly recruited or abducted, and that girl recruits were at risk for sexual exploitation.

A number of NGOs actively promoted children's rights.

*Persons with Disabilities.*—The law provides for equal physical access for persons with disabilities to all public buildings and establishments and for "the rehabilitation, self development, and self-reliance of disabled persons and their integration into the mainstream of society." The law applies to both those with physical and mental disabilities. The Department of Labor and Employment's (DOLE) Bureau of Local Employment (BLE) maintains registers of persons with disabilities indicating their skills and abilities. BLE monitors private and public places of employment for violations of labor standards regarding persons with disabilities and also promotes the establishment of cooperatives and self-employment projects for persons with disabilities.

Estimates of the number of disabled persons in the country ranged from 1 million to 3½ million. Advocates suspected the data were incomplete due to the social stigma attached to persons with disabilities. It is estimated that the majority of persons with disabilities are younger than 65 years of age and live at home with their families. Assisted living centers were understaffed and underfunded.

The Government has mandated the provision of accessibility to buildings for persons with disabilities. Advocates for persons with disabilities contend that equal-access laws have been ineffective because implementing regulations are weak, funding was inadequate, and government programs were inadequately focused on integration. Many public buildings, particularly older ones, lack functioning elevators, meaning that persons in wheelchairs must be carried up stairwells. Many schools have architectural barriers that make it difficult for persons with disabilities to attend.

In August civil society leaders and local government officials in Davao City formed a task force to survey all buildings without accessibility features.

Government efforts to improve access for persons with disabilities to transportation have been halting. Only one of Manila's metro lines is wheelchair-accessible,

and many stops have out-of-service elevators. Buses lacked wheelchair lifts, and there have been reports of drivers who failed to stop for passengers in wheelchairs. A limited number of sidewalks have wheelchair ramps, but garbage cans and street vendors often block access. Many of the sidewalk wheelchair ramps are crumbling or too steep. The situation was worse in many small cities and towns.

*Indigenous Persons.*—Indigenous people live throughout the country but primarily in the mountainous areas of northern and central Luzon and in Mindanao. They account for about 16 percent of the national population. Although no specific laws discriminate against indigenous people, the remoteness of the areas that many inhabit and cultural bias prevented their full integration into society. Indigenous children suffered from lack of basic services, health, and education.

Because they inhabit mountainous areas also favored by guerrillas, indigenous people suffered disproportionately from armed conflict. Their lands were often the sites of armed encounters, and various parties to the fighting have recruited many indigenous people. The MILF reportedly has tried to recruit the Arumanen Manuvu tribe in central Mindanao. In May there were reports that the governor of a central Mindanao province was recruiting and arming indigenous people against the terrorist NPA.

The 1997 Indigenous Peoples' Rights Act, which was intended to implement constitutional provisions to protect indigenous people, established a National Commission on Indigenous People (NCIP), which is staffed by tribal members empowered to award certificates of title to lands claimed by over 12 million indigenous people in the country. It awards such "ancestral domain lands" on the basis of communal rather than individual ownership, impeding sale of the lands by tribal leaders. The law requires a process of informed consultation and written consent by the indigenous group to allow mining on tribal lands. The law also assigns the indigenous groups the responsibility to preserve forest, watershed, and biodiversity areas in their domains from inappropriate development. Although the Government has been slow to implement the legislation, primarily because of strong opposition from mining and agribusiness interests, some limited progress has been made. As of July, the Government had distributed almost 73,000 acres of land to more than 2,500 indigenous families.

Indigenous people continued to face legal threats to their claims to ancestral lands from developers and mining interests. The 1995 Mining Act promoted mining operations, hydroelectric dams, and other large-scale projects that forced indigenous people to relocate and abandon farming and hunting land that they have used for generations. In April an expansion project for a commercial tree and coffee plantation near Lake Sebu, South Cotabato, reportedly drove more than a dozen indigenous families off their ancestral lands.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and laws provide for the right of workers, including most public employees, with the exception of the military and the police, to form and join trade unions. Trade unions are independent of the Government. Unions have the right to form or join federations or other labor groups.

There were 171 registered labor federations and more than 20,000 private sector unions, a small increase over 2001. The 1.6 million union members represented almost 5 percent of the total workforce of 34 million. The number of firms using contractual labor, primarily large employers, continued to grow.

As of December, the Bureau of Labor Relations had registered 1,150 public sector unions, compared with 943 at the end of 2001. Total public sector union membership was nearly 237,000, up 13 percent from 2001.

Allegations of intimidation and discrimination in connection with union activities are grounds for review as possible unfair labor practices before the quasi-judicial National Labor Relations Commission (NLRC). However, unions maintain that widespread ignorance of basic standards and rights was a major obstacle to union organization. Before disputes reach the NLRC, the Department of Labor and Employment provides the services of a mediation board, which settles most of the unfair labor practice disputes raised as grounds for strikes before the strikes may be declared. DOLE, through the mediation board, also worked to improve the functioning of labor-management councils in companies that already had unions.

Unions have the right to affiliate with international trade union confederations and trade secretariats. Two of the largest trade union federations, the Trade Union Congress of the Philippines and the Federation of Free Workers, were affiliated with the International Confederation of Free Trade Unions (ICFTU) and the World Confederation of Labor, respectively.



The ICFTU has claimed that a union may be registered only if it represents at least 20 percent of workers in a bargaining unit, and that the law requires an excessively high number of unions before a federation or national center can be formed.

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides for the right to organize and bargain collectively. The Labor Code provides for this right for employees both in the private sector and in government-owned or controlled corporations. A similar right is afforded to most government workers. Approximately 5 percent of the work force was organized. Collective bargaining was freely practiced. The number of workers covered by collective bargaining agreements rose to 228,894 or about 15 percent of union members.

Subject to certain procedural restrictions, strikes in the private sector are legal. However, unions are required to provide strike notice, respect mandatory cooling-off periods, and obtain majority member approval before calling a strike. By law the reason for striking must be relevant to the labor contract or the law, and all means of reconciliation must be exhausted. The Secretary of Labor and Employment may intervene in some labor disputes by assuming jurisdiction and mandating a settlement if the Secretary decides that the industry involved in the strike is vital to national security. A total of 36 strikes took place during the year compared to 43 in 2001. Three strikes were ongoing as of year's end.

The Labor Code provides that union officers who knowingly participate in an illegal strike may be dismissed and, if convicted, imprisoned for up to 3 years. However, according to the DOLE, there never has been a conviction under this provision.

Trade union officials reported that underpayment of the minimum wage and the use of contracting to avoid required benefits were common practices, including in the Government-designated special economic zones (SEZs), where tax benefits were used to encourage the growth of export industries. Dismissal or threatened dismissal of union members also was common, and there were reports that some workers were fired after merely speaking with union organizers. There were reports that some companies offered cash to employees who agreed to identify union organizers. Some companies reportedly ordered overtime to disrupt union meetings.

Labor law applies uniformly throughout the country, including the SEZs. However, local political leaders and officials who govern the SEZs have attempted to frustrate union organizing efforts by maintaining union free/strike free policies. A conflict over interpretation of the SEZ law's provisions for labor inspection has created further obstacles to the enforcement of workers' rights to organize. Despite objections from the DOLE, SEZ local directors claimed authority to conduct their own inspections as part of the zones' privileges intended by Congress. Hiring often was controlled tightly through SEZ labor centers. In organizing efforts, union successes in the SEZs have been few and marginal. Some mainstream unions avoided a major unionizing effort in the lower wage SEZ industries, such as the garment industry. They considered it unpromising in view of both the organizers' restricted access to the closely guarded zones and the rapid turnover of the young, mainly female staff who work on short-term contracts in the zones' many electronics and garment factories. There were reports that some companies in SEZs locked toilets during working hours, except at break time.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced labor, including forced and bonded labor by children; however, despite the Government's efforts, there were some reports of forced and bonded labor, especially by children, mainly in prostitution, drug trafficking, and other areas of the informal sector (see Sections 6.d. and 6.f.). The legal minimum age for employment as a domestic worker is 15; over 4 million children 17 years of age or younger, including many under 15, were so employed. Some recruiters reportedly brought girls between the ages of 13 and 17 to work in Manila or Cebu under terms that involved a "loan" advanced to their parents that the children were obliged to repay through their work (see Section 6.f.). The DOLE continued to address the problem of underage workers in family work settings by prosecutions and fines of violators (see Sections 6.d. and 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits the employment of children under the age of 15, except under the direct and sole responsibility of parents or guardians, or in cases in which employment in cinema, theater, radio, or television is essential to the integrity of the production. The law allows employment of those between the ages of 15 and 18 for such hours and periods of the day as are determined by the Secretary of Labor, but forbids the employment of persons under 18 years of age in hazardous or dangerous work.

However, child labor remained a problem, and a significant number of children were employed in the informal sector of the urban economy or as unpaid family workers in rural areas—some as bonded laborers (see Section 6.c.). The latest government survey reported at least 4 million working children, approximately 2.4 mil-

lion of whom were exposed to hazardous working environments, such as quarries and mines, at docksides, and on fishing boats.

Most child labor occurred in the informal economy, most often in family settings, and the Government rarely sought to prosecute a poor family because it had a working child. Nevertheless, the Government, in coordination with a number of domestic NGOs and international organizations, implemented programs to develop other, safer options for children, return them to school, and offer families viable economic alternatives to child labor. The Government made greater attempts to devote more resources to child labor programs, but resources remained well below what was needed.

The Government and NGOs implemented programs to prevent the engagement of children in exploitative child labor. DOLE worked with domestic NGOs to educate communities on child labor and provided counseling and other activities for children. DOLE and the Department of Education worked with NGOs, UNICEF, and ILO/International Program on the Elimination of Child Labor to assist children to return to school. The Government also implemented fines and criminal prosecutions for child labor violations in the formal sector, such as in manufacturing. DOLE continued its efforts to rescue exploited child workers, rescuing 252 minors in 63 different operations during the year. The Employers Confederation of the Philippines pursued an active and highly visible program against child labor.

*e. Acceptable Conditions of Work.*—The national minimum wage did not provide a decent standard of living for a worker and family. Tripartite regional wage boards set minimum wages. A round of wage increases was implemented in most regions of the country in January and February. The highest rates were in the National Capital Region (NCR) and the lowest in rural regions. The minimum daily wage for NCR nonagricultural workers was \$4.55 (243 pesos), which does not provide a decent standard of living for a worker and family in the NCR. The lowest minimum wages were in the ARMM, where the daily agricultural wage was \$2.45 (131 pesos). The regional wage board orders covered all private sector workers except domestic servants and other persons employed in the personal service of another person. Boards outside the NCR exempted some employers because of factors such as establishment size, industry sector, and involvement with exports, financial distress, and level of capitalization. These exemptions excluded substantial additional numbers of workers from coverage under the law. Unions have filed complaints about the minimum wage exemption policies.

In practice violation of minimum wage standards was common, and large numbers of workers received less than the minimum wage set for their area. Many firms hired employees at below the minimum apprentice rates, even if there was no approved training in their production-line work. DOLE officials estimated that 60–70 percent of workers who should be covered by the minimum wage were actually underpaid. They acknowledged that the shortage of inspectors makes the law difficult to enforce. In addition to fines, the Government also makes use of administrative procedures and moral suasion to encourage employers to voluntarily rectify violations. Complaints about nonpayment of social security contributions, bonuses, and overtime are particularly common with regard to companies in SEZs.

By law the standard legal workweek is 48 hours for most categories of industrial workers and 40 hours for government workers, with an 8-hour per day limit. The Government mandates an overtime rate of 125 percent of the hourly rate on ordinary days and 130 percent on rest days and holidays. The law mandates a full day of rest weekly. However, there is no legal limit on the number of overtime hours that an employer may require. The DOLE managed enforcement of workweek hours through sporadic inspections.

The law provides for a comprehensive set of occupational safety and health standards. The DOLE has responsibility for policy formulation and review of these standards, but with only 260 positions allocated for inspectors nationwide, local authorities often must carry out enforcement. DOLE officials acknowledged that the number of inspectors was not adequate for the number of work sites to be inspected. DOLE launched a campaign to promote safer work environments in small enterprises. Statistics on actual work-related accidents and illnesses were incomplete, as incidents (especially in agriculture) were underreported. Workers do not have a legally protected right to remove themselves from dangerous work situations without risking loss of employment.

The Government and several NGOs worked to protect the rights of the country's 7.4 million overseas citizens, most of whom are temporary or contract workers. The Government placed financial sanctions and criminal charges on domestic recruiting agencies found guilty of unfair labor practices. Although the Philippine Overseas Employment Agency registered and supervised domestic recruiters' practices successfully, the authorities sometimes failed to ensure workers' protection overseas. It

sought cooperation from receiving countries and proposed migrant worker rights conventions in international forums. The Government also provided assistance through its diplomatic missions in countries with substantial numbers of migrant workers.

The labor laws protect foreign workers in the country. Foreign workers must obtain work permits and may not engage in certain occupations. Typically their work conditions were better than those faced by citizens.

*f. Trafficking in Persons.*—Trafficking was a problem. At year's end, there was no specific antitrafficking law; however, penalties are severe under other relevant laws.

The Government used five laws against related illegal commerce to address and prosecute trafficking. The penalty for illegal recruiting is 6 years in prison, plus fines. When the crime involves three or more victims, the perpetrators can be charged with economic sabotage, which carries a maximum penalty of life imprisonment. The maximum penalty for child trafficking under the child abuse law is life imprisonment. The penalty for violation of the mail-order bride law is not less than 6 nor more than 8 years in prison. The maximum penalty for promoting or facilitating prostitution or corruption of minors is life imprisonment. The penalty for violation of the Passport Law by travel or recruitment agents who make false representations is between 3 and 10 years in prison.

The Government investigated cases of trafficking-related offenses, but efforts were halting due to scarce resources. The principal investigative agencies were the National Bureau of Intelligence, the Bureau of Immigration and Detention, and the PNP Criminal Investigation and Detection Group. The Government cooperated with international investigations of trafficking. The Government has not extradited persons charged with trafficking in other countries.

The Philippines was a source, transit, and destination country for internationally trafficked persons. Internal trafficking was also a problem. Reliable estimates on the numbers of individuals trafficked were not available, primarily because of limited government and NGO resources to maintain accurate information. The most serious problem appeared to be the trafficking of women across international borders to destinations in Asia, Europe, the Middle East, and North America. Many of these women were forced to work in the sex industry.

Both adults and children were trafficked domestically from poor, rural areas to major urban centers, especially metro Manila and other cities on Luzon. A significant percentage of the victims of internal trafficking were from Mindanao and were fleeing the severe poverty and violence of their home areas. Women were far more at risk to be victims of trafficking than men, and girls were more at risk than boys.

There were reports of the sexual exploitation of children. Despite government efforts at law enforcement and expanded children's programs, NGOs estimated that some 60,000 children were involved in the commercial sex industry. Most of these children were girls, and nearly all have dropped out of school. Children in the "entertainment industry" work long (10 to 12), odd hours from evening until early morning. Typically they come from families with unemployed or irregularly employed parents.

Traffickers targeted the many persons seeking overseas employment. Most recruits were girls and young women ages 15 to 22, from poor farming families, with an average of 6 to 10 siblings. The traffickers generally were private employment recruiters and their partners in organized crime. Many recruiters targeted persons from their own hometowns. The primary method used to approach victims was the promise of a respectable and lucrative job.

There was no credible evidence that government institutions facilitated or condoned trafficking in persons. However, there was considerable anecdotal evidence that some officials (such as customs officers, border guards, immigration officials, local police, or others) received bribes from traffickers or otherwise assisted in their operations.

Victims faced special health risks, such as contracting sexually transmitted or other infectious diseases, as well as susceptibility to beatings, sexual abuse, and humiliation.

The Government devoted significant resources to assist and protect victims. The Government assisted victims by providing temporary (not permanent) residency status and relief from deportation, shelter, and access to legal, medical, and psychological services. Additional protective services included hot lines for reporting cases, and the operation of 24-hour crisis intervention units in 16 regions of the country to respond to victims.

The Department of Social Welfare and Development was the lead agency on protection of victims. DSWD and many private groups have established shelters and rehabilitation centers. DSWD provided economic aid to victims, including residential

care. The Department of Justice was responsible for protecting the rights of victims of trafficking.

The Government did not provide funding to foreign or domestic NGOs for services to victims. Religious groups, multinational donor agencies, and private foundations typically funded these NGOs. However, there were instances in which government agencies provided facilities to NGOs, such as a program in which the Philippine Port Authority built a shelter for victims of domestic trafficking operated by a local NGO.

The Government rarely deported or charged victims of trafficking with crimes, but police frequently charged alleged prostitutes with vagrancy. There were no reliable statistics to determine if these individuals were victims of trafficking. The concept of a trafficked person as a victim rather than a perpetrator was particularly strong.

Victims may file civil suits or seek legal action against traffickers. Most victims who choose to do so file charges of illegal recruitment. The Government lacked substantial resources to support this.

Numerous government agencies and officials, as well as NGOs and international organizations, launched vigorous public information campaigns against trafficking. The Government supported other programs to prevent trafficking such as the promotion of women's participation in economic decisionmaking, and efforts to keep children in school. The Government provided skills training to women, lessening the need for them to go to urban centers or overseas for employment. However, funding, remained limited, and additional prevention activities were needed.

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## SAMOA

Samoa is a parliamentary democracy that incorporates certain traditional practices into its legislative system. The Constitution provides for a head of state; a unicameral legislature composed of family heads, or "matai," who are elected by universal suffrage; the protection of land rights and traditional titles; and other fundamental rights and freedoms. In 2001 the Human Rights Protection Party won reelection to its sixth term and holds 30 of the 49 parliamentary seats. Executive authority is vested in the Head of State with the Government administered by the Cabinet, which consists of the Prime Minister and 12 ministers chosen by him. All laws passed by the Legislative Assembly need the approval of the Head of State, Malietoa Tanumafili II, who holds the position for life. The Legislative Assembly is to elect his successors for 5-year terms. The judiciary is independent.

The country does not have a defense force. The small national police force is controlled by the Government, but it has little effect beyond Apia, the capital city. Enforcement of rules and security within individual villages is vested in the "fono" (Council of Matai), which settles most internal disputes. Judgments by the fono usually involve fines or, more rarely, banishment from the village.

The economy is market based with more than 60 percent of the workforce employed in the agricultural sector. Fish, kava, and coconut products are the principal exports. The small industrial sector is dominated by a foreign factory that assembles automotive electrical parts for export. The Government continued an effort to promote tourism. The country was heavily dependent on foreign aid and on remittances sent to family members by the more than 100,000 citizens living overseas. The Government reported a 6.5 percent gross domestic product increase in 2001 and a per capita income of \$1,600. The population is approximately 191,000.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. The law and the courts addressed some of these problems. Political discrimination against women and non-matai, and violence against women and children were problems. Societal pressures and customary law may interfere with the ability to conduct fair trials. Those who do not conform to accepted societal values may face pressure, threats, violence, and banishment. Religious freedom was further extended when a court ruled that a village council could not banish a bible study group and that village rules restricting religious practices were illegal. Samoa was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

On July 23, the authorities ruled that the death of Taliaoa Taamilosaga and three other persons was a homicide. Taamilosaga was a candidate in a parliamentary by-election and had refused to withdraw in favor of the village leadership's preferred candidate. At year's end, no one had been charged in the case.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

Jail conditions generally appeared to meet international standards, although they were fairly basic with respect to food and sanitation. There were no known requests by independent human rights observers to visit prisons; however, the Government indicated that it would permit such visits. Prison visits by family members and church representatives also were permitted.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. The law provides for issuance by the High Court of an arrest warrant based on sufficient evidence, and the Government adhered to this provision in practice. The law provides for the right to a prompt judicial determination regarding the legality of detention, and the authorities respected this right in practice. Detainees are informed within 24 hours of the charges against them, or they are released. Detainees were allowed prompt access to family members and a lawyer of their choice. If the detainee is indigent, the Government provides a lawyer. There is a functioning system of bail.

Villages are governed by traditional law, and the fono may mete out banishment, one of the harshest forms of punishment in this collective society. In some cases, civil courts have overruled banishment orders. On July 19, the Lands and Titles Court ruled that the banishment of a bible study group by the Salailua village council was illegal (*see* Section 2.c.).

Exile is prohibited by law, and the Government did not use it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judiciary consists of magistrates' courts, coroners' courts, and the Lands and Titles Court, with the High or Supreme Court acting as the court of final appeal.

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The accused must be charged within 24 hours. A trial judge examines evidence and makes a determination as to whether there are grounds to proceed. Trials are public, and defendants have the right to be present and to timely consultation with an attorney, at public expense if required. Defendants may confront witnesses and present witnesses and evidence on their own behalf. Defendants and their attorneys have access to government-held evidence, and defendants have the right to appeal a verdict.

However, many civil and criminal matters were handled by village fono, which varied considerably both in their decisionmaking style and in the number of matai involved in the decisions. The 1990 Village Fono Act gives legal recognition to the decisions of the fono and provides for limited appeal to the Lands and Titles Court and to the Supreme Court. In 2000 the Supreme Court ruled that the Village Fono Act may not be used to infringe upon villagers' freedom of religion, speech, assembly, or association (*see* Section 2.c.).

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law provides substantive and procedural safeguards against invasion of the home or seizure of property, including a requirement for search warrants, which are issued by the judicial branch. However, there is little or no privacy in villages. While village officials by law must have permission to enter homes, there can be substantial societal pressure to grant such permission.

In accordance with traditional law, village fono may impose a punishment of banishment (*see* Sections 1.d. and 1.e.); however, during the year, there were no instances of appeals courts upholding a village fono in imposing such punishment.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. Unlike in past years, there were no instances of government officials attempting to use their authority to influence the press.

Two English-language newspapers and a number of Samoan-language newspapers are printed regularly. The law requires journalists to reveal their sources in the

event of a defamation suit against them. There has been no court case invoking this law.

The Government operates the sole television station. There are four private radio stations (one AM and three FM), and a satellite-cable system is available in parts of Apia. Television from American Samoa is readily available. Internet use is expanding rapidly, both as a news source and as a means of two-way communication; there was no government interference with its use.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. In 2000 the Supreme Court ruled that the Village Fono Act may not be used to infringe upon villagers' freedom of religion, speech, assembly, or association (see Sections 1.e. and 2.c.).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Constitution acknowledges "an Independent State based on Christian principles and Samoan custom and traditions." Although Christianity is favored constitutionally, there is no official or state denomination. There are no requirements for the recognition of a religious group or for licenses or registration.

The Constitution grants each person the right to change religion or belief and to worship or teach religion alone or with others; however, in practice the matai often choose the religious denomination of the "aiga" (extended family). In recent years, despite the constitutional protection, village councils—in the name of maintaining social harmony within the village—sometimes banished or punished families that did not adhere to the prevailing religious belief in the village. However, during the year, there were no new cases of individuals being banished by villages due to their practicing religion differently from that practiced by the village majority.

On July 19, the Lands and Titles Court ruled that the banishment of a bible study group by the Saluilua village fono was illegal and further ruled that a village law restricting religious practice was illegal.

Missionaries operated freely, either as part of one of the established churches, or by conducting independent revival meetings. The major denominations that were present in the country all had missionaries. There is an independent Christian radio and television station.

The Constitution provides for freedom from unwanted religious indoctrination in schools but gives each denomination or religion the right to establish its own schools; these provisions were adhered to in practice. There were both religious and public schools; the public schools did not have religious instruction as part of their curriculum. There were pastoral schools in most villages to provide religious instruction following school hours.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice; however, in past years some citizens either were banned from village activities or banished completely from their villages.

The Government actively supported emigration as a "safety valve" for the pressures of a growing population, especially for potentially rebellious youths, and because it generated foreign income through remittances. There were an estimated 100,000 citizens living abroad, and their remittances made a significant contribution to the national economy.

The country is a signatory of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, the Government has not enacted enabling legislation or formulated a policy regarding refugees, asylees, or first asylum. Nevertheless, the authorities have indicated that they would conform to international norms if such cases should arise. The issue of the provision of first asylum has never arisen. The Government was prepared to cooperate with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees; however, the need did not arise during the year. There were no reports of the forced return of persons to a country where they feared persecution.

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

Citizens have the right to change their government through direct multiparty elections held on the basis of universal suffrage; however, women's political rights are restricted by the fact that few of them are matai. While all citizens above the age of 21 may vote, the right to run for 47 of the 49 seats in the Legislative Assem-

bly remains the prerogative of the approximately 25,000 matai, 95 percent of whom are men. Matai are selected by family agreement; there is no age qualification. Matai control local government through the village fono, which are open to them alone. The remaining two seats are reserved for citizens not of Samoan heritage.

The political process is more a function of personal leadership characteristics than of party. The Human Rights Protection Party (HRPP) has dominated the political process, winning six consecutive elections since 1982. Although candidates were free to propose themselves for electoral office, in practice they required the approval of the village high chiefs.

In elections in March 2001, the HRPP won 23 seats and declared victory 2 weeks later when 5 opposition party members switched to the HRPP. At year's end, the HRPP held 30 of the Parliament's 49 seats. The remaining seats were divided between the opposition Samoa National Development Party and the United Independents. The election was marred by charges of bribery, and 10 losing candidates initially filed election challenges. Following a series of trials from May through September 2001, the Supreme Court in September ordered four by-elections. In August 2001, the Attorney General ordered the High Court to consider no further challenges and thereby prevented as many as 40 additional challenges from being filed. The HRPP won all four court-ordered by-elections.

Retaliation was directed against witnesses who testified in bribery cases. In March 2001, the Afega village council banished 10 persons and their families for giving evidence in such a case; however, in June the High Court overturned the village court order, and the persons returned to their village. Other candidates who ran against the wishes of their village councils were banished. For example, in January 2001, Aeau Peniamina Leavai, former parliamentarian and former Speaker of Parliament, and his family were banned from entering his village of Falealupo, reportedly because he ran for Parliament against the wishes of the village council (see Section 1.f.). On July 23, the authorities determined that the deaths of four persons, including a candidate in a parliamentary by-election who had refused to give way to the village candidate, were homicides (see Section 1.a.).

There were no prohibitions on the formation of opposition parties, and there were a total of five political parties, two of which were represented in Parliament.

Approximately 51 percent of women in the country vote, and there are 3 women in the 49-member legislature. There is one woman in the 12-person Cabinet.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

#### *Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination based on race, sex, disability, language, or social status. There are no significant ethnic minorities. Politics and culture reflect a heritage of chiefly privilege and power, and members of certain families have some advantages. While there was discrimination against women and non-matai, who only occasionally reached high office, women (and particularly the few female matai) played an important role in society.

*Women.*—While the law prohibits the abuse of women, social custom tolerates their physical abuse within the home; abuse was common. The role and rights of the village fono and tradition prevented police from interfering in instances of domestic violence, unless there was a complaint from the victim—which village custom strongly discouraged. While police received some complaints from abused women, domestic violence offenders typically were punished by village councils, but only if the abuse was considered extreme (that is, visible signs of physical abuse). The village religious leader also may intervene in domestic disputes. The Government punished persons responsible for extreme assault cases, including by imprisonment.

Many cases of rape still go unreported because tradition and custom discourage such reporting; spousal rape is not illegal. Despite such discouragement, the authorities noted an increasing number of reported cases of rape, as women slowly became more forthcoming with the police. Rape cases that reached the courts were treated seriously. Convicted offenders often were given relatively stiff sentences of several years' imprisonment.

Prostitution is illegal, but it was becoming a problem. The law prohibits sex tourism. Sexual harassment is prohibited by law; it was not a widespread problem but was believed to be underreported.

Women have equal rights under the Constitution and statutory law, and the traditional subordinate role of women is changing, albeit slowly, especially in the more

conservative parts of society. The Ministry of Women's Affairs oversees and helps secure the rights of women; during the year, it was increasingly active on the problem of domestic violence. In order to integrate women into the economic mainstream, the Government sponsored literacy programs and training programs for those not completing high school. On July 31, the Government issued a detailed report on The Status of Women in Samoa.

*Children.*—The Government has made a strong commitment to the welfare of children through the implementation of various youth programs by the Ministry of Education and the Ministry of Health. Education was free and compulsory through age 16. Boys and girls were treated equally and attended school in approximately equal percentages, and the average educational level reached by most children was junior high school. The Government provided health care for children at public hospitals for minimal charge. Law and tradition prohibit severe abuse of children, but tradition tolerates corporal punishment. The police have noted an increase in reported cases of child abuse, which was attributed to citizens becoming more aware of the need to report the physical, emotional, and sexual abuse of children. There were no reports of child prostitution. The nongovernmental organization Mapusaga o Aiga (Women against Domestic Violence) provided limited educational programs on children's rights.

There was one behavior modification camp for foreign children with emotional or behavioral problems. A second camp closed in 2001 following allegations of mistreatment of some of the children in its care.

*Persons with Disabilities.*—The Government has passed no legislation pertaining to the status of persons with disabilities or regarding accessibility for them. Tradition dictates that families care for persons with disabilities, and this custom was observed widely in practice. There were no reports of societal discrimination against persons with physical or mental disabilities.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers legally have unrestricted rights to establish and join organizations of their own choosing. There were no practical limitations to union membership, and approximately 20 percent of the workforce was unionized. There are two trade unions in the country. The Samoa National Union, organized in 1994, is a six-member association that includes workers from the three major banks. A second union represented members at the sole factory in the country. Both unions were independent of the Government and political parties. The Public Service Association, which represents government workers (an increasingly important sector of the work force), also functions as a union. There are no laws specific to union activity. The Commissioner of Labor adjudicates any cases of retribution against strikers or union leaders on a case-by-case basis.

The Public Service Association freely maintained relations with international bodies and participated in bilateral exchanges.

*b. The Right to Organize and Bargain Collectively.*—While workers have the legal right to engage in collective bargaining, they seldom have practiced it, due to the novelty of union activity and the inexperience of union leaders. The Public Service Association engages in collective bargaining on behalf of government workers, including bargaining on wages. Any antiunion discrimination case would be reported to and adjudicated by the Commissioner of Labor. Arbitration and mediation procedures are in place to resolve labor disputes, although such disputes rarely arise.

The Supreme Court has upheld the right of government workers to strike, subject to certain restrictions imposed principally for reasons of public safety. Workers in the private sector have the right to strike, but there were no strikes during the year.

Labor law and practice in the sole export processing zone are the same as in the rest of the country.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children; however, in this collective society, persons, including minors, frequently were called upon to work for their villages. Most persons did so willingly; however, the matai may compel those who do not (*see* Section 6.d.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Under the law, it is illegal to employ children under 15 years of age except in "safe and light work." The Commissioner of Labor refers complaints about illegal child labor to the Attorney General for enforcement; however, no cases were prosecuted during the year. Children frequently were seen vending goods and food on Apia street corners. Although the practice constitutes a violation of the law, local officials mostly tolerated and overlooked it. There were no reports of bonded labor by children; however,



the law does not apply to service rendered to the matai, some of whom required children to work for the village, primarily on village farms (*see* Section 6.c.).

The country is not a member of the International Labor Organization (ILO) and has not ratified ILO Convention 182 on the worst forms of child labor.

*e. Acceptable Conditions of Work.*—The law establishes for the private sector a 40-hour workweek and an hourly minimum wage of \$0.55 (WS\$1.60). An advisory commission to the Minister of Labor sets minimum wages. Wages in the private sector are determined by competitive demand for the required skills. This minimum wage sufficed for a basic standard of living for worker and family when supplemented by the subsistence farming and fishing in which most families engage. The law provides that no worker should be required to work for more than 40 hours in any week.

The law also establishes certain rudimentary safety and health standards, which the Attorney General is responsible for enforcing. However, independent observers reported that the safety laws were not enforced strictly, except when accidents highlighted noncompliance. Many agricultural workers, among others, were protected inadequately from pesticides and other dangers to health. Government education programs were addressing these concerns. The law does not apply to service rendered to the matai. While the law does not address specifically the right of workers to remove themselves from a dangerous work situation, a report of such a case to the Commissioner of Labor would prompt an investigation, without jeopardy to continued employment. Government employees are covered under different and more stringent regulations, which were enforced adequately by the Public Service Commission.

Foreign workers are protected by law; minimum wage and working conditions standards apply equally to them. There were very few foreign workers in the country due to the high unemployment rate. Most foreign workers were educated professionals in technical and health services fields.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country.

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## SINGAPORE

Singapore is a parliamentary republic in which politics was dominated overwhelmingly by the People's Action Party (PAP), which has been in power since the country gained autonomy from the United Kingdom in 1959. Opposition parties existed, and there were regularly contested elections. However, the PAP held 82 of 84 elected parliamentary seats and all ministerial positions. Elections took place at regular, constitutionally mandated intervals. The judiciary was efficient and constitutionally independent; however, there was a perception that it reflected the views of the executive in politically sensitive cases. In the past, government leaders have used court proceedings, in particular defamation suits, against political opponents and critics.

The police were responsible for routine security within the country and for border protection, including action against illegal immigrants. Military forces were responsible for external defense. The Internal Security Department (ISD) in the Ministry of Home Affairs was authorized by the Internal Security Act (ISA) to counter perceived threats to the nation's security such as espionage, international terrorism, threats to racial and religious harmony, and subversion. The Government maintained effective control over all security activities. Some members of the security forces committed human rights abuses.

The country has a free market economy. The country's population was approximately 4 million. Financial and business services industries, manufacturing of semiconductors and telecommunications equipment, and petroleum refining and petrochemical production were key sectors of the economy. The Government liberalized market access for telecommunications and some types of financial services. The economy grew by 2 percent, following a 2 percent decline in 2001. Wealth was distributed broadly, and the unemployment rate was low.

The Government generally respected the human rights of its citizens; however, there were significant problems in some areas. The Government had wide powers to limit citizens' rights and to handicap political opposition. There were a few instances of police abuse of detainees; however, the Government investigated and punished those found guilty, and the media fully covered allegations of mistreatment. Caning, in addition to imprisonment, was a routine punishment for numerous offenses. The Government continued to rely on preventive detention to deal with espionage, terrorism, organized crime, and narcotics. The authorities sometimes in-

fringed on citizens' privacy rights. The Government continued to significantly restrict freedom of speech and freedom of the press, as well as to limit other civil and political rights. Government pressure to conform resulted in the practice of self-censorship among journalists. Government leaders continued to utilize court proceedings and defamation suits against political opponents and critics. These suits, which have consistently been decided in favor of government plaintiffs, chilled political speech and action and created a perception that the ruling party used the judicial system for political purposes. Following the 2001 general election, Senior Minister Lee Kuan Yew and Prime Minister Goh Chok Tong sued an opposition leader, Chee Soon Juan, for defamation based upon comments Chee made during the campaign. In August a court ordered a hearing to set the amount of damages Chee would owe the Ministers. Chee, who said he could not find a local lawyer, was not allowed to bring in foreign counsel and represented himself in the hearing.

There was a moderate level of ongoing debate in newspapers and Internet chat groups on various public issues. A Speakers' Corner continued to provide a public forum for persons to speak on a range of issues. However, government restrictions on its use, including prohibitions on sensitive ethnic or religious issues, inhibited free speech. The Government significantly restricted freedom of assembly and freedom of association. Jehovah's Witnesses and the Unification Church were banned; however, in general, freedom of religion otherwise was respected. There was some legal discrimination against women, which affected benefits for children and husbands in limited cases. The Government moved actively to counter societal discrimination against women and minorities, and recent legal changes improved treatment for women regarding spousal immigration and health benefits for civil servants. The Government was strongly committed to children's rights and welfare, and implemented a comprehensive program for barrier-free accessibility for persons with disabilities. Foreign workers were vulnerable to mistreatment and abuse. Violence and some discrimination against women and concern over possible trafficking in persons for the purpose of prostitution persisted. Singapore was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as an observer.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of arbitrary or unlawful deprivation of life committed by the Government or its agents.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture; however, there were occasional instances of police mistreatment of detainees, and there were a few reports of police abuse during the year. Persons who alleged mistreatment by the police were permitted to bring criminal charges against government officials who were alleged to have committed such acts. The media reports fully on allegations of police abuse of those arrested, and the Government took action against abusers. Approximately 10 law enforcement officers were imprisoned between 1995 and 1999 for using excessive force on prisoners and suspects. In 2001 four prison guards were sentenced to 9 months in prison for handcuffing and beating a prisoner in 2000. Also in 2001, a police corporal was sentenced to 9 months in prison for kicking a man in 2000.

The Penal Code mandates caning, in addition to imprisonment, as punishment for approximately 30 offenses involving the use of violence or threat of violence against a person, such as rape and robbery, and for nonviolent offenses such as vandalism, drug trafficking, and violation of immigration laws. Caning is discretionary for convictions on other charges involving the use of criminal force, such as kidnaping or voluntarily causing grievous hurt. Women and men over age 50 or under age 16, and those determined medically unfit are exempt from punishment by caning. Although statistics for the year were not available, caning was a commonly administered punishment within the stipulations of the law.

Prison conditions, while Spartan, generally were believed to meet international standards. However, an opposition member who served a 5-week prison sentence said after his release that he and other sick bay inmates had been chained to their beds at night. The Government responded that the inmates were restrained to minimize the risk of hurting themselves, medical staff, or other inmates. The Government did not allow human rights monitors to visit prisons; however, embassy officials were given consular access.

*d. Arbitrary Arrest, Detention, or Exile.*—The law provides that, in most instances, arrests are carried out following the issuance of an authorized warrant; however,

some laws provide for arrests without warrants. Those arrested must be charged before a magistrate within 48 hours. The majority of those arrested are charged expeditiously and brought to trial. Those who faced criminal charges were allowed counsel, and the Law Society of Singapore administered a criminal legal aid plan for those who could not afford to hire an attorney. A functioning system of bail exists. In death penalty cases, the Supreme Court appoints two attorneys for those defendants who are unable to afford their own counsel.

Some laws—the Internal Security Act (ISA), the Criminal Law (Temporary Provisions) Act (CLA), the Misuse of Drugs Act (MDA), and the Undesirable Publications Act (UPA)—have provisions for arrest and detention without a warrant or judicial review. The ISA has been employed primarily against suspected security threats. Historically, these threats have been Communist-related; however, during the year, the ISA was employed against suspected terrorists. Opposition politicians have called for the abolition of the ISA, but the Government rejected these calls, claiming that citizens accept the act as an element of the nation's security. The CLA historically has been employed primarily against suspected organized crime and drug trafficking.

The ISA and the CLA permit preventive detention without trial for the protection of public security, safety, or the maintenance of public order. The ISA gives broad discretion to the Minister for Home Affairs to order detention without charge at the direction of the President, if the latter determines that a person poses a threat to national security. The initial detention may be for up to 2 years and may be renewed without limitation for additional periods up to 2 years at a time. Detainees have a right to be informed of the grounds for their detention and are entitled to counsel. However, they have no right to challenge the substantive basis for their detention through the courts. The ISA specifically excludes recourse to the normal judicial system for review of a detention order made under its authority. Instead detainees may make representations to an advisory board, headed by a Supreme Court justice, which reviews each detainee's case periodically and must make a recommendation to the President within 3 months of the initial detention. The President may concur with the advisory board's recommendation that a detainee be released prior to the expiration of the detention order but is not obligated to do so.

In 2000 the Government released a statement confirming that an individual detained by the ISA in 1998 was still in detention, however, it was not clear whether this was still the case at year's end. There were no further reports of detainees under the ISA until the end of 2001, when 15 suspected Islamic militants were detained, some of whom were alleged to have ties to the Al-Qa'ida terrorist organization. Thirteen of these were ordered subsequently to preventive detention for a period of 2 years; two others were released with restrictions on their travel and their contacts. In August, additional terrorist suspects were detained under the ISA. Three were subsequently released with restrictions.

The CLA comes up for renewal every 5 years, most recently in 1999. Under its provisions, the Minister for Home Affairs may order preventive detention, with the concurrence of the Public Prosecutor, for an initial period of 1 year, and the President may extend detention for additional periods of up to 1 year at a time. The Minister must provide a written statement of the grounds for detention to the Criminal Law Advisory Committee (CLAC) within 28 days of the order. The CLAC then reviews the case at a private hearing. CLAC rules require detainees to be notified of the grounds of their detention at least 10 days prior to this hearing, in which a detainee may represent himself or be represented by a lawyer. After the hearing, the Committee makes a written recommendation to the President, who may cancel, confirm, or amend the detention order. However, persons detained under the CLA may have recourse to the courts via an application of a writ of habeas corpus. Persons detained without trial under the CLA are entitled to counsel but may challenge only the substantive basis for their detention to the CLAC. The CLA is used almost exclusively in cases involving narcotics or criminal organizations and has not been used for political purposes. According to official figures, approximately 400 persons were in detention under the provisions of the CLA as of June 2000, the most recent year for which information was available. Persons who allege mistreatment while in detention may bring criminal charges against government officials who are alleged to have committed such acts.

Both the ISA and the CLA contain provisions that allow for modified forms of detention such as curfews, residence limitations, requirements to report regularly to the authorities, limitations on travel, and, in the case of the ISA, restrictions on political activities and association.

The MDA permits detention without trial. Under the MDA, the director of the CNB also may commit—without trial—suspected drug abusers to a drug rehabilitation center for a 6-month period, which is extendable by a review committee of the

institution for up to a maximum of 3 years. Under the Intoxicating Substances Act, the CNB director may order the treatment for rehabilitation of a person believed to be an inhalant drug abuser for up to 6 months.

The Constitution prohibits exile and the country did not use forced exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision; however, in practice, laws that limit judicial review allow for some restrictions on Constitutional rights. Some judicial officials, especially Supreme Court judges, had ties to the ruling party and its leaders. The President appoints judges to the Supreme Court on the recommendation of the Prime Minister and in consultation with the Chief Justice. The President also appoints subordinate court judges on the recommendation of the Chief Justice. The term of appointment is determined by the Legal Service Commission, of which the Chief Justice is the Chairman. Under the ISA and the CLA, the President and the Minister of Home Affairs have substantial de facto judicial power, which explicitly (in the case of the ISA) or implicitly (in the case of the CLA) excludes normal judicial review. These laws provide the Government with the power to limit, on vaguely defined national security grounds, the scope of certain fundamental liberties that otherwise are provided for in the Constitution.

Government leaders historically have used court proceedings, in particular defamation suits, against political opponents and critics (see Sections 2.a. and 3). Both this practice and consistent awards in favor of government plaintiffs raised questions about the relationship between the Government and the judiciary and led to a perception that the judiciary reflected the views of the executive in politically sensitive cases. Opposition leader Chee Soon Juan, charged with defamation by the Prime Minister and Senior Minister, stated he was unable to retain experienced local counsel (see Section 2.a.). Chee requested the judge hearing the case to allow a foreign lawyer to represent him. In April the judge ruled that he had not established that the complexity of his case merited foreign counsel and refused the request. In an August summary judgment proceeding, Chee represented himself unsuccessfully. He protested that the judge's bar against foreign counsel significantly had handicapped his ability to receive a fair hearing.

The judicial system has two levels of courts: The Supreme Court, which includes the High Court and the Court of Appeal, and the subordinate courts. Subordinate court judges and magistrates, as well as public prosecutors, are civil servants whose specific assignments are determined by the Legal Service Commission, which can decide on job transfers to any of several legal service departments. The subordinate courts handle the great majority of civil and criminal cases in the first instance. The High Court may hear any civil or criminal case, although it generally limits itself to civil matters involving substantial claims and criminal matters carrying the death penalty or imprisonment of more than 10 years. The Court of Appeal is the highest and final court of review for matters decided in the subordinate courts or the High Court. In addition, the law provides for Islamic courts whose authority is limited to Islamic family law, which is applicable only to Muslims. Supreme Court Justices may choose to remain in office until the mandatory retirement age of 65, after which they may continue to serve at the Government's discretion for brief, renewable terms at full salary. The Constitution has a provision for the Prime Minister or the Chief Justice to convene a tribunal to remove a justice "on the ground of misbehavior or inability . . . to properly discharge the functions" of office, but it never has been used.

The judicial system provides citizens with an efficient judicial process. In normal cases, the Criminal Procedures Code provides that a charge against a defendant must be read and explained to him as soon as it is framed by the prosecution or the magistrate. Defendants enjoy a presumption of innocence and the right of appeal in most cases. They have the right to be present at their trials and to be represented by an attorney; the Law Society administers a criminal legal aid plan for those who cannot afford to hire an attorney. Defendants also have the right to confront witnesses against them, to provide witnesses and evidence on their own behalf, and to review government-held evidence relevant to their cases. Trials are public and heard by a judge; there are no jury trials.

The Constitution extends these rights to all citizens. However, persons detained under the ISA or CLA are not entitled to a public trial. In addition, proceedings of the advisory board under the ISA and CLA are not public (see Section 1.d.).

There is a two-tier military court system, which has jurisdiction over all military servicemen, civilians in the service of the Armed Forces, and volunteers when they are ordered to report for service. The Military Court of Appeal has the jurisdiction to examine an appeal from a person convicted at a subordinate military court. The trials are public and the defendants have the right to be present. An accused individual also has the right to defense representation.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution does not address privacy rights. The Government generally respected the privacy of homes and families; however, it had a pervasive influence over civic and economic life and sometimes used its wide discretionary powers to infringe on these rights. Normally the police must have a warrant issued by a magistrate's court to conduct a search; however, they may search a person, home, or a property without a warrant if they decide that such a search is necessary to preserve evidence. The Government has wide discretionary powers under the ISA, CLA, MDA, and UPA to conduct searches without a warrant if it determines that national security, public safety and order, or the public interest are at issue. Defendants may request judicial review of such searches.

Law enforcement agencies, including the Internal Security Department and the Corrupt Practices Investigation Board, had extensive networks for gathering information and conducting surveillance, and highly sophisticated capabilities to monitor telephone and other private conversations. No court warrants were required for such operations. It was believed that the authorities routinely monitored telephone conversations and the use of the Internet; however, there were no confirmed reports of such practices during the year. The law permits government monitoring of Internet use. It was widely believed that the authorities routinely conducted surveillance on some opposition politicians and other government critics; however, no such reports were substantiated during the year.

In pursuit of what it considered the public interest, the Government generally enforced ethnic ratios for publicly subsidized housing, where the majority of citizens lived and owned their own units. The policy was designed to achieve an ethnic mix more or less in proportion to that in society at large (see Sections 1.d. and 5).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and freedom of expression but permits official restrictions on these rights, and in practice the Government significantly restricted freedom of speech and freedom of the press. The Government's authoritarian style fostered an atmosphere inimical to free speech and a free press. Government intimidation and pressure to conform resulted in the practice of self-censorship among journalists; however, there was some limited progress towards greater openness during the year, including a moderate level of ongoing debate in newspapers and Internet chat groups on various public issues.

Under the ISA, the Government may restrict or place conditions on publications that incite violence, that counsel disobedience to the law, that might arouse tensions among the various segments of the population (races, religions, and language groups), or that might threaten national interests, national security, or public order. While the ISA rarely was invoked in recent years, political opposition, and criticism remained restricted by the Government's authority to define these powers broadly. Occasional government references to speech that it considered "out-of-bounds" were understood to be implicit threats to invoke the ISA; however, these limits are not codified, and journalists and others generally believed these limitations have shifted toward greater tolerance in recent years.

Government leaders urged that news media support the goals of the elected leadership and help maintain social and religious harmony. In addition, strict defamation and press laws and the Government's demonstrated willingness to respond vigorously to what it considered personal attacks on officials sometimes led journalists and editors to moderate or limit what was published.

Under the Public Entertainment and Meetings Act (PEMA), a permit is required for virtually any form of public speech or entertainment (see also Section 2.b.). In June Chee Soon Juan, Secretary-General of the opposition Singapore Democratic Party, after being denied a permit, was charged under PEMA for holding an unauthorized rally in May outside the Istana, the Government compound housing the offices of the President and the Prime Minister. Chee was fined \$2,500 (S\$4500) and his colleague was fined \$1,700 (S\$3000). Chee chose to serve a 5-week prison sentence rather than pay the fine.

In September 2000, a Speakers' Corner opened in a financial district park; however, government restrictions limit speakers' ability to speak freely. Prospective speakers must be citizens, must show their identification cards, and are required to register in advance with police. However, they do not need to obtain a public entertainment license. There is a ban on sound amplification at the Speakers' Corner. A list of registered speakers was posted on a notice board outside the police station. While speech topics were not required to be declared in advance, government regulations governing the Speakers' Corner stated that "the speech should not be reli-

gious in nature and should not have the potential to cause feelings of enmity, ill will, or hostility between different racial or religious groups." In early 2001, police issued a public notice stating that activities at the Speakers' Corner, including demonstrations and marches, required public permits; violators and persons engaging in "disorderly behavior" were subjected to prosecution. A variety of persons, including politicians, social activists, and ordinary citizens, availed themselves of the Speakers' Corner during the year. In February opposition figure Chee Soon Juan spoke at the Corner to criticize the Government's enforcement of a ban on schoolgirls wearing the "tudung," a headscarf that some Muslims considered a religious requirement. When he registered to speak, police called Chee's attention to the ban on discussion of sensitive issues, then did so again after he began his speech. Chee was allowed to finish his remarks. However, in July he was charged with violation of the PEMA and convicted. The \$1,700 (S\$3,000) fine imposed on Chee affected his ability to participate in politics. Under the Constitution individuals who are fined more than \$1,100 (S\$2,000) cannot stand in a parliamentary election for 5 years.

The Government strongly influenced both the print and the electronic media. Singapore Press Holdings Ltd. (SPH), a private holding company with close ties to the Government, owned all general circulation newspapers in the four official languages—English, Chinese, Malay, and Tamil. The Government must approve, and can remove, the holders of SPH management shares, who have the power to appoint or dismiss all directors or staff. As a result, while newspapers printed a large and diverse selection of articles from domestic and foreign sources, their editorials, coverage of domestic events, and coverage of sensitive foreign relations issues closely reflected government policies and the opinions of government leaders. However, columnists' opinions, editorials, and letters to the editor expressed a range of moderate opinions on public issues.

Government-linked companies and organizations operated all broadcast television channels and almost all radio stations. Only one radio station, the British Broadcasting Corporation (BBC) World Service, was completely independent of the Government. Some Malaysian and Indonesian television and radio programming could be received, but satellite dishes were banned, with few exceptions. However, households subscribing to cable had access to three foreign television news channels and many entertainment channels, including some with news programs.

An increasing number of foreign media operations were located within the country. The law requires foreign publications that report on politics and current events in Southeast Asia to register, to post a \$133,000 (S\$234,000) bond, and to name a person in the country to accept legal service. These requirements strengthen the Government's control over foreign media. Under the Newspaper and Printing Presses Act, the Government may limit the circulation of foreign publications that it determines interfere with domestic politics. The importation of some publications was barred, although a wide range of international magazines and newspapers could be purchased uncensored. However, newspapers printed in Malaysia may not be imported. The weekly circulation of the Asian Wall Street Journal (AWSJ) and the Far Eastern Economic Review (FEER), both foreign publications, was limited (or "gazetted"). Asiaweek also was subjected to circulation limits prior to ceasing publication. The Government gradually has raised the allowed weekly circulation of publications to correspond more or less to actual demand; this permitted the Government to maintain control over the press while still maintaining some flexibility. The Government also may ban the circulation of domestic and foreign publications under provisions of the ISA and the UPA. In 2001 Parliament passed an amendment to the Singapore Broadcasting Act that empowers the Minister for Information and the Arts to "gazette" any foreign broadcaster deemed to be engaging in domestic politics. Once gazetted a broadcaster is required to obtain express permission from the Minister to continue broadcasting in the country. The broadcaster also is subject to restrictions on the number of households receiving its programming, under penalty of fines of up to \$57,000 (S\$100,000).

The country's defamation laws make it relatively easy for plaintiffs to win substantial judgments for damages and legal costs. Threats of defamation actions often persuade newspapers and others to apologize and pay damages for perceived slights, a situation which prompts general caution in expressing criticisms. Critics charged that government leaders used defamation lawsuits or threats of such actions to discourage public criticism and intimidate opposition politicians and the press. The unbroken success of government leaders' suits in the last decade has fostered public caution about political speech and a culture of self-censorship within the news media, and has inhibited opposition politics. During the last decade, ruling party leaders sued opposition politicians J.B. Jeyaretnam, Chee Soon Juan, and Tang Liang Hong for defamation several times. The Government argued that these individuals had repeatedly defamed ruling party leaders, who then acted to clear their

names. At the end of 2001, Senior Minister Lee Kuan Yew and Prime Minister Goh Chok Tong sued opposition leader Chee Soon Juan for defamation, based upon comments Chee made during a campaign stop prior to the November general election. During the 2001 campaign, Chee issued a public apology, which he later retracted, then countersued the Senior Minister for calling him a "liar" and a "cheat." In August a court ruled that Chee's earlier statements effectively had conceded the defamation charges, but ordered a hearing to set the amount of damages. Chee represented himself in the hearing after being refused permission to retain foreign counsel (*see* Section 1.e.). During 2001 J.B. Jeyaretnam, an opposition nonelected Member of Parliament (M.P.) from the Worker's Party (WP), lost an appeal and was declared bankrupt for failing to pay the defamation damages stemming from an earlier WP publication. The bankruptcy forced Jeyaretnam to resign his parliamentary seat (*see* Section 3). In April Jeyaretnam formally apologized to Senior Minister Lee Kuan Yew and nine other ruling party members for remarks made during the 1997 campaign; those same remarks had been the basis for a 1998 judgment in favor of the Prime Minister. In exchange for the apology, the 10 men dropped defamation lawsuits against Jeyaretnam, and agreed to forgo damages.

In August the Bloomberg news service publicly apologized and agreed to pay \$338,000 (S\$595,000) in damages to Prime Minister Goh and Senior Minister Lee Kuan Yew for an Internet-distributed Bloomberg column which accused them of nepotism. The column alleged that Ms. Ho Ching, Deputy Prime Minister Le Hsien Loong's wife, was promoted to the senior position in the main government investment holding company because of her relationship with the senior leadership. In July police seized the computers of two men as part of a formal investigation into whether their Internet postings the previous month had constituted criminal defamation. These postings also had raised the issue of nepotism. Conviction on criminal defamation charges can result in a prison sentence of up to 2 years, a fine, or both. One of the men, Zulfikar Mohamad Shariff, later left the country for Australia, asserting that the country's judicial system politically was biased. The other man complained that, 2 weeks after seizure of his computer, authorities had compelled him to stay in a mental facility for more than a week. In 2001 other criminal charges against the man for an Internet posting were dropped after a government consultant told the court he had longstanding mental problems, and his wife agreed to send him for treatment. No new information was available at year's end.

The Singapore Broadcasting Authority (SBA) censored broadcast media and Internet sites. The Ministry of Information and the Arts (MITA) censored all other media, including movies, video materials, computer games, and music. Both SBA and MITA developed censorship standards with the help of a citizen advisory panel. The ISA, the UPA, and the Films Act allow the ban, seizure, censorship, or restriction of written, visual, or musical materials by these two agencies if they determine that such materials threaten the stability of the State, are pro-Communist, contravene moral norms, are pornographic, show excessive or gratuitous sex and violence, glamorize or promote drug use, or incite racial, religious, or linguistic animosities. In June, under these guidelines, a local radio station was fined for adding personal comments to news items in violation of the censorship code. Polls indicated that there was strong public support for continued censorship of sex and violence in films. There was a list of banned films, which was not made public. Certain films that might have been barred from general release may be allowed limited showings, either censored or uncensored, with a special rating.

The list of banned English-language publications consisted primarily of sexually oriented materials, but also included some religious and political publications. In 2001 singer Janet Jackson's album "All for You" was banned officially by the Ministry of Information and the Arts due to the sexually explicit lyrics of one of its tracks; Jackson declined to delete the track from the album. The ban was upheld over an appeal submitted by the local distributor. In March Jackson reissued the album worldwide without the track; authorities approved this version for release.

The Films Act bans political advertising using films or videos, as well as films directed towards any political end. In 2001 police warned three lecturers at a local university that a documentary they made about an opposition politician might have violated the Films Act and that they could be charged in court if they went ahead with a planned screening of the film. They submitted written apologies for making the film and withdrew it from the Festival. Restrictions strictly controlled the types of campaign materials that might be distributed by or about candidates and parties during an election. In 2001 the Government amended the Parliamentary Elections Act to allow political parties to place some election materials on the Internet, while prohibiting nonparty Web sites from campaigning for candidates. Implementing regulations also were issued in 2001.

The SBA regulated access to material on the Internet, using a framework of Web site licenses to encourage accountability and responsible use of the Internet. It also regulated Internet material by licensing Internet service providers through which local users were required to route their Internet connections. Such services acted as a filter for content that the Government considered objectionable and could even block access to certain sites. While the Government did not consider regulation of the Internet to be censorship, the SBA directed service providers to block access to Web pages that, in the Government's view, undermined public security, national defense, racial and religious harmony, and public morals. The SBA was believed to have ordered the blocking of approximately 100 specific Web sites, most or all of which the Government considered pornographic. A SBA Internet Code of Practice further specifies what types of material are forbidden and specifies the responsibilities of Internet providers. The SBA indicates it does not intend to monitor the Internet or electronic mail use but to block access to material that contains pornography or excessive violence or incites racial or religious hatred. Those responsible for sites that violated the Code of Practice sometimes faced sanctions, including fines.

In 2001 the SBA ordered Sintercom, which ran an online discussion forum that included some political postings, to register with the authorities as a political Web site. Registration as a political site meant that the organizers had to ensure that site content complied with the Code of Conduct. After an unsuccessful appeal, Sintercom complied with the request. Soon thereafter the founder and sponsor of the site shut it down, citing fatigue after 7 years on the job. In May an anonymous editor resurrected the Sintercom website, hosting it on servers outside of the country.

All public institutions of higher education and political research institutions were linked closely to the Government. Although faculty members were not technically government employees, in practice they were subject to potential government influence. Academics spoke and published widely, and engaged in debate on social and political issues. However, they were aware that any public comments outside the classroom or academic publications that ventured into prohibited areas—criticism of political leaders or sensitive social and economic policies, or comments that could disturb ethnic or religious harmony or that appeared to advocate partisan political views—could subject them to sanctions. Publications by local academics and members of research institutions rarely deviated substantially from government views.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides citizens the right to peaceful assembly but permits Parliament to impose restrictions “it considers necessary or expedient” in the interest of security. In practice, the Government restricted this right. Public assemblies of five or more persons, including political meetings and rallies, require police permission (*see* Section 2.a.). Spontaneous public gatherings or demonstrations were virtually unknown. The Government closely monitored political gatherings regardless of the number of persons present. Persons who wished to speak at a public function, excluding functions provided by or under the auspices of the Government, needed to obtain a public entertainment license from the police. However, in 2001 new regulations exempted some cultural events (such as Chinese operas or lion dances), substituting a requirement of a 7-day advance notification to police. In the past, opposition politicians routinely experienced delays before being notified of decisions on their applications, although the Government claimed that the delays came only when applications were submitted late.

In October Singapore Democratic Party leader Chee Soon Juan and a colleague were convicted of an unauthorized May rally at the entrance to the compound where senior government leaders maintained their offices (*see* Section 2.a.). In 2001 authorities approved two open air public rallies to raise money for defamation judgments against opposition politician J.B. Jeyaretnam, but required the hiring of security guards for crowd control, which organizers complained increased costs significantly.

In 2000 authorities denied approval for a forum on gays and lesbians on the basis that homosexual acts were illegal. Also in 2000, police arrested and charged 15 Falun Gong adherents for conducting a protest without a permit; of these, 2 were Singaporean citizens, 5 were Chinese nationals with permanent residence status, and 8 were Chinese nationals with shorter term immigration status. The group did not seek a permit and asserted that police had not responded to their previous efforts to obtain permits; the authorities stated that these assertions were untrue. Seven of the group were sentenced to 4 weeks in jail for refusing to hand over placards to the police. The other eight, who were charged with assembling without a permit, each were fined \$540 (S\$1000). Of the six imprisoned PRC nationals, authorities later cancelled the immigration status of five, including one permanent



resident, and required them to depart the country; the remaining PRC citizen already had departed the country.

Most associations, societies, clubs, religious groups, and other organizations with more than 10 members were required to register with the Government under the Societies Act. The Government denied registration to groups that it believed were likely to have been formed to assemble for unlawful purposes or for purposes prejudicial to public peace, welfare, or public order. The Government has absolute discretion in applying this broad, vague language to register or dissolve societies. The Government prohibits organized political activities except by groups registered as political parties or political organizations. This prohibition limited opposition activities, and contributed to restricting the scope of unofficial political expression and action (see Section 3). The prohibition affected the PAP less because of its long domination of the Government and its overwhelming parliamentary majority; the PAP was able to use nonpolitical organizations such as residential committees and neighborhood groups for political purposes far more extensively than opposition political parties. In 2001 two nongovernmental organizations (NGOs) that often took positions critical of the Government were declared political organizations, but their operations were unaffected. Political parties and organizations were subject to strict financial regulations, including a ban on receiving foreign donations.

There were few NGOs, apart from nonpolitical organizations such as religious groups, ethnically affiliated organizations, and providers of welfare services. The limiting effect of the law on the formation of publicly active organizations was, in large part, responsible for this situation.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, the Government banned some religious groups. The Constitution provides that every citizen or person in the country has a constitutional right to profess, practice, or propagate his religious belief so long as such activities do not breach any other laws relating to public order, public health, or morality.

All religious groups were subject to government scrutiny and must be registered legally under the Societies Act. The 1992 Maintenance of Religious Harmony Act (MRHA) gives the Government the power to restrain leaders and members of religious groups and institutions from carrying out political activities, “exciting disaffection against” the Government, creating “ill will” between religious groups, or carrying out subversive activities. The act was prompted by activities that the Government perceived as threats to religious harmony, including aggressive and “insensitive” proselytizing and the “mixing of religion and politics.” Violation of a restraining order issued under the MRHA is a criminal offense. The act also prohibits judicial review of its enforcement or of any possible denial of rights arising from its implementation.

The Government played an active but limited role in religious affairs. It did not tolerate speech or actions, including ostensibly religious speech or actions, which affected racial and religious harmony, and sometimes issued restraining orders barring participation in such activities. The Presidential Council for Religious Harmony reviewed such orders and made recommendations to the President on whether to confirm, cancel, or alter a restraining order. The Presidential Council for Minority Rights examined all pending legislation to ensure it was not disadvantageous to a particular group, reported to the Government on matters that affected any racial or religious community, and investigated complaints. The Government also supported citizen access to traditional religious organizations by assisting religious institutions to find space in public housing estates where most citizens lived. The Government maintained a semiofficial relationship with the Muslim community through the Islamic Religious Council (MUIS), which was established under the Administration of Muslim Law Act. The MUIS advised the Government on the Muslim community’s concerns, maintained regulatory authority over Muslim religious matters, and oversaw a Mosque Building Fund financed by voluntary payroll deductions.

In January four sets of Muslim parents challenged the country’s ban on girls wearing the traditional Muslim headscarf (tudung) in school. When the parents refused to heed school warnings regarding the ban, the four 6-year-old girls were suspended. One subsequently returned to school in June, and another moved to Australia in July. The parents of the other two challenged the ban, and attempted to bring in longtime Malaysian opposition leader and lawyer Karpal Singh to present their case. However, the application for Singh’s employment permit was refused. At year’s end, the case was still pending.

Under the Societies Act, the Government bans meetings of Jehovah’s Witnesses and the Unification Church. The Government deregistered and banned Jehovah’s Witnesses in 1972 on the grounds that its approximately 2,000 members refused to perform obligatory military service, salute the flag, or swear oaths of allegiance to

the State. The Government regarded such refusals as prejudicial to public welfare and order. While the Government did not outlaw the profession or propagation of the beliefs of Jehovah's Witnesses and did not arrest members merely for being believers, the result of deregistration was to make meetings of Jehovah's Witnesses illegal. The Government also banned all written materials published by the Jehovah's Witnesses' publishing affiliates, the International Bible Students Association, the Watch Tower Bible, and the Tract Society. In practice this has led to the confiscation of Bibles published by the group, even though publishing Bibles was not outlawed. A person in possession of banned literature can be fined up to \$1,100 (S\$2,000), and for holding a meeting a person can be fined up to \$2,300 (S\$4,000). In 2001 two persons were arrested for possession of banned Jehovah's Witness literature but were released by the authorities without formal charges being filed.

Since the beginning of 2000 public primary and secondary schools indefinitely suspended 22 students who were members of Jehovah's Witnesses for refusing to sing the national anthem or to participate in the flag ceremony. At year's end the suspension was still in effect. In 2001 a long-time public school teacher, who was a Jehovah's Witness, resigned after being threatened with dismissal and disciplinary action for refusing to sing the national anthem.

Missionaries, with the exception of members of Jehovah's Witnesses and representatives of the Unification Church, were permitted to work, to publish, and to distribute religious texts. However, while the Government did not prohibit evangelical activities in practice, it discouraged activities that could upset intercommunal relations.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides citizens the right to move freely throughout the country; however, while the Government generally respected this right in practice, it limited it in a few respects. For example, citizens' choice of where to live sometimes was limited by the Government's policy of assuring ethnic balance in publicly subsidized housing, in which the great majority of citizens lived (see Sections 1.f. and 5). The Government required all citizens and permanent residents over the age of 15 to register and to carry identification cards. The Government may refuse to issue a passport and did so in the case of former ISA detainees. Under the ISA, a person's movement may be restricted. In December 2001 and in August, five persons who were detained and questioned for possible terrorist activities later were released under restriction orders; the exact nature of the restrictions was not disclosed.

The right of voluntary repatriation was extended to holders of national passports. The Government actively encouraged citizens living overseas to return home or at least to maintain active ties with the country. A provision of law for the possible loss of citizenship by citizens who resided outside the country for more than 10 consecutive years seldom was used.

Males are required to serve 2 years of national service upon turning 18 years of age. They also are required to undergo reserve training up to the age of 40 (for enlisted men) or 50 (for officers). Male citizens with national service reserve obligations are required to advise the Ministry of Defense if they plan to travel abroad for less than 6 months and require an exit permit for trips over 6 months. In 2001 the Government significantly relaxed the regulations governing international travel prior to enlistment by boys aged 11 and above. Boys aged 11 to 16½ years are issued passports that are valid for 2 years and are no longer required to obtain exit permits. From the age of 16½ until the age of enlistment, male citizens are granted 1-year passports and are required to apply for exit permits for travel that exceeds 3 months.

The law stipulates that former members of the Communist Party of Malaya (CPM) residing outside the country must apply to the Government to be allowed to return. They must renounce communism, sever all organizational ties with the CPM, and pledge not to engage in activities prejudicial to the State's internal security. In addition, the law requires them to submit to an interview by the Internal Security Department and to any restrictive conditions imposed on them.

The law does not include provisions for granting refugee or asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government does not grant first asylum. However, the authorities usually permitted persons claiming asylum to have their status determined by the U.N. High Commissioner for Refugees (UNHCR) for possible resettlement elsewhere. There were no reports that persons were returned to a country where they feared persecution. A small number of ethnic Chinese persons from Indonesia have

entered the country as visitors for temporary stays during episodes of racial or religious strife.

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

The Constitution provides citizens with the right to change their government peacefully through democratic means. Opposition parties are free to contest elections, and the voting and vote-counting systems are fair and free from tampering; however, the PAP, which has held power continuously and overwhelmingly for more than three decades, has used the Government's extensive powers to place formidable obstacles in the path of political opponents. In November 2001, a general election was held. The Prime Minister requested dissolution of Parliament more than 6 months before the end of its full term. The opposition contested only 29 of 84 seats and won only 2 seats. There were no opposition allegations of irregularities in the casting or counting of votes in the election. The opposition continued to criticize what it described as PAP abuse of its incumbency advantages to extensively handicap opposition parties. The PAP maintained its political dominance in part by developing voter support through effective administration and its record in bringing economic prosperity to the country, and in part by manipulating the electoral framework, intimidating organized political opposition, and circumscribing the bounds of legitimate political discourse and action. The belief that the Government might directly or indirectly harm the employment prospects of opposition supporters curtailed opposition political activity; however, there were no confirmed cases of such retaliation. As a result of these and other factors, opposition parties were unable to seriously challenge the ruling party. The PAP claimed that the lack of an effective opposition was due to disorganization, weak leadership, and a lack of persuasive alternative policies.

The country has a parliamentary system in which the majority party in Parliament has the authority to constitute the Government, which is headed by a Prime Minister. The parliamentary term is for no more than 5 years after the first sitting of Parliament following a general election. Parliament may be dissolved early by presidential proclamation, which normally follows a request by the Prime Minister. Elections must be held within 3 months of Parliament's dissolution. Following the 2001 elections, the PAP held 82 of 84 elected seats; the opposition Singapore People's Party and the Workers' Party each held 1 seat. A constitutional amendment allows at least three opposition members in Parliament even if fewer than three actually were elected. Following the elections, the Government allotted a nonconstituency seat to Singapore Democratic Alliance candidate Steve Chia, the opposition candidate who had obtained the highest share of the vote without winning a seat. In addition, a parliamentary committee nominated and the President appointed Nominated Members of Parliament (N.M.P.s) for 2-year terms. In July nine N.M.P.s were appointed by the President. The voting rights of nonconstituency members and N.M.P.s were restricted.

The PAP had an extensive grassroots system and a carefully selected, highly disciplined membership. The recent development of government-organized and predominantly publicly funded Community Development Councils (CDCs) to promote community development and cohesion and provide welfare and other assistance services has strengthened the PAP, which dominates these CDCs even in opposition-held constituencies and has used the threat of withdrawing benefits. During the last two election campaigns, the Prime Minister and other senior government officials warned voters that precincts that elected opposition candidates would have the lowest priority in government plans to upgrade public housing facilities. This statement heightened concerns among some observers about voters' genuine freedom to change their government.

The PAP completely controlled the political process through patronage, influence over the press, reported influence over the courts, and limited opposition political activities. Often these means were fully consistent with the law and the normal prerogatives of the Government, but the overall effect (and, many argued, ultimate purpose) was to disadvantage and weaken the political opposition. For example, the Government altered dramatically the boundaries of election districts only 17 days before the 2001 general election, abolishing some constituencies and moving many other constituencies' borders. Since 1988 it has changed all but nine single-seat constituencies into Group Representational Constituencies (GRCs) of three to six parliamentary seats, in which the party with a plurality wins all of the seats. According to the Constitution, such changes are permitted to ensure ethnic minority representation in Parliament; each GRC candidate list must contain at least one Malay, Indian, or other ethnic minority candidate. However, these changes made it more dif-

difficult for opposition parties, all of which had very limited memberships, to fill multi-member candidate lists. The PAP did not suffer from this disadvantage.

Although political parties legally were free to organize, they operated under the same limitations that applied to all organizations, and the authorities imposed strict regulations on their constitutions, fundraising, and accountability (*see* Section 2.b.). Political parties and organizations were subject to strict financial regulations, including a ban on receiving foreign donations. Government regulations hindered attempts by opposition parties to rent office space in government housing or to establish community foundations. In addition, government influence extended in varying degrees to academic, community service, and other NGOs.

The Films Act bans political films and recorded televised programs, which puts opposition parties at a disadvantage. The ban, which ostensibly was to prevent the sensationalist or emotional effect that video or film productions could have on political issues, applied to the PAP as well as to the opposition parties. Nonetheless it had the effect of denying opposition parties, which already received far less coverage than did the PAP in the Government-influenced press and media, a potential outlet for their political messages. A 2001 law limits the ability of political parties and others to use the Internet for political purposes during election campaigns (*see* Section 2.a.).

The threat of civil libel or slander suits, which government leaders often used against political opponents and critics and consistently won, had a stifling effect on the full expression of political opinion and disadvantaged the formal political opposition (*see* Section 2.a.). Large judgments in libel suits can lead to bankruptcy, and under the law, bankrupt persons are ineligible to sit in Parliament. The Penal Code also provides for criminal defamation offenses. In July police opened criminal defamation investigations against two individuals (*see* Section 2.a.).

In the past, the Government also used parliamentary censure or the threat of censure to humiliate or intimidate opposition leaders. Government entities also used libel or slander suits, and dismissal from positions in government-related entities, to intimidate prominent opposition politicians.

The Government placed significant obstacles in the way of opposition political figures' candidacy for the presidency, a largely ceremonial position that nonetheless had significant budget oversight powers, as well as some powers over civil service appointments and internal security affairs. For example, opposition members were much less likely to satisfy the requirement that they have experience in managing the financial affairs of a large institution, since many of the country's large institutions are government-run or linked to the Government. Opposition political figures asserted that such strict compliance requirements weakened opposition parties.

Voting was compulsory, and women and minorities voted at approximately the overall 95 percent rate in contested constituencies. There was no legal bar to the participation of women in political life; women held only 10 of the 84 elected parliamentary seats, an increase from 6 female M.P.s in the previous Parliament. During the year, there were no female ministers, but 3 of the 14 Supreme Court justices were women.

There was no restriction in law or practice against minorities voting or participating in politics; they actively participated in the political process and were well represented throughout the Government, except in some sensitive military positions. Malays made up approximately 15 percent of the general population and held approximately the same percentage of regularly elected seats in Parliament. Indians made up approximately 7 percent of the general population and held approximately 10 percent of the regularly elected seats in Parliament. Minority representation in Parliament was, in part, the result of a legal requirement that candidate slates in every multiseat constituency have at least one minority representative. During the year, there was one ethnic Malay minister and one ethnic Indian minister. Two of the 14 Supreme Court justices were ethnic Indian; there were no Malays on the court.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Efforts by independent organizations to investigate and evaluate government human rights policies faced the same obstacles as those faced by opposition political parties. Some domestic NGOs criticized restrictions on human rights or suggested changes that would relax or remove restrictions. The NGOs were subject to registration under the Societies Act (*see* Section 2.b.). In 2001 two organizations that criticized the Government on human rights grounds were declared "political" organizations by the Government, but their operations were unaffected (*see* Section 2.b.).

In recent years, the Government permitted international human rights organizations to observe human rights related court cases. In 2001 opposition politician J.B.

Jeyaretnam's bankruptcy appeal was witnessed by a Canadian observer, who acted as a representative of both Amnesty International and the Lawyers' Rights Watch in Canada.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution states that all persons are equal before the law and entitled to the equal protection of the law, and the Government generally carried out these provisions in practice. The Constitution contains no explicit provision providing equal rights for women and minorities. Mindful of the country's history of intercommunal tension, the Government took affirmative measures to ensure racial, ethnic, religious, and cultural nondiscrimination. Social, economic, and cultural benefits and facilities were available to all citizens regardless of race, religion, or sex. However, men did not have the right to seek alimony from their wives in cases of divorce or separation. In October the Community Development Ministry denied a proposal that would have given men the right to seek such financial support.

*Women.*—The Penal Code and the Women's Charter criminalize domestic violence and sexual or physical harassment; however, violence or abuse against women was not seen as a significant problem. A victim of domestic violence can obtain court orders barring the spouse from the home until the court is satisfied that the spouse has ceased aggressive behavior. Court orders for protection against violent family members have increased in recent years, in part because the definition of violence includes intimidation, continual harassment, or restraint against one's will. The Penal Code prescribes mandatory caning and a minimum imprisonment of 2 years for conviction on any charge of "outraging modesty" that caused the victim fear of death or injury. The press gave fairly prominent coverage to instances of abuse or violence against women. There were several organizations that provided assistance to abused women. The Association of Women for Action and Research (AWARE) had a hot line that offered counseling and legal advice. The Family Protection and Welfare Service, an office of the Ministry of Community Development and Sports, documented physical and psychological abuse, and provided counseling and other support services to abused women. In 1999 the Council of Women's Organizations established a crisis center for abused persons. The Star shelter accepted children, women, and men, and could accommodate up to 30 persons. The Government enforced the law against rape, which provides for imprisonment of up to 20 years and caning for offenders. Under the law, rape can only be committed by a man, and spousal rape is not a crime.

The country's laws neither ban nor authorize prostitution per se. However, public solicitation, living on the earnings of a prostitute, and maintaining a brothel are illegal. The authorities periodically carried out crackdowns on solicitation for prostitution, and arrested and deported foreign prostitutes, particularly when their activities took place outside of informally designated red light areas. In practice police unofficially tolerated and monitored a limited number of brothels; prostitutes in such establishments were required to undergo periodic health checks and carry a health card. Sexual intercourse with girls under the age of 16 is illegal. There was no evidence that child prostitution was a problem.

Trafficking in women for the purpose of prostitution was a problem (*see* Section 6.f.).

Women enjoyed the same legal rights as men in most areas, including civil liberties, employment, commercial activity, and education. The Women's Charter gives women, among other rights, the right to own property, conduct trade, and receive divorce settlements. Muslim women enjoyed most of the rights and protections of the Women's Charter. For the most part, Muslim marriage law fell under the administration of the Muslim Law Act, which empowers the Shari'a court to oversee such matters. Those laws allow Muslim men to practice polygyny, although requests to take additional spouses may be refused by the Registry of Muslim Marriages, which solicits the views of an existing spouse or spouses and reviews financial capability. Of the 4,000 Muslim marriages registered in 2001, only 20 were polygynous. Both men and women have the right to initiate divorce proceedings; however, in practice women faced significant difficulties that often prevented them from pursuing proceedings.

Women constituted 42 percent of the labor force and were well represented in many professions but held few leadership positions in the private sector. They still held the preponderance of low-wage jobs such as clerks and secretaries; however, there were some women who held senior corporate leadership positions. The average salary of women was 72 percent of that of men in comparable jobs. Observers noted that the wage differential was smaller in professional jobs, and that wage disparities could be attributed in part to differences in average educational levels and work experience. On December 5, the Government announced a change to the Medical

Registration Act, which is intended to eliminate a quota on female medical student admissions into the National University of Singapore.

There were no specific laws prohibiting stalking or sexual harassment, and sexual harassment was not viewed as a significant issue. However, the Miscellaneous Offences Act and laws prohibiting insults to modesty successfully were used to prosecute such offenses.

Women were unable to transmit citizenship to a child born abroad; the children of male citizens automatically acquired citizenship at birth. Women were able to sponsor noncitizen husbands for citizenship as of 1999. Legislation passed in 2001 expanded health benefits to cover the immediate family members of female civil service employees; only male civil service employees had previously been covered.

*Children.*—The Government demonstrated its strong commitment to children's rights and welfare through its well-funded systems of public education and medical care. Access to public education and medical care was equal for all children. In 2000 the Government enacted legislation making 6 years of education in public schools compulsory by 2003. Although school attendance has not been compulsory, virtually 100 percent of children were enrolled through grade 6, and the dropout rate for secondary school was low. The Children and Young Persons Act established protective services for orphaned, abused, disabled, or troubled children, and created a juvenile court system. The Ministry of Community Development worked closely with the National Council for Social Services to oversee children's welfare cases. Voluntary organizations operated most of the homes for children, while the Government funded up to 50 percent of all child costs, which included normal living expenses and overhead, as well as expenses for special schooling, health care, or supervisory needs. In some cases, the Government covered 100 percent of such costs.

There was no societal pattern of child abuse.

The Ministry for Community Development and Sports sponsored activities promoting children's causes, including family stability. This agency and several NGOs focused on keeping fathers involved in their children's lives and on preventing child abuse.

*Persons with Disabilities.*—The Government maintained a comprehensive code on barrier-free accessibility; this established standards for facilities for persons with physical disabilities in all new buildings and mandated the progressive upgrading of older structures. There was no legislation addressing equal opportunities for persons with disabilities in education or employment. However, the National Council of Social Services, in conjunction with various voluntary associations, provided an extensive job training and placement program for persons with disabilities. A tax deduction of up to \$57,000 (S\$100,000) was available to employers to defray building modifications to benefit employees with disabilities. Informal provisions in education have permitted university matriculation for visually impaired, deaf, and physically disabled students. There were 19 special education schools that enrolled 4,200 students. It is expected that upon completion of retrofitting, one out of every eight schools will be accessible to handicapped students.

The Government allowed a tax deduction of up to \$1,900 (S\$3,500) per individual for families caring for a sibling, spouse, or child with disabilities. Mental and physical disabilities were treated in the same way. Press coverage of the activities and achievements of persons with disabilities was extensive, and discrimination or abuse of persons with disabilities did not appear to be a problem.

*National/Racial/Ethnic Minorities.*—Ethnic Malays constituted approximately 15 percent of the total population. The Constitution acknowledges them as the indigenous people of the country and charges the Government to support and to promote their political, educational, religious, economic, social, cultural, and language interests. The Government took steps to encourage greater educational achievement among Malay students as a key to economic advancement. However, ethnic Malays have not yet reached the educational or socioeconomic levels achieved by the ethnic Chinese majority, the ethnic Indian minority, or the Eurasian community. Malays remained underrepresented at senior corporate levels, and, some assert, in certain sectors of the Government and the military. This reflected their historically lower educational and economic levels, but some argued that it also was a result of employment discrimination. The Government has issued guidelines that call for eliminating language referring to age, gender, or ethnicity in employment advertisements; restrictive language pertinent to job requirements, such as "Chinese speaker" or "physically strong" remains acceptable. These guidelines were generally followed.

The Presidential Council on Minority Rights examined all pending bills to ensure that they were not disadvantageous to a particular group. It also reported to the

Government on matters that affected any racial or religious community and investigated complaints.

The Government enforced ethnic ratios for publicly subsidized housing, where the majority of citizens lived and owned their own units, a policy designed to achieve an ethnic mix more or less in proportion to that in society at large.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides all citizens with the right to form associations, including trade unions; however, Parliament may impose restrictions based on security, public order, or morality grounds. The right of association was restricted by the Societies Act and by labor and education laws and regulations. Under these laws, any group of 10 or more persons is required to register with the Government. The Trade Unions Act authorizes the formation of unions with broad rights, albeit with some narrow restrictions such as prohibitions on the unionization of uniformed personnel. The Trade Unions Act prohibits government employees from joining trade unions but the President has the power to make exemptions from this provision. The Amalgamated Union of Public Employees was granted such an exemption, and its scope of representation was expanded over the years to cover all public sector employees except the most senior civil servants. The Trade Union Act restricts the right of trade unions to elect their officers, and whom they may employ. Foreigners and those with criminal convictions may not hold union office or become employees of unions. However, exemptions could be granted by the Minister. The act limits the objectives on which unions can spend their funds and prohibits payments to political parties or the use of funds for political purposes. According to government statistics, the national labor force was made up of approximately 2.2 million workers, approximately 340,000 of whom were represented by 71 unions. Almost all of the unions (which represented virtually all of the union members) were affiliated with the National Trades Union Congress (NTUC), an umbrella organization with a close relationship with the Government.

The NTUC acknowledged that its interests were linked closely with those of the ruling PAP, a relationship often described by both as symbiotic. The NTUC's Secretary General (SG), Lim Boon Heng, a PAP M.P., was a member of the Cabinet as Minister in the Prime Minister's Office. Young PAP M.P.s often were given leadership positions in the NTUC or a member union. The NTUC policy prohibited union members who supported opposition parties from holding office in affiliated unions. In November the branch chairman of a union affiliated with NTUC was elected secretary general of the Singapore Democratic Alliance, an opposition body. In December he was stripped of both his union position and his membership in the union. In response he filed an appeal that was pending at year's end. While the NTUC was financially independent of the PAP, with income generated by NTUC-owned businesses, the NTUC and the PAP shared the same ideology and worked closely with management in support of nonconfrontational labor relations. The NTUC was free to associate regionally and internationally.

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining was a normal part of labor-management relations in the industrial sector. Collective agreements must be certified by the tripartite Industrial Arbitration Court (IAC) before going into effect. The IAC could refuse certification at its discretion on the ground of public interest. Transfers and layoffs were excluded from the scope of collective bargaining. However, in practice employers did consult with unions on both issues, and the tripartite National Wages Council issued guidelines calling for early notification to unions of layoffs. Disputes could be settled through discussions with the Ministry of Manpower. If conciliation fails, the parties may submit their cases to the IAC. In limited situations, the law provides for a system of recourse to compulsory arbitration, which can put an end to collective bargaining at the request of only one of the parties. However, the compulsory arbitration clause has not been used since 1981. Agreements between management and labor were renewed every 2–3 years, although wage increases were negotiated annually. Yearly guidelines on raises and bonus pay issued by the National Wages Council (NWC), a group composed of labor, management, and government representatives, served as the starting point for bargaining agreements. In 1999 in response to the economic downturn, the Government adopted an NWC proposal in which, subject to negotiation in each enterprise, up to 10 percent of salaries would be considered “variable” each month, allowing companies to eliminate that portion of pay if there were financial problems. The intent was to minimize job losses in a severe business downturn.

Workers in “essential services” were required to give 14 days notice to an employer before striking, and there was a prohibition on strikes by workers in the water, gas and electricity sectors. Other workers have the legal right to strike but rarely did so. There were no specific laws that prohibited retaliation against strik-

ers. The law provides that before striking, unionized workers must vote in favor of the strike by secret ballot. In August Singapore Airline pilots came close to taking industrial action on a dispute over working conditions; the airline pilot union was the only significant union not affiliated with the NTUC. The strike was averted after the Ministry of Manpower intervened to mediate between the parties. Most disagreements were resolved through informal consultations with the Ministry of Manpower. If conciliation failed, the disputing parties usually submitted their case to the Industrial Arbitration Court, which had representatives from labor, management, and the Government. Besides these labor dispute mechanisms and the close working relationship and shared views among labor, management, and the Government, the maintenance of labor peace has been a product of high economic growth rates, regular wage increases, and a high degree of job mobility in a virtual full-employment economy. In addition, the widely held view that labor conflict would undermine the country's economic competitiveness and attractiveness to investors, compounded with a cultural aversion to confrontation helped to maintain a harmonious labor situation.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children, and the Government generally enforced this provision effectively. Under sections of the Destitute Persons Act, any indigent person may be placed in a welfare home and assigned suitable work. The International Labor Organization (ILO) criticized the coercive terms of this act, which included penal sanctions not in compliance with the ILO Convention on Forced Labor. The Government maintained that the act was social legislation providing for the shelter, care, and protection of destitute persons, and that work programs were designed to reintegrate individuals into society.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Government enforced the Employment Act, which prohibits employment of children under the age of 12. Restrictions on the employment of children between the ages of 12 and 16 were rigorous and fully enforced. Children under the age of 14 generally were prohibited from employment in the industrial sector. Exceptions included family enterprises; children may work in a business in which only members of the same family are employed. A child of 12 or older may be employed in light work, subject to medical clearance. Employers had to notify the Commissioner of Labor within 30 days of hiring a child between the ages of 14 and 16 and attach a medical certification of the child's fitness for employment. The incidence of children in permanent employment was low, and abuses were almost nonexistent.

Ministry of Manpower regulations prohibited night employment of children and restricted industrial work for children between the ages of 14 and 16 to no more than 7 hours a day, including the hours spent in school. Children may not work on commercial vessels, with moving machinery, on live electrical apparatus lacking effective insulation, or in any underground job. The Minister of Manpower effectively enforced these laws and regulations.

*e. Acceptable Conditions of Work.*—There were no laws or regulations on minimum wages or unemployment compensation. However, the National Wages Council, a tripartite body consisting of the Government, labor, and business, monitored the economy and made annual recommendations to the Government concerning wage guidelines. The labor market offered good working conditions and relatively high wages, which provided a decent standard of living for a worker and family.

The Employment Act sets the standard legal workweek at 44 hours and provides for 1 rest day each week.

The Ministry of Manpower effectively enforced laws and regulations establishing working conditions and comprehensive occupational safety and health laws. Enforcement procedures, coupled with the promotion of educational and training programs, were implemented to reduce the frequency of job-related accidents. While a worker had the right under the Employment Act to remove himself from a dangerous work situation, his right to continued employment depended upon an investigation of the circumstances by the Ministry of Manpower.

Because of a domestic labor shortage, approximately 600,000 foreign workers were employed legally, constituting about 30 percent of the total work force. There were no reliable estimates of the number of foreigners working illegally. Most foreign workers were unskilled laborers and household servants from other Asian countries. Foreign workers faced no legal wage discrimination. However, they were concentrated in low-wage, low-skill jobs and were often required to work long hours. Most foreign construction workers live on worksites in substandard conditions.

Although the great majority of the more than 100,000 maids (mainly from the Philippines, Indonesia, and Sri Lanka) worked under clearly outlined contracts,



their low wages, dependence on their employers for food and lodging, and relative isolation made them vulnerable to mistreatment and abuse. A 1998 amendment to the Penal Code, in response to concern about cases of maid abuse, increased the punishment for confining or sexually or physically abusing a maid. The authorities fined or imprisoned employers who abused domestics, often with great publicity. In April a woman who had severely abused her 19-year-old maid was sentenced to 5 years in jail. In July a man who killed his maid was convicted of manslaughter and sentenced to 18 years in jail and 12 strokes of the cane. Both cases highlighted the plight of maids and prompted local debate on possible preventative solutions. Substantiated cases of abuse of foreign domestics fell by almost 50 percent following the 1998 amendment strengthening legal penalties. During the year, cases declined with only 8 substantiated cases compared to 41 cases in 2001.

Most maids worked 6 days per week from very early morning until late in the evening. Many contracts allowed only 1 day off per month. Contracts often stipulated that, even when she was not working, a maid was required to remain on the premises unless on official duties or on her day off. According to Ministry of Manpower Statistics, wages averaged approximately \$250 (S\$456) per month, not including free room and board. Maids often had to set aside most or all of their wages for the first several months of employment to reimburse their placement agents. Work permits for low-wage foreign workers could be cancelled if a worker applied to marry or married a citizen or permanent resident.

Many lower paid foreign workers were not covered under the Employment Act and ineligible for limited free legal assistance from the Government. However, the Ministry of Manpower offered conciliation services for all employees, foreign or local. The Foreign Workers Unit of the Ministry of Manpower provided free advisory and mediation services to foreign workers experiencing problems with employers. The Government allowed complainants to seek legal redress.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however trafficking in persons was a problem. The country was a destination for trafficking in women for the purpose of prostitution. Almost all sex workers were foreign; most originated in Thailand, the Philippines, Malaysia, China, Indonesia, Vietnam, India or Sri Lanka. Almost all foreign prostitutes were aware when they entered the country that they were going to be employed as prostitutes. However, some may have had their passports held by employers after their arrival, or were subject to other coercive treatment. In other cases, recruiters in source countries offered women jobs as maids, bar hostesses or waitresses, and sometimes offered up-front payment as inducement. On arrival these women were forced to work as prostitutes and subjected to threats and violence if they resisted. While prostitution was not an offense per se, public solicitation was illegal. Police periodically carried out crackdowns on prostitutes, particularly those operating outside of informally designated red light areas (see Section 5). Foreign prostitutes detained in these raids usually were deported quickly; on occasion some trafficking victims may become caught up among these deportees. Foreign prostitutes also were deported immediately if they tested positive for HIV/AIDS or other sexually transmitted diseases. Authorities prosecuted some cases of trafficking. In 2001 a court jailed a man for 24 months for trafficking 4 women from China with job offers as waitresses on a Singapore-based cruise ship. The young women learned they were expected to work as prostitutes after they arrived in the country.

The three major laws that governed trafficking and prostitution are the Women's Charter, the Children and Young Person's Act, and the Penal Code. The law makes trafficking in women and children, whether or not it is related to prostitution, punishable by up to 5-years imprisonment, a \$5,700 (S\$10,000) fine, and caning. Traffickers could be prosecuted under the Penal Code's "wrongful constraint" provision, which carries maximum punishments of 10 years imprisonment and a fine. Convicted traffickers could be found guilty of violating more than one law. There was no specific campaign to combat or prevent the use of fraud or coercion to recruit foreign women as prostitutes, although some persons were prosecuted and punished for crimes involving such acts.

In practice successful investigation and prosecution of trafficking in persons required that victims remained in or returned to the country to testify. Victims were urged by police to remain in the country until the case was prosecuted and generally they did; however, some abused domestics left and were brought back to testify. Victims did not receive government assistance during this period or at other times, and indicated they sometimes were not granted permission for alternative employment and were dependent on support from their embassy. NGOs did not provide assistance to trafficked victims. Laws requiring citizens to report immigration violators hampered assistance to trafficking victims. The authorities did notify embassies of the arrest of nationals, including for prostitution-related offenses, and allowed con-

sular access. Prostitutes rarely contacted embassies voluntarily, unless detained for solicitation or immigration offenses during police sweeps. However, victims of crimes, including domestics alleging abuse, sometimes requested and received assistance from their embassies.

## SOLOMON ISLANDS

The Solomon Islands has a modified parliamentary system of government consisting of a single-chamber Legislative Assembly of 50 members. Executive authority is vested in the Prime Minister and his Cabinet. The Prime Minister, elected by a majority vote of Parliament, selects his own Cabinet. A new Parliament was elected in December 2001 with Sir Allan Kemakeza as Prime Minister; elections were considered free and fair. Since 1998 conflict between two of the main ethnic groups in the country—the Malaitans and the Guadalcanalese—forced thousands of Malaitans residing on Guadalcanal from their homes, and in June 2000, armed Malaitan militants took over Honiara, the capital. The Malaitan militants forced the then-Prime Minister to resign. Subsequent governments had limited success in their efforts to restore peace, due to political and institutional weakness and public perception that their leaders were beholden to one of the conflicting parties. The Constitution provides for an independent judiciary; however, the judiciary was hampered by police ineffectiveness, lack of resources, and threats against judges and prosecutors.

A police force of approximately 1,000 persons under civilian control is responsible for law enforcement, internal security, and border security. However, since the 2000 takeover of the city of Honiara by Malaitan militants, the police force has become factionalized and has not functioned as an effective institution. Militant Malaitans rather than the Police Commissioner controlled the paramilitary Police Field Force (PFF). As many as 1,200 untrained former militants were taken into the police force and remained as “special constables,” operating under a loose command structure. Members of the PFF and the special constable group engaged in criminal activities, including extortion, robbery, vehicle theft, intimidation, and fraud; the police leadership did not sanction these abuses.

Approximately 75 percent of the population of 480,000 engaged to some extent in subsistence farming and fishing and had little involvement in the cash economy. With the breakdown of law and order, the formal sector of the economy was on the brink of collapse. The Government was insolvent and commercial export activities, which included some plantation production of copra, cocoa, and palm oil, a fish canner, a gold mine on Guadalcanal, and small resort and diving enterprises, ceased to operate; only the logging industry continued to operate, albeit at a reduced level. Electricity and telecommunications services faced severe difficulties, and there were frequent power blackouts in Honiara. Health and education services faltered as medical workers and teachers went on strike over the Government’s failure to pay salaries. The international airport occasionally closed due to strikes over similar issues.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Basic individual rights are provided for in the Constitution, but the armed conflict between Malaitan and Guadalcanalese militants in 2000 led to a serious deterioration in the human rights situation. Police and militants from both sides committed numerous human rights abuses in 2000, including killings, abductions, torture, rape, forced displacement, looting, and the burning of homes. The Government did not encourage any judicial or independent investigation of human rights abuses that occurred during the violence, which contributed to a climate of impunity. A team of international observers, present in the country since November 2000 to monitor implementation of the peace and verify that weapons were relinquished, was disbanded in June at the end of its mandate. All weapons were supposed to be surrendered during an amnesty period, which ended in May. Nonetheless, at year’s end, while there was no resumption of overt hostilities, hundreds of weapons had not been surrendered, and a stable peace had not been secured. The Red Cross and other volunteers were able to provide appropriate assistance to rural areas. Violence and discrimination against women continued to be problems.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—Since June 2000, the police forces have been effectively disarmed, and the police no longer function on the islands of

Malaita and Guadalcanal; local militia leaders controlled security. In May 2001, a police patrol boat fired upon a village on South Guadalcanal and killed several persons. The Government has not investigated the incident.

In March 2001, there were police raids against Guadalcanal leader Harold Ke'ke; there were unconfirmed reports of deaths from these attacks.

There were reports of politically motivated killings by political rivals or local militants on Guadalcanal during the year. In August the Member of Parliament for South Guadalcanal was killed while in his constituency. Ke'ke claimed responsibility. In October the police mounted an armed operation to apprehend Ke'ke. At least six of Ke'ke's followers and one civilian reportedly aiding the police were killed during the operation. In November Ke'ke's followers allegedly killed a policeman and a civilian. At year's end, Ke'ke was still at large.

Approximately 75 percent of the country's 897 police officers in June 2000 were Malaitan. Many Malaitan police officers participated in abuses committed by Malaitan militants. In 1998 and 1999, police officers were involved in extrajudicial killings and unwarranted use of lethal force against civilians when battling the Guadalcanalese militants. In September 1999, several paramilitary police officers in a speedboat shot a man near shore, then dragged him back into the water and reportedly beat him to death with a paddle. The Government investigated this case, and the police officer wielding the paddle was charged and convicted.

There were reports that police in some areas of Guadalcanal declined to stop or investigate abuses by Guadalcanalese militants, cooperated with them, or fled militant attacks to protect their own security. Displaced persons stated that they fled their homes in 2000 because they feared police operations as much as they did the activities of Guadalcanalese armed groups.

Although violence attributed to the police diminished during the year, the Government did little to investigate or prosecute those responsible for previous killings and other abuses, which contributed to a pervasive atmosphere of impunity. There was almost no accountability for police officers involved in killings, and only one police officer has been charged and convicted in connection with events during the conflict.

The U.N Human Rights Office has reports of over 80 persons killed or missing and presumed dead as a result of attacks attributed to Malaitan and Guadalcanalese militants since 1999. Many of these victims were civilians. None of these cases has been investigated. In April 2000, unidentified gunmen entered a village south of Honiara's international airport and shot three persons, including a 7-year-old boy and a 20-year-old man, as they tried to flee. In April 2000, a Guadalcanalese man was reportedly abducted by Malaitan militants in Honiara and taken to a nearby Malaitan militant camp, where he was beaten and hung by the ankles and wrists with wire. His body was reportedly found later in a Malaitan suburb of Honiara. In late June 2000, Guadalcanalese militants outside Honiara captured two Malaitan men. Subsequently, the men, who showed signs of beatings, were paraded through the captors' villages, killed, and buried. In July 2000, Malaitan militants forced their way into Honiara's central hospital and killed two Guadalcanalese militants who were being treated for wounds sustained in combat the previous day. During the year, Harold Ke'ke's group killed 10 Malaitan men who were reportedly trying to capture Ke'ke to claim the reward for his capture. Also during the year, at least a dozen persons, mostly civilians and including children, died on Guadalcanal in militant-related violence.

In June 2001, there was an unsuccessful attempt to kill the Guadalcanal provincial premier, Ezekiel Alebua. Alebua's political rivals allegedly committed the attack. Neither Malaitan militants nor government officials were implicated in the attack. The Government did not investigate the attack.

*b. Disappearance.*—There were no reports of politically motivated disappearances due to the actions of government officials. However, many Malaitan police officers, joining the Malaitan militants, participated in disappearances allegedly committed by the militants in 1999 and 2000. Since the violence began in 1998, more than 50 persons have been abducted and possibly killed by militants. In July 2000, Catholic catechist Juan Bosco disappeared in Honiara after allegedly being abducted by Malaitan militants and taken to a Malaitan camp. Several persons reported seeing him brutally beaten. In July 2000, Walter Tavai, a Guadalcanalese villager, was reportedly abducted from his home near Honiara by Malaitan militants and taken to a Malaitan militant camp. Witnesses stated that militants at the camp beat him to death; his body has not been found.

In January 2000, the Government formed a Committee on Missing Persons. However, its work was hampered by the reluctance of witnesses to come forward and by ongoing threats of violence. The Committee's final report and recommendations to the Government were submitted in April 2000 but were not made public. The

Committee did no significant work on missing persons during the year, and apparently has ceased functioning. No action has been taken on its report.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, there were numerous reports that police tortured and mistreated persons. In 2000 the police office dealing with complaints about official police behavior, including excessive use of force, ceased to function as the national police force generally disintegrated.

There were numerous reports of acts of torture and mistreatment attributed to both Malaitan and Guadalcanalese militants, and to members of the police, although there were fewer reported instances than in the previous two years.

In 2000 Honiara residents reported that abducted Malaitans were taken to a camp widely known as a “panel beating shop,” where Guadalcanalese militants beat them. The Malaitan encampment near Honiara, as well as the former Guadalcanal provincial government headquarters, also reportedly was used for the torture of captured Guadalcanalese and the punishment of Malaitans. Twenty homes were burned in Independence Valley, Honiara, in late July 2000, according to press reports. This event followed the burning of homes in the Matanikau and Tasahe areas of Honiara. The Government took no action in any of these cases.

The only national prison complex in use during the year provided separate facilities for short-, medium-, and long-term prisoners, as well as for juvenile offenders, and generally met international standards.

Late in the year, the national Ombudsman visited the small provincial jail at the regional capital of Gizo and announced that conditions there were in breach of human rights standards. No action has been taken to correct these deficiencies.

In June 2000, Malaitan militants closed the prison in Honiara following the escape of approximately 20 Guadalcanalese inmates and the subsequent release of all remaining prisoners by the Malaitans. Police did not attempt to recapture the inmates, some of whom reportedly joined the militants. The Government permitted prison visits by human rights observers. An International Committee of the Red Cross (ICRC) team based in Fiji monitored the prisons regularly during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest, detention, and exile, and the Government observed these prohibitions in practice. However, the work of the judiciary has been slowed considerably by the conflict. Delays in adjudication of the large number of cases before the courts have resulted in lengthy pretrial detention for some prisoners.

Militants from both sides have detained persons arbitrarily since June 2000; it is not known how many were detained arbitrarily during the year.

Forced exile is constitutionally prohibited, and it was not practiced.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, the courts are hampered by a lack of resources and by threats against the lives of judges and prosecutors. During the year, the judicial system barely functioned.

The judicial system consists of a High Court, a Court of Appeals, and magistrates’ courts. Accused persons are entitled to counsel. In 1999 the Public Solicitor, who is charged with providing counsel to persons who cannot afford a private attorney, reported that due to limited resources, his office could accept only those cases in which persons faced serious charges or those involving the protection of children; this situation continued during the year. The law provides for a judicial determination of the legality of arrests. Officials found to have violated civil liberties are subject to fines and jail sentences.

Judicial trial procedures normally operated in accordance with British law, with a presumption of innocence, right of appeal, access to attorneys, and the right to confront witnesses. However, during the year, the entire judicial system barely functioned.

The Government has done little to investigate or prosecute those responsible for killings and other abuses, which contributed to an atmosphere of impunity. There was a lack of accountability for police officers involved in killings, and only one police officer has been charged and convicted in connection with events during the conflict (see Section 1.a.)

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice. However, with the breakdown of law and order in 2000, there was widespread looting and burning of homes in rural Guadalcanal, including by police (see Section 1.c.).

In 1999 and 2000, militants from all sides forced long-time inhabitants from their homes. Many of those forced out were not affiliated with the militant movements,

and some were not even members of the combating ethnic groups. The forced expulsions ended during 2001, following the departure of virtually all non-Guadalcanalese from the areas of Guadalcanal Province adjacent to Honiara; none have returned.

*g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—Since ethnic conflict began in 1998, militants have blocked the free and safe passage of relief supplies, food, and fuel, as well as access by humanitarian organizations to Guadalcanal. Red Cross volunteers and relief workers reported being threatened, harassed, even shot at by both Guadalcanalese and Malaitan militants, although the incidence of such attacks declined during the year. Red Cross and other volunteers were able to provide appropriate assistance in rural areas.

Since the violent phase of the conflict on Guadalcanal began in 1998, some 30,000 Malaitans, Guadalcanalese, and Western Province persons living on Guadalcanal have been displaced from their homes (*see* Section 2.d.).

U.N. human rights officials confirmed the use of child soldiers by both Guadalcanalese and Malaitan militants during the ethnic conflict (*see* Sections 5 and 6.c.).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. During the year, print and broadcast media continued to operate on a regular basis.

The country's media consisted of the Solomon Islands Broadcasting Corporation (SIBC), a statutory body that comes directly under the Prime Minister's office and whose radio broadcasts are heard throughout the country; two other AM stations; a privately owned FM radio station; and two privately owned weekly or semiweekly newspapers. Given the high rate of illiteracy, radio broadcasting was more influential than the print media. At least two nongovernmental organizations (NGOs) published periodic news journals; their environmental reporting was frequently critical of the Government's logging policy and foreign logging companies' practices.

During the year, militants occasionally threatened the print and broadcast media; however, no journalists were known to have been killed or injured.

Internet use is expanding, and a privately operated Internet café was available; the Government does not limit or control access to the Internet.

Academic freedom was not restricted; however, tertiary education has ceased functioning.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice. Demonstrators must obtain permits, which generally were granted. However, in mid-June police authorities, citing a threat to public order, denied a permit for a planned protest march. The organizers appealed to the High Court, which upheld the police authorities. There were no further developments at year's end.

The Constitution provides for freedom of association, but at times the Government restricted this right. In February 2000, the Government formally outlawed the Malaitan militant groups; Guadalcanalese militant groups were outlawed in 1999, but this ban was suspended in May 2000, and during the year, militant groups continued operations but at a reduced level of violence. Other groups associated freely, and a government oversight group, Civil Society Network, which emerged in 2001, frequently criticized the Government (*see* Section 4).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

In March the High Court upheld the right of a small evangelical church to establish facilities in an area where most persons were members of a large established church. In its ruling, the High Court stated that the coexistence of different religious groups in the same community was an accepted phenomenon in the country.

The public school curriculum included 30 minutes daily of religious instruction, the content of which was agreed upon by the Christian churches; students whose parents did not wish them to attend the class were excused. However, the Government did not subsidize church schools that did not align their curriculums with governmental criteria. There was mutual understanding between the Government and the churches but no formal memorandum of understanding. Although theoretically non-Christian religions can be taught in the schools, there was no such instruction in practice.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government placed no restrictions on the movement of citizens

within or out of the country. However, the militants demanded that the people indigenous to each island be given authority to determine who might or might not enter their island. Native-born citizens may not be deprived of citizenship on any grounds.

During the year, non-Guadalcanese, especially Malaitans, were effectively barred from entering Guadalcanal Province for fear of being attacked, while many non-Malaitans, especially Guadalcanalese, were afraid to enter Honiara.

Since the violent phase of the conflict on Guadalcanal began in 1998, an estimated 30,000 Malaitans, Guadalcanalese, and Western Province persons living on Guadalcanal have been displaced from their homes as a result of armed conflict and intimidation. The U.N. estimated that in 1999 some 15,000 to 20,000 Malaitans (20 percent of the population of Guadalcanal) were displaced. The majority of these were evacuated to Malaita, while as many as 12,000 Guadalcanalese fled their homes for other parts of that island. The Government provided very limited help to internally displaced persons, who generally relied on their extended families and subsistence farming for survival. The national Red Cross Society, funded by the European Union, provided some assistance.

Police on Malaita were reportedly unable to offer protection to displaced Malaitans on the island after Malaitan militants raided a police armory in 2000, seized hundreds of weapons, and set up headquarters on the island. Malaitan militants have reportedly forced displaced Malaitan families to support the militants through contributions of money or food. Displaced persons on Guadalcanal also lacked effective police protection, since most local police were evacuated as a result of Guadalcanalese militant raids in 1999. During the year, there were a number of violent clashes between rival gangs of Malaitan militants on Malaita and Guadalcanalese militants on Guadalcanal.

Although a party to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, the Government has not enacted domestic legislation or procedures for making formal refugee determinations. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and the Red Cross in determining refugee status and has not returned persons to a country where they fear persecution.

The issue of first asylum did not arise during the year. The Government previously provided first asylum to persons from Papua New Guinea's Bougainville Island, who fled the conflict that started there in 1989. Following the 1998 peace settlement, many returned home. According to the UNHCR, fewer than 50 persons from Bougainville who met refugee status criteria still remained in the country.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Suffrage is universal for those 18 years of age and over. The Government is a modified parliamentary system consisting of a single-chamber Legislative Assembly of 50 members. Executive authority is vested in the Prime Minister and his Cabinet. The Prime Minister, elected by a majority vote of Parliament, selects his own Cabinet. Since independence in 1978, there have been six parliamentary elections, the latest in December 2001, and several elections for provincial and local councils. National parliamentary elections held in December 2001 were regarded as free and fair. On four occasions, changes of government resulted from either parliamentary votes of no confidence or the resignation of the Prime Minister. However, in 1998 tensions between two of the main ethnic groups in the country—the Malaitans and the Guadalcanalese—resulted in violence. Throughout 1999 Guadalcanalese militants forced thousands of Malaitans residing on Guadalcanal from their homes. Beginning in January 2000, Malaitan militants stole large quantities of weapons from the police and began actively to combat the Guadalcanalese. The conflict continued to escalate, and in June 2000, armed Malaitan militants, assisted by paramilitary police officers acting without authorization, took over the capital. After the takeover, the Malaitan militants forced Prime Minister Bartholomew Ulufa'alu to resign; Parliament selected a new Prime Minister, Manasseh Sogavare, under duress. Since June 2000, the police have not operated as an effective force, and there is no governmental institution that can effectively address the ongoing violence.

Traditional male dominance has limited the role of women in government. Although 15 women ran for Parliament in the December election, none was elected; no women were selected to be permanent secretaries in the new government.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There are no restrictions on the formation of local organizations to monitor and report on human rights. The Solomon Islands Development Trust has both development and human rights objectives. The ICRC periodically visited the country from its regional office in Suva, Fiji. The Government generally cooperated with human rights organizations, and requested assistance from the U.N. High Commissioner for Human Rights in formulating policies to restore peace and justice.

Numerous domestic NGOs operated freely; most were engaged in developmental or religious activity. However, in 2001 a number of NGOs and individual citizens established an umbrella organization, the Civil Society Network, to provide oversight of government activity. It regularly criticized practices such as remission of taxes and custom duties for associates of high-ranking government officials. The Government did not interfere in its operations.

During 2000 Red Cross volunteers and relief workers reported being threatened, harassed, shot at, and prevented from carrying out relief work by both Guadalcanalese and Malaitan militants; such incidents continued during the year, but at a reduced level.

The Constitution provides for an ombudsman, with the power to subpoena and to investigate complaints of official abuse, mistreatment, or unfair treatment. The Ombudsman's Office did not report any incidents involving interference with these rights during the year. While the Ombudsman's Office has potentially far-ranging powers, it was limited by a shortage of resources. It organized occasional workshops and undertook a few tours during the year.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution provides that no person—regardless of race, place of origin, political opinion, color, creed, or disability—shall be treated in a discriminatory manner in respect of access to public places. The Constitution further prohibits any laws that would have discriminatory effects and provides that no person should be treated in a discriminatory manner by anyone acting in an official capacity. Despite constitutional and legal protections, women remained the victims of discrimination in this tradition-based society. Unemployment was high, and there were limited job opportunities for persons with disabilities.

*Women.*—While actual statistics were scarce, incidents of domestic violence appeared to be common. The law does not address domestic violence; however, there are provisions against common assault and rape. The Government took no action during the year to address domestic abuse. In the rare cases that were reported, charges were often dropped by the victims before the court appearance or the case settled out of court. The magistrates' courts dealt with physical abuse of women as with any other assault, although prosecutions were rare. In part due to the breakdown in law and order and the lack of a police force after June 2000, women and teenage girls in particular were vulnerable to abuse including rape, and many rapes have been reported since the ethnic conflict began in 1998. During the year, no charges were brought against militants in these cases; however, charges have been brought in other cases against persons regarded as criminals.

During the year, the country became a state party to the Convention on the Elimination of All Forms of Discrimination Against Women.

The law accords women equal legal rights. However, in this traditional society men are dominant, and women are limited to customary family roles. This situation has prevented women from taking more active roles in economic and political life. A shortage of jobs inhibited the entry of women into the work force. The majority of women are illiterate; this was attributed in large part to cultural barriers. The National Council of Women and other NGOs attempted to make women more aware of their legal rights through seminars, workshops, and other activities. The Government's Women Development Division also addressed women's issues.

Prostitution is illegal, but the statutes were not enforced. Although there is no law against sex tourism, none has been reported. Sexual harassment is not prohibited by law and was a problem.

*Children.*—Within the limits of its resources, the Government was committed to the welfare and protection of the rights of children. There was no compulsory education, and, according to some estimates, less than 60 percent of school-age children had access to primary education; the percentages of those attending secondary and tertiary institutions were much smaller. Few children proceeded beyond primary school, and a higher percentage of boys than girls attended school. School fees required of all students were very high relative to local incomes. Since 1999 the already poor state of education has worsened. Infrastructure has deteriorated and fi-

nancial resources have almost disappeared; the Government has not paid teachers regularly. Some schools have ceased to function.

Children were respected and protected within the traditional extended family system, in accordance with a family's financial resources and access to services. As a result, virtually no children were homeless or abandoned. Although some cases of child abuse were reported, there was no societal pattern of abuse. The Constitution grants children the same general rights and protection as adults. Existing laws are designed to protect children from sexual abuse, child labor, and neglect.

All medical care for children was free; however, the lack of resources seriously reduced the quality and availability of medical care.

In 2000 Amnesty International reported that Guadalcanalese militants included a number of child soldiers. U.N. human rights officials confirmed the use of child soldiers by both Guadalcanalese and Malaitan militants. Several hundred children (generally boys) under the age of 18 were active combatants or assisted in militants' camps. With the decrease in fighting, dozens of these underage militants remained in quasi-criminal gangs affiliated with their former militant commanders.

*Persons with Disabilities.*—There is no law or national policy on persons with disabilities, and no legislation mandates access for such individuals. Their protection and care are left to the traditional extended family and nongovernmental organizations. With high unemployment countrywide and few jobs available in the formal sector, most persons with disabilities, particularly those in rural areas, did not find work outside of the family structure.

The country had one educational facility for disabled children, which was almost entirely supported by the Red Cross.

Persons with mental disabilities were cared for within the family structure; there were no government facilities for such persons.

*National/Racial/Ethnic Minorities.*—The country is composed of over 27 islands with approximately 70 language groups. In the precolonial era, these groups existed in a state of continual warfare with one another, and even today many islanders see themselves first as members of a clan, next as inhabitants of their natal island, and only third as citizens of their nation. Over the past century, and particularly since World War II, many persons from the poor, heavily populated island of Malaita settled on Guadalcanal, the island on which the capital of Honiara is located. The tensions and resentment between the Guadalcanalese and the Malaitans on Guadalcanal culminated in violence beginning in late 1998 (see Sections 1.a., 1.b., 1.c., 1.g., and 2.d.). In 1998 Guadalcanalese militants began a campaign of threats and intimidation against Malaitans on Guadalcanal. Scores of Malaitans have been killed or injured by Guadalcanalese militants. Since 1998 approximately 30,000 persons, mainly Malaitans, have fled their homes as a result of the conflict. Civilians were the victims of abuses by both sides; such abuses reportedly included abductions, torture, rape, forced resettlement, looting, and the burning of homes.

Beginning in January 2000, Malaitan militants began seizing weapons from the police; many police officers (the majority of whom are Malaitans) joined the Malaitan militants. On June 5, 2000, Malaitan militants took over the capital of Honiara (which is largely populated by Malaitans), forced the Prime Minister to resign, forced Parliament to choose another Prime Minister, and precipitated a brief period of ethnic warfare.

During the year, tension and violence between Malaitans and Guadalcanalese continued. During the year, violence, including murder, between rival Malaitan groups on Malaita and rival Guadalcanalese groups on Guadalcanal emerged as a serious problem.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution implicitly recognizes the right of workers to form or join unions, to choose their own representatives, to determine and pursue their own views and policies, and to engage in political activities. The courts have confirmed these rights. Only about 10 to 15 percent of the population participated in the formal sector of the economy. Approximately 60 to 70 percent of wage earners were organized (90 percent of employees in the public sector and about 50 percent of those in the private sector).

Unions are free to affiliate internationally, and the largest trade union, the Solomon Islands' National Union of Workers, is affiliated with the World Federation of Trade Unions, the South Pacific Oceanic Council of Trade Unions, and the Commonwealth Trade Union Congress.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the rights to organize and to bargain collectively, and unions exercised these rights frequently.



Wages and conditions of employment are determined by collective bargaining. If a dispute between labor and management cannot be settled between the two sides, it is referred to the Trade Disputes Panel (TDP) for arbitration. The three-member TDP, composed of a chairman appointed by the judiciary, a labor representative, and a business representative, is independent and neutral.

The law permits strikes. During the year, government employees conducted numerous strikes over the Government's failure to pay salaries on time and the payment of preferential "danger" allowances that excluded certain groups of government employees. Schools, medical facilities, and airports were among the institutions that suffered significant strikes. There were no significant private sector strikes. Private sector disputes were usually referred quickly to the TDP for arbitration, either before or during a strike. In practice, the small percentage of the work force in formal employment meant that employers had ample replacement workers if disputes were not resolved quickly. However, employees are protected from arbitrary dismissal or lockout while the TDP is deliberating. Since 1998 ethnic tensions and conflict on Guadalcanal, the most economically developed island in the country, seriously disrupted economic activity and resulted in the loss of many formal employment opportunities. In June 1999, Solomon Islands Plantation Ltd. closed its facilities following attacks on its workers. About 2,000 employees were evacuated. During the year, Guadalcanal militants prevented the return of the work force, 60 percent of which are Malaitan.

The law protects workers against antiunion activity, and there were no areas where union activity was officially discouraged.

There are no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, including by children, and, normally, except as part of a court sentence or order, there were no reports that such practices occurred. However, there were reports of child soldiers with militant groups (see Section 5).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law forbids labor by children under the age of 12, except light agricultural or domestic work performed in the company of parents. Children under age 15 are barred from work in industry or on ships; those under age 18 may not work underground or in mines. The Labor Division of the Ministry of Commerce, Trade, and Industry is responsible for enforcing child labor laws. Given low wages and high unemployment, there was little incentive to employ child labor.

The Government has not ratified ILO Convention 182 on the worst forms of child labor. It does not have a comprehensive policy for the elimination of such abuses; there are no regulations defining the worst forms of child labor.

*e. Acceptable Conditions of Work.*—The minimum wage rate is \$0.31 per hour (1.50 Solomon Islands dollars) for all workers except those in the fishing and agricultural sectors, who receive \$0.25 (1.25 Solomon Islands dollars). The legal minimum wage did not provide a decent standard of living for an urban family living entirely on the cash economy. However, most families were not dependent solely on wages for their livelihoods.

The law regulates premium pay, sick leave, the right to paid vacations, and other conditions of service. The standard workweek is 45 hours and is limited to 6 days per week. There are provisions for premium pay for overtime and holiday work and for maternity leave.

Both an active labor movement and an independent judiciary provided enforcement of labor laws in major state and private enterprises. The Commissioner of Labor, the Public Prosecutor, and the police were responsible for enforcing labor laws; however, they usually reacted to complaints rather than routinely monitoring adherence to the law. Their efforts were severely restricted by the conflict and ensuing political instability. The extent to which the law was enforced in smaller establishments and in the subsistence sector was unclear. Safety and health laws appeared to be adequate. The Safety at Work Act requires employers to provide a safe working environment and forbids retribution against an employee who seeks protection under labor regulations or removes himself from a hazardous job site.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

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## THAILAND

Thailand is a democratically governed constitutional monarchy. Since 1992 there have been five national multiparty elections, which transferred power to successive

governments through peaceful, democratic processes. The King exerts strong informal influence but never has used his constitutionally mandated power to veto legislation or to dissolve the elected bicameral Parliament. In February 2001, a coalition government, led by Prime Minister Thaksin Shinawatra's Thai Rak Thai Party, was formed following the January general elections. The election process was viewed as free and fair; however, it was marred by widespread vote buying, and the killing of some political canvassers during the campaign. The judiciary was independent, but sometimes was subject to corruption.

The armed forces were subject to civilian control and their influence in politics has diminished considerably in recent years. Elements of both the armed forces and the police had a reputation for corruption. Some members of the security forces committed serious human rights abuses.

The country has a population of approximately 62.3 million. It is a developing country with a market-based economy and a strong tradition of private enterprise, although state enterprises play a significant role in some sectors. Gross domestic product (GDP) growth was estimated to be between 4 and 4.5 percent for the year. Annual per capita income was approximately \$1,840. Approximately 60 percent of the population was employed in the agricultural sector, although agriculture only accounted for approximately 9 percent of the GDP. Although government regulation generally provides protection for individual economic interests, including property rights, there was a lack of transparency in bureaucratic decision-making and some areas of government remained subject to corruption.

The Government generally respected the human rights of its citizens; however, significant problems remained in several areas. Police officers killed a number of criminal suspects while attempting to apprehend them. Suspected narcotics traffickers and users were most often the victims of deadly police force. The Government remained reluctant to prosecute vigorously those who committed such abuses, contributing to a climate of impunity. Police occasionally beat suspects to coerce confessions. An ingrained culture of corruption persisted in many parts of the civilian bureaucracy and in some units of the security forces. Routine demands for bribes undermined the rule of law and permitted the continuation of various illegal activities including trafficking in persons, sexual exploitation, and prostitution. Conditions in prisons and some provincial immigration detention facilities were poor due to severe overcrowding. Lengthy pretrial detention and the prolonged detention of some aliens remained problematic. The judiciary suffered from corruption and at times security forces infringed on citizens' privacy rights. The Government threatened to revoke visas of two foreign journalists critical of public officials, and the media practiced some self-censorship and experienced some editorial interference by the Government. There were some restrictions on freedom of movement. The Government hindered the activity of some human rights groups. The 1997 Constitution increased legal protections for women and persons with disabilities; however, some inequities in the law remained. Violence and societal discrimination against women were problems. Societal discrimination against hill tribes and religious and ethnic minorities persisted. There were reports of forced labor and child labor. Trafficking in women and children and coerced prostitution were serious problems. Thailand was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of politically motivated killings during the year by government agents; however, legal organizations, reputable nongovernmental organizations (NGOs), and the press continued to report that some police officers used unwarranted lethal force to apprehend criminal suspects. Armed alleged drug traffickers in particular continued to confront and threaten police officers and other security personnel. Officers used deadly force during such confrontations. According to government statistics, between October 2001 and September 2002, 112 persons were killed while being placed under arrest. However, NGOs alleged that government figures underestimated the true number of persons killed while being apprehended by security forces.

In the past, when the Government investigated extrajudicial killings, it prosecuted few of the accused police or military officers. Senior prosecutors and NGO legal associations claimed that most cases eventually were dismissed because regulations outlined in the Criminal Code required public prosecutors to rely exclusively upon the recommendations of the police when determining whether to bring a case for criminal prosecution. Routine exoneration of police officers contributed to a cli-

mate of impunity that was a significant factor in preventing any major change in police behavior. It also discouraged relatives of victims from pressing for prosecution. However, in June 2000, new procedures for investigating suspicious deaths, including deaths occurring in police custody, took effect as part of the amended Criminal Procedure Code. The code requires, among other things, that the prosecutor, a forensic pathologist, and a local administrator participate in the investigation and that family members have legal representation at the inquests. Thus far the effects of the reforms appeared limited. The most notable case reflecting a changed climate concluded in May 2000 before the reforms officially entered into effect; at which time 10 policemen were sentenced to life imprisonment for the 1994 killings of 4 municipal officials. Families rarely took advantage of a provision in the law that allows them to bring personal lawsuits against police officers for criminal action during arrest. If pursued by the family, the case is handled by the same office, in some instances by the same prosecutor, who already has ruled that no criminal action occurred. There was no information available to determine how many cases were settled out of court. However, in cases in which suits were filed, the official charged often compensated the family of the deceased, and the lawsuit was waived. Compensation paid varied widely, from as low as \$3,490 (150,000 baht) to \$69,770 (3 million baht).

During the year, Chiang Rai police allegedly killed villagers in Chiang Rai Province who were suspected of drug trafficking (*see* Section 5). Villagers recently told a media representative that a drug suspect was taken from his home in May 2001 and beaten to death by police. His wife said police demanded money in exchange for his release. In August 2001, another drug suspect reportedly was killed by Mae Chan district police. Although the Chiang Rai police stated they would investigate the allegations and urged the victim's families to file complaints, no one had done so by year's end.

According to the Government, between October 2001 and September of this year, 48 persons died while in police custody. In May a man arrested on rape charges in Suratthani died in detention. Relatives accused the police of beating him to death whereas the police maintained that other detainees held in the same cell killed him. In July a man arrested for theft died while in detention at the Suratthani police station. The police stated that he died of natural causes, but a forensic pathologist in Bangkok reported that he was beaten to death. The police officer in charge of the Suratthani station was relieved of duty and the National Human Rights Commission (NHRC) launched an investigation into both deaths.

Between December 2001 and August, at least 17 police officers were killed in a series of attacks on police checkpoints, booths, or patrols. Local authorities blamed the violence on drug traffickers and local gangs.

In December 2001, soldiers assigned to a counternarcotics unit in Chiang Rai Province physically abused at least five suspected drug addicts, all of whom were members of minority hill tribe groups (*see* Section 5). One of the victims died as a result of the abuse after being taken to the hospital by his interrogators. Two sergeants subsequently were convicted of brutality and sentenced to several months in prison by a military court. The Royal Thai Army (RTA) paid the victim's widow \$340 (15,000 baht) in compensation, and the soldiers involved were reassigned. While RTA authorities initially denied any wrongdoing, senior RTA officials, including the former Army Chief General Surayud Chulanont publicly acknowledged that mistreatment, including at least one death and an unknown number of beatings, had occurred at the military camp. A probe was launched by the former-RTA Region Three Deputy Commander Major General Pichanment Muangmanee. On December 7, 2001, relatives of hill tribe drug addicts reported that those addicts who arrived at a RTA sponsored drug detoxification camp were forced down a hole where water and ashes were poured on them. They were left in the hole for several hours. That night they were blindfolded and led off separately for questioning about their alleged connection with drug traffickers. The addicts told their families and reporters that soldiers used electrical shocks and beat at least one of them in order to extract a confession. The complaints gained credibility following General Surayud's admission of the mistreatment by the Third Army's Pha Muang Task Force. According to NGOs, many other suspected drug users and traffickers may have been beaten during interrogations conducted by soldiers and police officers.

During the year, human rights NGOs alleged that police in some provinces formed their own killing teams to target drug traffickers. There were also reports that police officers were ordered to kill drug traffickers in response to killings of police. There were 25 killings of political canvassers during the election campaigns leading up to the January 2001 general election and the March 2000 Senate elections. All of the victims worked for political parties; however, although some of the killings apparently were motivated politically, most appeared to be the result of personal

disputes. The police arrested several persons in connection with killings that were motivated by both political and private disputes. Investigations of these cases continued at year's end (see Section 3).

In past years, conflicts along all four of the country's borders as well as internal insurgency resulted in the placement of landmines in some border areas. At least 170 persons in border villages were killed or injured in landmine or unexploded ordnance incidents each year, although this figure likely underestimated the total number of mine casualties because of incomplete record-keeping at hospitals. Most landmine and unexploded ordnance victims were males between 20 and 40 years of age, who were collecting subsistence foods or forest products in forested or unused land. The Government was committed strongly to removing all landmines, unexploded ordnances, and destroying all remaining stocks of mines.

*b. Disappearance.*—There were no reports of politically motivated disappearances during the year.

Early in the year, the Government released the results of two investigations into the 1991 disappearance of Labor Congress of Thailand President Thanong Po-an. The investigations were conducted by the House Justice and Human Rights Standing Committee and the Ministry of Interior, and were made public after activists filed a request under the Official Information Act in 2001. Unfortunately, the reports failed to provide any additional information about the fate of the disappeared labor leader. In August members of the parliamentary Labor and Social Welfare Committee held new hearings on the disappearance and pledged to conduct a new investigation into the case. However, there were difficulties obtaining police and army witnesses for committee hearings. In addition, by year's end, the RTG had not responded to a request for an explanation into Thanong's disappearance submitted by the U.N. High Commission on Human Rights (UNHCHR). In late January, the case formally was accepted by an independent committee chaired by former PM Anand Panyarachun, which has the power to provide compensation and recover remains, but not to bring perpetrators to justice.

In February 2000, following border clashes involving Burmese, Thai, and Karen forces, a large group of Karen crossed into the country seeking safety. Some of the Karen fighters were associated with a small splinter group, commonly referred to as God's Army. The Thai military reportedly separated 55 males from the group. The family members of those 55 males have had no word from them since that time. There were allegations that the 55 men were executed. However, no physical evidence was provided to support these claims. The Thai military stated that the group of 55 males voluntarily returned to Burma to continue their fight against the Burmese army.

In May 2000, as a result of a request made under the Official Information Act by the victims' families, the Government released the Defense Ministry's report on the military forces' suppression of political demonstrations in May 1992. The report provided no new information on the whereabouts of the remaining 38 prodemocracy protesters still listed as missing. In May activists marked the 10-year anniversary of the disappearances with renewed calls for the Government to provide more information on the fate of the 38 missing protesters. Most of those who disappeared, if not all of them, were presumed dead by family members and NGOs.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution and the Criminal Code prohibit such practices; however, NGOs and legal organizations continued to report that some members of the police occasionally beat suspects to coerce confessions. During the year, there were newspaper reports of 11 cases in which citizens accused police of brutality, threatening false charges, and extorting bribes. Investigations were undertaken in most of the cases, including several in which the accused police officers were suspended pending the result of the internal investigation. Authorities also investigated and prosecuted police officers accused of raping and extorting sex from female suspects in detention.

There were reports of police beatings of Akha villagers in Chiang Rai and of the mistreatment of other hill tribe villagers by army personnel in an RTA sponsored drug detoxification camp (see Sections 1.a. and 5).

In March two female refugees from Burma accused three soldiers of raping them in the woods outside of a refugee camp in Mae Hong Son Province. One of the alleged victims was 15-years-old and the other victim was 20-years-old at the time of the assault. The accused were standing trial at year's end. In May a migrant laborer from Burma accused a Border Patrol Police officer of sexually abusing her while she was detained for trying to enter the country illegally. The police opened an investigation into the incident. The case was dropped when the victim withdrew her complaint. In September a female detainee at a Bangkok police station accused a police officer of raping her while she was in custody. The officer was suspended from duty

and detained without bail; the incident remained under investigation at year's end and was expected to be forwarded to the public prosecutor. In May 2001, two women accused a police officer of raping them in jail while they were serving a sentence on drug charges. The officer was suspended from duty and released on bail. The rape case against him was still being tried at year's end.

Police and prosecutors continued to investigate a November 2000 incident in which villagers allegedly paid by the Government violently dispersed a protest by the NGO Assembly of the Poor at the Pak Moon dam, seriously injuring 4 protesters and burning more than 500 temporary shelters. However, according to activists, the only charges filed in the matter were against the demonstrators for trespassing on state property. Some of these cases were dismissed during the year; others remained in trial at year's end (*see* Section 2.b.).

Corruption remained widespread among police officers. Police officials complained that low pay for members of the police force made them susceptible to bribes.

Some corrupt police and soldiers were involved in prostitution and trafficking in women and children (*see* Sections 5 and 6.f.).

In July a bomb exploded in an empty train car in Yala. No one claimed responsibility and the police made no arrests in the case by year's end. On June 4, at least two high school students were killed when a school bus driving in Ratchaburi Province near the Burma border was attacked by three gunmen dressed in military fatigues. A 36-year-old Karen man, who admitted to possessing illegal firearms and entering the country illegally, but who denied firing shots at the bus, was arrested. At year's end, he still was in custody and awaiting trial while two other suspects still were being sought.

Prison conditions were poor but in general they did not pose a serious threat to the life or health of inmates. Already severe prison overcrowding worsened during the year due to increased numbers of persons imprisoned for drug-related offenses. The total prison population of approximately 256,000 inmates was housed in 156 prisons and detention centers, with a total design capacity of 100,000 prisoners. Sleeping accommodations and access to medical care remained areas of concern. Medical care in prisons was inadequate. The Corrections Department employed only 10 full-time doctors and 6 full-time dentists. There were 10 part-time doctors and 47 full-time nurses who supplemented the permanent medical staff. Prison authorities sometimes used solitary confinement to punish difficult prisoners. They also used heavy leg irons as a means of controlling and punishing prisoners. Credible sources continued to report that prisoners captured in escape attempts were beaten severely. Male and female prisoners in official detention centers and prisons were segregated. Juveniles were held separately in 34 of the 76 provinces, but they were tried in the same courts as adults (*see* Section 5). Men, women, and children often were held together in police station holding cells pending indictment.

Conditions in Bangkok's Suan Phlu Immigration Detention Center (IDC) improved during the year; however, conditions in nine provincial detention centers remained poor. Immigration detention facilities were not administered by the Department of Corrections and were not subject to many of the regulations that govern the regular prison system. There were credible reports of physical and sexual abuse of detainees by guards in some of the nine provincial detention centers. Overcrowding was a serious problem at all of the facilities.

Access to prisons was not restricted, and the Government permitted visits by independent human rights monitors and the International Committee of the Red Cross.

*d. Arbitrary Arrest, Detention, or Exile.*—With few exceptions, including crimes in progress, the law requires police officers making an arrest to have judicial warrants, and authorities generally respected this provision in practice. Under the Constitution, persons must be informed of likely charges against them immediately after arrest and must be allowed to inform someone of their arrest. Detainees have a right to have a lawyer present during questioning, and the police generally respected this right in practice. Foreign prisoners sometimes were forced to sign confessions without the benefit of a competent translator.

Police are required to submit criminal cases to prosecutors for the filing of court charges within 48 hours of arrest; however, the law also allows an extension period of up to 3 days. Police also may seek court permission to hold suspects for additional periods (up to a maximum of 82 days for the most serious offenses) to conduct investigations. In addition, laws and regulations place any offense for which the maximum penalty is less than 3 years under the jurisdiction of the district courts, which have different procedures. In these cases, police are required to submit cases to public prosecutors within 72 hours of arrest. Lawyers reported that the police rarely brought their cases to court within the 48-hour period. There is a functioning bail system. In August several Bangkok-based NGOs reported that police raided offices

of two Burmese dissident groups. Several persons were detained. Most carried no documents of their nationality or immigration status. Some subsequently were released while others were released at the border. The police did not turn the dissidents over to the Burmese authorities. It remained unclear who ordered the arrest of the dissidents and whether it was a deliberate attempt to suppress anti-Rangoon political organizations operating in the country. During the year, several Burmese activists were arrested (*see* Sections 2.b. and 4).

The Anti-Communist Activities Act, which formerly provided the only legal basis for detention by the police without specific charges for long periods (up to 480 days), expired in June 2001.

Approximately 28 percent of the total prison population were pretrial detainees. Pretrial detainees usually were not segregated from the general prison population. Pretrial detention of criminal suspects for up to 60 days was common. Some foreigners from countries without diplomatic representatives in the country faced trial delays of up to 8 months (*see* Section 1.c.).

The Constitution prohibits forced exile and the Government did not use forced exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, while the judiciary generally was regarded as independent, it sometimes was subject to corruption. In April the press reported that two judges were suspended from their duties on charges of abuse of power and malfeasance, and that a third was under investigation on similar charges.

The civilian judicial system has three levels of courts, as well as an independent Constitutional Court: courts of first instance; courts of appeal; and the Supreme Court. A separate military court hears criminal and civil cases pertaining to military personnel as well as those brought during periods of martial law (last imposed in 1992). There is no right to appeal military court decisions. The Constitutional Court, charged with interpreting the Constitution, began operating in 1998. In August 2000, the courts became fully independent of the Ministry of Justice and responsible for their own administration and budget. Islamic (Shari'a) courts hear only civil cases concerning members of the Muslim minority. Access to courts or administrative bodies to seek redress is provided for and respected.

There is no trial by jury. A single judge decides trials for misdemeanors, and two or more judges are required for more serious cases. Trials often require years to complete because they run sporadically, typically convening for a single day every few months. While most trials are public, the court may order a closed trial. This is done most often in cases involving national security or the royal family. Justices nominated to both the Constitutional Court and the Supreme Administrative Court must be confirmed by the Senate; judges at all other levels are career civil servants whose appointments are not subject to parliamentary review.

The Constitution provides for the presumption of innocence. Defendants tried in ordinary criminal courts enjoy a broad range of legal rights, including access to a lawyer of their choosing. A government program provided free legal advice to the poor, but indigent defendants are not provided with counsel at public expense automatically. Most free legal aid comes from private groups, including the Law Society of Thailand and the Thai Women Lawyers Association.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Except for limited exceptions, the Constitution prohibits such actions, and the Government generally respected these prohibitions in practice. With a few exceptions, including crimes in progress, the Constitution requires police to obtain a warrant from a court prior to conducting a search. During the year, the Criminal Procedure Code was amended to standardize procedures for issuing warrants. All warrants are issued by the courts rather than by the police.

NGOs concerned with the welfare of highlanders reported that police and military units carried out several warrantless searches of villages for narcotics in northern provinces during the year. Such operations are permitted under both the Constitution and the Narcotics Prevention and Suppression Act of 1976 in cases in which there is reasonable suspicion and an urgent search is deemed necessary. However, some academic groups claimed that the searches were arbitrary and violated the villagers' civil rights. The Anti-Communist Activities Act, which allowed officials to engage in "Communist suppression operations" to conduct searches without warrants, expired in June 2001 and was not replaced with a similar law (*see* Section 1.d.). In July an activist working to promote citizenship for hill tribe people was detained briefly by the police in Chiang Mai, who then searched her home and her mother's home for narcotics. The activist believed that the police actions were a form of official harassment intended to discourage her work on behalf of stateless hill tribe peo-

ple. The Chiang Mai provincial police commander and the NHRC launched separate investigations that were ongoing at the end of the year. In June 2001, the National Counter Corruption Commission found two Telephone Organization of Thailand technicians responsible for malfeasance in the June 2000 wiretapping of the residential telephone of Wira Somkhwamkhit, an anticorruption activist (*see* Section 4).

Security services monitored persons, including foreign visitors, who espoused extremist or highly controversial views.

*Section 2. Respect For Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for a large measure of freedom of speech and freedom of the press, and the Government generally respected these rights in practice, although several media outlets perceived to be critical of the current government came under pressure during the year. The Government may restrict freedom of speech and freedom of the press to preserve national security, to maintain public order, to preserve the rights of others, to protect public morals, to prohibit criticism of the royal family, or to prevent insults to Buddhism.

The Constitution makes it unlawful for the Government to censor, ban, license, or restrict print or broadcast media, except by specific legislation in times of crisis. While newspapers and periodicals practiced some self-censorship, especially with regard to the monarchy and issues involving national security, media criticism of political parties, public figures, and the Government was common and vigorous. During the year, there were no cases of violence or physical intimidation against members of the press.

Journalists generally were free to comment on governmental activities without fear of official reprisal, although there were attempts by the Government to suppress journalists or publications perceived to be critical of government officials or their families.

In February the Government revoked the visas of two resident foreign journalists who reported for the Far Eastern Economic Review, on the basis that their presence in the country was a threat to national security and social stability. The Hong Kong-based editor and the publisher of the magazine also were placed on an immigration “blacklist” following the January publication of an unattributed, one-paragraph piece that reported on alleged disagreements between the Prime Minister and the King. The police confiscated the edition of the magazine that ran the article from newsstands. The visa cancellation order was rescinded and the journalists were removed from the blacklist after the magazine’s editors issued a letter of apology to Parliament.

During the year, the Government’s Anti-Money Laundering Office (AMLO) ordered 17 banks to provide information concerning the financial activities of prominent journalists and leaders of some NGOs considered to be critics of the Government. Critics alleged that the AMLO, which has the authority to investigate persons suspected of money laundering, did not have probable cause to investigate the journalists or the activists. The AMLO dropped the controversial asset probes shortly before the Administrative Court issued an injunction to halt the investigations. A government panel established to investigate the scandal eventually exonerated the staff of the AMLO. Nonetheless, several of the journalists and activists targeted initiated civil suits against the AMLO and its top officials. The lawsuits were ongoing at year’s end. In March the publisher of Naeo Na newspaper revealed that the Prime Minister asked him to drop a popular column harshly critical of the Government. The publisher refused to drop the column, and the Government took no action against him or his newspaper.

During the year, the Police Special Branch did not issue any warnings to publications for violations of the 1941 Printing and Advertisement Act such as disturbing the peace, interfering with public safety, and offending public morals. However, the local distributor of the British publication *The Economist* voluntarily decided not to distribute the March 2 edition of the magazine, which featured a special survey on the country that included commentary on the Royal Family.

In March 2001, the *Nation* newspaper received a telephone call from the Special Branch, which accused the newspaper of endangering national security for printing a story critical of Foreign Minister Surakiart Sathirathai’s trip to Burma. In July 2001, the newspapers *Thai Rath* and *Krungthep Turakit* received warning letters from the Special Branch after they made reference to a Reuters wire service article that speculated on the consequences if Prime Minister Thaksin Shinawatra was found guilty of assets concealment by the Constitutional Court. The case of four noncommissioned army officers arrested in the April 2000 nonfatal shooting of the Editor in Chief of the Chiang Mai daily newspaper *Pak Nua* was being tried at year’s end. The editor believed that his repeated critical reporting on the local government led to the assault. NGOs criticized the Government for the slow pace of

the trial and the lack of followup in key areas of the investigation of the attempted killing. Two other civilian suspects wanted for questioning by police remained at large.

The Printing and Advertisement Act permits police closure of newspapers or printing presses in times of war or national emergency, but only with a court order. No such closures occurred during the year. The Juridical Council approved the revocation of the act, but final revocation awaits approval by the Council of State.

The law allows police to restrict or to confiscate printed publications and other materials deemed obscene; the interpretation generally was limited to hardcore pornographic material.

Domestic publications continued to present a wide range of political and social commentary. Unless critical of the Royal Family or the Monarchy, foreign and domestic books normally were not censored and circulated freely. Police had the authority to ban the importation of publications but generally did not exercise it. In June 2001, the 1952 Anti-Communist Activities Act, which was created to counter the threat of communism through media restriction, expired.

Radio and television stations enjoy the same constitutional protections of freedom of expression and freedom of speech as the print media. The Government licenses all radio and television stations, and most are operated under the direct or indirect oversight of the Government or the armed forces. Radio and television station profits are retained by organizations that control frequencies, such as government ministries, universities, and the military services.

Ownership of media outlets by governmental and quasi-governmental entities undermined freedom of press provisions several times during the year. There was one cable television network that was owned by the Nation Multimedia Group and operates exclusively on cable television. In March Nation TV's broadcast of an interview with a strident critic of the Government was interrupted, although simultaneous radio broadcast of the interview continued. The Military Energy Department, which owned the radio frequency used by the Nation Multimedia Group, subsequently directed the concession holder to remove all Nation news programs containing commentary or talk programming from their radio station. The Mass Communications Authority of Thailand, the quasi-governmental corporation that owned the cable television broadcast syndicate the United Broadcasting Corporation (UBC) directed UBC officials to ban five journalists, all critics of the Government, from appearing on Nation Television.

The Constitution calls for fewer restrictions on broadcast media and the establishment of an independent National Broadcasting Commission (NBC) to oversee frequency management. The seven Commission members were expected to be selected from four broad categories: the Government, broadcasting, NGOs, and universities. Selection of the NBC was postponed due to a lawsuit filed in the Administrative Court in 2001 alleging conflict of interest and corruption in the nomination process. In March the Administrative Court ruled in favor of the plaintiff and ordered the rejection of all of the proposed candidates. The case remained under appeal at year's end. The NBC was to be authorized to redistribute frequencies previously controlled by the Government to eligible organizations or individuals in the country. The media criticized the proposed implementation regulations, arguing that they contained broad censorship powers and allowed the Government to retain a large number of its frequencies.

Repeated delays in the implementation of broadcast media reform contained in the 1997 Constitution resulted in attempts by some community radio broadcasters to establish their own small studios and transmitters. Because current broadcast regulations restrict radio frequencies to government entities, these independent community radio stations technically are illegal. During the year, several independent community radio broadcasters requested legislative intervention after receiving cease and desist notices from the Public Relations Department. Parliamentary hearings were scheduled for late in the year. At year's end, about 60 (of 200) community radio stations continued to operate. By year's end, there still was no implementing legislation for broadcast media reform.

The military services retain 40 to 50 radio and television frequencies for national security purposes, despite assurances by the civil authorities that the military services may use all broadcasting frequencies in the event of a national emergency without the need to own them.

Radio stations must renew their licenses every year, and their signals are broadcast via government transmitters. They are required by law to broadcast government-produced newscasts twice daily, 30 minutes each in the morning and evening.

There was one cable network which was autonomous. However, one of the principal owners maintained closed ties to the Prime Minister.



There was one independent, noncable television station, Independent Television (ITV); its managing shareholder was Shin Corporation, which was owned by the Prime Minister's family. Programmers generally were free to determine the nature and content of television broadcasts. Stations occasionally censored or "blacked out" portions of programming that they deemed politically sensitive or pornographic. Such self-censorship was more common at state-controlled stations. In February 2001, 21 ITV staff members were fired one day after they formed a union and publicly complained of political interference in the station's editorial content (see Section 6.a.). The station's management cited breach of company regulations and restructuring as the basis for the firings. In September the central labor court ordered that the 21 union members fired by ITV be reinstated (see Section 6.a.). In August 2001, the Thai Broadcast Journalist Association filed a lawsuit against the Prime Minister in the Administrative Court, accusing him of 14 instances of editorial interference that violated the constitutional provision of press freedom. The case was pending at year's end. A censorship board existed as part of the office of the Prime Minister; however, it rarely formally restricted television or radio broadcasts. It advised broadcasters either verbally or by letter of specific programs deemed inappropriate or offensive, and advised the programmer to be more careful in the future.

Under the 1930 Film Act, theater owners and broadcasters must submit films that they plan to show to the film censorship board for review. The board is composed of officials representing the Ministry of Education, the Ministry of University Affairs, the military, the Department of Religious Affairs, and the Ministry of Foreign Affairs. The board may ban films if its requirements that portions of the film be removed are not met. Reasons for censoring films include violating moral and cultural norms and disturbing the public order and national security. Theater owners and broadcasters frequently censor films themselves before submitting them to the board. According to the office of the Film Censorship Board, of the 185 films submitted for review in 2001, 2 were banned.

Activity on the Internet remained unregulated. As of the end of 2001, according to the National Electronics and Computer Technology Center, an estimated 3.5 million persons used the Internet.

The Constitution provides for the right to engage in academic pursuits, and academic freedom generally was respected. The Ministry of Education edits public school textbooks. No textbooks were censored during the year. However, in February, police officers and officials from the Ministries of University Affairs and Defense visited the office of Assumption University's ABAC Polls, a well-respected survey organization, following the release of public opinion poll results about leading political figures. The officials requested to see the results of future polls before they were released. ABAC Polls chose not to comply with the request and did not experience any subsequent ramifications.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the right of peaceful assembly, and the Government generally respected this right in practice. Permits are not required for private meetings or gatherings unless held on public property or organized by foreign nationals; these are granted routinely.

In November 2000, in Ubon Ratchanthani Province, villagers allegedly paid by the Government's electric power authority violently dispersed a longstanding protest at the Pak Moon dam by the Assembly of the Poor, an NGO focusing on issues of poverty and the environment. The villagers seriously injured 4 protesters and burned more than 500 temporary shelters. The protesters argued that the dam displaced local residents and negatively affected their livelihoods and the environment. At year's end, charges were brought against the protesters, several of whom were charged with trespassing on state property. On December 20, several protesters and 15 police officers were injured during a protest in Hat Yai against building the Thai-Malaysia pipeline. Twelve protest leaders were arrested and subsequently released on bail. Human rights organizations, media, student groups, and NGOs criticized the alleged brutality and Prime Minister Thaksin's support of the police. On December 22, the Prime Minister said that the Government was willing to work with NGOs, but would blacklist and take serious action against any groups and "mob leaders" condoning the use of violence. On December 23, a Commissioner of the NHRC said that he would set up a sub-committee to investigate the incident. Also in December, 21 Burmese activists were arrested when police in Mae Hong Son broke up a meeting commemorating International Human Rights Day. Seven of the activists were released, while 13 others were tried and taken to the border for repatriation. At year's end, the organizer of the meeting remained in police custody (see Section 1.d).

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Private associations must register with the Government; such registration was approved routinely.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice; however, it restricted the activities of some groups. The Constitution requires that the monarch be a Buddhist. The state religion is in effect Theravada Buddhism; however, it is not designated as such.

The Government played an active role in religious affairs. The Religious Affairs Department (RAD), which is located in the Ministry of Education, registered religious organizations. To register a religious organization first must be accepted into an officially recognized ecclesiastical group. There were seven such groups, including one for Buddhists, one for Muslims, one for Catholics, and four for Protestant denominations. Government registration conferred some benefits, including access to state subsidies, tax-exempt status, and preferential allocation of resident visas for organization officials. Although some activities of groups that were not accepted into one of the existing recognized groups were restricted, in general, unregistered religious organizations operated freely. There were no reports of the extortion of unregistered groups by local officials during the year.

Under the provisions of the Religious Organizations Act, the RAD recognizes a new religion if a national census shows that it has at least 5,000 adherents, a uniquely recognizable theology, and is not active politically. However, since 1984 the Government has maintained a policy of not recognizing any new religious faiths. This restricted the activities of some groups that were not accepted into one of the existing religious governing bodies on doctrinal or other grounds.

The Constitution requires the Government “to patronize and protect Buddhism and other religions.” The Government subsidized the activities of the three largest religious communities (Buddhist, Islamic, and Christian). Since mid-2001 the Government has provided more than \$52 million (2.2 billion baht) to support Buddhist and Muslim institutes of higher education; to fund religious education programs in public and private schools; to provide daily allowances for monks and Muslim clerics who hold administrative and senior ecclesiastical posts; and to subsidize travel and healthcare for monks and Muslim clerics. This figure also included an annual budget for the renovation and repair of Buddhist temples and Muslim mosques, the maintenance of historic Buddhist sites, and the daily upkeep of the Central Mosque in Pattani.

During the year, the Government also provided \$66,000 (3 million baht) to Christian organizations to support social welfare projects. Catholic and Protestant churches may request government support for renovation and repair work but do not receive a regular budget to maintain church buildings nor do they receive government assistance to support their clergy. The Government considered donations made to maintain Buddhist, Muslim, or Christian buildings to be tax-free income; contributions for these purposes were also tax-deductible for private donors.

Religious instruction is required in public schools at both the primary (grades 1 through 6) and secondary (grades 7 through 12) education levels. Instruction is limited to Buddhism and Islam.

In February 2001, Falun Gong members voluntarily decided not to proceed with plans to organize an international meeting in Bangkok, originally proposed for April. Their decision was in response to unofficial indications from the Government that it did not favor such a conference. In the past, the Government has investigated religious groups alleged to be engaged in “cult” activities.

The Government permitted foreign missionary groups to work freely throughout the country, although it also maintained policies that favored proselytizing by citizens. The number of foreign missionaries officially registered with the Government is limited to a quota that originally was established by the RAD in 1982. The quota is divided along both religious and denominational lines, but religious organizations reported that unregistered missionaries were able to proselytize during the year. Activities of Muslim professors and clerics were subjected disproportionately to scrutiny on national security grounds because of continued government concern about the potential resurgence of Muslim separatist activities in the south.

Muslims, who represented between 5 and 10 percent of the country’s population nationwide and constituted the majority in four of the five southernmost provinces that border Malaysia, also experienced some economic discrimination. The Government continued to address the problem by maintaining longstanding policies designed to integrate Muslim communities into society through developmental efforts and expanded educational opportunities.

Muslim female civil servants were not permitted to wear headscarves when dressed in civil servant uniforms. Muslim female civil servants who were not required to wear uniforms were allowed to wear headscarves. In practice, most female civil servants were permitted by their supervisors to wear headscarves if they wished to do so, particularly in the country’s southernmost provinces.

Women were not permitted to be ordained as monks. In addition, many religious schools only accepted males (*see* Section 5).

Laws prohibiting speech likely to insult Buddhism remained in place. The police have authority under the law to issue written warnings or orders suspending the publication or distribution of printed materials considered offensive to public morals; however, they did not use it to restrict the publication or distribution of religious literature during the year.

For a more detailed discussion, see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for the right of citizens to change their residence or workplace, and authorities generally respected this right in practice; however, there were some exceptions. Longstanding written restrictions on the travel and domicile of certain Vietnamese resident aliens who immigrated to the country in 1945 and 1946, and Chinese who immigrated between 1953 and 1961, remained in place. In addition, other longtime noncitizen residents, including hundreds of thousands of ethnic Shan and tens of thousands of other tribal members, officially are required to seek permission from local authorities or the army for foreign and domestic travel. In practice authorities rarely enforced these restrictive measures. Registered resident aliens moved freely within the country.

The Government limited the sectors and provinces in which migrant workers may hold jobs. The Government deported thousands of migrant workers and families during the year. However, NGOs and the International Organization for Migration (IOM) reported that a large number of those deported later returned to the country (*see* Section 6.e.).

The Government did not extend displaced person status to the large number of members of the Shan ethnic minority who crossed the border fleeing the effects of forced relocation and sporadic fighting in Shan State, Burma. However, in May the Government granted temporary shelter to approximately 450 Shan who fled fighting in Burma across the border from Chiang Mai Province. In June the Government announced plans to repatriate the group. The Government later delayed the repatriation following an appeal by NGOs.

The country is not a signatory to the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol. There is no legislation regarding the treatment of refugees. However, the Government continued to provide first asylum to a small number of Lao asylum seekers. The Government continued to allow the U.N. High Commissioner for Refugees (UNHCR) to monitor and provide protection to 133,000 Burmese refugees designated by the Government and the UNHCR as displaced persons in 10 camps along its frontier with Burma. However, the Government prohibits the UNHCR from maintaining a permanent presence in the border camps.

Along the border with Burma, the Government generally followed its policy of providing first asylum to new displaced arrivals. In 1999 provincial screening committees were established to determine eligibility to enter the refugee border camps based upon very narrow criteria, limited to those who flee actual fighting rather than on broader grounds of persecution on the basis of race, religion, ethnic group, social class, or political opinion. However, Ministry of Interior officials in the border provinces opted not to convene new boards during the year, causing the unregistered population in the refugee camps to increase substantially.

In June and August 2000, the Government forcibly repatriated 116 Burmese deemed ineligible for assistance. The UNHCR unsuccessfully appealed on behalf of those asylum seekers. Most of those who returned to Burma reportedly returned to the camps. In January the Maneeloy Burmese Center located in Ratchaburi Province and which housed Burmese “student” refugees was closed and the residual population was transferred to the refugee camp Tham Hin located near the border with Burma. Tham Hin housed more than 9,300 persons from Burma, mostly Karen. A new section was created to receive the Maneeloy residual population.

The Government continued to allow NGOs to provide food, medical services, housing, and other services to Burmese refugees near the border. However, the Government did not allow NGOs to aid ethnic Shan refugees. Government officials periodically arrested Burmese outside designated camps as illegal aliens, including some recognized as “persons of concern” by the UNHCR. Those arrested generally were taken to the border and released.

The Government maintained a blacklist of persons who were not permitted entry into the country (*see* Section 2.a.).

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

The Constitution provides for the right of citizens to choose or change their government peacefully through free and fair elections based on universal suffrage. The country is a democratically governed constitutional monarchy. Since 1992 there have been five national multiparty elections, which transferred power to successive governments through peaceful, democratic processes. The King exerts strong informal influence but never has used his constitutionally mandated power to veto legislation or dissolve the elected bicameral Parliament. Voting is compulsory. Eligible voters who fail to exercise their voting responsibilities, except for those excused, are subject to the loss of certain rights, including the right to be a candidate in future elections. However, the Constitution prohibits Buddhist monks and nuns from seeking public office. Parliamentary elections were held in January 2001. The election process generally was viewed as free and fair; however, it was marred by widespread vote buying, a recurrent problem. Exercising its constitutional mandate to prevent election fraud, the Election Commission dismissed polling results and held a total of 5 rounds of revotes in 72 constituencies due to "election irregularities." There also were 25 killings of political canvassers during the campaign leading up to the 2001 elections, at least some of which were motivated politically (*see* Section 1.a.). In February 2001, the coalition government of Prime Minister Thaksin Shinawatra's Thai Rak Thai Party was formed.

In August 2000, the first directly elected Senate took office. The Senate election required multiple rounds of voting for some districts because the Election Commission voided some results due to irregularities such as evidence of vote buying. In October 2000, the Constitutional Court ruled that the Election Commission could disqualify a candidate whom the Commission finds guilty of electoral irregularities.

While there were no legal restrictions on their political participation, the percentage of women in government or politics does not reflect accurately their numbers in the population, especially at senior levels in the national government. There were 45 women among the 500 members of the House of Representatives, and 20 women in the 200 member Senate. There were 3 women in the 36 member Cabinet. Although over half of civil service employees were women, relatively few held senior positions.

No laws prohibited the political participation of ethnic minorities, but few held positions of authority in national politics. Muslims from the south hold significant elected posts in the Government, although they continued to be underrepresented in appointed local and provincial government positions. There were 8 Muslim Senators and 22 Muslim Members of House of Representatives, including Interior Minister Wan Muhamad Noor Matha. Two Members of Parliament were hill tribesmen.

Noncitizen members of hill tribes were barred from participating in the political process (*see* Section 5).

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights organizations generally work without government restriction, investigating and publishing their findings on human rights cases freely. Government officials generally were cooperative and responsive to their views; however, at times the Government hindered the activity of a few human rights groups.

There were several NGO human rights groups that were effective in drawing international attention to perceived human rights violations. In many cases they brought such violations to the attention of the NHRC as well as to the media. In general NGOs were allowed to operate freely. However, NGOs that dealt with sensitive political issues, such as the Burmese democracy movement, faced considerable harassment. In addition, Amnesty International and other NGOs were critical of what they alleged to be the Government's use of anti-money laundering laws to investigate and harass NGO leaders.

Very few NGOs were accorded tax-exempt status, and this sometimes hampered the ability of domestic human rights organizations to secure adequate funding.

In August the police simultaneously raided three or four houses in the border town of Sankhlaburi which were being used as offices by NGOs working to promote democracy in Burma. Police detained 31 Burmese democracy activists and confiscated office equipment and files. All were taken to the border and released. The police did not hand them over to the Burmese authorities (*see* Section 1.d.).

The 11 member NHRC convened for the first time in July 2001. It operated as a separate government entity to prepare an annual evaluation of the human rights situation for the National Assembly, to propose policies and recommendations for amending laws to the National Assembly, to promote measures to educate citizens

on human rights, and to investigate human rights abuses. Although the Commission received over 300 petitions during its first year in existence, modest staffing and resources, as well as the lack of power to prosecute or to punish violators, hampered its ability to carry out its mandate.

In June 2001, the National Countercorruption Commission found two Telephone Organization of Thailand (TOT) technicians responsible for criminal and disciplinary violations in connection with the wiretap surveillance of Wira Somkwamkhit, Chairman of the People's Rights Protection Group, an anticorruption NGO. Wira was investigating corruption charges against former Deputy Prime Minister Sanan Khrachonprasat, who was forced to resign after the Commission found that he falsified financial statements. Although the two technicians were fired by TOT, the Commission was unable to identify the person who ordered the wiretaps by year's end (*see* Section 1.f.).

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution provides for equal treatment under the law without respect to race, sex, religion, disability, language, or social status; however, in practice some discrimination existed, and government enforcement of equal protection statutes was uneven.

*Women.*—Domestic abuse continued to be a serious problem affecting the welfare of many women; reliable reports indicated that domestic abuse occurred across all social classes. Specific laws concerning domestic violence have not been enacted. Spousal and child abuse are covered by assault provisions in the Criminal Code, but rules of evidence often made prosecuting such cases difficult. Police did not enforce laws against such violence vigorously, and domestic violence often went unreported, because many victims and law enforcement personnel continued to regard domestic abuse as a private matter rather than a legal one. NGO-supported programs designed to aid victims included emergency hotlines, temporary shelters, counseling services, and a television program designed to increase awareness of domestic violence, HIV/AIDS, and other issues involving women. The Government's "one-stop" crisis centers, located in state-run hospitals, continued to care for abused women and children, but faced budget difficulties.

Rape is illegal. However, a husband may not be prosecuted for spousal rape. According to academics and women's rights activists, rapes and domestic assaults were underreported, in part because law enforcement agencies widely were perceived to be incapable of bringing perpetrators to justice. Police sought to change this perception and encouraged women to report sexual crimes through the use of teams of female police officers that operate in metropolitan Bangkok police stations, with a total of 20 female investigators. During 2001 the police expanded this program to three provinces by adding an additional nine female officers.

Prostitution is illegal but flourishes. It often was protected by local officials with a commercial interest in it (*see* Sections 1.c. and 6.f.). Trafficking in women and children for prostitution was a serious problem (*see* Section 6.f.). Government and NGO estimates of the number of women and children engaged in prostitution varied widely. Many NGOs and government departments reported a figure of 200,000 persons, which was considered conservative. This figure included children under 18 years of age and foreigners. There were reports that women were forced into prostitution in border areas, but the number of such cases was difficult to determine. The majority of prostitutes were not kept under physical constraint, but a large number worked under debt bondage (*see* Sections 6.f.). The 1996 Prostitution Prevention and Suppression Act makes child prostitution illegal and states that customers who patronize child prostitutes are subject to criminal sanctions. Parents who allow a child to enter the trade also are subject to criminal sanctions, but the number of prosecutions remained low. NGOs and government agencies provided shelter, rehabilitation, and reintegration programs for children and women involved in the sex industry.

Sex tourism was a problem (*see* Section 6.f.).

The 1998 Labor Protection Act makes sexual harassment illegal, but covers only persons working in the private sector. NGOs claimed that the term was vague and that such ambiguity made the prosecution of harassment claims difficult. No sexual harassment cases were prosecuted under the law during the year. However, in September, a female journalist accused a senior political figure of sexual harassment. The politician in turn filed a libel lawsuit against her newspaper. The case was pending at year's end. Extensive media coverage of the case suggested that public awareness of the issue was increasing.

The Constitution provides women with equal rights and protections, but some inequalities in the law remained. A man may sue for divorce on the grounds that his wife committed adultery, but a woman faces the additional legal burden of proving that her husband has acknowledged publicly another woman as his wife.

Women had equal access to higher education, and more than half of the university graduates this year were women. However, police and military academies (except for the nursing academy) did not accept female students, although a significant number of instructors at the military academies were women. Women constituted 44 percent of the labor force and held an increasing share of professional positions. Women also were able to own and manage businesses freely. Government regulations require employers to pay equal wages and benefits for equal work, regardless of gender. Nonetheless, discrimination in hiring was common, and there was a significant gap between the average salaries earned by men and women, because women were concentrated in lower paying jobs. In practice women also received lower pay for equal work in virtually all sectors of the economy. According to the Legal Affairs Division of the Thai Civil Service Commission, a civil servant must "dress properly." In June a parliamentary committee ruled that women Members of Parliament were allowed to wear trousers while in Parliament.

The Constitution specifies that at least one-third of the members of the NHRC be women; during the year, 5 of the 11 commissioners were women. The Women and Constitution Network, a league of 35 women's organizations, advocated legal reforms to address inequities in the treatment of women. It continued to play an important role in securing the inclusion of gender-equality clauses in legislation that created new government organizations mandated by the 1997 Constitution.

*Children.*—In recent years, the Government took steps to promote the rights and welfare of children. The Constitution provides for the right of access to free public education through grade 12, and the Government mandates 9 years of compulsory education. However, only an estimated 23 percent of children completed grade 6, and 10 percent completed grade 12. The Government's 1997 Social Welfare Plan for Underprivileged People doubled the budget for children's programs for 1997–2001, compared with the previous 5-year plan. Young girls were barred from religious schools which were often the only form of education for impoverished children. Although special juvenile courts and detention centers existed in 34 provinces, children were tried in the same courts as adults and detained with adults in the rest of the country (*see* Section 1.d.).

The Criminal Code provides for the protection of children from abuse, and laws on rape and abandonment provide for harsher penalties if the victim is a child. In May a police lieutenant colonel and a sergeant were arrested and charged with statutory rape in the case of a 12-year-old girl sold into prostitution by her mother (*see* Section 6.f.). During the year, police were reluctant to investigate abuse cases, and rules of evidence made prosecution of child abuse cases difficult. In September 2000, legislation designed to protect witnesses, victims, and offenders under the age of 18 came into effect. The procedures allow children to testify on videotape in private surroundings in the presence of a psychologist, a psychiatrist, or another social worker. However, some judges refused to allow video testimony in their courts. Persons charged with pedophilia are charged under appropriate age of consent and prostitution laws. Victims' testimony is handled under the provisions of the Child Friendly Procedure Act.

Trafficking in children, including for prostitution, was a serious problem (*see* Section 6.f.). Pedophilia, both by citizens and by foreign sex tourists, continued. The Government, university researchers, and NGOs estimated that there were as many as 30,000 to 40,000 prostitutes under 18 years of age. The Prostitution Prevention and Suppression Act of 1996 made child prostitution illegal and provided for criminal punishment for those who use child prostitutes. Parents who allow a child to enter the trade also are punishable. In September the mother of two underage daughters, who provided them to sex tourists in Mae Sai in November 2000, was sentenced to 5 years in prison.

Child labor remained a problem, and some international organizations, government-funded research organizations, and news media continued to report on the large number of children leaving school for economic reasons (*see* Section 6.d.).

In late 2001, the Department of Public Welfare and the International Labor Organization-International Program for the Elimination of Child Labor (ILO-IPEC) estimated that as many as 20,000 children lived in the streets of the major urban centers. Many were thought to come from neighboring countries, including Cambodia and Burma. Although Bangkok authorities attempted to provide shelters, resources were inadequate and many of the children reportedly avoided the shelters for fear of being detained and expelled from the country.

There were many local NGOs that worked to promote children's rights in the country. Employers' organizations, such as the Employer's Confederation of Thailand, also were involved in child labor issues. These organizations received good working support from the Government.

*Persons with Disabilities.*—The Constitution provides for access to public facilities and prohibits employment and education discrimination against persons with disabilities; however, the Government did not enforce these laws effectively.

In May the Constitutional Court upheld a judicial personnel law blocking persons with physical disabilities from becoming judges. The case was brought to the highest court after two persons with physical disabilities were denied the right to sit for the examination to become judicial officials. The Constitutional Court ruled that the personnel law does not contravene the Constitution, which proscribes unjust discrimination against a person on the grounds of physical or health conditions. At year's end, activists were appealing to Parliament to amend laws that allowed employment discrimination against persons with disabilities.

During the year, an estimated 145,000 children with disabilities attended school, with approximately 130,000 of them enrolled in 4,000 regular public schools equipped to accommodate students with physical disabilities. Nationwide, there were 9 government operated and 16 NGO operated training centers for persons with disabilities. However, with little education, very few adults with disabilities were able to find employment. Many of those who did find employment were subjected to wage discrimination. The law requires that private firms hire 1 person with a disability for every 200 other workers or contribute to a fund that benefits persons with disabilities, but this provision has not been enforced since it came into effect in 1991. Government officials estimated that between 20 and 30 percent of firms disregard the law. Some state enterprises had discriminatory hiring policies.

The Constitution mandates access to public buildings for persons with disabilities, but laws implementing the provisions have not yet been enacted. The 1999 regulation that makes compliance mandatory was not enforced during the year. Persons with disabilities who register with the Government are entitled to free medical examinations, wheelchairs, and crutches.

*Indigenous Persons.*—Members of hill tribes without proper documentation, who accounted for approximately half of the estimated 1 million members of hill tribes, still faced restrictions on their movement, may not own land, and were not protected by labor laws, including minimum wage requirements. They sometimes were denied adequate education and health care. Those residing in national parks or wildlife sanctuaries were subject to eviction. As noncitizen residents, they also were barred from participating in the political process (see Section 3).

In May 2000, the MOI redefined the category of hill tribe residents eligible for citizenship to include previously undocumented tribal persons, now collectively called "highlanders." The new definition includes persons who formerly were defined either as indigenous or migrants. The new regulations were supposed to ease the requirements to establish citizenship by allowing a wider range of evidence, including testimony from references, and empowering local officials to decide cases. However, activists reported that widespread corruption and inefficiency at all levels, including among highland village headmen and government officials, caused the Government to miss the August deadline for citizenship processing for certain groups of resident alien hill tribe members. The Government extended the deadline to August 2003.

In March the Ministry of Interior revoked the citizenship of 1,243 persons in Mae Ai district, Chiang Mai Province. Government officials claimed that irregularities in the issuance of their identification documents invalidated their claim to citizenship. NGOs petitioned the Government to review each case on an individual basis to avoid penalizing persons entitled to citizenship. By year's end, several individuals had successfully regained their citizenship after proving their parents were Thai.

Societal discrimination against hill tribe members, arising from widely held beliefs that they were involved in drug trafficking and environmental degradation continued. Hill tribes occasionally were subjected to indiscriminate searches of villages for illegal drugs (see Sections 1.a. and 1.f.). There were several allegations of mistreatment and abuse by the Third Army's Pha Muang Task Force, which jointly administers the hill tribe drug detoxification program with the Ministry of Public Health, the police, and the Ministry of the Interior. In Chiang Rai, provincial authorities require all drug addicts to register with village committees and to join the program. Those who registered were granted immunity from prosecution. The program was aimed at separating drug addicts from the traffickers. The army publicly acknowledged mistreatment occurred and promised to punish those found responsible for such abuses (see Section 1.a.).

*National/Racial/Ethnic Minorities.*—The Sino-Thai population was well integrated and did not face discrimination. However, about 50,000 former Chinese soldiers and dependents of the Kuomintang army who fled China after the Communist takeover and approximately 45,000 Vietnamese immigrants who resided in 5 north-

eastern provinces lived under a set of laws and regulations that restricted their movement, residence, education, and occupation; however, these laws rarely were enforced (see Section 2.d.). According to government sources, over 22,600 children of Vietnamese immigrants and 6,209 children of Chinese Kuomintang immigrants from these groups have been naturalized. The Ministry of Interior suspended the naturalization program in December 1999, leaving many cases unresolved.

*Section 6. Worker Rights*

*a. The Right of Association.*—The 1975 Labor Relations Act grants freedom of association to all private sector workers, who have the right to form and join unions of their choosing without prior authorization. However, the law did not explicitly protect workers who participated in organizing unions that were not registered officially from discrimination. Union leaders reported that employers often discriminated against workers seeking to organize unions. During the year, employers used loopholes in the Labor Relations Act to fire union leaders prior to government certification of unions.

In September the Central Labor Court ruled that 21 union members fired by ITV, a television station majority owned by the Prime Minister's family, be reinstated to their former positions. The ruling mirrored recommendations made in March by the International Labor Organization Committee on Freedom of Association (ILO/CFA). The workers alleged that they were fired for protesting political interference in news reports. The layoffs took place 1 day after the workers registered a new union in February 2001 (see section 2.a.).

In March ILO/CFA accepted its second-ever case from the country. Privatization of the state enterprise petroleum company resulted in a legal ruling dissolving the 200-member union at a subsidiary entity. The union rejected the Government's recommendation to re-register under the deficient law covering the private sector, citing concern that the ruling was an important precedent for other state enterprises scheduled for privatization. Loopholes in the 1975 LRA, which provide less legal protection to newly formed unions were of particular concern. CFA recommendations were pending at year's end.

Less than 2 percent of the total work force, but nearly 11 percent of industrial workers and over 50 percent of state enterprise workers, were unionized. Cultural traditions, unfamiliarity with the concept of industrial relations, efforts by the Government to diminish union cohesiveness, and the majority share of total employment that is in the agricultural and informal sectors often were cited as reasons for low rates of labor organization.

State enterprise unions do not have the right to join private sector federations. However, unofficial contacts between public and private sector unions continued, and the Government did not interfere with these relationships.

Some corrupt private sector union leaders were exploited by politicians or employers, but public unions generally operated independently of the Government and other organizations. Internal conflicts, corruption, and a lack of influential leadership continued to weaken the labor movement.

Unions were free to associate internationally with other trade union organizations, and they maintained a wide variety of such affiliations.

*b. The Right to Organize and Bargain Collectively.*—The 1975 Labor Relations Act recognizes the right of private sector workers to organize and bargain collectively; to decide on the constitutions and rules of these associations and unions; to express their views without government or employer interference; to confederate with other unions; to receive protection from discrimination, dissolution, suspension, or termination by any outside authority because of union activities; and to have employee representation in direct negotiations with employers. The Labor Relations Act defines the mechanisms for collective bargaining and for government assisted conciliation and arbitration in cases under dispute. In practice genuine collective bargaining occurred only in a small fraction of workplaces and in most instances continued to be characterized by a lack of sophistication on the part of worker groups and autocratic attitudes on the part of employers. Wage increases for most workers came as a result of increases in the minimum wage, rather than as a result of collective bargaining. The process of setting minimum wages locally through provincial tripartite committees may further limit union influence; many of these provincial committees excluded labor representatives and placed factory managers on the wage committees to represent worker interests. The Government sets wages for both civil servants and state-enterprise employees under the 2000 State Enterprise Labor Relations Act (SELRA).

The Government has the authority to restrict private sector strikes that would affect national security or cause severe negative repercussions for the population at large; however, it seldom invoked this provision and did not do so during the year.



Labor law also forbids strikes in “essential services,” which is defined much more broadly than in the ILO criteria, and includes sectors such as telecommunications, electricity, water supply, and public transportation as essential services. The law also prohibits termination of employment of legal strikers; however, some employers used unfavorable work assignments and reductions in work hours and bonuses to punish strikers. SELRA provides public sector employees in state enterprises the same rights to organize as exist in the private sector. SELRA prohibits lockouts by employers and strikes by state-enterprise workers. No strikes were disapproved during the year, and two legal strikes were held. There were 17 illegal strikes involving 4,065 workers during the year.

The law prohibits antiunion actions by employers; however, it also requires that union committee members be full-time employees of the company, which makes them vulnerable to employers seeking to discipline workers who serve as union officials or who attempt to form unions.

A system of labor courts exercises judicial review over most aspects of labor law for the private sector. Workers also may seek redress for grievances through the Tripartite Labor Relations Committee. Redress of grievances for state-enterprise workers is handled by the State Enterprise Relations Committee. Labor leaders generally were satisfied with the treatment that their concerns received in these forums, although they complained that union leaders who were dismissed unjustly usually were awarded only monetary compensation.

No separate labor legislation applied in the nine export processing zones, in which wages and working conditions often were better than national norms because of the preponderance of foreign based multinational firms.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor except in the case of national emergency, war, or martial law; however, while these provisions generally were enforced in the formal sector, forced labor in the informal sector remained a problem. The law specifically prohibits forced or bonded labor by children; however, such labor was known to occur (*see* Section 6.d.). During the year, there were reports of sweatshops in which employers prevented workers (primarily foreign migrants) from leaving the premises. There were no estimates of the number of such sweatshops, but the growing number of illegal aliens from Burma, Cambodia, and Laos increased the opportunities for such abuse. NGOs and the ILO reported thousands of underage boys and girls were brought into the country for labor on farms, in sweatshops, and very young children were used to work in street begging gangs.

In September the country’s central labor court awarded back wages amounting to \$46,600 (2 million baht) to a group of 33 Burmese migrant women and girls who were held in indentured servitude. The group, including 21 minors, was brought 2 years earlier from Burma to a clothing factory in Bangkok where they were physically confined and subjected to forced labor. Upon arrival in Bangkok their wages were withheld for the first year of 14-hour days/6-day weeks of labor. After the first year, wages were set at between \$52 and \$59 a month (2,235 baht and 2,535 baht), which was approximately half the legal minimum wage (*see* Sections 6.e and 6.f).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The legal minimum age for employment is 15 years of age. The law permits the employment of children between the ages of 15 and 18 only in “light work,” where the lifting of heavy loads and exposure to toxic materials or dangerous equipment or situations is restricted. The employment of children at night (from 10 p.m. to 6 a.m.), or in places in which alcohol is served, is prohibited by law. It was estimated that approximately 1 million children nationwide worked on family farms. NGOs reported that 2 to 4 percent of children between the ages of 6 and 14 years worked illegally in urban areas; such children were at risk of becoming victims of other abuses of labor laws. Most underage workers in urban areas worked in the service sector, primarily at gasoline stations and restaurants. Child labor was not evident in larger foreign-owned or domestic export-oriented factories. However, there was no comprehensive survey of child labor in smaller enterprises, since NGOs did not have access to shop house factories. Although there was no accepted estimate, the ILO and NGOs believed there were significant numbers of child domestic workers in the country. Minimum wage and age provisions of the 1998 Labor Protection Act do not apply to domestic workers, some of whom were believed to be under 15-years-old. NGOs reported child domestic workers were predominantly foreign, migrating from Burma, Cambodia, and Laos. Most were in the country illegally, increasing their vulnerability to exploitation.

In July a child domestic worker from Burma suspected of theft was fatally beaten and burned, allegedly by her employers. NGOs also reported a case of a Burmese

child domestic worker who was sold by her employers into forced prostitution. In both cases, there were no prosecutions by year's end.

During the year, the Department of Labor employed 680 full-time inspection officers. Enforcement of child labor laws was not rigorous, and inspectors usually responded only to specific public complaints, reports of absences by teachers, or reports in newspapers. Their inclination when dealing with violators was to negotiate promises of better future behavior, rather than to seek prosecution and punishment. Inspection of private homes to monitor the welfare of child domestic workers was hampered by the legal requirement to obtain a warrant. In August 1999, the Government attempted to address the problem of child labor in August 1999 by promulgating the National Education Act. The act raised the compulsory educational requirement from 6 years to 9 years of age, and offers 12 years of free education. Enforcement of the new provisions began in August (*see* Section 5). Observers believe that the problem of child labor in industry diminished due to enforcement of recent laws and increased public scrutiny. However, according to local NGOs and the ILO, the problem of street children (often foreign) working as beggars for organized gangs appeared to be increasing (*see* Section 6.c.).

The Ministry of Education provided various scholarships to approximately 6 percent of the country's primary students to allow them to remain in school. Lunch programs, tuition assistance for poor rural students, and scholarships for girls at risk were included. Approximately 60,000 volunteers, comprised of community leaders, parents, and teachers were appointed in villages to address child labor problems at the grassroots level.

The Protection Act codifies the worst forms of child labor. Although not all child domestic workers fell under the worst forms, many were at risk due to their age, gender (predominantly female), legal status, and working conditions.

The law specifically prohibits forced or bonded labor by children; however, forced child labor was a problem (*see* Section 6.c.).

*e. Acceptable Conditions of Work.*—The minimum wage ranged from \$3.09 to \$3.91 (133 baht to 168 baht) per day, depending on the cost of living in various provinces. Minimum wages were set by provincial committees that sometimes included only employer representatives. This wage was not adequate to provide a decent standard of living for a worker and family. With extended family members' financial contributions, the minimum wage provided the basis for a marginally adequate overall standard of living. The Ministry of Labor is responsible for ensuring that employers adhere to minimum wage requirements (applicable to the formal sector); however, nationwide, academics estimated one-third of formal sector workers received less than the minimum wage, especially those in rural provinces. Despite encouragement of employees to report violations to labor inspectors, the enforcement of minimum-wage laws was mixed. Many labor laws, including the minimum wage law, do not apply to undocumented workers, primarily hill tribe members and illegal aliens. Unskilled migrant workers often worked for wages that were significantly lower than the minimum wage. An attempt to provide minimum wage protection to 580,000 migrants who registered in September 2001 largely failed due to weak enforcement.

The Government mandates a uniform maximum workweek of 48 hours, with a limit on overtime of 35 hours per week. Employees engaged in "dangerous" work, such as in the chemical, mining, or other industries involving heavy machinery, legally may work a maximum of 35 hours per week. The petrochemical industry is excluded from these regulations.

Working conditions varied widely. The rate of injury from industrial accidents remained relatively constant over the last 10 years at 4.5 percent of the total work force. The Ministry of Labor stated that the average annual rate of work-related deaths was 15 per 100,000 workers. These rates applied only to industrial sector workers, however, and the rate of incidents occurring in the larger informal and agricultural sectors was thought to be higher by labor and grassroots groups. Occupational diseases rarely were diagnosed or compensated, and few doctors or clinics specialized in them. In medium-sized and large factories, government health and safety standards often were applied, but enforcement of safety standards was lax. In the large informal sector, health and safety protections were substandard.

Provisions of the Labor Protection Act include expanded protection for pregnant workers with prohibitions on working night shifts, overtime, or holidays, as well as for those working with dangerous machinery or on boats.

The Ministry of Labor and Social Welfare promulgates health and safety regulations regarding conditions of work. Labor inspectors were responsible for enforcement of health and safety regulations; the maximum penalty for violations was 6 months imprisonment. Provisions in the Labor Protection Law include the establishment of welfare committees, which include worker representatives, in factories employing over 50 persons. These committees were to set and review health and safety

conditions in each factory. There is no law affording job protection to employees who remove themselves from dangerous work situations.

Courts continued to hear testimony in the case of the 1993 Kader Toy Factory fire in which 188 persons were killed and 350 persons were injured.

Migrant workers, particularly those from Burma, faced significant hardships and physical danger during the year. In February, 17 migrant workers were killed and found in a stream along the border with Burma. Authorities believed the crime stemmed from an alien smuggling dispute. The following month, 13 more workers suffocated in a truck while being smuggled from the border to agricultural fields near Bangkok. Burmese labor activists alleged several incidents of Burmese commercial fishermen employed on Thai vessels who were killed at sea after disputes with their employers. Child domestic workers were at special risk of labor abuse (see Section 6.d.).

The Government deported 156,434 illegal workers during the year, most of them to Burma. NGOs reported that a large number of those deported returned soon thereafter. An attempt to inaugurate an orderly repatriation program for illegal Burmese migrants foundered when the border with Burma was unexpectedly closed between May and October. In late December, a small group of 20 illegal migrants, the first since the border closing, was repatriated to a Burmese government reception center in Myawaddy.

In September 2001, the Government undertook an open registration campaign directed at the estimated 1 million to 1.5 million illegal Burmese, Cambodian, and Lao workers already present in the country. Five hundred eight thousand migrants registered, and were allowed to remain in the country with specified employers for 1 year. Health care for the migrants (but not family dependents) was included in an imposed registration fee. Provisions of the 1998 Labor Protection Act technically were extended to this group, although lax enforcement meant that there was little real progress in improving migrant working conditions. In September the Government extended this program for 1 more year, but only for already registered migrants. The extension allowed workers to change employers.

*f. Trafficking in Persons.*—The law prohibits trafficking in women and children; however, trafficking in persons was a serious problem. The country was a source, transit, and destination for trafficking in women and children for a variety of purposes, including indentured servitude, forced labor, and prostitution (see Section 5). Some local officials, immigration officers, and police reportedly either were involved in trafficking directly or took bribes to ignore it. The 1997 Prevention and Suppression of Trafficking in Women and Children Act increased the penalties for trafficking in women and children for the purposes of prostitution or slave labor, and provided for wide powers of search and for assistance to victims. There are also antitrafficking provisions in the 1996 Prostitution Prevention and Suppression Act. The authorities occasionally used these powers during the year, but the number of prosecutions remained small compared to the scope of the problem. A money-laundering law, which became effective in August 1999, included provisions to enable authorities to confiscate the assets of persons convicted of trafficking or engaging in the business of prostitution. In April the law was used for the first time in a major trafficking case in Chiang Rai. The outcome of the case still was pending at year's end.

Government and NGO estimates of the number of women and children engaged in prostitution in the country varied widely. Many NGOs and government departments reported a figure of 200,000 persons, which was considered a conservative estimate. This figure included children under the age of 18 years and foreigners. The number of victims of trafficking not involved in prostitution and including men, women, and children was unknown but believed to be substantial.

Within the country, women were trafficked from the impoverished Northeast and the North to Bangkok for sexual exploitation. Women also were trafficked internationally to Japan, Taiwan, Australia, Europe, and the United States, chiefly for sexual exploitation, but also for sweatshop labor. Men were trafficked into the country for farm, industrial, and construction labor.

Women and men were trafficked from Burma, Cambodia, the People's Republic of China (PRC), and Laos into the country for labor and sexual exploitation. Boys and girls were trafficked chiefly from Burma and Cambodia primarily for sexual exploitation and to work in begging gangs. Young children, either orphans or those sold by their families, were among them. For example, very young Cambodian children were employed by begging gangs in Bangkok. Occasionally entire families were trafficked for labor in sweatshops. Underage boys reportedly were brought into the country for specialized work in which small size was an advantage. Vietnamese citizens also reportedly were trafficked to the country in smaller numbers. According to domestic NGOs, girls between the ages of 12 and 18 years continued to be traf-

ficked from Burma, southern PRC, and Laos to work in the commercial sex industry. Persons trafficked from the PRC often were in transit to other countries, although women and girls from Yunnan Province generally were destined for brothels in the north. Generally victims from Yunnan Province were lured into the country with promises of restaurant or household work and then were pressured or physically forced into prostitution.

The U.N. Economic and Social Council and NGOs believed that the lack of citizenship status for some hill tribe women and children was a strong risk factor for becoming victims of trafficking. Although this group was not a large percentage of trafficking victims, they were found in disproportionately large numbers in situations entailing the worst forms of trafficking.

Impoverished families sent or sold children to traffickers, often a neighbor, a local official, or some other respected local person. In May a police lieutenant colonel and a sergeant were arrested and charged with statutory rape in the case of a 12-year-old girl sold into prostitution by her mother. At year's end, the policemen had been suspended from duty and were awaiting trial (*see* Section 5). The victim was sent to the Government's main rehabilitation shelter.

Sometimes villagers saw the local traffickers as friends offering a way out of poverty. Typically, local traffickers fed persons into larger networks, after which they exercised no further control and heard no more of them. Traffickers sometimes misrepresented the type of work and working conditions, and victims subsequently found themselves forced to remain and work in the border areas. Some women who contracted for other kinds of work found themselves coerced into the sex trade. Indentured work, both sex work and other labor, was also a problem.

Trafficking through the country to onward destinations tended to be conducted by citizens of the PRC and other international organized criminals. Trafficking into and within the country generally was conducted by domestic criminal elements.

There continued to be credible reports that some corrupt police, military, and government officials were involved directly in trafficking or taking bribes to ignore it (*see* Sections 1.c. and 5). Police personnel were paid poorly, and widely accustomed to taking bribes to supplement their income.

The majority of prostitutes were not kept under physical constraint, but a large number worked in debt bondage. Brothel procurers reportedly advanced parents a substantial sum against their daughter's future earnings, frequently without the consent of the young woman involved. The women were obligated to work in a brothel to repay the loan. In 2000, 21 minors trafficked from Burma and physically confined and forced to work in a Bangkok factory won back wages in a court ruling during the year (*see* Sections 6.e. and 6.d.).

Many Thai women were trafficked to Japan for purposes of sexual exploitation. Traffickers promised victims lucrative legitimate employment, or made false promises regarding wages, working conditions, or the nature of the work. According to Human Rights Watch, upon their arrival in Japan the traffickers confiscated the victims' passports, demanded repayment for their "purchase," and charged the victims for living expenses, care, and fined them for misbehavior. Traffickers often restricted the women's movements, threatened them and their families, isolated them, and used violence to punish them for disobedience.

Because foreign women frequently were unable to speak the language and were considered illegal immigrants, they particularly were vulnerable to physical abuse and exploitation. Some women were lured into the country with promises of jobs as waitresses or domestic helpers, but ended up working as prostitutes. Illegal immigrants had no rights to legal counsel or health care if arrested (*see* Section 2.d.). The amnesty provisions available under the UNHCR auspices did not apply to such women. In June 1999, a Memorandum of Understanding (MOU) between the Government and several domestic NGOs provided for some detailed police procedures to assist with the problem of trafficked persons being detained by the authorities. The agreement stated that the training of police officers would include instructions to treat such persons as victims of human trafficking rather than as illegal immigrant workers. Rather than being deported, they become the responsibility of the Public Welfare Department. However, implementation of the MOU continued to be erratic during the year, due to insufficient training of law enforcement officials and their unfamiliarity with the law.

Illegal immigrants generally were repatriated as soon as possible; however, in order to implement the new policy of humane treatment for victims of trafficking, Department of Public Welfare (DOPW) officials tried to refer underage and foreign women arrested for prostitution to one of the Government shelter houses. Repatriation was delayed, but not canceled. Victims were encouraged to seek legal action against the traffickers, and they were told by DOPW personnel at the shelters that this was an option. Trafficking victims who provided evidence were repatriated back

to their home countries afterwards. However, in general, trafficking victims were reluctant to assist in prosecution. This was due to mistrust of the authorities and fear of the traffickers, as well as the victim's limitations in education and language, and a desire to return home rather than to participate in lengthy criminal proceedings.

NGOs and government agencies continued to provide shelter, rehabilitation, and reintegration programs for children and women involved in the sex industry during the year. However, the Government faced severe budgetary limitations on its ability to fight trafficking and to aid its victims. Two national committees were directed and empowered to combat trafficking, and these committees coordinated and cooperated with NGOs as well. The National Committee on Trafficking in Women and Children (NCTWC) was concerned primarily with counter trafficking efforts within the country, while the National Project Committee on Trafficking in Women and Children in the Mekong Subregion focused on regional efforts. Local enforcement officers were sometimes ignorant of new laws and regulations designed to protect victims and ignorant of the special requirements of antitrafficking work. Also, police officers did not view antitrafficking as a path to advancement because their superiors did not emphasize it. Narcotics and serious crimes were the preferred career concentrations, while the attitude that trafficking also qualified as a serious crime was only slowly developing. Another barrier for stricter enforcement was the court system, which could be cumbersome and time consuming (*see* Section 1.e.).

## TONGA

The Kingdom of Tonga is a constitutional monarchy in which political life is dominated by the King, the nobility, and a few prominent commoners. The judiciary is independent.

The security apparatus consists of the Tonga Defense Services (TDS) and a police force. The Minister of Defense controls a 430-man TDS force; the Minister of Police and Prisons directs the police force. Some members of the police committed human rights abuses.

The country has a population of approximately 105,000 and a per capita GDP of approximately \$2,200. The economy is based primarily on the cultivation of tropical and semitropical crops. The demand for imported goods and products has led to a substantial trade deficit. This deficit was offset largely by remittances from overseas citizens, foreign aid, and, to a lesser degree, tourism.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. The right of citizens to change their government remained severely restricted, although a relatively small group of commoners vocally challenged the Constitution to argue for a more representative and accountable government. At times the authorities infringed on freedom of speech and of the press. Some women suffered from domestic violence; women also faced discrimination and very limited employment and economic opportunities. In practice, the right to form labor unions was restricted by the lack of implementing regulations.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution forbids torture and inhuman or degrading punishment or other such treatment; however, there were some abuses by police.

Prison conditions were Spartan but reflected local living standards. There were separate facilities for pretrial detainees and convicted prisoners, men and women, and adults and juveniles. Church representatives and family members were permitted to visit prisoners. No nongovernmental organizations (NGOs) attempted to monitor prison conditions, and the permissibility of such visits has not arisen.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. The Constitution provides for the right to judicial determination of the legality of arrest, and this was observed in practice. There are no statutory limits on the length of time a suspect may be held prior to being charged. There were no reports of preventative detention or other lengthy pretrial detention. The law permitted unlimited access by counsel and family members to detained persons.

The Constitution and law do not prohibit forced exile, but the Government did not employ it in practice. The last case of forced exile was in 1886.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. The judiciary generally provided citizens with a fair and efficient judicial process. The judiciary, whose top judges historically have been foreign nationals, was independent of the King and the executive branch. Judges held office “during good behavior” and otherwise could not be dismissed during their terms.

The court system consists of the Supreme Court (which has original jurisdiction over all major cases), the police magistrates’ courts, a general court, a court martial for the TDS, a court tribunal for the police force, and a court of review for the Inland Revenue Department. The Court of Appeals is the highest court. The King’s Privy Council presides over cases relating to disputes over titles of nobility and estate boundaries. The King has the right to commute a death sentence in cases of murder or treason.

The law provides for the right to a fair public trial, and the Government generally respected this in practice. A court may not summon anyone without providing the person with a written indictment stating the charges. Defendants are presumed innocent, are entitled to counsel, have a right of appeal, and are entitled to bail; lawyers have free access to defendants.

In past years, the police, in cooperation with government prosecutors, allegedly used repeated postponement of court dates and the filing of frivolous charges to intimidate government critics. In one case, a human rights activist was scheduled to appear in court in March 2001 as a witness to a theft. He wrote a letter to a newspaper criticizing the Police Ministry and was subsequently charged with abetting theft (*see* Section 2.a.). His hearing was postponed several times, and he was prevented from traveling out of the country until December 2001, when a magistrate permitted him to visit family members living outside the country. In February the case against the activist was closed.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, at times the authorities infringed on these rights. In June police confiscated tape recordings of the “Niuvakai” television program, alleging that it was overly critical of the Government. Government-owned Tonga Television subsequently refused to broadcast further Niuvaki programs.

There were eight newspapers and newsmagazines in print: Three weeklies (one of which was government owned); three monthlies; one bimonthly; and one quarterly. There were two privately owned television stations and one government-owned station. The Government-owned radio station broadcasts on both AM and FM frequencies. There were three privately owned radio stations.

While there was little editorializing in the Government-owned media, opposition opinion appeared regularly in the form of letters to the editor along with government statements and letters. The national media, from time to time, carried comments critical of government practices and policies, including some made by prominent citizens. The law allows government officials to bring defamation suits, as well as suits by officials and other individuals against media outlets that publish allegedly defamatory remarks. This may have had the practical effect of limiting freedom of speech. During the year, government officials filed several defamation suits against the media. At year’s end, the Ministry of Police had appealed the decision in a wrongful imprisonment suit filed by a newspaper editor detained after publishing a political item. In another case during the year, authorities dropped charges of sedition and dealing with a forged document filed against a newspaper editor and a reporter who had published a letter with allegations against the King. However, these charges were still pending against an M.P. and his staff member allegedly involved in the incident (*see* Section 3).

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for the freedoms of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Tonga Broadcasting Commission (TBC) policy guidelines regarding the broadcast of religious programming on Radio Tonga stated that those who preach on Radio Tonga must confine their preaching “within the limits of the mainstream Christian tradition.” This policy applied to all religions. The TBC did not allow members of the Baha’i Faith to discuss the tenets of their religion, or to refer to the founder, Baha’ullah, by name. Similarly, the TBC did not allow the Church of Jesus Christ of Latter Day Saints to discuss its founder, Joseph Smith, or the Book of Mormon by name. Mormons and members of other faiths utilized Radio Tonga for the announcement of church activities and functions. Members of the Baha’i Faith utilized a privately owned radio station for program activities and the announcement of functions. A government-owned newspaper occasionally carried news articles about Baha’i activities or events, as well as those of other faiths.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice. Citizens are free to travel at will within the country and abroad. However, in March 2001, a government critic was prevented from traveling abroad by the repeated postponement of the court case in which he was involved (see Section 1.e.). In December 2001, following special representations to a magistrate, he was permitted to visit relatives residing outside the country.

The Government is not a signatory to the 1951 Convention Relating to the Status of Refugees or its 1967 protocol. No person was known to have applied for refugee status, and the Government has not formulated a formal policy regarding refugees, asylees, or first asylum. The issue of the provision of first asylum has never arisen.

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

Citizens do not have the ability to change their leaders or the system of government. The King and 33 hereditary nobles dominated political life. They asserted authority largely through control of substantial landholdings and their dominant numbers in the Legislative Assembly (Parliament). While the Constitution allows the monarch broad powers, many of which do not require the legislative branch’s endorsement, the King at times permitted the legislative system to operate without his guidance. The King appoints the Prime Minister and appoints and presides over the Privy Council (called the Cabinet when the King is not presiding), which makes major policy decisions. The Cabinet is made up of nine ministers and two governors; it included both nobles and commoners, who served at the King’s pleasure.

The unicameral Legislative Assembly consists of the Cabinet, nine nobles elected by their peers, and nine representatives elected by the general population. The King appoints the Speaker from among the representatives of the nobles. Cabinet members and nobles usually voted as a bloc. In September a proposal for political reform was submitted by the Tonga Human Rights and Democracy Movement (THRDM) to the Legislative Assembly. The proposal advocated the creation of a bicameral assembly, with the nine noble members moved to an upper house. The lower “House of Commoners” would consist of 21 popularly elected members. At year’s end, Parliament had not yet addressed the proposal. In 2000 the King appointed his son, Prince Ulukalala Lavaka Ata, as Prime Minister. As Prime Minister, the Prince also held five other ministerial portfolios, including those of defense and foreign affairs.

Elections held in March resulted in a strong showing for prodemocracy candidates on the main island of Tongatapu. Shortly before the elections, a royalist political group, “Kotoa” (“Together”) emerged as a serious movement. Kotoa received the support of the King’s eldest daughter, Princess Pilolevu.

In June the Government publicly launched an economic and public sector reform program led by a Cabinet Reform Committee and composed of five teams, including a team dealing with private sector reform that included members of the Chamber of Commerce. Otherwise, there was no opportunity for participation by civil society. Very few citizens challenged the retention of the monarchy; the King was greatly respected. However, in recent years, a number of persons both inside and outside the establishment have called for democratic change, usually emphasizing the importance of more government accountability.

A prodemocracy movement continued during the year, although it lacked formal structure due to differences of views among its leaders. All nine representatives of the general population advocated various degrees of democratic reform. Proposals for constitutional revision tended to center on the popular election of all parliamentarians, with the parliamentarians selecting their speaker. In January 2001, the Prime Minister announced that the King had directed the formation of three Cabinet committees to examine the core governmental functions under the Constitution

and the law, to examine the Government's other functions, and to review the structure of the civil service. No public input was solicited, and the results of the review (which were to have been completed in March 2001) had not been announced by year's end.

In February the police raided the offices of THRDM, briefly detained three staff members, and impounded a computer hard drive. The police detained another staff member for several days in connection with an allegedly forged letter regarding the King's personal wealth. Three members of THRDM faced trial on forgery charges at year's end, including leading figure Akilisi Pohiva. Pohiva was not imprisoned and was allowed to travel abroad. Other members of THRDM, including lead staffer Lopeti Senituli, admitted the letter was indeed a forgery.

No woman has ever served as a government minister. There are no female Members of Parliament, although there have been in the past.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There are no legal barriers to the formation of domestic human rights NGOs. Some domestic NGOs dealt with human rights issues, but none undertook investigations of alleged violations. There were no restrictions on operations by international human rights groups, and no known requests for investigations during the year.

*Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status*

Social, cultural, and economic facilities were available to all citizens regardless of race or religion, but members of the hereditary nobility had substantial advantages, including control over most land and a generally privileged status. It was possible for ordinary citizens to rise to cabinet positions in government and to accumulate great wealth and status in the private sector.

*Women.*—Societal violence against women seldom was publicized, but it was a growing problem. Incidents of wife beating were generally addressed in traditional ways within families or by village elders. Such abuse seldom was reported to the police. Domestic violence could be prosecuted under laws against physical assault. Abused wives sometimes returned to their families if mediation failed. There were shelters for abused and troubled women, most church affiliated, and the Free Wesleyan Church ran a hot line for women in trouble.

Rape is punishable by imprisonment for a term of up to 15 years. However, the law does not recognize spousal rape and specifically states that carnal intercourse by a man and his wife shall not under any circumstance be deemed rape.

Prostitution per se is not illegal, but activities such as soliciting in a public place, pimping, operating a brothel, and trading in women are criminal offenses. Prostitution was reportedly increasing. Sexual harassment as such is not a crime, but physical sexual assault could be prosecuted as indecent assault.

Women held several prestigious posts in government, including Secretary to Cabinet in the Prime Minister's Office and Secretary of Foreign Affairs. Women also headed the Office of Crown Law and the Government Central Planning Office. The majority of commissioned officers in the Ministry of Police were women. For a woman to rise to a position of leadership, she usually needed the support of the nobility. The King's mother reigned for many years, and a royal princess was one of the country's most prominent businesspersons. Some female commoners held senior leadership positions in business.

Inheritance laws, especially those dealing with land, discriminated against women. Women could lease but not own land. Under the inheritance laws, the claim to a father's estate by a male child born out of wedlock took precedence over the claim of the deceased's widow or daughter.

The Women and Development Center (formerly the Women's Affairs Unit) in the Prime Minister's office was established in 1993. Although some NGOs initially viewed this unit with suspicion, it appeared to be functioning cooperatively with them. Its objectives included the promotion of full and equal participation of men, women, and children in economic, social, and cultural development, and the enhancement of women's economic status and role in the national economy. However, many young, educated women still considered the unit ineffective. A government-sponsored National Council of Women conducted training workshops, especially in rural areas, and contributed to women's social and economic needs.

The Center for Women and Children, an NGO under the auspices of the Catholic Church, focused on domestic abuse and improving the economic and social conditions of women and offered counseling for women in crisis.

*Children.*—The Government was committed to children's human rights and welfare and provided commensurate funding for children's welfare given available re-



sources. Education was compulsory from ages 6 to 14. Although it was sometimes criticized as being of poor quality, education was available for all children through Form 6 (high school). Almost all children attended school.

The Government provided free basic medical care to children. Child abuse was rare and the extended family generally participated in child rearing.

*Persons with Disabilities.*—There are no mandated provisions for accessibility to buildings and services for persons with disabilities. There were no reported complaints of discrimination in employment, education, or provision of other government services. The education of children with special needs has been a longstanding priority of the Queen.

*National/Racial/Ethnic Minorities.*—Early in the year, the Tonga Department of Immigration created a list of occupations that would be available only to citizens. Individuals currently on work visas in those professions would not have their permits renewed, and would be given a year to depart the country. The list focused on professions currently dominated by Chinese, particularly retailing. New legislation granting permanent resident status to foreign nationals under strict English-language, economic, and residency criteria would effectively exclude many ethnic Chinese immigrants.

In June, storeowners in the Vava'u group of islands submitted a petition to the legislature requesting a ban on Chinese nationals operating stores on the islands. There had been no response from Parliament at year's end.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers gained the right to form unions under the 1963 Trade Union Act, but regulations on the formation of unions were never promulgated, and there were no unions. The Friendly Islands Teachers Association and the Tonga Nurses Association were incorporated under the Incorporated Societies Act. However, they had no formal bargaining rights under that act.

The 1963 Act provides workers with the right to strike; however, implementing regulations never have been formulated. There were no strikes during the year.

*b. The Right to Organize and Bargain Collectively.*—Since there were no unions, collective bargaining was not practiced.

Labor laws and regulations were enforced in all sectors of the economy, including in the two small export zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Although there is no legislation prohibiting child labor, it did not exist in the wage economy.

The country was not a member of the International Labor Organization (ILO) and has not ratified ILO Convention 182 on the worst forms of child labor.

*e. Acceptable Conditions of Work.*—There is no minimum wage law, although there were government guidelines for wage levels. Labor laws and regulations, enforced by the Ministry of Labor, Commerce, and Industries, limited the workweek to 40 hours. The Ministry of Labor enforced laws and regulations reasonably well in the wage sector of the economy, particularly on the main island of Tongatapu. Enforcement in the agricultural sector and on the outer islands was limited.

Industrial accidents were rare, since few industries exist that would expose workers to significant danger; thus, the Government seldom addressed industrial safety standards, including the right of workers to remove themselves from dangerous work situations.

*f. Trafficking in Persons.*—While the law does not specifically address trafficking in persons, violators could be prosecuted under antislavery statutes. There were no reports that persons were trafficked to, from, or within the country.

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## TUVALU

Tuvalu is a parliamentary democracy. The Head of State is Queen Elizabeth II, represented by the Governor General, who must be a citizen of Tuvalu. In July citizens elected a 15-member unicameral Parliament in free and fair elections. A Constitutional Review Committee report presented to Parliament in 2001 called for a referendum on whether to maintain the country's current status or establish a republic; however, the referendum had not taken place at year's end. The judiciary is independent.

A 70-member police constabulary, the only security force, is responsible to and effectively controlled by civilian authority.

The country has a population of approximately 10,000 persons on 9 atolls in the central South Pacific Ocean. The primarily subsistence economy relied mainly on coconuts, taro, and fishing. Remittances from citizens working abroad, the sale of postage stamps, and the sale of fishing licenses to foreign vessels provided additional foreign exchange. The country's isolation limited opportunities for economic development.

The Government generally respected the human rights of its citizens. However, traditional customs and social behaviors considered as important as the law led to some social discrimination. Women traditionally occupy a subordinate role, with limits on their job opportunities. Tuvalu was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that government officials employed them. Local hereditary elders exercised considerable traditional authority, including the right to inflict corporal punishment for infringing customary rules, which can be at odds with the national law. However, such corporal punishment was seldom invoked.

The country has one minimum-security prison facility, located near the airport and segregated by sex. Adults are held at this facility, and children are remanded to their family's custody. The men's section can accommodate 35 inmates, the women's section 20. During the year, the number of prisoners was far below the maximum capacity; there were no female prisoners at year's end. There was also a single holding cell at the police station for detentions of less than 24 hours. Pretrial detainees were usually released on their own recognizance. Pretrial detainees charged with a serious crime, such as homicide, could be held in the prison; in practice, this has not occurred.

Detentions longer than a week were rare; more commonly, a person was jailed overnight on charges of inebriation. While prison conditions were somewhat Spartan, complaints were minimal or nonexistent. Prison conditions generally met international standards.

The question of prison visits by human rights groups did not arise. Visits by church groups and family members were permitted.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest, detention, or forced exile, and the Government generally observed these prohibitions.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

There is a two-tier judicial system. Higher courts include the Privy Council, the Court of Appeal, and the High Court. Lower courts consist of senior and resident magistrates, the island courts, and the land courts. The Chief Justice, who is also Chief Justice of Tonga, sits on the High Court approximately once a year.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. The Constitution provides that the accused must be informed of the nature of the offense with which they are charged and provided the time and facilities required to prepare a defense. The right to confront witnesses, present evidence, and appeal convictions is provided by law. Procedural safeguards are based on English common law. The services of an independent People's Lawyer (public defender) are paid by the Government and available to all citizens without charge.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

##### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and the Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic

political system combine to ensure freedom of speech and of the press, including academic freedom.

In 2001 the country's sole radio station, formerly controlled by the Government, was sold to a private owner. The Government exerted no overt control over content during the year, but did voice objections to some comments made on the station. The sole television station, which was government owned and operated and broadcast from the capital only 3 hours a week, went off the air in 2001 for financial reasons and has not resumed broadcasts. Videotapes circulated freely and were widely available; however, pornography in all forms is illegal.

The Office of the Prime Minister and the Department of Telecommunications in the Ministry of Works manage Internet services. There were no government restrictions on Internet access.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

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

The Constitution provides for these rights, and the Government generally respected them in practice.

The Government cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. No person has applied for refugee status, and the issue of the provision of first asylum has never arisen. The Government has not formulated a policy regarding refugees, asylees, or first asylum. There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Citizens freely and directly elect a 15-member unicameral Parliament whose normal term is 4 years. Each of the country's nine atolls is administered by a six-person council, also elected by universal suffrage to 4-year terms. The minimum voting age is 18 years.

The Cabinet consists of the Prime Minister, elected by secret ballot from among the Members of Parliament, and four other ministers, appointed and removed from office by the Governor General with the advice of the Prime Minister. The Prime Minister may appoint or dismiss the Governor General on behalf of the British monarch. The Prime Minister may be removed from office by a parliamentary vote of no confidence.

Elections held on July 25 were free and fair. Of the 15 members elected to Parliament, 6 were serving their first term. In August the new Parliament elected Saufatu Sopoanga, a former civil servant, as Prime Minister. He replaced Koloa Talake, who had replaced Faimalaga Luka after the latter received a vote of no confidence in 2001. There are no formal political parties.

Participation by women in government and politics was limited, largely due to cultural traditions. There were no female Members of Parliament or Cabinet Ministers.

### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

While no known barriers block their establishment, there are no local nongovernmental organizations (NGOs) concerned solely with human rights. Some political and human rights advocates operated under the aegis of the Tuvalu Association of Nongovernmental Organizations (TANGO), which was composed primarily of religious organizations. The People's Lawyer, who served as a public defender, also monitored sentencing, equality before the law, and human rights issues in general. This institution was supported by the Government, which frequently sought its advice. At times, it has been critical of the Government; however, there have been no allegations of human rights violations by the Government and no known requests for investigations.

### *Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination on the basis of race, creed, sex, or national origin, and the Government observed these prohibitions. However, a scarcity

of wage-paying jobs and the traditional culture has limited women's job opportunities.

*Women.*—Violence against women was rare. Domestic violence was relatively infrequent and has not become a source of societal concern. Rape is a crime punishable by a minimum sentence of 5 years imprisonment; however, spousal rape is not included in the legal definition of this offense. The People's Lawyer sought to broaden public knowledge of women's rights, particularly in regard to spousal rape and domestic abuse.

Prostitution and sex tourism are illegal; legislation in 2000 abolished phone sex companies, which had used the country's international telephone dialing prefix. While there are no laws prohibiting sexual harassment, the Penal Code provides specific recourse against indecent behavior, which requires lewd touching. There were some cases of indecent behavior during the year.

Women increasingly held positions in the health and education sectors and also were more active politically. In an economy with few wage-paying jobs, women held the clear majority of clerical and retail positions. In 2000 the Government established a women's department in the Ministry of Internal Affairs to recognize officially the importance of women in society; however, it took no significant action during the year.

*Children.*—The Government provided commensurate funding for children's welfare within the context of its total available resources. Education was compulsory for children through age 13. Students competed for academic scholarships to attend universities overseas or participated in vocational training focusing on subsistence farming and maritime training for men and computer or other business training for women. During the year, an NGO human rights advocate convinced Vaiputu secondary students to end a protest against a teacher perceived as too strict. The teacher retained her job.

The Government provided free medical care for children through age 18. There were no reports of child abuse.

*Persons with Disabilities.*—There were no known reports of discrimination against persons with disabilities in employment, education, or in the provision of other state services. There are no mandated accessibility provisions for persons with disabilities.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right of association. Workers were free to organize unions and choose their own labor representatives, but most of the population lacked permanent employment and was engaged in subsistence activity.

Public sector employees such as civil servants, teachers, and nurses, who total fewer than 1,000 employees, are members of professional associations that do not have union status. The only registered trade union, the Tuvalu Seamen's Union, has approximately 600 members who work on foreign merchant vessels. Unions may affiliate with international bodies, and the Seamen's Union is a member of the International Transportation Workers' Federation.

The country is not a member of the International Labor Organization.

*b. The Right to Organize and Bargain Collectively.*—The law provides for conciliation, arbitration, and settlement procedures in cases of labor disputes. Although there are provisions for collective bargaining, in practice, private sector employers set wages. Both private and public sectors generally used nonconfrontational deliberations in a local multipurpose meeting hall to resolve labor disputes rather than legal procedures.

The law provides for the right to strike, but no strike has ever taken place.

There are no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including forced or bonded labor by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits children under the age of 14 from working. The law also prohibits children under 15 years of age from industrial employment or work on any ship and stipulates that children under the age of 18 years are not allowed to enter into formal contracts, including work contracts. Children were rarely employed outside the traditional economy of subsistence farming and fishing.

*e. Acceptable Conditions of Work.*—The minimum wage, set administratively by the Government, was sufficient to allow a worker and family in the wage economy to maintain a decent standard of living. The biweekly minimum wage in the public

(government) sector was \$75.66 (\$A130), regardless of sex and age. In most cases, the private sector adopted the same minimum wage rate.

The Labor Office may specify the days and hours of work for workers in various industries. By law, the workday is set at 8 hours. The majority of workers are outside the wage economy. The law provides for rudimentary health and safety standards. It requires employers to provide an adequate potable water supply, basic sanitary facilities, and medical care. The Ministry of Labor, Works, and Communications is responsible for the enforcement of these regulations, but in practice, it provided only minimum enforcement.

Workers can remove themselves from work situations that endanger health or safety without jeopardy to their jobs; the law also protects legal foreign workers.

*f. Trafficking in Persons.*—The law prohibits procurement of persons within and across borders for purposes of prostitution, but it does not mention or prohibit trafficking specifically. However, there were no reports that persons were trafficked to, from, or within the country.

## VANUATU

Vanuatu, a small South Pacific island nation that gained independence from Britain and France in 1980, has a parliamentary form of government. The Constitution provides for parliamentary elections based on universal suffrage every 4 years, through which citizens may freely change their government. The 52-member Parliament elects the Prime Minister as the Head of the Government and the President, who is the Head of State. The latter's powers are largely ceremonial, except when appointing judges or acting on the advice of the Council of Ministers, who are appointed by the Prime Minister. Political legitimacy is based on majority rule. Parliamentary majorities have been unstable. The judiciary is generally independent of executive interference.

The civilian authorities generally control the small police force and its paramilitary wing, the Vanuatu Mobile Force (VMF); however, police officials have on occasion acted peremptorily. The Police Commissioner commands the entire force, including the VMF.

Subsistence farming and fishing were the principal livelihoods for more than 80 percent of a population of approximately 200,000. There was also cattle farming and some production of cash crops such as copra and cocoa. The service sector represented the largest component of the country's gross domestic product (GDP) and provided most formal employment, primarily in government, tourism, and an offshore financial sector. Per capita GDP was estimated at \$1,300, an amount some academic observers believe has not increased since independence.

The Government generally respected the human rights of its citizens; however, there were problems in a few areas, including poor prison conditions, arrests without warrants, an extremely slow judicial process, and violence and discrimination against women. Vanuatu was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Constitutional provisions prohibit such practices, and there were no reports that government officials employed them.

Prison conditions were poor. Approximately 30 prisoners were held in the dilapidated central prison in Port Vila; security at this facility was poor. The sole female prisoner was held at the barracks for female police officers.

Inmates were treated humanely to the extent allowed, given the meager resources of the prison system. The Government permitted prison visits by independent human rights observers.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally respected these provisions in practice. The constitutional provision that suspects must be informed of the charges against them and given a speedy hearing before a judge is observed in practice. A system of bail operates effectively and lengthy pretrial detention was not generally

a problem. A warrant issued by the court is required for an arrest; however, there were some arrests without warrants during the year.

On August 4, 15 senior government officials—including the Police Commissioner and the Attorney General—were arrested without a warrant on charges of seditious conspiracy in connection with the appointment of a new Police Commissioner. They were released that same day. The Chief Justice of the Supreme Court subsequently ruled that the appointment procedure had been unfair and that recruitment should recommence. The Prime Minister condemned the police action as illegal, and courts issued arrest warrants for the Deputy Police Commissioner, who had ordered the arrests, as well as 26 other police officers, on charges of mutiny. The Deputy and three other senior police officers were convicted of mutiny. In 2001 the Government deported a leading newspaper publisher without notice; however, the Supreme Court overturned the deportation (*see* Section 2.a.).

The Constitution does not prohibit forced exile, but the Government did not employ the practice.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. Judges cannot be removed without cause. There were no reports of interference with the judiciary by this government. The judiciary generally provided citizens with a fair judicial process. However, the judiciary was relatively weak and inefficient, and some defendants spent extended periods in pretrial detention as a result.

Magistrates' courts deal with most routine legal matters. There is a Supreme Court; however, an Appeals Court is the highest national court. This Appeals Court has three judges, two appointed by the President and one chosen from among the Supreme Court judges of other South Pacific nations.

The judicial system is based on British law. The courts uphold constitutional provisions for a fair public trial, a presumption of innocence until guilt is proven, a prohibition against double jeopardy, a right of judicial determination of the validity of arrest or detention, and a right of appeal to a higher court.

Judges, prosecutors, and the police complained about large case backlogs due to a lack of resources and limited numbers of qualified judges and prosecutors. Years can pass before a case is brought to trial. Procedures were changed during 2000 to allow the Public Prosecutor more frequent presentation of new cases to the magistrates; however, this procedural change did not significantly expedite judicial processing.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution (or the law) prohibits such actions, and the Government generally respects these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

The Government controls much of the country's media, including a weekly newspaper, one AM and one FM radio station, and a limited-service television station that broadcasts only to the capital of Port Vila. The television station provided English and French news service three times weekly. There was one independent newspaper published semiweekly, a privately owned weekly newspaper, and another weekly newspaper published by a political party.

During the year, most international correspondents, government-owned media, and the independent press reported criticisms of political leaders freely and apparently without hindrance. However, in January 2001 the Government ordered the deportation of a leading newspaper publisher, Mark Neil-Jones of the *Trading Post*, charging that he had revealed state secrets in his political coverage of government corruption. The Ombudsman and the leader of the opposition criticized the deportation, which was overturned by the Acting Chief Justice a week after Neil-Jones departed. The Acting Chief Justice ordered the Government to allow the publisher to return and resume his work, and he has done so. At times some individual politicians and their supporters have threatened the media, but with no apparent effect on press freedom.

The Government did not limit access to the Internet; however, few citizens could afford computers or access to the Internet.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

Missionaries of various Christian denominations worked without restriction. The Government provided some financial help for the construction of churches for Vanuatu Christian Council members, provided grants to church-operated schools, and paid teachers' salaries at church-operated schools in existence since the country's independence in 1980. These benefits were not available to non-Christian religious organizations. Government schools also scheduled time each week for religious education conducted by representatives of Council churches. Students whose parents did not wish them to attend the class were excused. However, non-Christian religions were not permitted to give religious instruction in the public schools.

In 1995 in response to concerns expressed by some established churches regarding the activities of new missionary groups, such as the Holiness Fellowship, Jehovah's Witnesses, and the Church of Jesus Christ of Latter-Day Saints, Parliament passed a Religious Bodies Act that required religious organizations to register with the Government. However, the President never signed the act, and it has never been enforced. While there has been no effort to repeal the act, it was not regarded as inhibiting religious practice. A few churches registered with the Government voluntarily, and a few church representatives believe that the Religious Bodies Act had a chilling effect on new missionary activity.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

The Government has not formulated a policy regarding refugees, asylees, or first asylum. The issue of the provision of first asylum has never arisen. There were no refugee cases reported during the year. The Government has no association with the U.N. High Commissioner for Refugees. There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides for parliamentary elections based on universal suffrage every 4 years, through which citizens may freely change their government. The 52-member Parliament elects the Prime Minister as the Head of government and the President, who is the Head of State. The President's powers are largely ceremonial except when appointing judges and acting on the advice of the Council of Ministers. Parliamentary majorities have been unstable, with frequent votes of confidence. National elections held in April were considered generally free and fair. A total of 256 candidates contested the 52 seats. Voter turnout was 63.5 percent. Incumbent Prime Minister Edward Natapei of the Vanua'aku Party assembled a coalition parliamentary majority and formed the Government.

Traditional attitudes regarding male dominance and customary familial roles hampered women's participation in economic and political life. There were no women in the previous Parliament; however, voters elected two women in the last general elections.

### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There are no restrictions on the formation of local human rights organizations. Some nongovernmental organizations (NGOs), such as the National Council of Women and the Family Health Association, included human rights education as part of their programs.

A number of domestic and international human rights groups, such as Transparency International, operated without government restriction; they investigated and published their findings on human rights cases. Government officials tolerated their views.

In 1998 Parliament passed an Ombudsman's Act in the wake of parliamentary anger over the previous Ombudsman's vigorous investigations of official corruption. Among other provisions, the new act required that the Public Service Commission, not the Ombudsman, appoint members of the Ombudsman's staff and authorized the presence of legal counsel during interviews with the Ombudsman.

### *Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination on the basis of race, place of origin, religious or traditional beliefs, political opinions, language, or sex; however, women remained victims of discrimination in the tradition-based society.

*Women.*—Violence against women, particularly wife beating, was common, although no accurate statistics exist. There are no specific laws against wife beating; courts occasionally prosecuted offenders using common law assault as a basis for prosecution. However, most cases of violence against women, including rape, went unreported because women, particularly in rural areas, were ignorant of their rights or feared further abuse. Spousal rape is not a crime, and police were frequently reluctant to intervene in what were considered domestic matters. There were no government programs to address domestic violence, and media attention to the abuse was limited.

Prostitution is illegal, and was not regarded as a serious problem. Although there is no law against sex tourism, none has been reported. Sexual harassment is not illegal, and was a problem. However, it was not a priority for the police and judiciary.

While women have equal rights under the law, they are only slowly emerging from a traditional culture characterized by male dominance, a general reluctance to educate women, and a widespread belief that women should devote themselves primarily to childbearing. During 2000, a disproportionate number of women's positions were abolished during downsizing of the public service sector. During 2000, as part of the Government's reform program, policies were drafted to guide the Department of Home Affairs in protecting and furthering the rights of women; however, these have not been implemented.

The majority of women entered into marriage through "bride-price payment," a practice that has encouraged men to view women as property. Women also were barred by tradition from land ownership, and at least one women's advocate believed this restriction reinforced their secondary status. Many female leaders viewed village chiefs as major obstacles to social, political, and economic rights for women. Women interested in running for public office received encouragement and help from the NGO Vanuatu Women in Politics.

*Children.*—Access to education was limited, and school attendance was not compulsory. Few children advanced beyond elementary school. Boys tended to receive more education than girls. A significant portion of the population, perhaps as high as 50 percent, was functionally illiterate.

Medical services were free, and there was a program of immunization; however, the Government had few resources for medical care, particularly in outlying provinces where there were no hospitals.

Child abuse was not extensive; however, the Government did little to combat the problem. NGOs and law enforcement agencies reported increased complaints of incest and rape of children in recent years but no statistics were available.

Children generally were protected within the traditional extended family system. Members of the extended family, particularly paternal uncles, played an active role in a child's development. As a result, virtually no children were homeless or abandoned.

*Persons with Disabilities.*—There was no governmental or national policy on persons with disabilities and no legislation mandating access to buildings for them. Their protection and care is left to the traditional extended family and to voluntary NGOs. Due to high rates of unemployment, there were few jobs available for persons with disabilities.

Persons with mental illness generally did not receive specialized care; they usually were attended by members of their extended families.

*National/Racial/Ethnic Minorities.*—Most of the population is made up of Melanesians. Small minorities of Chinese, Fijians, Vietnamese, Tongans, and Europeans generally were concentrated in two towns and on a few plantations. Most of the land belongs to indigenous tribes and cannot be sold, although it is sometimes leased to others. However, within the limits of this system of land tenure, there were no reports of discrimination against noncitizens. There was no evidence of ethnic discrimination in the provision of the limited basic services that the Government provided.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers with the right to organize and join unions. There are no restrictions on this right.

Approximately 25,000 persons participated in the formal economy as wage earners. Combined union membership in the private and public sectors was approximately 1,000. All five existing trade unions are independent of the Government. They are grouped under an umbrella organization, the Vanuatu Council of Trade Unions (VCTU). There were no categories of workers who were not permitted to join unions.



The high percentage of the population still engaged in subsistence agriculture and fishing precluded extensive union activity. Unions may not affiliate with international labor federations without government permission. The VCTU is a member of the International Confederation of Free Trade Unions.

*b. The Right to Organize and Bargain Collectively.*—Unions exercise the right to organize and bargain collectively. Labor unions negotiate wages and conditions directly with management. If the two sides cannot agree, the matter is referred to a three-member arbitration board appointed by the Minister of Home Affairs. The board consists of one representative from organized labor, one from management, and the senior magistrate of the Magistrate's Court. While a dispute is before the board, labor may not strike and management may not dismiss union employees. However, unions and management generally reached agreement on wages without referring the matter to arbitration. Complaints of antiunion discrimination are referred to the Commissioner of Labor; however, none were reported during the year. While the law does not require union recognition, it prohibits antiunion discrimination once a union is recognized.

Membership in the Vanuatu Public Servants Union fell dramatically following the Government's dismissal of hundreds of full-time public servants during a protracted general strike in 1994.

The law prohibits retaliation if a strike is legal. In the case of private-sector employees, violations would be referred to the Labor Department for conciliation and arbitration. In the public sector, the Public Service Commission would handle violations. Unions are required by law to give 30 days' notice of intent to strike and to provide a list of the names of potential strikers.

There was no significant strike activity during the year.

There are no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits children under 12 years of age from working outside of family-owned agricultural production, where many children assisted their parents. The employment of children from 12 to 18 years of age was restricted by occupational category and conditions of labor, including employment in the shipping industry and nighttime employment. The Labor Department effectively enforced these laws.

The country has not ratified ILO Convention 182 on the worst abuses of child labor.

*e. Acceptable Conditions of Work.*—A legislated minimum wage was enforced effectively by the Labor Department. Since 1995 it has been a flat rate of approximately \$143 (16,000 vatu) per month for both urban and rural workers. The minimum wage did not provide a decent standard of living for an urban worker and family. However, most families were not dependent solely on wages for their livelihood, supplementing incomes through subsistence farming.

Various laws regulated benefits such as sick leave, annual vacations, and other conditions of employment, such as a 44-hour maximum workweek that included at least one 24-hour rest period. The Employment Act, enforced by the Labor Department, includes provisions for safety standards. However, the safety and health law was inadequate to protect workers engaged in logging, agriculture, construction, and manufacturing, and the single inspector attached to the Labor Department could not fully enforce the law. Workers had the right to remove themselves from dangerous work situations without jeopardy to their continued employment.

There were few foreign workers. Those present in the country were primarily managers, professionals, and entrepreneurs.

*f. Trafficking in Persons.*—The Constitution and the law do not specifically prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

## VIETNAM

Vietnam is a one-party state, ruled and controlled by the Vietnamese Communist Party (CPV). The CPV's constitutionally mandated leading role and the occupancy of all senior government positions by party members ensured the primacy of party Politburo guidelines and enabled the Party to set the broad parameters of national policy. In recent years, the Party gradually reduced its formal involvement in government operations and allowed the Government to exercise significant discretion in implementing policy. The National Assembly remained subject to party direction;

however, the Government continued to strengthen the capacity of the 498-member National Assembly and to reform the bureaucracy. The National Assembly, chosen in May elections, in which most candidates were approved by the Party (approximately 90 percent of delegates were party members) played an increasingly independent role as a forum for local and provincial concerns and as a critic of local and national corruption and inefficiency. The Assembly was active in revising legislation, criticizing officials' performance, and screening ministerial and other senior candidate appointments. The judiciary remained subservient to the CPV and to external pressure and government influence.

The military services, including the border defense force, were responsible for defense against external threats. The military forces assumed a less prominent role as the ultimate guarantor of internal security, which primarily was the responsibility of the Ministry of Public Security (MPS). However, in some remote areas, the military forces were the primary government agency, providing infrastructure and all public safety functions, including maintaining public order in the event of civil unrest. Since 2001 the military has played a large role in the Central Highlands by enforcing restrictions on gatherings, by detaining individuals, and by enforcing travel restrictions. The MPS controlled the police, a special national security investigative agency, and other units that maintained internal security. The MPS enforced laws and regulations that significantly restricted individual liberties and violated other human rights. It also maintained a system of household registration and block wardens to monitor the population, concentrating on those suspected of engaging, or being likely to engage in, unauthorized political activities. However, this system has become less obvious and pervasive in its intrusion into most citizens' daily lives. Members of the public security forces committed numerous human rights abuses.

The country of approximately 80 million persons is undergoing transition from a wholly centrally planned economy to a "socialist-oriented market economy." The GDP growth for 2001 was 4.8 percent. In 2001 inflation increased primarily due to an increase in food prices, approximately 2.9 percent. Agriculture, forestry, and fishery employed 62.5 percent of the labor force, and accounted for 23.6 percent of total output. Industry and construction contributed 37.8 percent, while services accounted for 38.6 percent. During the year, official development assistance was over \$1.5 billion, roughly 5 percent of GDP. Overall poverty levels decreased significantly; approximately 37 percent of the population live below the poverty line although only 15 percent live below the food poverty line. Particularly in Ho Chi Minh City (HCMC) and Hanoi, economic reforms have raised the standard of living and reduced party and government control over, and intrusion into, citizens' daily lives. However, many citizens in isolated rural areas, especially members of ethnic minorities in the northern uplands, Central Highlands, and the central coastal regions continued to live in extreme poverty. There was a growing income/development gap between urban and rural areas and within urban areas. Employment opportunities were lacking; 25 million persons were underemployed or unemployed.

The Government's human rights record remained poor, and it continued to commit serious abuses. Police sometimes beat suspects during arrests, detention, and interrogation. Several sources also reported that security forces detained, beat, and were responsible for the disappearances of numerous persons during the year. Incidents of arbitrary detention of citizens, including detention for peaceful expression of political and religious views, continued. Prison conditions remained harsh, particularly in some isolated provinces, and some persons died as a result of mistreatment in custody. Prisons reportedly required inmates to work for little compensation and no wages. The judiciary was not independent, and the Government denied some citizens the right to fair and expeditious trials. The Government continued to hold a number of political prisoners. Although the Government amnestied over 9,500 prisoners during the year, it was unknown whether any political or religious prisoners were among them. The Government restricted citizens' privacy rights, although the trend toward reduced government interference in the daily lives of most citizens continued. The Government significantly restricted freedom of speech, the freedom of the press, freedom of assembly, and freedom of association. The Government continued its longstanding policy of not tolerating most types of public dissent and stepped up efforts to control dissent on the Internet. Security forces continued to enforce unusually strict restrictions on public gatherings and travel in some parts of the country. Unusual restrictions on public gatherings and travel primarily pertained to the Central Highlands and the Northwest Highlands.

The Government allowed elected officials and ordinary citizens in approved forums somewhat greater freedom of expression and freedom of assembly to express grievances. The Government prohibited independent political, labor, and social organizations; such organizations existed only under government control. The Govern-

ment restricted freedom of religion and operation of religious organizations other than those approved by the State. Some Buddhists, Hoa Hao, and Protestants, in particular, faced harassment by authorities. The Government imposed some limits on freedom of movement of particular individuals whom it deemed threatening to its rule. Access to the Central Highlands by foreign observers improved from 2001, but travel to and within the area remained more restricted than most other parts of the country. The Government continued to restrict significantly civil liberties on grounds of national security and societal stability. Although the CPV continued its efforts to strengthen the mechanism for citizens to petition the Government, authorities continued to deny citizens the right to change their government. The Government did not permit human rights organizations to form or to operate. Violence and societal discrimination against women remained problems. Child prostitution was a problem. Government and societal discrimination against some ethnic minorities continued to be problems. The Government restricted some core worker rights, such as freedom of association, although the Government cooperated with the International Labor Organization (ILO) and international donors to improve implementation of the existing Labor Law. There were reports that children worked in exploitative situations. The Government recognized child labor as a problem and attempted to address it. Trafficking in women and children for the purpose of prostitution within the country and abroad continued to be serious problems, and there were reports of the trafficking of women to China and Taiwan for arranged and forced marriages.

#### RESPECT FOR HUMAN RIGHTS

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

a. *Arbitrary and Unlawful Deprivation of Life.*—During the year there were reports of killings by authorities. In January local newspapers reported that Khong Van Thoi, who was suspected of attacking the home of a village police chief with a grenade, was tortured to death while in police custody in Vinh Phuc Province. Two police officers were charged in Thoi's death and were awaiting trial at year's end. On September 10, a prison inmate in Hai Duong Province, Pham Van Dung died enroute to a medical facility after two prison guards stabbed him and then bound him for 2 hours. At year's end, the guards were reportedly suspended and under investigation (*see* Section 1.c.).

b. *Disappearance.*—During the year there were credible reports of persons who were either arrested or detained and then possibly released; however, these persons reportedly did not return to their families (*see* Section 1.b.).

In July a United Buddhist Church of Vietnam (UBCV) monk, Thich Tri Luc, who had fled to Cambodia reportedly was forced to return to the country. His whereabouts were unknown at year's end.

On August 28, according to a credible report, in M'Drak district, Dak Lak Province, police confronted 120 villagers attempting to prevent the detention of an ethnic minority Protestant pastor, Y Su Nie, and his two adult sons. After a confused altercation in which police shot one villager in the foot, the police arrested all 120 persons. Most of those who were arrested were released after a few days, but 20 to 30 of the villagers did not return to their villages. Police reportedly did not acknowledge detaining them. On August 28, the 3 individuals police attempted to detain reportedly escaped. At year's end, their status was unknown, although police reported that they had detained Y Su Nie and one other person on October 24 (*see* Section 1.d.).

Also in late August in Dak Lak, there were reports that the police detained 240 persons at a house church meeting. Most of the detained were released within a few days, but 47 persons allegedly did not return to their families. Police did not admit to having detained them.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits physical abuse; however, police sometimes beat suspects while in the process of arresting them or while they were in custody.

On August 26, according to a news report, an inmate at a prison in Hai Duong province was beaten by two guards and subsequently taken to a provincial health facility where he was treated for his injuries.

In 2001 in the course of suppressing ethnic unrest in the Central Highlands, security personnel reportedly responded to instances of violent demonstrations with beatings, tear gas, water cannons, and electric prods to put down the demonstrators (*see* Section 2.b.).

Prison conditions were harsh, but generally did not threaten the lives of prisoners. However, in January news reports disclosed that a prisoner was beaten to death during interrogation in Vinh Phuc Province. In January the Government inves-

tigated the two policemen suspected of torturing the prisoner to death. On September 10, one prisoner died after two prison guards stabbed him repeatedly, tied him up, and left him exposed to the sun for 2 hours in over 100 degree Fahrenheit heat (see Section 1.a.). An official from the Supreme People's Procuracy, in comments to journalists, admitted systematic beatings and overworking of inmates occurred at Hoang Tien prison, which previously was listed among the most meritorious prisons under the management of the Ministry of Public Security.

Men and women were housed separately in prisons. Juveniles were housed separately from adult populations. Overcrowding, insufficient diet, and poor sanitation remained serious problems in at least some, and probably most, prisons.

Some inmates punished with solitary confinement were stripped and locked in a small windowless shed for days or even weeks at a time. They were given one small bowl of rice for lunch and dinner and a single bucket of water each day. Other forms of solitary confinement were less harsh.

Conditions in pretrial detention reportedly were particularly harsh, and there were credible reports that authorities sometimes denied inmates access to sunlight, exercise, and reading material. The pretrial detention system provided few rights. Prisoners awaiting trial and remaining "under investigation" sometimes experienced harsher conditions than those who were convicted and sentenced. Most prisoners had access to basic health care. Some political and other prisoners were denied visitation rights. Prisoners generally were required to work, but received no wages (see Section 6.c.). Prisoners sentenced to hard labor complained that their diet and medical care were insufficient to sustain good health, especially in remote, disease-ridden areas. Although political and religious prisoners often were held under harsh conditions and with limited medical care in remote prisons, such as Z30a at Xuan Loc in an isolated part of Dong Nai Province, there was no evidence to suggest their conditions were significantly different than those for the regular prison population.

During the year, the Government permitted selected diplomatic observers to visit two of its prisons on at least two occasions. It also permitted foreign officials to investigate prison labor conditions. The Government did not allow the ICRC to visit prisoners.

*d. Arbitrary Arrest, Detention, or Exile.*—The Government continued to arrest and detain citizens arbitrarily, including arrest and detention for the peaceful expression of their political and religious views. In addition, during the year there were reports of several persons who either were arrested or detained and then possibly released; however, these persons reportedly did not return to their families (see Section 1.b.). The Criminal Procedure Code provides for various rights of detainees, including the right of the accused to have a lawyer present during interrogation; however, in practice the authorities sometimes ignored these legal safeguards. Moreover, a directive on administrative probation gives security officials broad powers if they believe that a suspect is a threat to "national security."

The Criminal Procedure Code places a 12-month time limit on investigative detention. It also limits the time a judge's panel (a body consisting of at least one judge and one lay assessor) has to rule on a case (see Section 1.e.). Prior to being formally charged, a detainee has a statutory right to notify family members. However, in most cases the police inform the family of the detainee's whereabouts. Prior to being charged the detainee may contact a lawyer if permitted by the head of the investigating office. Following a formal charge, the detainee has a statutory right to contact an attorney, although it is not clear that this right was respected in practice.

The Procuracy (the office which investigates cases and initiates public prosecutions) issues arrest warrants, generally at the request of the police. However, police may make an arrest without a warrant on the basis of a complaint filed by any party alleging the commission of a crime. In such cases, the Procuracy must issue retroactive arrest warrants. Unless specifically authorized by an investigator, the MPS usually prohibited contact between a detainee and his lawyer as long as the procurator's office was investigating a case, which may last up to 1 year and may not entail any formal charges. Likewise, family members may visit a detainee only with the permission of the investigator. In general, time spent in pretrial detention counts toward time served upon conviction and sentencing.

Courts may sentence persons to administrative detention for a period up to 5 years after release from prison. These provisions were enforced unevenly. The MPS used administrative probation to place persons under house arrest without trial for up to 2 years (see Section 2.d).

Persons arrested for the peaceful expression of views opposed to official policy were subject to charge under any one of several provisions in the Criminal Code that outlaw acts against the State. During the year, at least two persons—Pham Hong Son and Nguyen Vu Binh—who peacefully had expressed political views, were detained and continued to be under investigation at year's end (see Sections 2.a. and

2.b). At least two others—Le Chi Quang and Nguyen Khac Toan—were arrested and convicted during the year. In August, several villagers from the Central Highlands were detained and/or arrested (see Section 1.b.). On September 25, police arrested former journalist and writer Nguyen Vu Binh. Nguyen wrote articles that called for political reform and criticized government policy. His whereabouts, and the charges against, him were unknown at year's end. On November 8, Le Chi Quang was convicted of disseminating anti-state information and sentenced to 4 years in prison and 3 years of administrative probation. On December 28 and 29 police detained two other political activists, Pham Que Duong and Tran Van Khue, for unknown reasons (see Section 2.a.). In addition, up to 19 Hmong Protestant leaders may still be detained, including: Vang Sua Giang, Mua A Ho, Cu Van Long, and Sua Song Vu. In addition, it was unknown whether several persons detained in previous years ever have been tried, including: Vo Tan Sau, Phan Thi Tiem, and Tran Thi Duyen, Le Huu Hoa, Ma Van Chinh, and Lu Seo Dieu.

The Constitution does not provide for forced exile, and the Government did not use forced exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for the independence of judges and jurors; however, in practice the Party controls the courts closely at all levels, selecting judges at least in part for their political reliability. Constitutional safeguards are significantly lacking. The CPV had strong influence over high profile cases and cases in which a person was charged with challenging or harming the CPV or the State. During the year, CPV and government officials may have exerted influence over court decisions by making clear their wishes to both the lay assessors and the judges who sat on a panel together to decide cases. The National Assembly votes for judicial nominees presented by the President of the country for the Supreme People's Court (SPC) President and Supreme People's Procurator. The National Assembly also controls the judiciary's budget, including judges' salaries, just as it controls the budgets and salaries of all other parts of the Government. Provincial and district governments disburse judges' salaries at their respective levels, just as they disburse the salaries of other local officials. The State President appoints all other judges not the President of the SPC. This power is granted in the Constitution. On September 30, the Government transferred local courts from the Ministry of Justice to the SPC, in an effort to increase judicial independence.

The system of appointing judges and lay assessors also reflected the lack of judicial independence. Court panels at all levels include judges and lay assessors. People's councils appoint lay assessors at the district and provincial levels. Lay assessors are required to have high moral standards, but legal training is not necessary. District and provincial people's councils appoint the lay assessors at the lower levels. The Standing Committee of the National Assembly appoints and discharges the SPC lay assessors. The Vietnam Fatherland Front (VFF), an umbrella group for the country's mass organizations, must approve candidates for SPC lay assessors. The President appoints the District People's Court and Provincial People's Court judges to 5-year terms. The President also appoints SPC judges from candidates approved by a judicial selection panel under the influence of the CPV. The CPV's influence over the courts is amplified both because the people's councils appoints the lay assessors, and because the judges serve limited terms and are subject to review.

The judiciary consists of the Supreme People's Court, the local people's courts, military tribunals, and other tribunals established by law. Each district throughout the country has a district people's court, which serves as the court of first instance for most domestic, civil, and criminal cases. Each province has a Provincial People's Court, which serves as the appellate forum for district court cases, as well as courts of first instance for other cases. The SPC is the highest court of appeal and review. The Ministry of Justice administered most district and provincial courts until September 30, when they were transferred to the SPC. The SPC reports to the National Assembly. On November 15, a new law gave military courts jurisdiction over all cases involving military entities including military owned enterprises. The military has the option of using the administrative, economic, or labor courts for those specialized cases.

The judiciary also includes military tribunals, economic courts, labor courts, and administrative courts that resolve disputes in those specialized fields. Administrative courts deal with complaints by citizens about official abuse and corruption. Military tribunals operate under the same rules as other courts, but the Ministry of Defense (MoD) provides their funding. Tribunal judges and assessors are military personnel, chosen jointly by the SPC and the MoD, whose function is supervised by the SPC. The MoD is represented on the judicial selection panels, and the head of the military tribunal system is the deputy head of the SPC. The VFF did not have any legal standing to settle legal issues itself. In addition, the CPV and the Government set up special committees to help resolve local disputes.

The Supreme People's Procuracy brings charges against the accused and serves as prosecutor during trials. A judging council, made up of a judge and one or more lay assessors, determines guilt or innocence and also passes sentence. The relevant people's council appoints lay assessors, who are required to have high moral standards but who do not need to have legal training. The legal institutional framework and legal culture, which favors the Procuracy over the judiciary and preserves a presumption of guilt in criminal cases, constitutes a major obstacle to free and fair trials. Although the Constitution asserts that citizens are innocent until proven guilty, a foreign legal expert who analyzed the court system during 2000 found that more than 95 percent of the persons who were charged with a crime were convicted. The country's lawyers also complained that judges generally presume guilt.

The Criminal Code provides two or three levels of punishment for most crimes, depending on the crime's seriousness and circumstances. The code also provides "punishment brackets" (a range of possible fines or prison sentences) for a large percentage of crimes. The punishment brackets are intended to discourage abuse by law enforcement officials, allow courts to render verdicts and punishments more appropriate to the particular offense, hinder arbitrary sentencing by judicial panels, and allow crime to be punished more uniformly.

District courts may adjudicate cases for 346 of the 672 crimes defined in the country's legal statutes. The other 326 types of crimes (which are generally more serious) are adjudicated at the provincial level. In June 2001, the National Assembly rejected a bill that would have given district courts authority over more crimes because legislators reportedly were concerned that the change could have led to miscarriages of justice and an increase in the prison population (*see* Section 3).

There was a shortage of trained lawyers and judges and no independent bar association. At the Supreme Court level, there was a 20 percent shortage of qualified judges. According to a U.N. official, the shortage ranged from 30 to 40 percent at the provincial level. Low salaries hindered the development of a trained judiciary. The few judges who had formal legal training often studied abroad in countries with socialist legal traditions. Young educated judges usually had little influence within the system.

The Government conducted training programs to address the problem of inadequately trained judges and other court officials. A number of foreign governments and the U.N. Development Program provided assistance to strengthen the rule of law and to develop a more effective judiciary. However, the lack of openness in the judicial process and the continuing lack of independence of the judiciary undermined these efforts.

Although the Constitution provides for legal counsel for persons accused of criminal offenses, the scarcity of lawyers made this provision impossible to enforce. With few qualified attorneys, the procurator often handles both the prosecution and the defense, resulting in legal counsel that frequently provided little help to the defendant. Consistent with its Marxist-Leninist political system, the Government required that the Bar Association be a member of the VFF. At the provincial level, the Bar Association was subordinate to representatives of the central government, the VFF, the provincial people's council, and the people's committee.

Trials generally were open to the public; however, judicial authorities sometimes closed trials or strictly limited attendance in sensitive cases. Defendants have the right to be present at their trial and to have a lawyer. The defendant or the defense lawyer have the right to cross-examine witnesses. However, there were credible reports that defendants were not allowed access to government evidence in advance of the trial, to cross-examine witnesses, or to challenge statements. Lawyers reported that they often had little time before trials to examine evidence to be presented against their clients. Those who were convicted had the right to appeal. The courts did not publish their proceedings.

The Government continued to imprison persons for the peaceful expression of dissenting religious and political views. There were no reliable estimates of the number of political prisoners, because the Government usually did not publicize such arrests, and sometimes conducted closed trials and sentencing sessions. Informed sources estimated that there were up to 150 political prisoners. However, many of the names included on these lists were difficult to verify. The number of confirmed political prisoners was much lower than 150 persons. Among those believed to be imprisoned for peaceful political and religious activities were political activists Nguyen Dinh Huy, who reportedly was suffering from Parkinson's disease, Le Chi Quang, and Nguyen Khac Toan; journalist Pham Thai; and religious persons, Truong Van Thuc, Nguyen Chau Lan, Le Van Nhuom, Vo Van Buu, Ha Hai, Nguyen Duy Tam, Le Van Tinh, Le Van Son, Nguyen Van Dau, Thich Nhu Dat, Thich Hai Tang, Thich Phuc Vien, Thich Thien Minh, Thich Tien Tan, Thich Thanh

Tinh, Thich Tri Tuu, Pham Minh Tri, Nguyen Thien Phung, Nguyen Minh Bao, Nguyen Van Ly, and Ly A Cho.

The Government claimed that it did not hold any political or religious prisoners and that persons described as political prisoners were convicted of violating national security laws. On September 2, the Government amnestied 6,110 prisoners and on October 17 the Government amnestied 3,069 additional prisoners. It was unknown whether any political or religious prisoners were among them. In late April, local level authorities amnestied at least 419 prisoners. The Tin Nhan newspaper, in an apparent departure from government policy, reported that 5 prisoners from a "political" prison were among those amnestied in April, however, they were not identified by name (*see* Section 1.c.).

The Government did not allow access by humanitarian organizations to political prisoners (*see* Section 1.c.).

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the right to privacy of home and correspondence; however, the Government restricted this right significantly. Household registration and block warden systems existed for the surveillance of all citizens, but were used with less vigor and thoroughness than in the past, and usually did not intrude on most citizens. The authorities largely focused on persons whom they regarded as having views critical of the Government, or whom they suspected of involvement in unauthorized political or religious activities. Citizens formally are required to register with police when they leave home, remain in another location overnight, or when they change their residence, although this usually was honored in the breach. However, the Government appears to have enforced these requirements in some districts of the Central Highlands and northwestern provinces. Most citizens who wished to move around the country to seek work or to visit family and friends were able to do so without being monitored, and most families who sought employment moved to other locations without prior government permission (*see* Section 2.d.). There continued to be reports that some "spontaneous migrant" families were unable to obtain household registration or residence permits in their new locations, which created legal and administrative problems. In urban areas, most citizens were free to maintain contact and to work with foreigners. In theory the Government requires that citizens who work for foreign organizations be screened and hired through a government service bureau. Laws governing foreign business enterprises are more lenient. In practice, many foreign organizations and enterprises hired their own personnel and only "registered" them with the service bureau or employment bureau.

In theory forced entry into homes is not permitted without orders from the Procuracy. In practice security forces seldom followed this requirement, usually "asking," with an implied threat to enter. In some cases, individuals refused to cooperate with such "requests." In urban areas security forces generally left when faced with non-cooperation.

The Government opened and censored targeted persons' mail, confiscated packages and letters, and monitored telephone conversations, electronic mail, and facsimile transmissions. The Government cut the telephone lines of some targeted individuals and also repeatedly interrupted their cellular phone service. However, this practice appeared to be sporadic and was not applied consistently. The Government monitored e-mail, to search for sensitive key words, and regulated Internet content (*see* Section 2.a.).

The Government did not exercise forced resettlement; however, there were credible reports that the Government forced ethnic minority Protestant believers in some northwestern provinces to leave their homes without providing them alternative places to live. The Government also resettled some citizens to make way for infrastructure projects. By law citizens are to be compensated in such cases, but there were widespread complaints, including from the National Assembly, that compensation was not fair. The Government has acknowledged problems in past resettlement programs.

The Government enforced universal male conscription, although medical waivers were available. Students generally received deferments, as did others in numerous special cases. Individuals who received deferments rarely were drafted. It is unknown whether there were differences in conscription rates between ethnic groups.

Citizens' membership in mass organizations remained voluntary, but often is important for career advancement. Membership in the CPV remained an aid to advancement in the Government or in state companies and was vital for promotion to senior levels of the Government. At the same time, diversification of the economy made membership in CPV-controlled mass organizations and the CPV less essential to financial and social advancement. Other political parties were not permitted.

The Government continued to implement a family planning policy that urges all families to have no more than two children; this policy emphasizes exhortation rath-

er than coercion. In principle, the Government can deny promotions and salary increases to government employees with more than two children and local regulations permit fines based on the cost of extra social services incurred by a larger family. These penalties rarely were enforced and implementation of this policy appeared to have declined during the year. There was anecdotal evidence that party members were more likely to be penalized than nonparty members.

In 2001 relatives of some individuals holding political viewpoints at variance with the Government lost their jobs with state-owned enterprises. However, most, if not all, found equivalent or better positions with private sector employers.

The Government interfered with distribution of foreign periodicals and access to satellite television (*see* Section 2.a.).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and freedom of the press; however, the Government significantly restricted these freedoms, especially with respect to political and religious speech. Both the Constitution and the Criminal Code include broad national security and anti-defamation provisions that the Government used to restrict severely such freedoms. During the year, reporters and editors practiced self-censorship. A press law provides for monetary damages to be paid by journalists to individuals or organizations harmed by reporting, even if the reports are true. This law poses a threat to investigative reporting. Several media outlets continued to test the limits of government press restriction by publishing articles that criticized actions by party and government officials; however, the freedom to criticize the Communist Party and its highest leadership remained restricted. Nonetheless, there were press reports about topics that generally were considered sensitive.

The Party and government tolerated public discussion on some subjects and permitted somewhat more criticism than in the past. The law allows citizens to complain openly about inefficient government, administrative procedures, corruption, and economic policy. Senior government and party leaders traveled to several provinces to try to resolve citizen complaints. However, the Government imposed limits in these areas as well.

The Government required officials to obtain approval from their ministry before providing any information to foreign journalists. Journalists must receive approval from their editorial offices before providing information. In June 2001, police confiscated approximately 180 pages of war hero and expelled party member General Tran Do's writings. Do was hospitalized afterwards, and while friends were allowed to visit him, they said authorities discouraged such visits. On August 9 Do died. The Government did not permit his family and friends to display many of his honors at his funeral. Funeral attendees rejected government statements at the funeral that General Do had made mistakes later in life. The Government did not intervene when Do's family and friends spoke critically of the Government and the Party during the funeral (*see* Section 2.b.).

The Government continued to prohibit free speech that strayed outside narrow limits to question the role of the Party, to criticize individual government leaders, to promote pluralism or multiparty democracy, or to question the regime's policies on sensitive matters such as human rights or the border agreement with China. There continued to be an ambiguous line between what constituted private speech about sensitive matters, which the authorities would tolerate, and public speech in those areas which they would not tolerate. On January 8, police detained democracy activist Nguyen Khac Toan. Toan had distributed leaflets advocating reforms and had spoken to demonstrators outside of the National Assembly during its December 2001 session. On December 20, a court convicted Toan for espionage and sentenced him to 12 years' imprisonment followed by 4 years' administrative detention (*see* Section 1.d.). Le Chi Quang authored several articles and essays advocating democracy and criticizing the border agreement with China. He posted a number of these writings to the Internet and was detained in an Internet cafe on February 21 in Hanoi. On November 8, he was tried and sentenced to 4 years in prison and 3 years' administrative detention for disseminating anti-state documents. In February and March, Pham Hong Son translated a number of English-language articles about democracy into Vietnamese and posted them on the Internet. On March 29, he was detained and placed under investigative detention for espionage-related charges. In July and August, police repeatedly summoned democracy activist Nguyen Vu Binh, a former journalist, for questioning. He was under close police surveillance for several weeks afterwards before being summoned for questioning again for several days in September and finally arrested on September 25. In February 2001, biologist Ha Sy Phu, who was cleared on earlier charges of treason, was placed under administrative probation for writing articles calling for democracy (*see* Section 1.d.).



Since September 2001, other democracy activists have had their telephone service disconnected. In September former Colonel Pham Que Duong was called in for questioning for several consecutive days and had his cell telephone service cut at least three times during the year. Nguyen Dan Que continued to call for democracy and respect for human rights, but authorities interfered with his ability to communicate by cutting off his cell telephone intermittently, shutting off his land line, as well as his access to the Internet and e-mail for more than 2 years. Police continued to monitor him closely and questioned him periodically (*see* Section 1.d.). In September authorities came to his home to demand that he go to the local police station with them for questioning, but he refused to accompany the police without a proper legal summons. In October foreign officials visited Que at his residence. Subsequently he has experienced less harassment from the authorities. During the year, Duong, Que and some other activists were able to receive visitors, including foreigners. On December 28, police detained Duong in Ho Chi Minh City just after he concluded a visit to fellow activist Tran Van Khue. On December 29, police came to Khue's house, detained him, and took away his computer and other materials. Khue and Duong had identified themselves as spokespersons for a number of other activists.

In February 2001, Catholic priest Father Nguyen Van Ly submitted written testimony critical of the Government to the U.S. Commission on International Religious Freedom (CIRF) and frequently spoke out for political pluralism and complete religious freedom. In October 2001, a district court sentenced Father Ly to cumulative sentences of 15 years for "damaging national unity" and violating an administrative detention order. The Government restricted persons who belonged to unofficial religious groups from speaking publicly about their beliefs.

In January 2001, members of the editorial board of the Tuoi Tre daily were ordered to write self-criticisms after the newspaper published the results of an opinion poll that showed government leaders trailed behind some Western leaders (*see* Section 2.d.). Security forces continued to harass novelist Duong Thu Huong intermittently, and authorities have not allowed her to travel abroad since the early 1990's, although it was unknown whether she attempted to travel overseas during the year. In October the Government press criticized her for publishing an article critical of the Government in an Australian periodical. However, Huong was allowed to meet with some foreigners and Vietnamese colleagues. Some persons who expressed alternative opinions on religious or political issues also were not allowed to travel abroad (*see* Section 2.d.).

The Party, the Government, and the party-controlled mass organizations controlled all print and electronic media. The Government exercised oversight through the Ministry of Culture and Information, supplemented by pervasive party guidance and national security legislation sufficiently broad to ensure effective self-censorship in the domestic media. The Government officially requires all religious publishing be done through one government owned religious publishing house.

Published reports on high-level government corruption and mismanagement became more common during the year. Local newspapers devoted extensive coverage to the Government's investigation of an organized crime gang with links to three high-level government officials, two of whom were members of the Communist Party Central Committee. On June 20, the Government reigned in coverage when it deemed that the scandal was receiving too much publicity and revealing too many sensitive points. Many newspapers ignored the party's instructions not to report on the case, resulting in a stronger party rebuke and a subsequent sharp reduction, although not a complete halt, to the press' reporting. On December 31, the Ministry of Culture and Information announced a decision to revoke the press identity cards of four reporters. Three, Tran Ngoc Tuan of Tien Phong magazine, Dang Thanh Hai of Thanh Nien, and Nguyen Minh Son of Nguoi Lao Dong had filed what the Government claimed were inaccurate reports about Danang police beating citizens to the point of severe injury. The fourth reporter, Bui Ngoc Cai of Gia Dinh Va Xa Hoi newspaper, reported that a police major general had said that the Government might punish higher level (above the Vice Minister) government officials for corruption.

Newspapers and magazines also printed articles on contentious economic policy issues. In May the Government unexpectedly blocked press access to a foreign-funded, scientific conference. The Government did not allow foreign journalists to attend sessions and restricted domestic journalists to the opening and closing sessions.

Foreign language periodicals were widely available in cities; however, the Government occasionally censored articles about the country. Twice the Government blocked newsstand sale of a foreign periodical apparently because of articles on sensitive topics (*see* Section 1.f.).

The Government generally did not limit access to international radio, except to Radio Free Asia, which it jammed (*see* Section 1.f.).

Foreign journalists must be approved by the Foreign Ministry's Press Center and must be based in Hanoi. The number of foreign staff allowed each foreign media organization was limited, and most local staff who worked for foreign media were provided by the Foreign Ministry. The Press Center monitored journalists' activities and decided on a case-by-case basis whether to approve their interview, photograph, film, or travel requests, all of which must be submitted 5 days in advance. The Press Center refused several travel requests, particularly for travel to the Central Highlands. By law, foreign journalists are supposed to address all of their questions to other government agencies through the Foreign Ministry, although it appeared that this often was not followed in practice. Foreign journalists generally received visas valid for 6 months. Those who reported on sensitive issues sometimes experienced difficulty when renewing their visas. One journalist was unable to renew his visa during the year, and two journalists received visas for shorter than usual terms in 2001.

In past years, the Government censored television footage and sometimes delayed export of footage by several days. During the year, this was not known to have occurred, although regulations continued to allow the Government to screen such footage. The law limits access to satellite television to top officials, foreigners, luxury hotels, and the press. However, the law was not enforced uniformly, and many persons in urban and some in rural areas had access to censored television footage via home satellite equipment. On June 24, following a visible increase in individual satellite dishes set up in conjunction with the World Cup soccer competition, the Government issued a new decree in an attempt to enforce this requirement more stringently; however, its success was unknown at year's end.

The Government generally allowed artists broader latitude than in past years in choosing the themes for their works, although artists were not allowed to exhibit works of art that censors regarded as criticizing or ridiculing the Government or the Party. Many artists received permission to exhibit their works abroad, receiving exit permits to attend the exhibits and export permits to send their works out of the country. Foreign language editions of some banned books, such as Bao Ninh's *Sorrow of War*, were sold openly. In one notable exception, the press launched a campaign to denounce well-known actor Don Duong for his portrayals in the films *Green Dragon* and *We Were Soldiers Once*. The articles described the actor as a traitor and called for his arrest and detention. In October authorities confiscated his passport.

The Government allowed access to the Internet; however, it owned and controlled the country's only Internet access provider, Vietnam Data Communications (VDC). The VDC was the largest of the 5 operating Internet service providers (ISPs) with 56 percent of all subscribers. The Ministry of Culture and Information reported that the number of Internet subscribers in the country rose to approximately 250,000 in the past year and that there were approximately one million Internet users. The price of computers relative to the country's income level limited home use. However, universities and approximately 4,000 cyber cafes allowed students and many other persons wider access to the Internet. The VDC was authorized by the Government to monitor the sites that subscribers access. The Government used firewalls to block sites it deemed politically or culturally inappropriate, including sites operated by exile groups abroad. In July the Government instructed cyber cafe owners to monitor their customers to discourage citizens from accessing sites containing antigovernment material as well as pornography (*see* Section 2.b.).

In August the Government inspected a large number of Internet cafes to determine whether persons were accessing blacklisted sites. Also in August, the Government closed a company that provided an online news service because it carried articles not allowed under the Press Law. In October the Government required all owners of domestic web sites, including those operated by foreign entities, to register their sites with the Government and to submit their web site content to the Government for approval. In August 2001, the Prime Minister Phan Van Khai issued a decree on the management, provision, and the use of Internet services. The decree prohibits Internet users from taking advantage of the Internet to take hostile action against the country, to destabilize security, to violate morality, or to violate other laws and regulations. In 2001 the non-governmental organization (NGO), *Reporters Sans Frontieres* listed the country as 1 of 58 "enemies of the Internet."

The Government continued to permit a more open flow of information within the country and into the country from abroad, including in the university system, than in previous years. Foreign academic professionals temporarily working at universities were allowed to discuss nonpolitical issues widely and freely in the classroom. Government monitors regularly attended, without official notification, classes taught by both foreigners and citizens. Academic publications usually reflected the views of the Party and the Government and exhibited greater freedom for differing views

on nonpolitical subjects than for political ones. There was an increasing interest in subjects such as American Studies that officially were discouraged in the past.

*b. Freedom of Peaceful Assembly and Association.*—The right of assembly is restricted in law and in practice, and the Government restricted and monitored all forms of public protest. Persons who wished to gather in a group are required to apply for a permit, which local authorities can issue or deny arbitrarily. However, persons routinely gathered in informal groups without government interference. In general the Government did not permit demonstrations that could be seen as having a political purpose.

On August 14, approximately 2,000 persons attended war hero and government critic General Tran Do's funeral in Hanoi (*see* Section 2.a.). The Government also made no move to interfere with a hastily arranged, but well attended memorial mass for Cardinal Nguyen Van Thuan on September 20 in HCMC. In December there were reports that police dispersed one or more gatherings of Hmong Christians (*see* Section 2.c.).

During the year, there were a number of peaceful protests of up to 50 persons, mostly older rural women over land tenure issues. The protests took place outside government and party office buildings, the Prime Minister's residence, and the National Assembly hall in Hanoi. On one occasion, police firmly, but nonviolently and respectfully, moved the protesters away from the Prime Minister's residence. In October the Government sentenced two individuals for disturbing public order for organizing a protest over land compensation issues in HCMC earlier in the year.

In February 2001, police and soldiers fought with up to 4,000 ethnic minority persons who demonstrated in the Central Highlands town of Pleiku, and another 500–1,000 ethnic minority persons who demonstrated in the Central Highlands town of Buon Me Thuot. The demonstrators protested loss of forestland in the area to ethnic majority citizens. Some protested local government repression of Christian religions and some called for political autonomy or for an independent state. Scores of persons were injured on both sides.

Until March 2001, smaller scale demonstrations with varying degrees of violence continued in rural districts of the Central Highlands. The Government deployed local troops augmented by civilian militias and non-uniformed security forces to secure the area. In some places, the Government forced villagers to feed and quarter troops or members of the civilian militias. In September 2001, 14 ethnic minority persons arrested in connection with the unrest were sentenced to prison terms ranging from 6 to 12 years. One of the 14 persons arrested also was convicted of illegal possession of a military weapon. In October 2001, the Government sentenced six more ethnic minority persons to sentences ranging from a 3-year suspended sentence to 5 years' imprisonment. Charges against 18 others were dropped, or changed to the lesser charge of "inciting social unrest." At the end of 2001, at least 14 others were arrested and awaiting trial. At year's end their fate was unknown. In 2001 there were credible reports of as many as 85 persons arrested and 36 persons missing. Many more were detained and later released (*see* Sections 1.b and 1.d). There were numerous credible reports that police beat the suspects when they were taken into custody (*see* Section 1.c.).

There were several conflicting reports about an event on March 10, 2001, in Plei Lau village of Gia Lai Province. According to one credible report, hundreds of police and soldiers attempted to disperse hundreds of ethnic minority persons. Fighting erupted, resulting in dozens of injuries on both sides. At one point, an ethnic minority person armed with a spear attacked a soldier and was shot and killed by two or three other soldiers. Soldiers reportedly pursued and opened fire on other persons who had fled into the forest, wounding at least two who were shot in the leg and captured. Later that day, police forced some villagers to burn down the village church.

The Government restricted freedom of association. The Government prohibited the legal establishment of private, independent organizations, insisting that persons work within established, party-controlled organizations, often under the aegis of the VFF. Citizens were prohibited from establishing independent organizations such as political parties, labor unions, and religious or veterans' organizations. Such organizations existed only under government control. However, some entities were able to operate outside of this framework with little or no government interference. For 10 days in 2001, police in Hai Phong detained and held Vu Cao Quan after he met individually in Hanoi with several persons holding reformist views including Nguyen Thanh Giang, Hoang Minh Chinh, retired General Tran Do, and retired Colonel Pham Que Duong. Since 1990 while still a member of the Communist Party, Quan wrote several pieces advocating democracy. In September 2001, Tran Van Khue and Colonel Pham Que Duong sent a letter to the party and government leadership seeking permission to form a "People's Association to support the Party and State

to fight corruption.” Police sent Khue and Nguyen Thi Thanh Xuan from Hanoi back to their residences in HCMC and summoned Duong and 16 Hanoi associates for questioning related to the proposed “People’s Association.” These persons were known to hold reformist views and included Hoang Minh Chinh, Nguyen Thanh Giang, Hoang Tien, Nguyen Vu Binh, Duong Hung, Le Chi Quang, Tran Dung Tien, Nguyen Dao Kinh, Tran Ba, Dau Quy Ha, Duoi Huy, Nguyen Thu, Nguyen Doai, V. Tinh, Tran Dai Son, and Duoi Son. The Government also cut personal telephone lines and blocked access to the web site where Duong and Khue posted their letter. The People’s Association later set up a web site, which the Government did not block, that included contact information, the petition, other documents written by various democracy activists, and a bulletin board where several individuals recorded their reactions to the proposal. In 2001 in HCMC, police confiscated Khue’s computer and for more than 1 month “invited” him to come to the local police station twice a day “to work with them.” In October the Government also placed Khue under a 2-year administrative detention order—a form of house arrest.

*c. Freedom of Religion.*—Both the Constitution and government decrees provide for freedom of worship; however, the Government continued to restrict significantly those organized activities of religious groups that it declared to be at variance with state laws and policies.

The Government technically required religious groups to be registered and used this process to control and monitor church organizations. The Government officially recognized Buddhist, Roman Catholic, Protestant, Hoa Hao, Cao Dai, and Muslim religious organizations. To obtain official recognition, a group must obtain government approval of its leadership and the overall scope of its activities. Officially recognized religious organizations were able to operate to varying degrees throughout the country, and followers of these religious bodies were able to worship without government harassment, except in some isolated provinces. Officially recognized organizations had to consult with the Government about their religious operations, although not about their tenets of faith. Some leaders of the pre-1975 Buddhist and Hoa Hao religious bodies unsuccessfully requested official recognition of their organizations. Their activities, and those of the unregistered Protestant “house churches” were considered illegal by the authorities, and they sometimes experienced harassment as a result. The Government actively discouraged contacts between the illegal UBCV and its foreign Buddhist supporters, and between unofficial Protestant organizations, such as the underground churches, and their foreign supporters, although such contacts continued.

The Government generally allowed persons to practice individual worship in the religion of their choice, and participation in religious activities throughout the country continued to grow significantly. The Penal Code establishes penalties for “attempting to undermine national unity” by promoting “division between religious believers and nonbelievers.” In some cases, particularly involving Hmong Protestants, when authorities charged persons with practicing religion illegally, they used provisions of the Penal Code that allow for jail terms of up to 3 years for “abusing freedom of speech, press, or religion.” There were reports that officials fabricated evidence, and some of the provisions of the law used to convict religious prisoners contradict international instruments such as the Universal Declaration of Human Rights. According to credible reports, the police arbitrarily detained persons based upon their religious beliefs and practice, particularly in the mountainous, ethnic minority areas. There were credible reports that Hmong Protestant Christians in several northwestern villages and various ethnic minority Protestant Christians in the Central Highlands were pressured or forced to recant their faith. In the northwest provinces and the Central Highlands, local officials allowed believers little discretion in the practice of their faith. The Government continued to harass members of the UBCV, and prevented their conducting independent religious activities, particularly outside of their pagodas. The Vietnamese Roman Catholic Church hierarchy remained frustrated by the Government’s restrictions but has learned to accommodate itself to them. A number of clergy reported a modest easing of government control over church activities in certain dioceses during the year. In most locales, local government officials allowed Catholic Church officials to conduct religious education classes (outside regular school hours). However, in many areas, officials strictly prohibited these activities. In some areas, including HCMC, local officials allowed unregistered religious organizations to operate with little or no interference.

Restrictions on the hierarchies and clergy of religious groups remained in place, and the Government maintained supervisory control of the recognized religions, in part because the Communist Party feared that organized religions may weaken its authority and influence by serving as political, social, and spiritual alternatives to the authority of the central government. Religious organizations were required to obtain government permission to hold training seminars, conventions, and celebra-

tions outside of the regular religious calendar, to build or remodel places of worship, to engage in charitable activities, operate religious schools, and to train, ordain, promote, or transfer clergy. Religious organizations also were required to submit their "annual plans" and "schedules" for approval by local authorities. Many of these restrictions principally were exercised by provincial or city people's committees, and treatment of religious persons varied widely by locality.

In general religious groups faced difficulty in obtaining teaching materials, expanding training facilities, and expanding the clergy in training in response to the increased demand from congregations; the Government regulated the number of clergy that the Buddhist, Catholic, Hoa Hao, and Cao Dai churches officially may train. The Government has not allowed officially recognized training of Protestant clergy since 1993, although the Southern Evangelical Church of Vietnam (SECV), which only formally was recognized in 2001, requested permission to open a seminary in HCMC. In principle the Government gave the SECV permission to establish a seminary in 2001. However, the SECV was not able to obtain permission for many specific steps to open the seminary such as recruiting or assigning faculty, using or building a facility, or recruiting students.

The Roman Catholic Church faced significant restrictions on the training and ordination of priests and bishops. The Government effectively maintained veto power over Vatican appointments of bishops; however, in practice it had shown willingness to discuss appointments with the Vatican. In recent years, the Government eased its efforts to control the Roman Catholic hierarchy by relaxing the requirements that all clergy belong to the Government controlled Catholic Patriotic Association. The Catholic Church operated 6 seminaries, and in 2001 received permission from the central authorities to open a seventh. However, local authorities did not consent to the seminary's proposed location and it had not opened by year's end. The Catholic Church also received permission to accept new seminarians, but only every other year. Over 800 students were enrolled nationwide at year's end. The local people's committee must approve all students, both upon entering the seminary and prior to their ordination as priests. A few more recent seminary graduates remained unordained as long as 10 years. Most observers believed that the number of ordained priests was insufficient to support the growing Catholic population.

Although the authorities arrested and otherwise strictly controlled Hoa Hao "dissidents," the Government permitted other Hoa Hao believers more freedom to practice their faith. Between 100 and 200 visitors worshipped at the central Hoa Hao Pagoda in An Giang Province on a daily basis. Police authorities routinely questioned some persons who held alternative religious or political views, such as UBCV monks and Hoa Hao leaders.

Since 1975 the Government has prohibited ordination into the Cao Dai priesthood. However, during the year, at least 18 new priests were ordained and 920 apprentices entered the process leading to priesthood. Other existing priests were promoted to higher ranks.

Muslim Association members were able to practice their faith, including daily prayer and fasting during the month of Ramadan.

The Government restricted and monitored all forms of public assembly, including assembly for religious activities. Large regularly scheduled religious gatherings were allowed, such as the Catholic celebrations at La Vang. The Hoa Hao also were allowed to hold large public gatherings to commemorate some traditional anniversaries, but not others. Some specially scheduled religious gatherings also were allowed. However, in December there were reports that police in Lai Chau Province attempted to disperse one or more gatherings of Hmong Christians. Police reportedly used a gas, possibly pepper spray, during at least one of these actions, leading to the hospitalization of four or more persons (*see* Section 2.b.).

Open adherence to a religious faith generally did not disadvantage persons in civil, economic, and secular life, although it likely would prevent advancement to the highest government and military ranks. Avowed religious practice theoretically barred one from membership in the Communist Party, but in 1997 the CPV reported that approximately 23,000 of the 2.4 million party members were religious believers. Government and party officials increasingly admitted that they follow traditional and Buddhist religious practices.

The law prohibits foreign missionaries from operating in the country.

The Government established a publishing house under control of its Committee for Religious Affairs specifically to oversee the publishing of all religious materials. Many Buddhist sacred scriptures, Bibles, and other religious texts and publications are printed by government-sanctioned organizations and are sold or distributed at religious institutions.

The Government allowed religious travel for some, but not all, religious persons; Muslims were able to take the Hajj (although none did during the year due to lack

of foreign financial support), and many Buddhist and Catholic Church officials, and some Protestant officials were able to travel and study abroad. Most of the country's Catholic bishops visited the Vatican for several weeks in the early part of the year. The Government allowed many bishops and priests to travel freely within their dioceses and allowed greater, but still restricted freedom for travel outside these areas, particularly in many ethnic areas. Several Protestant house church leaders traveled overseas during the year. Government officials discouraged officially recognized clergy from entering Son La, Lai Chau, and some other border provinces. In March several hundred Hao Hoa believers traveled to the Hoa Hao Pagoda in An Giang Province to commemorate a traditional anniversary that the Government refused to recognize officially. In July up to 300,000 persons traveled there to celebrate another traditional anniversary that the Government recognizes. Persons who held alternative religious opinions sometimes are not approved for foreign travel. Buddhist monk Thich Thai Hoa in Hue, for example, was refused permission to travel outside the country on several occasions. Thich Huyen Quang, Nguyen Lap Ma, and Nguyen Nhat Thong were restricted from travelling or had to request permission from authorities to travel (*see* Section 2.d.).

Ethnic minority, underground Protestant congregations in the Central Highlands and in the northwestern provinces continued to suffer severe abuses. Certain northwest provinces reportedly did not have any officially recognized churches or pagodas, allegedly due to provincial government disapproval. Authorities in those areas also reportedly arrested and imprisoned ethnic minority believers for practicing their faith nonviolently, citing their lack of officially recognized status. During the year, there were reports that some Protestants in the Central Highlands, particularly in Dak Lak Province, experienced continued difficulties and restrictions despite evidence of reduced tensions in some other parts of the Central Highlands.

Several reports described a systematic campaign on the part of local officials in Dak Lak and Gia Lai Provinces in the Central Highlands to force ethnic minority Protestants to renounce their faith. Similar campaigns were reported and continued to be reported during the year in Lai Chau, Lao Cai, and other mountainous northern provinces. Under threat of physical abuse or confiscation of property, ethnic minority Protestants allegedly were made to sign a formal, written renunciation or to undergo a symbolic ritual, which included drinking rice whiskey mixed with animal blood. Officials reportedly ordered Protestant gatherings to cease, forbade pastors from traveling, withheld government food distributions from Protestant believers, and prohibited children of Protestant families from attending school beyond the third grade.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides that citizens shall enjoy freedom of movement and of residence within the country . . . (and) freely travel abroad and return home . . . in accordance with the provisions of the law"; however, the Government imposed some limits on freedom of movement. Most citizens enjoyed freedom of movement within the country, but some local authorities required members of ethnic minority groups to obtain permission to travel outside certain highland areas.

Local officials reportedly informally discouraged clergy from entering certain provinces. Officially citizens had to obtain permission to change their residence (*see* Section 1.f.). In practice, many persons continued to move without approval, especially migrant or itinerant laborers moving from rural areas to cities in search of work. However, moving without permission restricted their ability to obtain legal residence permits. Holders of foreign passports in theory must register to stay in private homes. In practice visitors of Vietnamese origin from overseas did not appear to have had problems with this requirement and were allowed to stay with family and friends.

The Government employed internal isolation under the decree on administrative detention to restrict the movement of political and religious dissidents (*see* Sections 1.d. and 1.f.). Reform activist Nguyen Thanh Giang was not under administrative detention and was permitted to move around freely in Hanoi, although his freedom to move around outside Hanoi was largely untested. Since June 2001, after Thich Quang Do attempted to organize an unauthorized delegation of monks to travel to Quang Ngai Province, authorities confined him incommunicado and under guard to his living quarters. His telephone lines were cut and he was unable to receive visitors (*see* Section 2.c.).

Some persons were held under conditions resembling house arrest without known legal pretext. Since 1982 Thich Huyen Quang, Supreme Patriarch of the banned UBCV, has been confined to a pagoda in Quang Ngai Province. He cannot leave the pagoda without official permission, although, he was able to receive at least some

visitors, including diplomats, during the year. Provincial police reportedly told him in 1997 that his term of detention officially had concluded. Rather than allow him to return to his previous residence, HCMC authorities urged him to return to his province of birth instead. Similarly, Protestant pastor Nguyen Lap Ma has been forced to reside in an isolated village in Can Tho Province since 1982. However, after he suffered a stroke in 1998, authorities allowed him to travel to HCMC for monthly medical check-ups. Another Protestant pastor, Nguyen Nhat Thong, has been forced to reside in a remote village in Binh Thuan Province since 1979. He has been allowed to travel outside the village since 1986, but must ask for the permission of local authorities first (*see* Section 2.c.).

Foreigners generally were free to travel throughout the country, except in areas restricted on grounds of national security. Following the 2001 ethnic unrest in the Central Highlands, entry into the area was restricted for several months for most foreigners. The Government retained the right to approve travel to border areas and to some islands, but in practice foreigners could travel to most non-sensitive border areas without prior approval. However, on several occasions, local police detained and fined foreigners who police found had ventured too close to international borders and other sensitive military areas. Some of these areas were unmarked. Although the Government no longer requires citizens traveling abroad to obtain exit or reentry visas, the Government sometimes prevented persons from traveling by refusing to issue passports. Persons who departed the country using passports marked "dinh cu" or "resettlement" appear to need a reentry permit to return. Some persons who publicly or privately expressed critical opinions on religious or political issues sometimes were not allowed to travel abroad (*see* Section 2.c.).

Citizens' access to passports sometimes was constrained by factors outside the law, such as bribery and corruption. Refugee and immigrant visa applicants sometimes encountered local officials who arbitrarily delayed or denied passports based on personal animosities, or based on the officials' perception that an applicant did not meet program criteria, or to extort a bribe.

The United States continued to process immigrants and refugee applicants for admission and resettlement, including Amerasians, former reeducation camp detainees, former foreign government employees, family reunification cases, and returnees from camps of first asylum elsewhere in the region (under the Resettlement Opportunity for Vietnamese Returnees, (ROVR) program). Most of these programs were nearing the completion of processing, with the number of cases in most categories in the low double digits. (An exception was the Amerasian program, which remained opened to new applicants). A major step forward in this area was the agreement by the Government on the resumption of processing for over 900 former foreign government employees and their family members. This refugee program had been suspended in 1996 but interviews resumed during this year. A government pledge that approved cases would be allowed to depart expeditiously was upheld; at year's end, nearly all approved applicants (over 450 individuals in total) had already departed the country.

There were concerns that some members of minority ethnic groups, such as the Montagnards, who live in the Central Highlands may not have had ready access to the above programs because the Government denied them passports. While this was not the case for the program for former foreign government employees, a slowdown in passport issuances to Montagnards who applied under the re-education camp detainees program was noticeable for some time after the events in the Spring of 2001. However, during this year, the situation improved, when nearly two dozen long-standing cases received passports, and one particularly prominent, long-standing case was allowed to leave the country after a 2-year delay.

The Government generally permits citizens who emigrated to return to visit, but it considers them citizens and therefore subject to the obligations of citizens under the law, even if they adopted another country's citizenship, unless their formal renunciations of citizenship were approved by the President. In practice, the Government usually treats them as citizens of their adopted country; emigrants are not permitted to use Vietnamese passports after they adopt other citizenship. However, because citizens who live overseas are considered a valuable potential source of foreign exchange and expertise for the country but also a potential security threat, the Government generally encouraged them to visit but monitored them carefully.

In early 2001, over 1,000 Montagnards from the Central Highlands fled to Cambodia following a crackdown by security forces. The crackdown followed demonstrations complaining of appropriation of traditional lands, influx of ethnic Vietnamese into the Central Highlands, and religious discrimination. A tripartite agreement on the Montagnards' repatriation among the Governments of Vietnam and Cambodia and the U.N. High Commissioner for Refugees (UNHCR) was abandoned by UNHCR after Vietnam restricted access and attempted to intimidate and pressure

Montagnards in the UNHCR camps to return. In June an official was quoted acknowledging the mistakes of the country's leadership for the turmoil in the Central Highlands. Subsequently, the Government declared it would award each minority family in the Central Highlands at least one hectare of land for farming and 400 square meters for housing.

During the year, there were credible reports that non-uniformed security forces crossed the border to try to capture and return those who had fled. These reports add that the security forces succeeded in forcibly returning approximately 50 persons to Dak Lak Province. Eight other persons reportedly were returned to Gia Lai Province. Two of them reportedly were placed in jail, and the other six were placed under administrative probation. Family members reported the disappearances of at least 42 ethnic minority persons from Gia Lai Province. Most of those who fled and were placed under the protection of the U.N. High Commissioner for Refugees were subsequently resettled from Cambodia to a third country.

The country is not a signatory to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. However, the Constitution provides for consideration of asylum for foreigners persecuted abroad under certain circumstances. There were no reports of the forced return of persons to a country where they feared persecution.

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

Citizens do not have the right to change their government peacefully through democratic means. Party control over the selection of candidates in elections for the National Assembly, the presidency, the prime ministership, and local government undermines this right. All authority and political power is vested in the CPV, and the Constitution declares the supremacy of the CPV; political opposition movements and other political parties are illegal. The CPV Central Committee is the supreme decision-making body in the nation, with the Politburo as the locus of policymaking. During the Ninth Congress of the CPV in April 2001, the Party replaced the standing board, consisting of the five most senior members of the Politburo, with a nine-member Secretariat, consisting of the General Secretary, four lower ranking Politburo members, and four non-Politburo Central Committee members, to oversee day-to-day implementation of leadership directives. The Government continued to restrict public debate and criticism to certain aspects of individual, state, or party performance determined by the CPV itself. However, during the year and in 2001, legislators questioned and criticized ministers in sessions that were broadcast live on television. No public challenge to the legitimacy of the one-party State is permitted; however, there were instances of unsanctioned letters critical of the Government from private citizens, including some former party members, that circulated publicly (see Section 2.a.).

The Government strongly encouraged eligible citizens to vote in elections, although there is no legal penalty for not voting. Voting was not compulsory, but election officials applied many means to persuade citizens to vote, including using public address systems to ask late voting citizens by name to come to the polls. The Government claimed a 99.73 percent voter turnout for the May 19 National Assembly election. Proxy voting, while illegal, appeared widespread. In addition, most voting was over by 10:00 a.m., although polls were required to be open until 5:00 p.m. The party-controlled VFF approved all candidates for the 498-member assembly.

The National Assembly, although subject to the control of the Party (all of its senior leaders and 90 percent of its members also are party members), increasingly served as a forum for the expression of local and provincial concerns and as a critic of corruption and inefficiency. However, it does not initiate legislation and never has passed legislation that the Party opposed. Party officials occupied most senior government and National Assembly positions and continued to have the final say on key issues. In August the National Assembly debated the Government's cabinet nominations; although it approved all of the nominations, more than 30 percent of the delegates voted against some nominees. During the year, the National Assembly continued to engage in public debate on economic, legal, and social issues. It also continued to exert its increasing power to revise or reject draft laws and actively pursued enhancing its capability to draft laws. In December 2001, the National Assembly rejected the Government's preferred option on a large dam project. In June 2001, legislators apparently concerned that passage would lead to widespread miscarriages of justice, rejected a bill that could have granted district courts wider powers.

The law provides the opportunity for equal participation in politics by women and minority groups. Approximately 99 percent of women in the country voted. Women held a number of important government positions, including the Vice Presidency.



There were 136 women in the 498-seat legislature; there were three women at the Ministerial level; and there were no women in the Politburo. There were only a few women in provincial level leadership positions.

According to government figures, approximately 99 percent of minorities in the country voted and 87 of the 498 National Assembly members belonged to ethnic minorities. The CPV General Secretary, formerly Chairman of the National Assembly, is a member of an ethnic minority group. However, the percentage of minorities in government or national-level politics does not accurately reflect their numbers in the population.

*Section 4. Governmental Attitude Regarding International and Non-governmental Investigation of Alleged Violations of Human Rights*

The Government does not permit private, local human rights organizations to form or operate. It generally prohibited private citizens from contacting international human rights organizations, although some activists were able to do so. The Government did not allow any visits by international NGO human rights monitors. The Government criticized almost all public statements on human rights issues by international NGOs or by foreign governments.

The Government generally was willing to discuss human rights problems bilaterally with some other governments if such discussions took place under the rubric of "exchanges of ideas" rather than as "investigations." During the year, several foreign governments held official talks concerning human rights. The country continued to be a member of the U.N. Human Rights Commission.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination based on gender, ethnicity, religion, or social class; however, enforcement of these prohibitions was uneven. Some persons formerly interred in reeducation camps on the basis of association with the pre-1975 government continued to report varying levels of discrimination as they and their families sought access to housing, education, and employment. Some military veterans of the pre-1975 government still faced economic hardship as a result of past employment restrictions and discrimination, but none were known still to be incarcerated for their activities before 1975. These veterans and their families generally were unable to obtain employment with the Government. This prohibition is less restrictive than in past years because of the growth of job opportunities in the private sector.

*Women.*—The law addresses the problem of domestic violence; however, the authorities did not enforce the law effectively. Officials increasingly acknowledged domestic violence, which also was discussed more openly in the media. International NGO workers and local contacts reported that domestic violence against women was common. Reportedly approximately two-thirds of divorces were due in part to domestic violence. The divorce rate has risen in the past few years, but many women remained in abusive marriages rather than confront the social and family stigma and economic uncertainty of divorce.

Under the Penal Code, it is a crime to use violence, threaten violence, take advantage of a victim who is unable to act in self-defense, or resort to trickery to have sexual intercourse with a victim against that person's will. This is believed to criminalize rape, spousal rape, and, in some instances, sexual harassment. However, there were no known instances of prosecution for spousal rape.

Prostitution is officially illegal, but appears to be tolerated widely. Some women are coerced to work as prostitutes, and some are victimized by false promises of lucrative work (*see* Section 6.f.). Many more women feel compelled to work as prostitutes because of poverty and a lack of other employment opportunities. NGOs estimated that there were 300,000 prostitutes in the country, including those who engaged in prostitution part-time or seasonally, during the year. There were reports that some persons in HCMC addicted young women to heroin and forced them to work as prostitutes to earn money for drugs. Parents often expected an eldest daughter to assume responsibility for a significant part of a family's finances. There were reports that some parents coerced daughters into prostitution or made such extreme financial demands on them that they felt compelled to engage in prostitution. The Women's Union as well as international NGOs engaged actively in education and rehabilitation programs to combat these abuses.

Trafficking in women for the purpose of sexual exploitation, both domestically and internationally, was a serious problem (*see* Section 6.f.).

While there is no legal discrimination, women faced deeply ingrained societal discrimination. Despite provisions in the Constitution, in legislation, and in regulations that mandate equal treatment, and although some women occupied high government posts, few women competed successfully for higher status positions. The Gov-

ernment has ratified International Labor Organization (ILO) conventions on Equal Remuneration and Discrimination in Employment. The Constitution provides that women and men must receive equal pay for equal work; however, the Government did not adequately enforce this provision. Very poor women, especially in rural areas but also in cities, performed menial work in construction, waste removal, and other jobs for extremely low wages. Despite the large body of legislation and regulations devoted to the protection of women's rights in marriage as well as in the workplace, and Labor Code provisions that call for preferential treatment of women, women did not always receive equal treatment. Nevertheless, women played an important role in the economy and were engaged widely in business and in social and educational institutions. Opportunities for young professional women have increased markedly in the past few years, with greater numbers entering and staying in the civil service, universities, and the private sector.

The party-controlled Women's Union has a broad agenda to promote women's rights, including political, economic, and legal equality, and protection from spousal abuse. The Women's Union operates micro-credit consumer finance programs and other programs to promote the advancement of women. International NGOs and other international organizations regarded the Union as effective, but they and Women's Union representatives believe that much time is required to overcome societal attitudes that relegate women to lower status than men. The Government also has a committee for the advancement of women, which coordinates inter-ministerial programs that affect women.

*Children.*—International organizations and government agencies reported that, despite the Government's promotion of child protection and welfare, children continued to be at risk of economic exploitation. While education is compulsory through the age of 14, the authorities did not enforce the requirement, especially in rural areas where government and family budgets for education are strained and where children were needed for agricultural labor. However, the culture's strong emphasis on education led parents who could send children to school to do so, rather than to allow them to work. Due to lack of classroom space, most schools operated two sessions, and children attended either morning or afternoon sessions; a result of attending school only half days was that children were able to attend classes and work. In 2001 the ILO stated that some street children both in HCMC and Hanoi participated in night education courses. The Government has been in the process of extending free public education from 6 years of age to 9 years of age. The public school system includes 12 grades. Over 90 percent of children attended elementary grades, but the percentage that attended junior and senior high school dropped sharply. These percentages were even lower in remote mountainous areas although the Government runs a system of subsidized boarding schools through the high school level for ethnic minority students.

The Government continued a nationwide immunization campaign, and the Government-controlled press regularly stressed the importance of health and education for all children. While reports from domestic sources indicated that responsible officials generally took these goals seriously, concrete actions were constrained by severely limited budgets. According to UNICEF, despite growth in incomes over the past decade, severe malnutrition remained a problem; approximately 39 percent of children under 5 years of age were underweight during the 1995–2000 timeframe.

Widespread poverty contributed to continued child prostitution, especially of girls, but also of some boys, in major cities. Many prostitutes in HCMC were between 15 and 17 years of age. One NGO advocate said that some child prostitutes, such as those from abusive homes, were forced into prostitution for economic reasons, having few other choices available to them. There were reports that some persons addicted young girls to heroin and forced them to work as prostitutes to earn money for drugs.

Some children were trafficked domestically, and others were trafficked to foreign destinations for the purpose of sexual exploitation. Press reports documented the conviction and imprisonment of a number of traffickers (*see* Section 6.f.). Individuals also were convicted in cases in which parents received payments in exchange for releasing their babies for adoption.

According to a 2001 government report on child labor, there were 20,000 street children in the country. Street children were vulnerable to abuse and sometimes were abused or harassed by police (*see* Section 1.c.).

*Persons with Disabilities.*—There is no official discrimination against persons with disabilities in employment, education, or in the provision of other state services. Government provision of services to assist persons with disabilities, however, was limited, and the Government provided little official protection or effective support to persons with disabilities. The Government operated a small network of rehabilita-

tion centers to provide long-term in-patient physical therapy and special education for disabled children. Government agencies responsible for services to persons with disabilities worked with domestic and foreign groups to provide protection, support, physical access, education, and employment. Implementation was hampered by limited budgets. The law requires the State to protect the rights and encourage the employment of persons with disabilities. It includes provisions for preferential treatment of firms that recruit persons with disabilities for training or apprenticeship and a special levy on firms that do not employ workers with disabilities. The extent to which the Government enforced these provisions was persons disabled by war, by subsequent accidents involving unexploded ordnance, or other causes, and developed indigenous prosthetics manufacturing capabilities. There were no laws mandating physical access to buildings, but during the year international groups worked with the Government to provide increased accessibility. International groups also assisted the Government in implementing programs to increase access by persons with disabilities to education and employment.

*National/Racial/Ethnic Minorities.*—Although the Government officially is opposed to discrimination against ethnic minorities, longstanding societal discrimination against ethnic minorities was widespread. In addition, there continued to be credible reports that local officials sometimes restricted ethnic minority access to some types of employment and educational opportunities. The Government continued to implement policies designed to narrow the gap in the standard of living between ethnic groups living in the highlands and richer, lowland ethnic majority Vietnamese (Kinh) by granting preferential treatment to domestic and foreign companies that invest in highland areas. The Government ran special schools for ethnic minorities in many provinces including subsidized boarding schools at the high school and middle school levels, and offered special scholarship programs at the university level.

The Government resettled some ethnic minorities from inaccessible villages in mountainous provinces to locations where basic services were easier to provide; however, the effect of the policy sometimes has been to dilute the political and social solidarity of these groups. The Government admits that one of the goals of resettlement was to impel the minorities to change from traditional swidden agricultural methods to sedentary agriculture. This also had the effect of making more land available to ethnic majority Kinh migrants to the mountainous areas. Large-scale, government-encouraged as well as spontaneous migration of ethnic Kinh to the Central Highlands has diluted the indigenous culture there. It has also led to numerous land disputes between ethnic minority households and ethnic Kinh migrants. The perception of the loss of traditional ethnic minority lands to Kinh migrants was an important factor behind the ethnic unrest in 2001 (see Section 2.b.). There were numerous credible reports that groups of Montagnards continued to flee to Cambodia to escape ethnic and religious repression in the Central Highlands. Government officials continued to harass some highland minorities, particularly the Hmong in the northwest provinces and several ethnic groups in the Central Highlands, for practicing their religion without official approval (see Section 2.c.).

Government officials have stated that there were many instances in which local government officials in the Central Highlands acted contrary to stated national policies or failed to uphold national laws.

The Government continued to impose extra security measures in the Central Highlands (see Section 2.b.). There were unconfirmed reports of continued pushbacks of Montagnards seeking to cross into Cambodia, sometimes accompanied by beatings and detentions. However, the Government continued measures to address the causes of the unrest and began new measures as well. National government officials regularly visited the Central Highlands. The Government began a special program to allocate land to ethnic minorities in the Central Highlands.

Previously, all classroom instruction was required by law to be conducted in the Vietnamese language, but the Government continued a program to conduct classes in the local language up to grade five. The Government worked with local officials to develop a local language curriculum. The Government appeared to be implementing this program more comprehensively in the Central Highlands than in mountainous northern provinces. In 2001 the Government began broadcasting radio and television programming in the area in ethnic minority languages. The Government also told ethnic Kinh officials that they must learn the language of the locality in which they worked, although this did not yet appear to have had much effect by year's end. Provincial governments implemented initiatives designed to increase employment, reduce the income gap between ethnic minorities and ethnic Kinh, and be sensitive and receptive to ethnic minority culture and traditions. Officials in Lam Dong Province reportedly hired ethnic minority persons to teach minority languages to ethnic Kinh police. Officials in Dak Lak Province reportedly experimented with

a land policy that would allocate certain forestlands to ethnic minority villages for communal use.

*Section 6. Worker Rights*

*a. The Right of Association.*—Workers are not free to join or form unions of their choosing. Trade unions are controlled by the Party and have only nominal independence. All unions must be approved by and must affiliate with the party-controlled Vietnam General Confederation of Labor (VGCL). The VGCL claimed that it represented 95 percent of public sector workers and 90 percent of workers in state-owned enterprises. However, the overall level of unionization of the workforce was 10 percent. Approximately 500,000 union members worked in the private sector, including enterprises with foreign investment. The vast majority of the work force lived in rural areas, engaged in small-scale farming, and was not unionized. The VGCL asserted that authorities did not prosecute some violations of the Labor Law. Union leaders influenced key decisions, such as the amendment of labor legislation, development of social safety nets, and the setting of health, safety, and minimum wage standards.

While the Labor Law states that all enterprise-level and professional trade unions are affiliated with the VGCL, in practice hundreds of unaffiliated “labor associations” were organized at many individual enterprises and in occupations such as those of taxi, motorcycle and cyclo drivers, cooks, and market porters. Foreign governments and international organizations, such as the ILO and other U.N. system organizations, provided technical assistance and training to the Ministry of Labor, Invalids, and Social Affairs (MOLISA), provincial labor departments, and the VGCL. Since 1995 MOLISA organized hundreds of training courses on the Labor Law for its staff and for managers of enterprises. The ILO and the U.N. Development Program cooperated on a large multiyear technical assistance program to strengthen Labor Law implementation.

Individual unions legally are not free to affiliate with, join, or participate in, international labor bodies, and they did not do so in practice. However, the VGCL had relations with 95 labor organizations in 70 countries, and the VGCL’s president traveled internationally, including to industrialized countries, to discuss labor matters.

*b. The Right to Organize and Bargain Collectively.*—Under the law, the provincial or metropolitan branch of the VGCL is charged with organizing a union within 6 months of establishment of any new enterprise with five or more employees, if workers have not already done so. Management is required by law to accept and to cooperate with those unions. The Labor Law provides VGCL-affiliated unions the right to bargain collectively on behalf of workers. In recent years, collective bargaining has become more important. Many contracts have been negotiated that ended the practice of annual renewal, and multiyear contracts have become more common despite initial resistance from foreign companies. In recent years, labor leaders have increased the number of workplace issues in collective bargaining agreements. Issues previously not covered in contracts, such as Sunday work, have been spelled out so that companies cannot order workers to work a seventh day. Since the country began moving away from central planning, market forces have played an increasingly important role in determining wages. The Labor Law prohibits anti-union discrimination on the part of employers against employees who seek to organize.

The Labor Law provides for the right to strike if workers follow the stipulated process of conciliation and arbitration. The law requires that management and labor first attempt to resolve labor disputes through the enterprise’s own labor conciliation council. However, many enterprises did not have labor conciliation councils. In the absence of such a council or if a council fails to resolve a labor dispute, the dispute is referred to labor arbitration successively at the district and provincial level. Individual workers may take cases directly to the peoples’ court system, but in most cases, only after conciliation has been attempted and failed. Unions have the right to appeal decisions of provincial labor arbitration councils to provincial people’s courts or to strike. Because this process is lengthy and the necessary dispute resolution bodies in many provinces and localities have never been established, nearly every strike is considered illegal.

The local press reported at least 79 strikes during the year. Of these, 37 were against foreign-invested enterprises, 40 involved domestic private enterprises, and 2 affected state-owned firms. Other sources reported 14 strikes against state-owned firms. In 2001, 73 strikes occurred, an increase of three over the previous year. Foreign-invested enterprises experienced 40 incidences, domestic private enterprises were affected by 21 strikes, and state-owned firms experienced 12 strikes. Although strikes typically did not follow the authorized conciliation and arbitration process, and thus were of questionable legality, the Government tolerated them and took no

action against the strikers. Although the VGCL or its affiliate unions did not sanction these strikes officially, the local and provincial levels of the VGCL unofficially supported many of them. The Labor Law prohibits retribution against strikers, and there were no reports of retribution. In some cases, the Government disciplined employers for illegal practices that led to strikes.

The Labor Law prohibits strikes in 54 occupational sectors and businesses that serve the public or are considered by the Government to be important to the national economy and defense. A subsequent decree defined these enterprises to be those involved in: electricity production; post and telecommunications; railway, maritime, and air transportation; banking; public works; and the oil and gas industry. The law also grants the Prime Minister the right to suspend a strike considered detrimental to the national economy or public safety.

The same labor laws as in the rest of the country govern the growing number of export processing zones and industrial zones. There is anecdotal evidence that the Government enforced labor laws more actively in the zones than outside them.

*c. Prohibition of Forced or Bonded Labor.*—The Labor Law prohibits all forms of forced and bonded labor, including such labor by children; however, there were reports that thousands of children worked in exploitative situations (*see* Section 6.d.). Some women were coerced into prostitution (*see* Sections 5 and 6.f.). A study of child labor in HCMC found cases in which parents in poor families entered into “verbal agreements” with employers, who put their children to work; the children’s salaries were sent directly to the parents.

The Government denied the use of prison labor without compensation; however, prisoners routinely were required to work for little or no pay. They produced food and other goods used directly in prisons or sold on local markets reportedly to purchase items for prisoners. Officials said that juveniles in Education and Nourishment Centers, which function much as reform schools or juvenile detention centers do elsewhere, were assigned work for “educational purposes” that does not generate income.

A government ordinance requires all adult citizens between 18 and 45 years of age for men and between 18 and 35 years of age for women to perform 10 days of annual public labor. However, the ordinance permits citizens to excuse themselves from this obligation by finding a substitute or paying a marginal fee. While some have alleged that such laborers were recruited to construct the Ho Chi Minh Highway, the Government issued a decree in October 2000 that gave the force of law to its existing policy that all labor on this project must be voluntary and paid.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Law prohibits most child labor but allows exceptions for certain types of work. It sets the minimum age for employment at 18 years of age, but enterprises may hire children between the ages of 15 and 18 if the firm obtains special permission from their parents and the MOLISA. However, a widely-publicized 2001 MOLISA survey found that about 40,000 children between the ages of 8 and 14 years worked part-time or full-time in violation of the Labor law. That estimate may be low, since many more children worked in the informal sector, usually on family farms or family businesses not within the scope of the Labor Law.

By law an employer must ensure that workers under 18 years of age do not undertake hazardous work or work that would harm their physical or mental development. Prohibited occupations are specified in the Labor Law. The Labor Law permits children to register at trade training centers, a form of vocational training, from 13 years of age. Children may work a maximum of 7 hours per day and 42 hours per week and must receive special health care. Authorities did not have sufficient resources to ensure enforcement of child labor regulations. International donor assistance targeted the problem of child labor.

There were reports that enterprises, including companies with foreign investment, have discovered underage workers in their employ. According to reliable sources, this occurred when the child workers presented false identity documents, frequently borrowed from older family members. Once discovered the children lost their jobs, but in many cases the companies paid for their schooling and promised to reemploy them once they were of age.

In rural areas, children worked primarily on family farms and in other agricultural activities. In some cases they began work as young as 6 years of age and were expected to work as adults by the time they were 15 years of age. In urban areas, children also may work in family-owned small businesses. Migration from rural to urban settings has exacerbated the child labor problem.

Government officials have the power to fine and, in cases of Criminal Code violations, prosecute employers who violate child Labor Laws. While the Government committed insufficient resources to effectively enforce laws providing for children’s

labor safety, especially for children working in mines and as domestic servants, it detected some cases of child exploitation, removed the children from the exploitative situations, and fined the employers.

In June 2001, the Government tabled a National Plan of Action implementing ILO Convention 182 on worst forms of child labor, which it had ratified in November 2000. In addition, a child labor unit was established within MOLISA. The country also participated in an ILO project on child trafficking in the Mekong region.

The law prohibits forced and bonded labor by children; however, thousands of children worked in exploitative situations and were trafficked both domestically and internationally for the purpose of sexual exploitation (*see* Section 6.f.).

*e. Acceptable Conditions of Work.*—The Labor Law requires the Government to set a minimum wage, which is adjusted for inflation and other economic changes. The official monthly minimum wage for foreign-investment joint ventures was \$45 (674,820 dong) in Hanoi and HCMC, and \$40 (599,840 dong) elsewhere. The Government can exempt temporarily certain joint ventures from paying the minimum wage during the first months of an enterprise's operations or if the enterprise is located in a very remote area, but the minimum wage in these cases can be no lower than \$30 (449,880 dong). The official monthly minimum wage of \$12 (180,000 dong) outside the foreign-invested joint venture sector was inadequate to provide a worker and family with a decent standard of living. However, state-owned enterprises consistently paid more than that minimum. The number of workers who received government-subsidized housing was decreasing. However, many workers received bonuses and supplement incomes by engaging in entrepreneurial activities and households often included more than one wage earner. A 2001 ILO study found that minimum wage requirements were applied well in all sectors, with the exception of smaller private sector enterprises. However, there were a number of media reports citing incidences of violations of minimum wage requirements by companies with foreign investment.

The Government set the workweek for government employees and employees of companies in the state sector at 40 hours and encouraged the private business sector and foreign and international organizations that employed local workers to reduce the number of hours in the workweek to 40 hours, but did not make compliance mandatory.

The Labor Law sets normal working hours at a maximum of 8 hours per day, with a mandatory 24-hour break each week. Additional hours require overtime pay at 1 ½ times the regular wage and 2 times the regular wage on holidays. The law limits compulsory overtime to 4 hours per week and 200 hours per year. The law also prescribes annual leave with full pay for various types of work. The ILO has pointed out that the limit of 200 hours a year of overtime work is too low, and that workers and employers should have the right to agree to a greater amount of overtime work. It is uncertain how well the Government enforced these provisions.

According to the law, a female employee who is to be married, is pregnant, is on maternity leave, or is raising a child under 1 year of age cannot be dismissed unless the enterprise is closed. Female employees who are at least 7 months pregnant or are raising a child under 1 year of age cannot work overtime, at night, or in distant locations.

The Labor Law requires the Government to promulgate rules and regulations that ensure worker safety. The MOLISA, in coordination with local people's committees and labor unions, is charged with enforcing the regulations. In practice enforcement was inadequate because of MOLISA's low funding and a shortage of trained enforcement personnel. The VGCL reported that there were 300 labor inspectors in the country but that at least 600 were needed. On-the-job injuries due to poor health and safety conditions in the workplace were a problem. There was evidence, however, that workers, through labor unions, were effective in improving working conditions. Some foreign companies with operations in the country have established independent monitoring of problems at their factories.

The Labor Code provides that workers may remove themselves from hazardous conditions without risking loss of employment. Companies report that MOLISA or provincial labor agencies perform labor and occupation safety and health inspections at enterprises when they learn of serious accidents or when there have been reports of hazardous conditions.

*f. Trafficking in Persons.*—The Penal Code prohibits trafficking in women and children; however, trafficking in women and children for the purpose of sexual exploitation and for labor, both domestically and internationally, was a serious problem. While no law specifically prohibits trafficking in men, existing laws could be used to prosecute traffickers who recruit or send men abroad to work for "illegitimate profits" or illegal purposes. Incidents of trafficking of adult males domestically or abroad were rare. While reliable statistics on the numbers of citizens trafficked

were not available, there was evidence that the numbers have grown in recent years, but may have leveled off over the past year. The Social Evils Department of MOLISA and the Criminal Police Department of the MPS were the main government agencies involved in efforts to combat trafficking. The police took an increasingly active role in investigating trafficking during the year.

The country was a source and transit point for trafficking in persons. Women were trafficked primarily to Cambodia and China for sexual exploitation and arranged marriages. According to one report, between 1990 and 2000, approximately 20,000 young women and girls were sent to China to become brides, domestic workers, or prostitutes; however, it was not clear how many were victims of trafficking (observers believe many, if not most, of these young women were voluntary migrants and, at least initially, not victims of trafficking). According to another local press report, at least 10,400 women and girls were trafficked to China in recent years. Between 1995 and 2000, approximately 5,000 women and children were trafficked to and escaped from Cambodia. Some Vietnamese women also were trafficked to Singapore, Hong Kong, Macau, Thailand, Taiwan, the United Kingdom, and the United States. There also were reports that some Vietnamese women going to Taiwan, Hong Kong, Macau, and China as "mail-order brides" were victims of trafficking. The Government estimated that approximately 10 percent of mail order brides had "problems" or may have become trafficking victims. There were reports that husband switching was one of the several methods used to entice potential trafficking victims. Beginning in March, government officials held a series of meetings to work out better procedures to handle repatriation of trafficking victims. Women and children also were trafficked within the country, usually from rural to urban areas. The country also was a transit point for trafficking. Typically, persons were trafficked from China or the Middle East to Australia, Europe, or Canada; however, this appears to have continued to decrease during the year.

Some children were trafficked domestically, and others were trafficked to foreign destinations for the purpose of prostitution. An NGO advocate estimated that the average age of trafficked girls was between 15 and 17 years of age. Some reports indicated that the ages of girls trafficked to Cambodia typically was even lower. Although statistics were not reliable, women and girls were trafficked from southern delta and highland provinces to Cambodia and from northern provinces into China generally for the purposes of prostitution, domestic work, or marriage. The Vietnam Women's Union, with assistance from foreign donors and international organizations, was especially active in drawing attention to these problems and helping with education programs to warn vulnerable families of the dangers of deception by those who would lure young women and children into prostitution.

There were reports that some women from HCMC and the Mekong Delta who married men from Taiwan were forced into prostitution after their arrival in Taiwan. There was reported trafficking in women to the Macau Special Administrative Region of China with the assistance of organizations in China that were ostensibly marriage service bureaus, international labor organizations, and travel agencies. After arrival, women were forced into conditions similar to indentured servitude; some were forced into prostitution. In August the Government suspended the licenses of marriage mediation services and transferred their function to the Women's Union. The services helped arrange marriages between women and foreigners, primarily Taiwanese men. Between 60,000 and 70,000 women have married Taiwanese men in recent years, although observers believed that most were not trafficked.

Poor women and teenage girls, especially those from rural areas, were most at risk for being trafficked. It appears that most trafficking victims came from some Mekong Delta provinces such as An Giang and some northern provinces such as Quang Ninh. Some were sold by their families as domestic workers or for sexual exploitation. In some cases, traffickers paid families several hundred dollars (a large sum for many families) in exchange for allowing their daughter to go to Cambodia for an "employment offer." Many victims faced strong pressure to make significant contributions to the family income. Others were offered lucrative jobs by acquaintances. False advertising, debt bondage, confiscation of documents, and threats of deportation were other methods commonly used by the traffickers, spouses, and employers.

Individual opportunists and informal networks, as well as some organized groups, lured poor, often rural, women with promises of jobs or marriage and forced them to work as prostitutes (*see* Sections 5 and 6.c.). The Government stated that organized criminal groups, both domestic and international, were involved in recruitment, transit, and other trafficking-related activities.

Corruption was a serious problem at all levels, and some officials were involved in the flow of overseas workers into exploitative conditions or into trafficking. While it was likely that some individual officials assisted traffickers, there was no evi-

dence of official, institutional, or government involvement in trafficking in persons. Some government officials and associated private individuals were convicted of and sentenced for trafficking related crimes during the year.

There were allegations supported by evidence that state-owned labor supply companies trafficked workers, primarily women and girls, to American Samoa, where they were employed by a Korean-owned garment manufacturer, Daewoosa. At year's end, a Korean garment factory owner and his associates were being prosecuted abroad for using sweatshop labor performed by a captive workforce of imported Vietnamese (and other) workers. The Vietnamese workers had entered into contracts with two state owned labor supply services in the country. Reports alleged that these workers were subjected to involuntary servitude, debt bondage, mistreatment, threats, and abuse although no Vietnamese companies or officials were among the defendants in the criminal case. As a result of this case, the Government initiated a widely publicized review of the operations and finances of licensed labor supply companies, which resulted in the temporary or permanent suspension of the operating licenses of the two state-owned enterprises that supplied labor to Daewoosa. The Government brought charges against and convicted an official from one of those enterprises in relation to the Daewoosa case.

During the year, the Government increased its efforts to prosecute traffickers. The law provides for prison sentences of 2 to 20 years for persons found guilty of trafficking women, and for 3 year to life prison sentences for persons found guilty of trafficking children. On July 10, a government decree was issued forbidding the use of marriage and adoption for trafficking related purposes. A number of traffickers have been convicted and imprisoned. The Government worked with international NGOs to supplement law enforcement measures and cooperated with other national governments to prevent trafficking. It also cooperated closely with countries within the framework of INTERPOL and its Asian counterpart.

Official institutions including MOLISA, the Women's Union, the Youth Union and the Committee for Population, Family and Children had active programs in place aimed at prevention and victims' protection. These programs included publicity to warn women and girls of these dangers, repatriation programs to help female returnees, and vocational training for teenage girls in communities considered vulnerable to trafficking in persons. Government agencies worked closely with the International Organization for Migration (IOM) and a number of international NGOs to provide temporary shelter, some medical services, education, credit, counseling, and rehabilitation to returned trafficking victims. In March government officials held a series of meetings with Chinese counterparts to improve victim protection and repatriation processes. Although voluntary commercial sex workers were subject to criminal sanctions, the Government sought to assist trafficking victims. Trafficking victims in general were not treated as criminals, but some women trafficked into prostitution were prosecuted for prostitution.

Government agencies worked with international NGOs on mass media campaigns, community outreach visits, distribution of leaflets, and vocational training in their efforts to prevent trafficking.



## EUROPE AND EURASIA

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### ALBANIA

Albania is a republic with a multiparty parliament, a Prime Minister, and a President, elected by the Parliament. The Prime Minister heads the Government; the presidency is a largely ceremonial position with limited executive power. The Socialist Party (SP) and its allies won 87 of 140 parliamentary seats in general elections held from June through August 2001 that were conducted in a peaceful atmosphere. The Organization for Security and Cooperation in Europe (OSCE) Office for Democratic Institutions and Human Rights (ODIHR) judged the elections to have improved over past elections in terms of the conduct of the campaign; however, ODIHR noted serious irregularities in the voting process.

Local police units that report to the Ministry of Public Order are responsible principally for internal security. The military has a special 120-man "commando" unit, which operates in an antiterrorist role under the Minister of Defense. During times of domestic crisis, the law allows the Minister of Public Order to request authority over this unit. The National Intelligence Service is responsible for both internal and external intelligence gathering and counterintelligence. A serious problem affecting public order and internal security was the fact that police officers largely were untrained, ill paid, and often unreliable. The international community continued to provide training, advice, and equipment to improve the quality of the police forces; however, unprofessional behavior and corruption remained a major impediment to the development of an effective, civilian police force. The police committed human rights abuses.

The country is in transition from central economic planning to a free market system; many questions related to privatization, property ownership claims, and the appropriate regulation of business remained unresolved. The country continued to experience slow but stable economic progress; however, approximately 30 percent of the population of approximately 3.2 million lived below the poverty line, with poverty greater in rural areas. The official unemployment rate was 16 percent. With two-thirds of all workers employed in agriculture, mostly at the subsistence level, remittances from citizens working abroad remained extremely important, as did foreign assistance. The agricultural sector accounted for 34 percent of gross domestic product, with industry and services contributing 13 and 32 percent, respectively.

The Government's human rights record remained poor in many areas; although there were some improvements in a few areas, serious problems remain. Police beat and otherwise abused suspects, detainees, and prisoners. Prison conditions remained poor. The police arbitrarily arrested and detained persons, and prolonged pretrial detention was a problem. The judiciary was inefficient, subject to corruption, and executive pressure on the judiciary remained a serious problem. The Government occasionally infringed on citizens' privacy rights. Political interference in the media remained a problem. On at least one occasion, a government official was linked to a threat against a journalist. There were a few limits on the right to freedom of assembly. Violence and discrimination against women and child abuse were serious problems. Vigilante action, mostly related to traditional blood feuds, resulted in many killings. Societal discrimination against religious and ethnic minorities, particularly against Roma and Egyptians, persisted. Child labor was a problem. Trafficking in persons, particularly of women and children, remained a serious problem. Albania was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second Ministerial Meeting in Seoul, Republic of Korea, as a participant.

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no confirmed cases of political killings by the Government or its agents. The Government conducted no further investigation into the March 2001 death in police custody of opposition Democratic Party (DP) supporter Gjon Gjonaj. Government medical and legal experts ruled Gjonaj's death a suicide, but his family members and the DP did not accept this explanation. Three police officials were dismissed in 2001 in connection with the case.

There was no further action taken to investigate the 2000 killing of a DP activist in Vlora following a party rally. The Government completed its investigation into the 1998 murder of DP leader Azem Hajdari; four suspects were convicted and given sentences ranging from 2 ½ years to life in prison.

Explosions of landmines, placed by the former Yugoslav Army against the Kosovo Liberation Army in 1998 and 1999, injured three individuals.

The country continued to experience high levels of violent crime. Many killings continued to occur throughout the country as the result of individual or clan vigilante actions connected to traditional "blood feuds" or criminal gang conflicts (*see* Section 5). According to the Ministry of Public Order, more than 29 individuals were killed in blood feuds, which are based on the medieval Code of Lek Dukagjini (the *kanun*), which was practiced by individuals particularly in the northern part of the country. Under the *kanun*, only adult males are acceptable targets for blood feuds, but women and children often were killed or injured in the attacks. The Albanian Human Rights Group (AHRG) estimated that 1,400 families were self-imprisoned at home and that 140 to 400 children were prevented from attending school due to fear of revenge.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such actions, and the Penal Code makes the use of torture a crime punishable by up to 20 years' imprisonment; however, the police at times beat and tortured suspects. The three main human rights groups—the Albanian Helsinki Committee (AHC), the AHRG, and the Albanian Center for Human Rights (ACHR)—continued to report that police forces nationwide used torture and inhumane or excessive treatment, but all three reported that the number of cases decreased during the year. According to the AHRG, most mistreatment took place at the time of arrest or initial detention. Police physically abused minors in detention.

In February Alnor Hasa, Chief of Criminal Police in Vlora, detained and beat Sabaudin Cela. In March Hasa again took Cela into custody; Hasa and five other police then beat Cela with pistol butts and batons. The police suspended Hasa from duty and arrested him after complaints on Cela's behalf from the AHRG and the AHC. The police dismissed Hasa and held him in pre-trial detention for several months. At year's end, Hasa reportedly was under house arrest awaiting trial.

In April Ylli Myrto and his fellow Fier policemen beat Feti Kanani in the town bazaar with fists and batons after stopping him to check his documents. Fier police referred the case to the prosecutor's office, and Myrto was fined \$750 (100,000 lek) by the district court for "arbitrary actions."

Amnesty International (AI) reported that three brothers in Lezha—Dede, Zef and Gjoke Pergjini—alleged that police arrested and beat them in April in reprisal for a dispute with the officers. The People's Advocate concluded that the brothers had been mistreated. In May the district prosecutor of Lezha referred the case against the police to the military prosecutor of Shkodra, where the case was pending at year's end.

In July the Chief of Criminal Police in Kavaja and a group of his policemen beat a group of youth during an altercation, reportedly dragging and kicking them, leaving one boy bleeding and unconscious. The Chief of Criminal Police was suspended from duty but later reinstated.

In July Rrapo Xhavara, the police officer accused of beating an 11-year-old orphan in custody in Saranda in June 2001, was found guilty of abuse of duty and received a 1 ½ year suspended sentence.

In October Azgan Haklaj, local head of the DP Branch in Tropoja, filed charges against four Special Forces police officers he accused of assaulting him during his January 2001 arrest. Although the People's Advocate and several human rights groups confirmed that Haklaj had been assaulted by the police, the General Prosecutor's investigation reportedly was stalled by the law protecting the identity of undercover policemen.

No action was taken against members of the Republican Guard, responsible for protecting senior public officials and institutions, accused of physically assaulting two homosexuals in April 2001.

The prosecution of Col. Edmond Koseni, the Director of Police of Elbasan District, who was dismissed and arrested in December 2001 for human rights abuses, remained pending at year's end.

Police officers often were involved in cases of trafficking in persons (see Section 6.f.).

Most of the country's 13,000-member police force remained largely untrained despite assistance received from foreign governments. Foreign governments continued police training programs aimed at improving technical expertise, operational procedures, and respect for human rights, and 462 police officers, Judicial Police Officers, and prosecutors received such training during the year. The Albanian National Police's Office of Internal Control received authority to review all police appointments and pursued investigations leading to the conviction of 16 police officials and the dismissal of 172 for various degrees of misconduct. However, the overall performance of law enforcement remained weak. The ACHR was particularly active in providing seminars and publishing texts to educate the police about the importance of respecting human rights. In addition to such training, the Ministry of Public Order updated the Police Academy's curriculum and trained 113 new officer candidates (17 females, 96 males) during the year.

Prison conditions remained poor, and overcrowding remained a serious problem. Lack of space in prisons led to the detention of convicted criminals in pretrial detention centers rather than prisons, causing substandard conditions for prisoners and significant security problems for the police forces. For example, the AHC cited an April case of a prisoner convicted of serious crimes escaping from a pretrial detention site. In police detention centers, women sometimes were held with men; however, women were not held with men in prisons. According to the Ministry of Public Order, at year's end, 272 convicted prisoners were being held in police pretrial detention sites rather than serving their terms in prisons. Additional convicted prisoners were among the 325 persons held in pretrial detention conditions by the Ministry of Justice.

Approximately 5,000 Albanian prisoners, including some juveniles, also were held in foreign prisons, primarily in Greece and Italy, due to overcrowding. The education of these young Albanian prisoners remained a problem: For instance, there were no classes offered to these juveniles in Greek prisons.

The country has no juvenile justice system, and children's cases frequently were presented to judges who had not received any education in juvenile justice. The ministries of Justice and Public Order reported that 14 children were serving sentences in Vaqarr prison, the only prison for juveniles in the country, and 93 were in pretrial detention centers. Several NGOs noted that in various police pretrial detention facilities minors often were kept in the same cells as adults and that sanitary conditions generally were poor.

The Government made progress in addressing prison problems such as poor facilities and overcrowding. The Government, with international assistance, financed many improvements, including the ongoing construction of a 700-inmate prison in Peqin expected to open in 2003. The Government also opened prisons in Rrogzhdina and Kruja and was constructing another in Lezha.

The Government permitted visits by international human rights observers; there were no reports of refusals to permit access for prison inspections by domestic independent human rights monitors. The Government cooperated with the International Committee of the Red Cross and with other NGOs.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, the police arbitrarily arrested and detained persons.

The 1995 Penal Procedures Code sets out the rights of detained and arrested persons. By law a police officer or prosecutor may order a suspect into custody. Detained persons must be informed immediately of the charges against them and of their rights. A prosecutor must be notified immediately after the police detain a suspect. Within 48 hours of the arrest or detention, a suspect must appear before a judge in the presence of the prosecutor and the suspect's lawyer. The judge has an additional 48 hours to determine whether the suspect may continue to be detained. Legal counsel must be provided free of charge if the defendant cannot afford a private attorney; however, this right to legal counsel is not widely known and police often fail to inform suspects of it. Access to legal information remained difficult for citizens, including legal professionals and, at times, judges.

There were numerous cases in which persons were illegally detained and were unable to contact their private attorneys. In some cases, the detainees had been interrogated without their defense attorneys being present. Bail may be required if the

judge believes that the accused otherwise may not appear for trial. Alternatively a suspect may be placed under house arrest. The court may order pretrial confinement in cases where there is reason to believe that the accused may flee the country or pose a danger to society. The Penal Procedures Code requires completion of pretrial investigations within 3 months. The prosecutor may extend this period by 3-month intervals in especially difficult cases. The accused and the injured party have the right to appeal these extensions to the district court. Lengthy pretrial detention as a result of delayed investigations remained a serious problem.

In January 2001, the AHC learned that three individuals in a Tirana prison—Sali Lushaj, Dem Dollapi, and Vlash Ndoi—had been detained past the legal limits. Lushaj and Dollapi, who claimed to be detained for political reasons, were charged with participation in an armed uprising to overthrow the constitutional order. At year's end, the men remained in detention and their court case remained pending.

A 2001 fact-finding mission by the AHRG to the Vaqarr prison found overcrowding and a lack of adequate drinking water. The AHRG reported that juveniles were not isolated fully from adults at the facility and did not have adequate access to legal assistance. Legally sound parole requests from juveniles were awaiting court consideration. In March a convict kept in an isolation cell due to overcrowding committed suicide.

There were no confirmed cases of detainees being held strictly for political reasons. The trials of Ekrem Spahia, the Chairman of the Legality Party, and 12 of his supporters for participation in the events of 1998 which followed the killing of a DP parliamentarian remained pending at the Tirana District Court.

The Constitution prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, because of political pressure, intimidation, endemic corruption, bribery, and limited resources, the judiciary was unable to function independently and efficiently.

The judicial system is composed of district courts of the first instance, six courts of appeal, military courts of first instance and of appeal, and the Supreme Court. There also is a separate and independent Constitutional Court. The Supreme Court hears appeals from both the district courts and the Courts of Appeal, while the Constitutional Court primarily reviews those cases involving constitutional interpretation and conflicts between branches of government. Constitutional Court justices serve 9-year terms, with three justices rotating every 3 years. Justices of the Supreme Court serve for 9 years.

The President heads the High Council of Justice, which has authority to appoint, discipline, and dismiss judges of the courts of first instance and of the courts of appeal. Judges who are dismissed have the right to appeal to the Supreme Court. In addition to the President, the Council consists of the Minister of Justice, the head of the Supreme Court, nine judges of all levels selected by the National Judicial Conference, and three members selected by Parliament.

The President of the Republic appoints the 17 members of the Supreme Court and the 9 members of the Constitutional Court with the consent of Parliament. Parliament has the authority to approve and dismiss the judges of the Constitutional Court and the members of the Supreme Court, but such decisions must be approved by the Constitutional Court. According to the law, dismissal may be ordered based on violation of the constitution, conviction for a crime, mental or physical incapacity, or commission of an act that seriously discredits judicial integrity and reputation.

The President appoints the Prosecutor General with the consent of the Parliament. The President appoints and dismisses other prosecutors on the recommendation of the Prosecutor General. The President may dismiss the Prosecutor General on the recommendation of the Parliament. The March removal of Prosecutor General Arben Rakipi—dismissed without the opportunity to present a defense—sparked constitutional debate. Rakipi took the case to the Constitutional Court, but the President appointed a new Prosecutor General before the Court ruled. The Court later found Rakipi's dismissal to be a violation of due process, invalidated his dismissal, and directed Parliament to reconsider the matter; legal scholars were divided on whether the Court had jurisdiction in the matter. When Parliament took no action on its findings, the Constitutional Court referred the case to the Council of Europe's Venice Commission, which advised that the Court's ruling should be implemented.

Parliament approves the courts' budgets and allocates funds. The Judicial Budget Office, a separate, independent body, administers court budgets, but each court may decide how to spend the money allocated to it. A board chaired by the Chief Justice of the Supreme Court runs the Judicial Budget Office; all other board members are judges. The Ministry of Justice appoints court chancellors and financial managers.

The Ministry of Justice also supervises the Bailiffs' Office, the body that ensures that civil judgements are enforced.

The Constitution provides that all citizens enjoy the right to a fair, speedy, and public trial; however, limited material resources in many instances prevented the court system from processing cases in a timely fashion. Many court buildings were destroyed in the 1997 civil unrest; although all have reopened, important records and legal materials were lost permanently. Long case backlogs were typical, and resulted in suspects being detained for longer than legal limits (*see* Section 1.d.). Defendants, witnesses, and others who do not speak Albanian are entitled to the services of a translator. Defendants are entitled to a lawyer, and the Government respected this right in practice. Under the law, the Government provides lawyers for indigent defendants. If convicted, the accused has the right to appeal the decision within 10 days to the Court of Appeals. Tension continued between the police and the judiciary, despite some improvement in relations between police and prosecutors, especially outside Tirana. Each side cited the failures of the other as the reason criminals avoid imprisonment. The courts accused the police of failing to provide the solid investigation and evidence necessary to prosecute successfully, and the police alleged that corruption and bribery tainted the courts. The Judicial Police are responsible, under the direction of prosecutors, for developing investigations initially conducted by the police.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, at times the Government infringed on these rights. Individuals complained to the People's Advocate that police typically carried out operations late at night, at times without proper authorization.

Individuals also reported to the People's Advocate that they were not adequately compensated for private land taken for public use during the Communist regime. The Government has not resolved many long-standing property rights issues and continued to occupy or rent out buildings to which private individuals have ownership claims recognized by the courts. In October Parliament passed a resolution calling on the Government to end this practice.

The Government prohibits female Muslim students from wearing headscarves in public schools (*see* Section 2.c.).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Law on Fundamental Human Rights and Freedoms provides for freedom of speech and of the press, and the media was active and unrestrained; however, there were serious, fundamental problems with the use of the media for political purposes. Libel carries criminal sentences. The punishment for libel varies from a fine to 2 years' imprisonment. Political interference in the media remained a problem. Publishers and newspaper owners often edited news stories to serve their own political and economic interests.

Daily circulation of all newspapers was estimated at 76,500. Political parties, trade unions, and various societies and groups published their own newspapers or magazines. The opposition media was active, but was constrained by limited professionalism and lack of finances. An estimated 200 publications were available, including daily and weekly newspapers, magazines, newsletters, and pamphlets. At least 2 newspapers were published in Greek in the south of Albania, and 15 Greek papers and magazines were distributed throughout the south. These dailies and weeklies had very small circulation figures.

The Government's Albanian Radio and Television (RTSh) is the sole public broadcaster in the country. RTSh consists of a national television station and a national radio station. National television broadcasts 17 hours a day and reaches 94 percent of the population. National television also broadcasts a 2-hour, Albanian-language regional satellite program that is viewed widely throughout Europe. National radio broadcasts on two channels—one for 19 hours and the other for 5 hours per day. National radio operated a foreign language service that broadcasts in 7 languages, including Greek and Macedonian.

Television is highly influential; it was estimated that up to 80 percent of the public obtain their news and information from television. Television programming included some responsible journalism; however, political affiliation was pervasive in programming. The majority of stations were one-sided in their political coverage.

Broadcasting issues are governed by the National Council of Radio and Television (NCRT), a seven-member bipartisan body elected by the Parliament, with one appointment by the President. In 2000 the NCRT awarded broadcasting licenses to 2 national television stations, 50 local television stations, 31 local radio stations, and 1 national radio station. Several broadcasters failed to pay for their licenses or abide

by the regulations governing the licenses; however, these regulations were enforced weakly.

In January a member of the Durres Municipal Council reportedly assaulted a journalist from the ruling SP newspaper "Zeri i Popullit" after the reporter criticized the Municipality's Department of Public Service.

In February both the AHRG and AHC issued statements expressing concerns regarding an anonymous threat against the life of Ylli Rakipi, editor of the newspaper "Albania." Rakipi reported that he was warned to stop printing stories critical of the private life of Fatos Nano, then the SP Chairman and now Prime Minister.

In March the AHRG also expressed concern over reports of violent threats by the Chief Justice of the Appeals Court of Gjirokaster, Tomorr Skreli, against the director of the Regional Newspaper "Dita Jug," Engjell Seriani, over reporting of a court case.

Access to the Internet was available and unrestricted; however, the Internet was too expensive for most citizens.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice.

The law requires organizers to obtain permits for gatherings in public places, which the police may refuse to issue for reasons such as security and traffic. However, there were no reports that such permits were withheld arbitrarily.

The Constitution provides for the right of association, and the Government generally respected this right. However, the Constitution prohibits the formation of any political party or organization that is totalitarian; incites and supports racial, religious, or ethnic hatred; uses violence to take power or influence state policies; or is nontransparent or secretive in character. There were no reports that this provision was used against any group. A political party must apply to the Ministry of Justice for official certification and declare an aim or purpose that is not anti-constitutional or otherwise contrary to law, describe its organizational structure, and account for all public and private funds it receives. Such certification was granted routinely.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion and the Government generally respected this right in practice. According to the Constitution, there is no official religion, and all religions are equal; however, the predominant religious communities (Sunni, Bektashi, Orthodox, and Roman Catholic) enjoy de facto recognition that gives them the legal right to hold bank accounts, own property and buildings, and to function as legal entities based on their historical presence in the country. Religious movements—with the exception of the four de facto recognized religions—may acquire the official status of a legal entity by registering under the Law on Associations, which recognizes the status of a nonprofit association irrespective of whether the organization has a cultural, recreational, religious, or humanitarian character.

While the Government does not require registration or licensing of religious groups, the State Committee on Cults keeps records and statistics on foreign religious organizations that contact it for assistance.

The Albanian Evangelical Alliance, an association of more than 100 Protestant Churches, complained that it had encountered administrative obstacles to building churches, accessing the media, obtaining residence permits, and receiving exemptions from customs duties. The growing evangelical community continued to seek official recognition as bona fide religious institutions similar to that enjoyed by the four main groups.

The Government is secular, and religion is not taught in public schools. There is no law restricting the demonstration of religious affiliations in public schools; however, students were not allowed to do so in practice. The Ministry of Education contended that public schools in the country were secular and that the law prohibited ideological and religious indoctrination. Female Muslim students were not allowed to wear headscarves in public schools. There are 26 religious schools in the country, with approximately 2,600 students.

The Government has failed to return to the various religious communities all of the properties and religious objects that were confiscated under the Communist regime in 1967. In cases where religious buildings were returned, the Government often did not return the land surrounding the buildings or provide comparable compensation. In addition, the Government was unable to compensate churches adequately for the extensive damage that many religious properties suffered.

The Orthodox Autocephalous Church of Albania complained that it had difficulty in recovering some religious icons for restoration and safekeeping and also reported three cases of vandalism at churches in southern Albania during the year. The

Bektashi community also reported several incidents involving desecration of tekkes (Bektashi places of worship).

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

As a result of significant internal migration, thousands of citizens no longer have local registration and status, which has led to a loss of access to basic services such as education and medical care. In many educational institutions, students must have, among other documents, an official document from the district authorities that acknowledges that they are inhabitants of the district. The lack of these documents prevents many students from attending school. During the year, the Ministry of Local government began a nationwide project on citizen registration, financed in part by Italy in the framework of the Stability Pact. In November the Government enacted three laws on civil status to improve local registration practices and create a standardized national identification document.

Citizens who fled the country during or after the Communist regime are able to return and, if they lost their citizenship, they are able to have it restored. Citizens born in the country who emigrate may hold dual citizenship.

The Constitution and a 1998 asylum law provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1961 Protocol. The Government accepts the entry of refugees, does not expel those with valid claims to refugee status, and works with the international community to provide housing and support for them. The Government provides for first asylum. There is an appeals procedure, but it was not functioning due to government restructuring.

In March the Government revoked the special status for Kosovar refugees based on improved circumstances in Kosovo. This affected 287 people, almost all of whom immediately applied for asylum. In August two North Korean nationals sought free passage asylum at the Albanian Embassy in Beijing, China. The Government successfully cooperated with international organizations and facilitated the transfer of the two for permanent asylum processing in the Republic of Korea.

The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and in efforts to strengthen the asylum system. There were no mass refugee situations during the year.

The UNHCR provided social service support for the refugee community and coordinated further assistance through a network of NGOs that provide health care coverage, insurance, and limited training. The Government's Office for Refugees at the Ministry of Local government played a key role in facilitating and coordinating the work of these groups. In May 2001, the UNHCR closed the last refugee camp for Kosovars.

Organized criminal gangs made the smuggling of illegal immigrants—Albanians, Kurds, Pakistanis, Chinese, Turks, and others from the Middle East and Asia—a lucrative business. Due to its proximity—a 90-minute speedboat ride from Vlora to Bari—Italy remained the preferred destination. In August the Government mounted a major law enforcement operation with international assistance against clandestine speedboats, effectively shutting down the main speedboat route to Italy for illegal immigrants. Italian military and border patrol squads operated in various coastal zones of the country in an effort to stop the flow of illegal immigrants. Individuals who become stranded inside the country while trying to use this illegal pipeline go through a pre-screening process jointly run by the Government, the UNHCR, the International Organization for Migration (IOM), the International Catholic Migration Commission (ICMC), and the OSCE to determine their status. Of the 199 third country nationals pre-screened during the year, 158 were referred by police, and 41 sought services voluntarily; 60 of these individuals requested asylum, 38 voluntarily returned to their home countries, and the others returned to the countries from which they entered Albania. The international partners in the pre-screening process recommended that the Government extend the program to illegal immigrants stopped at the border.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic elections

held on the basis of universal suffrage. The general elections of 2001, which began in June and ended in August, were deemed by international observers to be an improvement over past contests; however, some serious irregularities occurred, and problems worsened during each round of voting. Five rounds of voting, beginning in June and ending in August, were required to complete the process. The Council of Europe's Parliamentary Assembly commended political parties for processing their complaints through internationally accepted frameworks. The OSCE's ODIHR, which observed the elections, noted that there was progress in the areas of election administration, media coverage, and campaign conduct; however, ODIHR's final report noted that the election process was "protracted, uncertain, and fragmented." It also noted serious irregularities in the voting process, including ballot box stuffing; fraud in a limited number of constituencies; political pressure exercised at times that compromised the performance of the Central Elections Commission (CEC); inadequate handling of key elections complaints by the CEC; police interference in a limited number of instances; and a dubious appeals process, particularly with regard to the Constitutional Court. In a number of cases, the courts failed to investigate election appeals fully. Coverage by the state television station, RTSH, deteriorated after the first round, favoring the governing party.

During a Parliamentary by-election in a single electoral zone in Elbasan in December, the opposition Democratic Party raised similar concerns regarding voter list manipulation, voter intimidation, and other electoral code violations, but not on the same scale. The CEC, however, found that the opposition's complaints fell outside its jurisdiction. The General Prosecutor opened an investigation of electoral code violations.

There were 8 women in the 140-seat Parliament. The Minister of Culture, Youth, and Sports and the Minister of Labor and Social Issues were women. The major political parties have women's organizations, and women served on their central committees.

Ethnic Greeks—the largest minority group—were represented in the Government and participated actively in various political parties, particularly the Human Rights Union Party. There were three ethnic Greeks in Parliament and one ethnic Greek minister in the Government.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were increasingly cooperative and responsive to their views. There were several domestic NGOs active in addressing human rights problems.

Despite the assistance of international donors, the work of these organizations was hampered by a shortage of funds and equipment.

The People's Advocate (Ombudsman)—an institution that became operational in 2000—investigated inappropriate, inadequate, or illegal actions on the part of the Government. Although it lacks the power to enforce decisions, the People's Advocate acted as a watchdog for human rights violations. Its most common cases included citizen complaints of police and military abuse of power, lack of enforcement of court judgments in civil cases, wrongful dismissal, and land disputes (*see* Sections 1.c., 1.e., and 1.f.). The caseload of the People's Advocate office continued to increase as the public became more aware of the services provided. The People's Advocate enjoyed the political support of the highest-ranking members of the Government and is authorized to receive information from all public agencies.

#### *Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The law prohibits discrimination based on sex, race, ethnicity, or language; however, discrimination against women and some minority groups persisted. The AHRG complained that police physically mistreated the country's small homosexual community.

*Women.*—Violence against women and spousal abuse remained serious problems. In the country's traditionally male-dominated society, cultural acceptance and lax police response resulted in most abuse going unreported. Rape is punishable by law, as is spousal rape; however, in practice spousal rape was not reported or prosecuted. The concepts of spousal rape and sexual harassment were not well established, and, consequently, such acts often were not considered crimes by the authorities or the public. A 1999 poll conducted by the NGO Advice Center for Women and Girls showed that 64 percent of women surveyed had experienced some form of physical, emotional, or sexual abuse. Later statistics were not available. The State Committee



on Women and Children is the primary government agency that addresses the status of women; however, it was underfunded and lacked political influence.

An NGO maintained a shelter in Tirana for abused women, but the facility had the capacity to house only a few victims at a time. The same NGO also operated a hot line that provides advice and counseling to women and girls.

Many men, particularly those from the northeastern part of the country, still followed the traditional code—the *kanun*—in which women are considered to be, and are treated as, chattel. Under the *kanun*, a woman's duty is to serve her husband and to be subordinate to him in all matters.

The law prohibits prostitution, but it was a problem. Trafficking in women for the purpose of sexual exploitation remained a serious problem (see Section 6.f.).

Women were not excluded, by law or in practice, from any occupation; however, they were not well represented at the highest levels of their fields. The Labor Code mandates equal pay for equal work; however, this provision was not fully implemented, although women continued gradually to gain economic power. Women enjoyed equal access to higher education, but they were not accorded full and equal opportunity in their careers, and it was common for well-educated women to be underemployed or to work outside their field of training. An increasing number of women continued to open shops and small businesses. Many women migrated along with men to Greece and Italy to seek employment.

Various groups such as the Women's Center, the Family Planning Association, Useful to Albanian Women, the Independent Women's Forum, Women in Development, the Millennium Coalition, the Women's Advocacy Center, the Association of Women's Lawyers, Refleksione, and the three main human rights groups worked to promote women's rights. Some of these groups successfully promoted public awareness regarding domestic violence and implementing programs to empower women; however, their ability to lobby the Government and other prominent individuals to institute actual change in government policies and practices remained negligible.

*Children.*—The Government's commitment to children's rights and welfare is codified in domestic law. The law provides for the right to 18 years of free education and also authorizes private schools. School attendance is mandatory through the eighth grade (or until age 18, whichever comes first). However, in practice many children left school earlier than allowed by law in order to work with their families, especially in rural areas (see Section 6.d.). According to a Save the Children 2000 report, in some rural areas approximately 90 percent of adolescent girls dropped out of secondary school. The lack of proper documents—many of which have been lost due to internal migration—prevented many students from attending school (see Section 2.d.). The State Committee on Women and Children is responsible for children's issues; however, it was underfunded and lacked political influence.

According to 2000 statistics issued by the Ministry of Public Order and the Commission for Reconciliation of Blood Feuds, as many as 400 children remained endangered by blood feuds involving their families (see Section 1.a.).

Child abuse, including sexual abuse, rarely was reported, but authorities and NGOs believed that it existed. According to the Ministry of Public Order, more than 89 cases of sex crimes against children were reported during the year. Trafficking in children was a serious problem (see Section 6.f.). In a few cases, criminals kidnaped children from families or orphanages to be sold to prostitution or pedophilia rings abroad. Child labor continued to be a problem (see Section 6.d.).

Various NGOs worked on children's issues, including Useful to Albanian Women, the Children's Human Rights Center in Albania, and the Albanian Children's Alliance, which is made up of 150 organizations across the country. International organizations active in this area included UNICEF, Save the Children, Caritas, and Catholic Relief Services.

*Persons with Disabilities.*—There was some discrimination against persons with disabilities in employment, education, and the provision of other state services. Widespread poverty, unregulated working conditions, and poor medical care posed significant problems for many persons with disabilities. They are eligible for various forms of public assistance, but budgetary constraints greatly limited the amounts that they received. No law mandates accessibility to public buildings for persons with disabilities, and little has been done in this regard. In April the Association of Paraplegic and Tetraplegic Invalids held a hunger strike to call attention to the lack of government services for the disabled.

*National/Racial/Ethnic Minorities.*—The Constitution provides for national minorities' "pluralism, national identity and inheritance, and religious coexistence." The Constitution also provides minorities the right to "freely express, without prohibition or compulsion, their ethnic, cultural, religious and linguistic belonging" and the right "to study and be taught in their mother tongue, and to unite in organiza-

tions and associations for the protection of their interests and identity.” A National Minorities Section in the Department of Prefectures in the Ministry of Local government monitors the participation of national minorities in policy making both at the local and national levels. The Office of National Minorities, at the Ministry of Foreign Affairs, monitors Albania’s compliance with international obligations and commitments as they relate to minority issues.

No recent official statistics exist regarding the size of the various ethnic communities. The Government omitted questions regarding ethnicity and religion in the April 2001 census, which caused some ethnic Greeks to boycott the process. Ethnic Greeks are the largest minority group. There also are small groups of Macedonians, Montenegrins, Vlachs, Roma, and Egyptians.

The ethnic Greek minority, led by their cultural association Omonia, collectively pursued grievances with the Government regarding electoral zones, Greek-language education, property rights, and government documents. Minority leaders complained of the Government’s unwillingness to recognize the existence of ethnic Greek towns, such as Himara, that are not considered part of communist-era “minority zones”; to utilize Greek on official documents and on public signs in ethnic Greek areas; to address effectively crimes committed against ethnic Greeks, particularly allegations that communal property is being taken illegally by means of fraudulent documents and in some cases with complicity of the courts; to ascertain the size of the ethnic Greek population; and to include a higher number of ethnic Greeks in public administration. Greek-language public elementary schools were common in much of the southern part of the country, where most ethnic Greeks lived. Every village in this zone has its own elementary-middle (8-year) school in the Greek language, regardless of the number of students, and Gjirokaster has two high schools. There also is a Greek chair at the University of Gjirokaster. However, Omonia said that the ethnic Greeks needed more classes both within and outside the so-called minority zones. Ethnic Greeks enjoyed access to Greek language media (*see* Section 2.a.).

Ethnic Macedonians lived primarily in the Pogradec and Devoll and the Prespa area bordering Macedonia. Their interests were represented by Society Prespa. Classes in Macedonian were available to students in the area. The Macedonian government agreed to provide texts for these classes free of charge; however, community leaders complained that the book supply was not adequate. A considerable number of students from this area study at the universities of Skopje and Bitola.

A small group of ethnic Montenegrins and Serbs lived north of Shkoder. Persons from this area received scholarships from the Montenegrin government for their children to study in Montenegro. The Association of Montenegrins represented Montenegrin interests. There were no reports of discrimination against ethnic Montenegrins.

Vlachs, also known as Aromanians, speak their own Romanian-related language as well as Albanian and live primarily in the southern part of the country. No discrimination was reported by the Vlachs, who were represented by the groups Armeni-Alban, the Aromanian Association Voskopoja, and Aefallofisi.

The Roma and the Egyptians were among the most neglected groups in the country. The Egyptians tended to settle in urban areas and generally were more integrated into the economy than the Roma. In addition to widespread societal discrimination, these groups generally suffered from high illiteracy, poor health conditions, lack of education, and marked economic disadvantages. The Government officially recognizes the Roma as a linguistic rather than a national minority, thus preventing Roma children from qualifying for education in their native language and perpetuating illiteracy within the community. The interests of the Egyptians were represented by the Association Socio-Humanitarian Vllazerimi, the Roma by the Association Amaro Drom, Amaro Divas, Romani Baxt, and the Group for the Development of Roma Culture. The Soros Foundation supported various initiatives sponsored by the Association Amaro Drom, particularly in the field of education.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers have the right to form independent trade unions, and workers exercised this right in practice. Two major federations act as umbrella organizations for most of the country’s unions: The Independent Confederation of Trade Unions of Albania (membership approximately 75,000) and the Albanian Confederation of Trade Unions (membership approximately 100,000). Both organizations experienced another drop in membership during the year due to increasing unemployment. Some unions chose not to join either of the federations. No union has an official political affiliation, and the Government does not provide any financial support for unions.

The law does not prohibit antiunion discrimination; however, there was no such discrimination in practice.

Unions are free to join and maintain ties with international organizations. Twelve federations, which were part of the Albanian Confederation of Trade Unions, were members of the International Confederation of Free Trade Unions.

*b. The Right to Organize and Bargain Collectively.*—Citizens in all fields of employment, except uniformed members of the armed forces, police officers, and some court employees, have the constitutional right to organize and bargain collectively, and the Labor Code establishes procedures for the protection of workers' rights through collective bargaining agreements; however, labor unions operated from a weak position, given the country's high level of unemployment. In practice unions representing public sector employees negotiated directly with the Government. Effective collective bargaining remained difficult, and agreements were difficult to enforce.

The Constitution and other legislation provide that all workers, except the uniformed military, the police, and some court officials, have the right to strike. The law forbids strikes that are declared openly to be political or that are judged by the courts to be political.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution and the Labor Code prohibit forced or bonded labor, including by children. Some children as young as 4 years of age were employed, and some children work as many as 16 hours a day. According to the CRCA, the majority of child laborers worked as street or shop vendors, farmers or shepherds, drug runners, textile factory workers, shoeshine boys, or prostitutes (see Section 5). However, in Tirana and other cities, children—mostly Roma—worked as beggars or sold cigarettes and other items on the street; the police generally ignored this practice.

NGOs reported that labor inspectors, who are charged with investigating child labor complaints, did not give out fines, penalties, or convictions to those who violated child labor laws (see Sections 5 and 6.d.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Code sets the minimum age of employment at 16 years and limits the amount and type of labor that can be performed by children under the age of 18. Children between the ages of 14 and 16 legally may work in part-time jobs during summer vacation. The Ministry of Labor may enforce minimum age requirements through the courts; however, there were no reports that this enforcement took place. The CRCA estimated that 30,000 to 50,000 children under the age of 18 worked either full or part time.

A March 1998 CRCA study carried out with the Ministry of Education in 11 cities throughout the country noted that more than 17 percent of children surveyed had abandoned their studies to work. The State Committee on Children also noted that there were approximately 800 street children in Tirana. A recent study by the NGO Terre des Hommes reported 1,000 street children in major Greek cities, of whom approximately 90 percent were Albanians.

In April the Government ratified ILO Convention 182 on the worst forms of child labor.

The law forbids forced or bonded labor by children; however, there were reports that such practices occurred (see Section 6.c.).

*e. Acceptable Conditions of Work.*—The legal minimum wage for all workers over the age of 16 was approximately \$50 (6,600 lek) per month, which was not sufficient to provide a decent standard of living for a worker and family. Many workers looked for second jobs, which were difficult to find. Remittances from those working abroad were very important for many families. The law provides for social assistance (income support) and unemployment compensation, but these were very limited, both in terms of the amounts received and the number of persons actually covered. The average wage for workers in the public sector was approximately \$100 (13,200 lek) per month. Persons who worked and lived in urban areas earned almost 50 percent more than counterparts in rural areas, and poverty is greater in rural areas. More than 17 percent of the population lived under the official poverty line.

No data was available for private sector wages, but they were considerably higher than in the public sector.

The legal maximum workweek is 48 hours, although in practice, hours typically are set by individual or collective agreements. Many persons work 6 days a week. By law overtime pay must be provided and there are mandated rest periods; however, these were not always observed in practice.

The Government sets occupational health and safety standards; however, it had limited funds to make improvements in the remaining state-owned enterprises and a limited ability to enforce standards in the private sector. Actual conditions in the workplace generally were very poor and often dangerous. A number of job-related

deaths were reported in the press during the year, especially in the construction industry. In such cases, the victims' families did not receive any financial support from the state social security administration because the workers often were not insured. The Labor Code lists the safety obligations of employers and employees but does not provide workers with the right to leave a hazardous workplace without jeopardy to their continued employment.

*f. Trafficking in Persons.*—The law criminalizes trafficking in persons and provides penalties for traffickers; however, trafficking in persons, particularly women and children, remained serious problems. Police corruption and involvement in trafficking was a problem.

A 2001 Criminal Code amendment introduced specific articles on trafficking that set the following penalties: Trafficking in persons (5 to 15 years in prison); trafficking of women for prostitution (7 to 15 years in prison); and trafficking in minors (15 to 20 years in prison). The General Prosecutor's office and police did not follow through on plans to establish an Organized Crime Strike force to handle high profile and sensitive cases. The lack of prosecution of traffickers remained a problem. During the year, 17 people were convicted for trafficking in persons. Traffickers who were arrested often were released because of insufficient evidence. If prosecuted, they often were charged for lesser crimes or were given less than the minimum sentence for trafficking. The absence of a witness protection program also impeded the Government's ability to build strong cases against traffickers, although cooperation from the international community led to the relocation and protection of one witness outside of Albania during the year. Victims often did not identify themselves as trafficked persons and were unwilling to testify due to fear of retribution from traffickers and distrust of the police. Cooperation between the police and prosecutors remained weak.

Albania is both a source and a transit country for trafficking. Although the number of Albanians subjected to trafficking to other countries decreased, the country remained a significant point of origin. Most trafficked women and young girls were transported to Italy, Greece, and—to a lesser extent—other European countries, such as Belgium and the Netherlands. Most of these victims were taken to the southern port city of Vlora for transport by speedboat to Italy, although the port of Durres increasingly was a transport point.

Trafficked Albanians increasingly fell into the 14- to 17-year-old age group; according to the AHRG, 25 percent of Albanian trafficking victims were minors. Italian census figures in 2000 showed that there were more than 900 children (girls ages 14 to 18) who worked as prostitutes in Italy. The press reported several cases involving minors who were victims of trafficking throughout the year. Children, including boys, also were trafficked for begging. Such children often were bought from families and in a few cases kidnaped. The Center for the Protection of Children's Rights (CRCA) reported that more than 2,000 children between the ages of 13 and 18 were involved in prostitution rings and that a large number of Albanian children worked as child prostitutes in Greece.

The country also was a major transit route for trafficked women and girls, due to weak border controls, corruption, and proximity to Italy; however, this use as a transit country apparently diminished significantly during the last half of the year. Foreign women and girls in transit mostly originate from Moldova, Romania, and—to a lesser extent—from Ukraine, Russia, Yugoslavia (Kosovo), and Bulgaria. These victims usually entered the country through Montenegro, passed through the northern city of Shkoder enroute to the southern port city of Vlora, where they were transported by speedboat to Italy. However, Italian authorities reported no clandestine speedboat traffic across the Adriatic from September to year's end. Other victims were taken farther south to Greece. Traffickers typically confiscated victims' documents, physically and sexually abused them, and often forced them to work as prostitutes before they left Albania. Both Albanian and foreign women trafficked by Albanian organized crime networks were abused, tortured, and raped. Traffickers also may threaten their family members.

Due to the poor economic situation, many women and young girls from all over the country—particularly Berat, Fier, Lushnje, Shkoder, and Vlora—were lured by men and women from organized criminal groups who promised them jobs in Italy and Greece. Some men, primarily in the north of the country, also married women and girls under false pretenses and took them abroad as prostitutes. Other forms of recruitment included promises of marriage, and to a lesser extent, the selling of victims to traffickers by family members, or kidnapping, including from orphanages.

The police often were involved directly or indirectly in trafficking. According to an IOM/ICMC study, 10 percent of foreign victims reported that the police were directly involved in their trafficking through the country. Few police or other government officials were prosecuted. In February a police officer in the city of Shkrodra

was arrested and convicted for his involvement in trafficking but received only a minimal sentence. Other police officers were indirectly involved, accepting bribes from traffickers to look the other way. Lawyers and judges may also be manipulated and bribed, permitting traffickers to buy their way out of punishment if arrested. The Ministry of Public Order's Anti-Trafficking Unit within the Organized Crime Sub-Directorate and an Office of Internal Control paid particular attention to police involvement in human trafficking. The Office of Internal Control investigated 31 cases of police involvement in trafficking in women during the year and 173 cases of police involvement in trafficking in illegal immigrants.

By year's end, the Ministry of Public Order had fully staffed the Anti-Trafficking Unit. In August a major anti-trafficking operation effectively closed down clandestine speedboat traffic to Italy. Nevertheless, the Ministry of Public Order failed to follow up on high-profile trafficking and corruption investigations. Local police often tipped off traffickers when raids were scheduled. On one occasion, a police supervisor checking on his men found them helping traffickers with their boats.

In July 2001, the Government established an Inter-Ministerial Commission on Human Trafficking, which drafted a National Strategy on Anti-Trafficking, and designated a Minister of State to serve as the National Anti-Trafficking Coordinator.

In October 2001, the Government inaugurated the Vlorë Anti-Trafficking Center; however, international partners withdrew from the project, and the center was still not operational at year's end. The Government's State Committee on Women and Children provided limited trafficking prevention education; however, this office was underfunded. National and international NGOs carried out most awareness campaigns.

Police treatment of trafficked women improved dramatically during the year. Most police stopped treating trafficked women as criminals rather than victims and routinely referred them to local and foreign NGOs for assistance. Foreign women who were detained at times lacked translation services or were not given a choice of lawyers.

Victims of trafficking often faced significant stigmatization from their families and society. The Government did not offer any assistance programs to victims, including repatriated victims. The Government did not provide any psychological counseling services. Several NGOs were active in addressing victim's needs. In June the IOM opened a shelter and reintegration center for citizen victims in Tirana; however, given the scope of the trafficking problem and limited resources to address reintegration, many victims of trafficking received little or no assistance.

The Ministry of Public Order provided assistance in referring foreign victims to a shelter administered jointly by the IOM and the ICMC. Foreign trafficked victims, if they so desired, benefited from an interagency referral system, a temporary social assistance program supported by a group of local NGOs, and a shelter, all organized by IOM and ICMC. During the year, the program repatriated 33 women.

## ANDORRA

The Principality of Andorra is a constitutional parliamentary democracy. Two Princes with joint authority, representing secular and religious authorities, have headed the Principality since 1278. Under the 1993 Constitution, the two Princes—the President of France and the Catholic Bishop of Seu d'Urgell—Spain serve equally as heads of state, and each is represented in Andorra by a delegate. In March 2001, elections were held to choose the 28 members of the "Consell General," (the Parliament) which selects the head of government. Domestic elections monitors considered the election to be free and fair. The judiciary is independent.

The country has no defense force and depends on neighboring Spain and France for external defense. The national police, under effective civilian control, had sole responsibility for internal security.

France and Spain influenced the country's market-based economy significantly. The country had a total population of approximately 66,900. Commerce and tourism were the main sources of income.

The Government generally respected the human rights of its citizens, and the law and the judiciary provided effective means of dealing with individual instances of abuse. Violence against women increased, and there was some discrimination against women in the workplace. There were some limits on workers' rights. Some immigrant workers complained that they did not have the same labor rights and security as citizens in practice, despite legal protections. Andorra was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life by the Government or its agents.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that government officials employed them.

Prison conditions generally met international standards. Men and women were held separately, as were juveniles from adults. Pretrial detainees also were held separately from convicted criminals. The Government permits visits by independent human rights observers; however, no such visits occurred during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

Police legally may detain persons for 48 hours without charging them with a crime. Warrants are required for arrest. The Government declined to modify the law to provide individuals under arrest immediate access to an attorney despite a request by the Council of Europe's Committee for the Prevention of Torture in 2000. Legislation provides for legal assistance beginning 25 hours after the time of arrest. There was a system of bail.

The country is party to a network of 47 States with prisoner transfer agreements, and qualifying prisoners were permitted to serve their sentences in their own country.

The Constitution prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. The highest judicial body is the five-member Superior Council of Justice. One member each is appointed by the two Princes; the head of government; the President of the Parliament; and collectively, members of the lower courts. Members of the judiciary are appointed for 6-year terms.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right in practice.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides citizens with safeguards against arbitrary interference with their "privacy, honor, and reputation," and government authorities generally respected these prohibitions in practice. Private dwellings are considered inviolable. No searches of private premises may be conducted without a judicially issued warrant. Violations were subject to effective legal sanction. The law also protects private communications.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press, including academic freedom.

There were two independent daily newspapers, *Diari d'Andorra* and *El Peridico de Andorra*. There was one radio station and one television station, which broadcast 16 hours a day.

Internet access was unrestricted, and the Government did not monitor Internet activity.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the freedoms of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Constitution acknowledges a special relationship between the Roman Catholic Church and the State, "in accordance with Andorran tradition." The Catholic Church received no direct subsidies from the Government.

The Government paid the salaries of teachers who taught optional Catholic religious classes to students in public schools; the Catholic Church provided the teachers for these classes.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

The law does not provide for the granting of refugee or asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. However, the Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The law does not specifically provide for first asylum; however, the issue of first asylum did not arise during the year.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. There were three political parties: The Andorran Liberal Party (ALP), the Andorran Democrat Center Party (ADCP), and the Social Democratic Party (SDP).

Parliamentary elections were held in March 2001, and 81.6 percent of eligible voters took part. The election ran smoothly, and was considered to be free and fair by domestic monitors. The ALP, (the head of government's Party), retained its absolute majority, winning 15 of the 28 seats in Parliament. The ADCP and the SDP won five and six seats respectively. A local group won two seats.

Of the 28-member Parliament, four were female, and three women held cabinet level positions. There were no formal barriers for women in government and politics, but relatively few women ran for office.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated in the country without government restriction, investigating and publishing their findings on human rights cases. Government officials were very cooperative and responsive to their views. Approximately 10 human rights associations existed in the country. The most active was the Association of Immigrants in Andorra (AIA), which defended the rights of foreign residents, and the Association of Andorran Women (AAW), which actively supported women's rights (see Section 5). The Red Cross had a presence within the country.

An Ombudsman received and addressed complaints, some of which were against the Government's policies.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution declares that all persons are equal before the law and prohibits discrimination on grounds of birth, race, sex, origin, opinions, or any other personal or social condition, although the law grants many rights and privileges exclusively to citizens.

*Women.*—Observers maintained that violence against women persisted. The AIA and the AAW received more complaints of physical and psychological abuse against women than the 30 received in 2001, but fewer than the 60 complaints filed in 2000. Women suffering from domestic violence requested help from the AIA and the AAW, but very rarely filed a complaint with the police. The AIA and the AAW also reported that domestic violence existed at all levels of society. There is no specific legislation regarding violence against women, although other laws may be applied in such cases. Some complaints were reportedly filed with the police during the year.

The law prohibits discrimination against women privately or professionally; however, the AAW reported that in practice, there were many cases of women dismissed from employment due to pregnancy. Women did not earn equal pay for equal work; observers estimated that women earned 25 percent less than men for comparable work although this gap continued to decrease slowly.

The AAW actively promoted women's issues through information exchanges and limited direct support to those in need; the AAW collaborated with the Department of Public Health and Social Welfare to help battered women, single parent families, and others in need. Despite demands from both the AAW and the AIA, the Government declined to create a department specifically for women's issues; however, in June 2001, the Government created a Secretariat of State for the Family.

*Children.*—The Government was committed to children's welfare and provided a universal system of health care and education. The Secretariat of State for the Family was responsible for promoting children's welfare. Free, universal public edu-

cation began at age four and was compulsory until age 16. The Government provided free nursery schools, although their number continued to fall short of what was needed.

There was no societal pattern of abuse of children.

*Persons with Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, in education, and in the provision of other State services, and there were no reports that such discrimination occurred. Societal discrimination against persons with disabilities did exist on a small scale.

The law mandates access to new buildings for persons with disabilities, and the Government generally enforced these provisions in practice.

*National/Racial/Ethnic Minorities.*—Spanish nationals were the largest group of foreign residents, accounting for approximately 41 percent of the population. Other sizable foreign populations included Portuguese, French, and British. A small but growing group of immigrants, primarily from North Africa, worked mostly in agriculture and construction.

Some immigrant workers complained that they did not have the same labor rights as citizens (*see* Section 6.e.). In September a law was passed to give legal status to the approximately 7,000 immigrants working in the country with no work permits or residence permits. This law also makes allowances for annual quotas of legal immigrants.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution recognizes the right of all persons to form and maintain managerial, professional, and trade union associations without prejudice. In 2001 the Government approved a new registry of associations, and they were gradually registering with the Government. These include the Andorran Trade Unions' Association, a group that represented more than 10 unions of workers in government and the private sector.

In September 2001, a federation workers' association officially was formed with the aim of regularizing labor relations through dialogue. It was negotiating with the Government on the drafting of a law for the protection of workers in trade unions, and to develop a social security system and labor relations. At year's end, these negotiations remained ongoing.

Antiunion discrimination is not prohibited under the law, although there were no reports of such discrimination during the year.

*b. The Right to Organize and Bargain Collectively.*—The Constitution states that both "workers and employers have the right to defend their own economic and social interests"; however, there was no law that specifically provides for collective bargaining. Parliament was charged with adopting legislation to regulate this right in order to guarantee the provision of essential services; however, it had not done so by year's end.

Neither the Constitution nor the law states explicitly that strikes are permitted, and there were no strikes. In spite of government statements that it tolerates strikes, workers were reluctant to organize strikes because of the possibility of reprisal since no law prohibits it.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law does not prohibit forced and bonded labor, including by children, and there were no such reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Children under the age of 18 generally were prohibited from working, although in exceptional circumstances, children aged 16 and 17 may be allowed to work. The Labor Inspection Office in the Ministry of Social Welfare, Public Health, and Labor is responsible for enforcing child labor regulations.

The Government has not ratified ILO Convention 182 on the worst forms of child labor.

*e. Acceptable Conditions of Work.*—The workweek was limited to 40 hours, although employers may require overtime from workers. The legal maximum for overtime hours was 66 hours per month, and 426 hours per year. An official minimum wage was set by government regulations, although other, higher wages may be established by contract. The minimum wage is \$4.66 (5 euros) per hour, and \$682 (805 euros) per month. The minimum wage only provided a bare subsistence standard of living for a worker and family. The Labor Inspection Office enforced the payment of the minimum wage.

Workers may be dismissed with 15 days' to 6 months' notice, depending on how long they have been working for a company. A minimal indemnification of 1 months'



salary per year worked was paid if a worker was fired without cause. A dismissed worker received unemployment and health benefits for only 25 days. The Social Security Office controlled retirement benefits. The Labor Inspection Service heard labor complaints.

The Labor Inspection Service set occupational health and safety standards and took the necessary steps to see that they were enforced. During the year, the Labor Inspection Service filed approximately 200 complaints against companies for violating labor regulations, and it had the authority to levy sanctions and fines against such companies. Although the law authorizes employees to refuse certain tasks if their employers do not provide the necessary level of protection, no legislation grants workers the right to remove themselves from dangerous work situations without jeopardizing their continued employment.

Although the Constitution provides that legal foreign residents are to enjoy the same rights and freedoms as citizens, some immigrant workers believed that they did not have the same rights and security. Many immigrant workers held only "temporary work authorizations," which were valid only as long as the job for which the permit was obtained existed. When job contracts expired, temporary workers had to leave the country. The Government prohibited the issuance of work permits unless workers could demonstrate that they had a fixed address and at least minimally satisfactory living conditions.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons, although the law does provide punishment for traffickers of illegal workers. There were no reports that persons were trafficked to, from, or within the country.

The law prohibits trafficking in illegal workers (collusion in or provision of illegal entry for the purposes of employment), which is punishable by up to 3 years imprisonment. Rape and forcible sexual assault are punishable by up to 15 years imprisonment. In the absence of a specific law on trafficking, certain circumstances could lead to the application of the rape statute in a trafficking case.

## ARMENIA

Armenia has a Constitution that provides for the separation of powers; however, the directly elected President has extensive powers of appointment and decree that are not balanced by the legislature or an independent judiciary. The President appoints the Prime Minister, who is in charge of the Cabinet. Robert Kocharian was elected President in a multi-candidate election in 1998 after former President Levon Ter-Petrossian was forced to resign by his former political allies in the Government and Parliament. There were flaws and substantial irregularities in both rounds of the 1998 presidential elections. Although marred by irregularities, the May 1999 parliamentary elections and several 2000, 2001, and 2002 by-elections showed continued improvement over past elections, and Organization for Security and Cooperation in Europe (OSCE) observers categorized the former as relevant steps toward compliance with OSCE commitments, but stated that they still failed to meet international standards. Amendments to the Electoral Code passed in August addressed a number of long-standing electoral problems. The majority in Parliament is made up of a coalition called "Unity", which includes the two parties which gained the most votes in the May 1999 Parliamentary elections, the Republican Party and the Peoples Party; however, due to political differences between the Republican Party and the Peoples Party, the Unity coalition during the year largely ceased to function. The legislature approves new laws, confirms the Prime Minister's program, and can remove the Prime Minister by a vote of no confidence. Both the Government and the legislature can propose legislation. The Constitution provides for an independent judiciary; however, in practice, judges were subject to pressure from the executive branch and some were corrupt.

The Ministries of Internal Affairs and of National Security, jointly are responsible for domestic security, intelligence activities, border controls, and the national police force. Some members of the security forces committed human rights abuses.

The transition from a centralized, controlled economy to a market economy continued to move forward, although the industrial sector did not function at peak capacity and its output remained low. According to results of the October 2001 census, the country had a total population of approximately three million persons. Unemployment remained high, and there was a high degree of income inequality. Unemployment was approximately 9.6 percent, according to the Government; however, other sources estimated the unemployment rate to be approximately 40 percent. A significant amount of economic activity, unofficially estimated between 40 and 50 percent, was not captured by government accounting or taxation. The inflation rate

was 2 percent. Almost all small and medium-sized enterprises have been privatized, as has all agricultural land. Emigration decreased since 2001, but still remained a problem. Foreign assistance and remittances from Armenians abroad played a major role in sustaining the economy; the Central Bank estimated that remittances from abroad were approximately \$300 million.

The Government's human rights record remained poor; however, there were improvements in some areas. Substantial intervention by local power structures in the election process in some areas, such as pressure on voters and ballot-box stuffing, continued to restrict citizens' ability to change their government peacefully. There were deaths in the military as a result of mistreatment of recruits. Members of the security forces routinely beat detainees during arrest and interrogation. Arbitrary arrest and detention was a problem. The Government rarely investigated abuses by members of the security forces and impunity remained a problem. Although prison conditions remained harsh, since the transfer of the prison system to the Ministry of Justice, living conditions and prisoner access to families have improved. Lengthy pretrial detention continued to be a problem. The judiciary was subject to political pressure and did not enforce constitutional protections effectively. Authorities did not respect constitutional protections regarding privacy and due process.

There were some limits on press freedom, mostly due to many journalists practicing self-censorship. There were some limits on freedom of association. The law places some restrictions on religious freedom, including a prohibition against proselytizing by religions other than the Armenian Apostolic Church; however, this prohibition was not enforced in practice. The Government continued to deny registration to Jehovah's Witnesses; 16 members of Jehovah's Witnesses were in corrective labor facilities for refusing military service and 10 were under house arrest, while 5 more members were awaiting trial.

The Government placed some restrictions on freedom of movement. There was some violence against women, and governmental and societal discrimination against women, persons with disabilities, and religious and ethnic minorities remained problems. There were a number of street children. There were some limits on workers' rights because collective bargaining did not exist. Trafficking in women and girls continued to be a problem, although the Government took steps to address the issue. Armenia was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as an observer.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no confirmed reports of political killings by the Government or its agents; however, there were deaths in the military as a result of mistreatment.

A Presidential bodyguard was found guilty of involuntary manslaughter and given a light sentence of twelve months' probation for the 2001 beating death of an Armenian of Georgian citizenship in a Yerevan cafe. The bodyguard testified at his trial that he had struggled with the victim, whom he said fell and struck his head on a sink, causing a fatal injury. The court was criticized by media, nongovernmental organizations (NGOs), and by opposition parties for not taking testimony from witnesses who claimed that more than one guard had struck Poghosian, and for allegedly conducting a cover-up.

There were no deaths in custody during the year; however, there were a number of deaths due to natural causes in prison (*see* Section 1.c.).

According to the office of the Military Prosecutor, there were 987 crimes committed in the armed forces during the year, compared to 1,184 in 2001. There were 62 deaths of military servicemen reportedly due to mistreatment, training related accidents, and illness during the year (*see* Section 1.c.). On February 25, a fellow serviceman beat to death Artem Sarkisian, a 22-year-old soldier in an army detachment in the city of Vanadzor. Doctors at a local military hospital ruled that Sarkisian was killed by food poisoning; however, an autopsy conducted in Yerevan found severe brain and abdominal injuries that most likely resulted from a violent death. As a result of investigation by the regional office of Military Procurator, more than 12 individuals were arrested, including the two soldiers who assaulted Sarkisian, several officers, and doctors from the local military hospital. On October 21, the trial of the arrested individuals in a Vanadzor court began, and was ongoing at year's end.

In August 2001, authorities detained and brought charges against two servicemen: the commander of the Stepanavan military unit, a sergeant; and a private, for facilitating the suicide of a junior sergeant of the Stepanavan military unit, Mkrtich

Poghosian, in July of that year. The case was suspended pending further investigation at year's end. According to the Procurator General's office, 513 criminal cases involving 669 servicemen were investigated during the year. Some of the crimes committed included desertion, hazing, abuse of power, and embezzlement.

In May 2001, the master sergeant of a military unit in Noyemberian, Suren Levon Abrahamian, was killed on duty near the village of Voskehat. A legal case against a fellow soldier was instituted under Article 100 of the Criminal Code for "premeditated murder," and was being investigated by the military garrison of the province of Gugark at year's end. On December 29, the case was sent to court. The main defendant and a fellow sergeant were found guilty and sentenced to 10 years' imprisonment.

Cease-fire violations by both sides in the Nagorno-Karabakh conflict occasionally resulted in deaths and injuries to civilians.

During the year, there were a few deaths as a result of landmines, although reliable statistics were difficult to obtain. Landmines were used by all sides throughout the Nagorno-Karabakh conflict and landmines have been laid on the 900-kilometer border line and territories along the contact line. During 2000 one person was killed and 12 injured. According to the Procurator General's office there have been two deaths in the military since 2001 as a result of landmines.

In February 2001, unknown persons shot and killed Arthur Mnatsakanian, Deputy Chief of Public Affairs of the Customs Department, in his car. The case was suspended during the year pending new information.

In September 2001, a grenade explosion killed Gagik Poghosian, advisor to the Prime Minister and ex-Minister of State Revenues. The case was suspended pending acquisition of new information at year's end.

During the year, the trial of seven accused defendants in the October 1999 terrorist assault on a session of Parliament continued; relatives of the victims and opposition political parties complained about the slowness of the court proceedings.

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

The International Committee of the Red Cross (ICRC) reported that civilian and military personnel on all sides of the Nagorno-Karabakh conflict continued occasionally to engage in crossborder hostage-taking, sometimes to win release of a friend or relative held on the other side but more often for ransom. The ICRC, in coordination with the OSCE, has facilitated a number of prisoner exchanges.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution and laws prohibit torture; however, security personnel routinely beat pretrial detainees during arrest and interrogation, and prosecutors relied on such confessions to secure convictions (*see* Section 1.e.).

During the year, the local human rights NGO Helsinki Committee stated that it had received complaints from homosexuals claiming that police had threatened them with forced psychiatric examinations. There were no allegations of any other group being treated in this manner during the year.

Most cases of police brutality went unreported because of fear of police retribution. During the year, a few cases of police brutality were reported after the intervention of local human rights groups. The Helsinki Association received two complaints from citizens about beatings at the police precincts of Kanaker-Zeytun district of Yerevan and at the Department of Internal Affairs of the city of Yerevan. Impunity of officials who commit such abuses remained a problem. During 2000 there were approximately nine cases of death in custody caused by beatings and other abuse; however, there were no reports available on the number of deaths caused by beatings and other abuse at year's end (*see* Section 1.a.).

During 2001 ex-defendants and attorneys for the defendants of the October 1999 killings in the Parliament claimed in the media that they were being held in inhuman conditions and were beaten during interrogations. A number of those arrested alleged that they were mistreated, including being drugged, beaten, and denied sleep for extended periods of time while in pretrial detention.

The Government did not investigate allegations of abuse by security services except in rare cases under pressure from human rights groups and only where death had resulted. In July 2001, the Human Rights Commission held open hearings on more than 50 complaints of torture by the Military Prosecutor's Office, which led to the filing of only one case during the year. Most complaints involved inhumane treatment, torture, and beatings of service men at the so-called reception and deployment stations (detention facilities of the military police). The next week, the Commission held another round of hearings together with the Military Prosecutor Gagik Jhangirian and Chief of the Military Police Vladimir Gasparian. Both Jhangirian and Gasparian denied the claims of torture. Subsequently family members of those killed staged a protest outside of the office, demanding Jhangirian's

resignation. During the year, the Procuracy investigated 18 cases of torture sent by the Human Right Commission; some of these had been already sent to court for prosecution of the accused torturers.

During the year, the Ministry of Defense cited reasons of “national security” in declining to provide local NGOs with exact details on some cases, citing the fact that the country remained technically in a state of war with Azerbaijan.

Homosexuals complained that police physically and mentally abused them and demanded bribes; such abuse reportedly increased when homosexuals were unable to pay police.

The number of deaths of conscripts from training accidents and physical abuse decreased in 2001, according to government figures. According to the Defense Minister’s statement, 10 percent fewer deaths were registered in the army during the first 5 months of the year compared with the same period of 2000; however, 20 percent of military commanders were dismissed during the year due to numerous violations in their units. The hazing and beating of conscripts was severe, particularly for Yezidi conscripts (see Section 5). Persons accused of homosexuality in the military generally were believed to suffer beatings and otherwise were physically abused and beaten more severely or frequently than other recruits. During the year, parents of recruits killed or injured in the army or prosecuted by the Military Prosecutor’s Office staged several rallies in front of the presidential office and petitioned both the President and the Human Rights commission.

Yezidis complained that police routinely failed to respond to crimes committed against them (see Section 5).

There were reports that corruption by government officials facilitated trafficking in persons (see Section 6.f.).

Although prison conditions were harsh and medical treatment was inadequate, according to domestic human rights NGOs, prison conditions continued to improve during the year. Some facilities were less overcrowded, food was better prepared, prisoners’ rights were codified in writing and displayed throughout the prisons, and a special tuberculosis hospital was operational in October. In October 2001, responsibility for prisons was transferred from the Ministry of Internal Affairs to the Ministry of Justice. Physical abuse by guards and other prisoners continued to be a problem. During the year, 11 prisoners died in prison of natural causes. Since a prison visit in 2000, the Commission on Human Rights has been instrumental in improving the conditions in the main prison in Gyumri. For example, inmates were able to receive toiletries from family members and were allowed to engage in activities and hobbies, such as sewing and writing. During the year, the Commission continued to monitor prison conditions and mentioned the need for further improvements in management and respect for prisoners’ rights.

Men and women were held separately, and juveniles were held separately from adults. Convicted criminals and pretrial detainees were held in different facilities.

The Government permitted domestic human rights NGOs to visit prisons; however, they do not have access to pretrial detention facilities. During the year, the Helsinki Association received permission from the Justice Ministry to conduct monitoring of the penitentiary system, including prison conditions and prisoners’ rights but not pretrial detention facilities. In some cases, domestic NGOs still complained of complicated and time-consuming procedures in order to obtain permits for visits; however, permission for visits by international observers, such as those from the Council of Europe, was granted more easily. During the year, several domestic NGOs monitored prison conditions. The ICRC had free access to detention facilities run by the Ministry of Interior. In these facilities, the ICRC was able to visit any prisoner in whom it had an interest, whether housed in prisons or in local police stations. The ICRC also had free and regular access to the remaining prisoners of war (POWs) from the Nagorno-Karabakh conflict in the prison of the Ministry of National Security, in military police stations, and in Nagorno-Karabakh (see Section 1.d.).

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution and laws prohibit arbitrary arrest and detention, except in cases involving national security. Arbitrary arrest and detention remained a problem. Authorities continued to arrest and detain criminal suspects without legal warrants, often on the pretext that they were material witnesses. An amendment to the Criminal Code passed in 2001 reduced the length of time the police have the right to detain suspects without official charges from 96 to 72 hours. The police frequently imprisoned detainees without notifying their family members. Often several days passed before family members obtained information about an arrest and the person’s location. Security agencies often restricted access of lawyers and family members to prisoners until the preliminary investigation phase was complete, a process that could last weeks (see Section 1.e.).

Prisoners were allowed access to attorneys (and vice-versa). Access to prisoners by their families was sometimes a problem. A bail system does not exist; however, a prisoner may be released to a form of house arrest if the court is convinced that he will not flee. Although the revised Criminal Procedure Code has entered into force, the revised Criminal Code remained under consideration in Parliament (*see* Section 1.e.). A suspect may be detained for no more than 12 months pending trial, after which the suspect must be released or tried; however, this latter provision was not always enforced in practice, and lengthy pretrial detention remained a problem.

At year's end, 16 members of Jehovah's Witnesses remained in detention for refusal to serve in the military services and 10 were under house arrest; 11 were released on parole after serving part of their sentences, and 5 additional members were awaiting trial (*see* Section 2.c.). The Government has sought to reopen prosecutions against two members of Jehovah's Witnesses convicted on the same charge.

Unlike previous years, there were no reports of armed forces recruiters detaining persons to compel the surrender of relatives who evaded the draft or deserted (*see* Section 1.f.).

During the year, three Armenian and four Azeri POWs were repatriated; a fifth Azeri POW was granted asylum in a third country.

During the year, the Government allowed ICRC representatives and a parliamentary investigating committee to visit those detained in connection with the October 1999 shootings. The detainees also were permitted contact with lawyers, although their attorneys complained that their contacts were insufficient and restricted. The lead detainee in the case, Nairi Hunanian, announced that he was dismissing his lawyer and taking over his own case.

The Constitution does not address forced exile, but there were no reports that the Government employed it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the Constitution's provisions do not insulate the courts fully from political pressure, and in practice, courts were subject to pressure from the executive and legislative branches and some judges were corrupt. Lengthy public trials sometimes were a problem.

The Constitution mandates a three-level court system: The highest court is the Court of Cassation. There are two lower-level courts, the Appellate Court and courts of the first instance. First instance courts try most cases, with a right of appeal to the Court of Appeals, and then to the Court of Cassation. The Constitutional Court rules on the conformity of legislation with the Constitution, approves international agreements, and decides election-related legal questions. It can accept only cases proposed by the President, by two-thirds of all parliamentary deputies, or election-related cases brought by candidates for Parliament or the Presidency. Because of these limitations, the Constitutional Court could not ensure effective compliance with constitutional human rights safeguards.

The military legal system operates essentially as it did during the Soviet era. There is no military court system; trials involving military personnel take place in the civil court system and are handled by military prosecutors. Military prosecutors perform the same functions as their civilian counterparts, and operate in accordance with the Soviet-era Criminal Code. The Military Prosecutor, who was also named Deputy Prosecutor General, was in charge of the investigation into the October 1999 shootings in Parliament. By year's end, the trial of 11 detainees implicated in the crime continued. The Military Prosecutor has been strongly criticized by relatives of the victims and opposition political parties for reported defects in his investigation of the crime, but had refused demands in 2001 to resign.

The selection of judges is often based on scores on a multiple-choice test to determine potential judges' fitness under the system, and on their interviews with the Minister of Justice. The list of nominations is then approved by the Council of Justice and, finally, by the President. Judges are subject to review by the President, through the Council of Justice, after three years; unless they are found guilty of malfeasance, they are tenured until they reach the age of 65.

Prosecutors continued to greatly overshadow defense lawyers and judges during trials. Under the Constitution, the Council of Justice, headed by the President, the Procurator General, and the Justice Minister, appoints and disciplines judges for the tribunal courts of first instance, review courts, and the Court of Appeals. The President appoints the other 14 members of the Justice Council and 4 of the 9 Constitutional Court judges. This authority gives the President dominant influence in appointing and dismissing judges at all levels.

A commission to amend the Constitution's chapter on the judiciary, the second such body to undertake this task, has passed the final package of constitutional revisions, approved by the President, to Parliament in 2001. Such constitutional revisions must pass both Parliament and a national referendum. Most of the constitu-

tional revisions are aimed at removing some of the executive branch's powers and increasing judicial independence. Parliament had not acted on them by year's end, although it was announced that the national referendum would take place in May 2003.

The Criminal Procedure Code does not allow detainees to file a complaint in court prior to trial to redress abuses committed by the Prosecutor's Office, the police, or other security forces during criminal investigations. Witnesses have no right to legal counsel during questioning while in police custody—even though failure to testify is a criminal offense—and detainees must obtain permission from the police or the Procurator's Office to obtain a forensic medical examination to substantiate a report of torture. Although defense lawyers may present evidence of torture in an effort to overturn improperly obtained confessions, and according to law, all such charges must be investigated, judges and prosecutors routinely ignored such complaints even when the perpetrator could be identified.

All trials are public except when government secrets are at issue. Defendants are required to attend their trials unless they have been accused of a minor crime not punishable by imprisonment. Defendants have access to a lawyer of their own choosing. The court appoints an attorney for any indigent defendants who need one. However, during 2001, the Helsinki Association conducted a survey of the courts together with the International Helsinki Federation, the International Union of Armenian Lawyers and the Moscow Helsinki Group. According to their joint report, 38 percent of 50 respondents stated that they were not provided with defense attorneys during the preliminary investigation. Reportedly individuals often choose to defend themselves in court because they had little respect for a defense attorney's professional skills and ethics.

Defendants may confront witnesses and present evidence. The Constitution provides that those accused of crimes shall be informed of charges against them. The constitutionally mandated presumption of innocence was not always observed in practice, and acquittals were rare once a case went to trial. Defendants and prosecutors have the right to appeal; figures released by the Association of Armenian Judges showed that in 2000, three out of four appeals were turned down by higher courts. During 2000 563 of 2,266 court rulings were overruled or annulled.

A Jehovah's Witnesses leader, being prosecuted by the Procuracy for "leading youth astray," was found innocent, and two appeals by the Procuracy were subsequently denied in September and November 2001; a sign that judges were becoming more independent; however, the trial of a presidential bodyguard for the killing of an ethnic Armenian Georgian, Poghos Poghosian (*see* Section 1.a.) which ended in the bodyguard receiving a nominal sentence, was seen by media commentators as indicating that the courts were still subject to political influence.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits unauthorized searches and provides for citizens' rights to privacy and confidentiality of correspondence, conversations, and other messages; however, the Government did not always respect these rights in practice. The security ministries must petition a judge for permission to wiretap a telephone or intercept correspondence. The judge acting alone must find a compelling need for a wiretap before granting the agency permission to proceed.

The law requires that security forces obtain a search warrant from a judge before conducting a search. Security forces were refused warrants because of lack of evidence in several cases. In practice there were charges that searches continued to be made without warrants in connection with the October 1999 killings in Parliament, the 2000 arrest of Arkady Vardanyan (*see* Section 2.b.), and the arrest in 2001 of persons demonstrating against the loss by A-One Plus television of its broadcast frequency (*see* Section 2.a). The Constitution provides that the judiciary must exclude evidence obtained without a warrant, and the judiciary did so in practice.

Unlike previous years, there were no reports that armed forces recruiters detained persons to compel the surrender of relatives who evaded the draft or deserted. However, there were credible reports of improper, forced conscription of ethnic Armenian refugees from Azerbaijan, who by law are exempt from military service. The parents of such refugees were reluctant to complain because they feared reprisals against their sons. Sweep operations for draft-age men no longer occurred, although police at times maintained surveillance of draft age men to prevent them from fleeing the country.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and the press; however, while the Government generally respected freedom of

speech, there were some limits on freedom of the press, and journalists continued to practice self-censorship. There was no official censorship, publications presented a variety of views, and the opposition press regularly criticized government policies and leaders, including the President, on sensitive issues such as the Nagorno-Karabakh peace process and privatization. To avoid repetition of the retribution experienced in the past from powerful officials and other individuals, most journalists continued to practice self-censorship, particularly when reporting on major cases of corruption or national security issues.

On December 28, an unknown assailant shot to death the Chairman of the National Public Television Board, Tigran Naghhdalyan. An investigation began and continued at year's end.

Newspapers were privately owned with the exception of "Hayastani Hanrapetutyun," its Russian-language version "Respublika Armenia" (joint venture between Parliament and the newspapers' staffs) and Respublika Armenia. The state printing house and distribution agency functioned as commercial enterprises, with no visible government intervention. A private printing house was also set up with foreign aid and was utilized by some newspapers during the year. Newspapers operated with extremely limited resources, and none were completely independent of patronage from economic or political interest groups or individuals. Because of prevailing economic conditions, total newspaper circulation was small (40,000 copies, by the Yerevan Press Club's estimates, or approximately one copy per 85 persons). The few international newspapers and imported magazines were not censored.

State institutions that previously exerted control over the media have lost most of their functions. A Department of Information, which existed as a separate entity for several years, became part of the Ministry of Culture by year's end. It had no clear purpose beyond allocating small government subsidies to newspapers and occasionally interceding with the state-owned newspaper distribution agency to forward a share of its receipts to the newspapers.

Because many people cannot afford newspapers, television was the most widely accessible medium. The President's office continued to influence state television news coverage significantly. The most widely available of the two state-owned television channels, Public TV of Armenia, took policy guidance from the Government. It presented mostly factual reporting but avoided editorial commentary or criticism of official actions. In Yerevan and major regional media markets, private television stations offered independent news coverage of good technical quality. Most of the more than 20 radio stations were private and independent. The quality of reporting on private radio and television stations varied, and they were not inhibited from expressing editorial opinions except by self-censorship. There were no restrictions on reception of satellite television and other foreign media, and they were not censored. There was foreign language programming, although the 2000 Law on Broadcast Media limited the percentage of a station's output that can be in a foreign language.

In April A-One Plus TV, an independent channel whose news reporting was widely watched and on occasion was critical of the Government, lost its operating frequency to another company in a tendering process. Opposition parties claimed the Government silenced the independent channel because of its criticism; however, President Kocharian stated that he wanted to see A-One Plus back on the air and that he had sought compromise solutions that had been rejected by A-One Plus owners, who were holding out for a solution that would acknowledge the fact that they had been unfairly treated. The National Broadcasting Board refused to concede this, stating that the tendering process had been held strictly in accordance with the provisions of the new 2000 Law on Broadcast Media, and that A-One Plus had simply not presented the best tender package. A-One Plus appealed the decision at all levels of the Armenian judicial system and lost. An appeal to the European Court on Human Rights was pending at year's end; however, the decisions of that court are not legally binding in the country.

Since September 2000, the Government has monitored closely the independent television station Noyan Tapan; the station remained off the air pending resolution of financial disputes between company shareholders, the TV channel was taken off the air, and its operating frequency was subsequently awarded to another company in a 2001 tendering process. In response some members of the National Assembly, in defense of the station, called for an end to what they called an "information war" waged by government authorities. In addition to having lost its original frequency in 2001, during the year, the State licensing body turned down Noyan Tapan's application "due to a missing specification of a frequency in the application." Following the State licensing body's failure to notify Noyan Tapan about this omission and to allow ten days for correction as required by the law, the channel appealed the decision to the Court of First Instance, which on December 2 ruled in its favor. However, on December 17, the Appeal Court set aside the lower court's decision, but con-

firmed Noyan Tapan's right to submit tenders in an additional round of bidding scheduled for 2003.

Opposition parties and politicians generally received adequate news coverage and access to broadcast media. In the run-up to the 2003 presidential and legislative elections, they have continued to have free access to media coverage. During the 1999 parliamentary elections, the coverage of political parties on state television and other media generally was balanced and largely neutral. Candidates for single-mandate seats were not entitled to free programming, but there were no restrictions on paid time.

The process of license issuance for broadcast media is strictly governed by the 2000 Law on Broadcast Media, which appeared to be observed in practice, although it was not well understood by some sectors of the media or public.

During 2001 the Parliamentary Standing Committee on Science, Education, Culture, and Youth Affairs worked together with the Yerevan Press Club and the international NGO Internews to bring the Law on Broadcast Media into compliance with the Constitution. In 2001 amendments were passed by the Parliament and signed by the President. While the amendments to the law met many previously expressed concerns by media and human rights groups regarding freedom of the media, it still contains loopholes that could be used to impose greater control on the media by government bodies.

Journalists remained cautious in their reporting, particularly about proceedings in the courtroom, and the range of subjects the Government considered sensitive for national security reasons was large. Some members of the press have been granted access to army facilities and places of detention. However, even in cases where they had such access, permission for media visits was a prolonged and cumbersome bureaucratic process.

In October unknown persons threw a hand grenade at independent journalist Mark Grigorian, causing shrapnel damage to his legs and chest. No arrests had been made by year's end.

Internet access was not restricted.

The Government generally did not restrict academic freedom; however, some professors and administrators practiced self-censorship. There were 75 private institutions of higher education. The curriculum committee of the Ministry of Education must approve the curriculum of all schools that grant degrees recognized by the State, seriously limiting the freedom of individual schools and teachers in their choice of textbooks and course material; however, in practice, enforcement of this stipulation was perfunctory. Seventy institutions were licensed, which gives private institutions equal status with state-run higher institutions, and 5 were not operating by year's end.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice. Permits are required for demonstrations and marches; however, they were granted routinely.

On May 21, police detained approximately 80 people after opposition political parties staged a rally protesting against closure of A-One Plus television. Most were charged with "participation in public disorder" and either were fined or received an administrative sanction of up to 15 days of detention.

The Constitution provides for freedom of association; however, there were some limits on this right. There are cumbersome registration requirements for all political parties, associations, and organizations. The process of registering an organization is time-consuming, and the Government has compelled some human rights and political organizations to revise their bylaws several times in order to have their registrations accepted; however, none had been denied registration for legal reasons during the year. No human rights or political organizations reported problems with registration during the year.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion; however, the law specifies some restrictions on the religious freedom of adherents of faiths other than the Armenian Apostolic Church. The law establishes the separation of church and state, but grants the Armenian Apostolic Church special status as the national church.

The law requires all religious denominations and organizations to register with the State Registry Office based on recommendations from the Cabinet. The State Council of Religious Affairs (CRA), created by presidential decree in the early 1990s to serve as a point of contact between the Government and religious groups, was dissolved by presidential decree in March; it was announced in August that an advisory body attached to the office of the Prime Minister would replace it. The advisory body would include representatives of the Ministries of Defense, Interior, National



Security, Culture, and several other government institutions. The new committee was not recorded as having formally met prior to the end of the year, although informal consultations took place.

A religious organization that has been refused registration may not publish newspapers or magazines, rent meeting places on government property, broadcast programs on television or radio, or officially sponsor the visas of visitors. No registered religious group has been denied reregistration under the law, and all existing registered denominations have been reregistered annually except the Hare Krishnas, whose membership is below the membership threshold of 200, and Jehovah's Witnesses. Members of Jehovah's Witnesses were no longer denied registration on the grounds that the group does not permit military service, but rather for "illegal proselytism." The State Council also alleged that its public preaching created dissatisfaction and tension in some communities. During the introduction of the Prime Minister's new advisory committee on religion in August, several members made statements critical of "foreign sects" in general and of Jehovah's Witnesses in particular. According to the leadership of the Yezidi community, appeals on their behalf with respect to alleged discrimination were raised with the previous Council; however, no response by government officials had been forthcoming.

Members of Jehovah's Witnesses continued to experience difficulty renting meeting places and reported that private individuals who were willing to rent them facilities frequently were visited by police and warned not to do so. A Jehovah's Witnesses official stated that during the year there were no such incidents because Jehovah's Witnesses held services exclusively in private houses to avoid confrontations.

The law forbids "proselytizing" (undefined in the law), except by the Armenian Apostolic Church, and bans foreign funding for churches whose centers are outside the country. This ban has in fact not been enforced, and all denominations, including Jehovah's Witnesses, were allowed to advocate their point of view. The ban on foreign funding also has not been enforced and was considered unenforceable by the previous State Council on Religious Affairs.

When shipped in bulk, publications of Jehovah's Witnesses were seized at the border. Although members supposedly are allowed to bring in small quantities of printed materials for their own use, officials of Jehovah's Witnesses reported that mail from one congregation to another, which they said was meant for internal purposes rather than for proselytizing, still was confiscated by customs officials.

Members of unregistered minority religious organizations are allowed to bring in small quantities of religious literature for their own use; however, large shipments by unregistered groups are prohibited. The law also mandates that religious organizations, except the Armenian Apostolic Church, need prior permission to engage in religious activities in public places, to travel abroad, or to invite foreign guests to the country. Despite these mandated restrictions, in practice there was no restriction on travel by the religious personnel of any denomination, including those that were unregistered.

"Nontraditional" religious groups were viewed with suspicion. On occasion Yezidi children reported hazing by teachers and classmates. Some observers reported increasingly unfavorable attitudes towards Jehovah's Witnesses among the general population, both because they were seen as "unpatriotic" for refusing military service and because of a widespread but unsubstantiated belief that they pay money to the desperately poor in order to obtain conversions.

The press reported a number of complaints lodged by citizens against Jehovah's Witnesses for alleged illegal proselytizing. Jehovah's Witnesses were the targets of religious attacks and hostile sermons by some Armenian Apostolic Church clerics. However, in July a Jehovah's Witnesses official charged by the Procuracy General with "leading young people astray" was found innocent in a September 2001 verdict, and two appeals of the case by the Procuracy, including to Armenia's highest appeals court, were denied.

As a result of the Nagorno-Karabakh conflict with Azerbaijan, most of the country's Muslim population was forced to leave the country. Anti-Muslim feeling persisted among the populace, and the few remaining Muslims in the country kept a low profile. There was no formally operating mosque, although Yerevan's one surviving 18th century mosque, which was restored with Iranian funding, was in practice open for regular Friday prayers on a tenuous legal basis. Although it was not registered as a religious facility, the Government did not create any obstacles for Muslims who wished to pray there.

Many members of Jehovah's Witnesses remained in detention, charged with draft evasion or, if forcibly drafted, with desertion. Sixteen members of Jehovah's Witnesses remained in detention and ten were under house arrest. Five members have been arrested and were awaiting their trials at year's end. Members of Jehovah's

Witnesses receiving draft notices continued to report directly to police and turned themselves in as draft evaders, rather than await induction to claim conscientious objector status. Military conscripts who were members of Jehovah's Witnesses were subject to even harsher treatment than other conscripts by military and civilian security officials, because their refusal to serve in the military was seen as a threat to national survival.

Alternative nonmilitary service was not available under current law to members of Jehovah's Witnesses. The Government promised the Council of Europe that it would pass an alternative military service law, and two differing drafts of such a law, one proposed by Parliament's Military Affairs Committee and the other by the Ministry of Defense, were presented to Parliament in September.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, the Government placed restrictions on some of these rights.

The Government does not restrict internal movement, and citizens have the right to change their residence or workplace freely. However, citizens must negotiate with a sometimes corrupt and inefficient bureaucracy to register these changes. In addition, registration of a residence is difficult, because in order to be registered at a particular residence, a person must be either the property owner or an immediate family member of the owner. Special written permission from the owner of the property, signed by a lawyer, is required to make a temporary or permanent registration of a non-immediate family member.

The Constitution and laws require that passports be issued to all citizens except convicted felons; however, in cases of permanent residents who wish to relocate abroad permanently, an exit stamp may be denied to those persons who possess state secrets, to those subject to military service, to those who are involved in pending court cases, and to those whose relatives have lodged financial claims against them. An exit stamp is valid for up to five years and may be used as many times as an individual chooses to travel. Men of military age must overcome substantial bureaucratic obstacles to travel abroad.

As a result of the Nagorno-Karabakh conflict, particularly within the period from 1988 to 1994, ethnic minorities on both sides frequently have been subject to societal and governmental discrimination and intimidation, often accompanied by violence intended to drive them from the country. Almost all ethnic Azeris living in Armenia in 1988—approximately 185,000 persons—fled to Azerbaijan. Of the 400,000 ethnic Armenians then living in Azerbaijan, 330,000 fled and gained refugee status in Armenia and Nagorno-Karabakh. As of November 2001, Armenian officials stated that the number of ethnic-Armenians in the country during the year was 264,332. The Government, OSCE, and the United Nations High Commissioner on Refugees (UNHCR) did not provide numbers or any other information on refugees in Nagorno-Karabakh.

The National Assembly passed a law on citizenship in 1995 that provides the right for refugees of Armenian ethnicity to gain citizenship, provided that they are stateless and have resided in the country for the past three years. The UNHCR local office reported that 16,259 ethnic Armenian refugees had been naturalized between 1999 and the end of 2001. By August 6,408 more refugees had acquired Armenian citizenship. A total of 47,614 refugees in the country had been naturalized by year's end.

In 2001 the National Assembly amended the 1999 Refugee Law, which provides for the granting of refugee or asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. During the year, the Refugee Law was again amended by the creation of temporary asylum, which gives a more determined status to approximately 12,000 ethnic Armenian refugees from Chechnya and Abkhazia. The Government cooperated with the UNHCR and other humanitarian organizations in assisting ethnic Armenian refugees. The Government provides for first asylum. Border officials had little training on asylum issues. Since 1999 there has been an established procedure for the formal recognition of asylum. In some cases, rejected asylum seekers, denied permission for legal residence, were subjected to fines for illegal residence when they attempted to depart the country. However, there were few cases of applications for asylum or refugee status, since most persons used the country as a transit country. Between 1999 and 2001, six persons from different countries were granted refugee status. By August seven more persons had applied for asylum; three persons from Iran and two from Iraq were granted refugee status.

During the year, two new laws were adopted to protect refugees' rights. In July 2001, the National Assembly approved the draft law on political asylum, which

states that political asylum status will be granted only by the president. According to authorities, no one has asked Armenian authorities for political asylum since the law was approved. During the year the National Assembly adopted two new laws that protect the rights of refugees. The laws were the Law on Legal and Socio-Economic Guarantees for Persons Forcibly Displaced from the Republic of Azerbaijan in 1988–1992, and the Law on Refugees.

There were no reports of the forced return of persons to a country where they feared persecution.

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

Serious flaws in the 1998 presidential election continued to restrict the constitutional ability of citizens to change their government peacefully. Substantial breaches of the election law resulted in a lack of public confidence in the integrity of the overall election process. However, 1999 parliamentary elections and by-elections in 2000, 2001, and 2002, although marred by some irregularities, represented a step towards more free and fair elections. Elections in urban areas like Yerevan generally reported fewer problems than those in rural areas.

In both rounds of the 1998 presidential elections, OSCE observers witnessed substantial irregularities. There were unusually high voter turnouts in certain areas, particularly in the second round, and these increases corresponded directly to high vote percentages for then-acting President Kocharian. Based on detailed analyses of the results tracked by observers in certain districts, it appeared that ballot box stuffing, discrepancies in vote counts, the presence of large numbers of unauthorized persons at polling stations, and other fraud practices perpetrated by local power structures inflated the number of votes for Kocharian by more than 100,000 votes in the second round. Kocharian won the second round by approximately 290,000 votes. Some military units were compelled to vote without exception for Kocharian, and officials used pressure to encourage a large turnout for the “official” candidate. There were no legal consequences for electoral fraud. The Government pursued only minor violations, and no penalties were announced. There was no criminal investigation of the amply documented ballot-box stuffing.

The 1999 parliamentary elections and several by-elections during 1999 and 2000 represented a step toward compliance with OSCE commitments, but still failed to meet international standards for free and fair elections. The OSCE’s Office for Democratic Institutions and Human Rights (OSCE/ODIHR) observers voiced most concern over the poor quality of the voter lists, which were often outdated or inaccurate; mistakes in registration and voting by military personnel; problems in the formation of the election commissions and the status of their members; and the presence of unauthorized personnel in precincts during voting and counting procedures. Fourteen criminal cases related to parliamentary election fraud were still under investigation by the Procurator General’s office in 2001. At year’s end, four cases had not been resolved, three had been closed because the perpetrators appeared to be juveniles, six cases had been closed because the perpetrators agreed to pay compensation for damages, and one case went to court and ended in an administrative fine. However, a new case was opened with regard to the October 20 municipal elections, which remained pending at year’s end. Nonetheless observers from OSCE/ODIHR categorized the 1999 Parliamentary elections as a step towards compliance with OSCE commitments, and noted improvements in the electoral framework and the rights of freedom of association, freedom of assembly, and freedom of expression. In many precincts, election officials, candidates’ proxies, and domestic observers worked together to provide transparent voting and counting procedures.

The May 1999 elections took place under a new electoral code that represented an improvement compared with previous legislation and incorporated some recommendations of international organizations. For example, the code provides for the accreditation of domestic nonpartisan observers, and provides for the courts to address electoral complaints during the campaign rather than after results are announced.

In a July 1999 by-election in Yerevan’s Achapniak district, violence erupted when armed supporters of one of the candidates beat and opened fire on supporters of another candidate. The Central Elections Commission (CEC) suspended this vote and declared it invalid. A criminal investigation resulted in the arrest of 12 persons. According to the Procurator General’s office, all 12 eventually went to prison for the Achapianak disturbances; of those, 8 were sentenced to two years each, while the remaining four got probationary terms of 16 to 20 months and were released on probation. Ten of these individuals were released under the June amnesty. The

Achapniak by-election subsequently was held again—the two candidates involved in the altercation were removed from the ballot—and took place without incident.

Several Parliamentary by-elections were held during the year and in 2001. Most of the by-elections were carried out peacefully; however, after hearing extensive evidence about irregularities in Yerevan's Arabkir district, the Constitutional court ordered the cancellation of the results in the May 2000 by-election. The election was held again in July 2000, and a different candidate won. An appeal by the winner of the first election was considered but rejected in July 2000 by the CEC. Two by-elections for parliamentary seats held in May were peaceful according to observers; however, there continued to be problems with voter lists. The second-place finisher in a race in Lori province filed suit, alleging widespread confusion and fraud, and the court agreed and ordered the results voided and the race re-run. However, in the second round, only the winner of the first round registered, and he was declared the winner by default.

In October municipal elections and elections to local governing councils took place peacefully and without incident. Observers from the Council of Europe and OCSE characterized them as an improvement over previous elections. However, some problems remained, including: Incorrect voter lists to a lesser extent than in previous years, confusion about proper procedures, particularly in some smaller towns—alleged pressure of voters by supporters of candidates.

In October 2001, the first national census since the Soviet era was held. While there were political concerns about the integrity of the process, whose results were used to create new electoral districts, foreign observers testified that the methodology used was acceptable and that the final result, which showed a population slightly over three million, was accurate in their view.

The National Assembly (Parliament) consists of 131 deputies; under amendments to the Electoral Code passed this year, 75 are elected on a proportional basis and 56 on a district-by-district majoritarian basis, a reversal basis of the proportions in the old law. Regular sessions of Parliament are held twice a year: The first from mid-September to mid-December, and the second from early February until mid-June. Given the large amount of legislative business, special sessions frequently are called, but may not last more than 6 days. The nominal majority in Parliament is made up of a coalition called Unity, which includes the two parties that gained the most votes in the May 1999 Parliamentary elections: the Republican Party and the Peoples' Party. The coalition still formally existed but had become largely inoperative after 2000 due to disagreements between the two parties, with the People's Party usually opposing the Government. The Government has maintained a majority for most of its proposals by adding to the votes of the Republicans those of a number of smaller parties such as the ARF/Dashnaks, Orinats Yerkir, and a large number of independents, including those in a bloc called the Agro-Technical Peoples' Union. In 2000 this bloc split and the minority faction renamed itself "Peoples Deputies"; however, both factions continued to support the Government. Some deputies from the Unity coalition left the coalition during 2000 over policy differences, and during 2001 formed the new Republic Party, which opposed the Government on most issues, and which has reduced, but not eliminated, Unity's majority. During the year, the Speaker of Parliament and one deputy speaker formally left the People's Party and became independents.

Amendments to the Electoral Code, passed in July—in addition to reversing the percentages of proportional (party list) versus majoritarian (single mandate) seats—include the following changes: abolishing the Regional Election Commissions, which had been largely dormant; mandating that local authorities must update electoral rolls every six months in addition to just before elections; ordering that parties which are not represented in Parliament will not be represented on the CEC; allowing draftees and trainees in the armed forces (but not officers) to vote in nationwide elections (i.e., in presidential and in party-list legislative elections, but not single-mandate legislative or local elections); and providing that members of the CEC appointed by the President or political parties cannot be removed from office until 30 days after the next election except for just cause. However, a number of amendments which would have enhanced election transparency failed. It was also announced that municipal elections would be held on October 20, that the next presidential election would take place on February 19, 2003, and that the next legislative general election would take place in May 2003, possibly at the same time as the referendum on a proposed package of constitutional amendments.

The executive branch appoints the 10 regional governors (marzpets) and the mayor of Yerevan. The Constitution gives local communities the right to elect local authorities. Local elected officials have limited powers, but were allowed to levy taxes. They were somewhat overshadowed in practice by the appointed governors,

who can remove them from office but seldom did so. Some local officials were corrupt and subjected to pressure from superiors.

There were no female cabinet ministers, although there were several female deputy ministers. Only 4 of the 131 deputies in the Parliament were female. The population of the country is at least 95 percent ethnic Armenian, and there were no ethnic minority representatives in the Cabinet or in the Parliament, although they are not prohibited from running and have run for office.

*Section 4. Governmental Attitudes Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restrictions, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views. Public access to information on human rights cases was adequate, and there was extensive media coverage of significant court cases; however, civilian and military prosecutors have been less open since the October 1999 shootings.

Nongovernmental human rights organizations often reported funding difficulties. During the year, several local NGOs received government permission to visit detention facilities (*see* Section 1.c.).

As part of the commitments it made in advance of joining the Council of Europe (COE), the Government permitted monitoring of its human rights practices by the COE and reaffirmed this right for the ICRC, which retained full access to civilian detention facilities. An office created by the Procurator General in July 2001 to communicate with international observers was responsive to requests for information. Information about criminal cases stemming from election fraud remained incomplete.

Existing electoral law allows local and international observer organizations to monitor all elections, and such organizations reported no impediments to their observation of the 1999 elections and the 2000, 2001, and 2002 by-elections (*see* Section 3).

In 1998 President Kocharian appointed a prominent opposition politician, Paruyr Hairikyan, to head a new human rights commission within the President's office. The commission exists essentially as a reference bureau and has no formal legal powers; however, it has had a modest impact in persuading authorities to review official actions on problems ranging from apartment allocations to police behavior, in some cases winning official reconsideration. The commission refers such cases to the appropriate agency, but it does not follow up on specific issues. During the year, the commission was successful in implementing prison reforms, with the help and support from several of its members. The commission also visited military units and prisons and held open hearings on abuses in the army. The commission also visited those accused in the October 1999 killings, visited the Gyumri jail to check its condition, and frequently checked on military units to hear human rights complaints by soldiers. Hairikyan resigned his post as head of the Commission mid-year and announced his candidacy for president in the 2003 elections. The Parliamentary Commission on National Security, Defense and Interior, headed by Vahan Hovhanissian, made regular visits to military units to hear complaints by soldiers as well.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination based on race, gender, disability, language, or social status; however, cultural and economic factors prevented women, ethnic minorities, and persons with disabilities from participating fully in public life.

*Women.*—There is no specific law banning violence against women and a few cases of spousal abuse, or other violence against women were reported during the year; however, such violence is believed to be more widespread than statistics indicate. According to an opinion poll conducted in 2000 by a local NGO, 50 percent of Armenian women have been victims of domestic violence, although other local NGOs claimed that the percentage is lower. The problem of battered wives is much more widespread than the Government or local human rights groups would admit. Many cases were not reported to police because victims were afraid of physical harm if they did so, fearful that police would refuse to take action and instead return them to their husbands, or embarrassed to make “family matters” public. Embarrassment and concerns for family honor made the problem particularly sensitive and difficult to quantify; women's groups and health professionals also declined to offer specific figures. The Procurator General's office stated that 17 women were killed in 2001; however, the office did not specify how the crimes were committed. Fifty-five women

were victims of rape or killings. Several NGOs exist in the Yerevan and Gyumri areas, and in Martuni, and provide shelter and assistance to battered women.

By the end of October, the authorities registered 28 cases of rape. However, observers believe the actual number of rapes to be higher. The law cites specific punishments for rape. By June 2001, 12 persons had been convicted for rape. Twenty-seven women were killed, and three were arrested and charged with homicide.

Prostitution is not illegal, and according to anecdotal evidence, most prostitutes stopped by police simply are sent to a hospital or physician for a medical check-up. Although the Criminal Code does not forbid prostitution itself, operating brothels is prohibited. According to an investigation conducted by journalists more than 1,500 prostitutes were registered by the police, most of them in the Yerevan area. A study of Yerevan prostitution conducted by local journalists in 2000 showed that while some operated by telephone, the vast majority of prostitutes were what is known as streetwalkers, with their "class" and desirability defined by the area of the city in which they operated.

Trafficking in women abroad was a problem (*see* Section 6.f.).

The law does not specifically prohibit sexual harassment; however, some articles in the criminal code address different aspects of sexual harassment. Cases of sexual harassment are not considered to be worthy of legal action by society.

Men often played a dominant role in many societal institutions, although among younger persons it was more common for women to take an active role. Although women have been present in the work force for several generations, tolerance for broadening their roles or behavior was low, particularly among older people and in the rural regions. In the workplace, women received equal pay for equal work, but generally were not afforded the same professional opportunities given to men, and often were relegated to more menial or low-skill jobs. The law prohibits discrimination in employment and hiring because of pregnancy; however, the extremely high unemployment rate made it difficult to gauge how effectively the law was implemented. According to official statistics, women made up 66.4 percent of those officially registered as unemployed (approximately 90,000) and comprised two-thirds of the total number of unemployed. In the past, labor unions protected women's rights in the workplace, at least nominally, but the weakness of unions has made them less effective (*see* Section 6.a.). More women than men were enrolled in university and postgraduate programs. This may in part be accounted for by the Nagorno-Karabakh situation, which necessitated a high number of men being in military service, and in part by the economic situation, which had caused men to emigrate in search of employment.

*Children.*—The Government did not have the economic means to provide fully for the welfare of children. Education is free, universal, and compulsory through age 14, then optional through age 16 (complete secondary education). Girls and boys received equal educational opportunities. However, many facilities were impoverished and in poor condition, and teachers were forced to tutor pupils privately to supplement salaries that were low and paid irregularly. Some teachers were known to demand bribes from parents in return for good or passing grades for their children. Free children's health care was available for all children through the age of eight for treatment of some diseases and for emergency care, but often was of poor quality, and the practice of demanding overt or concealed payment of fees for medical service continued. In the Yezidi community, a high percentage of children did not attend school, partly for family economic reasons and partly because schools lack Yezidi teachers and books in their native language.

The Government focused its efforts regarding children's rights and welfare on measures to insulate large families—those with four or more children—from the effects of the country's poor economic conditions. The Government directed foreign humanitarian aid programs toward the most socially vulnerable families and single-parent families.

Despite social programs, the number of street children increased. A local NGO reported that there were approximately 900 homeless children during the year and that the number was growing every year; however, government officials estimated the number of children to be between 600 and 700 (including 300 homeless children in Yerevan). Child abuse of street children did not appear to be a serious problem. Trafficking in girls continued to be a problem (*see* Section 6.f.).

*Persons with Disabilities.*—The Constitution provides for the right to social security in the event of disability, and the law provides for the social, political, and individual rights of persons with disabilities; however, the Government's enforcement of the rights of persons with disabilities remained rudimentary. Legal safeguards for those with psychiatric problems are inadequate to protect patients' rights. Hospitals,

residential care, and other facilities for serious disabilities were substandard. There was societal discrimination against persons with disabilities.

Expenditures for the health sector in 2001 increased by 27 percent (according to official statistics) during the year, and budget allocations were \$33.8 million (approximately 18 billion drams). However, despite these increases, in 2001 there were no improvements in the provision of benefits and services to persons with disabilities. During the year, expenditures decreased by 17 percent to \$28 million (16.1 billion drams). According to official statistics, the social sector budget, which among other social payments and expenditures covered the needs for persons with disabilities, was budgeted at \$47 million (27 billion drams) in 2001 but this year it decreased by four percent. According to the Ministry of Social Welfare, in 2001 approximately \$7.4 million (400 million drams) was directed towards support for persons with disabilities, which included pensions, prostheses, and wheelchairs. The amount represented approximately 32 percent of the Ministry's budget, and remained at approximately the same level this year.

The law as well as a specially mandated government decree have special provisions that require accessibility in buildings for persons with disabilities; however, in practice very few buildings and other facilities were accessible to persons with disabilities.

*National/Racial/Ethnic Minorities.*—The population was approximately 95 percent ethnic Armenian. The Government did not discriminate against the small, officially recognized “national” communities, although the economic and social situation of such groups has deteriorated substantially since independence in 1991. The Government included in the category of “national” communities were Russians, Ukrainians, Belarusians, Jews, Kurds, Yezidis, Assyrians, Georgians, Greeks, and Germans. As a result of the Nagorno-Karabakh conflict, there was no significant Azeri minority (*see* Section 2.d.). Several hundred Azeris or persons of mixed Azeri heritage still living in the country maintained a low profile in the face of societal discrimination.

The Constitution grants national minorities the right to preserve their cultural traditions and language, and the law provides linguistic minorities with the right to publish and study in their native language. There were token publications in minority languages, but the Government devoted minimal resources to maintaining minority language schools. The large network of Russian-language schools has diminished significantly. In practice virtually all students, including members of the Yezidi and Greek communities, attended Armenian-language schools, with very limited classes available in their native tongues.

Yezidi leaders continued to complain that police and local authorities subjected their community to discrimination. The Yezidis, whose number had been estimated at 20,000 by Yezidi leaders (down from 60,000 Yezidis registered in the 1988 population census, due to emigration) speak a Kurdish dialect and practice a traditional, non-Christian, non-Muslim religion with elements derived from Zoroastrianism, Islam, and animism. Yezidi leaders cited numerous incidents of unfair adjudication of land, water, and grazing disputes, nonreceipt of privatized agricultural land, an unusually high number of beatings of Yezidi conscripts in the army, and lack of police response to serious crimes committed against Yezidis by other citizens (*see* Section 1.c.). The Yezidi complaints likely reflected societal discrimination as well as the more general problem of poorly functioning local and central government bodies, particularly regarding national minorities. Members of the Yezidi Community also tried to address their grievances with the State Commission on National Minorities, but subsequently claimed that all their attempts have been ignored.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides employees with the right to form and join trade unions although it stipulates that the right to form associations, including political parties and trade unions, may be limited for those persons serving in the armed services and law enforcement agencies. In practice, labor organization remained weak because of high unemployment and the weak economy. The absence of active unions and of accurate employment data precluded a reliable estimate of the percentage of the workforce that is unionized.

Unions are free to affiliate with international organizations; however, none had done so at year's end.

*b. The Right to Organize and Bargain Collectively.*—Although the Law provides for the right to organize and bargain collectively, collective bargaining was not practiced. Voluntary and direct negotiations did not take place between unions and employers without the participation of the Government, because many large employers remained under state control.

The Government encouraged profitable enterprises to establish their own pay scales. Factory directorates generally set the pay scales without consultation with employees. Labor disputes were arbitrated in regular or economic courts.

The Constitution provides for the right to strike; however, workers had neither the financial resources to maintain a strike nor enforceable legal protection against retaliation, and existing unions played a relatively passive role.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution and the law prohibit forced and bonded labor, including by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—According to the law, 16 years is the minimum age for employment. Children may work from the age of 14 with the permission of a medical commission and the relevant labor union board. The law was enforced by local community councils, unemployment offices, and, as a final board of appeal, the courts. Children under the age of 18 are not allowed to work in difficult or dangerous jobs, night labor, or jobs that require over six hours of work per day, although children 16 years of age or older may apply for waivers in the latter two cases.

According to the Ministry of Social Welfare, some children up to the age of 12 years were involved in family businesses, as well as some other business activities such as agriculture where such activity is not forbidden by law. Children are forbidden specifically from engaging in arduous, or dangerous employment, even if it is their family's business, without permission by the Ministry of Social Welfare. The Ministry granted such permission only on a case-by-case basis and only for children 12 years of age or older.

The Government has not ratified ILO Convention 182 on the worst forms of child labor.

*e. Acceptable Conditions of Work.*—The Government sets the minimum wage by decree. The monthly minimum wage was \$9 (5,000 drams) and was insufficient to provide a decent standard of living for a worker and family. The majority of the population (approximately 54.7 percent) lived below the poverty line of \$2 (480 drams) or less income per day, and approximately 23 percent of the population were considered extremely poor (at less than \$1 a day, or 590 drams a day) as a result of economic dislocations caused by the breakup of the Soviet Union, the 1988 Spitak earthquake, the conflict in Nagorno-Karabakh, and disruptions in trade resulting from a blockade by Azerbaijan and Turkey. A significant amount of economic activity, as much as 40 percent, took place without being recorded or taxed by the local authorities. The extent to which this affected the overall economic situation was unknown; however, a substantial number of poor persons and a small wealthy elite existed in the country.

The majority of industrial enterprises either were idle or operated at a fraction of their capacity. Some furloughed workers continued to receive minimal partial compensation from their enterprises, but most no longer received any payment if they were not working. Under the law, if an employee loses his or her job, two month's salary must be paid as compensation.

The standard legal workweek was 40 hours; however, many persons worked multiple jobs in order to provide for basic necessities. The law provides for annual and sick leave; however, there were no mandated rest periods. Compensation for overtime work was required; the amount depended on the position and type of employment.

The Constitution provides citizens with the right to clean and safe workplaces. Soviet-era occupational and safety standards remained in force; however, in practice conditions were inconsistent. Labor legislation places responsibility on the employer and the management of each firm to ensure "healthy and normal" labor conditions for employees, but it provides no definition of these conditions. Workers were reluctant to complain or remove themselves from hazardous working conditions as they risked losing their jobs.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons specifically, although it does prohibit exploitation by force of persons for financial gain; trafficking in women and girls abroad for prostitution was an increasingly significant problem. There were reports that corruption by government officials facilitated trafficking.

There is no specific law prohibiting trafficking in persons, although traffickers may be prosecuted under different articles of the Criminal Code: For example, illicit seizure of non-property documents (passports or other personal documents), as well as illicit use of these documents, may be punished by imprisonment up to a year; falsification and selling of documents, by imprisonment up to five years; pandering,



by imprisonment up to five years; bogus marriage and bogus divorce with mercenary ends or other reasons, by imprisonment up to a year; extortion (coercion of a person, or coercion by publishing compromising information about a person), by imprisonment from two to four years; and coercing of a woman to perform sexual intercourse by a person on whom this woman is financially (or economically) dependent by imprisonment up to seven years. By year's end, legislation pending before Parliament would ratify the U.N. Protocols on International Crime and Trafficking in Persons and would provide for prosecution of those engaging in such practices for profit. The criminal code specifically prohibits keeping brothels, although prostitution itself is legal. By October there had been 22 indictments for procuring. By year's end, 19 of these were under investigation; 3 were closed for lack of evidence; and 1 was being jointly investigated with German law enforcement bodies.

Police officials announced the investigation of numerous cases of procuring prostitutes but stated that they were unable to arrest the main offenders because they resided in the Middle East rather than in the country. An extradition treaty with the United Arab Emirates was signed this year. There have been few cases in which traffickers were prosecuted. Some officials from the Ministry of Interior complained that courts easily acquitted procurers or sentence them to only minor administrative punishment and fines. In addition, victims usually were the main witnesses and were often reluctant to come forward out of fear of violent retaliation. Reliable information on trafficking has been difficult to obtain.

Armenia was a country of origin for trafficking, which represented more of a problem than the Government and women's organizations have until recently been willing to acknowledge openly. Although specific information on trafficking was difficult to obtain, an International Organization for Migrations (IOM) report estimated that every year approximately 700 women and girls are trafficked, primarily to act as prostitutes, to the United Arab Emirates and other Gulf States, as well as to Turkey, Russia, Germany, Greece, and other European countries. Women primarily were trafficked from the Yerevan, Gyumri, and Vanadzor areas of the country. An IOM report released during the year stated that of 59 women and girls returned to the country, 43 were trafficked.

Young women and girls from socially vulnerable groups all over Armenia and Nagorno-Karabakh were the primary targets of traffickers. Trafficked persons often were lured by jobs abroad offered through recruiters and informal channels, tourism firms and some media. Reportedly, there were cases in which older girls from orphanages and poor families were sold to wealthy men in Dubai. An orphanage run by a religious group reported that older girls have been approached by relatives urging them to "earn their share" for the family by engaging in prostitution. However, most parents and relatives were convinced that they were sending such children to work in the UAE or elsewhere as models, dancers, waitresses, or domestic servants. Traffickers themselves were often ex-prostitutes or pimps who have already established "good working contacts" in the country of destination. They were well organized, have connections with local authorities and were supported and protected by criminal gangs. Most potential victims were approached by persons whom they personally know (friends of friends, relatives of relatives, neighbors, etc.), or by travel agencies. Most often, recruiters told victims that they would be working as babysitters, waitresses, or cleaning ladies. Only a few of the victims knew before departure that they would work as prostitutes, but even these did not realize that they would have their documents and money confiscated and that they would be pressured to receive numerous clients every day to maximize their employer's profits. To tighten control over their "staff" procurers threatened to burn victims' passports or to inform police about their "business."

Some NGOs and experts insisted that local police officers, border guards and customs officers were involved in trafficking by accepting bribes from traffickers in exchange for tolerating their business.

According to international NGOs, the Government appeared to be focusing more on prostitution within the country than on trafficking of victims abroad. However, the Government has begun to acknowledge and take action on the problem.

There were no trafficking prevention programs run by the Government. The Government indicated to IOM that Armenia would join the U.N. Convention on Transnational and Organized Crime and two U.N. Protocols to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children by the end of the year. In November 2001, the Government acceded to the convention and two protocols. Upon ratification the protocols automatically would supersede all previous trafficking-related laws. Armenian law enforcement authorities and the Procuracy General cooperated with foreign countries in particular cases when assistance and information exchange were necessary, including trafficking cases.

There were also some women's NGOs that raised public awareness of this problem and obtain funding for assistance programs. However, as of midyear there were no NGO-sponsored assistance programs to provide counseling and assistance for victims. The Government's Office of Refugees and Migration operated a hotline and produced a journal giving information on traveling abroad, and a gender-working group chaired by the Minister of Social Welfare participated in discussing methods of prevention. There were also public service announcements aired on national television. In September the Government formed an interagency working group, which, in October, became the formal Interagency Commission on Human Trafficking, and has cooperated with several international groups, particularly OSCE, IOM, UNICEF, UNDP, as well as local NGOs. These efforts focused on three areas: Increasing public awareness of the problem and warning young women and girls of the strategies used to lure them into prostitution; increasing awareness of the problem among law enforcement agencies as well as the prosecution of traffickers; and working with social agencies to provide care and treatment for victims of trafficking.

## AUSTRIA

Austria is a multiparty parliamentary democracy in which constitutional power is shared between the popularly elected President and the 183-member Parliament. Citizens choose their President and representatives in periodic, free, and fair multiparty elections. In 1998 President Thomas Klestil of the Austrian People's Party (ÖVP) was elected to a 6-year term. In parliamentary elections in November, the ÖVP received a plurality and began negotiations with the other parties to form a government. The judiciary is independent.

The civilian authorities were subject to the effective control of the executive and judicial authorities. The national police maintain internal security, and the army was responsible for external security. The police were well trained and disciplined; however, there were reports that police committed some human rights abuses.

The country's highly developed, market-based economy, with its mix of technologically advanced industry, modern agriculture, and tourism, affords the approximately 8.1 million citizens a high standard of living. The per capita gross national product (GDP) was \$23,328 in 2001. GDP grew by approximately 1 percent during the year; there were no serious inequalities in the distribution of income.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were some reports of abuse by police, which involved occasional beatings but mainly involved verbal abuse, threats, and harassment. Foreign observers criticized the strict application of slander laws as detrimental to press reporting. There was some governmental and societal discrimination against members of some nonrecognized religious groups, particularly those considered to be sects. Violence against women was a problem, which the Government took steps to address. Interior Ministry statistics for the year showed a similar number of neo-National Socialist, rightwing extremist, and xenophobic incidents as the previous year. Trafficking in women for prostitution remained a problem, which the Government took steps to combat. Austria was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

In May 1999, an unsuccessful Nigerian asylum applicant died while being deported; his hands and feet were cuffed and his mouth was taped shut to control his violent behavior. The three police officers involved in the death were given suspended 8-month sentences for negligence in the death of a person under dangerous circumstances (*see* Section 2.d.).

The request by the Justice Ministry for the extradition of terrorist Illich Ramirez Sanchez (alias "Carlos the Jackal") from France has been pending since 1994. Sanchez is wanted on charges of manslaughter, kidnaping, and blackmail in connection with the terrorist attacks at the Organization of Petroleum Exporting Countries' (OPEC's) headquarters in Vienna in December 1975. During the year, there was no progress in efforts to secure Sanchez's extradition.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there were occasional reports that at times police beat and otherwise abused persons. Government statistics for 2001 showed 1,174 complaints against federal police officials; of those, 1,158 were dropped. One officer was convicted of using unjustified force; 74 cases were pending at year's end. Types of abuse ranged from slander to kicking and hitting, which resulted mainly in bruising. Some of the violence appeared to be racially motivated. An Interior Ministry survey conducted in 2000 on the "ethics of police conduct" revealed that half of the 2,000 policemen interviewed stated that they would not report their colleagues in cases of misconduct.

Nongovernmental organizations (NGOs) and other groups continued to criticize the police for targeting minorities. In 2001 the European Commission Against Racism and Tolerance released a report that was critical of police treatment of black Africans (see Section 5). During the year, the Interior Ministry's racial sensitivity training programs for police and other officials continued to be conducted with NGO assistance (see Section 5).

In 1999 the Interior Ministry created a committee to ensure that the police and gendarmerie respected human rights while carrying out their duties. Since its founding, the committee has issued 6 reports, including 222 recommendations regarding the improvement of human rights in the country (see Section 2.d.). The Government adopted many of the Committee's recommendations; for example, the publication of the Committee's report on deportation led to a reform of the Government's deportation procedures.

In March U.N. authorities detained a U.N. peacekeeper serving in Kosovo for beating and threatening to kill a man in police custody in Kosovo. The suspect was accused of hitting an Albanian detainee in the stomach and forcing him to dig a hole for his grave. After the incident, a public prosecutor in Kosovo applied to have the suspect's immunity lifted. Before a decision could be made and before the case could be investigated, the suspect was repatriated to Austria for health reasons. Subsequently, his immunity was lifted, and the Government of Kosovo has requested the suspect's extradition back to Kosovo for trial. The U.N. Special Representative of the Secretary General for Kosovo, Michael Steiner, heavily criticized the Government for its intervention. The Government was investigating the case at year's end.

Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. Male and female prisoners were held separately, as were adults and juveniles. Pretrial detainees were held separately from convicted criminals. The Government permits prison visits by independent human rights observers.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally respected these prohibitions.

In criminal cases, the law provides for investigative or pretrial detention for up to 48 hours; an investigative judge may decide within that period to grant a prosecution request for detention of up to 2 years pending completion of an investigation. The grounds required for such investigative detention are specified in the law, as are conditions for bail. The investigative judge is required to periodically evaluate an investigative detention. There is a system of bail.

The law prohibits forced exile, and the Government does not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respects this provision in practice.

The Constitution provides that judges are independent in the exercise of their judicial office. Judges cannot be removed from office or transferred against their will. There are local, regional, and higher regional courts, as well as the Supreme Court as the court of highest instance. While the Supreme Court was the court of highest instance for the judiciary, the Administrative Court acted as the supervisory body over the administrative branch, and the Constitutional Court presided over constitutional issues.

The Constitution provides for the right to a fair trial and an independent judiciary generally enforced this right. The system of judicial review provides for extensive possibilities for appeal. Trials must be public and must be conducted orally. Persons charged with criminal offenses were considered innocent until proven guilty.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, the Government generally respected these prohibitions in practice, and violations were subject to effective legal sanction.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and the press, and the Government generally respected these rights in practice; however, the strict application of slander laws tend to discourage reports of police brutality, and foreign observers—including the European Court of Human Rights—criticized the use of libel procedures to protect politicians, which they argue hampered freedom of speech and the press. For example, since 1986 Joerg Haider, Governor of Carinthia and former Freedom Party (FPÖ) national leader, engaged in over 350 libel suits against media outlets and individuals. A conviction for libel by a criminal court cannot be appealed to the Supreme Court. Publications may be removed from circulation if they violate legal provisions concerning morality or public security, but such cases were extremely rare.

In 2000 several FPÖ politicians were accused of paying police officers to obtain confidential information in order to discredit opponents of the FPÖ. In September former FPÖ Trade Unionist Joseph Kleindienst and former Vienna FPÖ Secretary Michael Kreissl both received suspended sentences of 6 months each. Kreissl appealed the decision. Critics claimed that justice authorities did not actively pursue the investigation due to the involvement of politicians connected with the Government.

The small print media consisted of 16 daily newspapers, 6 of which received special subsidies from the Government. One company Newsgroup controlled 55 percent of the market in daily newspapers and 70 percent of the magazine market. This market concentration has led to complaints of a print media monopoly. The country's largest daily newspaper also owned shares in private nationwide radio stations. All newspapers were independent. There were 50 commercial and 12 noncommercial radio stations. By year's end, 75.5 percent of citizens listened to radio stations operated by the state-owned public broadcasting system, and 19.9 percent listened to private stations. In August 2001, Parliament passed the Private TV Act and the Austrian Broadcasting Corporation (ORF) Reform Act. These acts established a new media regulatory body known as KOMM Austria to prepare for the introduction of private television stations. The first private cable station, ATV, went on the air in January 2000. It held a market share of approximately 4 percent. The new legislation requires private broadcasters to lease transmitter stations from ORF, although it does not specify the price of the lease or the time frame for concluding a leasing agreement. Private broadcasters criticized ORF for hindering the private television market by not concluding such leases.

Access to the Internet was unrestricted.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. However, the Law on the Formation of Associations states that permission to form an organization may be denied if it is apparent that the organization would pursue the illegal activities of a prohibited organization, such as Nazi organizations; there were no such denials during the year.

Regular peaceful demonstrations against the OVP/FPÖ government continued throughout the year.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

Religious organizations may be divided into three different legal categories (listed in descending order of status): Officially recognized religious societies, religious confessional communities, and associations. Religious recognition under the law has wide-ranging implications, such as the authority to participate in the mandatory church contributions programs, which can be legally enforced; to engage in religious education; and to bring in religious workers to act as ministers, missionaries, or teachers. Under the law, religious societies have "public corporation" status. This status permits religious societies to engage in a number of public or quasi-public activities that are denied to other religious organizations. The Constitution singles out religious societies for special recognition.

The Roman Catholic Church was the predominant church in the country. Approximately 78 percent of the population belonged to this church. There were 11 other officially recognized religions. The law also allows nonrecognized religious groups to seek official status as confessional communities without the fiscal and educational privileges available to recognized religions. Confessional communities must have at least 300 members, and once they are recognized officially as such by the Government, they have juridical standing, which permits them to engage in such activities as purchasing real estate in their own names and contracting for goods and services. A religious organization that seeks to obtain this status is subject to a 6-month

waiting period from the time of application to the Ministry of Education and Culture. The law also sets out additional criteria for eventual recognition such as a 20-year period of existence as a religious society, at least 10 of which must be as a group organized as a confessional community and membership equaling at least two one-thousandths of the country's population. Many religious groups and independent congregations did not meet the 300-member threshold for registration as a confessional community.

There were 11 religious groups that have constituted themselves as confessional communities according to the law. After initially filing for confessional community status, the Church of Scientology and the Hindu Mandir Association withdrew their applications in 1998. A decision on the application of the Sahaja Yoga group was pending before the Constitutional Court at year's end. Numerous religious groups not recognized by the State, as well as some religious law experts, dismiss the purported benefits of obtaining status under the law and have complained that the law's additional criteria for recognition obstruct claims to recognition and formalize a second-class status for nonrecognized groups. Experts have questioned the law's constitutionality.

In 2001 Jehovah's Witnesses filed an appeal with the Administrative Court, arguing that the 10-year period of existence required under the law to be recognized as a religious group is illegal on administrative grounds. In 1998 they also filed a complaint with the European Court for Human Rights, arguing that the group had not been granted full status as a religious entity under the law, despite having made numerous attempts for more than 2 decades. Decisions in both cases remained pending at year's end.

Religious organizations that do not qualify for either religious society or confessional community status may apply to become associations. This status is granted relatively freely.

The Government continued its information campaign against unrecognized religious sects that it considered potentially harmful to the interests of individuals and society, although the Ministry for Social Security and Generations was no longer issuing its brochure on nonrecognized religious groups. The Federal Office on Sects continued to collect and make available information on organizations considered sects. Under the law, this office has independent status, but its head is appointed and supervised by the Minister for Social Security and Generations.

In March the Catholic Diocese of Linz, in conjunction with the provincial government of Upper Austria, publicly distributed a CD-ROM entitled "The Search for Meaning: An Orientation Guide to Organizations that Offer the Solution," which contained a strong endorsement by the Deputy Governor of the province. The information also was available on their website. It included information on a wide range of recognized and unrecognized religions ranging from the Roman Catholic Church to the Church of Scientology. It also contained criticism of recognized religions such as the Church of Latter Day Saints and religious associations such as Jehovah's Witnesses. It was criticized by unrecognized religious groups who found it derogatory and offensive to be associated with Satanic cults; the CD-ROM included a testimonial from a former member of Jehovah's Witnesses.

The Governor of Carinthia, Joerg Haider, repeatedly made intolerant and anti-Semitic statements, including verbal attacks against the head of the Jewish community, Ariel Muzicant, and a prominent Jewish-American campaign advisor to the Vienna local elections in March 2001. Although Haider repeatedly followed such statements with expressions of regret, his statements contribute to the widespread belief that he and some extreme elements of the FPÖ have helped foster a climate of intolerance in the country. Muzicant has filed several lawsuits against Haider for slander as a result of the comments. In January Muzicant and Haider settled their legal disputes with a joint declaration that includes five "statements of respect," and stipulates that Haider withdraw his slanderous remarks. On April 3, the Jewish and Islamic communities released a joint statement calling for an end to the violence in the Middle East. The declaration voiced concern for the recent spread of violence between Jews and Muslims in Europe. The statement was organized by government officials and viewed as a symbol of the tolerance and history of cooperation between Jews and Muslims in the country.

There was widespread societal mistrust and discrimination against members of some nonrecognized religious groups, particularly those considered to be sects. A large portion of the public perceives such groups as exploiting vulnerable persons for monetary gain, recruiting and brainwashing youth, promoting antidemocratic ideologies, and denying the legitimacy of government authority. Societal discrimination against sects was, at least in part, fostered by the Government's policy of selective recognition. Muslims complained about societal discrimination such as verbal abuse and hostile treatment.

Sensitivity to members of the Church of Scientology and fears of infiltration remained high. Individual Scientologists were subjected to discrimination in hiring during the year. Scientology leaders complained that the church's bank account was closed without cause and that they did not receive permission to set up an informational tent in downtown Vienna.

One Jewish cemetery was desecrated during the year. The incident occurred in Lower Austria and caused approximately \$3,000 (3,000 euros) in damage. Police did not identify any suspects. In addition, in December the Muslim section of the city cemetery in Traun was vandalized. Approximately 40 gravestones were broken, torn out, or destroyed. At year's end, there were no suspects.

The OVP's position that party membership is incompatible with membership in a sect remained in force at year's end.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

The OVP/FPO coalition reached an agreement in August 2001 on immigration quotas and a new system of immigrant integration. Beginning in January, annual immigration quotas were set at approximately 8,000 persons per year, although there was a shift in the distribution among the categories. In July Parliament adopted an immigration reform proposal that would harmonize residence and employment provisions and require permanent legal residents to take German language and civics courses for the purpose of integration; it is scheduled to take effect in January 2003. Those immigrants who fail to complete the courses by various deadlines would face financial penalties and deportation or expulsion. The law would limit employment-based immigration categories to key qualified employees and low-skilled workers and expand the definition of temporary seasonal worker to include industries beyond agriculture and tourism. In 2001 the number of illegal aliens intercepted at national borders was 48,659, a 6.4 percent increase over the previous year, attributed almost exclusively to the number of trafficked aliens from Afghanistan (7,665) (see Section 6.f.).

The law includes provisions for granting of refugee and asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, the Government subscribes to the safe third-country concept, which requires asylum seekers who enter illegally to depart and seek refugee status from outside the country. In response to continuing criticism by the Office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations, in 1997 the Government passed an amendment to the 1991 asylum law designed to bring some improvements to the safe country rule and the appellate procedure. The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees. The UNHCR and other humanitarian organizations generally approved of the 1997 asylum law, but there was still some dissatisfaction with its implementation. There was widespread opposition to the third country concept based on the fear that it compromised the principle of individual investigation of claims. This principle has been upheld in various rulings of the administrative court. In July Parliament adopted an amendment to the 1997 Asylum law, which would make the European Union (EU) fingerprint database EURODAC operational in 2003.

In principle asylum applicants are entitled to federal assistance for food, shelter, and medical care (provided that a person's identity can be determined). However, the Federal Care Provisions Act specifically states that there is no corresponding legal right for applicants. The result was that asylum applicants denied assistance have no legal recourse.

In the past, the Government effectively granted assistance to only one-third of all asylum applicants who faced financial hardship. However, in a controversial decree that took effect on October 1, the Interior Ministry prohibited members of certain nationalities from state shelters while their asylum claims were being adjudicated. In October asylum seekers conducted hunger strikes and sit-down protests in a refugee camp to protest the rules. Exceptions included Kosovo Serbs, Chechens, Iraqis, Afghans, and Turkish Kurds, who are allowed a longer stay in the state housing complexes. Human rights groups and some political parties in the country criticized the rule, alleging that it would result in homelessness and would make fair hearings impossible. Some human rights groups, such as Caritas, announced that they would accommodate refugees turned away by the Government. The Government contracted with a private German agency, European Homecare, to provide counseling to unsuccessful asylum applicants, encouraging them to return to their country of origin. Persons found to be refugees were not returned to the countries from which they

fled. Asylum seekers whose claims have been rejected by the Federal Asylum Office were allowed to appeal to the independent Federal Asylum Senate, then to the Administrative Court. Asylum seekers whose claims have been rejected also had recourse to the Constitutional Court in cases in which they allege a breach of the European Convention on Human Rights and Individual Freedoms.

During the Kosovo crisis, the country accepted an estimated 10,000 to 15,000 refugees. A total of 5,080 Kosovar Albanians were evacuated directly from Macedonia and admitted to Austria under cover of temporary protective status (TPS). The immigration law was modified to allow Kosovar Albanians already in the country in a variety of statuses to extend their stay. A program of assistance for Kosovar refugees, which began in April 1999, ended in July 2000. At that time, the Government decided to secure further residence rights for the approximately 1,200 Kosovar Albanians that remained in the country in a variety of statuses. In addition, residence rights were extended to those needing protection, immediate relatives of guest workers who had benefited from the original assistance program under either TPS or asylum, and Kosovars who had stayed in the country until July 2000 under either TPS or asylum—provided that one immediate family member was integrated into the labor market. According to 2001 statistics, a total of 1,934 Kosovo-Albanians in the country had applied for humanitarian residence status temporarily until new immigration quotas become available.

During the first half of the year, there were 17,084 asylum applications, compared with 14,995 received in the same period in 2001. This number includes the 5,622 applications that embassies abroad received with approximately 5,000 of these applications filed by citizens from Afghanistan. Asylum applications had increased sharply in 2001 to a total of 30,135, compared with 18,284 in 2000. In 2001 authorities approved 1,152 applications and denied 3,840 requests; government statistics show 1,002 approvals and 4,787 denials in 2000. The official approval rate for 2001 was 23.1 percent (20.2 percent including nonrefoulement decisions), compared with 17.3 percent (20 percent) in 2000. In 2001 the largest groups of applicants ranked by nationality were persons from Afghanistan (1,952), Iraq (851), Armenia (746), Georgia (655), and Turkey (631).

As a result of hostilities in Afghanistan, between January 2001 and July 2002, the Government received a total of 16,648 asylum applications by Afghan citizens, including 6,794 applications filed at diplomatic missions abroad (mostly in Pakistan and Iran). According to government statistics, some 1,800 applications were pending (mostly on appeal) at year's end. While almost all asylum claims are expected to be denied on the basis of the safe country rule, TPS is being granted at least until March 2003, when a reassessment of the situation is scheduled to determine the possibilities of repatriation. The influx of Afghan refugees resulted in a considerable burden on the Government's care and maintenance system. As of September, approximately 1,300 Afghan asylum seekers out of a total of some 6,000 applicants from 35 nations were receiving government care until a final determination of their claims.

In May 1999, an unsuccessful Nigerian asylum applicant, Marcus Omofuma, died after being physically restrained for violent behavior while being deported to Lagos, Nigeria via Sofia, Bulgaria (*see* Section 1.a.). The incident prompted a complete review of internal procedures regarding deportations. Two of the three police officers who accompanied Omofuma were suspended; however, the suspension was lifted in February 2001. Authorities ruled that the three policemen on duty at the time should be tried for abuse of a prisoner; as a result of their trial, the three police officers were given suspended 8-month sentences for negligence in the death of a person under dangerous circumstances. In 1999 the Interior Ministry created the Human Rights Advisory Council, composed of representatives from the Justice and Interior Ministries, as well as NGOs, to ensure that the police and gendarmerie respect human rights while carrying out their duties. In addition, the Ministry announced a new policy requiring that all potentially violent individuals be deported on chartered aircraft, rather than on commercial flights. In March 2001, the Constitutional Court ruled against the Administrative Arbitration Board for rejecting civil charges, filed on behalf of Omofuma's daughter, that stated that Omofuma's human rights were violated, and returned the case to the Administrative Board for review. The case was still pending at year's end.

In June the Human Rights Advisory Council criticized the July amendment to the 1997 asylum law because it did not sufficiently address their recommendations about the conditions of deportation detention, since deportation of minors had not been ruled out. In September more than 40 unsuccessful Kosovar Albanian asylum applicants were repatriated. The U.N. and NGOs criticized the Government's actions.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. National elections were held in November in which the OVP won 79 seats in Parliament, the Social Democrats (SPO), 69, the FPÖ, 18, and the Green Party, 17. At year's end, the parties were negotiating on forming a government. There were 63 women in the 183-seat National Assembly and 13 in the 62-member Federal Assembly.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. In some cases, they were dissatisfied with the information that the authorities supplied in response to specific complaints. There were no reports of discrimination against organizations that report on human rights.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The law provides for protection against any of these types of discrimination in employment, provision of welfare benefits, and other matters, and the Government generally enforced these provisions effectively.

*Women.*—Violence against women remained a problem. There are no accurate statistics available on the number of women abused annually, but it was believed to be a widespread problem. Police and judges enforced laws against violence; however, it was estimated that less than 10 percent of abused women filed complaints. The Association of Houses for Battered Women has estimated that one-fifth of the country's 1.5 million adult women has suffered from violence in a relationship. In 1999 legislators passed an amendment to the 1997 Law on the Protection Against Violence in the Family, extending the period during which police can expel abusive family members from family homes. In 2001 an injunction to prevent abusive family members from returning home was applied in 3,283 cases. The Government also sponsored shelters and help lines for women.

Trafficking in women was a problem (*see* Section 6.f.). While prostitution is legal, trafficking for the purposes of prostitution is illegal.

Of the 1,264 new cases brought to the Ombudsmen for Equal Opportunity in 2001, 185 were complaints of sexual harassment. The Federal Equality Commission, as well as the Labor Court, can order employers to compensate victims of sexual harassment. Sexual harassment is prohibited by law, and the Government effectively enforced those laws.

The Government's 2000 coalition agreement contained a detailed section advocating equal rights and opportunities for women. Most legal restrictions on women's rights have been abolished. A Federal Equality Commission and a Federal Commissioner for Equal Treatment oversee laws prescribing equal treatment of men and women. Herbert Haupt remained the minister responsible for the women's portfolio under the provisional government.

In 1994 the European Court of Justice (ECJ) ruled that the country's law prohibiting women from working at night was not in conformity to the EU-legal framework. The ECJ gave the Government until the end of 2001 to adapt its legislation to gender-neutral EU regulations. In January 1998, legislation went into effect that required collective bargaining units to take action by the end of 2001 to eliminate restrictions on nighttime work for women, and in December 2001 the legislation banning nighttime work for women expired. Legislation in conformity with the EU legal framework went into effect in January.

An estimated 68 percent of women between the ages of 15 and 60 were employed; on average, women earned only 74 percent of what men earn for the same work. Women were more likely than men to hold temporary positions and also are disproportionately represented among those unemployed for extended periods of time. In 2000 the U.N. Committee on Elimination of Discrimination Against Women released a report criticizing the Government's treatment of women, including its decision in 2000 to abolish the Federal Women's Affairs Ministry and fold its portfolio into the Ministry of Social Affairs and Generations. The Committee was particularly concerned about immigrant women's access to employment.

Although labor laws provide for equal treatment for women in the civil service, women remain underrepresented. To remedy this circumstance, the law requires



hiring women of equivalent qualifications ahead of men in all civil service areas in which less than 40 percent of the employees are women, including police; however, there are no penalties for failing to attain the 40 percent target.

Female employees in the private sector can invoke equality laws prohibiting discrimination of women; the Federal Equality Commission may award compensation of up to 4 months' salary if women are discriminated against in promotions because of their sex. The Commission also may order legal recompense for women who are denied a post despite having equal qualifications.

Women are allowed to serve in the military forces voluntarily. At year's end, there were a total of 198 women—of a standing force of approximately 51,000—serving in the military forces, including 7 officers. There were no restrictions on the type or location of assignments of women.

Women's rights organizations were partly politically affiliated, and partly autonomous groups. They usually received wide public attention when voicing their concerns. Despite fears of women's rights groups, the Government continued to provide government subsidies to these groups.

*Children.*—The law provides for the protection of children's rights. Each provincial government and the federal Ministry for Youth and Family Affairs has an "Ombudsperson for Children and Adolescents" whose main function was to resolve complaints about violations of children's rights.

While 9 years of education were mandatory for all children beginning at age 6, the Government also provided free education through secondary school and subsidized technical, vocational, or university education. The majority of school age children attended school. Educational opportunity was equal for girls and boys. Comprehensive, government-financed medical care was available for all children without regard to gender.

There was no societal pattern of abuse against children, although heightened awareness of child abuse has led the Government to continue its efforts to monitor the issue and prosecute offenders. The growing number of reported incidences of child abuse was considered a result of increased public awareness of the problem. Doctors were required to report to the police suspected cases of child abuse and molestation. An exception may be made if the suspected abuser is a close relative of the victim, where doctors may refrain from reporting to the police for the sake of the well-being of the minor. However, in such cases, the victim's representative must establish contact with a youth care officer or a hospital's child protection unit.

According to the Penal Code, sexual intercourse between an adult and a child (under 14 years of age) is punishable with a prison sentence of up to 10 years; in case of pregnancy of the victim, the sentence can be extended to up to 15 years. In June the Constitutional Court struck down Article 209 of the criminal code, in which sexual relations between a male between the ages of 14 and 18 and an adult male is punishable with sentences ranging from 6 months to 5 years. The court gave the Government until February 28, 2003, to rewrite the law. In 2001 the Ministry of Justice reported 856 cases of child abuse, most involving intercourse with a minor. Of these cases, 228 resulted in convictions. Under the law, any citizen engaging in child pornography in a foreign country becomes punishable under Austrian law even if the actions are not punishable in the country where this violation was committed. The law also entails severe provisions for the possession, trading, and private viewing of pornographic materials. For example, exchanging pornographic videos is illegal even if done privately rather than as a business transaction. In April the Government conducted its largest raid to date on the premises of suspected consumers of child pornography. The police searched 329 houses and confiscated a large amount of material. The Federal Crime Authority also established a special department for cyber crime.

*Persons with Disabilities.*—The law protects persons with disabilities from discrimination in housing, education, and employment. A 1997 amendment to the law explicitly requires the State to provide for equal rights for the disabled "in all areas of everyday life." The law requires all private enterprises and state and federal government offices to employ one person with disabilities for every 25 to 40 employees, depending on the type of work. Employers who do not meet this requirement must pay a fee to the Government, and the proceeds help finance services for the disabled such as training programs, wage subsidies, and workplace adaptations. However, the law has received some criticism because many observers believe that penalties were too low to discourage companies from bypassing the requirement. There were no reports of societal discrimination against persons with disabilities. The Government budgeted \$69 million (69.04 million euros) for the year to fund projects that employed persons with disabilities.

The Government estimated that there were approximately 72,000 persons having a degree of disability of 50 percent or more. Federal law mandates access for persons with physical disabilities; however, low fines and insufficient enforcement resulted in the inaccessibility of many public buildings to persons with disabilities.

The law prohibits the sterilization of minors. Persons 18 years of age and older may be sterilized only in life-threatening instances.

*National/Racial/Ethnic Minorities.*—The law recognizes six national minority groups: Croats, Czechs, Hungarians, Roma, Slovaks, and Slovenes. In the past, any community where at least 25 percent of the population belonged to one of these groups was entitled to bilingual town signs, education, media, and access to federal funds earmarked for national minorities. In December 2001, the Constitutional Court ruled that the standard should be lowered; the Court cited international and historical precedent in its reasoning. The Government responded to the ruling by stating that it would submit implementing legislation to Parliament. After the Governor of Carinthia, Joerg Haider, announced that he would not honor the Court's decision and alleged that the President of the Constitutional Court was influenced unfairly by Slovene groups and stating that the court had exceeded its authority by setting a limit, the Government hosted several conferences on the problem in an attempt to come to a national consensus. At year's end, there was no decision on implementation of the court's finding. Bilingual town signs existed in other provinces as well.

The largest problem facing these national minority groups is the preservation of their culture and language. In addition, most human rights groups claimed that Roma faced particular discrimination in employment and housing. Members of other minority groups such as Turks and Indians were not considered national indigenous minorities and do not have access to the same type of assistance. NGOs complained that Africans living in the country were stopped by police as many as 5 times per day.

Statistics for 2001 showed a similar number of neo-Nazi, rightwing extremist, and xenophobic incidents as the previous year. During 2001 the Interior Ministry recorded 335 incidents; in 2000 there were 336 incidents. During the year, the Government continued to express concern over the activities of extreme-right skinhead and neo-Nazi groups, many with links to organizations in other countries. In August the police seized a sizable cache of weapons, explosives, and hand grenades in Vienna, Styria, and Lower Austria that belonged to neo-Nazi groups. The police arrested 3 persons, including one with ties to an illegal group called the Extra-parliamentary Opposition Loyal to the People. Some members of the group had membership cards for the Ku Klux Klan and possessed scenarios for a civil war in the country. Police estimated that a new neo-Nazi group had formed, although its exact size was undetermined.

In March the domestic NGO ZARA, in conjunction with other groups, released a report entitled "Racism 2001", which found that persons from diverse ethnic and racial backgrounds continued to face widespread discrimination from government officials, particularly the police, as well as in the workplace and in housing. The report cited 155 examples of discrimination faced by immigrants on a daily basis and called for the strengthening of public education and legal protections for immigrants.

The Government continued its training program designed to combat racism and educate the police in cultural sensitivity. In 2000 the Government passed a comprehensive promminority rights bill providing expanded constitutional protections for the country's six officially recognized minorities.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers have the right to form and join unions without prior authorization, under general constitutional provisions regarding freedom of association. In practice trade unions had an important and independent voice in the political, social, and economic life of the country. An estimated 50 percent of the work force were organized into 13 national unions belonging to the Austrian Trade Union Federation (OGB), which had a highly centralized leadership structure. Association of national unions with the OGB was voluntary. Individual unions and the OGB were independent of government or political party control, although formal factions within these organizations were allied closely with political parties.

In cases of disputed terminations, the law obliges employers of enterprises with more than five employees to prove to a labor court that job dismissals are not motivated by antiunion discrimination. Employers found guilty of this offense are required to reinstate workers. Labor and business representatives remain in a long-standing disagreement over how to provide legal protection to employees against arbitrary dismissals in firms with five employees or fewer.

*b. The Right to Organize and Bargain Collectively.*—Unions have the right to organize and bargain collectively. Almost all large companies, private or state-owned, were organized. Worker councils operate at the enterprise level, and by law workers are entitled to elect one-third of the members of the supervisory boards of major companies. Collective agreements covering wages, benefits, and working conditions are negotiated for each industry by the OGB with the National Chamber of Commerce and its associations, which represented the employers.

The right to strike is not provided explicitly in the Constitution or in national legislation; however, it was recognized universally in practice. Historically strikes have been comparatively few and usually of short duration. A major reason for the record of labor peace is the unofficial system of “social partnership” among labor, management, and government. At the center of the system is the Joint Parity Commission for Wages and Prices, which has an important voice on major economic questions.

The law prohibits retaliations against strikers, and the Government effectively enforces the law. In general legal disputes between employers and employees regarding job-related matters are handled by a special arbitration court for social affairs, which is part of the judicial system. Unions have access to the arbitration court.

The OGB is exclusively responsible for collective bargaining. The leaderships of the Chamber of Labor, the Chamber of Commerce, and the OGB are elected democratically.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

In 2000 former forced laborers filed suit against Austrian companies that used forced labor provided by the Nazi government of the 1930s and 1940s. In 2000 an agreement was signed between the Government, attorneys representing former forced and slave laborers, and representatives of foreign governments, providing compensation for former forced and slave laborers. By July approximately \$182 million (231 million euros) had been provided as compensation to 91,281 former forced and slave laborers.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The minimum legal working age is 15 years. The Labor Inspectorate of the Ministry of Social Affairs effectively enforced this law. The Government has adopted laws and policies to protect children from exploitation in the work place.

*e. Acceptable Conditions of Work.*—There is no legislated national minimum wage. Instead, nationwide collective bargaining agreements set minimum wages by job classification for each industry. The accepted unofficial minimum wage is \$9,945 (10,174 euros) a year, and it provided a decent standard of living for a worker and family. Every worker was entitled to a variety of generous social benefits.

Although the legal workweek was 40 hours, more than 50 percent of the labor force was covered by collective bargaining agreements that set the workweek at 38 or 38 and a half hours.

Laws regularly enforced by the Labor Inspectorate of the Ministry of Social Affairs provide for mandatory occupational health and safety standards. Workers may file complaints anonymously with the Labor Inspectorate, which may bring suit against the employer on behalf of the employee. However, this option rarely is exercised; workers normally rely instead on the Chambers of Labor, which file suits on their behalf. The Labor Code provides that workers have the right to remove themselves from a job if they fear “serious, immediate danger to life and health” without incurring any prejudice to their job or career, and the Government effectively enforces this law.

*f. Trafficking in Persons.*—There is no single law covering all forms of trafficking in persons; however, Article 217 of the Criminal Code, which describes trafficking for prostitution, is the key provision for the prosecution of traffickers. Article 103 of the Criminal Code also deals with trafficking for the purposes of slavery. Article 103 of the Aliens Act contains criminal law provisions on alien smuggling. Trafficking in women for prostitution and domestic service was a problem.

The Interior Ministry works at the national and international level to raise awareness of human trafficking. In January the Ministry created a new body, the Federal Crime Authority, which has a division solely dedicated to combating human trafficking and alien smuggling. Federal police units addressing organized crime and sex crimes also focused on this problem. Although prostitution is legal, trafficking for the purpose of prostitution is illegal, and can result in jail sentences of up to 10 years for convicted traffickers. Article 217 refers to recruiting aliens for prostitution and covers trafficking for prostitution through the deception of someone regarding the purpose of their journey to the country or through coercion or use of force. In 2000 the Government passed legislation implementing stronger penalties

for alien smuggling including trafficking. Trafficking for purposes of slavery can lead to a prison sentence of from 10 to 20 years. The maximum penalty for the most serious offenses increased from 5 to 10 years' imprisonment. In 2000 the Interior Ministry, which is the primary government agency involved in antitrafficking efforts, reported that 125 complaints were filed under the law against trafficking for prostitution, of which 10 resulted in convictions. The Ministry of Interior estimated that most traffickers taken into custody are prosecuted under criminal law provisions on alien smuggling.

In October 2001 in a high-profile case, the Government convicted the Carinthian "Porno King", Hellmuth Suessenbacher, and 10 others for trafficking in persons and other related offenses. Charges resulted from the trafficking of 50 Romanian women who initially were hired as dancers and subsequently forced into prostitution. Suessenbacher was sentenced to 2½ years' imprisonment, a relatively light sentence by national norms. The other defendants received sentences ranging from fines to up to 4 years' imprisonment. Suessenbacher appealed the sentence. In September the Linz Court of Appeal reduced his sentence to 2 years' imprisonment and that of his coconspirators to a period of from 9-months suspended sentences to 4 years' imprisonment.

Some NGOs have called for an expansion of the legal definition of trafficking to include exploitation for domestic labor and coerced marriages.

In March 2001, in response to a marked increase of illegal border crossings at Austria's eastern borders in the first half of that year, the Government set up a special task force to address trafficking. However, many victims of trafficking continued to migrate legally.

Austria was a transit and final destination country for women trafficked from Bulgaria, Romania, Ukraine, the Czech Republic, Slovakia, Hungary, and the Balkans; the women were trafficked into Austria and other western European countries, primarily for the purpose of sexual exploitation. Women also were trafficked from Asia and Latin America to Austria for domestic labor.

There are no accurate statistics on trafficked persons specifically; however, the number of intercepted illegal immigrants, of whom some were trafficking victims, continued to increase. In 2001 LEFOE, an NGO established in 1985 to help victims of trafficking, reported that it assisted 183 victims of trafficking. Police estimated that one-fourth of trafficking in women in the country is controlled by organized crime. The country is particularly attractive to traffickers due to its geographic location and to the fact that citizens of the Czech Republic, Slovakia, Hungary, Romania, and Bulgaria do not require visas to enter the country. Most trafficked women were brought to Austria with promises of unskilled jobs such as nannies or waitresses. Upon arrival they were coerced or forced into prostitution. There also were cases of women who knowingly went to Austria explicitly to work as prostitutes but who then, according to police, were forced into states of dependency akin to slavery. Most victims were in the country illegally and feared being turned into authorities and deported. Traffickers usually retained victims' official documents, including passports, to maintain control over the victims. Victims of trafficking reported being subjected to threats and physical violence. A major deterrent to victim cooperation is widespread fear of retribution, both in Austria and in the victims' countries of origin.

The majority of traffickers arrested by police were citizens; however, the number of foreigners engaged in trafficking has increased over the years. Police estimated that a large portion of trafficking is controlled by organized crime, primarily from Eastern Europe.

The Government provides temporary residence to victims of trafficking who are prepared to testify or intend to raise civil law claims; however, victims still rarely agreed to testify, due to fear of retribution. The temporary residency status allowed victims to stay in the country only during a trial; no provisions were made for them to stay in the country following their testimony. Virtually all victims of trafficking were repatriated.

The NGO LEFOE provided secure housing and other support for victims of trafficking. The International Organization for Migration (IOM) sought to put victims in contact with NGOs in their countries of origin upon their return. With financial assistance from the Interior Ministry, LEFOE also continued to operate the Intervention Center for victims of the trade in women (IBF) in Vienna, which provides services to trafficked women including: Psychological, legal, and health-related counseling and assistance, emergency housing and German language courses. There also were similar centers located in other cities in the country that were financed by federal and local governments.

Government-funded research on the problem of trafficking and NGO prevention work included antitrafficking brochures, law enforcement workshops, and inter-

national conferences on the issue, funded by private and public sources. The Government also provided funding for intervention centers that provide emergency housing and psychological, legal, and health-related assistance to victims. There was one NGO center that provided comprehensive counseling, educational services, and emergency housing to victims of trafficking. The Government also was active in U.N. and Organization of Security and Cooperation in Europe international efforts to combat trafficking. During the year, Austrian experts often were involved in regional training and capacity building programs sponsored by the Stability Pact Antitrafficking Task Force.

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## AZERBAIJAN

Azerbaijan is a republic with a presidential form of government. The Government is dominated by incumbent President Heydar Aliyev, who was reelected in October 1998 in a controversial election marred by numerous, serious irregularities. The Constitution provides for a division of powers between a strong presidency and a national assembly (Milli Majlis) with the power to approve the budget and impeach the President. Milli Majlis elections in 2000, 2001, and during the year featured similar irregularities, and as a result some domestic groups regarded it as illegitimate. Opposition members made up only a small minority of the Milli Majlis's 125 deputies. A referendum on constitutional amendments took place in August, but was marred by widespread irregularities, including voter list fraud and ballot box stuffing. The Constitution provides for an independent judiciary; however, the judiciary did not function independently of the executive branch and was corrupt and inefficient.

The Ministries of Internal Affairs and National Security were responsible for internal security and report directly to the President. Members of the security forces committed numerous human rights abuses.

The Government continued to affirm its commitment to development of a market economy, but economic reform continued to be slow. According to official figures, the population was approximately 8 million, but an estimated 2 million of this number lived and worked outside the country. Widespread corruption and patronage reduced competition, and the slow pace of reform limited economic development outside the oil and gas sector, which accounted for more than 90 percent of the country's export revenues. Despite the privatization of 98 percent of the country's farmland, commercial agriculture remained weak, and subsistence farming dominated the rural economy. Foreign aid was an important source of national income. A growing moneyed class has emerged in Baku, and poverty nationwide has decreased, but 49 percent of the population still lived below the poverty level.

The Government's human rights record remained poor. The Government continued to restrict citizens' ability to change their government peacefully. Police tortured and beat persons in custody and used excessive force to extract confessions. Arbitrary arrest and detention continued to be a problem. In most instances, the Government took no action to punish abusers, although perpetrators were prosecuted in a few cases. Prison conditions remained harsh and life threatening, and some prisoners died as a result of these conditions. Lengthy pretrial detention was a problem. The Government continued to hold a number of political prisoners. The Government infringed on citizens' privacy rights.

The Government continued to restrict freedom of speech and of the press, and the press faced continued harassment during the year, despite measures to improve the economic viability of the media. Government officials sued journalists for defamation. As a result, journalists sometimes practiced self-censorship. The Government largely controlled radio and television, the primary source of information for most of the population. The Government restricted freedom of assembly and forcibly dispersed some demonstrations held without a permit; police shot and killed one protestor. The Government continued to restrict freedom of association by refusing to register some political parties and harassing domestic human rights activists and nongovernmental organizations (NGOs). There were restrictions and abuses of religious freedom, and harassment of some "non-traditional" religious groups by lower-level and local government officials continued. Violence against women remained a problem. Discrimination against women and certain ethnic minorities were problems. The Government limited some worker rights. Trafficking in persons was a problem. Azerbaijan was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as an observer.

A cease-fire in effect since 1994 continued to contain the conflict with Armenia over Nagorno-Karabakh; however, minor outbreaks of fighting occurred and resulted

in the deaths of civilians as well as combatants. Armenian forces continued to occupy an estimated 16 percent of Azerbaijan's territory (including Nagorno-Karabakh); this fact continued to dominate the country's national politics, weaken state institutions, and undermine democratic and economic development. The Government does not exercise any control over developments in the territories occupied by Armenian forces, and little verifiable information exists on the human rights situation there. Approximately 800,000 Azerbaijani refugees and internally displaced persons (IDPs) left or were forced from their homes in the occupied territories and Armenia.

RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings by the Government or its agents; however, in June police shot and killed Alihasan Agayev during a protest in Nardaran (*see* Section 2.b.). Some prison inmates and detainees died, in part as a result of mistreatment by law enforcement personnel and harsh prison conditions. Suspects in these cases were not prosecuted (*see* Section 1.c.).

On April 18, the General Prosecutor's office summoned Beylar Kuliyeu to testify in the murder case of Rovshan Aliyev, former Chief of the Criminal Division of the Prosecutor's Office. According to press reports and local human rights activists, Kuliyeu was sentenced to 10 days' imprisonment for resisting arrest. When he was brought to the General Prosecutor's office on April 19 to give testimony, Kuliyeu jumped out a window to his death (*see* Section 1.c.). No investigation was conducted.

The trial of one of the police officers allegedly involved in the 2001 death of Ilgar Javadov was ongoing at year's end.

In September 2001, the Baku city prosecutor's office opened a criminal case against Suleyman Agayev, former chief of the 17th police office of Baku's Narimanov District, in connection with the 1994 killing of Djamal Aliyev, leader of the Industrial Union. During the year, Agayev was arrested, tried, and convicted. An investigation into the killing of a senior Chechen military commander by unknown assailants in May 2001 remained open at year's end.

Cease-fire violations by both sides in the conflict with Armenia over Nagorno-Karabakh occasionally resulted in deaths and injuries to both civilians and soldiers. During the year, there were five dead and 28 injured.

A number of deaths occurred among army conscripts during the year. Hazing of the victims was suspected. According to press reports, 15 army conscripts died during the year. In 2001 a total of 20 army conscripts died, 13 of which were confirmed to be suicides. Defense Minister Safar Abiyev stated that all of the previous year's deaths would be investigated fully. By year's end, no information on the investigations into these deaths was available.

*b. Disappearance.*—There were no reports of politically motivated disappearances. The International Committee of the Red Cross (ICRC) repeatedly urged the Azerbaijani and Armenian governments to provide information on the fate of those missing in action since the fighting over Nagorno-Karabakh began. Since the early 1990s, the ICRC has collected from concerned family members the names of approximately 2,300 missing Azerbaijani citizens allegedly held by Armenia. The Government estimated the number to be closer to 5,000.

*c. Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Criminal Code enacted in September 2000 prohibits such practices, and provides for up to 10 years' imprisonment for violators; however, there were credible reports that prison guards continued to torture inmates and that both prison guards and police used excessive force to extract confessions. Police beat prisoners during arrest, interrogation, and pretrial detention.

Human rights activists reported that police tortured Beylar Kuliyeu while in police custody in an attempt to obtain false testimony (*see* Section 1.a.).

After the clashes in June in Nardaran between protesters and police, Haji Jubrail Alizade was detained; Alizade's lawyer alleged that Alizade was beaten after his arrest. According to a report by the Independent Public Commission (a joint initiative of several NGOs) investigating the Nardaran events, the police beat several persons, including some of those they took into custody.

The Government did not hold most members of the police accountable for their actions.

The Government forcibly disrupted some demonstrations and in some cases beat protesters (*see* Section 2.b.). Police at times beat and harassed members of certain religious groups (*see* Section 2.c.).

There were unconfirmed reports that official corruption facilitated trafficking in persons (*see* Section 6.f.).

Conditions in prisons, which were managed by the Ministry of Justice, remained harsh and sometimes life threatening. Deaths of inmates occurred, in part due to these harsh conditions and in some cases due to mistreatment by prison guards (*see* Section 1.a.). Overcrowding and poor medical care combined to make the spread of infectious diseases, including tuberculosis (TB), a serious problem. TB continued to be the main cause of death in prisons. By year's end, approximately 841 detainees were undergoing treatment for TB, according to the ICRC. Due to the absence of systematic screening of the prison population, patients often started treatment when they were already seriously ill. There were widespread and credible reports that the authorities have withheld medical treatment from selected inmates, especially political prisoners.

Prisoners had to rely on their families to provide food and medicine, and bribes generally were required for families to gain access to imprisoned relatives. The authorities severely limited opportunities for exercise and visits by lawyers and family members of prisoners in maximum security prisons. Some prisoners were kept in "separation cells" often located in basements, in which prisoners reportedly were denied food and sleep in order to elicit confessions from them with no physical evidence of abuse. Men and women were held in separate prison facilities. There were separate facilities for juveniles and adults, and pretrial detainees and convicts were held separately.

Since June 2000, the ICRC has had access to all prisons, and its agreement with the Government on access to all places and to all detainees both sentenced and unsentenced recently was extended. The ICRC has had access to prisoners of war (POWs) as well as civilians held in relation to the conflict over Nagorno-Karabakh.

Foreign observers regularly received permission to enter maximum security prisons for meetings with alleged political prisoners. However, some domestic human rights organizations complained that the authorities restricted their access to prisons during the year. The Human Rights Center of Azerbaijan (HRCA), a local NGO, regained access to jails in 2001, and it conducted several human rights seminars for law enforcement officers. The HRCA reported that the situation in the prison system had improved slightly as a result of monitoring efforts and suggestions made by NGOs and international organizations.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, arbitrary arrest and detention was a problem. The authorities often arbitrarily arrested and detained persons without legal warrants. The Constitution states that persons detained, arrested, or accused of a crime should be advised immediately about their rights, reasons for arrest, and the institution of criminal proceedings against them; however, the authorities often did not inform detainees of the charges against them. The Constitution provides for access to a lawyer from the time of detention; however, access to lawyers was poor, especially outside of Baku. The authorities often withheld information from detainees' family members. Frequently days passed before relatives were able to obtain information, and family members did not enjoy the right of visitation. Bail commonly was denied, and lengthy pretrial detention was a serious problem.

Members of opposition parties and their families were more likely to experience arbitrary arrest and detention than other citizens. Police detained opposition party activists after demonstrations on March 23 and October 5. During the year, Musavat Party reported that 200 of its members were detained for short periods (3 to 15 days). The two nephews of exiled former Milli Majlis speaker and Azerbaijan Democratic Party (ADP) leader Rasul Guliyev were convicted of embezzlement and weapons possession and sentenced to jail in 2001. Police also harassed several other Guliyev relatives and ADP figures. The Organizational Secretary of the ADP Hesret Rustamov was arrested on March 23 for 15 days and on October 1 for 10 days. On June 14, the General Secretary of the ADP Sardar Jalaloglu was detained for 5 days.

Police forcibly disrupted unsanctioned protests and briefly detained participants throughout the year (*see* Section 2.b.). In Nardaran on September 20, police arrested village elder Jabrail Alizade for alleged involvement in the June events, setting off a new wave of protests (*see* Sections 1.c. and 2.b.). Since then the Court of Appeal has turned down Alizade's appeal to have the charges overturned, raising issues of unlawful detention for Alizade and those arrested earlier. At a December 25 preliminary hearing, the court extended the detention of 18 Nardaran defendants, pending a trial scheduled to begin in early January 2003. At year's end, 15 Nardaran prisoners were in physical custody, and 3 were released on their own recognizance but were expected to appear in court to be tried with the others.

Chechens residing in the country reported that police arbitrarily detained them (see Section 2.d.).

During the year, a total of eight POWs were released, four from Azerbaijan and four from Armenia.

The Constitution does not address forced exile, but there were no reports that the Government employed it.

*e. Denial of a Fair and Public Trial.*—The Constitution provides for an independent judiciary; however, in practice judges did not function independently of the executive branch, and the judiciary widely was believed to be corrupt and inefficient. Courts of general jurisdiction may hear criminal, civil, and juvenile cases. District and municipal courts try the overwhelming majority of cases. The Supreme Court also may act as the court of first instance, depending on the nature and seriousness of the crime.

Cases at the district court level were tried before a panel consisting of one judge and two lay assessors. Judges presided over and directed trials. The President appointed Supreme and Constitutional Court judges, who then were subject to confirmation by the Milli Majlis. The President appointed lower level judges without confirmation. Qualifying exams for judges were administered as part of a judicial reform effort; however, credible allegations persisted that judgeships were bought and sold. Low salaries for judges and lawyers increased the incentives for bribe taking and undermined the rule of law.

The Government organized prosecutors into offices at the district, municipal, and republic level. They ultimately were responsible to the Minister of Justice, were appointed by the President, and were confirmed by the Milli Majlis.

The Constitution provides for public trials except in cases involving state, commercial, or professional secrets, or matters involving confidential personal or family matters. The Constitution provides for the presumption of innocence in criminal cases and for numerous other rights, such as a suspect's right to legal counsel and to be informed immediately of his legal rights and of the charges against him (see Section 1.d.). During trial, defendants were allowed to confront witnesses and present evidence. The court was required to appoint an attorney for indigent defendants. Defendants and prosecutors had the right of appeal, and foreign and domestic observers generally were allowed to attend trials. Although the Constitution prescribes equal status for prosecutors and defense attorneys, in practice prosecutors' prerogatives outweighed those of the defense. The Law on Advocates and Advocate Activity signed by President Aliyev in 2001 was expected to reform the legal profession; however, it had not been implemented by year's end. The law limits representation in criminal cases to members of state-controlled Collegium and therefore restricts the public's access to legal representation.

The Constitution prohibits the use of illegally obtained evidence; however, investigations often relied on obtaining confessions rather than gathering evidence against suspects, and no judge has dismissed a case based on a prisoner's claim of having been abused (see Section 1.c.). Judges frequently sent cases unlikely to end in convictions back to the prosecutor for "additional investigation." Such cases either might be dropped or closed, occasionally without informing either the court or the defendant.

The Government continued to hold a number of political prisoners. Some local NGOs reported that the Government held approximately 200 to 300 political prisoners, although others claimed the number was much higher. Estimates of the number of prisoners varied and were inconsistent as to the definition of a political prisoner. A number of these individuals were convicted of alleged participation in armed efforts to overthrow the Government. During the year, President Aliyev issued three pardons that resulted in the release of more than 236 prisoners and reduced sentences for ten others. Some of the individuals released were included on lists of political prisoners developed by NGOs and the Council of Europe.

In May authorities detained Faina Kunqurova, an active member of the Azerbaijan Democratic Party (ADP), and charged her with hooliganism. She subsequently was convicted and was in the midst of a three-year sentence at year's end.

At year's end, Jan Mirza-Mirzoyev, former First Deputy Director of the Baku Supreme Naval College who publicly had been critical of the Minister of Defense, remained in jail after an unsuccessful appeal in May. In 2001 Mirzoyev had been convicted and sentenced to eight years for murder in a trial that foreign and domestic observers believed did not establish his guilt.

In response to discussions with the Council of Europe on political prisoner problems, the authorities initiated retrials of three figures accused of plotting against the Government in the early 1990s; all three remained in detention at year's end. The retrial of Isgender Hamidov, a former Minister of Internal Affairs, began in May; he had been convicted and sentenced to 14 years' imprisonment in 1994 for



appropriating state property. The retrial of former Defense Minister Rahim Gaziyeu also started in May; he had been convicted and sentenced to death in 1995 for abuse of power in war conditions, large-scale embezzlement of state properties, and illegal storage and possession of weapons. The retrial of Alikram Humbatov, who was convicted and sentenced to life in 1994 for attempting to establish a separatist Talysh Republic in southeastern Azerbaijan, began in June. Authorities rejected repeated appeals by the defendants, foreign embassies, and international organizations to move these retrials from Gobustan prison, where observer access was difficult, to Baku, but foreign and domestic observers were not otherwise hindered in attending these trials.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits arbitrary invasions of privacy; however, the Government restricted privacy rights in practice. The Constitution provides for secrecy of correspondence and telephone conversations, subject to limits provided by law in criminal investigations or in the prevention of a crime; however, it was believed widely that the Ministry of National Security and other security entities monitored telephones and Internet traffic, especially those of foreigners and prominent political and business figures. The Constitution allows searches of residences only with a court order or in cases provided by law; however, the authorities often conducted searches without warrants. Police continued to intimidate and harass family members of suspects, particularly those belonging to opposition parties (see Section 3).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and it specifically outlaws press censorship; however, the Government restricted these rights in practice. There was lively public debate and criticism of government policies in a variety of areas, and direct criticism of President Aliyev was common. A large number of opposition and independent media outlets functioned during the year; however, the press faced continued pressure from the Government during the year. Although during the first few months of the year there were some improvements in media freedom, in the fall government officials brought a large number of lawsuits against the media. Harassment of journalists and libel suits created an atmosphere in which editors and journalists exercised self-censorship.

In a December 2001 meeting with opposition and independent media representatives, President Aliyev acknowledged government mistakes and promised to correct them. Subsequently, tariffs and import taxes on newsprint were reduced or abolished, access to government printing houses improved, libel suits by government officials were retracted, and long-withheld broadcasting licenses were issued to regional independent television stations. However, government officials brought 18 new libel suits against independent and opposition newspapers in the closing months of the year.

Most newspapers were printed in government publishing houses. Private advertisers were intimidated and harassed into removing their advertisements from some independent and opposition publications, forcing them to subsist on newsstand sales alone and adding to the financial pressures on newspapers that do not benefit from government financial support. The finances of most independent and opposition papers were precarious, and they had increasing problems meeting their wage and tax payment obligations. Responding to the newspapers' financial difficulties, President Aliyev issued a decree in late 2001 that froze newspaper debts to the state-owned printing house until 2003.

Government-run and independent kiosks distributed government, opposition, and independent publications throughout the year. However, independent and opposition newspapers only sporadically were available in regions outside of Baku. A number of editors continued to report that government-run kiosks refused to carry their newspapers, or claimed to have sold all received copies while actually retaining many unsold copies in stock, leading some newspapers to depend on independent distributors. Gaya, the country's largest independent distributor, reported continued government harassment. The company's manager complained that some of its most profitable newsstands had been torn down arbitrarily in Baku and in regional cities in an effort to run the company out of business. By the end of October, when authorities closed the company's newsstand in the northern city of Sheki, Gaya had only 37 newsstands, of the 55 that it had at one time throughout the country. As a result, there were no independent newsstands in Nakhchevan and other parts of the country.

Government-controlled radio and television were the main sources of information for much of the population. The Government periodically used state television to conduct campaigns of denunciation and harassment against political parties and

leaders critical of the Government. Privately run television channels broadcast views of both government and opposition officials, but their programs were not available in all parts of the country. According to Internews, there were no new television stations licensed during the year; three license requests were pending at year's end. In Ganja one new local television station (Alternative TV) was opened during the year, through the restoration of a previously shut-down local TV channel that made use of the previously issued license.

Radio was oriented largely to entertainment, but one independent station broadcast programs on political topics. Radio Free Europe/Radio Liberty and the Voice of America operated without restriction, and there were no restrictions on reception of foreign stations via satellite.

Persons convicted under current libel laws, which are found in both the civil and the Criminal Codes, may be subject to fines and up to 3 years' imprisonment. Several government officials dropped their libel cases against newspapers following the President's December 2001 meeting with independent and opposition journalists. However, President Aliyev's brother, Jalal Aliyev, subsequently launched a libel suit against the opposition Yeni Musavat newspaper, the country's largest circulation daily, that he claimed insulted his dignity. The case was abandoned after the trial began. According to the Committee for the Protection of Journalists (RUH), during the year 17 government officials and 9 politicians brought libel suits against newspapers. During the year, a total of 38 libel suits were brought against newspapers; 13 of them were against Yeni Musavat.

Two high-ranking Ministry of Defense officers brought a successful suit against Monitor magazine for printing an article about the lack of food, poor hygienic conditions, and hazing in the military. Monitor has appealed the judgement. Several times throughout its 5-year existence, Monitor has suspended its publication because publishing houses would not print it. During the year, Monitor was published and was available for purchase, although some distribution companies would not sell it.

In June the Milli Majlis passed a Law on TV and Radio that responded to Council of Europe and other requests to establish an independent regulatory body. However, the new law failed to ensure transparency in licensing or independence from state organs, and it established content requirements for programs and advertisements. According to the law, the President appoints all members to the regulatory body, thus limiting its independence.

Television and radio stations continued to require a license to operate, and the Government used this requirement in the past to prevent several independent stations from broadcasting; however, this was not a problem during the year.

On August 24, the 1998 Law on State Secrets was amended, by Presidential Decree, to strengthen provisions requiring journalists to submit articles that might touch on state secrets to a commission for review prior to publication, and requiring them to disclose their sources in such cases. Journalists protested and foreign embassies and international organizations also expressed concerns. In September the Government amended the law so that it no longer required journalists to reveal their sources.

Violence against journalists also took place during the year. RUH reported more than 90 incidents of physical attacks and/or harassment against journalists. After attacks against journalists in 2001, Minister of Interior Ramil Usubov pledged an investigation, but it remained pending at year's end. In most cases, perpetrators of violence against journalists remained unpunished.

Rauf Arifoglu, the editor-in-chief of Yeni Musavat newspaper, was arrested in 2000 for alleged involvement in an airline hijacking. He was released several days later, but the charges only were dropped in October.

All Internet providers in the country were required to have formal links with the Ministry of Communications. A number of Internet service providers and vendors existed, and Internet access cost less than \$1 (4,800 manats) per hour. Usage grew, particularly in Baku, which had a number of Internet cafes. Internet usage was less common in other parts of the country, but there were increasing numbers of Internet centers and cafes in some other cities. Many observers believed that the Government monitored Internet traffic, especially that of foreign businesses, opposition leaders, and intellectuals (*see* Section 1.f.).

The Government did not restrict academic freedom. Several professors with tenure were active in opposition parties.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government restricted this right on occasion. By law citizens are permitted to assemble, associate with others, and organize demonstrations, processions, and pickets (demonstrations with less than 50 participants), "provided that they notify respective governmental bodies in advance." A

permit was required to stage a demonstration or picket and normally could be acquired from local government authorities (such as the mayor's office in Baku or the local executive authority in other cities) in advance of the event. However, while both sanctioned and unsanctioned protests took place throughout the year, the Government denied permission for some assemblies and in some cases forcibly disrupted protests.

Seven large-scale demonstrations took place in Baku during the year. The "United Opposition Movement" organized rallies in Baku on March 23, April 27, and May 23. At these rallies, demonstrators numbering up to several thousand demanded the President's resignation and free and fair elections. There were reports that police beat demonstrators, causing injuries, and police arrested several persons. In the autumn the opposition worked together to organize four more rallies, on September 14, October 5, October 27, and November 24. According to the organizers, these demonstrations attracted from 20 to 50,000 persons, and in addition to calling for the President's resignation and free and fair elections, protestors demanded freedom for Nagorno-Karabakh. Independent observers estimated substantially fewer participants in these demonstrations than organizers claimed.

The authorities occasionally prevented political parties critical of the Government from conducting indoor meetings as well as outdoor gatherings. The authorities cited security considerations to ban larger demonstrations in the city center throughout the year.

Permits to hold demonstrations outside the capital area seldom were granted. Authorities harassed opposition party members when they tried to meet with supporters outside Baku.

On May 7, in the Baku area village of Nardaran, there was a public protest demanding the replacement of the Government-appointed head of the village council with a local citizen. On June 3, the district procurator invited eight of the Nardaran elders to a meeting with representatives from the village council to discuss their demands; when the elders arrived, the authorities arrested them. That evening Nardaran residents held a protest that police dispersed, in which civilians armed with stones clashed with police armed with firearms. The clash resulted in one civilian death, reportedly dozens of civilian and police injuries, damage to public property, and multiple arrests both during the day and subsequently (*see* Sections 1.a., 1.c., and 1.d.). On September 20, police arrested village elder Jabrail Alizade for alleged involvement in the June events, setting off a new wave of protests.

The Constitution provides for freedom of association; however, the Government continued to restrict this right. A number of provisions enabled the Government to regulate the activities of political parties, religious groups, businesses, and NGOs, including a requirement that all organizations register in order to function normally. Registration was necessary for an organization to rent property, to open a bank account, and generally to act as a legal entity. Vague, cumbersome, and non-transparent registration regulations resulted in long delays and inaction that in effect limited citizens' right to association.

According to the Ministry of Justice, as of October there were 38 registered political parties, some of which were affiliated with or supported the President's party. At least 23 registered parties were considered opposition parties. During the year, opposition political parties faced harassment from the authorities and were evicted from their headquarters (*see* Section 3). Unregistered political parties continued to function openly. Members of unregistered political parties can run for president but must be sponsored by a registered party or an independent "voters' initiative group." Members of unregistered parties may run for the Milli Majlis.

*c. Freedom of Religion.*—The Constitution provides that persons of all faiths may choose and practice their religion without restrictions; however, there were some abuses and restrictions. The Law on Religion expressly prohibits the Government from interfering in the religious activities of any individual or group; however, there were exceptions, including cases where the activity of a religious group "threatens public order and stability." Some officials at times discriminated against members of minority religions. In October the Organization for Security and Cooperation in Europe/Organization for Democratic Institutions and Human Rights (OSCE/ODIHR) and the Government jointly sponsored a conference on religious freedom and combating terrorism in Baku.

The most common restriction on religious freedom resulted from the requirement in the Law on Religion that religious organizations register with the Government. The State Committee for Work with Religious Associations (SCWRA), which replaced the Department of Religious Affairs in June 2001, assumed responsibility for registering religious groups from the Ministry of Justice. Registration enabled a religious organization to maintain a bank account, rent property, and generally act as a legal entity. Lack of registration exposed groups to charges that they were illegal

and made it more difficult, but not impossible, for a religious group to function. The process was burdensome, and there were frequent, lengthy delays in obtaining registration. Religious groups may appeal registration denials to the courts. In January an evangelical Lutheran Church in Baku finally was registered after a 2-year struggle that developed in part due to a battle for leadership in the church community.

By year's end, several religious groups continued to report that they had not been registered; however, this did not prevent them from functioning. Other churches, including Baku International Fellowship and Greater Grace Baptist Church, remained unregistered after months of applying. Unregistered groups were more vulnerable to attacks and closures by local authorities.

Some officials at times discriminated against members of minority religions. There have been small congregations of Evangelical Lutherans, Roman Catholics, Baptists, Molokans (old-believers in the Russian Orthodox Church), Seventh-Day Adventists, and Baha'is in the country for more than 100 years. In the last 10 years, a number of new religious groups that were considered "foreign" or "non-traditional" have been established. These include Pentecostal and Evangelical Christians, Jehovah's Witnesses, and Hare Krishnas. There were some reports of government harassment of these non-traditional groups.

In many instances, abuses by officials reflected the popular prejudice against conversion to Christianity and other nontraditional religions (*see* Section 5).

There was official concern regarding "foreign" (mostly Iranian and "Wahhabist") Muslim missionary activity. In May government authorities sentenced several members of the religious extremist group Hizb-ut-Tahrir to 6 to 7 years' imprisonment for allegedly planning terrorist attacks against targets that included the U.S. Embassy. There also were reports that the Government closed down Muslim groups and organizations allegedly having ties with terrorists. In November security forces detained Imam Kazim Aliyev of Juma Mosque in Ganja on charges of preparing a coup d'etat.

The law prohibits foreigners from proselytizing, and the Government enforced this provision. In April Baku police arrested Nina Koptseva, a Russian citizen and member of the evangelical Christian Greater Grace Church, along with two others on a busy Baku street. Koptseva was charged with propagating Christianity and deported to Russia; she and the church deny the charge. The Jehovah's Witnesses have had difficulties in holding large meetings in Baku. In September they planned a convention for 500 people, and obtained official permission. Circumstances required them to change their venue; as a result, they received a letter from the SCWRA saying that they had broken the law by changing their plans without notifying SCWRA and by allowing unaccompanied minors to attend.

Some local officials continued to prevent women from wearing the headscarves. Early in the year, students at Baku State University and the Baku Medical Institute reportedly were instructed to refrain from wearing headscarves to class. However, according to the Center for Protection of Conscience and Religious Persuasion Freedom (DEVAMM), the issue was resolved satisfactorily and ceased to be a problem.

Importation of religious materials was restricted. In December SCWRA denied a Baku bookstore permission to import 400 religious books on the grounds that the store was not a "religious organization." SCWRA officials told foreign diplomats that they had blocked the import of Islamic literature that did not accord with Azerbaijani values. In November government officials permitted the import of 3,000 religious books by the Evangelical Christian Baptist Church in Baku, after refusing permission for 6 months. In July 2001, the SCWRA assisted a Baku bookstore in securing permission for a shipment of English-language evangelical literature that the Department of Religious Affairs had delayed numerous times.

Sporadic violations of religious freedom by some officials continued during the year. In the northern city of Khachmaz, there were numerous reports that local policemen regularly and severely beat Muslim worshippers, who denied any wrongdoing and complained to government authorities. Police also called in some family members of the accused for questioning. Also during the year, some Muslim worshippers in Ganja and Khachmaz reportedly were arrested and beaten as suspected Wahhabis with links to terrorism.

The most serious case of harassment of a religious group by the Government involved the ethnic Azeri "Love" Baptist Church. In 2001 SCWRA initiated legal proceedings to liquidate the church following accusations its pastor insulted Muslim fasting traditions in a sermon during the holy month of Ramadan. The church lost its case in April in court proceedings international observers described as biased. Its appeal—a 15-minute court procedure during which judges reportedly prevented lawyers for the church from speaking—was unsuccessful and an even shorter hearing before the Supreme Court in October upheld the lower court verdicts. Church

representatives said they would continue to meet until they are arrested or forcibly dispersed.

DEVAMM reported that an Adventist family in Nakhchevan was harassed by local authorities, who barred three of their children from attending school, and attempted to deport the family to Baku.

During the year, several newspapers and television broadcasts depicted non-traditional religious groups as a threat to the identity of the nation. Some of these attacks extended to humanitarian organizations operating in the country that were linked to foreign religious organizations.

Hostility also existed toward foreign (mostly Iranian and "Wahhabist") Muslim missionary activity, which partly was viewed as seeking to spread political Islam and thus a threat to stability and peace.

Ethnic Azerbaijanis have fled areas of Azerbaijan controlled by ethnic Armenians, and mosques in this area that had not already been destroyed did not function. Animosity toward the Armenian population elsewhere in Azerbaijan forced most Armenians to depart, and all Armenian churches, many of which were damaged in ethnic riots that took place over a decade ago, remained closed. As a consequence, the estimated 10,000 to 30,000 Armenians who remained in the country were unable to attend their traditional places of worship.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, at times, the Government limited freedom of movement. The internal residence regime from the Soviet system ("propiska") still was imposed on IDPs—i.e., those forced from their homes following the Armenian occupation of western areas of the country—who were required to register with the authorities and could reside only in approved locations. A passport was required for travel abroad. There were no exit visa requirements.

Residents of border areas in both Azerbaijan and Iran traveled across the border without visas. Draft-age men had to obtain documents from military officials before they could travel abroad, and some restrictions were placed on military personnel with access to national security information.

The number of refugees and IDPs from the Nagorno-Karabakh conflict was approximately 800,000; 200,000 of these were refugees, and more than 600,000 were IDPs. There were credible reports that Armenians, including ethnic Armenian immigrants from the Middle East and elsewhere, had settled in parts of Nagorno-Karabakh and possibly other Azerbaijani territories occupied by Armenian forces. Approximately 10,000 to 30,000 Armenians, almost exclusively persons of mixed descent or mixed marriages, remained in Azerbaijan (in addition to Armenians residing in occupied territories). While official government policy allowed ethnic Armenians to travel, low-level officials seeking bribes have harassed citizens of Armenian ethnicity who sought to obtain passports. The Armenian government continued to prevent the hundreds of thousands of Azerbaijanis who were forced out of their homes in occupied territories from returning.

The Government depends on international assistance to care for refugees and IDPs. The Government transferred \$39 million (188.8 billion manats) from the country's oil fund to the country's IDP and Refugees Committee to improve the social and economic conditions of refugees and IDPs. Of that total, \$550,000 (2.7 billion manats) was provided monthly to IDPs for food. The Government provided individual IDPs \$5 (25,000 manat) per family member per month for food and 6 liters of fuel per family per month. The Government also provided sugar, rice, sunflower oil, and oil to each IDP in camps in the regions where international NGOs no longer provided assistance. International assistance to the refugee and IDP population continued to decline. Approximately 60–70,000 IDPs continued to live in camps at below-subsistence levels, without adequate food, housing, education, sanitation, or medical care.

A law that provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention relating to the Status of Refugees and its 1962 Protocol was passed in 2001; however, no mechanism for its implementation had been created by year's end. The Government cooperated with the U.N. High Commission for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. Such organizations reported full and unrestricted access to the refugee population. The issue of the provision of first asylum did not arise during the year, and there were no procedures for granting first asylum.

Approximately 8,000 to 10,000 Chechens who fled from Russia resided in the country. UNHCR registered 9,009 asylum seekers/refugees during the year, 78 percent of whom were from Chechnya. According to UNHCR personnel, during the

year, many Chechens complained of arbitrary detention and police harassment because of their undocumented status in the country. Chechens may receive 3-month visas, but not residence permits. Chechen children generally were not allowed to attend public schools, and medical services were provided only on a fee-for-service basis. Chechens were extradited to Russia for alleged criminal offenses, but their status as refugees was unclear.

Approximately 1,000 Afghans who fled their country have registered with UNHCR and have lived in the country for many years.

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

The Constitution and the law allow citizens to change their government by peaceful means; however, the Government continued to restrict citizens' ability to do so by interfering in local and national elections. The country is a republic with a strong presidency and a legislature that the Constitution describes as independent. However, in practice the Milli Majlis's independence was minimal, and it exercised little legislative initiative independent of the executive.

The 1998 presidential election was an improvement over the 1995 Milli Majlis elections, especially in regard to reduced multiple voting and the presence of domestic observers; however, some domestic and international observers witnessed ballot box stuffing and irregularities in vote counting, and some were barred from observing the vote counting. Neither domestic nor international observers were allowed to monitor the compilation of the national vote totals. The observed irregularities and lack of transparency in vote counting led to serious doubts regarding the accuracy of the official vote count in favor of President Aliyev.

By-elections held in November 2001 in Tovuz and Ajabedi to fill vacant Milli Majlis seats also were marred by election fraud and ballot box stuffing. As a result of objections by local observers, the results in three Tovuz polling stations were cancelled by the Central Election Commission. The April by-elections in Baku, Ganja, and Ali Baramli similarly were marred by voter list irregularities, multiple voting, and observer intimidation.

The November 2000 Milli Majlis elections showed some improvement over the 1998 presidential and 1999 municipal elections, according to OSCE/ODIHR; however, they did not meet international standards due to numerous serious irregularities. Only after international pressure did authorities allow all major parties, including some disqualified as a result of alleged falsifications in voter petitions, to run candidates for office. Some opposition candidates were harassed, and some were beaten or detained. Potential candidates reported that individuals who signed their petitions were asked by police to remove their names.

An election law passed prior to the November 2000 Milli Majlis elections incorporated most, but not all, OSCE/ODIHR recommendations. Among the most serious remaining flaws was a provision banning from vote monitoring domestic election monitoring groups that received funding from foreign sources. Individual parties and some NGOs were able to post their own monitors at the polls, but intimidation, harassment, and even arrests of the observers took place. International observers seriously doubted the accuracy of the election results because of ballot box stuffing, premarked ballots, and vote counting irregularities.

Serious voting irregularities marred the August 24 referendum on changes proposed by President Aliyev to the 1995 Constitution. International observers saw widespread irregularities, including voter list fraud, multiple voting, voter intimidation, and ballot box stuffing. The Government continued to restrict domestic non-partisan observers. However, a series of televised roundtables, hosted by the OSCE and including government and opposition representatives, was held to educate the public on the issues of the referendum.

According to the Government, the amendments proposed in the referendum were designed to address a number of suggestions by the Council of Europe to democratize the country's political system—although the Government did not consult with the Council of Europe on the content of the referendum. Some of the amendments, such as the requirement that the President be elected by 50 percent plus one (rather than a two-thirds majority), could contribute to bringing the Government's practice into conformity with international standards and enhance democratization. However, two amendments were seriously criticized. One of the amendments proposed eliminating the proportional representation system required for 25 of the 125 seats in the Milli Majlis. NGOs and other groups alleged that this amendment could threaten opposition representation in Milli Majlis altogether. Another controversial amendment replaced the Chairman of the Milli Majlis with the Prime Minister in the line of succession to the presidency. Some domestic and international groups argued that this would make it easier for the President to pass on power to his pre-

ferred successor. The Government's claims of 95 to 96 percent approval of each of the eight clusters of constitutional amendments and 83.6 percent voter turnout were highly questionable. International election observers raised concerns with senior government officials and the Central Election Commission about the conduct of the referendum.

In December the Government made public its draft Unified Election Code (UEC), as required by the Council of Europe. The code seeks to combine four existing laws governing the conduct of elections and referenda in the country. The draft law contains some improvements, and the authorities discussed further changes with the international community, submitting a draft of the UEC for review by the International Foundation for Election Systems, the Council of Europe, and OSCE/ODHIR. However, the draft UEC does not change provisions in separate legislation on NGOs prohibiting domestic NGOs that receive foreign funding from observing elections. Major opposition parties boycotted the OSCE-sponsored (and televised) roundtables in December to discuss the draft law.

There were no legal restrictions on women's participation in politics; however, traditional social norms limited women's roles in politics, and they were underrepresented in elective offices. The practice of "family voting," where men cast the votes of their wives and other female members of their families, persisted. There were 13 women in Milli Majlis and several women in senior government positions.

There were no restrictions on the participation of minorities in politics. Several Lezghins, Talysh, and Avars continued to serve in the Milli Majlis and government.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Some NGOs wholly independent of the Government were objective and effective conduits of information to local officials, the diplomatic community, and such international institutions as the Council of Europe. The Government maintained ties to some of the human rights NGOs and responded to inquiries. However, the Government occasionally criticized some human rights NGOs and activists, and the Ministry of Justice routinely denied or failed to register many groups, including human rights NGOs, although it did not try to restrict their activities (*see* Section 2.b.).

A law on NGOs, passed during the year, made registration a cumbersome process and was vague on the procedures for liquidation. The Government accused some human rights activists of working in the interests of foreign governments. The Government has alleged that some domestic activists provided inaccurate lists of political prisoners to visiting foreign government officials. The Government responded to an inquiry by the Independent Public Commission, a group of human rights NGOs, into the Nardaran violence in June by issuing, on October 22, an official warning to the NGO commission's forensic specialist, Ilqar Altay. The warning stated that he was interfering with the official investigation, and that his actions were punishable under Article 310 of the Criminal Code.

Human rights NGOs were moderately effective. A serious impediment to their effectiveness was the inability of local human rights activists to work together. During the year, several human rights activists publicly accused each other of collusion with the authorities, lack of independence, and even taking bribes.

The local diplomatic community, the ICRC, and delegations from the Council of Europe enjoyed access to prisons and conducted meetings with inmates throughout the year (*see* Section c.). In June Andreas Gross, one of the Rapporteurs for Azerbaijan at the Council of Europe, made a speech at the Council criticizing the Government for its actions in the village of Nardaran. The Government expressed its displeasure with Gross's criticism by complaining in both official and independent media about him. When Gross visited the country from July 16 to 22, representatives of higher levels of the Government refused to meet with him. State television ran a number of programs criticizing Gross and repeating rumors that he would be refused a visa to visit the country. He returned to the country during the August referendum, and relations since have improved between him and the Government.

In December 2001, the Milli Majlis passed legislation on the creation of an Ombudsman position, and the first Ombudsman was approved by the Milli Majlis during the year. Citizens of the country may appeal to the Ombudsman for violations of their human rights committed by state bodies or individuals. The Ombudsman may refuse to handle a case if it happened more than a year before it was submitted to the office. The Ombudsman also does not handle anonymous complaints and may not become involved in complaints that are being addressed by the judiciary branch.

The Ombudsman traveled to many of the regions in the country to hear complaints and cooperated closely with the human rights activities of foreign embassies.

Both the Milli Majlis and the Ministry of Justice had human rights offices that heard complaints from citizens. The Ministry of Foreign Affairs has a human rights office under the direction of a Deputy Foreign Minister and conducted regular meetings with the diplomatic community.

The passage of the August referendum amended the Constitution to provide all citizens the right to appeal to the Constitutional Court. Citizens also have the right to appeal to the European Court of Human Rights.

*Section 5. Discrimination Based on Race, Sex, Disability, Language or Social Status*

The Constitution provides for equal rights without respect to gender, race, nationality or national origin, language, social status, or membership in political parties, trade unions, or other public organizations; however, in the wake of the Nagorno-Karabakh conflict, there was widespread anti-Armenian sentiment in society.

*Women.*—Violence against women, including domestic violence, continued to be a problem. In rural areas, women had no real recourse against assaults by their husbands or others; no laws exist regarding spousal abuse or spousal rape. There is a law against rape, which makes rape punishable by up to 15 years in prison; however, many incidents went unreported because such subjects were taboo in society. According to the Society for the Defense of Women's Rights (SDWR) and the Ministry of Internal Affairs, there were 39 rapes and attempted rapes reported during the year. There were no government-sponsored or funded programs for victims of domestic violence. In 2001 the Institute for Peace and Democracy opened a women's crisis center in Baku to assist women on a variety of issues, including physical abuse.

Prostitution was a serious problem, particularly in Baku. The legal age of consent was 16. According to the Criminal Code, prostitution is not a crime, but a personal matter, and prostitutes cannot be criminally charged. However, pimps and brothel-owners are liable to criminal laws. Pornography is prohibited.

Trafficking in women was a problem (*see* Section 6.f.).

Women nominally enjoy the same legal rights as men; however, societal discrimination was a problem, and traditional social norms continued to restrict women's roles in the economy. Representation of women was significantly lower in the higher levels of the work force, and there were few women in leading business positions. The labor law prohibits pregnant women from working at night and pregnant women with children under 18 months of age from working more than 36 hours per week. According to the labor law, women are also prohibited from working underground.

There were 24 registered NGOs that addressed issues pertaining to women. The SDWR, one of the most active women's NGOs in the country, provided speech and communication training for women from all political parties.

*Children.*—The Constitution and laws commit the Government to protect the rights of children to education and health care; however, difficult economic circumstances limited the Government's ability to carry out these commitments. Public education was compulsory, free, and universal until the age of 17. During the year, 86.7 percent of school-age children attended school. The Government provided minimum standards of health care for children, although the quality of medical care overall was very low.

The Criminal Code mandates severe penalties for crimes against children, and the young generally were treated with respect regardless of gender. There was no known societal pattern of abuse of children. A large number of refugee and IDP children lived in substandard conditions in refugee camps and public buildings (*see* Section 2.d.). In some cases, particularly among Chechen refugees, children were unable to attend school. Poverty at times compelled families to send their children to beg on the streets (*see* Section 6.c.).

Trafficking of children continued to be a problem (*see* Section 6.f.).

*Persons with Disabilities.*—The law gives priority to persons with disabilities in obtaining housing, as well as discounts for public transport and pension supplements. The Government did not have the means to fulfill these commitments. There are no special provisions in the law mandating accessibility to public or other buildings for persons with disabilities, and such access was not a government priority.

*National/Racial/Ethnic Minorities.*—Many indigenous ethnic groups live in the country. The Constitution provides for the right to maintain one's nationality and to speak, be educated, and carry out creative activity in one's mother tongue or any language, as desired. However, some groups have complained that the authorities restricted their ability to teach or print materials in indigenous languages. Sepa-



ratist activities undertaken by Farsi-speaking Talysh in the south and Caucasian Lezghins in the north in the early 1990s engendered some suspicions in other citizens and fostered occasional discrimination. Meskhetian Turks displaced from Central Asia, as well as Kurdish displaced persons from the Armenian-occupied Lachin region, also complained of discrimination. A senior government official was responsible for minority policy. Some members of other ethnic groups also complained credibly about discrimination. Preventing this discrimination was not a government priority.

Some Armenians and persons of mixed Armenian-Azerbaijani descent have complained about being unable to register their residences, find work, and get access to medical care and education due to their ethnicity. The approximately 10,000 to 30,000 citizens of Armenian descent complained of discrimination in employment, schooling, housing, and other areas. They also complained of discrimination and harassment at workplaces, and of the refusal of local government authorities to pay pensions. Most shielded their identity or tried to leave the country. Some changed their nationality, as reported in their passports. Armenian widows have had permits to live in Baku revoked. Some persons of mixed Armenian-Azerbaijani descent continued to occupy government positions. Public figures whose parents reportedly were of mixed-Armenian and Azerbaijani marriages, or had such marriages, were attacked publicly by colleagues in the press.

In the area of the country controlled by ethnic Armenian forces, the Armenians forced approximately 600,000 ethnic Azerbaijanis to flee their homes (*see* Section 2.d.). The regime that controlled these areas effectively banned them from all spheres of civil, political, and economic life.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for freedom of association, including the right to form labor unions; however, there were some limits on this right in practice. The Azerbaijani Labor Federation, which was close to the Government, claimed some 300,000 members. The semi-independent Azerbaijan Trade Union Confederation (ATUC) had 1.5 million members, of which approximately 800,000 were active. The overwhelming majority of labor unions still operated as they did under the Soviet system and remained tightly linked to the Government. Most major industries were state-owned. Police, customs, and military personnel were prohibited from forming unions. The law prohibits trade unions from engaging in political activity, but individual members of trade unions had no such restrictions.

In 1997 the State Oil Company (SOCAR) formed a progovernment union, the Azerbaijan Union of Oil and Gas Industry Workers, which took over the former Independent Oil Workers Union without a vote by the union membership. It continued to operate without a vote by its rank and file workers. An independent group of oil workers, the Committee to Defend the Rights of Azerbaijani Oil Workers, operated outside of established trade union structures and promoted the interests of workers in the petroleum sector.

According to the International Confederation of Trade Unions' (ICFTU's) Annual Survey of Violations of Trade Unions Rights during the year, one of the most serious problems facing unions in the country is that union dues rarely were transferred to them. As a consequence, the unions did not have the resources to carry out their activities effectively. The ATUC has listed approximately 40 enterprises in almost all sectors where dues have not been transferred.

There were reports of antiunion discrimination by foreign companies operating in Baku; however, there were no reports of government antiunion discrimination. Labor disputes were handled by local courts. The ATUC sometimes helped plaintiffs with lawyers and legal advice.

Unions were free to form federations and to affiliate with international bodies. In November 2000, the ATUC became a member of the ICFTU.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining agreements to set wages in state enterprises and a labor inspectorate continued to operate; however, these laws did not produce an effective system of collective bargaining between unions and enterprise management. Government-appointed boards ran the major state-owned firms and set wages. Unions did not effectively participate in determining wage levels. In a carryover from Soviet times, both management and workers were considered members of professional unions.

The Constitution provides for the right to strike, and there were no legal restrictions on this right. The law prohibits retribution against strikers. Some classes of workers, such as police, judges, or public transport workers, are prohibited from

striking. During the year, there were several peaceful strikes to demand salary increases or payment of unpaid wages.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution allows forced or bonded labor only under states of emergency or martial law or as the result of a court decision affecting a condemned person. Two departments in the General Prosecutor's office (the Department of Implementation of the Labor Code and the Department for Enforcement of the Law on Minors) were responsible for enforcing the prohibition on forced or bonded labor.

According to Human Rights Watch, in some military units officers secretly used conscripts as unpaid laborers on construction projects. In July eight conscripts died in 1 week, from sunstroke (*see* Section 1.a.).

No constitutional provisions or laws specifically prohibit forced or bonded labor by children. There were reports that some parents forced their children to beg.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The minimum age for employment was 16 years. The law allows children ages 14 and 15 to work with the consent of their parents and limits the workweek of children between the ages of 14 and 16 to 24 hours per week. However, children at the age of 15 may work if the workplace's labor union does not object. There were no explicit restrictions on the kinds of labor that 15-year-old children may perform with union consent. The Ministry of Labor and Social Security had primary enforcement responsibility for child labor laws. With high adult unemployment, there were few, if any, complaints of abuses of child labor laws.

At year's end the Government had not ratified the International Labor Organization (ILO) Convention 182 on the worst forms of child labor.

*e. Acceptable Conditions of Work.*—The Government has set by decree the nationwide administrative minimum wage at \$5.00 (27,000 manats) per month. This wage was not sufficient to provide a decent standard of living for a worker and family. The recommended monthly wage level to meet basic subsistence needs was estimated to be \$50 (215,000 manats) per person. Most workers earned more than the minimum wage. Many relied on the safety net of the extended family. Many families relied on remittances from relatives working in Russia. Combinations of these and other strategies were the only way for broad sectors of the urban population to reach a subsistence income level.

The legal workweek was 40 hours. There was a 1-hour lunch break per day and shorter breaks in the morning and afternoon. The Government attempted to enforce this law in the formal sector, but not in the informal sector where the majority of persons worked.

Health and safety standards existed but were ignored widely. Workers could not leave dangerous work conditions without fear of losing their jobs.

Foreign workers are protected under the law and enjoyed the same rights as citizens.

*f. Trafficking in Persons.*—There are no laws that specifically prohibit trafficking in persons, although traffickers may be prosecuted under articles prohibiting forced prostitution and labor; trafficking in persons remained a problem. There were unconfirmed reports that corruption by officials facilitated trafficking.

Under the Criminal Code, the act of forcing an individual into prostitution carries a 10 to 15 year jail term, which is a harsher sentence than in the previous code. The Criminal Code provides severe penalties for people who enslave, rape, or coerce children into prostitution. The Criminal Code is not limited to citizens in Azerbaijan, but it has no extra-territorial effect. During the year, four persons whom international organizations consider to be traffickers were prosecuted under forgery laws in the Criminal Code. The Government, with the consent of the President, was formulating a national plan of action with the goal of amending their Criminal Code to include specific anti-Trafficking in Persons (TIP) legislation at year's end.

According to the International Organization for Migration (IOM), the country was primarily a country of origin and a transit point for trafficked women, men, and children. They were trafficked into northern Europe, particularly to the Netherlands and Germany, where many unsuccessfully sought asylum. Traffickers usually sent women to the United Arab Emirates (UAE), Iran, Turkey, or Western Europe, mainly Germany, to work as prostitutes. Women from Iran, Russia, and sometimes Iraq were transported through the country to the UAE, Europe, and occasionally the U.S. for the same purposes.

Traffickers generally targeted women; however, there also were cases in which men and children were victims of trafficking. Traffickers were either foreigners or ethnic Azerbaijanis who acted as middlemen for large trafficking syndicates headquartered abroad. Victims were approached directly and indirectly through

friends and relatives. Traffickers also used newspaper advertisements offering false work abroad. According to the Society for the Defense of Women's Rights, draft-age men seeking to escape military service in 2000 were invited by local traffickers to work in the hotel industry in Turkey, but ended up in male brothels. Another NGO reported that families of young women had been approached by individuals claiming that visiting Iranian businessmen had seen their daughters and wished to marry them. Following parental permission for such marriages, the women were transported to Iran to work as prostitutes.

There was no evidence of government complicity in the facilitation of the trafficking of persons; however, NGOs suspected that lower-level civil servants accepted bribes from traffickers in exchange for turning a blind eye to their activities.

The Ministry of Internal Affairs, the Ministry of Labor and Social Protection, and the Border Guards were responsible for antitrafficking efforts. There were no government antitrafficking campaigns. There was no mechanism to return trafficked women to Azerbaijan, but the Government stated that it had in place a program to assist trafficked victims. There were no reports of deportations of Azerbaijani nationals back to Azerbaijan for trafficking or prostitution.

The IOM has conducted awareness campaigns and unveiled a study of trafficking in the country. Several NGOs and the State Committee for Women's Issues of the Azerbaijan Republic dealt with the problems of trafficking in women and prostitution.

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## BELARUS

According to its amended Constitution, the country is a republic with a directly elected President. President Alexander Lukashenko (elected in 1994) continued to undermine democratic institutions through a series of unfair elections and a seriously flawed constitutional referendum. In September 2001, President Lukashenko renewed his term in office through an election process that the Organization for Security and Cooperation in Europe (OSCE) described as neither free nor fair. The October 2000 parliamentary elections received a similar evaluation. The judiciary is not independent.

The Committee for State Security (KGB) and the Ministry of Internal Affairs (MVD), both of which reported directly to the President, shared law enforcement and internal security responsibilities. Under the law, the President has the right to subordinate all security bodies to his personal command. Apart from the President, civilian authorities did not maintain effective control of the security forces. Under Lukashenko's direction, the Presidential Guard—which was created initially to protect senior officials—continued to act against the political enemies of the Lukashenko regime with no judicial or legislative oversight. Members of the security forces committed numerous serious human rights abuses.

The country had a population of approximately 10 million. The economy was planned centrally with industry accounting for approximately half of economic output. The majority of workers were employed in the state industrial and state agricultural sectors. In the state sector wages were lower than the national average and wage arrears were chronic though often of short duration and limited scope. Official macroeconomic statistics have become more reliable, and showed that living standards for many segments of society continued to decline. Residents of small towns and rural areas, where incomes were particularly low, sustained themselves through unreported economic activity and subsistence farming.

The regime's human rights record remained very poor and worsened in several areas. The authorities effectively continued to deny citizens the right to change their government. At least one suspicious death of a political activist was reported. The authorities did not undertake serious efforts to account for the disappearances of well-known opposition political figures in previous years and discounted credible reports during the year regarding the regime's role in those disappearances. Police abuse and occasional torture of prisoners and detainees continued. There were also reports of severe hazing in the military forces. Prison overcrowding remained a problem. Security forces arbitrarily arrested and detained citizens, and the number of apparently politically motivated detentions greatly increased, although many of those detained were held for brief periods. The security services continued to infringe on privacy rights and freedom of movement by closely monitoring the activities of opposition politicians, human rights organizations, and other segments of the population.

The regime continued to restrict freedom of speech and of the press, and did not respect freedom of assembly or association. The regime introduced several new decrees that further restricted these freedoms. It began an assault on the independent

media that resulted in the closure of several newspapers and the jailing of journalists on libel charges. The authorities also enacted a new law on religious groups that severely restricts freedom of religion and favors the Russian Orthodox Church at the expense of nontraditional religions. The regime restricted freedom of movement.

Opposition political parties and movements were subjected to increased pressure through both judicial and extra-judicial measures, including physical abuse of political opponents. Regime security agents closely monitored human rights organizations and hindered their efforts. Domestic violence and discrimination against women remained significant problems. The authorities continued to restrict severely workers' rights to associate freely, organize, and bargain collectively. Trafficking in women and children remained a problem, which at the end of the year the authorities took steps to address.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no confirmed reports of political killings committed by the regime or its agents during the year. The use of excessive force by police led to one death in custody.

On September 5, the Minsk City Prosecutor's Office charged two police officers with beating a homeless man in their custody to death in late August. A forensic examination indicated the cause of death was injuries suffered from a beating. The case was pending at year's end.

In December 2001, Andrei Zaitsev, a 24-year-old Gomel-based opposition activist, is alleged to have hanged himself a few days after he had been sentenced to 3 months confinement on a minor trumped-up charge. Friends and family noted numerous inconsistencies and irregularities in the suicide and demanded a criminal investigation. Before his death he allegedly left both a note stating that the KGB had tried to recruit him, as well as an audio recording of his conversation with a KGB officer named Yevstigneyev. According to Zaitsev's note, the KGB agent offered him freedom in exchange for cooperation with the KGB. Gomel District Prosecutor Vladimir Podsekin insisted that the death was indeed a suicide, and claimed that the KGB was not responsible. In explaining his rejection of the parents' request to institute criminal proceedings, Podsekin noted only that the law does not prohibit the KGB from recruiting informers.

Former government investigators and human rights monitors continued to provide credible reports that senior regime officials were involved in the disappearances and presumed murders of journalist Dimitry Zavadsky in 2000 and opposition figures Yury Zakharenko, Viktor Gonchar, and Anatoliy Krasovsky in 1999 (see Section 1.b.). Observers suspect that Zakharenko, Gonchar, and Zavadsky, who each worked for the Lukashenko regime prior to joining the opposition, were killed because of their involvement with the opposition.

On November 20, a journalist from neighboring Ukraine, Mykhailo Kolomyets, was found hanged near Malodocheno in Belarus. Kolomyets disappeared from Kiev on October 28. The Kiev prosecutor's office invited a team of foreign investigators to help determine whether Kolomyets committed suicide (see section 2.a.).

*b. Disappearance.*—There were no confirmed reports of politically motivated disappearances.

Despite the conviction of four members of the SOBR (a special Ministry of the Interior SWAT team), whose activities led them to be popularly known as a "death squad," the cases from previous years regarding disappearances of several opposition leaders, including Dimitry Zavadsky, remain unresolved. On March 14, the regime convicted four SOBR members, Valery Ignatovich, Maksim Malik, Aleksei Guz, and Sergei Saushkin in the disappearance of Dmitri Zavadsky. In July 2000, Zavadsky, a cameraman for the Russian television network ORT and previous cameraman for President Lukashenko, disappeared at the Minsk Airport while waiting for ORT journalist Pavel Sheremet to arrive from Moscow. Zavadsky and Sheremet had been arrested in 1997 by regime authorities for crossing the border illegally while filming a documentary critical of the Lukashenko regime.

The accused were charged with the Zavadsky kidnaping, and also with seven premeditated murders, five armed assaults, and a second kidnaping. The proceedings were closed to the public and press. The trial, which was viewed widely as unjust by observers, also resulted in a criminal charge of slander filed against the attorney for Zavadsky's mother after he called on the court to examine investigative records implicating current Prosecutor General Sheiman in the abductions and murders. Zavadsky's wife and a lawyer representing his mother were allowed to attend, but were under court order not to disclose anything about the court proceedings. The trial was notable for not addressing the obvious question of what the accused even-

tually did with Zavadsky after kidnaping him. Some observers claimed that SOBR member Ignatovich was drugged during the testimony phase of the trial so that he could not incriminate others; the authorities stated that he was semiconscious because he was on a hunger strike. The judge later ordered him removed from the courtroom. Many human rights advocates believe that the regime's handling of the Zavadsky case did not constitute meaningful progress toward resolution because of the officials' refusal to investigate whether higher authorities ordered the kidnaping and execution.

However, there was considerable evidence which appeared to link the Zavadsky disappearance to those of other leading regime opponents. In 2000 an open letter on the Internet, reportedly written by a KGB officer, alleged that Zavadsky had been killed by a group of former and serving security service officers, and that senior authorities interceded with Lukashenko in order to prevent investigators from fully examining the case. Lukashenko claimed that the Internet letter was a fabrication and promised to renew the investigations into the disappearances; however, following his announcement he removed both Prosecutor General Oleg Bozhelko and KGB Chief Uladzimir Matskevich, who had been leading the investigation. Shortly thereafter, Lukashenko appointed Sheiman to the post of Prosecutor General.

In January 2001, ORT reported that the decision to replace these two officials was in fact a direct response to the arrest of Dmitriy Pavluchenko, head of a special Almaz brigade, in connection with the abduction and suspected killing of Gonchar and Krasovsky (see Section 1.a.). The report alleged that Pavluchenko was arrested but released after Lukashenko personally intervened. Sources close to the former KGB Chief and the former Prosecutor General stated that the two had requested permission to arrest Viktor Sheiman, then head of the Presidential Security Council, for ordering the killings. Lukashenko had refused; instead he dismissed them and put Sheiman in charge of the investigation.

There also has been no progress in the case of former Minister of Internal Affairs Yury Zakharenko, who disappeared on May 7, 1999. Zakharenko, who was popular among Ministry of Interior personnel and a close associate of then-detained former Prime Minister Mikhail Chigir, disappeared after voting began in an opposition presidential election initiative in which Chigir was one of the principal candidates. An investigation began 6 months later, but there was no evidence that the authorities had taken concrete steps to resolve the case. The regime failed to present any information on the investigation in response to a request from the U.N. Working Group on Involuntary Disappearances, and continued to harass and hinder the investigations into Zakharenko's disappearance by independent nongovernmental organizations (NGOs).

During the September 2001 presidential campaign, regime-dominated media repeatedly ran stories alleging that Zakharenko was alive and well in Germany and that his disappearance had been fabricated by the opposition. In December 2001, following the presidential elections that fall, Zakharenko's wife accused Lukashenko of direct involvement in Zakharenko's disappearance. She subsequently fled the country with her children, seeking political asylum. At a September 17 press conference, Lukashenko repeated his previous assertions that Zakharenko was alive, claiming again that the opposition faked his disappearance. In the same month, the Minsk City court rejected an appeal by Zakharenko's wife Olga, who sought to have her husband declared legally dead.

There has been no satisfactory resolution of the September 1999 disappearance of 13th Supreme Soviet Deputy Chairman Viktor Gonchar and his local business associate Anatoly Krasovsky. The disappearances of both occurred after Lukashenko, in a meeting broadcast on state television, ordered the chiefs of his security services to crack down on what they consider opposition scum. At the time, Gonchar was a high-profile anti-regime politician and Krasovsky was considered an active fundraiser for the opposition. On November 20, a Minsk court ruled that Krasovsky was missing but refused to find him legally dead. On December 5, another Minsk court handed down a similar ruling on the legal status of Gonchar. Zakharenko's status is on hold pending the outcome of criminal proceedings.

Irina Krasovskaya, the wife of businessman Anatoly Krasovsky, reported that she had received additional evidence from Oleg Alkayev, the former warden of Minsk's death row prison, at an October 13 meeting in Germany. According to her statement, she and Garri Pogonyailo of the Belarusian Helsinki Committee had a lengthy conversation with Alkayev in which he confirmed again that he had issued the execution pistol to the commander of the SOBR on dates preceding the disappearances, as well as the pistol's return following them.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, police and prison guards regularly beat detainees and prisoners. By law, police and prison officials may use phys-

ical force only against detainees and prisoners who are violent, have refused to obey the instructions of the prison administration, or have violated “maliciously” the terms of their sentences. However, human rights monitors repeatedly reported that investigators coerced confessions through beatings and psychological pressure. In 2000 the U.N. Committee against Torture issued conclusions and recommendations in its third periodic report on the country. The Committee cited concern over the deterioration in the human rights situation and noted numerous continuing allegations of torture and inhuman treatment or punishment of political opponents of the regime and peaceful demonstrators committed by, or with the acquiescence of, state officials.

Police and plainclothesmen frequently beat individuals while arresting them or holding them in detention. On February 20, Dmitry Dashkevich filed a formal complaint that police officers beat him on the way to the police station following his arrest after demonstrations on February 14 even though he did not resist the arrest. At the police station, he was handcuffed to a radiator and beaten along with Stanislav Ivashkevich, another detainee.

Police reportedly beat and tortured Alexander Chigir, the younger son of prominent opposition politician Mikhail Chigir, and he was convicted on March 6 to 7 years in prison on charges of stealing auto parts, charges that many observers believed were fabricated. Both Alexander Chigir and two witnesses who testified against him later said that their confessions and testimony had been the result of police beatings and torture. According to Yashin, the police first tortured him, demanding statements against Chigir junior, then incarcerated him in a dark cell without fresh air on a death-row prison block, where he developed tuberculosis. He was brought into the courtroom in a TB mask. When called to court, police officers denied using any rough methods against either Yashin or Yutskevich. However, medical experts confirmed that both had numerous bruises. Alexander Chigir’s lawyer was hospitalized following an attack by unknown individuals on March 6, and was unable to represent his client for most of the trial.

Police also frequently beat participants in demonstrations and at times denied them food while they were in detention (*see* Section 2.b.). Retired police Lieutenant General Myacheslav Grib told journalists on March 25 that the police enjoyed “permissiveness and impunity for several years.” He said that police violence against peaceful street demonstrators, which has become an ordinary occurrence and is almost encouraged by the authorities had made the process uncontrollable and that more ordinary individuals increasingly found themselves to be victims of ill-treatment.

There were also suspicious beatings of political opponents reported during the year. At year’s end no one had been charged with, or arrested for, the assaults. On the evening of June 9, the husband of United Social Democratic Party (USDP) leader Valentina Polevikova was beaten up in the evening as he exited a trolley bus to return home. He did not see his attackers, and regained consciousness the following morning lying on the compound of a nearby kindergarten.

Seven Hindus were assaulted in several incidents in late August and early September while the regime was cracking down on that religious movement. One of them, Tatyana Zhilevich, was beaten up and taken to a hospital with head injuries (*see* section 2.c.).

On September 16, Aleksei Korol, deputy chairman of the USDP, was assaulted and robbed by unidentified assailants when he was returning home from Vilnius, Lithuania, after meetings with Lithuanian Social Democrats. Near the entrance to his house, he was hit on the head with something heavy and lost consciousness for approximately 15 minutes. While unconscious, his bag, passport, and wallet were taken. The USDP has condemned the attack on Korol as political.

Dedovshchina—the practice of hazing new army recruits through beatings and other forms of physical and psychological abuse—reportedly continued. During the year, 15 criminal charges were brought against servicemen accused of battering their subordinates and disciplinary action was taken against 160 officials. The authorities blocked efforts by family members and human rights monitors to investigate these and other reports of Dedovshchina.

Prison conditions remained poor and were marked by severe overcrowding, shortages of food and medicine, and the spread of such diseases as tuberculosis, syphilis, and HIV/AIDS. Interior Minister Naumov stated on May 28 that the prison population exceeded its capacity by 37 percent. In addition, credible reports indicate that prison guards regularly beat detainees and prisoners. According to Vladimir Kudinov, a member of the disbanded Parliament and vocal critic of the Lukashenko regime who spent 4 years in prison, torture was widespread in prisons.

According to human rights monitors, conditions at prison hospitals were also poor. The average amount of space provided for each inmate was 1.2 square yards. In

many cases, food provided in prisons did not meet minimum medical requirements. In September Hindu detainees who adhere to a strict vegetarian diet were given regular meat-based food to eat (*see* Section 2.c.). Detainees in pretrial detention facilities also reported poor conditions and denial of medical treatment, which contributed to declining health while awaiting trial. Two protesters affiliated with Zubr (a well-known youth movement) complained about conditions of confinement, saying that the cells were overcrowded and often contained alcoholics who experienced delirium. The pair were not allowed exercise and were unable to walk during their 10-day detention. In addition, the wife of a Hindu leader who was jailed for praying in the street was beaten by other inmates while in prison (*see* Section 2.c.).

According to prison policy, male and female prisoners were held separately. Juveniles were held separately from adults, and pretrial detainees normally were held separately from convicted prisoners; however, due to prison overcrowding, they occasionally were held together.

At times the regime granted human rights monitors access to observe prison conditions; however, only family members and lawyers were permitted to visit individual prisoners during the year.

*d. Arbitrary Arrest, Detention, and Exile.*—The law places limits on arbitrary detention; however, security forces continued to arrest and detain citizens arbitrarily. Such detentions most often were connected with demonstrations, some of which were not authorized (*see* Section 2.b.). Politically motivated arrests continued, although most of those arrested were released within a few days or hours.

Both the Criminal Procedure and Administrative Codes specify that police may detain a person for up to 3 hours without providing any explanation for the detention, and the authorities frequently used this provision to detain opposition members and demonstrators. According to the Criminal Code, police may detain a person suspected of a crime for 24 hours without a warrant, within which time the procurator is notified. The procurator then has 48 hours to review the legality of the detention. If the procurator finds that the detention is legal, a suspect may be held for a maximum of 10 days without a formal charge. However, once the decision is made to hold a suspect, formal charges generally are filed. Once a suspect is charged, a trial must be initiated within 2 months, although in some cases the procurator general may extend pretrial detention to 18 months to allow for further investigation. Alternatively a suspect who has been charged may be released on a written pledge not to flee, in which case there is no time limit on pretrial investigation. The law gives detainees the right to petition the court (rather than the procurator) to determine the legality of their detention. In practice the appeals of suspects seeking court review of their detentions are frequently suppressed because detention officials are unwilling to forward the appeals. Statistics on the number of persons in pretrial detention and the average length of such detention were not available. No provision for bail exists under the legal code.

Despite legal protections, investigators routinely failed to inform detainees of their rights and conducted preliminary interrogations without giving detainees an opportunity to consult counsel. In some cases the information gained in interrogations conducted without counsel was used against the defendant in court. Access by family members to those detained was at the discretion of the investigators and they frequently were not notified when a family member, even a juvenile, was detained.

Lengthy pretrial detention periods were common. At year's end, for example, the following persons remained in detention: Mikhail Leonov, director general of the MTZ tractor factory had been in pretrial detention since his arrest in early January on corruption charges; artist Ales Pushkin had been in detention since he was arrested in Minsk in July for attempting to stage a performance on Republic Day, the date authorities mark the liberation of Minsk from German Nazi occupation; entrepreneur Oksana Novikova remained in detention after having been arrested on October 17 for passing out anti-Lukashenko leaflets in Minsk's Oktyabrskaya Square; and 61-year-old industrialist and recent presidential candidate Leonid Kalugin had been in pretrial detention since November 2001, when he was charged with abuse of power, illegal currency practices, and illegal business activity.

Unidentified plainclothes officials working for the security services also regularly apprehended and detained individuals engaged in antiregime demonstrations and in the distribution of opposition materials. There were several reports that individuals and members of organizations involved in publishing opposition media were arrested and detained (*see* Section 2.a.). Security officials also held some detainees incommunicado following demonstrations. In addition to the hundreds of antiregime protesters, many of whom authorities held for several hours or days, authorities also held several prominent political detainees for prolonged periods of time in pretrial detention. In some cases these detentions lasted more than 1 year (*see* section 1.c.).

While the Constitution does not address forced exile and the authorities did not generally use forced exile, there were credible reports that the security services threatened opposition political activists and trade union leaders with criminal prosecution or physical harm if they did not cease their activities and depart the country.

*e. Denial of Fair Public Trial.*—The 1994 Constitution provides for an independent judiciary; however, in practice the judiciary was not independent and was unable to act as a check on the executive branch and its agents. The 1996 Constitution further subordinated the judiciary to the executive branch by giving the President the power to appoint 6 of the 12 members of the Constitutional Court, including the chairman. The remaining 6 are appointed by the Council of the Republic which itself is composed of individuals appointed by the President or those deferential to the President. The President appoints the chairmen of the Supreme Court and the Supreme Economic Court. The President also has the constitutional authority to appoint and dismiss all district and military judges.

The criminal justice system has three tiers: District courts, regional courts, and the Supreme Court. The Constitutional Court was established to adjudicate serious constitutional issues; however, because it was dependent on the executive branch, it did not in practice challenge presidential initiatives. The Constitutional Court has no means of enforcing its decisions.

Prosecutors, like the courts, were organized into offices at the district, regional, and republic levels. They ultimately were responsible to and serve at the pleasure of the Procurator General, who was appointed by the Council of the Republic. Prosecutors were not independent and did not have the authority to bring charges against the President or the Presidential Administration.

A Presidential decree subordinates all lawyers to the Ministry of Justice, which controls the licensing of lawyers; therefore, the bar association also was to a considerable extent under Ministry of Justice control. According to international legal experts and human rights monitors, the decree seriously compromised the independence of lawyers from the authorities. For example, authorities disbarred human rights lawyer Igor Aksyonchik for his participation in the trial of the convicted kidnapers of ORT cameraman Dimitri Zavadsky (see section 1.b.).

Both the 1994 and 1996 Constitutions provide for public trials, although there can be exceptions in cases established by law (for example, in cases of rape or on grounds of national security). The courts increasingly closed trials to observers. The September 11 libel trial of Viktor Ivashkevich was closed to the public (see Section 2.a.). International and domestic observers were also barred from the trials of Pahonia journalists Nikolai Markevich and Pavel Mazeyko (see Section 2.a.). Judges adjudicated trials. Only in the case of capital offenses in which the defendant pleads not guilty and demands a jury trial did juries determine innocence or guilt. Since judges were dependent on the Ministry of Justice for sustaining court infrastructure and on local executive branch officials for providing their personal housing, there were widespread and credible reports that executive and local authorities dictated the outcome of trials to the courts. The Procurator's Office denied these assertions.

Defendants have the legal right to attend proceedings, confront witnesses, and present evidence on their own behalf; however, in practice these rights were not always respected. By law detainees must be allowed unlimited access to legal counsel and for those who cannot afford counsel, the court must appoint a lawyer. However, at times this right was not respected. A district judge denied Yury Belenky access to his lawyer at his October 1 trial for holding an unsanctioned demonstration (see Section 2.a.).

The Constitution establishes a presumption of innocence; however, in practice defendants frequently had to prove their innocence. According to 1998 statistics, the latest available, from the Belarusian Helsinki Committee, criminal charges were brought by prosecutors against 59,700 individuals. Of these only 272, or fewer than 0.5 percent, were found to be not guilty.

Both defendants and prosecutors have the right to appeal court decisions, and most criminal cases were appealed; however, appeals rarely resulted in reversals of verdicts. In an appeal, neither defendants or witnesses appear before the court; the court merely reviews the protocol and other documents from the lower court's trial. Throughout the year, anti-regime protestors arrested after demonstrations were subjected to assembly-line style trials, often without the right to counsel or the opportunity to present evidence or call witnesses (see Section 2.b.). For example, Vintsuk Vyachorka, the leader of the opposition Belarusian Popular Front, was sentenced to 15 days in prison in 2001 for holding an unsanctioned rally in March of that year; at his trial he was not allowed an appeal or a closing statement.

On April 3, the Prosecutor General's Office announced that it had taken Yury Yankelevich, a department head at the Gomel State Medical Institute, into custody



in connection with the June 2001 bribery investigation against a university professor, Yury Bandazhevsky. The Prosecutor's Office alleged that in 1997 while working for the institute, Yankelevich accepted a large bribe, which he shared with Bandazhevsky. Seven other faculty members in addition to Yankelevich were charged with bribery. However, in each case the courts suspended sentencing. Bandazhevsky and another professor, Vladimir Revkov, had been convicted of bribery in June 2001, after a 4-month trial and sentenced to 8 years in prison. Revkov, who had already spent 19 months in a local pretrial detention cell, is the former deputy rector of the Gomel State Medical Institute, and Bandazhevsky is a former rector of the Institute. Testimony from students and parents reportedly was coerced.

Andrei Klimov of the disbanded elected Parliament was released from prison in April. He had been convicted in 2000 on what were considered widely to be fabricated charges of malfeasance and large-scale embezzlement in the handling of government contracts at a property development firm that he ran.

There were no other reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, these rights were not respected in practice. The interception of telephone and other communications without a court order is prohibited; however, in practice the regime continued to monitor residences, telephones, and computers. The KGB, MVD, and certain border guard detachments use wiretaps, but under the law they must obtain a prosecutor's permission before installing them; in addition, the KGB entered homes, conducted unauthorized searches, and read mail without warrants.

The prosecutor's office exercised no independence, effectively rendering the due process protections regarding wiretaps meaningless. The Administrative Offenses Code provides penalties for those who obstruct KGB officers in the performance of their duties. Any effort to prevent KGB officers from entering the premises of a company, establishment, or organization is a criminal offense, as is any refusal by such entities to allow audits or to deny or restrict access to company information systems and databases. Contracts used by the Ministry of Communications for supplying telephone service forbid subscribers from using telephone communications for purposes that run counter to state interests and public order. The Ministry has the authority to terminate telephone service to those who breach this provision; however, there were no reports during the year that the Ministry exercised this authority.

Nearly all opposition political figures report that the authorities monitored their activities and conversations. The regime did nothing to refute these reports. Representatives of certain NGOs also said that their conversations and correspondence were monitored routinely by the security services. On September 9, UCP leader Anatoly Lebedko asked the Prosecutor General's Office to investigate the illegal wiretapping and publication of his private conversation with a Russian parliamentarian. Giving no reason, the Prosecutor General declined to investigate the charge.

The Presidential Guard (or security service) reportedly continued to conduct surveillance activities of the President's political opponents. There was no judicial or legislative oversight of the Presidential Guard's budget or activities, and the executive branch repeatedly thwarted attempts to exercise such oversight. Some regime officials are themselves monitored. Militia officers assigned to stand outside diplomatic missions are known to keep records of visits by political opposition leaders. On November 4, opposition leader Anatoly Lebedko was detained forcibly near a foreign Embassy by plainclothes officers who refused to identify themselves. They drove him to the KGB headquarters and issued him a formal warning that he would be charged with treason if he did not cease his contacts with foreigners. Some opposition figures expressed reluctance to visit foreign embassies due to fear of reprisals.

Harassment in the form of inspections by security officials and confiscation of political literature, often without warrants, was widespread. Targets included opposition candidates and their supporters. In March opposition leaders traveling to a conference in Lithuania were subjected to detailed personal searches at the border, and UCP leaders Lebedko and Romanchuk had their papers and laptop confiscated upon return from an October conference in Prague.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—Both the 1994 and 1996 Constitutions provide for freedom of speech as well as the freedom to receive, retain, and disseminate information; however, the regime restricted these rights in practice. Laws and decrees restrict freedom of expression by limiting citizens' use of symbols and words on posters and by overly broad interpretation of libel laws to restrict criticism of regime officials and activities. The regime restricted freedom of the press in many ways, including: Use of libel laws, limitations on foreign funding, pressure on businesses not to advertise with independent media, limitations on access to newsprint, denial

of accreditation to critical journalists, censorship, restrictions on the import of media-related materials, temporary suspension of opposition periodicals, legal action against the main independent publishing house, and detention of individuals seeking to distribute opposition newspapers. The regime made use of its monopoly on television broadcasting to present biased news coverage and to minimize the presentation of opposing points of view. These restrictions on press freedom were particularly severe in the period before the September 2001 presidential election.

The executive branch continued its suppression of freedom of speech. A 1997 presidential decree prohibits a range of broadly defined activities and limits freedom of expression. The decree prohibits individuals from carrying placards or flags bearing emblems that are not registered officially with the State, as well as emblems, symbols, and posters that intended to harm the State and public order or rights and legal interests of the citizens. The decree also bans activities that demean state authorities. This decree has been used to prosecute and fine those carrying symbols emphasizing the country's independence, such as the red and white flag. A 1998 decree limited citizens' right to express their own opinions. In 2001 Ales Abramovich, Alesia Yasiuk, Nadzeya Grachukha, and Dmitry and Mikhail Kuznitsov were arrested and charged with defamation for verbal abuse of the president's honor and dignity during the course of a 30-minute demonstration in Borisov. Throughout the year, the regime fined, warned, or jailed members of the media, members of opposition and religious groups, and others who publicly criticized the regime. On October 17, Oksana Novikova was arrested for distributing anti-Lukashenko pamphlets in Minsk and charged with slandering the President. She was subsequently released. The defamation law makes no distinction between private and public persons in lawsuits concerning defamation of character. A public figure who was criticized for poor performance in office may ask the prosecutor to sue the newspaper that printed the criticism.

The newspapers and other print media with the largest circulation were state-owned, although there also were a number of independent publications, some of which were critical of the regime. Independent newspapers were available widely in Minsk, but outside of the capital, variety was limited to the state-run national newspaper and local newspapers, only some of which were independent.

All nationally-available radio and television broadcasts originating in the country were government-owned, although some broadcasts from other countries, including Russia, Poland and Lithuania, could be received in many parts of the country. State-controlled Belarusian Television and Radio (BTR) maintained its monopoly as the only nationwide television station. Its news programs regularly featured reporting that was biased heavily in favor of the authorities, sharply critical of opposition politicians, and failed to provide an outlet for opposing viewpoints. Local, independent television stations operated in some areas and reported local news relatively unhindered by the authorities. However, most of these stations reported that they were under pressure not to report on national level issues or were subject to censorship.

The law stipulates that public insults or libel against the President may be punished by up to 4 years in prison, 2 years in a labor camp, or by a large fine. The authorities also continued to make use of the articles in the criminal code which prohibits slandering and insulting the President or government officials to stifle press freedom. The criminal code provides for a maximum penalty of 5 years' imprisonment for such offenses. According to the Belarusian Association of Journalists (BAJ) President Zhana Litvina, the laws penalizing slander of a government official effectively impose a ban on press criticism of the regime. In September BAJ began to collect signatures for a petition to remove the three articles, but the regime had not responded to the petition by year's end.

On June 25, a court in Grodno sentenced Nikolai Markevich, editor-in-chief of the independent newspaper Pahonia, and Pahonia journalist Pavel Mozheiko, to 2 ½ and 2 years of khemia (internal exile), respectively. The two were convicted of printing a libelous article about President Lukashenko in a September 2001 issue of Pahonia. During the 2-month trial, local authorities attempted to prevent media, human rights observers, and international diplomats from attending the trial.

On August 27, chief editor Pavel Zhuk announced the closure of the independent newspaper Nasha Svoboda. One of the country's leading independent newspapers, Nasha Svoboda closed after a Minsk court handed down a fine of \$55,000 (96.5 million rubles) in damages in a libel suit filed by Anatoly Tozik, chief of the state control committee. Tozik claimed an article injured his reputation. Unable to collect the fine, the regime seized Nasha Svoboda's equipment and froze the newspaper's bank assets.

On September 21, the Prosecutor General's Office initiated libel proceedings against Beloruskaya Delovaya Gazeta journalist Irina Khalip. This action was in re-

sponse to Khalip's articles about investigations by the authorities into the alleged corrupt business practices of Viktor Kozeko, the former head of a large state-owned food concern, Belgospisheprom, and his son. The Prosecutor's Office also issued a warning to Delaya Sluzhebnoho Polzovania, a monthly supplement featured in Belorusskaya Delaya Gazeta.

On October 15, a Minsk City court panel upheld a previous court decision sentencing Viktor Ivashkevich, editor-in-chief of the independent newspaper Rabochy, to 2 years "restricted freedom" for defaming the president.

On July 25, frustrated with press mockery of the annual harvest campaign, Lukashenko ordered the Minister of Information to bring the opposition press "to its senses." Information Minister Mikhail Podgainy responded by stating his intent to use personal tools to influence the independent press. Podgainy said he could easily find infractions and issue warnings to periodicals. The Minister relied on dialog with the independent press and noted that non-state periodicals had been publishing "more objective materials" lately. Minister Podgainy also said that his government did not instruct the state-controlled press what and how to write. He did admit to the use of "reference points for the state media" which provided guidance on event coverage.

On October 16, according to the Belorusskaya Delovaya Gazeta, Information Minister Mikhail Podgainy instructed the editors-in-chief of FM band radio stations on what they should include in news broadcasts.

On November 29, the Ministry of Information voided the registration of the Mestnoye Vremya newspaper. According to the editor in chief, the newspaper had been subject to a series of check-ups, fines, and harassment since it first began to publish on October 31.

Independent newspapers continued to be subjected to pressure from the regime. The law specifies that the regime may close down a publication after two warnings. On February 4, the authorities issued a warning to the independent newspaper Nasha Niva following the publication of an article on the Belarusian Autocephalous Orthodox Church (*see* Section 2.c.). In May a court overturned the warning. On March 29, the Ministry of Justice issued a warning to the independent newspaper Narodnaya Volya after it published an article alleging that Lukashenko was involved in illicit weapon sales to rogue states. On February 7, Irina Makovetskaya, a reporter for the newspaper Belaruskaya Delovaya Gazeta was warned by the General Prosecutor's Office for publishing an article about police brutality.

The regime's use of presidential decrees was another obstacle for independent press. In March 2001, in a step designed to discourage foreign support for independent media, the regime published a decree "On improving the system of receipt and use of humanitarian assistance." Ostensibly aimed at stopping foreign-supported seditious activity, the decree specifically prohibits foreign-supported "activities directed at alteration of the constitutional order, overthrow of state power or encouragement of such activities . . . preparation, administration and organization of elections, referenda, organization of meetings, rallies, demonstrations, pickets, strikes, publication and distribution of promotional materials, organization of seminars and other types of promotional activities involving the population." The decree was the basis for a nationwide crackdown during the electoral campaign on independent media outlets and independent NGOs, many, if not most, of which are supported by the international community. The regime utilized tax inspections and confiscation of printed matter and equipment to immobilize much of the prodemocratic opposition throughout the campaign, thus severely restricting freedoms of speech and expression (*see* Section 1.f.).

According to a presidential decree in 2000, the independent press is prohibited from using the country name in its titles. The decree on "the Use by Legal Entities of the Name of the Republic" allows only legal entities specially authorized by the President to use the name of the country in their titles. In order to ensure loyalty to the authorities, a 1996 presidential decree designated all editors-in-chief of state-supported newspapers as state employees and members of their respective local-level government councils. Another decree granted the Ministry of Press the authority to assign graduates of state-supported journalism schools to work in state-owned media organizations as a way to repay their schooling.

Regulatory provisions grant the authorities power to ban and censor critical reporting; for example, the State Committee on the Press was given authority to suspend the publication of periodicals or newspapers for 3 months without a court ruling. Amendments to the law prohibit the media from disseminating information on behalf of political parties, trade unions, and NGOs that are not registered with the Ministry of Justice.

In an August 22 news conference, BAJ maintained that the Ministry of Information had no right to intervene in the ongoing conflict between the founders of the

independent newspaper, Svobodniye Novosti. According to BAJ lawyer Andrei Bastunets, the Minister of Information had already instructed Belarusian Print House to consider Svaboniye Novosti activities suspended.

In an August 28 statement in response to the liquidation of the independent newspaper Svobodniye Novosti, the BAJ called for the resignation of Information Minister Mikhail Podgainy. The BAJ accused Podgainy of indirectly censoring the press by threatening to close newspapers, attempting to use the state press as an instrument of propaganda, attempting to restrict public discussion of the new draft law on media, and refusing to seek European expertise during the draft law's preparation.

During the year, the independent newspaper Narodnaya Volya was sued by several individuals following its publication of articles they claimed to be libelous. In June a Minsk city court temporarily froze the bank account of Narodnaya Volya, after two judges in Zhodino filed a libel suit against the newspaper for an article considered to be libelous. On September 20, a Minsk court ordered the confiscation of approximately \$2,630 (5 million rubles) worth of Narodnaya Volya's equipment as a settlement for another libel suit that was brought by another judge. However, on December 25, the General Prosecutor's Office rejected a request by Leonid Kozik, Chairman of the Belarusian Federation of Trade Unions of Belarus (FTUB), to close the newspaper following the newspaper's publication of an article critical of an FTUB meeting.

One effect of libel prosecutions and other measures taken by the regime has been to encourage self-censorship. BAJ Vice President Eduard Melnikov said, "Many non-governmental newspapers have abandoned sharp reporting and their staff have embarked on a path of self-censorship, which is unacceptable in normal journalism." The regime issued only two official warnings this year concerning press law violations, compared with 80 in 2001.

On August 12, Leonid Kozik, personal choice of Lukashenko as chairman of the Belarusian Federation of Trade Unions (FTUB), informed the staff of the FTUB newspaper, Belaruski Chas, that he had sacked their editor-in-chief, Aleksandr Starikevich, because of his unwillingness to cooperate with him. Among other reasons for the dismissal, Kozik claimed the former editor-in-chief refused to show him the layout of a newspaper issue. Kozik also cited Starikevich's opposition to the Belarusian-Russian union and his failure to publish a story on Kozik's election as FTUB chairman at the top of the front page (*see* Section 6.a.).

Several independent journalists were beaten by unknown assailants or by the authorities during the year. On March 17, Oleg Suprunyuk, a correspondent for Radio Liberty and deputy chief editor of the local independent newspaper Brestsky Kuryer, was beaten by unknown assailants and hospitalized. On May 4, unknown assailants also attacked Yuri Grimenyuk, an independent journalist in Grodno. On September 8, Stanislav Pochobut, another independent journalist from Grodno, was beaten by police officers after police stopped him. Pochobut was also one of three journalists detained by local authorities in the town of Pogranichny prior to the regime's destruction of a Belarusian Autocephalous Orthodox church (*see* Section 2.c.).

In addition to ruling by decree, the regime continued to use its near-monopolies on newsprint production, newspaper printing and distribution, and national television and radio broadcasts to restrict dissemination of opposition viewpoints. The regime also denied accreditation to journalists critical of the regime and kept up economic pressure on the independent media by pressuring advertisers to withdraw advertisements, as well as by fines and other administrative harassment. The authorities increased their campaign of harassment against independent media, including open censorship, requiring some independent publications to remove stories, forcing them to publish blank pages or spaces.

A 1997 decree by the Council of Ministers restricts the movement of certain goods across customs borders; the decree specifically prohibits the import and export of printed, audio, and video materials, or other news media containing information "that could damage the economic and political interests of the country." In addition, authorities searched vehicles at border crossings and on several occasions confiscated nonpartisan campaign materials being brought into the country.

A 1997 Council of Ministers decree nullified the accreditation of all correspondents and required all foreign media correspondents to apply for accreditation with the Ministry of Foreign Affairs. In April the authorities refused to accredit a film crew from the Russian television network NTV. Authorities also issued a warning to NTV reporter Pavel Selin about his "preparation of biased reports." Selin had previously filed several news reports critical of the regime.

Although there were several Internet service providers in the country, they were all state controlled. The regime's monopoly on Internet service results in high prices, poor quality, limited service and allows the regime to monitor practically all e-mail.

Although the authorities had full control over the Internet because access was provided by Beltelecom—a state-owned monopoly—they appeared to be cutting off access selectively. In March the human rights NGO Vyasna reported that it was unable to access its web site for 3 days following the Internet posting of statements made by Sergei Tsurko, a lawyer for the Zavadsky family (see Section 1.b.). In April the opposition organization Charter 97 reported that unknown hackers destroyed their organization's web site.

In addition to restrictions placed on the media, the Lukashenko regime continued to restrict academic freedom. University administrators targeted and strongly discouraged research into politically sensitive subjects, such as the country's independence movement during the Soviet era, a theme that is seen to challenge the regime's policy of integration with Russia. In June 2001, the regime required that all independent, non-state academic institutions must obtain special permission from the authorities to hold educational seminars or lectures. There were also credible reports that independent universities engaged in self-censorship. The European Humanities University, one of the country's leading independent universities, reportedly asked students to refine or rethink dissertation topics if that topic was likely to embarrass the regime.

The regime also continued to harass students engaged in anti-regime activities, such as demonstrations (see Section 2.b.). During the year, the authorities harassed members of the unregistered Association of Belarusian Students (ABS). On February 15, unknown assailants broke into an ABS office in Minsk and attacked several ABS members present and stole computer equipment from the office. In April 10 members of the ABS were arrested in Grodno for illegally distributing pamphlets. In November the Maxim Tank Belarusian State Pedagogical University reprimanded several members of the ABS and expelled Ales Tarasov, a member of the ABS, for his activities with the group. Another ABS member, Kristina Vituchko, was reportedly accused by the KGB of leading a terrorist group comprised of students at the university.

*b. Freedom of Peaceful Assembly and Association.*—The 1994 and 1996 Constitutions both provide for freedom of peaceful assembly; however, the regime severely restricted this right in practice. Following many unsanctioned demonstrations, police and other security officials beat, detained, and attempted to coerce confessions from some demonstration participants.

Organizers must apply at least 15 days in advance to local officials for permission to conduct a demonstration, rally, or meeting. Under the law, the local government must respond with a decision no later than 5 days prior to the scheduled event. However, such permits were not routinely issued. Since the September 2001 elections, in most cases such permits either have not been granted, or have been granted only for demonstrations in obscure, hard-to-reach locations.

During the year, the Ministry of Justice challenged the registration of several opposition parties over their legal addresses. According to the law, all public organizations must register with the Government. These organizations were unable to obtain space in office buildings since many locations were either owned by the Government or were too expensive. Instead, they must operate out of private apartments that the Government did not consider legal addresses.

The law limits citizens' ability to assemble peacefully by restricting the locations where rallies may take place and allowing local authorities to place strict limits on the number of participants. The decree also prohibits the display of unregistered flags and symbols, as well as placards bearing messages deemed threatening to the State or public order (see Section 2.a.). The decree, along with subsequent amendments adopted by the legislature, imposes severe penalties on violators, particularly the organizers of events. The decree allows for either monetary fines or detention of up to 15 days, but courts frequently imposed high fines that the convicted cannot reasonably afford to pay. The courts punished organizers of rallies with fines of several times the average monthly wage. When individuals failed to pay fines, authorities threatened to confiscate their property.

In May 2001, Lukashenko issued a decree banning all demonstrations by unregistered organizations, limiting participation in any demonstration to under 1,000, and including a specific prohibition against the wearing of masks. According to members of opposition parties, the authorities frequently denied permission to opposition groups to meet in public buildings. Nevertheless public demonstrations occurred frequently in Minsk, varying in size from a few participants to several thousand. However, they were always under strict regime surveillance, including open videotaping of the participants by the police and plainclothes security officers. Demonstrations also occurred in other parts of the country but were less frequent, especially in eastern areas close to the border with Russia.

Following March 24 Freedom Day demonstrations in Minsk and Grodno, police beat a number of demonstrators. On March 25, a judge of Minsk's Sovetsky District Court sentenced two police investigators to prison terms for beating suspects. The following day, a judge of Minsk's Oktyabrsky District Court convicted five police officers of torture and brutality.

On April 16, Vasily Parfendov and Ales Poklad were beaten when plainclothes police, led by chief of the Sovetsky district police post Nikolai Buslo and his deputy Yevgeny Gurenkov, raided their tent at the Kuropaty memorial site near Minsk, scene of numerous, often violent demonstrations against a government road widening project over mass graves of the victims of Stalinist purges. The raid came immediately after they filed a complaint with police over several previous attacks by unknown assailants. On April 19, their tent was set afire and Ales Poklad received 2nd and 3rd degree burns to 15 percent of his body. The victims charge the fire was set intentionally. The protest site was guarded heavily by police day and night at the time, yet no one ever was charged with the assaults or arson.

On April 19, police beat 40 demonstrators after demonstrations. Six persons were hospitalized including prominent human rights defender and journalist Valery Shchukin. Demonstrators reported that they were lined up against a wall and beaten by police at the detention center.

In March 2001, Police in Grodno detained and beat photojournalist Dmitry Yegorov for taking photos of a heavy police presence in the center of town in advance of a Freedom Day march. On the same day, unidentified assailants widely believed to be linked to the police beat Vladimir Shlapak, a photojournalist in Minsk, while he was covering a similar march.

In 2001 15 cases against police officers went to trial in Minsk alone. Several officers received heavy prison sentences. Commenting on the trials of police officers charged with abuse of power, retired police Lt. General Mecheslav Grib told journalists on March 28 that, "There are so many abuses in the police's performance that it is impossible to hide them."

There were some incidents of police interference with demonstrations. On February 14, three Zubr youth group activists were detained in Gomel after a street performance called St. Luke's Day in a local park. In April the Malady Front youth group announced that the police arrested activists before demonstrations on February 14 and March 24 to prevent them from participating in the demonstrations. On April 2, a Russian NTV crew including Pavel Selin, Konstantin Morozov and Dmitry Davydenko were detained on a Minsk street before and released after 1 hour. On May 1, plain-clothes police arrested union member Yuri Ryzhkov for carrying a white-red-white flag at a rally.

At times individuals who had not been part of the demonstrations, but only innocent bystanders, were also arrested. Riot squad units stopped individuals on the street and dragged them from the sidewalk even when the demonstration was blocks away. These individuals then were charged with taking part in an unlawful demonstration. On March 24, approximately 50 persons were arrested in central Minsk at a demonstration to mark the 84th anniversary of the Belarusian National Republic. In this case, arrests started even before the demonstration began. Police also detained a bus with a children's choir that was to participate in the demonstration.

The Constitution provides for freedom of association; however, the authorities severely restricted this right in practice. During the pre-election period in 2001, the authorities regularly harassed members and supporters of opposition parties and confiscated leaflets and publications (*see* Section 3). Authorities also continued to attempt to impose severe limitations on the activities of NGOs (*see* Section 4). Employees at state-run enterprises were discouraged from joining independent trade unions (*see* Section 6.a.) and officials warned alumni of foreign-sponsored education programs against continued affiliation with their programs' sponsoring agencies.

A 1999 Presidential decree requiring all political parties, trade unions, and NGOs to reregister with the authorities by July 1, despite the fact that such public associations had already completed a lengthy reregistration process in 1995. In another 1999 regime action, Lukashenko signed into law amendments to the Administrative Offenses Code that made any work on behalf of an unregistered NGO punishable by fine. Observers believed that the intent of the decree, which increased the scope of operations and the number of members that organizations needed in order to qualify for reregistration, constituted political intimidation. The regime also announced regulations that prohibited private organizations from using private residences as their legal addresses. In light of regime control or ownership of many office buildings, the regulations had the effect of complicating the reregistration process by making nonresidential addresses difficult to establish.

After the reregistration process had begun, the authorities announced that in addition to registering, organizations would have to alter their charters to indicate recognition of the 1996 Constitution and to exclude the words “popular” or “national” from their titles. In 1999 an amendment to the Law on Public Associations codified this announcement by prohibiting political and social organizations from using the words “Belarus,” “Republic of Belarus,” “national,” or “popular” in their titles. Although most of the major political parties and unions that applied were allowed to reregister, the Assembly of Belarusian Prodemocratic NGOs reported that only 1,268, or 57 percent of the NGOs in existence when the reregistration law went into effect, were reregistered by the summer of 2000. A total of 202 NGOs were rejected by the Ministry of Justice for reregistration on various grounds, and 31 were still in the process of reregistering at year’s end.

In 2001 the Ministry of Justice outlawed the activities of Independent View, an independent domestic election monitoring organization, on the grounds that the organization failed to register with the authorities. They made this decision despite the fact that Independent View was a name for a joint initiative launched by several officially registered democratic NGOs.

*c. Freedom of Religion.*—The 1994 and 1996 Constitutions provide for freedom of religion; however, the authorities restricted this right in practice. Although both Constitutions affirm the equality of religions and denominations before the law, the 1996 Constitution stipulates that cooperation between the State and religious organizations “is regulated with regard for their influence on the formation of spiritual, cultural, and country traditions of the Belarusian people.”

On October 22, the Parliament approved a new law on religion, despite protests from international and domestic human rights organizations as well as Orthodox religious groups not affiliated with the Russian Orthodox Church. The law contains a number of very restrictive elements. Observers fear that the regime will use these provisions to hinder and to prevent the activities of non-Russian Orthodox religious groups. According to the new law, which took effect in November, all religious organizations must undergo compulsory reregistration during the 2 years following its passage. In order to become registered, religious groups must meet specific requirements for the size of their membership and number of years during which they had been active in the country. This would prevent the registration of groups that have become active in the country only recently. Registered religious organizations must have 20 members and have been active for at least 20 years. Regime officials stated publicly that no organization that was registered when the law was enacted would lose its registration status even if it failed to meet the new criteria for registration, but the leaders of some minority religious groups were skeptical of this assurance. In addition to specifying minimum membership and years of activity in the country, the law restricts the ability of registered religious organizations to conduct religious education, requires all religious groups to receive governmental approval to distribute literature, and prevents foreigners from leading religious organizations. The authorities began to enforce the new religion law against nontraditional faiths. On December 27, police in Grodno detained and warned members of a local Hare Krishna organization who were distributing religious material without permission.

Before and during the June debate on the draft law on religion, several deputies in the lower house of the Parliament made statements that were xenophobic and anti-Semitic. Sergei Kastsyan reportedly charged that the adoption of the religion law was necessary to “put up a barrier against all these Western preachers who just creep into Belarus and discredit our Slavic values.” During the June 26 debate in the lower house, at least one deputy argued that Jews should not be considered citizens of Belarus. Another deputy suggested that a “reservation” be established for religious minorities.

There is no state religion; however, the authorities pursued a policy favoring the Russian Orthodox Church as the country’s chief religion and harassed other denominations and religions. During his May Easter address, Lukashenko said, “The State has always stayed and will stay beside the Church, which brings good to the people.” Following the address, the regime earmarked approximately \$570,000 (1 billion rubles) for the construction of an Orthodox Church in Mogilev.

Besides granting the Russian Orthodox Church special financial advantages that other denominations did not enjoy, Lukashenko has declared the preservation and development of Russian Orthodox Christianity a moral necessity. The authorities also encouraged a greater role for the Russian Orthodox Church, largely as part of an overall strategy to strengthen “Slavic unity” in the region and promote greater political unification between Belarus and Russia.

The Committee of Religious and Nationalities Affairs (CRNA) (formerly known as the State Committee on Religious and National Affairs) describes some religions and denominations, including Russian Orthodoxy, Roman Catholicism, Orthodox Juda-

ism, Sunni Islam and Lutheranism as traditional. Some, including some Protestant and other faiths, were viewed as nontraditional. Other faiths, including many Eastern religions, were viewed as sects. This categorization affected the overall attitude of the regime toward these religions, including the ease or difficulty they faced in registering.

The new law on religion passed in October added additional criteria for registration of religious groups, allowing only nationally registered congregations to invite foreign religious workers and open new churches. Without registration, it is also extremely difficult for a religious organization to rent or purchase property for religious services. As a result, police disrupted some peaceful services and religious meetings that were being conducted in private homes because they were held by unregistered religious groups.

The CRNA claimed during the year that 26 religious denominations were registered officially. However, the authorities continued to refuse legal registration at the national level to some faiths considered to be nontraditional, and to all groups considered sects.

According to the regime, the law permits residential property to be used for religious services only after it has been converted from residential use. In 2000 local authorities began enforcing this statute, effectively requiring all religious organizations to reregister their properties as religious properties. Although government figures indicate that 110 religious communities, including 34 Protestant denominations, had their property registered through this process, one Protestant group reported that over 50 percent of Protestant groups were denied registration by local authorities during the reregistration period.

Religious groups that cannot register often were forced to meet illegally or in the homes of individual members. A number of nontraditional Protestant faiths have not attempted to register because they believe that their applications would not be approved.

The regime issued a decree specifying measures to ensure public order and safety during public gatherings. Meeting hall officials have cited this decree as a basis for canceling or refusing to extend agreements with religious groups for the use of their facilities. Nontraditional groups were unable to rent space in meeting halls to conduct prayer services. The Catholic Church opened a new church in Minsk in June; however, it cited difficulties in receiving permission from local authorities to build additional churches in Minsk.

Many Protestant and nontraditional groups experienced problems obtaining property. In August, after a delay of more than 18 months, the CRNA denied permission to the Krishna Consciousness Communities for the construction of a community center. The CRNA denied a registration application by the True Orthodox parish in Minsk that filed its paperwork in June. The delay comes despite a requirement for the CRNA to respond to an application within 3 months of its submission. In 2001 the Government refused permission to the registered New Life Evangelical Church to build a church in Minsk. The Muslim Association in Belarus is registered, but has been unable to construct a mosque in Minsk since local authorities imposed a high tax on the land where the mosque will be built.

On August 1, in the town of Pogranichny, local authorities demolished the church of the Belarusian Autocephalous Orthodox Church (BAOC) that they claimed was built illegally, since the building permit specified a private house. The church was demolished despite the fact that the order to destroy the church was being appealed by the BAO. Local courts continue to refuse to hear appeals made by the BAO to overturn the Lukashenko regime's decision not to register their churches.

Citizens were not prohibited from proselytizing; however, while individuals may speak freely about their religious beliefs, the authorities have intervened to prevent, interfere with, or punish individuals who proselytize on behalf of an unregistered religion. During the year, the regime heavily fined and detained members of unregistered religious groups that engaged in illegal religious activity. Throughout the year, members of the unregistered Hindu community Light of Kaylasa were harassed routinely by local authorities. On July 16, police arrested 18 members of this community as they were preparing to hold a meditation ceremony in Minsk park. Several of those arrested were jailed for 2 days and heavily fined. In a separate incident, 12 members of the Light of Kaylasa were arrested and sentenced to 10 days in jail for participating in an unsanctioned demonstration in downtown Minsk to protest against discrimination against religious minorities. In August unknown assailants attacked several members of the Light of Kaylasa group.

On November 8, the Keston News Agency reported that police detained two Catholic demonstrators who protested against the new Law on Religion outside the Parliament building in Minsk.



Foreigners were prohibited from heading churches, and could only preach at registered churches. They may be invited to the country only with the approval of the CRNA. Foreign missionaries may not engage in religious activities outside the institutions that invited them and must have spiritual activities visas valid for 1 year. Obtaining such visas was a difficult bureaucratic process, even for individuals whose religions are registered with the authorities and have a long history in the country. Foreign clergy or religious workers who did not register with the authorities or who have tried to preach without regime approval or invitation from a registered religious organization have been expelled from the country. Although there were no reports of such expulsions during the reporting period, several Polish Catholic priests were denied entry into the country, despite having valid visas.

The Roman Catholic Church continued to experience a shortage of qualified native clergy, and at times the Church has had difficulty receiving permission from the authorities to bring in a sufficient number of foreign religious workers, mostly from Poland, to make up for the shortage. The regime indicated that foreign priests no longer would be allowed to work in the country; however, 400 Polish pastors were still allowed to work in the country. Bishops must receive permission from the CRNA before transferring a foreign priest from one parish to another.

Authorities in Minsk issued no reports of progress in their continuing investigation into a December 2000 firebombing of a local synagogue.

Restitution of religious property remained limited. There was no legal basis for restitution of property seized during the Soviet and Nazi occupations, and legislation restricts the restitution of property that is being used for cultural or educational purposes.

There were a number of acts of vandalism against religious groups during the year. In January an evangelical Christian group reported that vandals attacked a guard at one of their churches and tied him up. An eyewitness reported that the vandals painted pentagrams on church walls and that a dead cat was found in the church. A Baptist organization reported that unknown individuals smashed the windows of several Baptist churches. In April and July, vandals damaged Jewish cemeteries in several cities. In July a Muslim cemetery in Grodno was vandalized. On July 16, local authorities in Borisov detained a teenager on suspicion of vandalizing a local Jewish cemetery. A Full Gospel Christian church in Gomel reported that unknown vandals damaged its property in August and November. In November unknown vandals defaced a mosque in Slonim and vandalized property belonging to a Full Gospel Christian's Living Faith Church in Gomel. Holocaust memorials in several cities were vandalized during the year.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—According to both the 1994 and 1996 Constitutions, citizens are free to travel within the country and to live and work where they wish; however, the authorities restricted these rights in practice. Passports served as primary identity documents and were required for internal travel, permanent housing, and hotel registration.

In 1999 the Constitutional Court declared unconstitutional an article of the Administrative Code barring enterprises, establishments, and organizations from employing persons without a propiska (pass) or a registered address. Under that article, employers faced fines for giving jobs to persons who had no stamp in their passport indicating that their residence and their new place of employment were located in the same city or district. However, the extent to which this court decision actually affected the practice by local security officials was unknown. In practice the right to choose one's residence remained restricted. In November 1999, the Ministry of Internal Affairs announced a three-stage program to replace the propiska system, but this has not been implemented and the propiska system was still in effect at year's end.

Official entry and exit regulations specify that citizens who wish to travel abroad must first obtain exit visas valid for 1 to 5 years. Once the traveler has this document, travel abroad was not restricted further by law; however, the authorities occasionally limited foreign travel. For example, they delayed issuing "global" exit visas to some opposition activists in an effort to hinder their political activity abroad. In June the authorities refused to issue an exit visa to Andrei Klimov, a former deputy of the 13th Supreme Soviet who was jailed for 4½ years (see Section 1.e.). The regime also delayed issuing passports to opposition politicians, sometimes for several months, in an effort to restrict their travel abroad for political activities.

On October 10, the Minsk City Lawyers Collegium denied prominent human rights lawyer Vera Stremkovskaya permission to travel abroad to attend several international forums. At year's end the authorities had not issued passports to fam-

ily members of BAOC priest Yan Spasyuk despite the fact that the necessary documents were submitted in November 2001 (*see* Section 2.c.).

The regime also limited the travel abroad of members of youth groups that were not considered pro-regime. On March 5, 10 representatives of several opposition parties, NGOs, and media agencies were detained for several hours and subjected to personal searches at the Belarusian border while traveling in a vehicle belonging to OSCE. In July and August, authorities began arbitrarily enforcing a law that requires those traveling to border zones to obtain an entrance pass (*propusk*). Observers believed that the decision to enforce the law was intended to prevent reporting on the August 1 destruction of a BAOC church in the border town of Pogranichny (*see* Section 2.c.). On July 26, a local journalist was fined \$57 (100,000 rubles) for allegedly violating a frontier zone. On August 1, three journalists covering the story were detained on the same charge; one was sentenced to 15 days' imprisonment. The other two were initially fined but the fines were subsequently dropped.

The law restricts the emigration of individuals with access to sensitive state information, and any citizen involved in a criminal investigation also was ineligible to emigrate; however, the authorities did not generally deny any citizen permission to emigrate. Prospective emigrants who have been refused the right to emigrate may appeal to the courts.

The 1994 and 1996 Constitutions give aliens and stateless persons the same rights as citizens, except in cases established by law, international agreement, or the Constitution. Under both Constitutions, the State may grant refugee status to persons who were persecuted in other states for their political and religious convictions or because of their nationality. There is no law on first asylum, nor has the regime signed readmission agreements with any of its neighboring states. The authorities cooperate with the U.N. High Commission for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. As of December there were 642 recognized refugees in Belarus, the majority of whom are from Afghanistan, Georgia, Tajikistan and Ethiopia. As of December, the regime had approved 57 of 113 applications for refugee status filed by applicants. In May the UNHCR opened a center in Vitebsk providing temporary accommodations for 30 persons. The UNHCR noted in a 2000 report that the Minsk city and Minsk regional migration services regularly refused to accept illegally arriving new refugee applicants and instructed such persons to apply with migration authorities in other regions. Regional migration services also continued to refuse applications for refugee status from asylum seekers who came through countries, primarily Russia, that they considered to be safe.

There were no reports of the forced return of persons to a country where they feared persecution; however, refugees often were persons from third world countries seeking to pass through Russia and then Belarus en route to other European countries. The Government often deported such individuals to Russia, despite the fact that the UNHCR does not consider Russia to be a safe country for such purposes.

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

The regime has effectively denied citizens the right to change their government. The President dominates all branches of government. Since his election in July 1994 to a 5-year term as the country's first President, he has consolidated power steadily in the executive branch. He used a November 1996 referendum to amend the 1994 Constitution in order to broaden his powers and extend his term in office and ignored the Constitutional Court's ruling that the Constitution could not be amended by referendum. As a result, the political system is based on the 1996 Constitution, which was adopted in an unconstitutional manner.

The 1996 Constitution limits the legislature to meeting twice a year for a total of no more than 170 days. Presidential decrees issued when the legislature is out of session have the force of law, except, in theory, in a few cases specified in the 1996 Constitution. The 1996 Constitution also allows the President to issue decrees with powers equal to that of law in specific, urgent circumstances, a provision Lukashenko has interpreted broadly. On December 10, local election commissions were formed for the March 2003 municipal government elections. Local executive committees and city councils admitted 13,448 persons to the election commissions; 61 were representatives of political parties and 56 percent had prior election experience. The Central Election Commission (CEC) stated that prior experience in an election was an important factor in considering a nominee's application. Of the 61 political party representatives, 21 represented the pro-Lukashenko Communist Party of Belarus and 2 represented the pro-Lukashenko Agrarian Party. The opposition Belarusian Party of Communists received 19 seats, the Liberal Democratic Party received 11 seats, and the Belarusian Social Democratic Party, *Narodnaya*

Hramada, received 5 seats. The United Civic Party, Belarusian National Front and Social Democratic Party Hramada each received one seat.

During the year, the regime used several tactics to intimidate and restrict the ability of opposition leaders and groups from organizing and publicizing their views. Authorities added three articles to the Criminal Code that made libel of the President a criminal offense. These articles were used to punish not only opposition party members but independent media as well (*see* Section 1.d.). During the year, the regime used excessive force to disperse demonstrations by opposition parties (*see* Section 1.c.). On several occasions the regime directly interfered in the affairs of political parties and organizations. Following intense regime pressure on members of the Women's Party, on August 14 party members voted to replace former Women's Party leader Valentina Polevikova with pro-regime member Valentina Matusevich. Polevikova's removal from power caused a split in the party with Polevikova and Matusevich each leading a different faction of the Women's Party. Observers claimed that the purpose of the regime's pressure to oust Polevikova was to prevent the Women's Party from merging with two Social Democratic parties. Lukashenko called for the pro-Government Communist Party of Belarus to absorb the larger, anti-Lukashenko, Belarusian Party of Communists. On September 6, the pro-Government Belarusian Patriotic Youth Party and the Belarusian Youth Party merged into the Belarusian National Youth Party (BNYP). The merger was orchestrated by Lukashenko and government officials. The new party was given the objective of addressing major problems affecting youth and the regime promised to fund it for 3 years. Most political parties claim to have youth and women movements.

The September 2001 presidential election in which Lukashenko was reelected for a further term was described by the OSCE as fundamentally flawed. The OSCE/ODIHR observer mission, which was hampered by the regime's refusal to allow the mission to travel to the country until 3 weeks before the election, noted in its final report that conditions in the months before the election precluded the possibility of a free, fair, transparent and accountable election. The environment did not provide an equal opportunity for contestants or for the possibility that the public would be informed about the choices available. During the election campaign, coverage of politics, including the election, was very limited. The President and executive branch dominated political coverage in both the electronic and print media.

The regime restricted freedoms and undermined human rights in the period prior to, during, and after the election (*see* Sections 1 and 2). In the period prior to the election, the regime led a sweeping crackdown on antiregime materials, campaign materials, and internationally-supported, nonpartisan, "Get Out the Vote" materials, in addition to beatings, arbitrary detentions, and searches of opposition members and supporters (*see* Sections 1.c., 1.d., and 1.f.). The regime also made use of its near-monopoly of the mass media to undermine all opposition candidates, particularly Vladimir Goncharik, who was regarded as the most credible opposition candidate. The OSCE/ODIHR Limited Election Observation Mission documented 26 separate incidents of human rights violations involving freedom of the press and expression (*see* Section 2.a.). On September 5, just 4 days before the election, the major State-owned newspaper doubled its print run to print the election platform of the incumbent, in direct contradiction of CEC regulations. The regime-appointed CEC took no action. The head of the CEC stated publicly that it would be a personal tragedy for her if the incumbent lost.

The voting and vote counting processes further restricted the rights of citizens to change their government. The OSCE/ODIHR report found that the voting procedures, including mobile ballot boxes, early voting procedures, and handling of voting lists provided several possible avenues for vote manipulation. However, most of the irregularities were not immediately reported. The OSCE/ODIHR also observed that the Electoral Code did not allow a transparent audit by election observers, which raised questions about the overall integrity of the process. This was a particular concern in light of the total domination of voting commissions, which were charged with conducting the election, by regime supporters. In some cases, members of the precinct electoral commission themselves openly expressed disagreement with the final announced tally, suggesting that it did not reflect the count conducted; however, they were silenced rapidly. The physical speed with which some of the counts were conducted also was suspect, since those precincts with the largest geographic area and those with the highest turnout were always among the first to report results. For example, the OSCE noted that only 2 hours after the close of polling stations, Minsk Oblast, excluding the City of Minsk, had reportedly counted 70.7 percent of all ballots, whereas Minsk City had at that point counted only 6.56 percent.

A large difference between the results of pre-election polls and the official tally also suggested widespread manipulation of the totals.

The October 2000 parliamentary elections also failed to meet international standards for democratic elections. The regime severely restricted public participation on the electoral commissions and candidate registration procedures were abused systematically to prevent candidates opposed to the regime from getting on the ballot. Campaign activities were regulated excessively and heavily biased state-controlled media severely limited candidates' access to the media and the voters' choice of candidates. During the elections, provisions for early voting, mobile ballot boxes, vote counting, and the aggregation of results fell far short of minimum transparency requirements for independent verification.

Of the 107 deputies in the Lower House of Parliament, 12 were women, while 18 of the 63 members of the Upper House of Parliament were women. With the exception of the judiciary, social barriers to women were strong, and men held virtually all of the leadership positions. The Minister of Social Security was the only female member of the Council of Ministers. The head of the regime's Central Election Commission was also a woman.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Several domestic human rights groups were active in the country; however, members of domestic human rights groups reported that the authorities hindered their attempts to investigate alleged human rights violations. The authorities monitored NGO correspondence and telephone conversations (see Section 1.f.). They also harassed NGOs by bureaucratic means.

On November 27, the Minsk city Justice Department issued a warning to the Human Rights Center for having changed the emblem displayed above the organization's entranceway without permission. The Center also was cited for changing its address to one not listed in its registration documents, for not numbering the minutes of its meetings, and for discussing issues that were allegedly inconsistent with the objectives set out in its charter. If the organization received another warning within a year, it would be subject to closure by the authorities. Some observers linked this treatment with local elections scheduled for March 2003.

In 2001 prior to the Presidential elections, the authorities attempted to limit the activities of NGOs by implementing a time-consuming reregistration process, rejecting their registration applications, conducting questionable tax audits, confiscating their equipment, and denying them access to foreign support (see Section 2.b.). There were widespread robberies of offices of several media outlets and NGOs that were investigating independently the disappearances of prominent individuals associated with the opposition. In all cases, computers were smashed, but not stolen; only hard drives or floppy disks were removed, and nothing else of value was taken. Most human rights observers believed that members of the security services perpetrated these robberies. While break-ins and questionable tax audits were particularly widely used in the 2001 pre-election period, they remained problems in 2002 as well.

The country's poor human rights record continued to draw the attention of many international human rights organizations. In general the authorities have been willing to discuss human rights with international NGOs whose members have been allowed to visit the country; however, members of some NGOs have been refused permission to make such visits, and the authorities have increased their harassment of international NGOs working in the country. The authorities regularly harassed NGOs through taxes.

In April the regime demanded that the mandate of the OSCE Advisory and Monitoring Group (AMG), which it accused of supporting the opposition against the regime in the 2001 elections, be renegotiated. Acting Head of Mission Michel Rivollier was the first OSCE official to depart Belarus when his diplomatic status expired on April 15. The Government decision to deny AMG visa extensions to representatives in Belarus effectively forced the mission to close in October when Alina Josan, the last OSCE official administrator, departed the country. On December 30, the regime signed an agreement with the OSCE that would permit a new OSCE office to open on January 1, 2003.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

Both the 1994 and 1996 Constitutions state that all citizens are equal before the law and have the right to equal protection of their rights and legitimate interests; however, they do not specifically prohibit discrimination based on factors such as race or sex. Racial and national groups, women, and persons with disabilities experienced discrimination.

*Women.*—Although statistics were not available, women's groups reported that domestic violence, including spousal abuse against women, was a significant problem.

Spousal abuse is punishable under the Criminal and Administrative Codes. Non-severe beating is punishable by a fine or up to 15 days imprisonment, while more serious offenses are punishable by up to 15 years in jail. Women's groups have indicated that police generally enforced the laws against domestic violence, and that the courts generally impose these sentences. The primary problem remained a widespread reluctance among women to report instances of domestic violence due to fear of reprisal and the social stigma. Rape was a problem. A law against rape exists; however, most women did not report rape due to shame or fear that the police will blame the victim.

Although the authorities and local human rights observers reported that prostitution was not yet a significant problem, considerable anecdotal evidence indicated that it was growing, particularly in the outlying regions. According to government statistics, from January to September, 13 persons in Vitebsk Oblast were charged with operating brothels. Street prostitution appeared to be growing as the economy deteriorated, and prostitution rings operated in state-owned hotels. Trafficking in women was a serious and growing problem (*see* Section 6.f.).

Sexual harassment was reportedly widespread, but no specific laws other than those against physical assault deal with the problem.

The law requires equal wages for equal work; however, it was not enforced always in practice. Women have significantly fewer opportunities for advancement to the upper ranks of management. According to the Belarusian Helsinki Committee in March, women made up a large percentage of those being trained for future employment in education (75 percent of those being trained), textile and light industry (84 percent), the food industry (79 percent), economics (69 percent) and medicine (69 percent), while relatively few women are being trained in radio technology (6 percent), automation production (12 percent) or computer technology (19 percent). Women reported that managers frequently considered whether a woman has children when examining job candidates.

The level of women's education generally was higher than that of men. Women constituted approximately 58 percent of workers with a higher education and approximately 66 percent of workers with a specialized secondary education. However, between two-thirds and three-fourths of workers with a higher education (mostly women) lived beneath the official poverty level. Women were equal in law to men with regard to property ownership and inheritance.

Women's groups were active and focused primarily on such problems as child welfare, environmental concerns (especially the after-effects of Chernobyl), and the preservation of the family. In June the Belarusian Women's Forum met in Polotsk to develop a strategy to improve the status of Belarusian women. Among their recommendations were the establishment of new educational programs, gender surveys, and information activities for strengthening the women's movement in Belarus. There was also an active women's political party (*see* Section 3).

*Children.*—The authorities were committed to children's welfare and health, particularly to overcoming the consequences of the nuclear accident at Chernobyl. With the help of foreign donors, they have tried to give children special attention. During the year, the Belarusian Children's Hospice operated two regional hospices in Vitebsk and Gomel. By law all inhabitants, including children, were entitled to health care. There was no reported difference between the treatment of girls and boys in the provision of either health care or education. Children begin school at the age of 6 and are required to complete 9 years, although the authorities make 11 years of education available at no cost and began to develop a 12-year education program. Higher education also was available at no cost on a competitive basis. Families with children continued to receive token government benefits, such as discounted transportation. According to a 1999 World Bank study, the majority of those living in poverty in Belarus were families with multiple children or single mothers.

There did not appear to be a societal pattern of abuse of children.

Trafficking in girls was a problem (*see* Section 6.f.).

*Persons with Disabilities.*—Discrimination against persons with disabilities in the provision of employment, education, and other state services was a problem, as was social discrimination. The law mandates accessibility to transport, residences, businesses, and offices for persons with disabilities. However, facilities, including transport and office buildings, often were not accessible to persons with disabilities. The country's continued difficult financial condition made it especially difficult for local governments to budget sufficient funds to implement the 1992 law. At the same time, government statistics indicated that more than 72,000 persons with disabilities underwent rehabilitation at rehabilitation centers. The regime promised to construct at least one or two wheelchair accessible facilities in regional and district centers by the end of the year; however, according to the Republican Association of the

Disabled, the regime had not undertaken any significant measures to do so by year's end. Some private buildings were made accessible to the disabled.

According to the Belarusian Disabled Society, the regime has taken steps that have raised concerns among citizens with disabilities. The regime's decision to support only government-run rehabilitation facilities, which were costly for the national budget and less suitable for patients than rehabilitation facilities that were run by NGOs, had a negative effect on the quality of care. The regime also decreased tax privileges for employers specializing in disabled labor and abolished some general employment guarantees for individuals with disabilities.

On May 7, the National Association of Wheelchair Users protested government inaction in addressing the concerns of persons with disabilities. According to Sergei Drozdovsky, leader of the National Association of Wheelchair Users, the regime failed to implement their program to make public places in Minsk wheelchair accessible, despite promises that it would do so.

The central authorities continued to provide some minimal subsidies to persons with disabilities and foreign and domestic charities operated in Belarus to care for disabled children. In May the charity Alesya was registered with the Ministry of Justice. The organization's aim was to provide medical aid and educational support to orphaned children and children with disabilities.

Evidence indicates that funding for persons with disabilities was not a priority for the regime. According to a 2001 article in *Narodnaya Volya*, an independent newspaper, the budget provision for that year for persons with disabilities was \$65 (114,958 rubles), compared to \$800 (1.4 million rubles) for the Belarusian Patriotic Youth Union, a proregime patriotic organization.

*National/Racial/Ethnic Minorities.*—The law grants citizenship to any person living permanently on the territory of the country as of 1991. Those who arrived after that date and wished to become citizens were required to submit an application for citizenship, take an oath to support the Constitution, have a legal source of income, and to have lived in the country for 7 years.

Despite a July 24 statement by President Lukashenko that there were no grounds for anti-Semitism in the country, regime officials continued to take a number of actions indicating a lack of sensitivity toward the Jewish community. In January authorities in Brest arrested and later released a 17-year-old for desecrating a Holocaust memorial. Construction of an apartment complex continued on the site of a demolished synagogue in downtown Minsk, despite protests from the Jewish community, with construction set to begin on the site of another former synagogue. Several government officials publicly made anti-Semitic statements in the media. According to a June 24 report in *Belapan*, Sergei Kastysyan, who heads the International Affairs Committee of the lower house of Parliament, blamed Russian President Vladimir Putin's decision to slow down a proposed integration plan between Belarus and Russia on Putin's "execution of an order from the Jewish lobby." During a November 25 interview with the newspaper *Belorusskaya Gazeta*, Kastysyan said he opposed attempts to "turn Belarus into a springboard for Zionism." He added, "If a mosque or a synagogue stands in the way of the city development plan, I believe it is acceptable to bulldoze it." His remarks were in response to a November 15 appeal by 75 of 109 members of the lower house of Parliament calling on President Lukashenko to prevent the destruction of Jewish cultural landmarks in Minsk.

During the year, skinheads and Russian ultranationalists attacked foreigners as well as those involved in promoting Belarusian culture. Members of the Russian ultranationalist group Russian National Union (RNE) attempted to break into an office of the Belarusian cultural organization *Belaruskaya Khata*. The organization reported that its phone lines were cut, and its office door was damaged and defaced with swastikas. On December 16, 10 members of the RNE attacked a female member of the unregistered youth group *Zubr* on a train while she was distributing literature.

In two separate incidents in May and August, skinheads attacked several foreign Jews in downtown Minsk. In one incident, police arrived at the scene but did not arrest the assailants. In September, unknown assailants attacked a rabbi and his son near the Russian Embassy in Minsk. Local guards at the Embassy assisted the rabbi and notified the police who opened an investigation into the incident which was pending at year's end.

On December 12, four Vitebsk youths were sentenced to 3 ½ to 6 years' imprisonment for attacking students from India, Lebanon, and Nepal in 2001. Local human rights observers disputed the charges and criticized the heavy sentences against the four youths, claiming that the four were involved in a simple fistfight that was not racially motivated. On December 18, approximately 100 skinheads attended a rock concert in Orsha held by the Russian band *Kolovrat*, whose members have ties to the RNE. The local chapter of the pro-regime Belarusian National Youth Movement

organized the concert. Local Members of the Russian ultranationalist National Bolshevik Party participated in several demonstrations in Minsk.

The Jewish community's December 2001 appeal of a judge's decision to allow a state-owned company called The Orthodox Initiative to publish an anti-Semitic book was denied. An earlier judge had denied the appeal in March 2000, claiming that the book contained scientific information and was therefore not within the jurisdiction of the court.

Anti-Semitic material, mostly imported from Russia, could be found throughout Minsk. The Pravoslavnaia Kniga (Orthodox Bookstore), owned by the Orthodox Initiative, continues to sell anti-Semitic and Russian ultranationalist literature. Although the Russian Orthodox Church claims that it has no ties to the bookstore, it has not criticized the store for selling such material. Anti-Semitic literature is also sold at kiosks that sell Russian Orthodox literature, including at one located in the National Academy of Sciences.

Legally the Russian and Belarusian languages share equal status; however, the regime at times harassed those that used the Belarusian language or promoted Belarusian nationalism. As part of the regime's efforts to promote a union with Russia and to reduce the influence of opposition movements, the authorities continued to discourage the promotion or teaching of the Belarusian language to students by limiting the availability of early childhood education in Belarusian. In its June 2000 report, the Belarusian Helsinki Committee reported that only 30 percent of students in primary schools were instructed in Belarusian. In Minsk only 11 of the 242 middle schools taught in the Belarusian language. In other regional cities, the numbers were significantly lower. The authorities continued to claim that the only schools that have been closed that taught in the Belarusian language were those that experienced diminishing enrollment; however, observers doubted this claim.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution upholds the right of workers, except state security and military personnel, to form and join independent unions on a voluntary basis and to carry out actions in defense of worker rights; however, these rights were not respected in practice. Measures to suppress independent unions included arresting members of independent trade unions for distributing union literature, confiscating union material, denying union members access to work sites, excessive fines, and pressure by their managers and state security services on union members to resign from their jobs because of trade union activities.

The authorities have taken numerous measures to suppress independent trade unions and during the year engaged in unprecedented interference in the work of the Belarusian Federation of Trade Unions (BFTU). In June they orchestrated a government takeover of the BFTU and several national unions leading to an official complaint to the International Labor Organization (ILO). Late in 2001, the regime attempted to restrict the unions by refusing to turn over to the unions dues paid by members. Once it became clear that the unions and the BFTU were adjusting to this change, the regime in June embarked on a takeover of the BFTU and several of its branch unions. The BFTU subsequently became an arm of the Government and the June election of Leonid Kozik to the position of Chairman of the BFTU has been challenged by the ILO.

In 1999 Lukashenko signed a decree that requires trade unions to enroll a minimum of 10 percent of the workers of an enterprise in order to form and register a local union. The decree also obliges existing registered unions to re-register and to meet the new requirements. Free trade union leaders reported that this decree has had the effect of making registration, and therefore union activities, nearly impossible in many of the larger state-owned enterprises. Some local unions have been denied registration under this decree.

The authorities continued to discourage employees at state-run enterprises from joining independent trade unions. The BFTU, formerly the Belarusian branch of the Soviet Union's All-Union Central Council of Trade Unions, consists of approximately 4.5 million workers (including retirees) and was by far the largest trade union organization. According to official union federation figures, 92 percent of the workforce is unionized. Although wary in the past of challenging the regime seriously, some BFTU leaders became increasingly vocal in their criticism of the policies of the Lukashenko regime. In retaliation the regime has threatened and harassed some BFTU officials.

Following the December 2001 government-inspired removal of Vladimir Goncharik as chairman of the BFTU, the regime attempted to destroy the trade union federation and branch union structure. For the first several months of the year, the regime continued to withhold collected union dues and then abolished the checkoff system for dues withholding. The authorities prohibited employers from withholding

union dues. In addition, the regime instigated several attempts to form management-inspired “yellow unions” at major enterprises. Despite these pressures, the BFTU and the branch unions continued to exist and began the transformation from nonrepresentative state dominated unions into truly representative trade unions. In response to this, the regime orchestrated the removal of Franz Vitko as chairman of the BFTU and in June replaced him with Leonik Kozik, the candidate and senior official within the Presidential administration Lukashenko handpicked. Subsequently, the collected union dues were returned. Since June Kozik has purged the BFTU of union activists and replaced them with KGB agents. He has fired the editor of the *Rabochy* newspaper. He orchestrated the removal of Alexander Yaroshuk, the chairman of the Agricultural Branch union (the largest state union in the country, with approximately 1 million members), and has attempted to remove two other reform minded branch union heads. These actions, along with Kozik’s radical shift away from union activism to progovernment agitation and integration of the BFTU into the Government structure, led the ILO at its November congress to challenge the BFTU’s representation in ILO and Kozik’s election as chairman.

Members of the Independent Trade Union of Belarus faced continual pressure at their workplace to join state unions or lose their jobs. Typically members of the Union smuggled copies of *Rabochi*, a newspaper about labor issues, into their workplace under their clothing.

In 2000 noting that the authorities failed to respect the rights of workers, suppressed trade union rights, harassed union leaders, and had not taken sufficient steps to conform to internationally recognized labor rights, a foreign government suspended the country’s trade benefits.

By law unions are free to affiliate with international bodies. At year’s end, the BFTU was attempting to join the International Confederation of Free Trade Unions (ICFTU); the independent unions already were affiliated with ICFTU.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to organize and bargain collectively; however, the authorities and state-owned enterprises have hindered the ability of workers to bargain collectively and, in some instances, arbitrarily suspended collective bargaining agreements (*see* Section 6.a.). Provisions of a 1999 presidential decree intended to place all workers on individual rather than collective contracts were criticized heavily by both independent and official union leaders, who believe that they were designed principally to enable the Presidential Administration to increase its control over the labor sector. These provisions had not been implemented by year’s end.

The Constitution provides for the right to strike; however, tight control by the regime over public demonstrations made it difficult for unions to strike or to hold public rallies furthering their objectives (*see* Sections 1.d. and 2.b.).

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor except in cases when the work or service to be performed is fixed by a court’s decision or in accordance with the law on states of emergency or martial law; however, there were some reports of forced labor. Workers who refused to “volunteer” for the harvesting of livestock fodder were ordered to pay a fine of \$5 (5,000 rubles) or approximately 15 percent of their average monthly salary. The order had the effect of forcing local individuals to work in the fodder harvest. Students also were forced to participate in potato harvesting activities.

The constitutional provision prohibiting forced or bonded labor applies to all citizens, although its application to children is not specified, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law establishes 16 as the minimum age for employment. With the written consent of one parent (or legal guardian), a 14-year-old child may conclude a labor contract. The Prosecutor General’s office reportedly enforces this law effectively.

*e. Acceptable Conditions of Work.*—The minimum wage was \$9 (17,000 rubles) a month, which did not provide a decent standard of living for a worker and a family; however, average real wages improved during the year from approximately \$60 (72,000) to \$110 (200,000) a month. During the Presidential campaign in 2001, President Lukashenko decreed that average wages would be increased from approximately \$65 (78,000) to \$100 (120,000 rubles) a month. Authorities reported that average wages were slightly more than \$106 (127,200 rubles) a month in 2001, although independent analysts reported the figure was lower. According to the International Monetary Fund (IMF), the wage increase was accomplished by accumulating arrears to suppliers and by other unsustainable means.

The country’s continuing economic problems made it difficult for the average worker to earn a decent living, and major wage arrears continued to grow, especially



in the agricultural sector. The Constitution and Labor Code set a limit of 40 hours of work per week and provide for at least one 24-hour rest period per week. In reality, because of the country's difficult economic situation, an increasing number of workers found themselves working considerably less than 40 hours per week. Reportedly factories often required workers to take unpaid furloughs caused by shortages of raw materials and energy and a lack of demand for factory output.

The law establishes minimum conditions for workplace safety and worker health; however, these standards often were ignored. Workers at many heavy machinery plants did not wear even minimal safety gear, such as gloves, hard hats, or welding glasses. A State Labor Inspectorate existed but did not have the authority to enforce compliance, and violations often were ignored. According to the Labor and Social Security Ministry, through the end of November, 211 workers died and 603 were injured seriously in workplace accidents. The high accident rate was due to a lack of protective clothing, shoes, equipment, nonobservance of temperature regulations, the use of outdated machinery, and inebriation on the job. There is no provision in the law that allows workers to remove themselves from dangerous work situations without risking loss of their jobs.

A 2002 Presidential decree lowered the level of disability allowances paid by the State or state enterprises for result of workplace injuries. Under the decree, industrial injury suits also are to be covered by the Civil Code, rather than the Labor Code. Independent union leaders believe workplace injuries should be reviewed under the Labor Code, under which compensation is more generous.

The Labor Code accords foreign workers the same protections as citizens.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in persons was a serious and growing problem. There were no reports of official involvement in trafficking; however, observers believed that given the extensive corruption that exists within the police and other agencies of the regime, such involvement was likely.

Provisions of the Criminal Code that entered into effect at the beginning of 2001 penalize trafficking in persons for the purpose of sexual or other kinds of exploitation. The Criminal Code also criminalizes the hiring of individuals in order to exploit them sexually or otherwise. The penalty for trafficking is between 5 and 7 years' imprisonment. The Ministry of Internal Affairs acknowledges that Russian criminal organizations may try to lure and recruit women into serving as prostitutes in Western Europe and the Middle East. Traffickers, who are associated with organized crime and drug trafficking, entice their victims through advertisements for lucrative jobs in newspapers and on the Internet.

According to government statistics, Belarusian law enforcement agencies broke up 10 trafficking rings run by international organized criminal groups during the year, including 2 in March. In December a district judge in Gomel found two residents of the city guilty of trafficking women to Turkey and Israel and forcing them into prostitution. The perpetrators were sentenced to 3- and 4- year terms in a medium-security institution.

Also during the year, a citizen was sentenced to 8 years' imprisonment for abduction in a trafficking related case. Authorities in Minsk charged a Romanian citizen with trafficking women to Cyprus. He received a 1½-year sentence under article 187 (recruitment of persons for the purpose of sexual exploitation). A couple in Minsk were sentenced to 3 years and 6 months under the same law and also were found guilty of violating article 18 (organized crime). In Polotsk two individuals were arrested for trafficking Belarusian women, including underage girls, to Russia. According to government statistics, 15 members of organized criminal gangs were sentenced to 6 to 8 years imprisonment for trafficking. A criminal case against a trafficker was opened in the region of Grodno, in which a man was charged with trafficking at least 35 women from Belarus to Poland over a period of 2 years. There were convictions in 12 of the 15 cases. When the case was tried first in 2000, the accused received a 4-year sentence for pandering but the Grodno Regional Court dismissed the verdict and ordered a new investigation in order for the defendant to be charged under the new Criminal Code. However, the prosecution again charged the man with drug dealing and pandering.

The country was both a country of origin and a country of transit for women and girls being trafficked to Central and Western Europe for purposes of prostitution and sexual exploitation. According to an official with Germany's Federal Interior Ministry, in 2001 approximately 1,000 Belarusian women were trafficked to Germany and forced to work as prostitutes. The official estimates that the number during the year was significantly higher. The authorities have not released any statistics, but according to country NGOs, several thousand Belarusian women were victims of trafficking. Belarus was a country of origin and transit for women being traf-

ficked to Russia, Ukraine, Lithuania, Germany, Israel, Poland, Czech Republic, Turkey, Cyprus, Greece, Hungary and the Federated Republic of Yugoslavia.

The authorities have begun to recognize and address the problem of trafficking in persons. In 2001 the Ministry of Interior prepared a 5-year, 33-point strategy to combat trafficking in persons. The strategy covered ways of improving legislation, international cooperation, combating trafficking, and rehabilitation of victims. The strategy included various governmental agencies, such as the Ministries of Foreign Affairs, Labor, Education and the KGB. The Ministry of the Interior and the Ministry of Social Welfare were involved in anti-trafficking efforts. In partnership with the U.N. Development Program (UNDP), the Ministry of Social Welfare established the Gender Information and Policy Center (GIPC), which also dealt with this problem.

Women seldom reported incidences of trafficking to police because of a generally negative public opinion about law enforcement authorities, shortcomings in legislation on the subject, and the insufficient protection accorded victims and witnesses. Victims generally were detained until the investigation identified them as victims and they were eligible to be prosecuted for violations of other laws. In January the Belarusian Young Women's Christian Center (BYWCO) became the program coordinator for La Strada Belarus, an antitrafficking campaign. The 3-year program was intended to focus on training for NGOs and government officials, improving government cooperation and public awareness. The International Organization for Migration (IOM) in Belarus also launched a 1-year program to improve trafficking prevention and assistance infrastructure. IOM has set aside resources to provide 100 trafficking victims with reintegration assistance in cooperation with the Government and NGOs. Crisis centers established by some NGOs provided psychological assistance to victims of violence. However, such centers did not include specialists in dealing with victims of trafficking.

Under the La Strada program, BYWCO provided trafficking prevention training to regional NGOs and municipalities. The BYCWO established an information telephone line for women traveling abroad for reasons other than tourism. BYCWO receives more than 100 inquiries a month. In November BYWCO increased the hotline's operating hours from 2 to 7 days a week.

## BELGIUM

Belgium is a parliamentary democracy with a constitutional monarch who played a mainly symbolic role. The Council of Ministers (Cabinet), led by the Prime Minister, holds office as long as it retains the confidence of the lower house of the bicameral Parliament. Belgium is a federal state with several levels of government, including national, regional (Flanders, Wallonia, and Brussels), and community (Flemish, Francophone, and German). The judiciary is independent.

The civilian authorities maintained effective control of all security forces. In a sweeping reorganization in 2001, the former Police Judiciare and the Gendarmerie merged at the federal level to form a federal police force responsible for internal security and nationwide law and order. Local Gendarmeries merged with local police forces and operated as local branches of the federal police in all 196 police districts.

The country, which had a population of approximately 10 million, was highly industrialized, with a vigorous private sector and limited government participation in industry. The primary exports were machinery and equipment. Gross domestic product in 2001 was estimated at \$230.3 billion. The economy, which grew at an approximate 2 percent annual rate during the year, provided a high standard of living for most citizens; there was little economic disparity.

The Government generally respected the human rights of its citizens, and the law and the judiciary provide effective means of dealing with individual instances of abuse. Societal violence against women and religious minorities and trafficking in women and children remained problems, and the Government took steps to combat them. Belgium was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

In March the Brussels Chamber of Indictment ruled that five ex-gendarmes (reorganized in 2001 as the federal police) must stand trial for their alleged roles in the

1998 death of Semira Adamu, a Togolese refugee, who died during her forced repatriation. Defendants in the 1991 killing of Andre Cools awaited trial at year's end.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and in general government officials did not employ them.

The operations of all police forces were integrated into a federal system and overseen by the Federal Police Council and an anticorruption unit.

A delegation from the Council of Europe's Committee for the Prevention of Torture carried out one of its periodic visits to the country in late 2001. The delegation indicated that it had examined the procedures and means applied during the repatriation by air of foreign nationals, the implementation of the 1990 law on the protection of the mentally ill, and the situation in public establishments for youth protection and reviewed recommendations made after its 1993 and 1997 visits. In October the Government released the delegation's report. It addressed a limited number of allegations of ill-treatment by law enforcement officials, but did not indicate that there were any systemic abuses. The report made recommendations concerning the use of force and means of restraint during involuntary movement of prisoners, while noting that the Government already had taken numerous measures to reduce risks to prisoners. The report's principal concerns were violence between prisoners at Andenne Prison, chronic overcrowding at Antwerp Prison, and the operation of psychiatric care system in prisons.

Prison conditions varied: Newer prisons generally met international standards, while some older facilities nearly met international standards despite their Spartan physical conditions and limited resources. Overcrowding was a problem. In December the prison system, which was designed to hold 7,759 prisoners, held 8,673 prisoners according to government figures. However, construction projects that started during the year were expected to expand the prison system capacity by 870 persons. Men and women were held separately. In June the Government established a maximum-security facility for juvenile prisoners and no longer permitted them to be held in adult prisons. Juvenile prisoners routinely were released from detention whenever the maximum-security facility reached its limit. The Government did not hold convicted criminals and pretrial detainees in separate facilities. Families were allowed to visit prisoners without supervision. Approximately 300 prisoners nearing the end of their sentences lived at home under electronic surveillance at year's end. The Government permitted visits by independent human rights observers, and such visits took place during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. Arrested persons must be brought before a judge within 24 hours. Pretrial confinement was subject to monthly review by a panel of judges, which could extend pretrial detention based on established criteria (e.g., whether, in the court's view, the arrested person would be likely to commit further crimes or attempt to flee if released). At times lengthy pretrial detention was a problem. Bail exists in principle under the law but was granted rarely. In September 37.3 percent of the prison population consisted of pretrial detainees. Pretrial detainees received more privileges than did convicted criminals, such as the right to more frequent family visits. Arrested persons were allowed prompt access to a lawyer of their choosing or, if they could not afford one, to an attorney appointed by the State.

Fehriye Erdal, a Kurdish woman accused of involvement in a 1996 terrorist attack in Turkey, remained under house arrest pending trial at year's end.

The law prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judicial system was organized according to specialization and territorial jurisdiction, with 5 territorial levels: Canton (225), district (27), provinces and Brussels (11), courts of appeal (5), and the Cour de Cassation, which was the highest appeals court.

Military tribunals tried military personnel for common law as well as military crimes. All military tribunals consisted of four military officers and a civilian judge. At the appellate level, the civilian judge presided; a military officer presided at trial. The accused had the right of appeal to a higher military court.

Each judicial district had a Labor Court, which dealt with litigation between employers and employees regarding wages, notice, competition clauses, and social security benefits (see Section 6.b.). There was also a magistrate in each district to monitor cases involving religious groups (see Section 2.c.).

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Charges were stated clearly and formally, and there was a presumption of innocence. All defendants had the right to be present, to have counsel (at public expense if needed), to confront witnesses, to present evidence, and to appeal.

The federal prosecutor's office was responsible for prosecuting crimes involving nuclear materials, human trafficking, arms trafficking, human rights violations, and terrorism, as well as crimes against the security of the State.

The Summary Trial Act, which covers crimes punishable by 1 to 10 years' imprisonment, allows a prosecutor to issue an arrest warrant for the immediate appearance in court of an offender caught in the act of allegedly committing a crime. The warrant expires after 7 days, and the court must render its verdict within 5 days of the initial hearing. Defense attorneys challenged the summary trial procedures in May before the Cour de Cassation. The court upheld a civil conviction but did not address the summary trial question. Several human rights organizations claimed that summary trial violated the presumption of innocence and jeopardized the right to a full and fair defense.

A High Council on Justice supervised the appointment and promotion of magistrates. The Council served as a permanent monitoring board for the entire judicial system and was empowered to hear complaints against individual magistrates.

Several government reforms implemented in 1998 granted stronger rights to victims of crime. These measures allowed victims to have more access to information during an investigation, as well as the right to appeal if an investigation does not result in a decision to bring charges. The Government opened Justice Houses in each of the 27 judicial districts. These facilities combined a variety of legal services under one roof, including legal aid, mediation, and victim's assistance.

So-called universal competence legislation enacted in 1993 and revised in 1999 provided courts with jurisdiction over war crimes, genocide, and crimes against humanity, regardless of the location of the alleged crime or perpetrator; however, the Appeals Court ruled in June that the defendant must physically be present in the country before the case could proceed. In 2001 in the first trial based on this law, six Rwandans resident in Belgium were charged with war crimes in connection with the 1994 genocide in Rwanda. Four were convicted in 2001; however, in subsequent cases the scope of the law was limited by court rulings. In February the International Court of Justice (ICJ) in The Hague ordered the cancellation of a Belgian arrest order for former Democratic Republic of the Congo Foreign Minister Abdoulaye Yerodia Ndombas. Citing the immunity of sitting ministers of foreign nations from criminal prosecution in Belgian courts, the ICJ struck down the verdict because Yerodia was in office when he was indicted. In June the Brussels Chamber of Indictment Court dismissed the criminal complaints against Israeli Prime Minister Ariel Sharon, Ivorian President Laurent Gbagbo, former Ivorian President Robert Guei, and two other former Ivorian Ministers. The court made no reference to the ICJ ruling, but rather noted Article 12 of Belgium's Criminal Procedure Code, which states that for crimes committed outside of Belgium, legal action can only be taken if the suspect is found on Belgian territory.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press. There were restrictions on the press regarding libel, slander, and the advocacy of racial or ethnic discrimination, hate, or violence.

Several television and radio stations were subsidized wholly by the linguistic communities, government organizations below the federal level that represented the three official linguistic groups, rather than a geographic area; however, the Government had no official editorial control over content. The potential for political influence existed, as each station's operations were overseen by a board of directors that consisted of representatives of all the main political parties as well as representatives of the linguistic communities. All newspapers were privately owned, and the Government discontinued the direct subsidies formerly paid to them. Almost all homes have access to cable television from other West European countries and elsewhere. Satellite services also were available.

The Government did not restrict Internet access.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the Government generally respected these rights in practice.

Citizens were free to form organizations and establish ties to international bodies; however, the Antiracism Law prohibits membership in organizations that practice discrimination “overtly and repeatedly” (see Section 5).

In June military personnel protested wage and other grievances.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The law accords “recognized” status to Roman Catholicism, Protestantism (including evangelicals), Judaism, Anglicanism, Islam, and Orthodox Christianity (Greek and Russian), and these religions received subsidies from government revenues. Nonconfessional philosophical organizations (laics) served as a seventh recognized “religious” group, and their organizing body, the Central Council of Non-Religious Philosophical Communities of Belgium, received funds and benefits similar to those of the six recognized religions.

By law each recognized religion has the right to provide teachers at government expense for religious instruction in schools. For recognized religions, the Government paid the salaries, lodging, and retirement expenses of ministers and also subsidized the construction and renovation of church buildings.

The lack of independent recognized status generally did not prevent religious groups from freely practicing their religions, and citizens generally practiced their religion without official harassment or impediment. There was no provision in immigration law for noncitizen members of unrecognized religious groups to travel to the country for the purpose of paid or volunteer religious work, nor was there a provision for them to obtain work permits for that purpose. Nevertheless, the Government established temporary procedures in May by which at least one nonrecognized religious group, the Church of Jesus Christ of Latter-Day Saints, could bring in members from abroad temporarily to conduct missionary activities. The Government has not taken steps to make these temporary procedures permanent or indicated any intention of amending the law to allow other nonrecognized groups comparable access. Nonrecognized groups did not qualify for government subsidies; however, they could qualify for tax-exempt status as nonprofit organizations. There were no reported legal complaints of religious discrimination during the year.

In 1998 Parliament adopted recommendations from a 1997 commission’s report on government policy toward sects, particularly sects deemed “harmful” under the law. The report divided sects into two broadly defined categories: It characterized a “sect” as any religious-based organization, and a “harmful sect” as a group that may pose a threat to society or individuals. Attached to the report was a list of 189 sectarian organizations that were mentioned during testimony before the commission. Although the introduction to the list clearly stated that there was no intent to characterize any of the groups as “dangerous,” the list quickly became known in the press and to the public as the “dangerous sects” list. This list was not part of the report approved by Parliament.

Although the Government stated that it neither recognizes nor utilizes the list associated with its 1997 parliamentary inquiry, some groups continued to complain that their inclusion continued to cause discriminatory action against them. They maintained that the effect of the list was perpetuated by the existence of the Center for Information and Advice on Harmful Sects, a government-sponsored organization charged with monitoring religious groups and providing information about them to the public and the authorities. Although the Center has maintained that the 1997 list has no bearing on its work, the groups on which it focused were among those listed by the parliamentary inquiry. While the Center had no legal authority to declare any religious group harmful, some groups stated that the initial creation of the list, followed by the establishment of an organization that has monitored some groups from the list, caused negative assumptions and guilt by association.

The Government’s legal case against the Church of Scientology remained unresolved. A complaint by a church member led to a 1999 raid and seizure of church documents. No charges were filed, and the Church tried unsuccessfully to have the seized documents returned. In February the Chamber of Indictment ruled that the Church of Scientology had kept files on its members in violation of the Privacy Act and therefore the Government was under no obligation to return them. The Church subsequently was notified officially that a tax investigation of its nonprofit status that began nearly 5 years earlier also remained open and active.

In the spring, there were several ant-Semitic incidents directed at Jewish communities including a number of incidents of arson and assault. Jewish authorities de-

scribed the atmosphere as hostile and frightening, and the Government deemed a police presence around some synagogues during worship services necessary at year's end. Local police addressed the problem on a case-by-case basis with the various synagogues.

In addition, other religious groups complained of societal discrimination, particularly groups that have not been accorded official recognized status by the Government or those associated primarily with immigrant communities.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The law includes provisions for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government provided first asylum. During the year, it received more than 18,805 asylum applications, 25 percent fewer than in 2001, and nearly 60 percent fewer than in 2000. Authorities believed that the decline in the rate of applications was primarily due to its discontinuing monthly disbursements of several hundred euros that previously were given to asylum applicants during the lengthy period before each case was closed. Except for an extremely modest incidental allowance, applicants were required to go to open reception centers to receive room, board, and basic services. Approximately 70 percent of all asylum cases were resolved within 8 weeks. The Government reported that its 39 reception centers for applicants were approximately 80 percent full.

In response to complaints about slow processing time and the large backlog of asylum applications, the Government in 2001 adopted a "last in, first out" policy in processing new applications that was intended to reduce processing time for applicants. Although a backlog of more than 30,000 cases remained at year's end, that was a reduction of 10,000 since the end of 2001. The Government's concerted effort reduced the backlog and greatly reduced the average asylum processing time.

The nationality code allows refugees to apply for naturalization after living legally in the country for 2 years.

The Government, in partnership with the International Organization for Migration (IOM), provided relocation assistance to unsuccessful asylum applicants who agreed to repatriate voluntarily to their country of origin. Unsuccessful applicants who did not leave voluntarily were subject to deportation.

Undocumented asylum seekers arriving by air, whose claims do not appear legitimate as determined by immigration officials, were not allowed to enter but were held in a closed detention center at the airport while awaiting deportation or voluntary repatriation. The children of such asylum seekers did not attend school. Those applicants whose claims appear to be legitimate were released to a system of 39 reception centers for shelter and assistance. These centers had a total capacity of 7,000 beds.

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

The law provides citizens with the right to change their government peacefully, and citizens ages 18 and older exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Voting in all elections was compulsory, and failure to vote was subject to a nominal fine. Direct popular elections for parliamentary seats (excluding some Senators elected by community councils and others elected by Senate members) are held at least every 4 years. Opposition parties operated freely.

The Government was responsible for security, justice, social security, and fiscal and monetary policy. The regional governments were charged with matters that directly affect the geographical regions and the material wellbeing of their residents, such as commerce and trade, public works, and environmental policy. The linguistic community councils handle matters more directly affecting the mental and cultural well-being of the individual, such as education and the administration of certain social welfare programs.

The existence of communities speaking Dutch, French, and German created significant complexities for the State. Most major institutions, including political parties, are divided along linguistic lines. National decisions often take into account the specific needs of each regional and linguistic group.

The law prohibits federal funding for political parties that espouse discrimination. In 2001 the Brussels prosecutor charged three nonprofit organizations linked to the

Vlaams Blok party with violations of the law. The district court held that it was not competent to hear the case. The prosecutor and the Center for Equal Opportunities and Opposition to Racism, an autonomous governmental entity, appealed the decision, and a ruling is expected in 2003.

In Parliament there were 36 women in the 150-seat Chamber of Representatives, and 21 of 71 Senators were female. Of 17 ministers, 3 were female. In May Parliament adopted legislation that requires an equal number of male and female candidates on party tickets for all future regional and federal elections. Data was not available on the number of members of minorities represented in Parliament or who have leading positions in the Government.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were very cooperative and responsive to their views.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The law prohibits discrimination based on these factors, and the Government enforced these laws. In February Parliament adopted a constitutional amendment that more clearly states the equality of men and women. In December legislation broadening the scope of existing anti-racism legislation and stiffening penalties for violations was enacted. With Dutch, French, and German as official languages, the country had a complex linguistic regime, including language requirements for various elective and appointive positions. The law prohibits the official financing of any racist or xenophobic party or any party that does not respect human rights (see Section 3).

*Women.*—Societal violence against women was a problem. The law defines and criminalizes domestic violence with the aim of protecting married and unmarried partners. The law allows social organizations to represent victims of domestic violence in court with the victim's consent. The law allows police to enter a home without the consent of the head of household when investigating a domestic violence complaint. According to its proponents, the police do not use the law enough. By year's end, the Government still had not implemented other provisions of the law that required it to establish and maintain a database of accurate statistics on domestic violence. Spousal rape was illegal, but no data was available on the number of persons charged or convicted of spousal rape during the years.

A number of government-supported shelters and telephone help lines were available across the country. In addition to providing shelter and advice, many offered assistance on legal matters, job placement, and psychological counseling for both partners. Approximately 80 percent of these organizations' budgets were provided by one of the three regional governments.

The law prohibits organizing prostitution or assisting immigration for the purpose of prostitution, but not prostitution itself. A 1995 law defined and criminalized trafficking in persons; however, trafficking in women remained a problem (see Section 6.f.).

Sexual harassment is illegal. The Government implemented procedures to monitor sexual harassment claims. Antisexual harassment provisions were strengthened with Parliament's adoption of the Sexual Harassment Act in June. Victims of sexual harassment had the right to sue their harassers under existing law, and according to the law, sexual harassment can be a form of sexual discrimination. The Act prohibited discrimination in hiring, working conditions, promotion, wages, and contract termination. Despite these laws, most cases of sexual harassment were resolved informally. A study by the Ministry of Defense in 2000 found that 54 percent of women in the armed forces had been subjected to abusive language, 36 percent had experienced unwelcome physical contact, and 4.6 percent reported being the victim of sexual harassment involving physical violence.

The equal treatment of men and women is provided for in the Constitution, law, and treaties incorporated into law. The Government actively promoted a comprehensive approach to the integration of women at all levels of decisionmaking. The Division of Equal Opportunity, a part of the Ministry of Labor, focused on issues affecting women, including violence against women, sexual harassment, and the participation of women in the political process. The net average salary for a woman was 84 percent of the national net average salary. In 1996, the last year for which comparative statistics were available, women in blue-collar jobs earned 79 percent of the salary of their male counterparts. The average salary for women in white-collar jobs was 70 percent of the salary of their male counterparts.

*Children.*—The Government was strongly committed to children's rights and welfare; it amply funded a system of public education and health care. It provided free compulsory education from ages 6 to 18. The Francophone and Flemish communities had agencies specifically dealing with children's needs.

In 2000 Parliament amended the Constitution to include an article on children's rights. The new article provides that every child has the right to respect for his or her moral, physical, mental, and sexual integrity. There were comprehensive child protection laws. The law combats child pornography by applying severe penalties for such crimes and against those in possession of pedophilic materials. The law permits the prosecution of Belgian residents who commit such crimes abroad and provides that criminals convicted of the sexual abuse of children cannot receive parole without first receiving specialized assistance and must continue counseling and treatment upon their release from prison. A Senate report in July indicated that not all courts apply the laws equally; the differences were attributed to inconsistent prosecutorial efforts. In 2001 a new youth protection act entered into force to provide better protection against sexual exploitation, abduction, and trafficking.

There was no societal pattern of abuse directed against children.

Child prostitution was a problem but was not widespread. Trafficking in children was a problem (*see* Section 6.f.).

Government and private groups provided shelters for runaways and counseling for children who were abused physically or sexually. Child Focus, the Government-sponsored center for missing and exploited children, reported that it handled 2,065 cases in 2000. Nearly 48 percent of the reported cases concerned runaways, and 27 percent involved abduction by parents. Approximately 8 percent were pedophilia cases. Child Focus also reported that in 2001 the number of reported cases of missing children rose by 14.5 percent over the previous year. The vast majority of these cases continued to be teenage girls.

*Persons with Disabilities.*—The law provides for the protection of persons with disabilities from discrimination in employment, education, and in the provision of other state services. There were no reports of societal discrimination against persons with disabilities. The Government mandated that public buildings erected since 1970 be accessible to such persons and offered subsidies to encourage the owners of other buildings to make necessary modifications; however, many older buildings were not accessible.

The Government provided financial assistance for persons with disabilities. It gave special aid to parents of children with disabilities and to parents with disabilities. Regional and community programs provided other assistance, such as job training. Persons with disabilities were eligible to receive services in any of the three regions (Flanders, Wallonia, or Brussels), not just their region of residence.

*National/Racial/Ethnic Minorities.*—Belgium is a pluralistic society in which individual differences generally were respected, and linguistic rights in particular generally were protected. Approximately 60 percent of citizens were native Dutch speakers, 40 percent French speakers, and less than 1 percent German speakers.

The Antiracism Law penalizes the incitement of discrimination, hate, or violence based on race, ethnicity, or nationality. It is illegal for providers of goods or services (including housing) to discriminate on the basis of any of these factors and for employers to consider these factors in their decisions to hire, train, or dismiss workers.

In 2001 the Government-sponsored Center for Equal Opportunity and the Fight Against Racism, which was tasked with investigating complaints of discrimination based on race, handled 1,246 complaints, 5 percent of which led to court action. In its 2001 report, the Center attributed the increased number of complaints in 2001 (after 3 consecutive years of decline) to the events of September 11 overseas. However, the two principal categories of complaints—discrimination in the workplace and in the provision of public services—remained unchanged over the past 5 years.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Under the Constitution, workers have the right to associate freely, including the freedom to organize and to join unions of their own choosing. The Government did not limit such activities, and workers fully and freely exercised their right of association. Approximately 60 percent of employed and unemployed workers were members of labor unions. Unions were independent of the Government but have important links with major political parties. The Government did not require unions to register.

The law prohibits discrimination against organizers and members of unions and protects against the termination of contracts of members of workers' councils, members of health or safety committees, and shop stewards. Employers found guilty of antiunion discrimination were required to reinstate workers fired for union activi-



ties or to pay an indemnity; however, payment of the indemnity reportedly was much more common than reinstatement. Effective mechanisms such as labor courts in each district existed for the adjudication of disputes between labor and management (*see* Section 1.e.).

Unions were free to form or join federations or confederations and were free to affiliate with international labor bodies.

*b. The Right to Organize and Bargain Collectively.*—The right to organize and bargain collectively was recognized, protected, and exercised freely. Every other year, the employers' federation and the unions negotiate a nationwide collective bargaining agreement, covering 2.4 million private sector workers, that establishes the framework for negotiations at the plant and branch levels. During the year, employers and unions reached a nationwide collective bargaining agreement that set the benchmark for wage increases at 5.4 percent. It included an agreement on providing early pensions to workers who lose their jobs before reaching the retirement age of 58.

Organized workers, including civil servants, had the right to strike; however, members of the merchant marine, the military, and magistrates did not. The federal and local police forces had the right to strike; however, the Government could order necessary personnel back to work to maintain law and order. There were no significant strikes during the year.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The minimum age of employment for children was 15. Youths between the ages of 15 and 18 could participate in part-time work/study programs and work full time during school vacations. The labor courts effectively monitored compliance with national laws and standards. There were no industries where any significant child labor exists.

*e. Acceptable Conditions of Work.*—The monthly national minimum wage for workers over 21 years of age was approximately \$1,050 (1,163 euros); 18-year-olds were required to be paid at least 82 percent of the minimum, 19-year-olds 88 percent, and 20-year-olds 94 percent of the minimum. The national minimum wage, coupled with extensive social benefits, provided a decent standard of living for a worker and family. Minimum wages in the private sector were set in biennial, nationwide collective bargaining meetings (*see* Section 6.b.), which lead to formal agreements signed in the National Labor Council and made mandatory by royal decree for the entire private sector. In the public sector, the minimum wage is determined in negotiations between the Government and the public service unions. The Ministry of Labor effectively enforces the law regarding minimum wages. By law the standard workweek cannot exceed 39 hours, and work on Sundays is prohibited. Many collective bargaining agreements set standard workweeks of 35 to 38 hours. The law requires overtime pay for hours worked in excess of the standard. Work done from the 9th to the 11th hour per day or from the 40th to the 50th hour per week were considered allowable overtime. Longer workdays were permitted only if agreed upon in a collective bargaining agreement. These laws and regulations were enforced effectively by the Ministry of Labor and the labor courts.

There are comprehensive provisions in the law for worker safety. In some cases, collective bargaining agreements supplemented these laws. Workers had the right to remove themselves from situations that endanger their safety or health without jeopardy to their continued employment, and the law protects workers who file complaints about such situations. The Labor Ministry implemented health and safety legislation through a team of inspectors and determined whether workers qualify for disability and medical benefits. The law mandates health and safety committees in companies with more than 50 employees. Labor courts effectively monitored compliance with national health and safety laws and standards.

*f. Trafficking in Persons.*—The law defines and criminalizes trafficking in persons; however, the country was both a transit point and destination for trafficking in women and children. Despite legislation that offered protection and continued residence in the country to victims of trafficking who come forward, both governmental and nongovernmental sources indicated a continuing rise in trafficking, particularly of women and minors for sexual exploitation. There were isolated reports that individual government employees accepted bribes to assist trafficking groups.

While a growing number of victims did come forward, it rarely led to the identification or capture of the traffickers. Traffickers not only moved their victims frequently from city to city within the country, but also used the EU's open borders

to move victims from country to country. Freedom of movement also made it easy for traffickers to evade arrest if one of their victims went to the authorities.

An interdepartmental committee provided coordination and communication between the various agencies and ministries involved in combating trafficking. This committee met several times annually under the auspices of the Center for Equal Opportunity and the Fight Against Racism. A magistrate was designated in each judicial district to supervise cases involving trafficking. The newly created Federal Prosecutor's Office was in charge of coordinating the various antitrafficking initiatives. Antitrafficking units also were established in the federal and local police forces; the Government has not compiled data in recent years on the number of persons arrested under the human trafficking law. Sentences for persons convicted under the law ranged from approximately 2 to 6 years' imprisonment and fines of approximately \$2,000 to \$10,000 (2,000 to 10,000 euros). However, at least some of the convictions were related only indirectly to trafficking. Relevant police agencies and magistrates investigated these cases, and legal action was taken against officials who abused their authority to help traffickers. The Government did not set a date for the trial but stated that it expects one to begin in 2003.

Since 1994 the majority of cases involved victims of either sexual or economic exploitation from sub-Saharan Africa (especially Nigeria), Central and Eastern Europe, and Asia (especially China). The victims of sexual exploitation increasingly were women under age 18. Nigerian and Albanian victims usually were young women between the ages of 21 and 30 trafficked for prostitution. Chinese victims often were young men trafficked for manual labor in restaurants and sweatshops. There were also occasional reports that boys as young as 12 or 13 years were brought into the country from West Africa and Latin America with false documents by soccer agents for tryouts with local clubs. Boys who failed to gain a contract sometimes were abandoned by their agents and ended up on the streets.

In 1996 authorities uncovered a suspected pedophile/child pornography and trafficking ring. Five suspects remained under investigation, including the accused ring-leader, Marc Dutroux, who was arrested and charged with murder. Dutroux was indicted on pedophile/child pornography and trafficking charges in December; a date for his trial had not been set by year's end. The lengthy delay in bringing the pedophile and trafficking case against Dutroux to trial continued to fuel widespread public criticism about the investigation of the case and the judicial system in general.

Under the law, victims of trafficking who provide evidence against the trafficker may be granted temporary residence and work permits and were eligible to receive significant financial assistance from government-funded reception centers managed by nongovernmental organizations (NGOs). In each of the three regions in the country (Wallonia, Flanders, and Brussels), the Government designated and subsidized a nonprofit organization to provide such assistance. At the conclusion of legal proceedings against their traffickers, victims generally were granted permanent residence status and unrestricted work permits. The rights of victims were respected in practice, and they were not treated as criminals. The Center for Equal Opportunity and the Fight Against Racism reported that shelters assisted 230 persons in 2000, primarily victims of sexual exploitation; the Center has not maintained these statistics.

The Ministries of Interior and Foreign Affairs worked closely together to assign antitrafficking liaison officers to Belgian embassies in countries of origin, including Albania, Cote d'Ivoire, the Democratic Republic of the Congo, Guinea, Kazakhstan, and Ukraine. These officers gathered information about local conditions and trafficking trends and assisted in establishing antitrafficking information campaigns for the local population.

The Government worked closely with the IOM to develop programs to combat trafficking and to assist its victims. For example, the Government provided funding for information campaigns in countries of origin to warn women of the dangers of trafficking. It also provided funding to the IOM to assist the voluntary return of victims to their home countries and to assist them in readjusting once they had returned home. The Government worked closely with and supported NGOs that combat trafficking.

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## BOSNIA-HERZEGOVINA

The 1995 General Framework Agreement for Peace in Bosnia and Herzegovina (the Dayton Accords) created the independent state of Bosnia and Herzegovina (BiH), previously one of the constituent republics of Yugoslavia. The agreement also created two multiethnic constituent entities within the state: The Federation of Bos-

nia and Herzegovina (the Federation) and the Republika Srpska (RS). The Federation has a postwar Bosnian Muslim (Bosniak) and Croat majority while the RS has a postwar Bosnian Serb majority. The Constitution (Annex 4 of the Dayton Accords) established a central government with a bicameral legislature, a three-member presidency (consisting of a Bosniak, a Serb, and a Croat), a council of ministers, a constitutional court, and a central bank. The Accords assigned many governmental functions to the two entities, which have their own governments, Parliaments, militaries and police forces. The Accords also provided for the Office of the High Representative (OHR) to oversee implementation of civilian provisions. The High Representative also has the power to impose legislation and remove officials who obstruct the implementation of the Dayton Accords.

In the Federation, the President appoints the Prime Minister subject to parliamentary approval. The Federation Parliament is bicameral. Serious ethnic and political rivalries continued to divide Croats and Bosniaks. In the RS, the President and Vice Presidents are directly elected, while a Prime Minister selected by Parliament heads the Government. The Parliament, called the RS National Assembly, is elected on a proportional basis, and the Council of Peoples has the power to review laws vital to national interest issues of any of the constituent peoples. The RS Council of Peoples allows Bosniak, Croat, or Serb representatives to block legislation they believe threatens their group's vital national interest. In the city of Brcko, which is a "self-governing neutral district," an internationally appointed supervisor with executive authority is empowered to address such issues as taxation, law enforcement, district management, and composition of the district assembly. The judiciary remained subject to influence by nationalist elements, political parties, and the executive branch and thus was unable to prosecute all but the simplest crimes fairly and effectively.

The October general elections were the first administered by local authorities since the end of the war. All previous postwar elections had been conducted by the Organization for Security and Cooperation in Europe (OSCE). OSCE election officials reported that the elections were free and fair. Turnout for the elections was lower than in previous elections. Candidates of the three main nationalist parties, the Bosniak Party for Democratic Action (SDA), the Serb Democratic Party (SDS), and the Croatian Democratic Union (HDZ), won seats to the tripartite BiH Joint Presidency. In the RS, the SDS, founded by wartime Serb leader Radovan Karadzic, won a plurality, but lost ground to the moderate Alliance of Independent Social Democrats (SNSD). Following the October elections, coalitions of nationalist parties from all three ethnic groups gained control in the Parliaments at the state and both entity level governments. Several swing parties that had previously supported the moderate Alliance For Change (AFC) government, such as the RS-based Party of Democratic Progress (PDP) and the Bosniak Party for BiH (SBiH), joined with the nationalist parties. This gave the nationalist coalitions the numbers they needed to gain control of the Parliaments at both the BiH and entity levels.

The Constitution gives the Government of each entity responsibility for law enforcement in accordance with internationally recognized standards. The Stabilization Force (SFOR), led by NATO, continued to implement the military aspects of the Dayton Accords and to provide a secure environment for implementation of the non-military aspects of the settlement, such as civilian reconstruction, the return of refugees and displaced persons, and freedom of movement of the civilian population. The U.N. International Police Task Force (IPTF), which was established by the U.N. under Annex 11 of the Dayton Accords, completed its mission on December 31. It was succeeded by the smaller European Union Police Mission (EUPM), whose stated objectives were to monitor, mentor, and inspect the local police, and to raise police standards so that they are in line with accepted European and international practice. Some international observers were concerned as to whether the EUPM would be sufficiently prepared to monitor thoroughly abuses and lack of compliance by local police. In addition to locally recruited police forces, the entities maintained separate armies. While the BiH-level Constitution states that the armies are under BiH-level Presidential authority, in practice they were controlled by the entities. Entity governments generally maintained civilian control over the armed forces. During the year, police in both the Federation and the RS used internal affairs units to investigate and dismiss officers for committing abuses. Members of the police and security forces in both entities committed some human rights abuses in many parts of the country.

While the country continued to make progress toward implementing free-market reform, the economy remained only at the early stages of transition to a market economy. By the end of July, the estimated population in the country was 3,950,000, compared to an estimated prewar population of 4,377,033. Per capita gross domestic product remained only half of the prewar level, and unemployment stood at approxi-

mately 18 percent, even taking into account the considerable employment that occurred within the informal economy, where workers typically received no benefits. The country remained heavily dependent on foreign assistance, which was expected to diminish significantly. The country made advances in areas necessary to make the transition from post conflict aid dependence to sustainable economic growth. Such advances included: Stimulating more private sector development; attracting more investment and providing a hospitable tax regime; accelerated privatization; a tougher stance on crime and corruption; and a single economic space. There was a growing gap between rich and poor, due mainly to the lack of rule of law. The growth in the black and gray markets in the years after the war allowed some to reap windfall profits, while the law abiding continued to face serious economic hardship.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. The degree of respect for human rights continued to vary among areas with Bosniak, Bosnian Croat, and Bosnian Serb majorities. According to credible reports, police continued to abuse and physically mistreat detainees and other citizens. Police brutality continued, for the most part with impunity. However, U.N. monitors reported progress in establishing procedures to ensure police accountability and transparency, such as a substantial drop in illegal and arbitrary detentions. Prison conditions met prisoners' basic minimum needs for hygiene and access to medical care; however, overcrowding and antiquated facilities continued to be a problem. The judiciary in both entities remained subject to influence by dominant political parties and by the executive branch. Overlapping and poorly defined layers of judicial responsibility and outdated procedures made the administration of justice sporadic and vulnerable to manipulation. Even when independent decisions were rendered, local authorities often refused to carry them out. Although the RS Parliament passed a law on cooperation with the Hague-based International Criminal Tribunal for the Former Yugoslavia (ICTY) in September 2001, the RS continued its de facto refusal to take action against any Serbs indicted by the ICTY. Although the Federation did not facilitate any new transfers during the year, the Federation cooperated generally with the ICTY. Authorities in all areas infringed on citizens' privacy rights. The destruction of minority-owned houses continued in some areas of the RS and in Croat-controlled areas of the Federation.

Pressure and harassment of media by authorities and dominant political parties declined somewhat compared with 2001 but intensified in the month immediately before the national elections. Incidents included bureaucratic harassment, intimidation, published insults, and threatening behavior. Nonetheless, the nature of the incidents tended to be less violent and less overt than in the previous year. Academic freedom was constrained by ethnic favoritism and politicization of faculty appointments. Authorities continued to impose some limits on freedom of assembly and association. Both entity governments and private groups continued to restrict religious practice by minorities in majority areas; religious discrimination remained a problem. Freedom of movement continued to improve, although some restrictions remained in practice. While police failed to ensure security for refugees returning to areas in which they were an ethnic minority, incremental improvement and responsiveness were noted.

Violence against women, in particular domestic violence, was a persistent yet underreported problem, and discrimination against women persisted. Severe discrimination against ethnic minorities continued in areas dominated by Serb and Croat ethnic groups, with some discrimination in Bosniak-majority areas, particularly regarding the treatment of refugees and displaced persons. Isolated instances of political, ethnic, or religious violence continued. The political leadership at all levels, in varying degrees but more so in the RS than in the Federation, continued to obstruct minority returns in certain localities. Members of society, organized by local authorities, harassed minorities and violently resisted their return in some areas, such as Trebinje, and elsewhere in the RS. Trafficking in women and girls was a serious problem. Bosnia and Herzegovina was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

On November 12, after a 17-month trial, a Sarajevo court acquitted all six defendants charged in the 1999 bombing that killed former Federation Deputy Interior

Minister Jozo Leutar due to lack of evidence. The judge noted that the testimonies of the two protected witnesses were contradictory. At the time of his assassination, Minister Leutar was carrying out an investigation into organized crime. The prosecution was preparing an appeal to the Federation Supreme Court at year's end.

On September 24, Zeljko Markovic, Police Chief of Serb Sarajevo, was killed outside his home in Sokolac. Police detained a few persons for interrogation but later released them due to a lack of evidence. As of the end of October, the investigation was continuing, and many believed that his death may have been connected to his work against corruption and organized crime.

In October 2001, police discovered the bodies of Father Matanovic and his parents, who disappeared from Prijedor in 1995, in the well of their family residence in Rizvanovici (*see* Section 1.b.). Autopsies revealed that their hands had been bound with RS police-issued handcuffs and that each had been shot in the head with police weapons. In 2001 several former RS police officials were under investigation, and in May 2001, the IPTF commissioner had deauthorized three Prijedor police officers for their involvement in Father Matanovic's disappearance. Also in May 2001, five former RS police officials were detained. The ICTY approved the investigation and detention of these five former RS police officers, and their case was transferred to the domestic judicial system where it has been turned over to an investigative judge (*see* Section 4).

In October the trial began in the ICTY against Slobodan Milosevic, the former President of Serbia and Montenegro (Yugoslavia), who was arrested last year and charged with genocide (*see* Section 4). The local prosecution of war crimes cases proceeded slowly due to political interference; however, authorities made some progress during the year with the arrest and trial of suspects in the Bosnian courts. The lack of a witness protection program has hampered prosecutions (*see* Section 1.c.).

SFOR arrested numerous war crimes suspects. For example, on April 1, SFOR arrested Momir Nikolic who was indicted by the ICTY in connection with the 1995 Srebrenica massacre. On June 13, SFOR arrested Darko Mrdja in Prijedor in connection with the August 1992 massacre of more than 200 men in the Vlasic mountain region in the central part of the country. On July 7, Miroslav Deronjic was arrested on charges of crimes against humanity in the village of Glogova near Bratunac in 1992. On July 9, Radovan Stakovic was arrested for his alleged role in the detention, torture, and sexual assault, including rape, of Bosnian Muslim women and girls in Foca from June 1992 to February 1993.

In addition to SFOR arrests, Dusan Knezevic, one war crimes suspect, voluntarily surrendered on May 18 to representatives of the U.N. war crimes tribunal in Banja Luka. He was one of four suspects charged with atrocities against Bosniaks and Croats at the Omarska and Keraterm war camps in the country in 1995. In May Serbian police arrested Ranko Cesic for war crimes and crimes against humanity in the Luka camp near Brcko.

On January 3, the Sarajevo Cantonal Court convicted Bosnian Serb Goran Vasic of beating Bosnian Muslim prisoners at a wartime camp but acquitted him of killing Bosnia's Deputy Prime Minister Hakija Turajlic in 1992.

On October 14, persons received sentences of 2 to 13 months' imprisonment for their role in the Ferhadija Central Mosque riots in May 2001, where crowds protesting the laying of a cornerstone for the reconstruction of that mosque killed a Muslim man (*see* Section 2.c.). In April a murder suspect was arrested in April for the 2001 killing of a 16-year-old Bosniak girl near Vlasenica; however, he was released in July. At year's end, the case remained unsolved.

An improvement in the security environment for returnees resulted in a decrease of 43 percent in documented acts of violence in the RS from 2001. Bosniak Muamar Topalovic was suspected of murdering three members of a Croat family, the Andjelic family, in Konjic on December 24. On December 31, a 76-year-old Bosniak woman was murdered in Kozarska Dubica in the RS.

An estimated 1 million landmines were planted in the country during the 1992–95 wars (*see* Section 1.c.). Since 1995 landmines have killed 339 persons, 21 during the year.

*b. Disappearance.*—There were no reports of politically motivated disappearances during the year. There remained an estimated 20,000 to 30,000 persons missing from the wars in 1991–95.

Under an OHR-mediated agreement reached in 1996, exhumations were carried out by the Bosniak, Bosnian Croat, and Bosnian Serb commissions for missing persons. The commissions were free to carry out exhumations and collect unburied mortal remains in territory under the authority of another majority ethnic group using an established notification system. The International Commission for Missing Persons (ICMP), which operated in all countries of the former Yugoslavia, reported that the remains of an estimated 750 persons had been recovered in the country as of

mid-October, and an additional 60 or more sets of mortal remains were exhumed in the intraentity process. The largest gravesite to be uncovered during the year was found in Kamenica and was believed to contain, along with other gravesites in the area, approximately 1,000 sets of mortal remains of victims from Srebrenica, which were expected to be recovered by the end of the year.

The ICMP continued developing its centralized system of DNA identification, finishing construction of its DNA laboratory in Banja Luka. The ICMP collected 9,729 blood samples by the end of September and was expected to have collected 13,000 samples by the end of the year. During the year, 18,838 DNA blood profiles were obtained. ICMP also received 4,000 bone samples resulting in 2,519 DNA bone profiles during the year. By the end of the year, 1,250 DNA matches had been made that should result in the identification of approximately 750 missing persons.

The Missing Persons Institute (MPI) is a state institution that opened in August 2000 to serve as a working platform for entity-level commissions on missing persons under guidance from the ICMP. During the year, ICMP instigated the separation process of MPI from ICMP, as MPI will eventually take over responsibility for recovering and identifying human remains and supporting families of the missing.

The issue of missing persons was used for political purposes prior to the October elections. The RS government Bureau for Relations with the ICTY issued a report in September, during the pre-election period and prior to the beginning of the Milosevic trial in the Hague, which stated that only 1,800 persons were missing from Srebrenica. The report did not cite any supporting evidence. In this context, a neutral scientific approach, such as that provided by ICMP's DNA identification process, was intended to prevent such political manipulation and ultimately provide closure and an unbiased answer as to the number of missing persons from Srebrenica.

The International Committee of the Red Cross (ICRC) reported that since 1995 it had received requests from family members to trace 20,845 persons missing from the war years, including 17,330 Muslims, 740 Croats, 2,643 Serbs, and 132 others. A total of 3,143 of these persons had been accounted for (318 of whom were found alive) by year's end. The ICRC reconstituted the Working Group for Tracing Missing Persons, which was created by the Dayton Peace Agreement to serve as a channel for passing tracing requests to local authorities. This group had been suspended in 1999 due to lack of cooperation from local authorities.

RS compliance with the Human Rights Chamber's decisions ordering full investigations into several wartime disappearance cases improved somewhat during the year (see Section 1.e.). For example, the RS fully complied with the 1997 Human Rights Chamber's order to conduct a full investigation into the disappearance of Father Tomislav Matanovic from Prijedor in 1995 (see Section 1.a.). Pressure from the IPTF was a factor in the successful conclusion of this investigation. However, the RS authorities ignored requests for investigations in numerous other cases.

During the year, the RS paid compensation awarded by the Chamber to Colonel Avdo Palic's family but did not conduct an investigation, ordered by the Chamber, into his disappearance in 2001. Therefore, the RS only partially complied with the Palic decision.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution provides for the right to freedom from torture and cruel or inhuman treatment or punishment, but in all areas of the country, police abused and physically mistreated persons at the time of arrest and during detention. However, according to U.N. monitors, the number of complaints against police officers declined significantly during the year. Monitors cited as a major reason for the improvement a U.N.-initiated program to set up a system of maintaining a written record at every step of the arrest and detention process. There were 105 incidents of police misconduct reported to the IPTF. Categories of misconduct may include assault, beatings in custody, excessive use of force, ill treatment, harassment, police inaction, illegal detention, restriction of movement, improper seizures, abductions, sexual assaults, negligence, corruption, and abuse of power.

Police commonly failed to act on complaints of police brutality, and punishments were mild and often done only under pressure from the IPTF or other international monitors. Police were not usually criminally charged in such cases. Many victims of police abuse were reluctant to file complaints for fear of retribution. To remedy these problems, a U.N. accreditation program was created. The goal of the program was to accredit those law enforcement agencies that met clear criteria for democratic, multiethnic police institutions. To gain accreditation, a police force must demonstrate professional competence, organizational capacity, and institutional integrity.

Specific requirements for accreditation included the establishment of standard operating procedures and an internal review process. Professional Standards Units (in-

ternal affairs) were created in each of the Ministries of Interior and in the District of Brcko. The policies included strict guidelines for arrest and detentions, civilian selection and review boards, and promotion and disciplinary procedures. With Professional Standards Units operational, police forces acted against some officers, resulting in fines, suspensions, and dismissals, as well as several criminal convictions.

During the year, the IPTF certified 16,764 police officers and issued 556 denials of certification. This process of certification for local, entity and BiH-level law enforcement officers, all of whom had previously received provisional authorization, involved in-depth background checks, as well as completion of IPTF-mandated training. Among the applicants, 352 failed final certification on the basis of wartime activities or serious disciplinary problems. The latter category included those with criminal records or indictments, as well as those with three or more noncompliance citations by IPTF.

Poor police protection and violence against minority communities continued in several areas, particularly in the eastern RS and Herzegovina (see Section 5).

Police in the eastern RS were able to provide security for Bosniak events, which included the "Women of Podrinje" commemoration in Bratunac and the Srebrenica commemoration in July. Both of these events occurred without violence, as did many mosque openings throughout the year, in contrast to the previous year. A total of 1,600 minority police officers had been added to both the Federation and the RS police forces by year's end. Although this represented only 10 percent of the entire police force, it was an improvement for ethnic minority populations.

Some police officers were involved in trafficking in persons (see Section 6.f.).

During the year, the entity Mine Action Centers were combined, forming a BiH-level Bosnia and Herzegovina Mine Action Center (BiH MAC). In addition, more active commissioners were appointed to the BiH-level demining commission and worked with BiH MAC toward the goal of making the country free of landmines by 2010. In both entities, and in relevant Cantons and municipalities, over \$1.5 million (3 million KM) was spent on demining during the year. These government contributions represented a meaningful first step in transferring the responsibility for funding demining from the international community to the country. The funding covered overhead expenses at the Mine Action Center. Conflicting forces planted an estimated 1 million landmines in the country during the 1992–95 wars. Since 1995, landmine explosions have injured 1,033 persons; 34 were seriously wounded during the year. As of August, between 7 and 10 percent of the total of landmines and unexploded ordnance in the country had been removed.

Individual and societal violence motivated by ethnic conflict continued to be a serious problem, and numerous bombings, shootings, and assaults caused deaths, injuries, and significant material damage (see Sections 2.d. and 5); however, violence decreased compared with 2001.

There continued to be numerous violent incidents directed at returning refugees (see Sections 2.d. and 5). Violence against journalists, including physical assaults, continued (see Section 2.a.).

Prison standards for hygiene and access to medical care met prisoners' basic needs; however, overcrowding and antiquated facilities remained chronic problems. Corruption among prison officials continued to be a problem. Prisoners organized strikes in Zenica and Orasje to demand better conditions. There were no separate prisons for female or juvenile inmates, but they were held in separate wings of facilities for adult males. Pretrial detainees were also held separate from convicted criminals. Conditions were worse in police detention facilities, where overcrowding and inadequate food and hygiene were chronic problems.

The Government permitted visits by independent human rights observers; international community representatives were given widespread and for the most part unhindered access to detention facilities and prisoners in both entities as well.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitutions of both the entities and the country prohibit arbitrary arrest and detention. Arbitrary arrest and detention declined after the introduction of accounting procedures to track the arrest and detention process. Police must now maintain written records documenting each step of the process. According to U.N. monitors, the number of complaints has dropped significantly since these procedures came into effect. Federation law permits prearrest detention of up to 24 hours; in the RS prearrest detention may extend for 3 days, but these deadlines have been violated. The IPTF denied certification to some police for violating these procedures.

On October 11, the BiH's Human Rights Chamber determined that the BiH and Federation governments violated human rights conventions in transferring four of six Algerian terrorism suspects to the custody of a foreign government in January. Three of the four suspects were stripped of their Bosnian citizenship after the BiH government determined that they had obtained their citizenship fraudulently. The

fourth was not a Bosnian citizen but had a residence permit. The Chamber ruled that the transfer of the four suspects was illegal because the Ministry of Civil Affairs and Communications did not issue a required decision on expulsion. The Chamber also held that the four suspects were unlawfully detained from January 17 to January 18, but that their detention from October 2001 to January 17 was lawful. Additionally, the Chamber held that the BiH and the Federation governments should have sought assurances from the foreign government that it would not seek the death penalty against the detainees prior to their hand-over. The Chamber ordered both the BiH Federation governments to pay monetary compensation to each applicant and to engage attorneys on behalf of each applicant. The Chamber also ordered BiH to seek assurances that the death penalty would not be sought and to provide consular support to each of the applicants. In public statements, Ministers criticized the Chamber's decision as influenced by political concerns and claimed that the decision was flawed on both procedural and substantive grounds. Nonetheless, the BiH government indicated it would comply with the Chamber's decision, although at year's end it was considering pursuing an appeal.

On October 26, SFOR detained Sabahudin Fijuljanin for conducting surveillance of SFOR's Eagle Base in Tuzla. Evidence obtained during a search of Fijuljanin and his house in Gornja Maoca included a pistol, multiple passports issued in Fijuljanin's name, and an armed rocket propelled grenade launcher. Additional information led SFOR to conclude that Fijuljanin was linked to al-Qa'ida. SFOR stated that Fijuljanin's detention was based on the Dayton Peace Agreement, which provides SFOR with the authority to take necessary measures to ensure safety of SFOR personnel and installations. In November Fijuljanin contacted his attorney, and on December 9, Fijuljanin's lawyer filed an application with the Human Rights Chamber on Fijuljanin's behalf asking the Chamber to order the BiH and Federation governments to prevent his removal from the country. Fijuljanin also was allowed to contact his family during his detention and received visits by representatives of the ICRC. Fijuljanin remained in detention, and his case was pending before the Human Rights Chamber at year's end.

The Constitution prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—Both the Federation and RS Constitutions provide for an independent judiciary; however, the executive and some political parties continued to influence the judicial system. The legal system was unable to protect the rights of either victims or criminal defendants adequately because of its inefficient criminal procedure codes and ineffective trial procedures. The judiciary remained subject to influence by political parties. Judges and prosecutors who showed independence were subject to intimidation, and local authorities at times refused to carry out their decisions.

Some political leaders and organized crime figures attempted to influence judicial institutions and prosecutorial offices in both entities. Government officials and nationalist elements in the past exerted political pressure to obstruct investigations by law enforcement agencies. Some politicians and other powerful figures continued to exert influence on cases before the courts. Court files often contained letters from politicians about particular cases, and politicians often made public statements blaming judges or prosecutors for carrying out their duties. Organized crime elements also sought to pressure judges. The criminal justice system did not investigate or prosecute serious crime or corruption cases effectively. A lack of resources and a huge backlog of unresolved cases provided a convenient excuse for judicial inaction.

Even when the courts rendered a fair judgment, local officials and the court police often ignored or refused to implement their decisions. This was especially true for those who won decisions mandating the eviction of illegal occupants from their property, although this continued to improve during the year under pressure from the international community (*see* Section 1.f.).

In order to increase the efficiency of legal assistance and official cooperation in criminal matters between the entities themselves as well as between the entities and Brcko, the High Representative imposed the Law on Legal Assistance and Official Cooperation in Criminal Matters on May 23. In conjunction with this law, the OHR also set up a Federation bar association and adjusted RS laws in order to harmonize both entities' bar associations. The Law on Legal Assistance and Official Cooperation in Criminal Matters was aimed specifically at more effective discovery, prevention, and prosecution of all types of criminal activities, as well as to facilitate and strengthen legal assistance and official cooperation in the fight against crime, terrorism, corruption, and other illegal activities. However, this new law was not fully implemented; regulating legislation was not enacted, and by year's end, there had been little or no cooperation between the separate structures of courts and prosecution agencies in the Federation and the RS. Cooperation between police and



courts in the different entities remained weak. Although there were isolated instances in which the 1998 Memorandum on Inter-Entity Legal Cooperation was used successfully, little sustainable progress was made in creating viable and effective structures for such cooperation. For example, there was still no mechanism between the Ministries of Interior to enable arrest warrants to be executed throughout the country.

Enforcement of civil judgements remained weak due to the lack of cooperation between courts and police generally; the low priority given to enforcement cases by the courts; and the many legal loopholes that allowed debtors to delay or avoid enforcement.

Since 2000 laws in each entity have mandated commissions (in the Federation) and councils (in the RS) responsible for recommending candidates for judicial and prosecutorial appointment. These laws also called for a one-off 18-month "comprehensive review" of the suitability of all sitting judges and prosecutors. The Independent Judicial Commission (IJC) was expected to monitor both the appointment and review process in 22 commissions. International community assistance enabled the introduction of uniform and improved appointment practices through a Memorandum of Understanding applicable in both entities, although the procedure was still complex and the final power of appointment remained with the legislative bodies. However, by the end of 2001 it was clear that the Comprehensive Review Process had not produced tangible results. Very few judges or prosecutors had been removed from office or disciplined as a result of the process, despite the large number of complaints against them.

The IJC recommended a more aggressive approach to the appointment of judges and prosecutors, bringing forward some changes on which it had anticipated working at a later time. This new approach, known as the reinvigorated judicial reform strategy, was adopted by the Peace Implementation Council in February. With limited exceptions, after restructuring, all judicial and prosecutorial posts would be filled in an open competition.

The peer-review based Comprehensive Review Process was ineffective in removing unsuitable judges and prosecutors. The IJC therefore proposed a reselection process for all judges and prosecutors, coupled with a restructuring of courts and prosecutor's offices, as part of a reinvigorated judicial reform strategy. In August the OHR appointed the first members of three newly created BiH-level High Judicial and Prosecutorial Councils (HJPCs). The HJPCs were intended to strengthen the integrity and professionalism of judges and prosecutors. By year's end, the HJPCs had reviewed 300 applications for 90 vacant judicial and prosecutorial positions, and in December they issued the vacancy announcements for the approximately 900 remaining positions at the country and entity levels. Other aspects included reform of key procedural laws, creation of Judicial Training Institutes, and reform of court administration. Judicial reform was necessary because although both the Federation and RS Constitutions provide for open and public trials and give the accused the right to legal counsel, an inefficient criminal procedure code has resulted in long delays in trials and few final verdicts. Appellate courts frequently sent cases back to first instance courts to correct minor errors in order to avoid making final decisions on cases. First instance courts were overburdened with the responsibility for gathering evidence during the preliminary examination stage, a task given to the investigative judge rather than the prosecutor, resulting in a prolonged judicial process.

On June 20, the BiH House of Representatives passed a law creating the State Information Protection Agency (SIPA). When UNMIBH and the international community initially began to advocate this law, SIPA was intended to act as an embryonic Bosnian "FBI." However, after a difficult negotiation process, SIPA's originally intended mandate became limited. SIPA served as a conduit for information and evidence among local, as well as some international, law enforcement authorities, and, in limited circumstances, SIPA acted as a protection authority for diplomats and officials. Since the law was passed, little progress has been made in establishing this agency. By year's end, SIPA still lacked a budget, staff, and permanent building facilities.

The Dayton Peace Accords also created the Human Rights Commission for Bosnia and Herzegovina, which consists of the Human Rights Chamber and the Human Rights Ombudsman (*see* Section 4). The Chamber may consider alleged violations of the European Convention on Human Rights if the matter is within the responsibility of one of the parties to the Dayton Agreement and occurred after its signing. Decisions of the Chamber are final and may not be appealed to the Constitutional Court.

Implementation of Human Rights Chamber decisions by local authorities improved somewhat in the RS. The RS achieved full compliance with some decisions

by reinstating claimants in their houses and apartments and paying them compensation. The RS fully complied with one high profile case, the Matanovic case, by completing its investigation of the case (*see* Section 1.a.), and also complied partially with religious discrimination cases by taking actions such as issuing approval for the reconstruction of mosques in Bijeljina. The Federation continued to implement most Chamber decisions, taking the remedial action ordered and paying compensation awards. Both the Federation and the RS failed to comply with a small number of Chamber decisions.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the right to “private and family life, home and correspondence,” and the right to protection of property; however, authorities in all areas infringed on citizens’ privacy rights.

In the RS, police routinely conducted searches of private homes without obtaining search warrants, citing emergency provisions in the law even in routine cases. While this problem was not as common in the Federation, it occasionally occurred.

Since the war, large numbers of citizens have been unable to reclaim property, either privately or collectively owned, to which they had occupancy rights under the Communist system. Enactment of property legislation proceeded extremely slowly in both entities; however, pressure from the international community had a positive impact on property law implementation. In the Federation, by year’s end, 92 percent of property claims had been adjudicated and 74 percent of property returned. At the same time in the RS, 76 percent of property claims had been decided and 62 percent of property returned. The increases in the RS were well ahead of initial expectations. For the country as a whole, at year’s end, 85 percent of property claims had been adjudicated and 69 percent of property returned. Despite these notable increases, the political leadership in both entities continued to obstruct minority returns by delaying needed reforms and not implementing evictions and other property related decisions, particularly in the Croat areas of Herzegovina and in the eastern RS. In Sarajevo delays persisted due to the large backlog of cases, and evictions failed to keep pace with decisions to return property to the prewar owners.

During the year, the Human Rights Chamber and Human Rights Ombudsmen issued numerous decisions in cases where local authorities failed to return apartments or homes to legal owners seeking to return to their prewar homes (*see* Sections 1.e. and 4). Most applicants were in possession of certificates issued by the Commission for Real Property Claims (CRPC), which are final and binding, determining that they held legal occupancy rights; however, local authorities failed to evict illegal occupants as required by law. In September the international community introduced the “New Strategic Direction,” a property law plan that requires local authorities to evict illegal occupants in chronological order in order to provide greater transparency in the process and accelerate property law implementation. The Federation and the RS both adopted the New Strategic Direction plan, and the BiH-level Ministry of Human Rights and Refugees fully endorsed the plan.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides a general statement supporting freedom of speech and of the press, although actual laws regarding freedom of the press are delegated to the cantons in the Federation, and to the central authorities in the RS; however, the Government did not always respect these rights in practice.

The primary restraints on freedom of the press were inappropriate pressure on the principal media by governing political parties, intimidation and libelous attacks on journalists, and politicized use of tax and financial inspections. While there were some improvements in the development of a free and independent press, many media outlets maintained subjective political biases. Threats to journalists remained high, although the severity of harassment incidents declined. Government officials in both entities continued to pressure media outlets to change editorial policies through excessive tax audits and other bureaucratic harassment. The Media Helpline was transferred from OSCE to OHR auspices during the year and continued to monitor and report abuses against journalists and freedom of speech.

In late 2001, the OHR imposed a new Broadcasting Law superseding previous media laws and amendments. The BiH and Federation Parliaments adopted the law, but the RS had yet to do so at year’s end. If adopted the law would install a new Board of Governors for the Radio Television Republika Srpska (RTRS) in the RS.

In June 2001, the Council of Ministers adopted the Stability Pact Charter for Media Freedom which pledges the Council of Ministers to protect and promote freedom of expression; remove obstacles to freedom of media; respect the principles of

a free and independent press; and provide free access to information. These laws and policies were intended to develop a solid legal basis for free and open media in the future. However, by year's end, the effects of these laws were not yet evident, and journalists still found it difficult to work independently and professionally.

In May a Federation Parliamentarian vigorously attacked Federation TV and its journalist Bakir Hadziomerovic from the floor of Parliament for a controversial investigative story aired on that station. A local association of journalists defended the journalist and the station, claiming that the representative had misused his office to intimidate the media. Also in May, Radmilo Sipvac and Dragan Risojevic from Nezavisne Novine in Banja Luka received a letter from RS customs director Goran Popovic rudely demanding that they provide proof within 3 hours for a story about Customs Agency-organized smuggling activities. (Popovic later resigned in connection with another RS customs fraud incident.)

Some opposition and independent newspapers operated in the Bosniak-majority areas of the Federation and in the RS, principally in Banja Luka. Dnevni Avaz, owner of the only independent printing house in Sarajevo (the other printing facility in the Federation is the Government-controlled Oko), was the highest circulation daily in the country. During and since the fall election campaign, Avaz realigned itself more closely with the nationalist SDA party. Dani and Slobodna Bosna were the most influential independent magazines in the Federation. In the RS, the Government-owned printing company, Glas Srpski, had a virtual monopoly. One of the few independent magazines in the RS was Reporter, a weekly published by a former correspondent of the Belgrade-based independent magazine Vreme. Nezavisne Novine was an independent newspaper distributed throughout the country; however, its circulation was limited.

Government officials, especially in the RS, exerted economic pressure by directing the advertising business of government-owned companies away from independent media outlets critical of the Government. Some independent media in the two entities, for example, Dani and Reporter, assisted in the distribution of each other's publications in their respective entities.

The largest television broadcasters were Radio Television Bosnia and Herzegovina (RTV BiH) in the Federation and RTRS in the RS. The international community launched the Open Broadcast Network (OBN) in 1997 as a cross-entity broadcaster and a source of objective news and public affairs programming; however, because of massive financial problems, it lost most of its affiliates and staff. Reduced to only a Sarajevo broadcaster, in September OBN announced the formation of an independent network with NTV, a station in Banja Luka. There were dozens of small independent television stations located throughout the country. Some of these broadcasters originally were municipal stations; they had not yet been privatized fully by year's end, although their legal ownership status was further clarified by the Communications Regulatory Agency (CRA).

Radio broadcasting in the Bosniak-majority areas of the Federation—particularly in Sarajevo, Zenica, and Tuzla—was diverse. Opposition viewpoints were reflected in the news programs of independent broadcasters. Independent or opposition radio stations broadcast in the RS, particularly in Banja Luka. Nez Radio and Radio Pegas reported a wide variety of political opinions. Local radio stations broadcast in Croat-majority areas, but they usually were highly nationalistic. Local Croat authorities did not tolerate opposition viewpoints. One exception was Studio 88, in Mostar, which broadcast reports from both sides of that ethnically divided city and Radio N in Livno, which broadcast balanced reports despite strong pressure from nationalists.

The BiH government and both entity governments adopted the Freedom of Access to Information (FOI) Act, establishing a general right of public access to government information, and both entities began implementing the Act. The Government had not yet adopted FOI guidance legislation by year's end, but claimed to be implementing the FOI law.

The RS adopted a law on Defamation and Slander. The Federation draft law on defamation and libel, criticized for excessive fines, was withdrawn, and no draft had been adopted by year's end. Although the High Representative abolished criminal penalties for libel, in the absence of a law, Federation journalists still ran the risk of conviction for a criminal offense of libel. The Federation Ombudsman stressed the inequity of this situation for Federation citizens and the detrimental effect on media freedom in the Federation. Despite the establishment of criminal penalties for libel, print dailies and weeklies routinely published unsubstantiated rumors and personal attacks on political figures as directed by their political party affiliations, prior to and continuing after the election campaign.

The CRA, formerly the Independent Media Commission, was a domestic agency established by the High Representative to regulate broadcasting in the country, in-

cluding enforcement of the established code of practice. Generally, the presence of the CRA, and the effective functioning of its complaints procedure and enforcement provisions, considerably reduced the level of inflammatory and hate language in the electronic media. This was particularly evident in the electronic media's coverage of the election campaigns.

In May the High Representative imposed legislation establishing the Public Broadcasting System (PBS), with both entity-level broadcasters as components. This was an important step forward in creating the legal framework for public and private broadcasters and codifying the regulatory responsibilities of the CRA, now independent of the Office of the High Representative and properly functioning as a BiH-level regulatory agency. However, the process of drafting the legislation, and specific clauses which could potentially deny private broadcasters genuine free-market competition, access to programs, and especially advertising revenue, raised concerns among broadcasters, NGOs among involved in media, and members of the international community.

There was increasing consensus within OHR that the CRA should have the proper regulatory authority to address advertising caps on PBS on a regular basis. There was also recognition that recourse to advertising revenue puts pressure on public stations to behave according to market forces, which may be at odds with public service obligations, such as the broadcast of educational programs. Subscription fees were considered as an alternative revenue source. A focus on building subscription fees as the primary revenue source for PBS and entity broadcasters would require a technical change in the PBS Law, strengthening the CRA's statutory right to regulate advertising cap rates as appropriate. This change had not yet been made at year's end. The CRA does have authority over satellite fee and frequency allocation issues.

Through early summer there were serious concerns that private broadcasters would lose access to high sites transmission facilities, to which public broadcasters have first priority but not exclusive rights. There were sufficient channels available, and the CRA resolved this issue to the satisfaction of private broadcasters. Commercial stations may broadcast from high sites upon prior request if the spectrum is available and coordinated. As a result, this issue ceased to be a point of contention.

Overall, completion of the long-term licensing process by the CRA for television and radio broadcasters, and formal establishment of the PBS, brought considerable order to the broadcasting media field. The process was not completed because certain provisions of the PBS law needed review to enable the fair and appropriate co-existence of public service and private broadcasters, as well as to support the CRA in its purpose as a strong and independent regulatory body. However, the initiative made significant progress. Electronic media operated in a more transparent and more properly regulated broadcast environment than it had previously, reducing the ability to restrict freedom of the press.

In a survey of the period from August 5 to September 5, shortly before the Bosnian elections, Internews BiH, a Bosnian NGO providing media training, recorded pressure from political parties on 66 radio and television stations throughout the country. Twenty-two percent of the total outlets reported pressure one or more times during this period, consisting of threatening calls or messages and other nonviolent threats. Fifty-four percent of the television stations and 19 percent of the radio stations surveyed reported threats. None reported any governmental pressure using tax or financial control measures. Three weeks before elections, Republika Srpska authorities announced financial control inspection for the weeklies Reporter and Patriot and the daily Nezavisne, although the previous inspection had occurred only 3 months earlier. All three media outlets interpreted this Tax Administration gesture as direct pressure against media because they had reported critically on the former RS Finance Minister. (The established period for tax inspections is 6 months.)

In April Vildana Selimbegovic, editor in chief of the weekly Dani, was threatened for a story on Abu Nidal's terrorist organization and its connections to the country. In her article, Selimbegovic linked a Bosnian lay member of the religious establishment in Sarajevo with Nidal. This individual threatened Selimbegovic, demanding money for having his name published in the article. In a phone conversation, he warned that if anyone were named a terrorist, Selimbegovic "would not write anything ever again." Dani published these threats in a subsequent article, and a court case was opened against this person.

During the summer, journalists for the daily Dnevni Avaz, Dani weekly magazine, and Federation TV were verbally attacked in Zenica while covering a story on a person detained in Mostar for possession of firearms. A group of individuals on motorcycles demanded and confiscated the TV crew's videos and intimidated the print journalists into leaving the story site.

Responding to an August article in *Slobodna Bosna* which identified him as the “lawyer of the Bosniak Mafia,” a religious leader publicly labeled the newspaper’s editor “a psychiatric case who should not be taken seriously.” Later, in his religious capacity, he included a blanket condemnation of written and electronic media in his public prayer.

On September 15, an individual forced his way into the editorial offices of *Dnevni List* in Mostar, behaving violently and demanding to know who took the photographs in last year’s edition of this daily covering the Herzegovacka Banka takeover. Those present reported the assault to the police who arrived, took a statement from the man, and released him, although they said that criminal charges would be raised against him.

Several cases from 2001 involving attacks on journalists remained unresolved by year’s end. These included: The June 2001 armed confiscation of a camera and tape from a Belgian TV crew in Pale; the August 2001 attack on *Oslobodjenje* journalist Elvir Beslic; and the November 2001 bombing of the house of journalist Zoran Sovilij. However, the attacker of Kenan Cerimagic of TV Hayat was tried during the year and given a nominal sentence of a few months.

Access to the Internet was unrestricted; however, for economic reasons, only approximately 4 percent of the population had access.

The Government did not restrict academic freedom. However, academic freedom was at times constrained by ethnic favoritism and politicization of faculty appointments. In Sarajevo Serbs and Croats complained that members of the Bosniak SDA party and Bosniaks generally received special treatment in appointments and promotions at the University of Sarajevo. The University of Banja Luka continued to limit faculty appointments almost exclusively to Serbs. The University of Mostar remained divided into eastern and western branches, reflecting the continued ethnic divide in the city. East Mostar University maintained a degree of ethnic diversity in its student body and staff but suffered from a serious lack of resources and staff. University of Mostar in West Mostar remained politically dominated by Croat nationalists.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of peaceful assembly; however, authorities imposed some limits on this right in practice.

In July large numbers of Bosniaks visited cemeteries in Visegrad and no violence was reported. A large-scale gathering in Bratunac in May and another in Srebrenica, where 5,000 Bosniaks gathered in July to commemorate the 1995 Srebrenica massacre, also occurred without incident.

In early March, approximately 5,000 war veterans protested in Sarajevo, calling for the Government to pass legislation to allow more benefits for war veterans and the families of soldiers killed in the war. The SDA was one of the main organizations encouraging the protest. On December 19, hundreds of Bosnian Croats protested the decision of the Federation government to halt the payment of benefits to Croat war veterans and the families of soldiers killed during the war. The protesters blocked four major border crossings with Croatia in the north and the south and two major road junctions in central and southern Bosnia. There were no reports of violence committed by either the protesters or the authorities in either protest.

The Constitution provides for freedom of association, and a wide range of social, cultural, and political organizations functioned without interference; however, authorities imposed some limits on this right and indirect pressure constrained the activities of some groups. Although political party membership was not forced, many viewed membership in the leading party of any given area as the surest way for residents to obtain, regain, or keep housing and jobs in the Government-owned sector of the economy (*see* Section 6.a.).

*c. Freedom of Religion.*—The BiH Constitution and both entity Constitutions provide for freedom of religion, and individuals generally enjoyed this right in areas that were ethnically mixed or where they were adherents of the majority religion; however, the ability of individuals to worship in areas where theirs was a minority religion was restricted, sometimes violently.

Despite the constitutional provisions for religious freedom, a degree of discrimination against minorities occurred in virtually all parts of the country. Discrimination was significantly worse in the RS, particularly in the eastern RS, and in Croat-dominated areas of the Federation. However, incidents of discrimination occurred in Bosniak-majority areas as well.

While the majority of the population in the Federation consisted of Bosniaks and Croats, neither Islam nor Roman Catholicism enjoyed special status under the Federation Constitution. In 2000 the Bosnian Constitutional Court struck down a provision in the RS Constitution directing the entity government to “materially support

the Serbian Orthodox Church and cooperate with it in all fields.” During the year, the RS gave only nominal financial assistance to representatives of the Serbian Orthodox, Roman Catholic, and Islamic faiths.

Parties dominated by a single ethnic group remained powerful in the country. Most political parties continued to identify themselves closely with the religion associated with their predominant ethnic group; however, some political parties were multiethnic. Some clerics characterized hard-line nationalist political sympathies as part of “true” religious practice.

The Constitution provides for proportional representation for each of the three major ethnic groups in the BiH government and the military. Because of the close identification of ethnicity with religious background, this principle of ethnic parity in effect has resulted in the reservation of certain positions in the BiH government and the military for adherents or sympathizers of certain faiths. The military in the RS was staffed overwhelmingly by ethnic Serbs and only had Serbian Orthodox Chaplains. The Federation military was composed of both separate Bosniak (Muslim) and Croat (Roman Catholic) units, and integrated units; Muslim and Catholic chaplains were represented.

Foreign religious workers normally entered initially as visitors, since a tourist visa allows for stays as long as 3 months. Some apparently entered and reentered the country every 3 months, essentially extending their tourist status indefinitely. Missionaries officially were required to obtain a temporary residence permit from a Cantonal Ministry of Interior before their 3-month tourist visa expired. There were no reports of cases in which missionaries’ applications were refused.

Public schools offered religious education classes, which were mandatory for Serbs in Republika Srpska and, in theory, optional in other parts of the country. However, in practice they were offered only for students of the majority religion in that area, amid pressure on parents to sign their consent that their children needed to attend the religious instruction. Schools generally did not hire teachers to offer religious education classes to students of minority religions. In some cases, children who chose not to attend the religion classes offered were subject to pressure and discrimination from peers and teachers. Schools in Sarajevo offered only Islamic religion classes. In Croat-majority West Mostar, minority students theoretically had the right to study non-Catholic religions; however, this option did not exist in practice. Orthodox symbols were present in public schools throughout the RS.

In some communities, local religious figures contributed to intolerance and an increase in nationalist feeling through public statements and, on occasion, in sermons.

On September 18, unknown perpetrators destroyed a mosque in Gacko with an explosive device.

The RS government, local governments, and police forces frequently allowed or encouraged an atmosphere in which abuses of religious freedom could take place, although there was slight improvement from previous years. The absence of a police force willing to protect religious minorities and a judicial system willing to prosecute crimes against them were major obstacles to safeguarding the rights of religious minorities (*see* Section 1.e.).

In June an explosive device was thrown into the courtyard of a house belonging to a recent Bosniak returnee in Bijeljina. Police arrested a suspect, and an investigation into the incident was ongoing at year’s end. On December 7 in Doboï, hand grenades were thrown at a mosque and a returnee home. On December 24, Muamer Topalovic allegedly attacked a Bosnian Croat family in Kanjic for religious and ideological reasons. The attack followed the December 20 burning of the Mostar municipal creche, the December 19 bombing of the house of a Bosniak returnee near Bijeljina, the December 23 desecration of two Muslim tombstones in a graveyard in Prijedor, and the December bombings of two houses belonging to Bosniaks and a mosque in Doboï. Suspects were arrested in the creche burning incident. According to the U.N. High Commissioner for Refugees (UNHCR), a total of 17 violent incidents were directed at religious sites, including several in Mostar and Prijedor.

Because they were powerful symbols of religious identification and, therefore, ethnicity, clerics and religious buildings were favored targets of ethnoreligious violence. Most religious leaders severely criticized violence and nationalism, but their message was undermined by other clerics who continued to support nationalist causes and separatism. RS authorities frequently did not intervene to prevent the violent obstruction of efforts to rebuild some of the 618 mosques and 129 churches in the RS that were destroyed or significantly damaged during the 1992–95 war. Local police also did not conduct a serious investigation into several incidents. On October 21, fourteen persons were sentenced to 2 to 13 months’ imprisonment for their role in the most serious incident, involving riots at a May 2001 dedication ceremony for the Ferhadija Central Mosque in Banja Luka (*see* Section 1.a.). Administrative and

financial obstacles to rebuilding religious structures impeded the ability of minorities to worship and impeded their return in many areas.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides these rights, and freedom of movement, including across the Inter-Entity Boundary Line, continued to improve; however, some limits remained in practice.

Accurate statistics on displaced persons and refugee returns remained difficult to obtain, and statistics accounting for the age of returnees were not available. Various refugee organizations provided different estimates on the numbers of minority internally displaced persons (IDP) returns. UNHCR stated that there were 10,000 more minority IDP returns during the year than there had been in 2001.

Pressure from evictions, combined with an increased sense of security in most areas of the country and awareness that international assistance was limited, prompted the increase in returns. Thousands of returnees lived in sheds or improvised shelters in their former villages and towns, hoping for assistance in rebuilding their homes. According to UNHCR, between the end of the war in 1995 and the end of the year, 424,403 persons who left the country had returned. UNHCR reported that there were 102,111 registered minority returns countrywide, a substantial increase over the number of minority returns in 2001. By ethnic group, the returns were as follows: 40,716 Serbs; 49,378 Bosniaks; 10,898 Croats; and 1,119 others. Although the return figures were much less exact for those returning from other places within the country, UNHCR reported that 485,900 IDPs returned to their prewar homes between the end of the war and August.

There were some improvements during the year that facilitated returns. In January the High Representative promulgated the “Vital Interest” Decision, which provided a clearer accounting of Refugee Ministry budgets used to support return. In the RS, the Refugee Ministry followed the initiative begun in 2001 and supported the return of Bosniaks and Croats by providing reconstruction assistance to both of these groups. As of September, a total of 460 Bosniak and Croat families received such assistance. As of October, the RS Refugee Ministry had spent \$3.2 million (KM 6.4 million) on the initiative. The RS Refugee Ministry also agreed to provide reconstruction assistance to approximately 20 minority police officers returning to the RS, and deliveries were made to 18 of these officers as of the end of October. The increased number of ethnically integrated police forces helped improve the climate for returns, although security remained inadequate in some areas (see Section 5).

Serbs continued to return in greater numbers to the Federation. In October the Federation Refugee Minister, after some delay, paid funds promised for joint reconstruction and return projects. The town of Drvar, a previously Serb town which was “ethnically cleansed” during the war by Croats, was by year’s end again majority Serb, with a rate of compliance with property laws of 90.27 percent. In early June, the High Representative removed the hard-line Bosniak mayor of Donji Vakuf for obstructing the return of refugees and IDPs. The mayor had publicly opposed the return of Serbs. In December preparations were made for a plan to hand over the responsibilities of OHR’s Reconstruction and Return Task Force to the BiH government. Because no government was formed from the October elections by the end of the year, these plans were delayed.

Many problems remained that prevented returns, including: Hard-liners obstructing implementation of property legislation; political pressure for individuals to remain displaced in order to increase the ethnic homogeneity of the population in a specific area; societal violence; and the lack of an ethnically neutral curriculum in public schools. Lack of housing also contributed to the problem; the needs continued to far outweigh available resources. Municipal administration taxes on documents that are necessary for return, such as birth or land certificates, remained high. In addition, minority returnees often faced employment discrimination, lack of access to health care in the place of return, and denial of utility services such as electricity, gas, and telephones by publicly owned utility companies. All of these problems decreased from the previous year, yet still persisted in hard-line areas. In October members of the Federation Ministry for Refugees and Social Welfare were subjects of allegations of corruption; the High Representative determined that an audit of the Refugee Ministry’s budget needed to be undertaken. Auditors initially commented that fraud and misuse of funds were likely involved. The audit was ongoing at year’s end. The Federation Ministry was unable or unwilling to keep financial commitments in support of returns throughout the year, and this caused many IDPs, particularly Bosniaks, to remain displaced or continue living in deplorable conditions as a result of the Ministry’s failure to provide support.

The continued influence of ethnic separatists in positions of authority hindered minority returns. Government leaders in both the RS and the Federation often used a variety of tactics, including public statements, to inhibit the return of IDPs. Municipalities in the RS continued to allocate illegal land plots in areas such as Zvornik and Bratunac, in eastern RS, altering prewar demographics and intimidating potential returnees. Much of Croat-controlled Herzegovina and towns in eastern RS remained resistant to minority returns, although efforts by hard-line Croats to resettle returning refugees in a manner that consolidated the results of ethnic cleansings ceased for the most part. IDPs living in those areas, even those who privately indicated interest in returning to their prewar homes, frequently had been pressured to remain displaced, while those who wished to return had been discouraged, often through the use of violence (*see* Section 1.c.). These trends of intimidation for displaced persons to stay in their place of displacement decreased, although they were still practiced in the staunchest hard-line areas of the RS and Herzegovina.

During 1998 the Federation army unlawfully took control of 4,000 former Yugoslav military (JNA) apartments that had been abandoned. Authorities encouraged postwar occupants of these apartments to begin purchasing them. In the meantime, the prewar owners of the apartments (former JNA officers) began filing claims to return to their property. After inadequate action by local authorities, several of these cases were brought before the Human Rights Chamber, which decided that apartments owned by JNA officers should be returned. The return of apartments was scheduled to begin during the year. However, these apartments were not returned because the Federation did not take the necessary legislative action, and this problem remained unresolved at year's end.

The continued depressed state of the economy throughout the country and the consequent lack of employment opportunities for returnees remained a serious obstacle to a significant number of returns. Attempts by returnees to receive compensation for jobs illegally lost during the conflict years were largely unsuccessful. As a result, most minority returnees were elderly, which placed a burden on receiving municipalities. Younger minority group members, who depended on adequate wages to support their families, generally remained displaced, especially in cases in which they had managed to find work in their new place of residence. Some reports described younger returnees going back to their prewar homes, but no adequate statistics existed to determine the age of returnees.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government generally cooperated with UNHCR and other humanitarian organizations in assisting refugees. During April, May, and June the Ministry for Human Rights and Refugees carried out a reregistration process of all refugees from the Federal Republic of Yugoslavia (FRY). After the completion of reregistration the number of refugees from the FRY was 6,056. Of this number, 1,453 refugees were in collective accommodation, of which 960 refugees were from Kosovo (673 of these were Roma), 315 from Serbia, 75 from Montenegro, 57 from Macedonia, and a handful from Yemen and Russia. From Sandzak, there were 179 refugees. The Government provides first asylum.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully; however, the use of coercive tactics by some nationalist parties precluded full citizen participation without intimidation. On October 5, the country held general elections, which were the first since the Dayton Peace Agreement to be administered and conducted by Bosnia and Herzegovina authorities. The previous six postwar elections were conducted by the OSCE. The Government assumed responsibility for the conduct of elections in August 2001 following the BiH Parliament's adoption of the country's first permanent election law. The Election Law contains provisions regulating almost all aspects of national, entity, cantonal, municipal, and local elections, including voter registration, certification of candidates, code of conduct for parties, campaign finance, media, and observers. The Election Commission passed a regulation on October 12 ensuring equal representation for political parties among polling station staffs. The October elections were the first in which all BiH and entity officers were elected for 4-year terms. In all previous postwar elections, Parliamentarians were elected to 2-year terms. In parliamentary races, the SDA polled strongly among Bosniak voters. The multiethnic Social Democratic Party (SDP),



which was the leading party in the previous government, experienced a substantial drop in support.

The Bosniak-nationalist Party for Democratic Action (SDA) and the Croat-nationalist Party Croatian Democratic Union (HDZ) remained powerful, particularly in Bosniak and Croat majority areas. The nationalist Serb Democratic Party (SDS) remained ideologically committed to Serb cultural and religious authority in the territory of the RS, where it won a significant plurality in the October elections.

The October elections were judged to be largely in line with international standards by the International Election Observer Mission, which was led by the OSCE Office for Democratic Institutions and Human Rights (ODIHR). The observer mission reported that the campaign environment was largely free of violence with few reports of intimidation. The local NGO network OKO, which deployed over 6,000 observers, assessed the elections as free and fair. Problems cited by observers included numerous voters unable to find their names on voter registers, group voting, and intimidation in a few cases. Voter apathy and low turnout, worsened by bad weather, were problems.

There were fewer instances of election-related violence than during previous election campaigns. In the early hours of September 19, an explosion destroyed the minaret of a recently reconstructed mosque in the eastern RS village of Kljuc (*see* Section 1.c.). RS Prime Minister Mladen Ivanic condemned the attack, but police had not yet made arrests at year's end. The bombing occurred during the election campaign, but it was unclear whether it was intended to heighten ethnic tensions prior to the election. Following a September 20 election rally of the SDS in Prnjavor, 10 young participants scattered building material while chanting nationalist slogans at a nearby building site of a mosque. The perpetrators ran away when police arrived, but two were apprehended and charged. Unknown assailants threw tear gas at participants in an October 1 rally in Mostar for the "Economic Block" coalition, a rival of the HDZ party.

Six months before the elections, the Constitutions of the country's two entities were amended to ensure equal status for the country's three main ethnic groups in entity governmental structures. The changes were mandated by the July 2000 "constituent peoples decision" of the Constitutional Court, which established the principle that the country's three main ethnic groups or "constituent peoples," Serbs, Bosniaks, and Croats, have equal rights in both entities. The most significant changes to the RS Constitution created the RS Council of Peoples; established two RS vice presidents who would be from different ethnic groups as the RS president; specified a formula for ethnic representation in RS ministerial positions; and required that the RS civil service reflect the prewar ethnic composition of the RS. The Federation Constitution was amended to add a Serb caucus to the Federation House of Peoples; specify a formula for ethnic representation in ministerial positions; and create a second vice presidential position, among other changes.

Political leaders from both entities negotiated the amendments in talks convened by the High Representative, finalizing the agreement on March 27. The RS National Assembly passed most, but not all, of the agreed amendments to the RS constitution. The Federation Parliament failed to pass any of the amendments. On April 19, the High Representative imposed the agreed amendments to the Federation Constitution and those amendments to the RS constitution not adopted by the RS National Assembly. In July Parliament amended the Election Law to reflect these changes to the entity constitutions. In March the High Representative issued a decision banning individuals removed from office by the OHR from running in the October election and likewise barring any party that maintained a removed individual in a central party position from being certified by the Election Commission. All three of the major nationalist parties were affected by this decision and were required to expel party members in order to be certified for the October elections.

A multiethnic local government administered the Brcko municipality as a district under the direct oversight of the Brcko supervisor. In the absence of new or adapted laws, the supervisor retained discretion as to which laws, Federation or RS, were to apply in Brcko. Brcko District has harmonized more than 60 new laws reforming the system of local governance, property, taxation, citizen participation, economic development, and judicial reform. Brcko's school system was the first fully integrated one in the country, and the police force was the first to achieve U.N. certification.

Election rules established by the OSCE for the 1998, 2000, and 2002 general elections required that at least 30 percent of political party candidates be women. The Election Law also contains this provision. These provisions increased the number of female representatives from 2 percent at the BiH and entity level and 5 percent on the municipal level in 1996 to roughly 20 percent of all elected positions during the year. However, in the BiH-level House of Representatives (lower house), only

6 of 42 deputies were female. By mid-October, delegates had not yet been appointed to the BiH-level House of Peoples (upper house), whose representatives are appointed by the entity legislatures. In the Federation legislature, 18 of 98 deputies in the House of Representatives were female. In the RS National Assembly, 13 of 83 deputies were female, compared with 16 before the latest elections.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

International community representatives were given widespread, and for the most part, unhindered access to detention facilities and prisoners in the RS as well as in the Federation. The Law on Associations and Foundations allows NGOs to register at the national level and therefore to operate throughout the country without administrative requirements. The passage of this law in 2001 was a requirement for the country's admission into the Council of Europe. The law follows the general principle of voluntary registration and allows associations and foundations to engage directly in related economic activities. NGOs have registered at the national level to receive greater recognition from the international community, to show that they were not nationalist oriented, and to receive money from the Government once a new tax structure is put into place.

While monitors enjoyed relative freedom to investigate human rights abuses, they rarely were successful in persuading the authorities in all regions to respond to their recommendations. Monitors' interventions often met with delays or categorical refusal. In contrast to the previous year, there were no major incidents of violence against international community representatives. Soon before the election, the SDA called on all media outlets to boycott polls of the National Democratic Institute because SDA felt that these polls were unfairly biased towards the SDP.

SFOR arrested numerous war crimes suspects during the year. At year's end, 24 arrest warrants remained outstanding, while 78 indictees had been transferred to the ICTY. There have been 129 indictments since the inception of the ICTY, 20 of which have been withdrawn, and 7 of which ended when the indictees died. Although the RS National Assembly passed a law on cooperation with the ICTY in September 2001, the RS has made no effort to arrest indictees. In the eastern RS, Foca and Pale remain under sanctions for their noncooperation with the ICTY. The two most wanted Bosnian war crimes suspects, wartime commander of the RS Army Ratko Mladic and wartime RS President Radovan Karadzic, remained at large. In December Karadzic's wife resigned from her position as head of the RS Red Cross under pressure from the International Red Cross.

The ICTY approved the detention and investigation of five former RS police officers for their involvement in the disappearance of Father Matanovic in 2001 (see Section 1.a.), and their case was transferred to the domestic judicial system. In addition, the Minister of Interior suspended ten active RS police officers because the RS investigative team (approved by the IPTF) had identified them as suspects. The investigative team sent its report identifying these suspects, along with 11 former RS police officers who were also suspects, to the ICTY and was awaiting clearance from the ICTY for these cases to be transferred to the domestic judicial system. The Human Rights Chamber considered the RS to have fully complied with its 1997 order to conduct a full investigation into the disappearance of Father Matanovic, but the investigation had not resulted in any convictions by year's end. In general the BiH judicial system remained unprepared to prosecute war crimes cases domestically, although there was political will to do so. Successful prosecution of these cases will require financial support and training from the international community.

Many, if not most, of the perpetrators of killings and other brutal acts committed in previous years remained unpunished, including war criminals indicted by the ICTY, persons responsible for the up to 8,000 killed by the Bosnian Serb Army after the fall of Srebrenica, and those responsible for up to 13,000 others still missing and presumed killed as a result of "ethnic cleansing" in the country (see Section 1.b.).

In October the trial began in the ICTY against Slobodan Milosevic, the former President of Serbia and Montenegro (Yugoslavia), who was arrested in 2001 in the former Republic of Yugoslavia by Yugoslav police. Milosevic had 66 charges against him for alleged crimes against humanity in Croatia and Kosovo, and genocide in Bosnia and Herzegovina during the 1990s. However, his poor health, reportedly due to high blood pressure, halted proceedings a number of times during the second half of the year. By year's end, the case remained pending. If convicted of any single charge, Milosevic could be sentenced to up to life imprisonment.

In November the ICTY sentenced Bosnian Serb Mitar Vasiljevic to 20 years in prison for the shooting of five Muslims in Visegrad during the war. In December Biljana Plavsic, the former deputy to former Bosnian-Serb leader Radovan Karadzic, pleaded guilty before the ICTY on one count of persecution on racial, religious, and political grounds. Plavsic was the highest-ranking Serb leader to have admitted to crimes against humanity committed during the conflict in Bosnia and Herzegovina. Reaction in the RS to the Plavsic plea was indicative of the RS attitude towards the ICTY, which it regarded as an illegitimate, political tribunal. By contrast, the Federation generally has cooperated with the ICTY. At year's end, no sentence had been announced, but judges said that Plavsic could remain provisionally released.

The ICTY during the year issued six convictions and no acquittals. This brought the number of convictions to 29 since the ICTY's inception.

The Dayton Peace Accords also created the Human Rights Commission for Bosnia and Herzegovina, which consists of the Human Rights Chamber and the Human Rights Ombudsman (*see* Section 1.e.). The Ombudsman may investigate allegations of human rights abuses either on his or her own initiative or in response to any party, or may refer matters to the Chamber. The caseload of the Human Rights Chamber and the Office of Human Rights Ombudsperson remained high. Citizens continued to turn to these institutions to redress human rights violations after national institutions and domestic courts failed to provide an effective remedy. The RS improved its compliance with Human Rights Chamber decisions during the year, and the Federation continued to implement most decisions issued by the Chamber (*see* Section 1.e.).

#### *Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

In the Dayton Accords, the parties agreed to reject discrimination on such grounds as sex, race, color, language, religion, political or other opinion, national or social origin, or association with a national minority, and these principles were codified broadly in the BiH Constitution, and specifically in the entities' Constitutions; nevertheless, there were many cases of discrimination.

*Women.*—Violence against women, including spousal abuse and rape, remained a widespread and underreported problem. A report by the International Helsinki Federation for Human Rights in 2001 estimated that approximately 30 percent of women in the country were victims of domestic violence. However, there was little data available regarding the extent of the problem, and women's organizations such as Women for Women were concerned that abuse was more widespread than reported. Throughout the country, rape and violent abuse are considered criminal offenses, and laws in both the Federation and the RS prohibit rape. Spousal rape and spousal abuse also are illegal in the Federation and the RS. However, domestic violence usually was not reported to the authorities; a sense of shame reportedly prevented some victims of rape from coming forward to complain to authorities.

Police received specialized training to handle cases of domestic violence, and each police administration had its own domestic violence focal point. Nonetheless, there were reports of police inaction in cases of domestic violence and sexual assault. The S.O.S. Phone Service, a 24-hour hot line open to victims of domestic violence for assistance and counseling, began during the year. Centers for abused women operated in the Districts of Brcko, Bihac, and Sarajevo.

Trafficking in women for purposes of sexual exploitation was a serious problem (*see* Section 6.f.).

There are no laws prohibiting sexual harassment within any governmental units. However, some private and governmental organizations included rules against sexual harassment in their contracts or employee manuals.

There was little legal discrimination against women, and women served as judges, doctors, and professors; however, a male-dominated society continued to prevail in both entities, particularly in rural areas, and few women were in positions of real economic or political power. Women have been discriminated against in the workplace in favor of demobilized soldiers. A small but increasing number of gender-related discrimination cases were documented. Anecdotal accounts indicated that women and men generally received equal pay for equal work at socially owned enterprises but not always at private businesses. Women are legally entitled to 12 months' maternity leave and may not be required to work more than 4 hours per day until a child is 3 years old. A woman with underage children may not be required to perform shift work. However, women in all parts of the country encountered problems with regard to the nonpayment of maternity leave allowances and the unwarranted dismissal of pregnant women and new mothers.

Women were still underrepresented in law enforcement agencies, although progress continued. According to guidelines for accreditation, police forces should allocate 10 percent of their positions for qualified female candidates. Most units had

about 3 to 4 percent, although some had as many as 6 to 7 percent. Several recent graduating classes from Bosnian police academies contained up to 80 percent women.

*Children.*—The U.N. Convention on the Rights of the Child is incorporated by reference in the Dayton Accords and has the effect of law in both entities. Nevertheless, social services for children were in extremely short supply. Children with disabilities lacked sufficient medical care and educational opportunities.

Education was free and compulsory through the age of 15 in both the Federation and the RS. However, a lack of reliable statistics as to attendance and level of school completed hindered efforts to ensure that all school age children received an education. The most serious problem was the ethnic division of educational opportunities. Students in minority areas frequently faced a hostile environment in schools that did not provide an ethnically neutral setting. At times minority children were barred from attending school. Local education officials excused such abuses by claiming that minority children should have their own schools and curricula. Obstruction by politicians and government officials has slowed international efforts to remove discriminatory material from textbooks and enact other needed reforms. At the elementary and secondary school level, Canton governments in the Federation and the central Ministry in the RS politically pressured school directors. Several schools were directed by hard-line political figures. The lack of financial resources also led to teacher strikes in the RS and in individual cantons in the Federation.

Officials took steps during the year to integrate minority students into some schools. On March 5, the Ministers of Education in the Federation and RS signed the Interim Agreement on Accommodation of Specific Needs and Rights of Returnee Children. A number of specific benchmarks were later elaborated, as part of the November Education Reform Strategy presented by the BiH government at the Peace Implementation Council in Brussels. Senior officials in both entity ministries have been engaged, through an Implementation Coordination Board and in cooperation with international community oversight and support, in removing barriers to education access for returnee children.

Nonetheless, in many instances compromises fell far short of actual integration (such flawed measures included maintaining separate teaching lounges, separate student entrances and classrooms, and even separate floors). In many cases, students and teachers of different ethnic groups shared the same school building, but they attended class on different floors or used the facility in shifts without ever actually interacting with other students or teachers of a different ethnic group. Segregation and discrimination were entrenched in many schools, particularly in the teaching of national history and religious education (*see* Section 2.c.). In the RS, non-Serb teaching staff at elementary and secondary school levels comprised only 3 percent of all teaching staff. In the Federation, minority teachers comprised between 5 and 8 percent of all teachers, depending on the Canton. Romani children may attend schools in all areas of the country, although attendance was low due to pressure from within their community. In a small number of cases, local communities attempted to discourage Romani children from attending their schools.

The full integration of elementary and high school classrooms in the Brcko District continued to be successful. The Brcko District government implemented full integration at the high school level for the 2001–02 school year, using a harmonized school curriculum for all teachers. So-called national subjects (language, history, and music) were offered separately as afternoon “elective” classes, but materials that could be hateful or offensive to others were eliminated. Language questions were resolved by using both Latin and Cyrillic script, and by requirements that teachers not penalize students for lexicon or grammar usage identified more with one language variant than another. In the area of civic education, the new course on “Democracy and Human Rights” was fully implemented in high schools in all areas of the country, using the first truly joint curriculum. The course was developed by donors and international organizations working closely with Bosnian educators and was officially accepted by the Canton and entity-level Education Ministries and the Brcko District Department of Education.

Medical care for children in the Federation was controlled solely at the Canton level. Therefore, whether or not a child receives any medical care from the Government depended on the budget of the Canton in which they lived. If they lived in an affluent Canton, then they received better medical coverage, and if they lived in a less affluent Canton, the level of medical coverage provided was diminished. When medical care was available to them, boys and girls received equal coverage. Medical care for children in the RS was controlled at the entity level (RS Ministry of Health). Children up to 15 years of age were entitled to medical care free of charge under the law. However, in practice, unless they had medical insurance paid for by

their parents, children often did not receive medical care free of charge. There was no discrimination between boys and girls concerning medical care.

There was no societal pattern of abuse against children. Nonetheless, children continued to suffer disproportionately from the societal stress of the postwar era. According to statistics released in October by the Ministry for Human Rights and Refugees, 118,785 of the 553,419 displaced persons from the country were children. Three hundred of the 1,225 victims of mine incidents since 1996 have been children, according to the ICRC.

Trafficking in girls for the purpose of sexual exploitation was a problem (*see* Section 6.f.).

*Persons with Disabilities.*—The Federation government is required by law to assist persons with disabilities to find employment and to protect them against discrimination. In the RS, the law also prohibits discrimination against persons with disabilities. However, there were few jobs available, and thousands of newly disabled persons entered the job market after the war; as a result, the vast majority of persons with disabilities were unemployed.

Public institutions for persons with disabilities generally met minimum standards, although most lacked suitable funding. In some cases the facilities were less than minimal; for example, a Federation transit center in Bosanska Petrovac housing 40 disabled returning refugees from Hungary spent September and early October without electricity or adequate means of support. The legal status of institutions for persons with disabilities was not resolved following the breakup of the former Yugoslavia. As a result, local and entity governments have no legal obligation to finance such institutions, and they operated only with BiH-level government and international donations. A number of international NGOs assisted persons with disabilities in the country.

There are no legal provisions mandating that buildings be made accessible to persons with physical disabilities, and in practice buildings rarely were accessible to persons with disabilities.

*National/Racial/Ethnic Minorities.*—“Ethnic differences” were used to justify the war and remained a powerful political force in the country. Although some politicians still supported the concepts of a “Greater Serbia” and a “Greater Croatia,” mixed communities existed peacefully in a growing number of areas, including Sarajevo and Tuzla. However, nationalist Bosnian Serb and Croat politicians sought to increase the ethnic homogeneity of the population in areas they controlled by discouraging IDPs of their own ethnicity from returning to their prewar homes if they would be in the minority there. Although the new RS government officially supported the right to return, it continued to obstruct returns on many levels. For example, the allocation of illegal land plots to Bosnian Serbs went on unhindered, particularly in Bosanski Brod and in Zvornik (and in the eastern RS in general). Authorities also closed collective centers and used the war veterans’ budget to relocate people in the municipality of their displacement.

In some cases, opponents of refugee returns used violence, including sporadic house burnings, and orchestrated demonstrations in an effort to intimidate returnees. For example, on January 7, unknown assailants threw a hand grenade at the house of a Bosniak in Trebinje. It was the second such incident in an 8-month period at this house, although the second attack caused only minor damage. On February 11, in two separate incidents, unknown assailants threw explosive devices into the apartment of a Serb returnee and threw another at a nearby Serb returnee house being reconstructed in Mostar. No casualties were reported. On March 16, a bomb was thrown at a mosque in Bosanska Dubica in which there was significant material damage but no casualties. In March a Catholic cemetery was destroyed in Mostar. Three explosions occurred in one night in the village of Koraj, near Bijeljina in April; all of the explosions occurred near a newly reconstructed mosque scheduled to open only days later. In Bijeljina unknown perpetrators caused severe destruction to the Islamic Community Center in an explosion on May 16. On May 11, a group of Serb extremists destroyed the house of a 76-year-old Bosniak returnee in Modrica. On June 4, a bomb was thrown into the courtyard of a Bosniak returnee’s home in Milici. In early September, unknown perpetrators used an AK-47 to shoot at Serb returnee houses in Klepci, Capljina. There was damage to the house facades, and there were broken windows on five houses, although no casualties were reported.

A short flurry of violent acts occurred prior to the October 5 national elections in Capljina, Prijedor, and Bijeljina. On September 9, basketball fans in Bijeljina broke out windows on ten buildings after the victory of the Yugoslav basketball team. Allegedly supported by local police, they drove through Bosniak returnee areas singing nationalist songs, randomly shooting, and smashing windows of

Bosniak stores and houses. A similar incident occurred in Kozorac, Prijedor, where groups of persons in a convoy of more than 40 cars verbally threatened, shot at, and damaged approximately 5 businesses and residential premises. The group injured an elderly Bosniak man and removed and burned the religious flag at the Islamic Center. A few days prior to the national elections, unknown persons planted an explosive device in a newly reconstructed mosque in Kljuc, destroying the mosque's minaret.

On December 24, Muamer Topalovic allegedly attacked a Bosnian Croat family in Kostajnica for religious and ideological reasons. In the attack Adjelko Andjelic and his two daughters were shot and killed. Andjelic's son was also severely injured in the attack. Topalovic was reportedly a member of the Wahhabi-influenced Islamic group, Active Islamic Youth, and also had ties to a Saudi-financed Islamic NGO, Dzemijetel Furkan (Al-Furkan). A number of political figures condemned the act, including some high-level figures in the country's Islamic community. The Kostajnica attack followed several other December attacks on homes and religious establishments of varying ethnicities, most of which remained unpunished (*see* Section 2.c.).

In addition, while incidents of violence decreased overall in the country, follow-up investigations in a number of cases were problematic, and police consistently failed to apprehend offenders.

Authorities began to deploy minority officers in areas with minority returns; however, the lack of housing for returning police officers hindered this process. The RS Ministry of Refugees committed to provide reconstruction material to a total of 20 Bosniak minority police during the year. Eighteen packages had already been delivered by year's end. NGOs provided the majority of this assistance, but the RS assistance was an improvement over last year. In Prijedor 42 of the 747 area police officers were Bosniak, and a number of senior positions were set aside for Bosniaks.

All Federation Canton governments have agreed to an ethnically mixed police force in principle; however, many Cantonal governments continued to resist integration in practice. The Neretva (Mostar) Canton was an exception; the Interior Ministry in this Canton made significant progress in unifying the police force, including co-locating offices, shedding Croat nationalist insignia, and unifying portions of the budget under its direct control. In other cantons of Herzegovina, there has been far less progress in depoliticizing the police forces. Although Western Herzegovina (Livno) Canton hired significant numbers of police from among Serb returnees in several municipalities, Croat nationalists still dominated the command structure and budget process. A Serb appointed in late 2001 as police chief in the town of Drvar resigned in September. Both the Livno and Siroki Brijeg Cantons failed to remove Croat nationalist insignia from police uniforms, and they continued to fly Croat nationalist flags on police and Interior Ministry buildings. On the other hand, due to IPTF pressure, Livno's Interior Ministry began flying the Federation flag, alongside the Croat nationalist flag, in September. (Drvar had already begun flying the Federation flag.) Drvar was also the site of an incident involving the destruction of a Catholic cross, allegedly by local Serbs, but police reinforcements from Livno defused the situation without any violence.

Police in the RS generally did not meet target standards of ethnic representation, as mandated by various agreements. An interentity agreement negotiated under U.N. auspices allows the voluntary redeployment of officers across entity lines to redress ethnic imbalances. There were over 1,600 minority police throughout the country by year's end. This represented approximately 10 percent of the total police force. In general, while new officers were accepted into the police academies under strictly observed ethnic quotas, it will take years of concentrated effort to establish effective, professional multiethnic police forces throughout the country.

Despite improvements in some areas, harassment and discrimination against minorities continued throughout the country, often centering on property disputes. These problems included desecration of graves, arson, damage to houses of worship, throwing explosive devices into residential areas, harassment, dismissal from work, threats, and assaults (*see* Sections 1.c. and 5.).

Refugees returning to visit homes in the RS were harassed and subjected to violence. This occurred in Herzegovina as well, but improvements were noticeable.

Incidents of violence against all ethnic groups decreased due to improved security and freedom of movement, but other forms of discrimination did not. In particular, discrimination in employment and education remained key obstacles to sustainable returns. Widespread firing of ethnic minorities during and after the war has not been reversed in most cases, and members of the ethnic majority in a region often were hired over minorities in places where they had been employees. Favoritism was also shown to veterans and families of those killed during the war. However, in general the dual budget structure for public employees was eliminated; employees were paid out of the same budget at the same time during the year.

A Joint Council of Europe/OSCE-ODIHR report issued in June identified a number of problems regarding the social situation, discrimination, and human rights violations faced by the country's 40,000 to 60,000 Roma, such as limited access to health care and education, poverty, and weak legal status. Large segments of the Roma population were unable to substantiate their citizenship claims. Only a tiny number of Roma children and youth were enrolled at educational institutions; only a small number of Roma adults were in full time employment; and in spite of dire need, Roma were often denied social support. Nearly all Roma in the RS were expelled from their property during the war; very few have been able to reclaim it. These displaced Roma, as well as Roma in the Federation who have lost their property because of the ravages of war, lived in makeshift dwellings on abandoned property. Conditions for some were extremely poor, and many relied on begging to subsist. The situation was further complicated by the lack of relevant data on Roma. The Roma continued to be marginalized during the year, and neither the Federation, the RS, nor the BiH Ministry of Human Rights and Refugees took steps to assist the Roma population.

While Roma faced problems that many others in the country faced, they had far fewer social and charitable organizations interested in helping them, and faced widespread discrimination. However, some international NGOs began reconstruction programs for Roma. A lack of formal title to land in some instances greatly delayed these projects. There had been no reconstruction assistance by either the Federation or the RS for Roma by year's end.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitutions of the Federation and the RS provide for the right of workers to form and join unions, as do labor laws in both entities. There are no legal restrictions on who may join unions, and the right of minority workers to join unions is protected in both entities. However, in practice union membership in the RS was overwhelmingly Bosnian Serb and in the Federation overwhelmingly Bosniak. Bosnian Croats had informal labor organizations in areas where they were the dominant ethnic group, but generally they were represented by the Federation union. A joint-entity multiethnic union was established in the district of Brcko in 2000. Union membership was mandatory for officially employed workers in the RS; in the Federation, approximately 70 percent of the official workforce was unionized.

Unions are legally independent of the Government and political parties; however, they were highly politicized. There are no legal restrictions on forming new unions; however, in practice one union confederation in each entity represented all workers. The Federation-level confederation of trade unions has been successful in keeping the support of the sector unions. In the RS, the sector-based branches of the union confederation became increasingly independent, and one branch successfully broke off from the umbrella organization. The BiH-level Law on Associations was passed during the year, and as a result there are no legal obstacles for the creation of unions at the BiH level. The country has three labor laws in each of the two entities and in the Brcko district; the Federation union confederation has submitted a draft state-level labor law to the BiH Parliament, but it had not yet been considered by year's end.

In 1999 the Government was found to be in violation of ILO Convention 111 (on employment discrimination) and 158 (on termination of employment) because of its failure to act in the case of workers at the Soko company and at Aluminij Mostar who were dismissed during the war because of their non-Croat ethnicity. In 2000 the Federation government negotiated with Soko to employ former workers of other ethnicities, but since then the company has hired no additional workers. Aluminij Mostar protested the ILO ruling, arguing that it did not have the opportunity to respond to the union complaint. After negotiations between the Federation government and the management of Aluminij Mostar failed, the World Bank offered to arbitrate the dispute and privatize the factory. While Aluminij agreed in principle to the arbitration, the Federation did not, and the process of negotiating the terms of the arbitration had not begun at year's end. The decision of the international arbitration will be binding.

In 2000 both the Federation and the RS passed comprehensive labor legislation as part of loan conditions established by the World Bank and the International Monetary Fund; however, the existing legislation still must be improved and harmonized with the other related laws in order to regulate other kinds of service and seasonal contracts.

The Law on Labor in both entities prohibits discrimination by employers against union members and organizers, in accordance with ILO standards. However, this kind of discrimination continued.

Unions are free to form or join federations or confederations and affiliate with international bodies; however, no unions did so in practice.

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining is provided for in the Law on Working Relations in the RS and in a comprehensive collective bargaining agreement in the Federation; however, collective bargaining rarely was used. In addition, the collective bargaining agreements appear to apply only to public sector and government-owned enterprises, leaving private businesses uncertain about their status under the general collective bargaining agreements. However, the BiH Association of Employers was recently established to address this problem. The Socio-Economic Council was established in the Federation in September to improve existing labor legislation and encourage job creation. The Council was made up of representatives from trade unions, the Federation government, and the Association of Employers.

The substantial number of government employees, particularly in the RS, permitted the Government to remain highly influential in determining the overall level of wages in each entity.

Unions have the right to strike. They have used this right to press for payment of overdue salaries or wages; protest or demand changes in management; and voice their opinion on economic reform and government policy. Protest was often the only way to compel the payment of salaries and wages. Most strikes were legal; however, in an attempt to avoid negotiations, the Government claimed that some were illegal, on the grounds that they were not announced the required 48 hours in advance. A Law on Strikes governs strike activity in both entities, and retaliation against strikers is prohibited. There were several major strikes during the year, including those by factory workers and teachers, due to arrears in salaries of several months or more, or to protest the unsuccessful privatization of large factories. Courts continued to hear labor disputes.

In Tuzla strikes were more frequent than in other cities, but they were typical of the labor movement in the country. Chemical workers in Tuzla have been on strike almost continuously for 2½ years, demanding payment of their social contributions. The strikes were disorganized and unstrategic. On July 4, a few thousand chemical workers tried to disrupt traffic at the city's main intersection, but their numbers quickly dwindled to a few hundred. Elementary school teachers in Tuzla went on strike in January and June to protest 2 months' unpaid wages but were unsuccessful in getting their demands met. Unions in the country were fragmented into sectors and divided along ethnic lines, weakening their potential impact. Unions had little experience in conducting effective strikes or bargaining negotiations. Workers often were left to organize themselves at the level of the company. Workers were afraid to strike for fear of losing what few social benefits they received from the companies.

There were 11 special economic areas called Free Zones in the country, for the purpose of manufacturing and related services, where customs duties did not have to be paid. There were no special laws or exemptions from regular labor laws in these zones, and workers' rights were not restricted.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, including by children. However, Roma children were often seen begging on city streets (see Section 6.d.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The minimum age for employment of children in the Federation and in the RS is 15 years. The Law on Labor prohibits children from performing hazardous work, such as night work. While it was unclear how strictly these laws were enforced, they reflected strong cultural norms against child labor that effectively discouraged the practice in the country. Although child labor was not known to be a problem, children sometimes assisted their families with farm work and odd jobs. Romani children were often seen begging on the streets in Sarajevo.

The country has not signed the ILO Convention 182 concerning the worst forms of child labor. There were no social programs to prevent the engagement of children in exploitative child labor.

*e. Acceptable Conditions of Work.*—The minimum monthly wage in the Federation was \$100 (200 KM); in the RS it was \$32 (65 KM). Neither minimum wage provided a decent standard of living for a worker and family. Many workers have outstanding claims for payment of salaries and pensions. Employees are required by law in both entities to make mandatory contributions to social funds. In total, the contribution paid on each monthly salary was 68 percent in the Federation and 50 percent in the RS. Employers did not officially register their employees in order to avoid paying high social welfare benefits.



The legal workweek is 40 hours under both Federation and RS entity law; however, "seasonal" workers may work up to 60 hours per week. The laws of both entities require that employers pay overtime to employees. Overtime is limited to 20 hours (10 mandatory and 10 voluntary) in the Federation. In the RS, overtime was limited to 10 hours, although an employee may volunteer for an additional 10 hours in exceptional circumstances. Rules regarding rest and vacation varied, although typically no vacation was granted during the first 6 months of employment, and 18 days per year were granted after that period. In practice, employers at times granted additional vacation days to workers.

Occupational safety and health regulations generally were ignored because of the demands and constraints imposed by an economy devastated by war. At year's end, neither entity had completed passage of new laws to enforce international worker rights standards. Workers could not remove themselves from hazardous working conditions without endangering their continued employment.

*f. Trafficking in Persons.*—There are no uniform laws that specifically prohibit trafficking in persons, and trafficking in women and children for sexual exploitation was a serious problem. The country was a destination and transit point, and to a lesser extent a country of origin, for women and girls trafficked for sexual exploitation; men were trafficked for forced labor. The country was extremely vulnerable to trafficking in persons, because of weak laws, porous border controls, and corrupt police who were bribed easily and facilitated trafficking. There were reports that police and other officials were involved in trafficking. The presence of thousands of foreign civilians and soldiers in the country was an additional factor adding to the problem. In April the country ratified the U.N. Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children.

A UNHCR official in Sarajevo commented publicly in June that Bosnian authorities had intensified their efforts to combat trafficking. However, in an earlier public conference, an executive of LARA, a local NGO, criticized the Government for insufficient action to prevent and cut off "secret channels of trafficking." Based on a National Action Plan adopted in 2001, a BiH-level commission was established to coordinate antitrafficking efforts. At the initiative of the commission, the Council of Ministers endorsed a budget for antitrafficking trafficking activities, under the BiH Ministry of Human Rights and Refugees. The new BiH Criminal Code contains a provision aimed specifically at human trafficking, but it was still in parliamentary process at year's end. This new provision mandates up to 10 years in prison for violators. The BiH Code is expected to be replicated by both entities in the future, although the RS already has a rudimentary antitrafficking provision, which has been applied in a few cases. The Federation also introduced an aggressive antitrafficking provision of its own, which remained in parliamentary procedure at year's end. If enacted the law would stipulate sentences of up to 10 years in cases involving adult victims and up to 15 years for those under 21.

In April the BiH Council of Ministers, both entities, and the Brcko District agreed to form the country's first nationwide interagency investigative task force to combat organized crime. The group includes prosecutors, police, and financial investigators; it specifically targets trafficking and illegal migration. Since the task force began its work in the summer, its investigations have already led to prosecution and conviction of one trafficking kingpin, sentenced to 1 year and 6 months in prison by the Brcko District court for promoting prostitution.

An U.N.-brokered regional interministerial committee coordinated some antitrafficking and other law enforcement operations. Local authorities also continued other antitrafficking operations, including the IPTF-initiated Special Trafficking Operations Program (STOP) and "Operation Mirage," a two week long series of police raids and border inspections in September, coordinated with other Southeast Europe Cooperation Initiative member states. Since the STOP program began in July 2001, police made 706 raids and interviewed 2,074 women, 224 of whom sought assistance. IPTF sources stated that there were 85 convictions on charges linked to these raids. During Operation Mirage, authorities raided 60 bars and interviewed 212 women. As a result, trafficking charges (based on the RS Code) were filed against two individuals, and two nightclubs were shut down for tax violations. At year's end, the STOP program ceased; however, the EUPM continued its own version of the program. This version was scaled down due to lack of personnel and funding. EUPM has placed more emphasis on quality rather than quantity. Local police involvement was much more strongly advocated. EUPM involvement in actual operational and organizational issues was expected to be in an advisory capacity to the local police teams.

Seven women requested assistance offered by NGOs. In February the U.N.'s Joint Entity Task Force, along with the State Border Service, caught five suspects smuggling women in Bijeljina and Dobo. In April a Sarajevo court sentenced one known

trafficker to 2½ years in prison. Another bar owner in the same case received a 2-year sentence. In May RS authorities charged 11 nightclub owners with a variety of crimes, including promoting prostitution, forgery, and tax fraud.

Law enforcement experts and international monitors have observed a decline in results from raids such as those mounted by STOP teams or Operation Mirage. This modus operandi became well known to nightclub owners and traffickers, who reacted by going further underground and coaching women on what to tell police.

Prosecutors and police were critical of local judges, asserting that they gave lenient sentences to traffickers or simply dismissed charges. They also cited the continued inadequacy of legal codes, particularly the lack of adequate asset seizure laws or witness protection programs. However, the adoption of the new Criminal Code, the Criminal Procedure Code, money laundering provisions and other laws was expected to improve significantly the capability of the criminal justice system to deal with organized crime. Other programs initiated during the year, such as judicial reappointment and vetting by the HJPC were expected to reinforce judicial accountability (*see* Section 1.e.).

Estimates of the number of trafficked women were not statistically reliable and varied considerably. From data collected by the United Nations Mission in Bosnia and Herzegovina (UNMiBH) and International Organization for Migration (IOM), it was estimated that during the year there were roughly 3,000 women engaged in prostitution in the country, of which some 25 to 30 percent were thought to be victimized through coercion or deception. Between 10 and 15 percent of victims were under 18. In coordination with the IPTF, local police began in July 2001 a sustained campaign of raids on suspect nightclubs and other establishments. As of autumn, police units had interviewed 2,074 women, of whom 224 sought assistance. From January to October, IOM assisted 188 women, 126 of whom sought repatriation.

Over 90 percent of trafficked women in the country came from Moldova, Romania, and the Ukraine. A significant number may have transited on to western Europe, but no reliable estimates were available. According to IOM, most victims reported being lured by false job offers, such as advertisements offering work in Italy or Germany as dancers, waitresses, and domestic servants. Most trafficked women entered the country through Serbia-Montenegro. Those who transited the country continued via Croatia. The country had not generally been considered a country of origin for trafficked women, but IOM reported Bosnian victims in other parts of Europe, while local NGOs observed some Bosnian victims within the country.

The perpetrators of trafficking of persons came from a variety of backgrounds, including freelance operators, local crime gangs, and large international organized crime syndicates. Some employment, travel, and tourist agencies also fronted for traffickers.

In the country, trafficked women most often worked in nightclubs, bars, and restaurants that were fronts for brothels. During the year, the U.N. identified about 290 suspect establishments in the country. However, as local police and STOP teams continued their activities, some traffickers moved their operations to private residences or began moving them around to evade arrest. Victims reported working in conditions akin to slavery, with little or no financial support, coerced by intimidation, seizure of passports, withholding of food and medical care, and even physical and sexual assaults.

There were continued reports of police and other official involvement in trafficking, especially at the local level. Local officials in some areas allowed foreign women to work in bars and nightclubs with questionable work and residence permits. According to Human Rights Watch, a number of police officers received free services from brothels with trafficked women in exchange for their complicity. Law enforcement officials in both entities asserted that they reduced the number of foreign citizens working in bars. An RS Interior Ministry official said in June that the number of foreign female bar employees with valid work permits was down to 51, compared with 470 a year previously. Nonetheless, there were reports that visas were issued improperly at the country's embassies in the region. Local police failed to act against suspect establishments, and some police officers even warned bar owners of impending raids. Low salaries appeared to perpetuate the problem, while police officers who refused bribes were threatened. Even when police did their jobs properly, many cases were dismissed in local courts or suspected traffickers released.

The establishment of police procedures and professional standards units in connection with the accreditation process provided grounds for more decisive action (*see* Section 1.c.). The Central Bosnia Canton Interior Ministry fired several police officers for ties with traffickers, including the head of a local anti-trafficking unit; that individual received a 1-month prison sentence. Human Rights Watch reported that by October, UNMIBH had denied certification to 26 local police officers as a result

of trafficking-related investigations. In that same context, the Interior Ministry placed 25 police officers under investigation. Two officers in Brcko were also fired because of links to traffickers. During a raid on a Sarajevo bar believed to be part of a network of establishments involved in trafficking women, 10 SFOR soldiers were detained. Furthermore, some international observers have asserted that individual members of the IPTF have been customers of trafficked women, and that whistle-blowers of this information within the IPTF have faced retaliation.

During the year, IOM managed two long-term shelters where victims received medical attention, counseling, and assistance in repatriation. It also had six safe houses in various parts of the country, augmented by two additional safe houses run by local NGOs. Police protection was provided for the shelters. Despite these programs, IOM and other sources reported that fewer victims sought assistance during the year, and that shelters were not fully utilized. NGO employees reported that women told them categorically that they did not trust local police and feared traffickers would not hesitate to pursue them if they left. With international assistance, local authorities and NGOs cooperated more to assist and protect victims. For example, the Ministry of Human Rights and Refugees backed a controversial proposal to allow women to be placed involuntarily in shelters if there were indications that they were trafficking victims. Under normal procedures, they could not be detained unless charged with a crime.

Local NGOs and media focused more attention on the human costs of trafficking, as well as the responsibility of the authorities to combat the problem. Newspapers reported frequently on law enforcement actions against traffickers, as well as allegations of involvement by police.

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## BULGARIA

Bulgaria is a parliamentary republic ruled by a democratically elected government. A coalition government headed by former King Simeon Saxe-Coburg took office in 2001 following the victory of his National Movement Simeon II (NMS) party in parliamentary elections that observers agreed were generally free and fair despite some media irregularities. The governing coalition consisted of the NMS and the mainly ethnic Turkish Movement for Rights and Freedoms (MRF). A predominantly ethnic Roma political formation, the EuroRoma party, was an electoral partner of the MRF and thus was technically a member of the governing coalition, although it had no representatives in the Cabinet or the National Assembly. In January, following presidential elections, Georgi Parvanov of the Bulgarian Socialist Party (BSP) began his 6-year term. The Constitution provides for an independent judiciary; however, the judiciary suffered from corruption and continued to struggle with structural and staffing problems.

Internal security services were the responsibility of the Ministry of the Interior (MOI) and included the National Police, the National Service for Combating Organized Crime, the National Security Service (civilian domestic intelligence), the National Gendarmerie Service (paramilitary police), and the Border Police. Although government control over the police improved, it still was not sufficient to ensure full accountability. The Special Investigative Service (SIS), which provided investigative support to prosecutors on serious criminal cases, was a judicial branch agency and therefore was not under direct executive branch control. The media reported that the public order services, such as the National Intelligence Service (NIS) and National Bodyguard Service (NBS), were not subject to adequate judicial, executive, or legislative oversight of their activities or budgets. Some members of the police committed serious human rights abuses.

The country, with a population of approximately 7.9 million, was in transition from an economy dominated by loss-making state enterprises concentrated in heavy industry, to one dominated by the private sector. Approximately 80 percent of state assets destined for privatization already have been sold. Principal exports were agricultural products, tobacco products, chemicals and metals, although light industry—including textiles and apparel—was growing in importance. During the year, gross domestic product (GDP) growth was 4.4 percent, and the inflation rate was 3.8 percent. The private sector accounted for approximately 61.3 percent of GDP. Persistent high unemployment was a problem.

The Government generally respected the human rights of its citizens; however, there were problems in several areas. Members of the security forces were responsible for one killing during the year. Security forces commonly beat suspects and inmates and beat and mistreated minorities. Arbitrary arrest and detention were problems. Security forces harassed, physically abused, and arbitrarily arrested and detained Romani street children. Problems of accountability persisted and inhibited

government attempts to address police abuses. Conditions in many prisons and detention facilities were harsh. There remained some instances of prolonged pretrial detention, although the Government continued to improve its performance in preventing periods of pretrial detention from exceeding the statutory limit of 1 year. The judiciary was underpaid, understaffed, and had a heavy case backlog; corruption of the judiciary was a serious problem. The Government infringed on citizens' privacy rights. The Government restricted freedom of the press and limited freedom of association. The Government restricted freedom of religion for some non-Orthodox religious groups. Societal discrimination and harassment of nontraditional religious minorities persisted, but were less frequent than in the previous year. Constitutional restrictions on political parties formed along ethnic, racial, or religious lines effectively limited participation in government for some groups. Violence and discrimination against women remained serious problems. Conditions for children in state institutions were poor, and because of a lack of funds, the social service system did not assist homeless and other vulnerable children adequately, notably Roma and children with mental disabilities. There was some discrimination against persons with disabilities. Discrimination and societal violence against Roma were serious problems. Child labor was a problem. Trafficking in women and girls was a serious problem, although the Government took steps to address it. Bulgaria was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings. However, there were three reported killings by security services, compared with eight such killings in 2001.

On February 17, 26-year-old Seval Sabakhtin Rasim died while in custody of the border police near Sladun, Svilengrad municipality. He was apprehended, together with 25 other persons of Afghan and Iranian origin while attempting to enter the country illegally from Turkey. While police transported Rasim to the detention facility in the village of Sladun, he reportedly tried to escape from the border police patrol and was chased and recaptured. Police reportedly beat Rasim severely; he later died from his wounds. Following the military prosecutor's investigation, several police officers were charged in the killing. One border police officer was reprimanded, while two sergeants were reassigned. In the other two cases, involving the deaths of Jordan Asenov Yankov and Radka Koleva Markov, authorities found insufficient grounds for prosecution, according to the Military Prosecutor's office.

The Ministry of Interior Act permits law enforcement officials to use firearms to apprehend persons committing crimes or who have committed crimes, even if the crimes were minor. Law enforcement officers also may use firearms to stop the escape of a person who has been arrested for any crime.

In March a three-member panel of the Sofia Military Court acquitted two police officers who had been accused of inflicting injuries on Milotin Mironov, also known as Mehmet Myumyun, who died in police custody in 2001. Reportedly, two reliable witnesses could not be located by the Ministry of Interior despite a nationwide search. This resulted in the court's inability to consider potentially relevant evidence. Mironov's relatives stated that they would appeal.

There were no reported developments in the cases of officers charged in the 2001 killings of Sevgin Asan and Dimitur Dimitrov. In April the police officer responsible for the 2001 death of Eleonora Dimitrova was fired.

There were unconfirmed reports that the police chief of Blagoevgrad aided and abetted the July 21 killing of alternative synod Orthodox priest Stefan Kamberov (see Section 2.c.).

Five men remained on trial at year's end for the 1996 killing of former Prime Minister Andrey Lukanov. A hearing for two of the defendants scheduled for July 22 was rescheduled because the defendants had been severely beaten while in custody prior to the hearing. The police claimed that the two had tried to escape and had attacked a police sergeant (see Section 1.c.). The other three defendants remained free on bail at year's end.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, police commonly beat criminal suspects, particularly members of minorities, at times to extract false testimony. Security force personnel also physically abused street children, the majority of whom were Roma (see Section 5).

According to the MOI, during the first 6 months of the year, 444 written complaints and 66 oral complaints were received by the Police Directorate, of which only 99 named the officer(s) in question. Among these, 29 related to alleged improper use of firearms, 88 concerned illegal actions when issuing permits for activities, 66 involved abuse of position for personal benefit, and 61 were for failure to do one's duty or having a bad attitude. Of these complaints, the MOI determined that 38 were well founded and disciplined 6 officers and 8 noncommissioned officers and sent 9 cases to the Military Prosecutor's office for further action (*see* Section 1.e.). During the same period in 2001, 72 complaints were judged well founded. The MOI stated that 32 cases of abuse of authority were recorded in 2000 and 40 such cases in 2001. On February 27, the MOI fired one police officer in connection with the beating of six youths in the town of Kostinbrod. In the 12 months prior to September, 33 MOI officers were dismissed for corruption. During the same period, the Supreme Administrative Court was petitioned regarding 76 dismissals by the Administrative Court, of which 3 were upheld and 73 remained pending at year's end.

According to media reports, the Military Appellate Prosecutor's Office reported that during the year, 49 police or military officers were charged with having caused bodily harm, 18 were charged with taking bribes, and 155 allegedly were involved in robberies or burglaries.

Although some government officials stated that, under the country's criminal code, any complaints about police beatings are required to be heard by judges, at times this law was not respected in practice. Human rights monitors reported that they received many complaints from persons who were too intimidated to lodge an official complaint with the authorities. Human rights observers charged that police often handled minor offenses by arresting suspects, beating them, and releasing them within a 24-hour period, so that no judicial involvement was required (*see* Section 1.e.).

During the year, the MOI reportedly took steps to improve training, including forming a special group to attract citizens of Roma descent to the MOI, using Romani language in training programs, establishing within the National Police Service a commission to instruct personnel on international standards for law enforcement bodies, and initiating programs to improve MOI relations with the Roma community. Government officials claimed that police officers in the police academy completed human rights awareness training during 2001; however, some observers criticized this training as insufficient. There was no reported training by nongovernmental organizations (NGOs) during the year.

Criminal suspects in police custody run a significant risk of being mistreated, most often during the initial interrogation. In February the Council of Europe reported that the Bulgarian Helsinki Committee (BHC) 2001 survey of incarcerated persons arrested after January 2000 found that 49 percent (compared with 51 percent in 1999) of interviewed prisoners reported that police officers used physical force against them during arrest; 44 percent (compared with 53 percent in 1999) reported one or more beatings at police stations. Roma prisoners reported being abused more frequently than did other prisoners. Very seldom were allegations of police abuse properly investigated nor were the offending officers consistently punished. The Military Prosecutor's office in particular has not investigated incidents of alleged police abuse thoroughly or expeditiously.

A July hearing in the long-running trial of those accused of killing former Prime Minister Andrey Lukanov in 1996 was postponed because two of the defendants were brought into the courtroom severely beaten. The police claimed that the two had tried to escape and had attacked a police sergeant (*see* Section 1.a.).

In 2001 a police sergeant detained and beat a Romani man, Mitko Naidenov, allegedly because he was suspected in a theft case. According to NGO reports, Naidenov was hospitalized for 12 days for injuries sustained in the beating. Naidenov filed a complaint with the Regional Military Prosecutor's Office in March and, according to an NGO report, the perpetrator was sentenced to make compensation to the victim.

The investigation into the 2001 police shooting of a 30-year-old Rom, Slavi Vele, during an incident in which Vele and a group of Roma allegedly were stealing from a garden, concluded with no results.

A civil lawsuit remained pending against police officers at year's end in the 2000 police killing of Atanas Dzhambazov, a 14-year-old Rom. According to an NGO following the case, the lawsuit had not moved forward because the court demanded that Dzhambazov's family pay a fee, which was not legally required.

In 2000 a 16-year-old Rom, Tsvetalin Perov, suffered third-degree burns after reportedly setting himself on fire using flammable liquid while in detention in the Vidin police station. The prison director and officers received reprimands; after further investigation, criminal investigators decided not to file charges.

Many observers alleged that some members of the police, particularly in remote areas, were complicit in trafficking in persons (*see* Section 6.f.).

There was widespread perception that authorities did little to punish other corrupt state officials.

There were several incidents of societal violence against and harassment of Roma, including children, during the year (*see* Section 5).

Conditions in some prisons remained harsh and included severe overcrowding, inadequate lavatory facilities, and insufficient heating and ventilation. The SIS's parallel network of jails and prisons contains many of the harshest detention facilities. NGO prison monitors reported that brutality committed by prison guards against inmates continued to be a problem. The Government reported that it was in the process of renovating facilities in Belene, Plovdiv, Stara Zagora, and Vratsa and had closed down four detention facilities because they did not meet standards. Prison authorities sustained their efforts against tuberculosis, instituting a new procedure for regular testing. The process by which prisoners may complain of substandard conditions or of mistreatment did not function effectively. Labor correction hostels were used to house criminals under age 18 and were less restrictive than prisons. Men and women could be housed in the same jail but were held in separate cells. Pretrial detainees were held separately from convicted criminals.

The Government generally cooperated with requests by independent observers to monitor conditions in most prisons and detention facilities. The BHC stated that its representatives have been allowed access to SIS facilities since 2001. Unlike the procedure in regular prisons, observers still were prohibited from interviewing detainees in the SIS facilities. Human rights monitors enjoyed good access to regular prisons.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, there were restrictions on this right in some cases. Police often arbitrarily arrested and detained street children, the majority of whom were Roma (*see* Section 5). There were no reports during the year that police detained members of minority religious groups because of their beliefs (*see* Section 2.c.).

Police normally obtained a warrant from a prosecutor prior to apprehending an individual; however, warrants were not always required for arrest. If the person was released without being charged before the 24-hour period elapsed, there was no judicial involvement in the case. Human rights observers charged that police often handled minor offenses by arresting suspects, beating them, and releasing them within the 24-hour period (*see* Section 1.c.). Persons could be detained for no more than 24 hours at the request of an investigating magistrate or a police officer; however, detention could last for up to 72 hours if ordered by a prosecutor.

The Constitution provides for access to legal counsel from the time of detention; however, a 1999 survey of prisoners conducted by the BHC found that 54 percent of prisoners complained that they had no lawyer present during preliminary investigations. In April the BHC released the results of a 2000 survey of 1,001 prisoners. More than 70 percent reported that they had had no legal representation during the preliminary investigation of their cases.

Defendants had the right to visits by family members, to examine evidence, and to know the charges against them. Charges could not be made public without the permission of the Prosecutor General. To enable a speedy trial, the law requires that investigations last no more than 2 months under normal circumstances, although this period could be extended to 6 months by the head regional prosecutor, and to 9 months by the Prosecutor General.

Only judges could determine whether to hold suspects in custody or set bail.

Human rights NGOs reported that the Government generally observed the statutory limit of 1 year for pretrial detention or 2 years in the case of the most serious crimes. While human rights lawyers noted some continuing violations of this law, increasingly these situations became exceptions rather than common practice. There also appeared to be a legal consensus that the pretrial detention limits applied cumulatively to all of the separate periods of detention, for example, in cases where defendants' cases were sent to the courts for review and returned to prosecutors for further investigation. This was a change from earlier practice, when such a situation restarted the clock on the defendant's pretrial detention. However, many cases still formally could be deemed to be in the on-trial phase for an extended period of time. This occurred when a case file had been presented to the court by prosecutors but had not yet been acted upon by the judge. Cases could, not uncommonly, remain in this situation for months, while the defendant remained in custody. The Ministry of Justice reported that in 2001 there were approximately 1,000 accused persons in pretrial detention centers, 1,100 indicted persons in the country's 13 jails and 23 labor correction hostels (*see* Section 1.c.), and 8,971 convicted prisoners.

The Constitution provides for bail, and some detainees in the past were released under this provision, although bail was not used widely. In the event of a conviction, the time spent in pretrial detention was credited toward the sentence.

Human rights observers reported that in many localities, children could be held for months in educational boarding schools on the basis of police referral before a local commission convened to make a decision on the case (see Sections 1.e. and 5).

The Constitution prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution grants the judiciary independent and coequal status with the legislative and executive branches; however, problems in the judiciary remained, including a lack of transparent and neutral standards for assigning cases, poor coordination between prosecutors, investigators, and the courts, corruption, low salaries and understaffing, antiquated procedures, and a heavy backlog of cases.

The European Union Accession Report on Judicial Independence, issued in 2001, stated that because the Constitution provides that the “judicial power” includes prosecutors and investigators as well as judges, the separation of powers was blurred and the independence of judges was compromised. The report also found that the Ministry of Justice continued to exercise extensive administrative powers and that the Government influenced the appointment and promotion of judges and prosecutors and also influenced the outcome of cases. Partly as a legacy of communism and partly because of the court system’s structural and personnel problems, many citizens had little confidence in the judicial system. Long delays in trials were common. Human rights groups complained that local prosecutors and magistrates sometimes failed to pursue vigorously crimes committed against minorities. Many observers believed that reforms were essential to establish a fair and impartial, as well as efficient, judicial system. Since 2000 the Government has operated reform programs to upgrade the expertise of the judiciary with the help of international donor organizations. According to observers, these actions produced limited results.

Crime and corruption remained primary concerns of the Government. In July the National Assembly amended the Judicial Systems Act that empowered the Supreme Judicial Council (SJC) to vote on removing the immunity of the Prosecutor General—who previously had been unaccountable—and judges. Some members of the judiciary promptly challenged the amendments, and in December the Constitutional Court overturned them.

During the year, the Government established an anticorruption commission and amended the law to provide for a post-privatization control mechanism. The National Assembly approved amendments to the penal code that prohibited the solicitation of bribes and amended the law on privatization to provide for a post-privatization control mechanism. Politicians and NGOs continued to criticize the Prosecutor General’s office for its failure to prosecute vigorously large numbers of serious criminal cases, leaving the impression that it lacked the will to crack down on organized crime and corruption.

Observers noted modest improvement in the efficiency of moving cases through the criminal system, although many serious systemic flaws remained. The police continued to struggle with a large backlog of outstanding investigations, some up to 10 years old, which they inherited from the former investigative service.

The court system consisted of regional courts, district courts, and Supreme Courts of Cassation (civil and criminal appeal) and Administration. A Constitutional Court, which was separate from the rest of the court system, was empowered to rescind legislation that it considered unconstitutional, settle disputes over the conduct of general elections, and resolve conflicts over the division of powers between the various branches of government. Military courts handled cases involving military personnel (including police personnel) and some cases involving national security matters. The Constitutional Court did not have specific jurisdiction in matters of military justice.

Judges were appointed by the 25-member SJC and, after serving for 3 years, could not be removed except under limited, specified circumstances. The difficulty and rarity of replacing judges, virtually regardless of performance, often was cited as a hindrance to effective law enforcement. The 12 justices on the Constitutional Court were chosen for 9-year terms as follows: One-third were selected by the National Assembly, one-third appointed by the President, and one-third selected by judicial authorities. During 2001 the question of whether investigating magistrates enjoyed overly broad immunity—and thus generally were free from disciplinary measures for incompetence or corruption—led to a proposal to limit magistrates’ immunity that failed in the National Assembly. The internal mechanisms that controlled corruption in the judicial system were weak. Due to its composition and inadequate support staff, the SJC, which was responsible for the proper administration of justice and drafting the judiciary’s budget, was not able effectively to set the judi-

ciary's budget, ensure the effectiveness of judges, or protect the judiciary's independence. The European Union Accession Report on Judicial Independence reported that the SJC's mixed composition and its mandate to represent the entire judicial system (judges, prosecutors, and investigators) made it an ineffective representative of judges and their independence.

Local observers contended that organized crime influenced the prosecutor's office. Few organized crime figures have been prosecuted to date. According to the National Service for Combating Organized Crime, approximately 110 organized crime groups operated in the country. Domestic NGOs estimated that between 25 and 35 percent of the economy was linked to or controlled by organized crime. The MOI requested and received assistance from foreign governments in its efforts to close legal loopholes and strengthen enforcement capabilities against criminal groups engaged in racketeering and other illegal activities (*see* Section 3).

The Constitution stipulates that all courts shall conduct hearings in public unless the proceedings involve state security or national secrets, and authorities generally respected this provision. Defendants had the right to know the charges against them and were given ample time to prepare a defense. The right of appeal was provided for and was used widely. Defendants in criminal proceedings had the right to confront witnesses and to have an attorney, provided by the state if necessary, in serious cases.

The judiciary continued to suffer from a heavy backlog of cases, which resulted in long delays for trials. During the year, the backlog that had accumulated in the 1990s continued to be reduced. During the first 6 months of the year, Ministry of Justice statistics indicated that 53,908 new criminal cases had been filed, while 59,422 had been resolved. A total of 117,088 new civil cases had been filed in the same time period, and 130,944 civil cases resolved. There were 29,207 criminal and 88,189 civil cases outstanding at the end of June. The practice of pleabargaining, introduced in 2000, had not yet effectively lightened the caseload for prosecutors in its 3 years of operation. In addition, pleabargaining reportedly was perceived by many citizens as a way for the wealthy to buy their way out of charges.

Human rights observers considered educational boarding schools (formerly known as Labor Education Schools), to which problem children could be sent, as little different from penal institutions (*see* Section). However, since the schools were not considered prisons under the law, the procedures by which children were confined in these schools were not subject to minimal due process; several human rights organizations criticized this denial of due process. Children sometimes appeared alone despite the requirement that parents must attend hearings; the right to an attorney at the hearing is prohibited expressly by law. Decisions in these cases were not subject to judicial review, and children typically stayed in the educational boarding schools for 3 years or until they reached majority age, whichever occurred first. The law provides for court review of sentencing to such schools, sets a limit of a 3-year stay, and addresses some other problems in these institutions (*see* Section 5); however, human rights activists dismissed this court review provision as a formality, since the child was not present to speak on his or her own behalf (nor was the defense lawyer or the child's parents).

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these provisions in practice; however, there were regular reports of mail, especially foreign mail, being delayed or opened.

The precise extent of the MOI's discretionary power to authorize telephone wiretaps and electronic listening devices without judicial review was undetermined, and concerns remained that government security agencies acted without sufficient oversight. In 2001 media reports and commentaries discussed the need for better legislation and oversight of the various public order agencies, such as the NIS, NBS, and the National Security Service.

The BHC alleged that at times the issuance of warrants to investigate suspects' private financial records was abused to give police broad and open-ended authority to engage in far-ranging investigations of a suspect's family and associates. During the year, an NGO concerned with the rule of law complained that the Law on Special Intelligence Devices provides no possibility for citizens to be informed whether they have ever been the object of surveillance or wiretapping, even if the use of special intelligence devices with respect to them has been terminated. The NGO noted this meant that citizens were potential victims of a violation of Article 8 of the European Convention on Human Rights.

Traffickers in persons used threats against women's families and family reputations to ensure obedience (*see* Section 6.f.).



*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government exerted undue influence on the media. A variety of media outlets presented a broad spectrum of opinion.

Journalists criticized the Government's handling of state-owned broadcast media during the year. During the year, the National Council for Radio and Television was replaced by the Council for Electronic Media (CEM), which was ineffective in handling its licensing responsibilities due to administrative and political disputes; however, there was little demonstrable progovernment bias in its decisionmaking. The BHC reported in March that significant numbers of journalists continued to feel constrained in their reporting because of media outlet management, government influence, and outside pressure. Prosecutors also were regarded widely as wielding an intimidating influence over journalists who were critical of the judicial process.

There were no formal restrictions on programming and both television and radio provided a variety of news and public interest programming. Television and radio news programs on the state-owned media presented opposition views, but under the previous government, some opposition members claimed that their activities and views were given less broadcast time and exposure than those of the then-ruling party. Starting in late 2001 and continuing during the year, there was increasing evidence that the Government was attempting to exercise influence over state-owned media. In addition to passing the controversial measures regarding the CEM and removing the Director General of Bulgarian National Television (BNT) in 2001, the Government removed a political television talk show host, Yavor Dachkov, whose program had become known for its criticism of the Government. During the year, the Government did not succeed in adopting a new media law in the face of opposition arguments that the bill would provide the Government with a means of interfering with state-owned media. However, media observers believed that the inadequacy of existing legislation left state-owned media vulnerable to government pressure.

The Access to Public Information Act (APIA) established broader public access to government information; however, since it was enacted in 2000, implementation of the law has been uneven (*see* Section 4). NGO observers noted that both government officials and members of the public had an inadequate understanding of procedures under the act, reducing the act's usefulness as a tool to promote public access to government information. Nevertheless journalists appeared to take the law increasingly into account when seeking information from the Government. The NGO Access to Information Program (AIP) reported having 515 consultations with various parties about using the APIA during the year. The AIP reported that when it became involved, government agencies often, but not always, responded to APIA requests. AIP noted that 23 out of 25 municipalities that it surveyed had appointed an official to handle APIA requests, although only 1 had appointed an official full-time. The NGO estimated that less than 40 percent of the country's hundreds of municipalities made public current information under the APIA.

In 2001 the Government amended rules regarding press reporting on the activities of the Council of Ministers. These rules sought to restrict media access to the Council but were limited following protests by journalists. The only restriction in effect was that Ministers could not take questions before ministerial sessions, although they routinely issued statements to the press after Cabinet sessions. In May the Supreme Administrative Court ruled that, under the APIA, the Council of Ministers in 2001 unlawfully had declined to make public the transcript of a ministerial session requested by a journalist from Kapital weekly and decreed that the Council of Ministers should reconsider its position on the journalist's request.

The situation with respect to licensing did not improve due to problems surrounding the operation of the CEM. In 2001 former president Stoyanov signed a media law that created the CEM. Five of the CEM members were chosen by the National Assembly and four by the President. The CEM was authorized to regulate programming and issue licenses for electronic media, a power previously held by the State Telecommunications Commission. In 2001 the Council of Europe criticized the concentration of frequency allocation authority in a nontechnical body, and media observers were concerned that this measure would lessen state radio and television independence in reporting on government policies and programs. In practice the CEM focused on monitoring and administrative activities.

In July the National Assembly passed amendments to the Electronic Media Act (EMA) that require the CEM to issue radio and television broadcast licenses only in accordance with the Overall Strategy on the Development of Radio and Television Broadcasting. The CEM drafted the strategy, which required the National Assembly's approval, in cooperation with the Commission for Regulation of Telecommuni-

cations. The National Assembly had not approved the strategy by year's end. As a result, the CEM did not promulgate new licensing procedures, and it was not clear when the Government would resume licensing electronic media. Some media observers alleged that these delays stemmed from the ruling party's wish to prevent television licenses from being issued to broadcasters who might criticize the Government.

A variety of newspapers were published freely by political parties and other organizations representing the full spectrum of public opinion. However, journalists frequently wrote reports to conform to the views of their owners.

Libel is punishable under the criminal code, but in most cases the courts defined libel and interpreted the law in a manner that favored journalistic expression. In 2000 the National Assembly reduced the fines for libel and defamation by half to approximately \$7,500 (15,000 leva), but this reduced fine remained a heavy penalty in the context of the country's economy. The provisions eliminated imprisonment as a penalty for libel; however, according to an NGO report, in one case a person was imprisoned for libel, despite the amendment, because imprisonment was allowable at the time he was charged. Journalists charged with libel or defamation also have reduced rights of appeal for libel sentences under the law. Under the law, libel remains a criminal offense and losing defendants are considered to be criminals.

Legal actions regarding media officials continued. In March the Supreme Administrative Court (SAC) ruled that former BNT director Lily Popova was fired illegally and should be reinstated as BNT director. However, Popova's term had already expired and the CEM had appointed Kiril Gotzev Director General of BNT; therefore, no actions were initiated by CEM as a result of the SAC ruling. At the same time, BNT anchorman Dimitur Tzonev, a failed candidate for the BNT director's position, challenged the CEM's selection of Gotzev before the SAC. In July the SAC ruled that Gotzev had been appointed lawfully, and in October Tzonev was appointed government spokesman.

The BNT broadcast Turkish-language newscasts, and local affiliates of Bulgarian National Radio broadcast limited Turkish-language programming in regions with ethnic Turkish populations. Foreign government radio programs such as the British Broadcasting Corporation, Deutsche Welle, Radio Free Europe, Radio France Internationale, and the Voice of America had good access to commercial radio frequencies.

Access to the Internet was unrestricted, although many citizens could not afford computers. Internet cafes were common.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice. Authorities required permits for rallies and assemblies held outdoors, but most legally registered organizations routinely were granted permission to assemble. Vigorous political rallies and demonstrations were a common occurrence and generally took place without government interference.

The Constitution provides for freedom of association; however, the Government prohibited groups that endanger national unity or promote racial, national, ethnic or religious hatred, violate the rights of citizens, or seek to achieve their objectives through violent means. The Government undertook to respect the rights of individuals and groups to establish freely their own political parties or other political organizations; however, there are constitutional and statutory regulations that restrict the right of association and limit meaningful participation in the political process. For example, the Constitution forbids the formation of political parties along religious, ethnic, or racial lines and prohibits citizens' associations from engaging in political activity. These provisions were designed to prevent the development of parties based on a single ethnic or other group that could hurt national unity by promoting ethnic tensions for political purposes. Nonetheless the mainly ethnic MRF has long been represented in the National Assembly and in the Cabinet since 2001. The other major political parties generally accepted the MRF's right to participate in the political process. In addition, a number of predominantly ethnic Roma political parties achieved some success in local elections in 2001.

The Constitution also prohibits organizations that threaten the country's territorial integrity or unity or that incite racial, ethnic, or religious hatred. In 2000 the Constitutional Court, the final authority on the matter, ruled that the political party United Macedonian Organization (OMO-Ilinden-Pirin, not to be confused with the similarly named rights group, OMO-Ilinden, although there were links between the groups) was unconstitutional on separatist grounds. In 2001, with the support of the Bulgarian Helsinki Committee, OMO-Ilinden-Pirin leaders filed an appeal with the European Court of Human Rights (ECHR). In December the MOI stated that it had no knowledge of any complaint by OMO-Ilinden-Pirin before the ECHR.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion; however, the Government restricted this right in practice for some nontraditional religious groups. The Constitution designates Eastern Orthodox Christianity as the traditional religion. The Government provided financial support to the Eastern Orthodox Church, as well as to several other religious communities perceived as holding historic places in society, such as the Muslim, Roman Catholic, and Jewish faiths, which also were considered traditional. These groups benefited from a relatively high degree of governmental and societal tolerance.

The law on religion requires groups whose activities have a religious element to register with the Council of Ministers. By year's end, a total of 30 denominations were registered. The Government restricted religious freedom through a registration process that was selective, slow, and nontransparent. The Government prohibited the public practice of religion by groups that were not registered. In January the Church of the Nazarene was registered after more than 6 years of obstruction, with the assistance of the Prime Minister's direct intervention.

Although in previous years a few municipalities passed ordinances that aimed to curtail religious practices, the Government subsequently suspended these ordinances. However, the City Council in Burgas continued to refuse to register the local branch of Jehovah's Witnesses, despite the fact that they were registered by the national government.

In some cases, the failure of denominations to achieve registration as religious organizations caused them to function in an environment of indeterminate legality and to establish NGOs that functioned in nondenominational ways. Some groups rejected the idea of state registration. Although they operated, they were unable, for example, to rent conference halls because they did not exist as legal entities.

The appeal before the ECHR regarding a license for a nondenominational Christian radio station, Glas Nadezhda, remained pending at year's end.

The split within the Bulgarian Orthodox Church (BOC) between those who supported Patriarch Maksim and those who viewed him as illegitimate because he was selected in 1971 under Communist rule to head that church led to violence in July. A pro-Maksim Orthodox priest was arrested as a suspect in the killing on July 21 of alternative synod Orthodox priest Stefan Kamberov at a monastery near Blagoevgrad, and the alternative synod also accused the police chief of Blagoevgrad of aiding and abetting the crime. The authorities had not completed their investigation by year's end (*see* Section 1.a.). The Government stated the need to heal the schism but generally was perceived as favoring Maksim. The split hindered efforts to pass new legislation and to resolve outstanding claims relating to formerly Orthodox properties still held by the Government.

Except for alleged police involvement in actions against the alternative synod of the BOC, there were no reports of official harassment of religious groups during the year.

In December the National Assembly enacted the Law on Religious Confessions to replace the universally unpopular Communist-created law of 1949 and, indirectly, to end the schism within the BOC in favor of the Holy Synod headed by Patriarch Maksim. The law exempts the BOC from required registration and provides for an expedited registration procedure for the 30 denominations that had been registered under the 1949 law. Religious groups not registered previously under the 1949 law will not enjoy similar rights. Neither the Government nor the National Assembly requested review of the legislation by the Council of Europe or the Organization for Security and Cooperation in Europe (OSCE) prior to passage, as had been done by the previous government with respect to a draft religious affairs bill in 2001. NGOs and religious affairs observers expressed concern that the law would be used to favor the Holy Synod and to evict the Alternative Synod from properties under its control. Although the National Assembly took into consideration suggestions and critiques by Muslims, non-Orthodox Christians, and some NGOs, some media noted concerns of the Alternative Synod and the opposition UDF that the new law unfairly exempts the Maksim-led BOC from the registration requirement and would be used to suppress the anti-Maksim faction.

At the Department of Theology of Sofia University, all students were required to present a certificate of baptism from the Orthodox Church, and married couples were required to present a marriage certificate from the Church in order to enroll in the Department's classes. Non-Orthodox applicants could not be admitted to the Department of Theology.

A number of religious groups complained that foreign-national missionaries and religious leaders experienced difficulties in obtaining and renewing residence visas in the country; the issuance of residence visas appeared to be subject to the whim of individual authorities. New amendments to the Law on Foreign Persons, which went into effect in 2001, created problems for foreign missionaries and religious

workers in the country. For example, the revised law has no visa category which explicitly applies to missionaries or religious workers, and rules for other categories of temporary residence visa (such as self-employed or business-owner) have been tightened in ways that reportedly make it more difficult for religious workers to qualify. For example, foreign evangelical missionaries in Stara Zagora, who had reported confusion, delays, and demands for unexpected fees and bribes while applying for visas, were granted 1-year visas in July following a visit to Stara Zagora by a foreign diplomatic representative. Some foreign missionaries reportedly continued to travel in and out of the country every 30 days, despite the financial costs involved, in order to avoid having to obtain visas.

NGOs and certain denominations claimed that a number of their properties confiscated under the communist government were not returned. For example, the Muslim community asserted that it once owned at least 17 properties around the country that the Government has not returned. The Government also reportedly retained six buildings in Sofia, three in Plovdiv, and several other buildings in other towns, as well as three monasteries that belonged to the Catholic Church. Methodists and Adventists also claimed land or buildings in Sofia and other towns. A representative of the Jewish community stated that former Jewish properties had mostly been recovered over the last 10 years, with two exceptions in downtown Sofia. The head of the Office on Restitution Issues stated that the list of outstanding claims was shorter during the year, and that the law permits resolution of claims if a timely filing was made. However, a central problem facing all claimants was the need to demonstrate that the organization seeking restitution was the same organization—or the legitimate successor of the organization—that owned the property prior to September 9, 1944. This was difficult because communist hostility to religion led some groups to hide assets or ownership and because documents had been destroyed or lost over the years.

Discrimination, harassment, and general public intolerance toward religious minorities, which included the great majority of Protestant denominations, remained a problem; however, the number of reported incidents decreased during the year. Strong suspicion of evangelical denominations among the Orthodox was widespread and pervasive and resulted in societal discrimination. Nevertheless, human rights observers agreed that such discrimination has gradually lessened over the last 4 years as society appeared to become more accepting of at least some previously unfamiliar nontraditional religions.

There were no reports during the year that non-Orthodox religious groups were affected adversely by media coverage. In previous years, numerous articles in a broad range of newspapers as well as television documentaries reported inaccurately on the activities of non-Orthodox religious groups, attributing the breakup of families and drug abuse by youths to the practices of these groups, and alleged that evangelical parents provided illegal drugs to young children. In February a youth with skinhead connections in Sofia stabbed a Mormon missionary; however, it was not known whether the attack was connected with the victim's religious activities or affiliation. Two assailants were arrested, charged with relatively minor offenses, convicted, and given suspended sentences. The missionary recovered.

In April a gang of apparent skinheads attacked a group of Roma in Pazardzhik, resulting in several hospitalizations. Although the motive for the attack was unclear, it reportedly took place following a service by a Swedish evangelical preacher at the local stadium.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, the Government restricted the access of noncitizens to border zones that extending up to approximately 4.2 miles from the country's border. Every citizen has the right to return to the country, may not be forcibly expatriated, and may not be deprived of citizenship acquired by birth; there are no limits to these rights under the Constitution.

The Government granted asylum and refugee status in accordance with the standards of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Law on Refugees regulates the procedure for granting refugee status as well as the rights and obligations of refugees. The Agency for Refugees, formerly the National Bureau for Territorial Asylum and Refugees, was charged with following this procedure. The Government cooperated with the U.N. High Commission for Refugees (UNHCR) and other humanitarian organizations in assisting refugees.

The Government provided first asylum. In the past, domestic and international human rights organizations had expressed concern over the Government's handling of asylum claims and reported that there may have been cases in which bona fide refugees were turned away at the border. No such cases were reported during the

year; however, because NGOs lacked institutionalized access to the country's borders, it often was difficult for them to monitor the Government's handling of asylum cases.

During the year, the State Agency for Refugees received requests for refugee status from 2,888 persons. Refugee status was granted to 75 persons and humanitarian protection given to 646, while 781 applications were denied. There were 1,140 cases pending at year's end. The leading countries from which applicants originated were Iraq, Afghanistan, Armenia, Sudan, and Nigeria. In 2001 there were 2,428 applicants, of which 385 received refugee status, 1,185 were granted humanitarian protection status, and 633 had their applications denied.

Humanitarian protection status provided temporary protection for 1 year, and persons could reapply.

In June the National Assembly adopted the Law on Refugees and Asylum that streamlines the procedures for granting asylum and refugee status. Under the law, applicants for asylum or refugee status are interviewed immediately. Within 3 days of the interview, applications are reviewed by a competent authority, who determines whether they merit further processing. The law also provides for the detention of foreigners who are deemed by the MOI to pose a threat to national security, or who have committed serious crimes.

The Agency for Refugees reported that it had received 5,938 applications for asylum since its inception in 1993. Of these, 902 persons were listed as holding approved asylum or other humanitarian residence status at year's end. Domestic and international human rights organizations complained that the adjudication process was slow, but the UNHCR noted that the Agency for Refugees began a major restructuring project to reduce the adjudication time to a period of 3 months; the project was expected to take 4 years. The UNHCR, in cooperation with an NGO, operated three transit centers near the Greek, Turkish, and Romanian borders and assisted the Government with a small reception center in Banya.

The case of Ahmad Musa, a Palestinian who was expelled from the country for being a threat to national security in 2000, remained pending before the ECHR at year's end.

There were no reports during the year of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections of the President and members of the National Assembly. However, the constitutional prohibition of parties formed on ethnic, racial, or religious lines effectively circumscribed access to the political party process for some groups (see Section 2.b.). Suffrage is universal at the age of 18.

Parliamentary elections held in 2001 were considered by international observers to be generally free and fair, and voting took place in a calm and orderly atmosphere; however, the OSCE reported that while a large number of media outlets gave the public broad access to information, provisions in the Election Law regulating campaign coverage in the public media were overly restrictive. Election contestants also had to pay for all appearances in the public broadcasting media, including debates, which effectively limited campaign coverage in the media. A coalition government headed by former King Simeon Saxe-Coburg of the NMS party won the elections and took office in 2001.

There were no legal restrictions on the participation of women in government and politics. There were 63 women in the 240-seat National Assembly. A number of women held elective and appointive office at high levels in the new government, including one Deputy Prime Minister (who also was Minister of Labor and Social Policy), the Minister of Environment and Water Resources, and 10 deputy ministers. Women also held key positions in the National Assembly, including one Deputy Speaker and the chairs of three committees. The largest opposition party in the National Assembly, the Union of Democratic Forces, was led by a woman.

There were no legal restrictions on the participation of minorities in politics; however, the Constitution prohibits ethnically, racially, or religiously based parties (see Section 2.b.). There were 23 minority members of parliament (M.P.s) in the 240-seat National Assembly. There were two MRF ministers in the Cabinet. They were the first ethnic Turks to serve in the Cabinet. The Turkish community's popularly elected representation of twenty ethnic Turks in the National Assembly roughly corresponded to its size. There were two Roma in the National Assembly, one was an NMS member, the other a BSP member. Both groups were underrepresented in appointed governmental positions, especially leadership positions. Romani groups de-

mandated that existing political parties adopt platforms pledging more representation and other improvements for Roma in return for Romani support. There was also one ethnic Armenian M.P. in the National Assembly.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigations of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Human rights observers reported uneven levels of cooperation from various national and local government officials during the year. The APIA opened new channels of information, which at times proved quite helpful to human rights observers; however, implementation of the act has been uneven. In particular, local administrations were slow to designate a place where APIA requests could be submitted. Human rights observers also experienced some difficulty in obtaining information that had been easy to obtain before 2001, such as information from prosecutors. During the year, a number of NGOs issued reports that analyzed and criticized the prevalence of corruption and organized crime as well as the weak and inefficient criminal justice system, sparking considerable public debate. The Government made no attempt to suppress them or punish their authors.

The police continued cooperation with human rights NGOs in providing human rights training to police officers; however, the BHC did not conduct any further human rights awareness training during the year. In general human rights observers reported continued receptivity and dialog on the part of the Government and police officials toward human rights concerns. However, police practices at the working level had not changed noticeably.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution provides for individual rights, equality, and protection against discrimination; however, in practice discrimination still existed, particularly against women and Roma.

*Women.*—Societal violence against women was a serious and common problem, but there were no official statistics on its occurrence. The Animus Association Foundation (AAF), an NGO that offered assistance and support to female victims of violence, estimated that one in five women suffered from spousal abuse. The law exempts from state prosecution certain types of assault if committed by a family member, and the Government generally did not assist in prosecuting domestic assault cases unless the woman was killed or injured permanently. Courts and prosecutors tended to view domestic abuse as a family matter rather than a criminal problem. In most cases, victims of domestic violence took refuge with family or friends rather than approach the authorities. Police often were reluctant to intervene in cases of domestic abuse, even if a woman called them seeking protection or assistance.

The Government did not take steps to combat violence against women and did not provide shelter or counseling for women. In Sofia the NGO Nadya De Center provided shelter to battered women, and the AAF opened a crisis center that provided short-term emergency shelter for female victims of violence. At year's end, there were 15 crisis centers around the country that provided assistance to female victims of violence. The AAF also operated a 24-hour hot line for women in crisis that was staffed by volunteer counselors, supported by 13 full-time professional therapists.

NGO observers reported a generally improved public attitude toward the problems of violence against women in the last few years. After several years of activism by various NGOs, the taboo against acknowledging and talking about domestic violence and violence against women has been broken. Observers also noted some increased sensitivity on the part of police to the issue. The AAF reported that it periodically received client referrals from police.

For the period January through June, the AAF reported that it had assisted 405 female victims of domestic violence, including 12 adolescents, 27 victims of sexual violence, and 18 traumatized witnesses or family members of the victims. However, observers believed that the actual incidence of each form of violence was much higher, as these represented only those cases where the victims (or, in some trafficking cases, an overseas women's group) were willing and able to contact the AAF.

Spousal rape is a crime, but it rarely was prosecuted.

The courts prosecuted rape, although it remained an underreported crime because of the stigma which society attached to the victim. The maximum sentence for rape is 8 years; convicted offenders often received a lesser sentence or early parole. According to the MOI, 215 rapes and 64 attempted rapes were reported for the period January through June, compared with 197 and 35, respectively, from January to August 2001. According to a survey by a local polling agency, 80 percent of rapes involved an assailant known to the victim.

Prostitution was not prohibited by law; however, a variety of activities often associated with prostitution, such as pimping, were illegal (*see* Section 6.f.). Forced prostitution was illegal, but remained a serious problem. Poor socioeconomic conditions contributed to a disproportionate number of Romani women drawn into organized prostitution.

Trafficking in women was a serious problem (*see* Section 6.f.).

The law does not prohibit sexual harassment, and sexual harassment was a widespread problem. Labor unions reported that sexual harassment occurred in the clothing assembly industry, particularly in the southern parts of the country. A survey conducted by the Agency for Social Research (ASR) during the year found that approximately 40 percent of women had suffered sexual harassment in the workplace. Most incidents were unreported.

The Constitution forbids privileges or restrictions of rights on the basis of sex, and women were not impeded from owning or managing businesses, land, or other real property and do not suffer from discrimination under inheritance laws; however, women faced discrimination both in terms of job recruitment and the likelihood of layoffs.

Official figures showed the rate of unemployment to be higher for women than for men. Women were much more likely than men to be employed in low-wage jobs requiring little education. The National Statistical Institute reported that in late 2001, the average salary of a woman was 77 percent of the average salary of a man. An ASR survey found that 52 percent of the country's unemployed were women and that women received only 67 percent of the remuneration of their male counterparts due to limited overall opportunities for promotion. An Austrian government-funded survey on obstacles to female entrepreneurs in the country, carried out by the Foundation for Entrepreneurship Development, found that barriers included the unavailability of start-up capital, corruption, and low purchasing power. In 2000 there were half as many self-employed women as men, and women owned or managed only a third of domestic businesses.

Women were as likely as men to attend universities. However, in the workplace, women had less opportunity to upgrade their qualifications and generally secured lower-ranking and lower-paying positions than their male counterparts. Women generally continued to have primary responsibility for child rearing and housekeeping, even if they were employed outside the home. Since 80 percent of employed women work in the lowest-paying sectors of the labor force, they often needed to work two jobs in addition to their household duties in order to help provide for their families. Female-headed households frequently lived below the poverty line. There were liberal provisions for paid maternity leave; however, these actually could work against employers' willingness to hire and retain female employees. This was noticeable especially in higher-paying positions in the private sector, where many women with engineering degrees worked as secretaries.

The Government did not have programs to address economic discrimination or integrate women into the mainstream of society and the economy, although much NGO activity was focused on these areas.

Many of the approximately 30 women's organizations were associated closely with political parties or had primarily professional agendas. Some observers believed that women's organizations tended to be associated with political parties or professional groups because feminism had negative societal connotations. Of those organizations that existed mainly to defend women's interests, the two largest were the Women's Democratic Union in Bulgaria and the Bulgarian Women's Association. The Party of Bulgarian Women was one of the founding parties in the NMS coalition, which won the 2001 parliamentary elections (*see* Section 3).

*Children.*—The Government generally was committed to protecting children's welfare; however, government efforts in education and health were constrained by serious budgetary limitations and by outmoded social care structures. The Constitution provides for mandatory school attendance until the age of 16. Public education was free, but children were required to pay for books, which was a problem for poor families. Fewer girls than boys attended school, especially among minority groups.

Many Roma and other observers made credible allegations that the quality of education offered to Romani children was inferior to that afforded to most other students. Some parents were reluctant to have too many Romani children enrolled in school because they feared it would lower the school's academic standards. Romani children and ethnic Bulgarian children generally attended separate schools, although integration programs, including busing, were started in several localities during the year. The Government largely was unsuccessful in attracting and keeping many Romani children in school. Schools in most Romani neighborhoods suffered from chronic absenteeism and very low graduation rates. Less than 8 percent of Romani children have completed secondary education, and less than 1 percent

have graduated from college. Many Romani children arrived relatively unprepared for schooling; many were not proficient in the Bulgarian language. Since March a project in Siliistra region provided weekend classes for Romani children under the age of 15 who were not in school.

Poverty led to widespread school truancy because many children in Romani ghettos could not afford shoes or basic school supplies, and instead turned to begging, prostitution, and petty crime on the streets. A social milieu that often did not highly value formal education also was a contributing factor. Lack of effective government infrastructure and programs and economic and social factors combined to deprive Romani youths of an education.

There were indications that some initiatives undertaken by the Government and by Romani NGOs were achieving small successes in mitigating these problems, for example by providing free lunches and subsidizing textbook and tuition costs. With the help of international donor funding, an ethnic reintegration effort began in schools in Vidin in 2000 and continued through the year. Since 2000 busing programs have operated in Vidin and elsewhere, although one Romani M.P. called the program a failure, and an EU representative in Sofia stated that there should be an assessment of the impact of the program around the country. Nevertheless, during the year, Romani children from the settlement continued to attend nonsegregated schools as a result of local and international nongovernmental initiatives, and the program was expanded to include the cities of Montana, Pleven, Stara Zagora, Sliven, and Khaskovo.

Conditions for children in state institutions were poor. At the end of 2001, according to the State Agency for Child Protection, there were approximately 35,000 children confined to 360 state or municipal institutions that were under the jurisdiction of 5 different government ministries. Only 2 percent of these children were orphans, but many had disabilities. Social attitudes towards children with disabilities led families to institutionalize their children if they had disabilities. Another 2,900 children were considered at risk and were forced to seek care in institutions because their families could or would not support them. Human rights monitors were sharply critical of the serious deficiencies in government-run institutions for children, including orphanages, educational boarding schools (reform schools), facilities for the mentally handicapped, and shelters for homeless children. These facilities were plagued by inadequate budgets, poorly trained and unqualified staff, and inadequate oversight. For example, the Government maintained a sizable network of orphanages throughout the country. However, many of the orphanages were in disrepair and lacked proper facilities. NGO monitors further alleged that even food budgets were highly deficient, with many institutions dependent on the uneven flow of private donations to feed their charges. Access to medical care and proper hygiene was poor.

There were few provisions for due process of law for Roma and other juveniles when they were detained in educational boarding schools run by the Ministry of Education (*see* Section 1.e.). Living conditions at these reform schools were poor, offering few medical, educational, or social services. Generally, staff members at many such institutions lacked the proper qualifications and training to care for the children adequately. Degrading and severe punishment, such as the shaving of a child's head, reduction in diet, severe beatings, and long periods of solitary confinement, were common at the schools. Children in these institutions also did not have adequate access to medical care. Legislation provides for the court review of sentencing to such schools and addresses other problems in the reform school system (*see* Section 1.e.); however, these provisions did not function in practice. Decisions to commit children to an educational boarding school were made by local commissions for combating juvenile delinquency, which generally were not held accountable to any higher authority. Standards differed among these local commissions in how closely prescribed procedures were followed. Human rights observers reported that in many localities, contrary to the law, a child could be held in such a facility on the basis of a police referral for months before the local commission convened to make a decision on the case. The U.N.'s Common Country Assessment for Bulgaria reported in 2001 that the children in these facilities could be subject to physical abuse and upon leaving these homes could be emotionally scarred and ill-prepared to face the outside world.

There was no societal pattern of abuse against children; however, some Romani children were targets of skinhead violence and arbitrary police detention (*see* Section 1.d.); the homeless or abandoned particularly were vulnerable.

There were reports that family or community members forced some minors into prostitution. Child prostitution reportedly was particularly common among Romani youth.

Trafficking in girls was a problem (*see* Section 6.f.).



*Persons with Disabilities.*—The law provides for a range of financial assistance for persons with disabilities, including free public transportation, reduced prices on modified automobiles, and free equipment such as wheelchairs; however, budgetary constraints limited the availability of assistance. A survey during the year by the Center for Independent Living found that about 82 percent of public buildings were inaccessible to persons with disabilities. Societal discrimination against persons with disabilities persisted. Persons with disabilities had access to university training (students with disabilities were required to pay the university's initial application fee but were exempt from tuition if accepted), to housing, and to employment; however, architectural barriers were a great hindrance in most older buildings, including schools and universities.

Conditions in institutions for persons with disabilities were poor. In April Amnesty International (AI) published a report on Sanadinovo Social Home for Mentally Disabled Women, which was found to be grossly understaffed and conditions failed to meet international human rights standards. For example, as punishment, women were held in a cage made of iron bars and wire; the NGO observers noted that the cage floor was dirty with human excrement. The report prompted a swift investigation by the Ministry of Health and the Ministry of Labor and Social Policy, and the home was closed in July. AI also publicized inhuman conditions at a home for men with mental disabilities in Dragash Voyvoda, where 22 residents reportedly died of starvation and pneumonia in 2001. The home's director was fired immediately, and the 147 remaining residents were scheduled to be relocated by year's end because the premises in Dragash Voyvoda could not be renovated.

Labor laws intended to protect the interests of persons with disabilities and create employment opportunities have had a mixed effect. On the one hand, the law provides incentives for small firms to hire persons with disabilities; for example, the Bureau of Labor paid the first year's salary of a disabled employee. On the other hand, workers with disabilities were entitled to shorter working hours, which often led to discrimination against them in hiring. According to the law, any enterprise employing more than 50 persons must hire a certain number of workers with disabilities (from 3 to 10 percent, depending on the industry). Those that fail to do so must pay a fine, the proceeds of which go to a fund for persons with disabilities. Nevertheless, due to low fines and delays in the judicial system, compliance rates were extremely low. General unemployment and a poor economy also undermined initiatives aimed at advancing equal opportunity for persons with disabilities; the great majority of persons with disabilities were unemployed.

Policies and public attitudes prevalent during the communist era, which separated persons with mental and physical disabilities, including very young children, from the rest of society, have persisted. Some complained that the effective segregation of children with disabilities into special schools lowered the quality of their education. Many children with disabilities were institutionalized.

The law requires improved structural access for persons with disabilities, and public works have taken the needs of persons with disabilities into account; for example, Sofia's new subway system was designed with wheelchair access to stations. However, enforcement of this law lagged in existing, unrenovated buildings.

*National/Racial/Ethnic Minorities.*—According to a 2001 census, ethnic Bulgarians made up 86 percent and ethnic Turks 9 percent of the population. Ethnic Roma were estimated officially to comprise 4.6 percent of the population; however, their actual share was likely between 6 and 7 percent, since many persons of Romani descent tended to identify themselves to the authorities as ethnic Turks or Bulgarians. A Council of Europe report issued during the year estimated that there were 600,000 to 800,000 Roma in the country; official statistics estimated the number of Roma at 371,000. Ethnic Bulgarian Muslims or Pomaks were a distinct group of Slavic descent whose ancestors converted from Orthodox Christianity to Islam; they constituted 2 to 3 percent of the population. Most were Muslim, although a number became atheists or converted to Christianity. Smaller groups, such as Jews and Armenians, were well integrated into Bulgarian life.

There were no reports of lethal police assaults on Roma; however, police harassed, physically abused, and arbitrarily arrested some Romani street children (see Sections 1.c. and 1.d.). Little progress was in resolving cases of police violence against Roma in previous years, and these largely remained in the investigatory phase.

In January three Roma were arrested for reportedly assaulting a police officer in a Burgas area village, breaking his ribs. In March near Vidin, two Romani minors reportedly killed a non-Romani man during an attempted robbery. In April a similar killing occurred in the village of Ivanski, near Shumen.

There were reports of non-Roma/Roma violence. In April 5 or 6 persons attacked a group of 15 Roma as they returned home from a Pentecostal Church meeting in Pazardzhik. The attackers used bats and chains. Non-Roma living nearby came to

the assistance of the Roma, but five Roma were hospitalized. Complaints were filed but police made no arrests by year's end. Also on April 20, a group of skinheads attacked Roma in a nightclub in the village of Oreshak, near Troyan. On May 26, private security guards killed 19-year-old Miroslav Zankov at the abandoned military airport in Gabrovnitsa, near Montana. On August 21, another private security guard shot and killed 21-year-old Pavel Y. in Sofia. Both victims allegedly were stealing. Investigations continued in both cases at year's end, but no charges had been filed.

Much of the violence afflicting Romani communities in the country during the year was intraethnic. The most significant violence took place in Vidin. In June members of a rival clan killed 19-year-old Tsvetelin Petrov, a member of the Zrunkov clan, who allegedly was ransacking a shop, which started a riot. Police and armored vehicles were used to restore order, and a man was killed under unclear circumstances. At the insistence of other Roma, the Government then sought to disperse the Zrunkovs, who had acquired a reputation within the local community as troublemakers and usurers, to towns and villages around the country; however, they encountered nearly universal hostility from Roma and non-Roma.

In July one member of the Zrunkov clan, Ivan Ivanov, attempted to set himself on fire in front of the President's office, but guards quickly extinguished the flames. Also in July, police arrested 16 Roma in Vidin after they reportedly plundered the houses and property of the departed Zrunkovs. Additionally in July, in the town of Chirpan, six Roma (including a 6-year-old child) were injured in fighting between rival clans. Most of the Zrunkovs were reported to have returned quietly to Vidin or to have emigrated by year's end.

Severe unemployment and poverty among the Roma, combined with generally unfavorable attitudes towards Roma among ethnic Bulgarians and Turks, contributed to strained relations between the Roma and the rest of society. Economic stress and other factors led to protests or violence during the year. The most significant disturbances arose in connection with efforts by some local electricity companies to collect large unpaid electric bills accumulated by persons living in Romani neighborhoods.

As individuals and as an ethnic group, Roma continued to face high levels of discrimination. Roma encountered difficulties applying for social benefits, and local officials discouraged rural Roma from claiming land to which they were entitled under the law disbanding agricultural collectives. Many Roma and other observers made credible allegations that the quality of education offered to Romani children was inferior to that afforded most other students. Workplace discrimination against minorities continued to be a problem, especially for Roma. Employers justified such discrimination on the basis that most Roma only had elementary training and little education. Roma continued to suffer from inadequate access to health care.

Romani activists and NGOs continued to criticize the Government's lack of progress in implementing its framework program for Romani integration—the Program for Social Integration of Roma—which was unveiled in 1999. Aside from the hiring of a number of individual Romani representatives in various institutions of local, regional, and national government (*see* Section 3), there was little discernible progress in implementing the program.

Nevertheless, there were projects that sought to improve economic and educational opportunities for Roma, as well as to address the problem of ineffectual political leadership among the Roma. One program was the Ethnic Integration and Conflict Resolution project, which began operations in Vidin and Kyustendil, as well as in Lom where it was launched in 2000. The project included providing limited funds to small enterprises which employ Roma, undertaking activities to reduce Romani drop-out rates and provide tutoring for university enrollment exams, and creating an Institute for Roma Leaders where young Roma could develop leadership and conciliation skills. Social aspects of the project included health education for women, a needed component, since Roma suffer from inadequate health care. An estimated 90 percent of Roma never have received routine medical or dental care. Life expectancy for Roma was 55 years; for ethnic Bulgarians, it was 69 years.

Demands for expulsion of Roma continued. In 2001 in an open letter sent to Prime Minister Saxe-Coburg, groups claiming to represent Roma complained of public statements, made by ethnic Bulgarians in some towns, calling for measures that could lead to further segregation of the Roma. During the year, the most significant demand for the expulsion of some Roma came from other Roma in the case of the Zrunkov clan in Vidin. No new demands by non-Romani groups for the expulsion of Roma were reported.

The Government and the European Bank for Reconstruction and Development funded the construction of new apartments in Sofia for Roma who were displaced

in 2001. Approximately 100 families occupied the new housing; the program was scheduled to continue in 2003, with additional construction in Plovdiv.

During the year, Roma protested after government-owned local electricity companies demanded the payment of large unpaid bills that residents of some Roma communities had accumulated over recent years. The unrest began in February when Roma in Plovdiv protested a decision by the local electricity company to cut off power to the mainly Romani neighborhood of Stolipinovo because of unpaid bills of approximately \$3 million (6 million leva). Other places affected included districts in and around Burgas, where unpaid bills amounted to approximately \$120,000 (240,000 leva), and Sliven. In Sliven many Roma had not paid their electricity bills for 4 or 5 years. In the northwestern city of Vidin, where it was eventually agreed, as elsewhere, that a portion of government welfare payments would go directly to the local electric company, Roma protested that they would no longer be receiving that money in cash. There were reports that failure to collect electricity bills was considered an informal welfare benefit extended by some local governments to Romani communities.

Beginning in late 2001, the Interior Ministry reserved 20 to 30 places in the Police Academy for minority candidates to address the serious underrepresentation of ethnic Turks and Roma in the police agencies. According to the Government, the number of Romani police officers rose from 59 in 2001 to 158 during the year, including four officers, 89 sergeants, and 55 police guards. A special Office for Romani Training Programs was established, and bilingual training manuals were published. However, ethnic Turks and Roma held no senior law enforcement positions.

In 2000 the Government completed the transformation of controversial military construction battalions into a state-owned company that no longer employed conscript labor. During the year, there were no reported problems with the integration of ethnic minority conscripts into the mainstream of the military forces, but there were few ethnic Turkish or Romani military officers and a small number of high-ranking officers of the Muslim faith.

Ethnic Turks were represented on the boards of state-owned companies, such as Bulgartabak Holding, which were involved in the tobacco industry. However, observers expressed concern over the socioeconomic implications of the privatization of Bulgartabak for the sizeable number of ethnic Turks whose livelihood depended on tobacco. With the privatization of Bulgartabak, the Government no longer subsidized tobacco growers by buying tobacco above market price.

There were no restrictions on speaking Turkish in public. Voluntary Turkish-language classes in public schools, funded by the Government, continued in areas with significant Turkish-speaking populations, although some observers complained that the Government discouraged optional language classes in areas with large concentrations of Muslims. The Ministry of Education estimated that approximately 40,000 children studied Turkish. Some ethnic Turkish leaders continued to call for compulsory Turkish-language classes in areas with significant ethnic Turkish populations, but support for these views was muted during the year since the MRF became part of the Government. During the year, the Interior Minister and the Vice President both publicly apologized to the Turkish minority for the renaming campaign in the 1980s.

Ethnic Bulgarian Muslims, often called Pomaks, remain in an ambiguous position. In the town of Yakoruda, local officials refused to recognize Pomak identity, and those calling themselves Pomaks or Bulgarian Muslims alleged discrimination by government officials. Several years ago, a local prosecutor reportedly refused to register a new NGO whose name included the word Pomak, but the NGO eventually was registered under a different name. Nevertheless, local officials reportedly continued to hamper the activities of the NGO after they learned that its members identified themselves as Bulgarian Muslims.

The media reported that a draft report prepared by the National Council on Ethnic and Demographic Issues (NCEDI) on the 1999 Framework Agreement and intended for the European Union Parliamentary Assembly stated that it was wrong not to recognize Macedonian and Pomak minorities. The report also stated that Article 14 of the Constitution, which forbids the creation of ethnic, racial, and religious parties, was discriminatory and limiting. The leader of the nationalist Internal Macedonian Revolutionary Organization expressed alarm at alleged plans by the Government to recognize the existence of Macedonian and Pomak minorities. The chief of the NCEDI later denied that the report included any such suggestion.

There were no restrictions on the use of non-Slavic names; however, both ethnic Turks and Bulgarian Muslims complained that the procedures for restoring their original names (after they had been forced to adopt Slavic names during the 1970s and 1980s) were excessively burdensome and difficult to accomplish.

Several thousand persons, mainly in the southwest, identified themselves as ethnic Macedonians, most for historical and geographic reasons. Members of the two organizations that purported to defend their interests, OMO-Ilinden and TMO-Ilinden, were believed to number in the hundreds (see Section 2.b.). The Government did not recognize Macedonians as a distinct ethnic group, and the group was not enumerated in official government census statistics.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right of all workers to form or join trade unions of their choice, and workers exercised this right.

Estimates of the unionized share of the work force ranged from 30 to 50 percent, but this share continued to decrease as large firms laid off workers, and most new positions appeared in small, nonunionized businesses. The two largest trade union confederations were the Confederation of Independent Trade Unions of Bulgaria (CITUB) and Podkrepa, which together represented the overwhelming majority of organized workers. Trade unions were required to demonstrate their membership strength through a periodic census of their members; however, employer representative organizations were not similarly required to disclose who they represented in the trilateral process.

Doctors and dentists expressed dissatisfaction with their government-imposed union structure. The trade unions alleged that this organization was not truly a labor representative organization but simply a government-mandated fee collection agency. They also believed that it impeded the opportunity for a genuine trade union to represent medical professionals.

The Labor Code's prohibitions against antiunion discrimination include a 6-month period for redress against dismissal as a form of retribution. However, there was no mechanism other than the courts for resolving complaints, and the burden of proof in such a case rested entirely on the employee. In several instances in the past, an employer was found guilty of antiunion discrimination, but the employers appealed the decisions. The backlog of cases in the legal system delayed further action, effectively postponing, perhaps indefinitely, redress of workers' grievances.

The labor movement remained concerned about the widespread use of temporary contracts to evade provisions for worker protections for permanent staff. Many workers, who effectively were permanent staff, were hired under short-term contracts that were renewed at the end of each month or each quarter. When an employer decided to fire someone, the employer could do so legally by simply not renewing the person's contract, rather than initiating a severance action that could entail payment of benefits.

There were no restrictions limiting affiliation or contact with international labor organizations, and unions actively exercised this right.

*b. The Right to Organize and Bargain Collectively.*—The Labor Code provides for collective bargaining, which was practiced nationally, regionally, and on the local level; however, labor unions complained that while the legal structure for collective bargaining was adequate, many employers failed to bargain in good faith or to adhere to agreements that were concluded. Labor observers also viewed the Government's enforcement of labor contracts as inadequate. The legal prohibition against striking for key public sector employees weakened their bargaining position; however, in the past, these groups were able to influence negotiations by staging protests and work slowdowns, and engaging in other pressure tactics without going on strike (see Section 6.a.).

The Labor Code provides for the right to strike when other means of conflict resolution have been exhausted; however, political strikes were forbidden, and workers in essential services (primarily the military and the police) were subject to a blanket prohibition against striking. Such workers on occasion held effective strikes in which they stopped or slowed their activities for 1 or 2 hours. The CITUB confederation argued that the number of workers classified as essential and ineligible to strike was excessive and unfairly restricted the right of many civil servants to exercise their worker rights.

The obligation to bargain collectively and adhere to labor standards applied to the country's six export processing zones, and unions could organize workers in these areas.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced and bonded labor, including by children; however, there were reports that such practices occurred (see Section 6.d.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Code sets the minimum age for employment at 16 years; the minimum age for dangerous work is 18. Employers and the Ministry of Labor and Social Policy

(MLSP) were responsible for enforcing these provisions. Child labor laws generally were enforced well in the formal sector, but NGOs believed that children increasingly were exploited in certain industries (especially small family-owned shops, textile factories, restaurants, family farms, construction, and periodical sales) and by organized crime (notably for prostitution and distribution of narcotics), where they often faced illegal conditions.

There were no official statistics on child labor. An International Labor Organization (ILO)-commissioned report, *Problems of Child Labor in the Conditions of Transition in Bulgaria*, published the results of a study conducted during 2000, which found that 6.4 percent of children between the ages of 5 and 17, or approximately 80,000 children, were involved in paid employment in the informal sector. Of these children, 55 percent were between the ages of 15 and 17, while 45 percent were under 15. The study estimated that 32.3 percent of children between the ages of 5 and 17 worked on family farms, while 41.8 percent worked at home. Only 14 percent of children did not work. The study estimated that 8.3 percent of children performed heavy physical labor while 4.2 percent performed activities hazardous to their health such as plowing, bailing hay, caring for livestock, stringing tobacco and working excessive hours. Ethnic Turkish children were particularly at risk of having to perform heavy physical or hazardous labor on family-owned tobacco farms. The study estimated that 0.8 percent of children, or approximately 10,000, practiced begging.

Children's workdays often exceeded the 7-hour maximum set by the Labor Code, and sometimes children did not receive overtime pay for hours worked. Underage employment in the informal and agricultural sectors was believed to be increasing because of the breakup of collective farms and the growing private sector. Local NGOs reported that children worked on non-family-owned farms for meager monetary or in-kind wages (e.g., food). NGO observers also reported that institutionalized children often hired themselves out for agricultural labor for a modest income during periods when they were allowed out of residential facilities.

In 2000 the country ratified ILO Convention 182 on the Worst Forms of Child Labor; however, the National Assembly has not adopted implementing legislation.

*e. Acceptable Conditions of Work.*—In 2001 the Government increased the monthly minimum wage from approximately \$43 (85 leva) to \$50 (100 leva). The average industrial wage was approximately \$123 (246 leva). Nonpayment of wages and wage payments in arrears was a growing problem with certain employers, including state enterprises. The CITUB labor confederation estimated that there was an overall backlog of \$50 million (100 million leva) in unpaid wages owed to public sector workers and workers in enterprises which were wholly or partly state-owned. The Constitution stipulates the right to social security and welfare aid assistance for the temporarily unemployed, although in practice such assistance often was late.

The Labor Code provides for a standard workweek of 40 hours with at least one 24-hour rest period per week. The MLSP was responsible for enforcing both the minimum wage and the standard workweek. Enforcement generally was effective in the state sector (aside from dealing with wage arrears) but was weaker in the private sector.

There was a national labor safety program, with standards established by the Labor Code. The Constitution states that employees are entitled to healthy and non-hazardous working conditions, and the MLSP was responsible for enforcing these provisions. However, conditions in many cases continued to worsen due to budget constraints and the growth of a private sector that labor inspectors did not supervise effectively. Protective clothing often was absent from hazardous areas (for example, goggles for welders and helmets for construction workers). The pervasive economic crisis and imminent, long-overdue privatizations contributed to a heightened fear of unemployment, leading to reluctance on the part of workers to pursue wage and safety demands. The law requires joint employer and labor health and safety committees to monitor workplace conditions; however, implementation was slow and these committees remained in developmental stages at year's end.

Under the Labor Code, employees have the right to remove themselves from work situations that present a serious or immediate danger to life or health without jeopardy to their continued employment. However, in practice, refusal to work in situations with relatively high accident rates or associated chronic health problems resulted in the loss of employment for many workers.

*f. Trafficking in Persons.*—In October the National Assembly amended the penal code to make trafficking in persons a criminal offense; however, trafficking in women and girls was a serious problem, and the country remained a source, transit country, and destination for trafficked persons. There was no evidence of a pattern

of official complicity in trafficking, although a number of law enforcement officers and other government authorities were involved in trafficking.

The punishment for trafficking in persons may include 1 to 8 years in prison and fines up to \$4,000 (8,000 leva). If aggravated circumstances exist—e.g., a minor or kidnaping was involved—penalties increase to 2 to 10 years in imprisonment and fines of up to \$5,000 (10,000 leva). A variety of additional laws could be used to prosecute persons for activities often associated with trafficking. Inducement to prostitution is punishable by up to 3 years' imprisonment, and the penalty rises to 10 to 20 years if the crime was performed by or through an organized crime group, if the victim was a minor under age 18 or legally incompetent, if two or more persons were induced into prostitution, or if the offense was repeated. Law enforcement officials complained that because the minimum penalty was less than 5 years' imprisonment, they were not permitted to use special investigative techniques, such as wiretapping, to deal with traffickers.

The Government investigated cases of trafficking; however, no suspected traffickers were brought to trial during the year, possibly because victims were afraid to confront their former criminal controllers in the absence of government-sponsored programs to assist or protect victims of trafficking. Some judges and prosecutors also reported that they feared reprisals from organized crime figures. There were two police units that specifically addressed the problem of trafficking in persons. One was part of the National Border Police and the other was in the Ministry of Interior's organized crime fighting agency, the National Service for Combating Organized Crime (NSBOP). In 2001 an interagency trafficking task force was established including the National Border Police and the NSBOP. During the year, it executed 65 search warrants, arrested 40 persons, and freed approximately 200 women and girls. Of these, an estimated 10 to 15 percent were victims of forced prostitution. The remainder appeared to have some awareness of their prospective work or their employers' intentions and methods. Approximately 60 to 65 percent of the women freed were citizens of the country.

Victims overwhelmingly were women and girls trafficked for the purposes of prostitution. Government authorities and NGO observers reported that thousands of Bulgarian women, as well as women from Romania, Moldova, Russia, Ukraine, Armenia, Azerbaijan, and Georgia, were trafficked for sexual exploitation to Macedonia, Greece, Turkey, Yugoslavia (including Kosovo), Bosnia, Italy, Poland, and Western Europe. La Strada, a Netherlands-based NGO, reported that Bulgarian women constituted one of the largest groups of victims of forced prostitution in Western and Central Europe. According to NGO sources, as many as 10,000 Bulgarian women, many from the Romani community or under the age of 18, could be involved in international trafficking operations. A 2001 report from the ILO's International Program on the Elimination of Child Labor estimated the number of child prostitutes at 3,800 based on rough data from police and from skin and venereal disease clinics. There were no official statistics; however, law enforcement authorities believed that the number was approximately 3,500. The AAF reported that from January to June it assisted 53 female victims of trafficking, of whom 11 were adolescents. The Romani community, with limited economic opportunity, was disproportionately represented. The bulk of clients were assisted by an AAF help line (see Section 5).

Girls and young women often were approached by persons who gained their trust, frequently other young women and acquaintances or persons introduced by mutual friends, who described glamorous work opportunities abroad. Some were sold into bondage to traffickers by relatives. Victims of trafficking ranged from those who were deceived into believing that they would have good and respectable employment to those who expected to work as prostitutes but were unprepared for the degree of violence and exploitation to which they would be subjected. Unaccompanied young women trying to cross the border into Macedonia, Romania, or Turkey reportedly could be at some risk of being abducted into trafficking. There were reports of women or girls who were denied access into Turkey for lack of a visa or means to pay for one being befriended by traffickers or abducted by taxi drivers at the border and sold to traffickers. Organized crime groups were responsible for human trafficking, although they could use various front companies to pose as employment agencies or tour operators.

The process of transforming girls into prostitutes generally took place before they left the country. The women typically were taken to a large town, isolated, beaten, and subjected to severe physical and psychological torture. Some trafficking victims from countries to the east were kept in the country for several weeks where they were subjected to psychological and physical abuse to make them more submissive before they were transported to their destination points. Once the women left the country, their identity documents were taken away, and they found themselves

forced to work as prostitutes in cities across Europe. Victims routinely reported that traffickers took away their passports and visas and forced them to stay illegally in countries. The women were required to pay back heavy financial debts to the agency that helped them depart the country, leaving them in virtual indentured servitude. Traffickers punished women severely for acts of disobedience and threatened the women's families and family reputations to ensure obedience.

It was widely believed that some law enforcement officers or other government authorities were complicit in human trafficking, including local authorities, border police officers, and customs officials. The bulk of involvement appeared to consist of accepting bribes to look the other way, although some officers could have been more involved. Those involved in facilitating trafficking overwhelmingly were low-level, low-paid officials in the provinces and border regions. While in principle the Government took the problem of trafficking seriously, in practice it used ineffective methods and had a weak record in investigating and prosecuting corruption or misconduct in the police (*see* Section 1.c.).

The Government did not have a witness protection program, and witnesses often feared retaliation if they testified. The Government had a provision for victims to provide an anonymous sworn deposition to be used in court, but an anonymous deposition was required to be corroborated to obtain a conviction. Victims generally were not jailed, although they could be detained for brief periods for questioning until referred to an NGO for assistance and repatriation. Victims who were not in legal immigration status and who did not accept voluntary NGO-assisted repatriation were deported.

The Government did not assist victims of trafficking who returned to the country, and there were few social benefits for such victims. Many victims of trafficking and forced prostitution were too young to have worked previously, which disqualified them from receiving social security assistance. If victims were runaways with no registered address, they were ineligible for humanitarian assistance. Many victims also largely were ineligible for government assistance programs, most of which were in some way tied to previous employment status. The International Organization for Migration (IOM) assisted victims in meeting short-term needs and arranged for repatriation to the victim's home country.

Prevailing public attitudes often stigmatized victims, although there were some signs that this could be changing slowly. The AAF operated a 24-hour hot line for women in crisis, including victims of trafficking, with trained volunteers as well as professional therapists to counsel victims. The hot line also provided volunteers to assist victims in obtaining other necessary services including medical exams and treatment, reissued identity documents, and information on housing and employment opportunities. The AAF also operated a short-term emergency shelter for women and children who were victims of violence.

The Government did not operate any trafficking prevention programs. The IOM continued its trafficking awareness campaign that began in 2000. However, during the year, the IOM stated that the Ministry of Education did not cooperate fully in its effort to institutionalize awareness programs for teenagers in classrooms.

## CROATIA

The Republic of Croatia is a constitutional parliamentary democracy with an independent presidency. President Stjepan Mesic (formerly of the Croatian People's Party, but now independent) was elected in February 2000 to a 5-year term. International observers characterized the elections as "calm and orderly," noting that, in general, "voters were able to express their political will freely," although there were some problems. The President serves as Head of State and commander of the armed forces and nominates the Prime Minister who leads the Government. Iвица Račan of the Social Democratic Party (SDP) is Prime Minister. In January 2000 parliamentary elections, a democratic coalition defeated the then-ruling Croatian Democratic Union (HDZ) party. The Organization for Security and Cooperation in Europe (OSCE) observers stated that the parliamentary elections represented "marked progress" toward meeting OSCE standards. The combination of a new President, a democratic coalition in Parliament, and constitutional reforms in 2000 increased the transparency of the role of the President and government. The Constitution provides for an independent judiciary; however, the judiciary continued to suffer from inefficiency and funding problems, as well as some political influence at the local level.

The Ministry of Interior oversees the civilian national police, and the Ministry of Defense oversees the military and military police. The national police have primary responsibility for internal security; but, in times of disorder, the Government and President may call upon the army to provide security. Civilian authorities generally

maintained effective control of the security forces. Security forces committed a few abuses.

The Government has pursued economic reforms including privatization, public sector reductions, pension reforms, anticorruption legislation, and reforms of banking and commercial laws. In June 2001, the Government adopted a development strategy to transform socialist-era structures into a functioning market economy. The population of the country was 4,437,000 and per capita gross domestic product was approximately \$4,994, an increase of 8 percent over 2001. The International Labor Organization (ILO) estimated that the unemployment rate was approximately 15 percent.

The Government generally respected the human rights of its citizens; however, although there were some improvements, serious problems remained. There were instances of arbitrary arrest and lengthy pretrial detention. The Government continued to arrest and charge persons for war crimes committed during the 1991–95 conflicts in Bosnia and Croatia. Domestic courts continued to adjudicate war crimes cases, taking steps to depoliticize cases against ethnic Serbs and opening or reopening investigations of members of Croatian military forces. However, ethnic Serbs remained incarcerated after being convicted in nontransparent politicized trials in past years. Reforms in the courts and prosecutor's offices resulted in some improvements in the judiciary; however, courts convicted persons in mass trials and in absentia, particularly in Eastern Slavonia. The courts continued to be subject to some political influence and suffered from bureaucratic inefficiency, insufficient funding, and a severe backlog of cases. At times the Government infringed on privacy rights; restitution of occupied property to refugees (mostly ethnic Serb) returning to the country remained slow and problematic.

The Government generally respected freedom of speech and press; however, a few problems remained. Unlike the previous regime, the Government did not interfere politically in the media's editorial decisions; however, at the local level, political pressure on the media continued, and an estimated 1,200 libel lawsuits against journalists remained pending due to backlogs in the judicial system. A new Law on Associations reduced governmental interference in the formation and operation of associations and nongovernmental organizations (NGOs) and created tax incentives for donors supporting them. The Government generally respected freedom of religion; however, restitution of nationalized property remained an unresolved problem for the religious communities. Lack of progress on private property restitution and resolution of the right to previously socially-owned property, along with severe economic difficulties in the war-affected areas, continued to impede returns of refugees. Cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY) was on track until September, when the Government refused to fulfill its obligations as ICTY's agent in the case of indicted former General Bobetko; by year's end, the Government took actions to come into formal compliance with ICTY procedures, although the final outcome of the case was pending.

Violence and discrimination against women persisted. There were some incidents of violence and harassment of religious minorities. Ethnic minorities, particularly Serbs and Roma, faced serious discrimination, including occasional violence. While some progress was made, ethnic tensions in the war-affected areas remained high, and abuses, including ethnically motivated harassment and assaults, continued to occur. Trafficking in women was a problem. Croatia was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

There were no arrests in the 2000 killing of Milan Levar, a former police officer who had provided information to the ICTY tribunal about the 1991 massacre of civilians in the town of Gospic.

Throughout the country, the bodies of 3,356 victims missing from the 1991–95 war have been exhumed from mass and individual graves (*see* Section 1.b.).

Domestic courts continued to adjudicate cases arising from the 1991–95 conflicts in Croatia and Bosnia. Courts opened and reopened several war crimes cases involving Croatian forces, but despite their increased number, questions remained about the criminal justice system's ability to conduct fair and transparent trials in these complex and emotionally charged cases. Observers blamed inadequate training, shortcomings in the legal code, chronic witness intimidation, and an often-hostile local public as hampering the war crimes process.



In December 2001, four Croatian police officers were acquitted of war crimes charges for killing six prisoners of war in 1991 in Bjelovar. A key prosecution witness changed his testimony at the trial, and the presiding judge accepted the changed testimony without question. There was widespread speculation that the witness was pressured to change his testimony. In January the Bjelovar county prosecutor filed an appeal, which remained pending at year's end. In a closely related case at the same court, in January three of the same four police officers were found guilty of torturing imprisoned Serb civilians in 1991 in Virovitica; the fourth defendant was acquitted. They were each sentenced to 1 year in prison. In February the defendants' attorney filed an appeal with the Supreme Court, which remained pending at year's end.

In September the retrial of Mihajlo Hrastov, a former member of the Karlovac Police Special Forces, for the murder of 13 Yugoslav National Army prisoners of war near Karlovac in 1991, ended at the Karlovac County Court in acquittal. The Court accepted the defendant's claim that he had acted in self-defense. The same court had acquitted Hrastov of the same charge in a politicized trial in 1992. Although the retrial began in 2000, it was restarted twice, first in 2001 and again in 2002 due to excessive delays between hearings. In addition, the retrial did not begin for more than 3 years following the Supreme Court's decision ordering a new trial. A prosecution decision on whether to appeal the acquittal was pending at year's end.

The trial of four retired Croatian soldiers, charged with killing two elderly Serb civilians near Sibenik in 1995, ended with their acquittal in September. The Court based its decision on a lack of material evidence and eyewitnesses. The prosecution announced its intention to appeal the ruling and seek a retrial. The case drew public attention when a lay judge excused himself under suspicious circumstances just as the verdict was to be rendered. The trial was accompanied by allegations of intimidation of international and domestic court observers.

In November the high-profile "Lora" war crimes case against military police officers indicted for torture and murder of ethnic Serbs in the Lora naval prison in Split in 1992-1993 ended with the acquittal of all eight defendants. The presiding judge, Slavko Lozina, acknowledged that there had been torture in the prison and that two people had died but stated that there was no evidence against the defendants. He also publicly refused to qualify mistreatment cases as war crimes, claiming that no war crimes were possible given that opposing forces did not occupy Split, and that the Serb prisoners were Croatian citizens. The Prosecution announced that an appeal would be made upon receipt of the written verdict, which was pending at year's end. Local NGOs monitoring the trial, including the Center for Development of Democracy and Altruism, expressed concern over perceived breaches in legal procedure, such as the court's decision not to admit as evidence witness statements taken in court in Belgrade. There were numerous other irregularities in the trial, including threats against witnesses and their families and Lozina's July order releasing from detention the defendants, two of whom failed to return when ordered back into detention by the Supreme Court. Lozina's handling of the case led to charges of obstruction of justice and favoritism toward the defense. Both the Ministry of Justice and the Supreme Court launched inquiries into the behavior of Judge Lozina, although no official sanction had been issued by year's end. The Dalmatian Human Rights Committee, a local NGO, urged the Government to investigate the allegations about torture and murders in Lora prison and assisted efforts to locate witnesses, many of whom reside in Yugoslavia and Bosnia. Key prosecution witnesses refused to travel to Split from Yugoslavia because of the judge's perceived bias and fears that their security could not be guaranteed.

In contrast, the war crimes trial against five persons (including Tihomir Oreskovic and Mirko Norac) for the 1991 massacre of ethnic Serb civilians in the town of Gospic appeared to proceed fairly and smoothly. The trial began in 2000, and in September the maximum 2-year detention expired for two defendants, including Oreskovic. The Supreme Court, however, ruled that the newly revised Criminal Procedure Code permitted extending the period of detention to 3 years in the case of such grave crimes, and both defendants were returned to prison. In September court officials traveled to Belgrade and in October to Germany to hear testimony by witnesses, who had fled Gospic during the war, and dismissed a defense motion that the Belgrade testimony be barred because it was delivered in Yugoslavia. In September the County Prosecutor in Rijeka requested an investigation into one of the defendants in the Oreskovic case, Ivica Rozic, who was accused of planting explosive devices in the homes of Serb returnees in the Gospic area between 1996 and 1998. The County Court in Gospic was conducting an investigation at year's end.

In July the Karlovac County Court convicted and sentenced Bosnian Muslim warlord Fikret Abdic to 20 years in prison, the maximum sentence available. Evidence provided by Bosnian authorities implicated Abdic in the deaths of 121 civilian de-

tainees and 3 military prisoners between 1993 and 1995 in prison camps set up by Abdic in northwestern Bosnia.

In 2001 the Constitutional Court ordered a retrial in the case of former Croatian policeman Antun Gudelj, who was convicted and then improperly amnestied in 1997 for the 1991 murder of Osijek police chief Josip Reihl-Kir. At the time of his death, Reihl-Kir had been negotiating between ethnic Croats and Serbs to ease tensions in the region. In December 2001, the Government sought Gudelj's arrest and extradition from Australia, where he has resided since 1997; at year's end, bilateral legal discussions continued on this case.

In 2001 the Supreme Court ordered the release of two Bosnian Croat suspects who had been detained in connection with the 1993 Ahmici massacre in central Bosnia, after they had been held 6 months—the legal maximum for detentions—without charges. The 2000 retrial of 6 former Croatian soldiers charged with the 1995 massacre of 16 elderly Serbs in the villages of Varivode and Gosici was discontinued in February when the county prosecutor dropped the charges against the defendants due to a lack of evidence. No new suspects were indicted by year's end.

During the year, the Government took some steps to depoliticize cases against ethnic Serbs. The OSCE reported that at year's end it was monitoring 59 ongoing war crimes cases against ethnic Serbs. In October Zadar County Court sentenced Zorana Banic, an ethnic Serb accused of war crimes against civilians in Skabrnja in 1991, to 13 years in prison. In a previous in absentia trial she had been given a maximum 20-year sentence. The indictment included participation in the murder of 34 civilians. International monitors considered it a fair trial.

Courts continued the practice of convicting persons in mass trials. For example, the March 2001 mass trials in the "Tompojevci group" case resulted in absentia convictions on war crimes charges for 15 defendants, and in June the Supreme Court confirmed 9 of these convictions.

During the year, six persons were killed in landmine incidents, most caused by landmines laid during the 1991–95 war. The Croatian Mine Action Center reported that from 1991 through the end of the year, 1,395 land mine incidents were recorded in which 429 persons were killed.

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

Government figures at year's end showed that 1,317 persons (mostly ethnic Croats) remained missing in unresolved cases from the 1991–95 military conflict. The bodies of 3,356 victims have been exhumed from mass and individual graves since the war, including 253 during the year, of which 2,745 have been positively identified (including 147 during the year). During the year, there was significant progress on the exhumation and identification of the remains of ethnic Serbs as well as ethnic Croats. The Government cooperated and collaborated closely with the international community on exhumations and identifications of remains; during the year, the process focused primarily on ethnic Serbs (for example, 199 of the 253 exhumations in the first half of the year were believed to be ethnic Serbs). With the ICTY and international experts serving primarily as monitors, the Government handled most exhumations and identifications itself. For example, out of 23 exhumations during the year, of which 20 were mass gravesites, only 3 were conducted in cooperation with the ICTY. In September the Government signed an agreement registering the International Commission on Missing Persons (ICMP) as an intergovernmental organization; since 1996 the ICMP has worked in Croatia on recovery, identification of remains, and assisting the families of missing persons.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture, mistreatment, or cruel or degrading punishment, and the authorities generally observed these prohibitions in practice.

Widespread ethnic tension between ethnic Serb and Croat police officers existed, particularly in the Danubian region, where some Croat officers were laid off in order to maintain proportionality in the ethnic mix of the police force as required by the 1995 Erdut Agreement. The Government appeared to fulfill its obligation under the Agreement to maintain "proportionality" in the numbers of ethnic Serb and Croat police officers in Eastern Slavonia. Problems in the police force included poor investigative techniques, insensitivity to ethnic issues, indecisive middle management, and pressure from hard-line local politicians. These factors impeded development of local police capability.

Prison conditions generally met international standards. Jails were crowded, but not excessively, and family visits and access to counsel generally were available to prisoners. Men and women were held separately, juveniles were held separately from adults, and pretrial detainees were held separately from convicted prisoners.

The Government permitted visits by independent human rights observers, and such visits by both international organizations and domestic NGOs occurred during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, the Government did not always respect this right in practice. Police normally obtain arrest warrants by presenting evidence of probable cause to an investigative magistrate. Police may make arrests without a warrant if they believe a suspect might flee, destroy evidence, or commit other crimes; such cases of arrests without warrants were not uncommon. The police then have 24 hours to justify the arrest to a magistrate.

Detainees must be given access to an attorney of their choice within 24 hours of their arrest; if they have none and are charged with a crime for which the sentence is over 10 years' imprisonment, the magistrate appoints counsel. The magistrate must, within 48 hours of the arrest, decide whether to extend the detention for further investigation. Investigative detention generally lasts up to 30 days, but the Supreme Court may extend the period in exceptional cases (for a total of not more than 6 months, or 12 months in serious corruption/organized crime cases). Once the investigation is complete, detainees may be released on their own recognizance pending trial unless the crime is a serious offense or the accused is considered a public danger, may influence witnesses, or is a flight risk. Suspects generally were held in custody pending trial, and there were several cases of suspects held in pretrial detention for several months on weak evidence. The option of posting bail after an indictment is available but was not commonly exercised.

The Government granted amnesty under the 1996 Amnesty Law (which amnestied acts of rebellion by ethnic Serbs) to several individuals during the year, particularly returning ethnic Serb refugees. In July the State Prosecutor directed local prosecutors to review old war crimes cases to determine whether sufficient evidence existed to proceed with prosecution. Arrests of ethnic Serbs for war crimes continued but decreased throughout the year. During the year, 34 Serbs and 3 Croats were arrested on war crimes charges, and 21 Serbs and 13 Croats were released. In some cases of arrest on war crimes charges, the subject was released a few days after charges were dropped; however, in other cases, persons were detained for long periods. The inability of trial judges to issue written verdicts was the leading cause of detention beyond the legal 6-month limit. For example, in the Abdic case (*see* Section 1.a.), the county court issued a verdict in July; however, because no written verdict has been issued, the appeal process had not begun by year's end. Similarly, Miljan Strunjas, who was convicted in February in Karlovac County Court, appealed his case but remained in detention because there has been no written verdict. Over the last few years, several ethnic Serb defendants convicted in absentia or at nontransparent trials continued to be held in detention for extended periods while their appeals progressed slowly through the overburdened judicial system.

In April the Osijek County Court convicted six Serbs arrested in 2000 on war crimes charges. Two of the convicted persons remained in detention, and the others were released while their appeals were pending before the Supreme Court because the length of time they had been detained matched or exceeded the period of time to which they were sentenced.

Observers reported a decline in the practice of police summoning ethnic Serbs to police stations for "voluntary informative talks," which amounted to brief warrantless detentions intended to harass Serb citizens.

The Constitution prohibits forced exile of citizens, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an autonomous and independent judiciary; however, the judiciary continued to suffer from some political influence, a backlog of nearly 1.4 million cases, and funding and training shortfalls.

The judicial system consists of municipal and county courts, commercial and misdemeanor courts, an administrative court, and the Supreme Court. The independent Constitutional Court determines the constitutionality of laws, governmental acts, and elections, and serves as the court of final appeal for individual cases. Justices of the Constitutional Court are elected for 8-year terms by Parliament, while all other judges are appointed for life. A parallel commercial court system adjudicates commercial and contractual disputes. The State Judicial Council (consisting of 11 members serving 8-year terms), which is independent of both the judiciary and the Ministry of Justice, is charged with the appointment and discipline, including removal, of judges. In the past, the State Judicial Council was criticized for making politically influenced decisions. A July 2001 law, which created a similar council for public prosecutors, enabled the well-respected Chief State Prosecutor to renominate

or replace the chiefs of municipal and county prosecutors' offices. The process of re-nominating or replacing the county court presidents—which was undertaken pursuant to the 2000 Law on the Courts—neared completion by year's end.

Judges are prohibited constitutionally from being members of political parties. Over the past 2 years, the judiciary was subject to far less political influence than previously, although there continued to be reports of political influence at the local level. Hard-line judges appointed by the previous government, who at times made decisions in a nontransparent manner seemingly at odds with the evidence or the law, also continued to be a problem. The greatest problems facing the judiciary were outmoded procedural codes and court rules, inexperienced judges and staff, bureaucratic inefficiencies, and funding shortfalls, which created a massive backlog of over 1 million cases, some dating back 30 years or more. The inexperience of young and newly appointed judges continued to be a problem, and there continued to be areas without permanent judges.

Although the Constitution provides for the right to a fair trial and a variety of due process rights in the courts, at times citizens were denied these rights. Excessive delays, particularly in civil trials, remained a problem. Courts tried and convicted persons in absentia for war crimes. Courts convicted persons in mass trials and in trials with weak supporting evidence, particularly in Eastern Slavonia. In March 2001, mass trials in the "Tompojevci group" case resulted in the in absentia convictions of nine ethnic Serbs (see Sections 1.a. and 1.d.). In May the Osijek County Court convicted and sentenced in absentia 12 Serbs in the "Branjina" case. In June and July, the Vukovar County Court continued in absentia trials against 6 Serbs in the "Vukovar Group I" case and against 11 Serbs in a retrial in the "Bapska" case.

Activities that should have qualified for amnesty under the 1996 Law on General Amnesty were classified mistakenly and prosecuted as common crimes or war crimes, although this practice declined and was under review by the Public Prosecutor. For those who had previously exhausted their appeal procedures, there was no mechanism to review their cases.

Nevertheless, the courts continued to adjudicate war crimes cases arising from the 1991–95 conflicts in Bosnia and Croatia, initiated investigations into several allegations involving Croatian forces, and took steps to depoliticize cases against ethnic Serbs. For example, the chief State Prosecutor initiated a case-by-case review of war crimes cases and sought to limit sharply the use of in absentia proceedings. County prosecutors were under instructions not to initiate criminal proceedings or in absentia proceedings without consultation with the State Prosecutor.

In past cases regarding property claims, courts overwhelmingly favored ethnic Croats over ethnic Serbs, particularly in the Danubian region (see Section 1.f.).

At year's end, approximately 21 individuals remained incarcerated on war crimes or related charges based on politicized or nontransparent trials held under the previous regime. There were no other reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, at times the Government infringed on these rights with respect to the restitution of property.

Search warrants may be issued only by a court, which must justify the search. Police may enter a home without a warrant or the owner's consent only to enforce an arrest warrant or prevent serious danger to life or property. The Constitution provides for the secrecy and safety of personal data, and the Government generally respected these provisions in practice.

The restitution of occupied private property to (mostly ethnic Serb) refugees returning to the country remained a problem. The Government continued to give preference to the rights of temporary occupiers (mostly ethnic Croats) over those of the legal owners. Few property owners were able to recover their prewar dwellings and the issue of former-tenancy rights holders of socially-owned property remained largely unaddressed, preventing these persons (mostly ethnic Serbs) from returning to their prewar apartments.

Despite a 1998 Constitutional Court ruling that declared several elements of the Law on the Temporary Takeover of Specified Property unconstitutional, the many thousands of ethnic Serb property owners, who fled homes that were later occupied by ethnic Croats, remained unable to access their property. In July 2001, the Government completed a case-by-case review of housing units that were distributed for temporary occupancy by the previous regime (often homes of ethnic Serbs who fled the conflict that were allocated to Bosnian Croat settlers). The housing survey provided data to facilitate eventual returns and property restitution; at year's end, 7,099 of 18,396 housing units remained occupied. Many of the occupants of these units were subject to immediate eviction, either because they had received reconstruction assistance for their own houses or because they were multiple or illegal

occupants. However, in practice evictions rarely were implemented, and in most cases they were postponed, rescheduled, or simply not scheduled at all. Backlogs in the judicial system were a further impediment to timely resolution of housing disputes.

Local housing commissions, which previously either failed to resolve housing disputes or were powerless legally to implement their decisions, were dismantled by the end of August as a result of July amendments to the Law on Areas of Special State Concern (LASSC). The commissions were municipally based administrative bodies, significantly influenced by the local environment and in many cases highly politicized and unable to represent legitimate owners in court proceedings. In September the Government's Office of Displaced Persons and Refugees assumed responsibility for property repossession. The State Attorney is responsible for conducting the eviction process against those who are illegally occupying houses. Despite orders from the national government, local authorities often did not initiate lawsuits against individuals who refused to vacate occupied premises. In some cases, the Government discouraged returns by failing to furnish reconstructed houses with basic utilities. In a few instances, returnees who gained access to their property were held responsible for water and power bills incurred by temporary occupants, and the authorities refused to reconnect the services until the bills were paid. Many ethnic Serb returnees also were unable to move into looted and devastated homes that the Government defined as habitable.

The amended LASSC may accelerate the process of legally resolving property restitution cases, but it provides no guarantee to claimants that they can physically repossess their property, and there were no mechanisms to implement the new legal provisions. According to the OSCE and UNHCR, there were no new cases in which the occupancy permission had been terminated and the occupant failed to accept alternative accommodation that had been transferred to the State Attorney to initiate a new civil action for eviction. The LASSC still subordinates the rights of private property owners to those of temporary occupants by making property repossession conditional on provision of alternative accommodation for the temporary occupant.

During the year, the Government significantly accelerated processing of claims by ethnic Serbs for reconstruction assistance. July amendments to the LASSC stipulated a timeframe for recipients of alternative housing assistance to complete construction or reconstruction and to vacate occupied properties. Under the amendments illegal or double occupants were given up to 60 days to vacate or face eviction. The amended law obligates the Office of Displaced Persons and Refugees (ODPR) to make decisions on repossession in favor of legitimate owners who applied for repossession by December 31. The amended law further obligates the Government to pay compensation to the legitimate owners if it fails to reconstitute their properties by December 31. Several hundreds of temporary occupiers voluntarily vacated properties after receiving letters from ODPR warning of eviction.

An ongoing problem was the existence of "priority category" citizens, i.e., active or former members of the military and widows and orphans, whom courts and housing commissions were unwilling to evict. Ethnic Croat homeowners wishing to return to their property in the Danubian region generally were able to recover their homes by evicting the ethnic Serbs occupying them.

The Government did little to address the issue of former tenancy rights holders. These persons typically resided in socially-owned apartment units under the pre-1991 Communist system and paid contributions into a social property fund, often for many years. Thousands of persons who fled during the conflict lost their claims to their apartments due to their temporary absence. Ethnic Serbs were affected disproportionately because no mechanism existed by which they could return to the country in order to reclaim their tenancy rights or because they had lived in parts of the country occupied by the rebel Serb para-state and missed the chance to purchase their prewar apartments.

Occasional incidents of attacks against property and arson related to housing disputes were reported during the year (*see* Section 5).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and the press, and the Government generally respected these rights in practice. The constitutional provisions specifically include freedom of the press and other media, speech and public expression, and the free establishment of institutions of public communication.

The Government did not interfere in the editorial decisions of the print media; however, electronic media were susceptible to political pressure since most of them were at least partially owned by local government.

Tisak, a once-profitable government monopoly with 1,700 news kiosks, was privatized in 2001. It continued to distribute approximately 75 percent of the print media. There were no reports of problems with distribution due to Tisak's position in the market. Foreign newspapers and journals were available in urban areas throughout the country; however, due to their high cost, they remained largely inaccessible to many persons.

Problems with implementation of a February 2001 law reforming government-owned Croatian Radio and Television (HRT) led the Government in December to propose to Parliament a law to make HRT a public service broadcaster. The proposed law is intended to reduce political influence on HRT by eliminating Parliament's ability to appoint a Board of Directors. The OSCE was concerned that the new law does not sufficiently safeguard the appointment process to HRT's Broadcasting Council from parliamentary influence. In December the Government's Radio and Television Council announced a public tender process to lease the third HRT channel.

An October 2001 law transformed HINA, the Government-owned news agency, into a public institution, which is to be financially independent and operated on a commercial basis outside the national budget; however, during the year, the Government still provided most of HINA's funding. The October 2001 media law also obliged all media to make their ownership structures public by January; however, whereas there were 1,600 registered print media companies alone, only 61 media companies made their ownership structures known by the deadline. Despite the various reforms, a truly independent nationwide television news and entertainment station did not yet exist by year's end.

Over 60 percent of the population continued to rely on government-run HRT's evening Dnevnik program for television news. While privately owned TV Nova reached more than 75 percent of the population during the year, it was primarily an entertainment station and carried little news programming. A network of independent local television stations produced a competing nightly news program Vijesti that reached 65 percent of the country's territory. The HRT continued to be the sole beneficiary of revenue from government taxes on television users. These subsidies created an advantage over independent television stations whose financial resources and ability to purchase programming were limited. Similar problems existed in radio broadcasting. The Catholic Church operated one of the few private national radio stations.

A May 2001 Penal Code amendment decriminalized the offense of libel, resulting in a lower filing rate of such cases. An estimated 1,200 libel cases from previous years remained unresolved due to the slow and inefficient judicial system. Most cases that reached a verdict during the year apparently were decided fairly. Sections of the Penal Code that authorize prosecution of journalists who publish "state secrets" remain in force; however, there were no reports of these laws being used during the year.

In September the Croatian Association of Disabled Veterans of the Homeland War blocked distribution of the Osijecki Dom daily in Osijek for 3 days because it published a list of 3,000 "disabled" veterans, many of whom were alleged to be receiving benefits improperly.

Access to the Internet was available and unrestricted.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice.

The law permits assembly for registered demonstrations at approved locations; while the process for approving or denying the registration of an assembly is not transparent, there were no reports that it was used discriminatorily. During the year, there were several peaceful demonstrations and marches throughout the country organized by labor groups, farmers, and war veterans' groups opposed to government policies (see Section 6.b.).

The Constitution provides for the right of association, and the Government generally respected this right in practice. Observers reported that an October 2001 law regulating associations and NGOS had eased the registration process, minimized governmental interference, and eliminated unequal treatment of international and domestic associations. The new law also encourages private funding of NGOs by granting tax exemptions to donors. In January new procedures for NGO registry entered into force. The registry for the first time made information on the country's NGOs available electronically to the public.

*c. Freedom of Religion.*—The Constitution provides for freedom of conscience and religion and free public profession of religious conviction, and the Government generally respected these rights in practice. No formal restrictions are imposed on reli-

gious groups, and all religious communities are free to conduct public services and to open and run social and charitable institutions.

There is no official state religion; however, the Roman Catholic Church received some state support and other benefits established in concordats between the Government and the Vatican. For instance, the Catholic Church received direct subsidies, as well as state financing for some salaries and pensions for priests and nuns through the Government-managed pension and health fund. Pursuant to the Law on the Legal Status of Religious Communities, in December the Government signed agreements with the Orthodox Church and the Islamic community modeled on the Catholic concordats. State financing of salaries of religious workers; provision of spiritual counseling in state institutions such as the army, police, and prisons; and the recognition of religious marriages were among the main points of the agreements. Similar agreements were planned for the Jewish community and the Evangelical and Baptist churches.

Catholic, Islamic, and Orthodox marriages are recognized by the State, eliminating the need to register them in the civil registry office.

The Ministry of Defense employed 16 full-time and 5 part-time Catholic priests to tend to Catholics in the military; however, no clerics of other denominations, including Orthodox or Muslim clerics, were employed as chaplains. The December agreements allow the military to add one Muslim and five Orthodox clergy members as chaplains. In September the Government signed a new Protocol and Agreement on Mutual Relations with the Catholic Church, which among other things regulates spiritual counseling in penitentiaries, prisons, and correctional institutions. The new agreements with the Orthodox Church and Islamic communities also permit spiritual counseling in penitentiaries, prisons, and correctional institutions.

The Government requires that religious training be provided in schools, although attendance is optional; however, in general, the lack of resources and qualified teachers impeded instruction in minority faiths, and the Catholic catechism was the one predominantly offered. Under the Law on Religious Communities, enacted in July, Catholic religious education was introduced in kindergartens across the country in the fall. The decision prompted public discussion and criticism by representatives of some other religious communities and political parties. The agreements with the Orthodox Church and Islamic community allow for religious education in schools where there are a minimum of seven coreligionists of either the Orthodox or Islamic faith.

Restitution of nationalized property remained a problem. Restitution to the Catholic Church is regulated by a 1998 concordat with the Vatican. The new agreements with the Islamic community and Orthodox Church provide for establishing joint commissions with the Government that would meet annually to resolve property, legal, educational, and cultural issues. The joint commissions are based on the "concordat" model established between the Catholic Church and government. The Orthodox Church—the second largest claimant of property after the Catholic Church—has repossessed a significant amount of business property in Zagreb, as well as some property in Rijeka and Osijek. However, several buildings in Zagreb, Karlovac, and other towns had not been returned, nor had properties that belonged to monasteries, including forests and arable land. Similarly the Jewish community has had only partial success in recovering its properties. Negotiations with the Government's Office for Property Repossession on three buildings in Zagreb, Ravna Gora, and Crikvenica were unsuccessful, and no property was returned during the year. In July—1 year after the Constitutional Court's deadline—Parliament enacted a law extending compensation to foreigners whose property was confiscated between 1945 and 1991, as long as the individual's government has a reciprocal agreement with the Government of Croatia. The new law does not cover wartime property seizures from 1941–1945 or from 1991–1995. In addition, those compensated under previous treaties are precluded from receiving additional compensation.

According to OSCE and other reporting, Orthodox churches and property in war-affected areas, particularly in Osijek and Slavonski Brod, were repeatedly attacked throughout the year. In March 18 icons were stolen from St. Nicholas Orthodox Church in Kistanje; in the same month, a group of young people harassed orthodox monks and students at the Krka monastery near Kistanje. While there was prompt police intervention, no arrests were made. Cemeteries in the Karlovac area were damaged and desecrated several times during the year. In September tombstones in a cemetery in Vukovar were damaged—marking the seventh such incident at the cemetery. In August fascist Ustasha symbols were painted on the Serb Orthodox church in the city of Split.

In August police failed to act in Sibenik when cars were used to block the entrance to church offices and prevent the local Bishop from exiting the building. Also in Sibenik in August, no charges were brought against a person who was detained

for repeatedly throwing garbage and verbally abusing an Orthodox priest. In September arsonists set fire to a building of the Orthodox Church in Osijek; in a separate incident in Osijek, the Church of St. Nicholas was vandalized.

Unlike in previous years, Muslim leaders reported no serious discriminatory incidents.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice. Under exceptional circumstances, the Government legally may restrict the right to enter or leave the country if necessary to protect the “legal order, health, rights, or freedoms of others.” All persons must register their residence with the local authorities; however, no problems were reported with registration.

There were no reports that the Government revoked citizenship for political reasons. The Government’s procedures to verify and document the citizenship of hundreds of thousands of ethnic Serbs who fled the country after the military operations in 1995 improved during the year; however, there were regular reports of obstruction by some local officials. In Donji Srb, many Serb returnees experienced difficulties in obtaining identity cards and other forms of documentation that would allow them to verify their citizenship status. The municipal government in Gracac obstructed returns to Donji Srb and other municipalities under its jurisdiction while at the same time providing immediate assistance to ethnic Croat settlers from Bosnia who continue to arrive in the municipality. By the end of November, in returns organized by the U.N. High Commissioner for Refugees (UNHCR) or the Government, 10,748 persons who were refugees in Yugoslavia and Bosnia-Herzegovina returned to Croatia. According to the UNHCR, approximately 113,582 refugees (mostly ethnic Serbs) have returned to Croatia (mostly from Bosnia-Herzegovina and Yugoslavia but also from other countries) since 1995.

Procedural improvements in refugee clearance eliminated arrests of those returnees who had been advised by the Interior Ministry that they faced no legal processes. However, international observers remained concerned that arrests of ethnic Serbs for war crimes, often based on weak evidence (*see* Section 1.d.), particularly of those who have newly returned, dissuaded some refugees from returning. The Ministry of Interior reinstated the permanent residency documents of more than 380 Croatian Serb returnees who were considered noncitizens. These returnees may now regularize their status, obtain identity documents, and apply for citizenship through naturalization.

A significant number of internally displaced persons remained in the country, although not all are under the Government’s direct care. In August UNHCR reported that there were 17,486 internally displaced persons in the country (75 percent from the Danubian region) and 8,202 refugees (mostly from Bosnia-Herzegovina). These numbers did not reflect fully an additional 140,000 former refugees (nearly all ethnic Croats from Bosnia-Herzegovina) who have become citizens and residents of Croatia.

Despite an ongoing government program to repair thousands of damaged homes in the Danubian region, government officials, NGOs, and international observers assessed that the returns process was nearing its completion in that region without most communities reaching their prewar population levels. While ethnic tensions continued in the Danubian region, the overall security situation was stable (*see* Section 5). The largest disincentive to returns was the poor state of the regional economy.

President Mesic and Prime Minister Racan continued to make public statements encouraging the return and reintegration of all Croatian citizens to their prewar homes. In March 2001, the Government approved a set of policies (the “Knin Conclusions”) to address social and economic problems in the war-affected areas; however, few of the policies had been implemented by year’s end. In May the Government’s Coordination Body, established in 2001 to address issues in the war-affected areas, convened and formed joint working groups with representatives of the international community to address legislative and economic issues to facilitate returns. The working groups met frequently during the year, but their progress was very slow. Significant legislation was enacted concerning the restitution of property, but administrative and legal barriers slowed implementation (*see* Section 1.f.). The greatest obstacle to the return of Croatian citizens is their inability to regain access to their prewar homes and properties. Mechanisms for the return of private property worked best in the Danubian region where returnees tended to be ethnic Croats seeking to regain their homes from ethnic Serb occupants. Most other instances of



restituted property occurred pursuant to a private agreement between owner and occupier.

In 2000 the Constitutional Court struck down provisions of the Law on the Status of Displaced Persons and Refugees that prohibited evictions unless alternative accommodation was provided for the evictee. Despite this decision, courts and local housing commissions continued to rely on the quasi-legal 1998 Program on Return for guidance on eviction decisions. This practice reinforced the precedence of temporary occupants over that of property owners. The July amendments to the LASSC introduced measures designed to facilitate property repossession, but the underlying principle for property repossession remains that temporary occupants must be provided accommodation prior to repossession of property by owners. Because the law continues to subordinate the rights of private property owners to those of temporary users, it falls short of international standards and violates the right to ownership as provided for in the Constitution.

The Government allowed free access to all displaced persons by domestic and international humanitarian organizations and permitted them to provide assistance.

The Government implemented some, but not all, provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. A new Law on Asylum, drafted in 2001 with the support of the UNHCR, that would implement fully the U.N. standards continued to move through the legislative process but by year's end had not yet been adopted. The Government cooperated with the UNHCR and other humanitarian and international organizations in assisting refugees. The Interior Ministry processes asylum seekers separately under the Law on Movement and Stay of Aliens, and persons seeking refuge are given "temporary protection" rather than refugee status. This status does not include all of the protections afforded a refugee. For example, a person with temporary protection status does not have the right to work, although many are provided with emergency health care and temporary accommodation. During the year, the Government did not grant asylum status to any of approximately 97 asylum seekers, despite positive recommendations from the UNHCR in several cases. These individuals were permitted to remain in the country only until their asylum claims were rejected, at which time they were ordered to depart the country, although none were deported or forcibly returned to a country where they feared persecution.

### *Section 3. Respect for Political Rights: the Right of Citizens to Change Their Government*

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections; however, there were a few irregularities in the 2000 presidential and parliamentary elections. Citizens over 18 years of age have the right to vote by secret ballot. The Constitution limits the president to two 5-year terms. President Stjepan Mesić was elected in February 2000 to a 5-year term to replace Franjo Tuđman, who died in office in December 1999. OSCE monitors characterized the elections as "calm and orderly," noting that "voters were able to express their political will freely"; however, there were problems. The Citizenship Law and electoral legislation grant citizenship, and thereby the right to vote, on purely ethnic grounds to ethnic Croats abroad with no genuine link to the country. However, in 2000 the Government failed to ensure that many Croatian Serbs, who fled in 1995 and who wished to assume the responsibilities of Croatian citizenship, could document their Croatian citizenship in order to vote and ultimately to return.

In March 2001, constitutional amendments abolished the upper house of Parliament (the House of Counties); there was little practical effect since the upper house had few real responsibilities. The now unicameral legislature, the House of Representatives, has 151 elected members. In January 2000 parliamentary elections, an opposition coalition led by the SDP won a parliamentary majority, ending 10 years of HDZ party rule. OSCE monitors characterized the voting as having made "marked progress" toward meeting OSCE standards. However, some concerns about the electoral process remained, including the underrepresentation of ethnic minorities. In July Prime Minister Račan resigned and was reappointed in a realignment of the Government due to changes in coalition partners.

In May 2001, nationwide elections were held for local offices (town, municipal, and county level). OSCE monitors assessed that the elections "were conducted generally in accordance with OSCE commitments," noting that "this assessment confirms the improvements noted during the 2000 elections. However, shortcomings remain." Observers reported participation by a broad spectrum of parties, the generally balanced media coverage, and the calm atmosphere on election day. Concerns included the hurried last-minute drafting of the election law, provisions on minority representation that do not clearly spell out procedures for achieving minority balance in local

bodies, the lack of a permanent state electoral commission, the lack of transparency in parties' campaign expenditures, and the lack of regulations for campaign financing. A new "Constitutional Law" on National Minorities adopted by the Parliament in December stipulates that ethnic minorities must be represented in local government bodies, provided the census shows that the minority group constitutes at least a specified percentage of the local population. However, minority groups will remain under-represented in 79 municipalities and 9 counties until the next local-level elections are held in 2005. In addition, the 1991 Citizenship Law—which is disadvantageous to nonethnic Croats—still has not been amended to create equal citizenship conditions regardless of ethnicity.

There were no legal restrictions on participation in government or politics by women, and women held 33 of 151 parliamentary seats and 4 of 23 cabinet positions. In the judiciary, 4 of 13 Constitutional Court and 19 of 41 Supreme Court justices were women.

There were no legal restrictions on participation in government or politics by minorities, and minorities held 11 of 151 seats in parliament. The electoral law reserves five parliamentary seats for ethnic minorities; the remaining six minority parliamentarians were elected from party lists, not based on their ethnicity. The new Constitutional Law on National Minorities, enacted in December, reserves up to eight minority seats in the next legislature. On the local level, in the May 2001 elections, several ethnic Serbs were elected mayors of towns in the war-affected areas, particularly in those towns experiencing the greatest number of refugee returns and consequent demographic shifts. Ethnic Serb candidates from various parties (including the ethnically-based Independent Serb Democratic Party and Serbian People's Party, as well as the SDP) won 264 seats at the town, municipal, and county levels in the May 2001 elections, and ethnic Serbs joined the governing coalitions in at least 13 towns. In Vukovar in February a local Serb party joined the new governing coalition that came into power when the previously governing right-wing coalition broke up.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A variety of domestic and international human rights NGOs generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views. The Dalmatian Committee for Human Rights, an NGO in Split, was instrumental in encouraging the reopening of the investigation of war crimes committed at the Lora naval stockade in Split. Several human rights NGOs in Split monitored the "Lora" trial, provided public information, and assisted witnesses to come forward and testify. In April the European Roma Rights Center, with support from the Croatian Helsinki Committee, filed a legal complaint challenging the segregation of Romani children into separate classes based solely on their ethnicity in four schools in northern Croatia.

A new Law on Associations went into effect in January and greatly enhanced the ability of NGOs to register and operate without undue government interference (see Section 2.b.). There were no reports of government harassment of NGOs, and the Government's office for cooperation with NGOs, while operating with limited resources, was active in coordinating and promoting NGO and governmental efforts on human rights and civil society. In many municipalities, there was excellent cooperation between NGOs and local government officials; however, a lack of follow-through on central government commitments by local authorities continued to be a problem in some municipalities.

International organizations, including the European Union Monitoring Mission, OSCE, UNHCR, and the U.N. High Commission for Human Rights, operated freely.

Generally good cooperation with ICTY improved until late September, when the Government refused to fulfill its international obligations as ICTY's agent in the arrest and transfer of indicted retired General Janko Bobetko. In November the Government delivered the indictment to the local court. The court notified the Government, and the Government notified ICTY that, based on the findings of a local medical panel, Bobetko was too ill to participate in the proceedings, and at year's end, he remained in Croatia awaiting assessment by an ICTY-appointed medical team. Questions also arose about the Government's diligence in tracking down 2001 indictee Ante Gotovina. The failure to fulfill promptly its international obligations in the Bobetko case and the lack of progress in locating Gotovina called into question the Government's willingness to cooperate with the ICTY in pursuing war crimes cases involving prominent Croatians.

The parliamentary Ombudsman for human rights received and acted on individual citizens' complaints. Because it is a parliamentary rather than executive of-

office, the Ombudsman's authority to order compliance from government ministries is limited.

Aside from the Ombudsman's office, Parliament maintained an independent human rights committee tasked specifically with human and minority rights and a separate gender equality committee that met periodically throughout the year to discuss topics and legislation within their purview (see Section 5).

The Government's human rights office—inaugurated in December 2001—is responsible to Deputy Prime Minister Ante Simonic in developing, coordinating, and implementing the Government's human rights activities. The Government's Coordinating Body to address refugee returns and housing reconstruction in war-affected areas and representatives of the international community met several times during the year in working groups; however, substantive progress was slow.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution specifies that individuals shall enjoy all rights and freedoms, regardless of race, color, sex, language, political or other opinion, national or social origin, property, birth, education, social status, or other attributes. Additionally members of all national groups and minorities shall have equal rights. While most of these rights generally were observed in practice, discrimination against women, Serbs, and Roma continued.

*Women.*—Although the Government collected only limited statistics on the problem, credible NGO observers have reported that violence against women, including spousal abuse, remained a widespread and underreported problem. Alcohol abuse and poor economic circumstances were cited as contributing factors. Rape and spousal rape are illegal under the Penal Code; however, NGOs reported that many women do not report rape or spousal rape. The only women's shelter is in Zagreb.

The law provides that a domestic violence case can be initiated by persons other than the victim; for example, cases can be initiated on the basis of suspicions of health care workers or police rather than requiring the victim to press charges. A Penal Code provision directs that perpetrators of family violence, in addition to being punished, be placed under supervision and receive psychiatric treatment. The Law on Misdemeanors extends detention (for up to 30 days) of perpetrators of family violence, even during the defendant's appeal.

The country is a transit route as well as a lesser source and destination country for trafficking in women for the purposes of sexual exploitation (see Sections 6.f.).

Workplace sexual harassment is a violation of the Penal Code's section on abuse of power but is not specifically included in the employment law. NGOs reported that in practice, women who were sexually harassed often did not resort to the Penal Code for relief for fear of losing their jobs.

The labor law prohibits gender discrimination; however, in practice women generally held lower paying positions in the work force. Government statistics from previous years showed that, while women constituted an estimated 46 percent of the formally employed work force, they occupied few jobs at senior levels, even in areas such as education and administration where they were a clear majority of workers. Anecdotal evidence gathered by NGOs suggested that women held the preponderance of low-level clerical, labor, and shopkeeping positions. Union officials reported that—taking into account the informal economy—women's share of the total work force may be as high as 66 percent. Women constituted a larger proportion of unemployed—54 percent—and pension statistics indicated that women's salaries averaged 26 percent less than those of their male counterparts. Union officials reported that it was difficult to identify and resolve wage disparities in the work place based on gender because the Government did not disaggregate wage statistics by sex. Women often were among the first to be laid off in times of corporate restructuring. The Labor Code authorizes 1 full year of maternity leave.

Government efforts to promote gender equality continued. The Government Committee for Gender Equality drafted two new laws—on gender equality and on protection against violence in the family—both of which were pending parliamentary action. The Committee also initiated and secured financial support for regional gender equality bodies, which were established in several counties. In December 2001, the Government inaugurated a new human rights office (see Section 4), and an existing unit on gender equality within the Labor Ministry was upgraded and attached to this office. Tasks of the Labor Ministry office included implementation of the 2001–05 National Action Plan on gender equality and the coordination of tasks among ministries, parliamentary offices, unions, and the NGO community to promote gender equality. The Parliament's Gender Equality Committee initiated changes to the Defense Law and to the Law on Armed Forces, passed in May and March, which introduced a gender equality committee at the Ministry of Defense's Personnel Council and listed sexual harassment as a disciplinary violation. The committee

supported important changes to the Law on Criminal Proceedings, which for the first time introduced the instrument of a restraint order and obligatory psychosocial therapy in family violence cases. The Small and Medium Enterprise Incentive Law enacted in March contains provisions promoting women's entrepreneurship.

The Croatian Women's Network, a women's NGO network registered in February and based in Porec, coordinated the activities of 50 NGOs from across the country. There were several NGOs based in Zagreb that had national impact, two of which were: The Rosa Center for Women, which deals with trafficking and violence against women and is putting together a national network, and B.A.B.E., which focuses on legal assistance, legislative drafting, and political participation.

*Children.*—The Government is generally committed to the welfare of children. Education is free and mandatory through grade 8 (generally age 14). Schools provide free meals for children. The majority of students continue their education to the age of 18, with Roma being the only notable exception. Romani children faced serious obstacles in continuing their education, including discrimination in schools and a lack of family support. An estimated 10 percent of Croatian Romani children begin primary school, and of these only 10 percent go on to secondary school. In Medjmurje County, local officials allegedly operated segregated classrooms for Romani children, reportedly with a reduced and simplified curriculum. In September the Cakovec County Court rejected as unfounded a lawsuit filed in April by the European Roma Rights Center on behalf of 52 parents of Romani school children, who claimed discrimination in education and segregation of their children in Medjmurje County. In October the Romani parents participating in the lawsuit filed an appeal with the Constitutional Court. Subsidized daycare facilities were available in most communities even for infants. Medical care for children is free.

While there is no societal pattern of abuse of children, NGOs operating hot lines for sexual abuse victims reported numerous cases of abuse of children.

*Persons with Disabilities.*—The Constitution ensures "special care for the protection of disabled persons and their inclusion in social life." While persons with disabilities face no openly discriminatory measures, job opportunities generally were limited. Special education also was limited and poorly funded.

The Law on Social Welfare and the Law on Construction specify access to public services and buildings for persons with disabilities; however, the construction rules were not always enforced and did not mandate that facilities be retrofitted. As a result, access to public facilities often was difficult.

*National/Racial/Ethnic Minorities.*—Ethnic minorities enjoy the same constitutional protections as other self-identified ethnic and religious groups; however, in practice a pattern of open and sometimes severe discrimination continued against ethnic Serbs in several areas, including in the administration of justice, employment, housing, and freedom of movement. Ethnic Serbs in war-affected regions continued to be subject to harassment, intimidation, and occasional violence. In December after extensive discussion with minority groups and political parties, Parliament passed a Constitutional Law on National Minorities with broad political support. The OSCE generally assessed the new law positively. The law assures minority representation in local government bodies, creates minority councils from the local to the national level to advise elected officials on minority rights, promotes use of minority languages and symbols, and provides for the election of up to eight minority representatives in the next parliament. Ethnic minority groups welcomed most of the law's provisions, but objected to the loss of generous affirmative action rights to elect representatives to parliament.

Societal intimidation and violence against Serbs continued in war-affected areas (see Section 1.c.). Weapons left over from the war, including firearms and explosives, were readily available and were used in incidents of harassment during the year. Incidents largely occurred in the areas of return in central Dalmatia. In February Serb returnee Jovan Bosta was beaten to death in Benkovac near Knin; contradictory police reports were published and no arrests were made. Also in February, two grenades were thrown into the yard of a house owned by a Serb family in the Dnris area. Police responded appropriately and an investigation was ongoing. In April a returnee's house in the Benkovac area and a local school were burned. In Glina a Serb returnee's shop was attacked after a screening of a war-related film in which the perpetrators allegedly recognized the owner as a former soldier. Returnee Serbs in the village of Donji Karin reported continuous destruction of crops and vineyards by a Bosnian Croat settler; despite repeated reports to local police, no action was taken against the suspect. Ethnic Serbs in the area received verbal death threats and one family was pelted repeatedly by stones while working their fields. In July unknown persons intimidated two women in the village of Smiljcic by pounding on their windows at night; in the same village in September seven young men attacked

and injured a man, but—based on earlier bad experience—he was reluctant to inform local police. Persons in uniforms reminiscent of the fascist World War II-era Ustasha government marched through Petrinja in August, during celebrations of the town patron's day; in the same month, a similar occurrence was reported in Dvor, where there is a majority Serb population. In September two people in Knin threatened a television crew from Belgrade that was filming the first day in school of a boy from a recently returned Serb family. Police reacted quickly, but the crew—concerned with the boy's safety—discontinued the filming. In September the right-wing Croatia Party of Rights made ethnic threats during a press conference at the municipality day celebration in Dvor. Property destruction and other forms of harassment often arose from disputes between home occupiers of one ethnicity and returning homeowners of another. Verbal and legal harassment, forcible evictions, and assaults continued to occur regularly (*see* Section 2.d.).

Following the autumn 2000 termination of the OSCE police monitoring group in the Danubian region, the police continued to respond appropriately to law and order issues, although some NGOs continued to express concern that ethnic Serbs were reluctant to report ethnically-motivated incidents to authorities.

There were periodic reports of tensions between ethnic Serb and Croat officers. The Government has not addressed the issues of recruitment, training, and retention of adequate minority representation in police forces throughout the country. For example, outside of Eastern Slavonia, many majority Serb communities continued to be policed by forces that were 100 percent ethnic Croat.

An ongoing impediment to the return and reintegration of ethnic Serb refugees is the failure of the Government to recognize or "convalidate" their legal and administrative documents from the period of the 1991–1995 conflict. Implementation of the 1997 convalidation law to allow the recognition of documents issued by the rebel Serb para-state was undermined by Ministry of Labor and Social Welfare instructions that seriously limited eligibility. While the law itself did not include a deadline for filing applications, a decree issued by the previous regime established an April 1999 filing deadline. Since more than half of the 71,000 Serbs who have returned to Croatia returned after April 1999, the filing deadline effectively excludes most of those who otherwise would be beneficiaries. Even persons who filed before this deadline experienced arbitrary delays and obstructions. Without the recognition conferred by the law, citizens (almost exclusively ethnic Serbs) remained unable to resolve a wide range of problems including pensions, disability insurance, and ability to establish work experience. Most requests came from elderly persons and related to pension and employment histories from occupied territories during the conflict. The state pension fund improperly denied some applications for recognition of working experience from ethnic Serbs.

While ethnic Serb property owners often found it difficult to access their property, significant amounts of reconstruction assistance were for the first time extended to Serb beneficiaries. In addition to central Croatia, reconstruction had progressed well in western Croatia, where two-thirds of reconstruction beneficiaries are now Serbs. In addition, authorities in most other regions of Croatia have worked hard to accelerate the processing of requests for reconstruction assistance. Local Serb NGOs in Knin reported continued obstruction by local authorities of efforts by ethnic Serbs to obtain various documents required in order to receive pensions, social benefits, or to process property or other legal claims.

Discrimination and harassment against Roma continued. The 2001 census counted only 9,463 Roma in the country, but government officials and NGOs agreed that this was a serious undercount and that the true number may be between 30,000 and 40,000. Unlike the previous year, there were no significant reports of attacks or violence directed against Roma. Protective of their culture and reluctant to assimilate, Roma faced a host of obstacles, including language (many, especially women, have only limited Croatian language skills), lack of education, lack of citizenship and identity documents, high unemployment, societal discrimination, and lack of government will to address such issues. Romani NGOs estimated that 25 percent of Roma do not have citizenship documents and thus cannot obtain papers necessary to acquire social benefits, employment, voting rights, and property resolution.

In September a crowd of Croatian parents prevented the first day of classes from being held at an elementary school in Medjimurje county. The parents, who were protesting the Ministry of Education's decision to support integrated classes, forced the Roma children out of the classrooms and locked the school. While a compromise solution that incorporates both mixed and segregated classes was accepted by the Ministry, school, and all parents, it falls short of the constitutionally guaranteed right of all citizens to equal education regardless of ethnicity.

International and local NGOs remained concerned about the practice of holding separate classes (of allegedly lower quality) for Roma students in northern Croatia.

A 2000 Constitutional provision added nine recognized minorities to the list of seven previously recognized in the Constitution, including Muslims, Albanians, and Slovenes.

There was some discrimination against minorities in schools. For example, textbooks have used derogatory adjectives in reference to minorities. Previous government pledges to provide more balanced textbooks went unfulfilled.

The Citizenship Law distinguishes between those who have a claim to Croatian ethnicity and those who do not. Ethnic Croats are eligible to become citizens, even if they were not citizens of the former Socialist Republic of Croatia, so long as they submit a written statement that they consider themselves Croatian citizens. Non-Croats must satisfy more stringent requirements to obtain citizenship through naturalization after 5 years of registered residence. Even those who previously were lawful residents of the former Socialist Republic of Croatia (*see* Section 1.d.) were compelled to provide proof of previous residence and citizenship not demanded of ethnic Croats. Obstacles to ethnic Serbs' documenting their citizenship led to discrimination in other areas, including the right to vote (*see* Section 3). While a citizenship application is pending, the applicant is denied social benefits including medical care, pensions, free education, and employment in the civil service. Denials frequently were based on Article 26 of the Citizenship Law (which stipulates that citizenship can be denied to persons otherwise qualified for reasons of national interest) and on Article 8 (which requires that a person's actions demonstrate that they are "attached to the legal system and customs of Croatia" and that they have maintained a registered residence on the territory of Croatia for the 5 years preceding the application for citizenship). The Interior Ministry recognizes the period that mostly ethnic Serbs spent outside the country as refugees as applicable to the 5-year residency requirement.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers are entitled by law to form or join unions of their own choosing without prior authorization, and workers exercised this right in practice. There was an active labor movement with one major and four minor national labor federations and an independent association of both blue- and white-collar members. Approximately 64 percent of workers were members of unions. In general unions were independent of the Government and political parties.

The Labor Code prohibits antiunion discrimination, and it expressly allows unions to challenge firings in court. There were no reports of systematic firings on grounds of ethnicity during the year. Generally citizens' attempts to seek redress through the legal system were seriously hampered by the inefficiency of the court system, where cases often languished for months or years before reaching a final resolution (*see* Section 1.e.). In a wrongful dismissal suit filed by the Metalworkers Union on behalf of Dragutin Varga and Vladimir Harjac, the union won the case, and both men were eventually returned to their positions—in Varga's case, after the employer withdrew an appeal to the Supreme Court.

Unions may affiliate freely internationally and did so.

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining is protected by law. The Labor Code governs collective bargaining contracts, protection for striking workers, and legal limitations on the ability of employers to conduct "lockouts" during labor disputes.

The Constitution provides for the right to strike with some limitations. Members of the armed forces, police, government administration, and public services are not permitted to strike. Workers only may strike at the end of a contract or in specific circumstances mentioned in the contract. The Supreme Court has ruled in the past that workers may not strike for nonpayment of wages; however, March 2001 amendments to the labor law specifically addressed this ruling and entitled workers to strike for nonpayment of wages.

When negotiating a new contract, workers are required to go through mediation before they can strike, unless the strike is not over a new contract. Labor and management must jointly agree on a mediator if a dispute goes to mediation. If they cannot agree, the Labor Law calls for the "Economic and Social Council" (GSV). The GSV—chaired by the Deputy Prime Minister—consists of 15 members, with 5 representatives each from government, the Croatian Employers' Association, and trade union confederations. The GSV typically meets at least once a month on policies, procedures, and legislation relating to social protections, workers' and employers' interests, and the collective bargaining process. Local GSVs have been formed in most counties of Croatia.

The Government's Office for Social Partnership provides administrative and expert support to the GSV and facilitates dialogue between the Government, employers, and trade unions. The Office for Social Partnership mediated in approximately 80 labor disputes on a collective level. Only after submitting to mediation and formally declaring that negotiations are at an impasse is a strike legal. If a strike is found to be illegal, any participant may be dismissed and the union held liable for damages. A strike at the end of June by the Doctors and Dentists Union was ruled illegal by the Government because a process of reconciliation did not precede it. In August the Zagreb County Court banned a strike by ambulance drivers. The law prohibits retaliation against strikers participating in legal strikes, and no such incidents were reported. At year's end, there were some 45,000 unresolved individual labor disputes, of which almost 70 percent relate to financial claims.

During the year, authorities permitted labor demonstrations both in Zagreb's main square and in front of the Parliament. Approximately 5,000 union members and sympathizers gathered in a protest march in Zagreb's Cathedral square on May 1; union members and workers across Croatia marked the May 1 Labor Day holiday by protesting against announced changes to the labor law, which they claimed would drastically reduce workers' rights. In May the Secondary School Teachers Union went on strike, which resulted in the signing of a collective bargaining agreement with the Ministry of Education and Sports. Customs Officers initiated a work slow down in June over wage rates, and they subsequently received a 20 percent increase in pay. In October approximately 1,000 protestors in Pula and 500 in Rijeka, organized by trade unions and consumers' associations, demonstrated against the Government in response to price hikes by the State-owned electric utility company. Protests over layoffs in the national police force, announced by the Government in August 2001, continued until September 2002, when the Government ordered protestors encamped outside government offices to be removed forcibly after a laid-off policeman threw an egg at the Prime Minister. Some protestors sought sanctuary in an adjacent church, where they remained at year's end.

In November two metal workers unions organized a rally of approximately 1,700 Sisak Steel Plant workers over nonpayment of 3 month's wage arrears. The demonstration ended within days when the Government arranged for payment of wages.

Under the 1999 Agreement for a More Just Croatia, the Government is obliged to consult with labor unions before announcing economic reforms that would result in changes in worker benefits and layoffs; however, unions complained that the Government did not follow this agreement in practice.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred. The Ministry of Labor and Social Welfare is responsible for enforcing the ban on coerced or forced labor.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The minimum age for employment of children is 15 years, and it was enforced by the Ministry of Labor and Social Welfare. Children may not be employed before reaching the legal age and are not allowed to perform work that is harmful to their health or morality. Workers under the age of 18 are entitled to special protection at work and are prohibited from heavy manual labor and night shifts. There was no reported pattern of the abuse of child labor laws.

*e. Acceptable Conditions of Work.*—The Government and Unions of Public and State Employees signed a basic collective agreement in December 2001; the most recent minimum net wage—established in April—was approximately \$243 (1,800 Kuna), which was not sufficient to provide a decent standard of living for a worker and family. The average monthly wage as of October was \$489 (3,766 Kuna).

The nonpayment of wages continued to be a serious problem; over 80,000 workers (6 percent of the work force) failed to receive their salaries on time. In June 2001, the Constitutional Court ruled that workers and their families could not be refused medical benefits, even if employers failed to pay their contributions into the health system.

A June 2001 Labor Law amendment shortened the workweek to 40 hours from 42 hours. Workers are entitled to a 30-minute daily break, a 24-hour rest period during the week, and a minimum of 18 days of paid vacation leave annually. Workers are entitled to receive time-and-a-half pay for any hours worked beyond 40 per week.

Health and safety standards are set by the Government and are enforced by the Ministry of Health. The law allows unions to appoint health and safety stewards in companies, but their activities are not regulated by collective agreements. In practice industries are not diligent in meeting standards for worker protection. For

example, it is common to find workers without hardhats on construction sites and for workers to remove safety devices from dangerous equipment. Under the law, workers may remove themselves from hazardous conditions at work and have recourse through the courts if they believe that they have been dismissed wrongfully for doing so. There were no reports of wrongful dismissal complaints over workplace safety during the year.

*f. Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons, although existing laws may be used to prosecute traffickers; trafficking in women was a problem. Little statistical information on trafficking exists, although U.N. officials tracking the issue regionally and local research indicate that Croatia is primarily a transit country for women trafficked to other parts of Europe for prostitution, as well as a lesser source and destination country for trafficked women.

Trafficking is prosecuted under the Croatian Penal Code's articles prohibiting slavery, the illegal transfer of persons across state borders, international prostitution, or procurement or pimping. Police awareness of the problem is low. Some police received limited training, and efforts have begun to encourage police to identify and document possible cases of trafficking. In part due to an inadequate legal framework, victims were not encouraged to take legal action against their traffickers. According to the Ministry of the Interior, from 1998 through August, the Government prosecuted 11 persons under the law prohibiting slavery and 94 persons under the law prohibiting international prostitution. The prosecutions resulted—through the end of 2001—in the convictions of eight persons charged with international prostitution; there were no convictions under the law prohibiting slavery.

Failure to identify trafficked women among illegal aliens smuggled into the country and shortcomings in the readmission agreement with Bosnia put police under pressure to process and repatriate illegal migrants within 72 hours after their initial arrest and resulted in a significant underestimation of the trafficking problem in the country. Women from Hungary, Ukraine, Romania, Bulgaria, Slovakia, and other countries reportedly were trafficked through Bosnia-Herzegovina and Yugoslavia to Croatia, where some remained to work as prostitutes or were trafficked to other destinations. Women were transported through the country by truck or boat. In addition, women from Albania, Bosnia, Bulgaria, Hungary, Macedonia, Moldova, Romania, Slovenia, and Yugoslavia were detained in incidents of illegal entry into the country; some of these women were believed to be victims of trafficking. Anecdotal information indicates that international organized crime groups were responsible for trafficking.

Government officials, international missions, and NGOs collaborated to develop an antitrafficking strategy. In April the Government appointed a National Committee for Combating Trafficking in Persons consisting of 22 members, including representatives from government (including a representative from the State Prosecutor's Office), two NGO members, one member of the Croatian International Organization for Migration, and a journalist. The National Committee drafted a National Action Plan, which was approved by the Government in November. The National Committee participated in the Stability Pact Anti-Trafficking Working Group; in addition, in September members of the Committee as well as the Deputy Prime Minister and the Minister of Defense attended an antitrafficking conference in Brussels to formulate an EU strategy for combating trafficking in persons.

There were no support services available for trafficking victims. Trafficking victims typically were detained for illegal entry and voluntarily deported. Victims generally were detained at a Zagreb detention facility on immigration violations. Detention may last several weeks. Foreign embassies usually did not organize repatriation for their citizens, and the Government typically arranged for victims to return to their countries of origin by train. There was one women's shelter that occasionally helped trafficked women.

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## CYPRUS

Prior to 1974, Cyprus experienced a long period of intercommunal strife between its Greek and Turkish Cypriot communities. In response the U.N. Peacekeeping Force in Cyprus (UNFICYP) began operations in March 1964. The island has been divided since the Turkish military intervention of 1974, following a coup d'etat directed from Greece. Since 1974 the southern part of the island has been under the control of the Government of the Republic of Cyprus. The northern part is ruled by a Turkish Cypriot administration. In 1983 that administration proclaimed itself the "Turkish Republic of Northern Cyprus" ("TRNC"). The "TRNC" is not recognized by



the United States or any country except Turkey. A buffer zone patrolled by the UNFICYP separates the two parts. A substantial number of Turkish troops remained on the island. Glafcos Clerides was reelected President of the Republic of Cyprus in 1998. In April 2000, following the first round of Turkish Cypriot elections, Rauf Denkash was declared "President" after "Prime Minister" Dervish Eroglu withdrew. The judiciary is generally independent in both communities.

Police in the Government-controlled area and the Turkish Cypriot community were responsible for law enforcement. Police forces in the Government-controlled area were under civilian control, while the Turkish Cypriot police forces were under military authority. Some members of the police on both sides committed abuses.

Both Cypriot economies operated on the basis of free market principles, although there were significant administrative controls in each community. Approximately 793,000 persons lived on the island of Cyprus. The Government-controlled part of the island had a robust, service-oriented economy, with a declining manufacturing base and a small agricultural sector. Tourism and trade generated 23 percent of gross domestic product and employed 29 percent of the labor force. During the year, per capita income was \$14,499; inflation was 3.4 percent; and unemployment was 3.0 percent. Growth was 2.0 percent, compared with 4.0 percent in 2001.

The Turkish Cypriot economy was handicapped by restrictions imposed by the Government of Cyprus and other international institutions. It relied heavily on subsidies from Turkey and was burdened by a very large public sector, which employed approximately 20 percent of the labor force. It basically was service-oriented, but had a smaller tourism and trade base, which accounted for 9.7 percent of gross national product (GNP), and it had a larger agricultural sector. The GNP per capita in the north was approximately \$4,610; inflation was 76.8 percent in 2001 compared with 53.2 percent in 2000, according to the latest figures available. Growth in the north was about 2.6 percent during the year, compared with 5.4 percent in 2001.

The Government of the Republic of Cyprus generally respected the human rights of its citizens; however, there were problems in some areas. Instances of police brutality against detainees continued to be a problem. Police reportedly subjected Turkish Cypriots to surveillance. The Government placed some restrictions on persons traveling to the north. Violence against women persisted. Trafficking in women for prostitution remained a problem. Reform of Cyprus's political and economic structure led to an invitation in December to join the European Union (EU) in May 2004. Cyprus was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

The Turkish Cypriot authorities generally respected the human rights of citizens living under its control; however, there were several problems. Police abused suspects and detainees. Civilians continued to be tried in military courts. The authorities subjected members of the Greek Cypriot community living in the north to surveillance. The authorities harassed some members of the press. The authorities also continued to restrict freedom of movement. Since 1997 the Turkish Cypriot authorities have banned most bicomunal contacts between Turkish Cypriots and Greek Cypriots, including previously frequent meetings in Nicosia's buffer zone. At times they attempted to prevent Turkish Cypriots from traveling to bicomunal meetings off the island as well. Cooperation between the authorities and the U.N. High Commissioner for Refugees (UNHCR) was uneven. The Turkish Cypriot authorities took some steps to improve the conditions of Greek Cypriots and Maronites living in the territory under their control, but the treatment of these groups still fell short of Turkish Cypriot obligations under the Vienna III Agreement of 1975. Violence against women and trafficking in women for prostitution were problems.

In May 2001, the European Court of Human Rights (ECHR) ruled that Turkey was responsible for violations of human rights in Cyprus stemming from the 1974 Turkish military intervention. The result of a complaint by the Government of Cyprus, the decision rejected the Turkish argument that the "TRNC" is an independent state and instead ruled that it is "a subordinate local administration of Turkey operating in northern Cyprus."

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

Turkish Cypriot authorities still had not conducted a credible investigation of the 1996 murder of a prominent leftist Turkish Cypriot journalist, Kutlu Adali, who wrote articles critical of Turkey's role in the north.

The cases before the ECHR of two Greek Cypriot demonstrators killed in 1996 remained pending at year's end. Turkish Cypriot civilian police killed one demonstrator who had entered the buffer zone and participated in the beating death of the other.

*b. Disappearance.*—There were no reports of politically motivated disappearances during the year.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Both the Constitution of the Republic of Cyprus and the basic law governing the Turkish Cypriot community specifically prohibit torture. The law in both the Government-controlled area and the Turkish Cypriot community prohibited such practices, and the Government and the Turkish Cypriot authorities generally respected these provisions in practice; however, there were reports of instances of both Greek Cypriot and Turkish Cypriot police brutality against suspects and detainees during the year, involving Cypriots as well as non-Cypriots.

In response to an increase in police brutality in the Government-controlled area, the Attorney General was given authority to assign independent investigators to cases. Four cases of police brutality were brought before the court and have hearings scheduled for June 2003.

There were credible reports of pervasive police abuse of power and routine harsh treatment of detainees in the Turkish Cypriot community (*see* Section 1.d.).

In 2001 Turkish Cypriot Teachers' Trade Union members alleged that they were beaten by police with batons while protesting the suspension of a history teacher who had published an article critical of Turkey and its military in an opposition newspaper. The Turkish Cypriot authorities brought criminal charges against the teacher and the trade union that were pending at year's end (*see* Section 2.a.).

In May 2001, the ECHR found the Government of Cyprus responsible for inhuman treatment of nine Turkish Cypriots in 1994. In July and August of 2001, the Government compensated the plaintiffs in accordance with the decision.

Prison conditions generally met international standards, although there were some problems. According to a report issued in 2000 by the Government Ombudsman, prisoners with psychiatric problems in the south did not receive proper medical care. During the year, the Ombudsman reported some improvements in this respect, including the daily visits of a social worker, psychiatrist, psychologist, doctor, and two nurses. In the south, women prisoners were held separately from men, and children were held separately from adults. Pretrial detainees were held separately from convicted criminals.

In the north, women were held separately from men; however, there were no separate cells for juveniles in prison. Pretrial detainees were held separately from convicted criminals in the north.

The Cypriot government and the Turkish Cypriot authorities permit prison visits by independent human rights observers, although no such visits occurred during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—Laws throughout Cyprus prohibit arbitrary arrest and detention; however, Turkish Cypriot police at times did not observe legal protections. Throughout Cyprus judicially issued arrest warrants were required. No person may be detained for more than a day without referral of the case to the courts for extension of the period of detention. Most periods of investigative detention did not exceed 8 to 10 days before formal charges were filed. Attorneys generally had access to detainees; bail was permitted. The Government of Cyprus claimed the right to deport foreign nationals for reasons of public interest whether or not they had been charged with or convicted of a crime.

Turkish Cypriot police at times did not observe legal protections, particularly at the time of arrest. In some instances, suspects were not permitted to have their lawyers present when testimony was taken, in contravention of Turkish Cypriot basic law. Suspects who demanded the presence of a lawyer may be threatened with stiffer charges or even physically intimidated. A high percentage of convictions in the Turkish Cypriot community were obtained with confessions made during initial police interrogation under these conditions. According to credible reports, Turkish Cypriot police were known to abuse their authority to hold persons for up to 24 hours before having to go before a judge; suspects then were released within 24 hours without charges having been filed. Police officers used this tactic against persons suspected of serious crimes or believed to have behaved in a manner deemed insulting to the officer.

In 2000 Greek Cypriot police arrested Omer Gazi Tekogul for drug possession near the village of Pyla, located in the U.N. buffer zone. A Turkish Cypriot official told the UNFICYP that Greek Cypriots would "disappear" in retaliation (a statement later repudiated by Rauf Denktash). In 2001 Turkish Cypriot authorities ar-

rested Greek Cypriot Panicos Tziakourmas for drug possession. A British Sovereign Base Area (SBA) police investigation suggested that Tziakourmas was seized by Turkish Cypriots on SBA territory and that there was no evidence of marijuana. In March 2001, Tekogul was found guilty, but later was pardoned by President Clerides. In April 2001, Tziakourmas also was found guilty, but his sentence was limited to time served. In June 2001, he filed a case with the ECHR alleging the abuse of his rights by Turkish Cypriot authorities during his arrest and conviction. This case remained pending at year's end.

The Constitution and the basic law governing the Turkish Cypriot community prohibit forced exile, and neither the Government nor the Turkish Cypriot authorities employed it.

*e. Denial of Fair Public Trial.*—The Constitution and the basic law governing the Turkish Cypriot community provide for an independent judiciary, and both the Government and the Turkish Cypriot authorities generally respected these provisions in practice.

In both the Government-controlled area and the Turkish Cypriot community, most criminal and civil cases begin in district courts, from which appeals are made to Supreme Courts. No special courts existed for security or political offenses, although civilians in the Turkish Cypriot community may be tried in military courts.

Cyprus inherited many elements of its legal system from the United Kingdom, including the presumption of innocence, the right to due process, and the right of appeal. Throughout Cyprus the right to a fair public trial is provided for in law and generally was accorded in practice. Defendants have the right to be present at their trials, to be represented by counsel (at public expense for those who cannot afford one), to confront witnesses, and to present evidence in their own defense.

In the Turkish Cypriot community, civilians charged with violating military zones or military regulations or defaming the military were subject to trial in a military court. These courts consisted of one military and two civilian judges and a civilian prosecutor. In April 2001, the Turkish Cypriot "Constitutional Court" ruled that it was unconstitutional to have military judges sit on judicial boards. In May 2001, the ECHR found that the Government of Turkey violated the right of Turkish Cypriots to a fair trial by authorizing civilians to be tried in military courts. Since March in accordance with the court decision, military courts no longer include military judges and instead consist of three civilian judges and a civilian prosecutor.

In October a military court questioned six journalists for defamation of the military.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Both the Constitution of Cyprus and the basic law governing the Turkish Cypriot community prohibit such actions; however, police on both sides have subjected members of the other community resident in their area to surveillance (*see* Section 5). A judicial warrant is required for a police official to enter a private residence. The Turkish Cypriot authorities restricted the ability of Greek Cypriots and Maronites living in the north to change their place of residence (*see* Section 5).

Since 2000 Turkish Cypriot authorities have recognized marriage certificates issued by the Government of Cyprus and have allowed Greek Cypriots and Maronites resident in the north to bring their spouses to reside with them.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—Laws provide for freedom of speech and of the press, and these rights were generally respected in practice throughout the island; however, there was at least one reported instance of harassment of a newspaper in the Turkish Cypriot community.

Opposition newspapers frequently criticized the authorities. Independent newspapers and periodicals proliferated in both communities. In the Government-controlled area, there were seven major daily newspapers, one weekly, and six major magazines. Several private television and radio stations in the Greek Cypriot community competed effectively with the Government-controlled stations.

In the north, there were 12 newspapers. In addition to three smaller, university-run radio stations, eight private radio stations operated in the Turkish Cypriot community, along with three radio stations run by the authorities, and a new radio station run by the Turkish Cypriot security forces. There were two television channels run by the authorities and four private television channels.

International broadcasts were available without interference throughout the island, including telecasts from Turkey and Greece.

The Turkish Cypriot opposition newspaper *Avrupa* was reportedly subject to harassment. In 2001 a bomb damaged the newspaper's offices; there were no arrests.

In addition, Turkish Cypriot authorities confiscated furniture and computers for nonpayment of fines arising from a lawsuit by Turkish Cypriot officials against Avrupa's editor/owner. The owner closed Avrupa, renamed it Afrika, and kept the same editorial staff.

In August a Turkish Cypriot court found two journalists from Afrika guilty of libel and defamation for an article that referred to Turkish Cypriot leader Rauf Denktash. Originally sentenced to 6 months' imprisonment, their sentences were reduced to 1 month and 25 days.

In October several journalists from Afrika were brought before Turkish Cypriot district and military courts on charges of libel and defamation of both civilian and military subjects. These cases remained pending at year's end. Afrika continued daily publication.

Restrictions at times were imposed on the ability of journalists to cross the buffer zone to cover news events. The Government denied entry to the south to visiting Turkish journalists who arrived in Cyprus through ports of entry in the north. In retaliation Turkish Cypriot authorities at times required Greek Cypriot journalists to purchase a "visa" to enter the north, which the journalists refused to do. Turkish Cypriot policy, while applied inconsistently, was to permit Greek Cypriot journalists traveling as a group to cover events in the north without paying a "visa" fee, but not to allow individual Greek journalists entry unless they paid the fee. Greek Cypriot journalists covering certain events in the north also were asked to wear identification issued by Turkish Cypriot authorities and bearing the flag of the self-proclaimed "TRNC." In response Greek Cypriot journalists chose not to travel north to cover these events.

In October Turkish Cypriot authorities expelled a group of Spanish journalists from the Turkish Cypriot community for convening without permission. The expulsion came after their meeting with the director of the most widely read newspaper in that community.

In 2001 a Turkish Cypriot teacher was suspended for publishing an article critical of Turkey and its military in an opposition newspaper. The Turkish Cypriot authorities filed criminal charges against the teacher and the trade union that protested on her behalf for defamation and trespassing, respectively. Their cases remained pending at year's end (*see* Section 1.c.).

Unrestricted access to the Internet was widely available throughout Cyprus, although some users reported difficulties in sending e-mail between service providers in the two communities.

Neither the Government nor the Turkish Cypriot authorities restricted academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution of the Republic of Cyprus provides for freedom of assembly and association, and the Government generally respected these rights in practice.

Although Turkish Cypriot authorities also generally respected these rights, which are provided for in the basic law, they imposed restrictions on bicomunal meetings (*see* Section 2.d.).

*c. Freedom of Religion.*—The Constitution of the Republic of Cyprus provides for freedom of religion, and the Government generally respected this right in practice. The basic law governing the Turkish Cypriot community refers specifically to a "secular republic," and also provides for freedom of religion, and the authorities generally respected this right in practice. Both the Government and the Turkish Cypriot administration have constitutional or legal prohibitions against religious discrimination. Turkish Cypriots residing in the southern part of the island and non-Muslims living in the north were allowed to practice their religions.

The 1960 Constitution of the Republic of Cyprus specifies that the Greek Orthodox Church, which is autocephalous and not under the authority of the mainland Greek Orthodox Church, has the exclusive right to regulate and administer its internal affairs and property in accordance with its holy canons and charter. The Constitution also states that the Turkish Cypriot religious trust, the Vakf (the Muslim institution that regulates religious activity for Turkish Cypriots), has the exclusive right to regulate and administer its internal affairs and property in accordance with Vakf laws and principles. No legislative, executive, or other act may contravene or interfere with the Orthodox Church or the Vakf. There are three other religious groups recognized by the Constitution: Armenian Orthodox, Maronite Christians, and Latins (Roman Catholics).

Religions other than the five recognized religions were not required to register with government authorities; however, if they desired to engage in financial transactions such as maintaining a bank account, they had to register as a nonprofit company, and most did so.

Greek Cypriot residents of Rizokarpasso may visit the Apostolos Andreas monastery without restriction, but others in the north must apply to the local authorities for permission. Maronites may not visit certain religious sites in the north located in military zones. Armenians may not visit any religious sites in the north.

Reciprocal visits to religious sites, originally agreed to in 1997, have been suspended since 2000. In May 2001, the ECHR ruled that the Government of Turkey was responsible for restrictions imposed on Greek Cypriots resident in the north to their access to places of worship and participation in other areas of religious life. In April 2001, Turkish Cypriot authorities and the Government of Cyprus agreed to assign a second Orthodox priest to work in the north. A candidate was not identified by year's end.

Although missionaries had the legal right to proselytize in both communities, missionary activities were monitored closely by both the Government and Turkish Cypriot authorities. Under laws that make it illegal for a missionary to use "physical or moral compulsion" in an attempt to make religious conversions, the police could initiate investigations of religious activity based on a citizen's complaint. They could also initiate an investigation if missionaries might be involved in illegal activities threatening the security of the Republic, constitutional or public order, or public health and morals. There were occasional apprehensions under these laws that resulted in publicity but no arrests. In June Turkish Cypriot police detained three foreign citizens who were walking along a busy road with a large Christian cross. They were warned that their activity was unwise in a Muslim area and released.

There were no reports of religious prisoners or detainees in either the Government-controlled area or the Turkish Cypriot community.

Instruction in the Greek Orthodox religion is mandatory for all Greek Orthodox children and is taught in all public primary and secondary schools, in the Government-controlled area. Jehovah's Witnesses and Maronite parents may request that their children be excused from such instruction. Such requests routinely were granted.

The 1975 Vienna III Agreement remains the basic agreement covering treatment of Greek Cypriots and Maronites living in the north and Turkish Cypriots living in the south. Among other things, this agreement provides for facilities for religious worship. Greek Cypriots living in the north reported that vacant Orthodox churches there were vandalized and religious icons were removed. In August Turkish Cypriot police arrested a suspect for stealing icons from a church now used as an icon museum. Although Turkish Cypriots reported that unused mosques in the south also were vandalized, the Government routinely carried out maintenance and repair of mosques in the south.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Both the Cyprus Constitution and the basic law governing the Turkish Cypriot community provide for these rights, and they were generally respected in practice. Both the Government and the Turkish Cypriot authorities generally respected the right to travel abroad and to emigrate. Turkish Cypriots had difficulty traveling to most countries because travel documents issued by the "TRNC" are recognized only by Turkey. Most Turkish Cypriots used Turkish travel documents instead.

Republic of Cyprus authorities discouraged travel to the northern part of the island. They permitted day trips only by tourists to the north, sometimes arbitrarily refused permission to non-Cypriots to cross into the northern part of the island, and pressured foreigners working in Cyprus not to cross to the north. They declared it illegal to enter Cyprus except at authorized entry points in the south, effectively barring entry into the Government-controlled area by foreigners who entered the country from the north.

Turkish Cypriots traveling to the south had to seek prior permission from the Turkish Cypriot authorities and had to provide them with an itinerary and the purpose of their travel. To pass the Greek Cypriot checkpoint, Turkish Cypriots had to provide their itinerary and the date they intended to return home to the Greek Cypriot checkpoint police. They did not need to notify the checkpoint police in advance, but did need to prove they were Turkish Cypriots. The Government did not limit the length of their stay in the south. Some Turkish Cypriots reported being followed by Greek Cypriot police during visits to the south.

Turkish Cypriot authorities generally allowed visits to the north by persons whose initial point of entry into Cyprus was in the south, but they denied entry to foreigners of Turkish Cypriot origin who had entered Cyprus through the south. In 1995 the Turkish Cypriot authorities instituted a policy under which foreign nationals of Greek Cypriot origin would be permitted to visit the Turkish Cypriot-con-

trolled areas; however, implementation of the procedures remained inconsistent and visitors of Greek Cypriot or Armenian origin, or persons thought to have Greek or Armenian names, faced considerable difficulties entering the north. In August 2001, Turkish Cypriot authorities refused entry to a foreign government delegation, which included a Greek-surnamed foreign national, on the grounds that the delegation had not provided enough notice.

All visitors had to obtain a formal "TRNC visa" to enter the north. Maronites were charged the same fee of \$1.83 (1 Cyprus pound) each time they crossed. Requests to cross into the north had to be submitted 48 hours in advance.

Since 2000 Turkish and Turkish Cypriot forces operated a checkpoint in a location adjacent to the Greek Cypriot village of Strovilia and the British eastern SBA. Although access to Strovilia had been previously largely unimpeded, the checkpoint provided Turkish forces the ability to control the approach to the village. Despite protests from the UNFICYP and others, Turkish forces remained at the contested checkpoint at year's end in violation of the status quo. Turkish forces restricted UNFICYP movement, including refusing to allow the UNFICYP to operate a checkpoint in Kokkina.

In July 2000, the Government denied Turkish Cypriots land passage to Kokkina, a coastal area containing a Turkish Cypriot memorial and surrounded by government-controlled area. These visits were part of a 1997 reciprocal visit arrangement that also included travel to certain religious sites. In August and November 2000, Turkish Cypriot officials denied access to southern Greek Cypriots to visit one of these sites. Reciprocal visits have been suspended since 2000.

During the year, the Council of Europe continued to call on the Turkish government to comply with the ECHR's decision in 1996 calling for it to compensate a Greek Cypriot woman who was prevented from going to her property in northern Cyprus. The ruling reaffirmed the validity of property deeds issued prior to 1974. Approximately 80 similar cases filed by Greek Cypriots through the Office of the Attorney General against Turkey were declared admissible by the ECHR, but no judgments had been issued in any of the other cases by year's end. Reports indicated that other cases not filed through the Attorney General's Office may also be pending.

Turkish Cypriot authorities in the past had approved most applications for Turkish Cypriots to participate in bicomunal meetings in the U.N.-controlled buffer zone, but in December 1997, they suspended Turkish Cypriot participation in these meetings pending a reevaluation of bicomunal activities. The "suspension" soon became a defacto Turkish Cypriot ban on bicomunal contacts on Cyprus. However, since June 2000, Turkish Cypriot authorities eased the ban, and on a case-by-case basis allowed some Turkish Cypriots to participate in bicomunal events in and across the buffer zone.

Greek Cypriots still had to obtain a Turkish Cypriot "visa" to visit the north. Turkish Cypriot authorities also attempted to interfere with some bicomunal events taking place outside Cyprus by requiring civil servants to seek permission from their employer and the Turkish Cypriot "Ministry of Foreign Affairs" before they could participate. Enforcement of the policy has been inconsistent, with some public officials permitted to attend off-island bicomunal events. Private citizens have been allowed to travel to off-island bicomunal events.

In September the Turkish Cypriot Public Service Commission formally reprimanded five Turkish Cypriot teachers who went to Istanbul to participate in a bicomunal choir activity for traveling abroad and not being present for their duties without receiving permission from the authorities; the reprimand was placed in their personnel files and may affect their immediate opportunities for promotion.

In 2000 Turkish Cypriot authorities announced the easing of restrictions on the 417 Greek Cypriots and 147 Maronites living in the north. Turkish Cypriot authorities usually granted applications of Greek Cypriot residents in the north to visit the Government-controlled area. Visits to the south were limited to a total of 6 months per year. The applicants had to return within the designated period or they risked losing their right to return home and to keep their property, although this rule rarely was enforced in practice. Overnight stays by relatives of Greek Cypriots and Maronites living in the north also were limited to a "reasonable period" (to be determined by Turkish Cypriot authorities), with extensions possible. There were also reports that Turkish Cypriot authorities prevented unlimited travel to the north by family relatives. Greek Cypriots visiting from the south could not travel to the north in their personal vehicles; they were obliged to use taxis or buses and pay crossing fees of \$1.83 (1 Cyprus pound).

Similar restrictions existed for visits by Maronite residents of the north to the Government-controlled areas, but were applied much more loosely than those for Greek Cypriots, and Maronite travel is relatively unrestricted. Maronites whose rel-

atives live in the northern part may travel to the north in their own vehicles, but still had to pay crossing fees.

Turkish Cypriot authorities permitted school holiday and weekend visits for all full-time Greek Cypriot and Maronite students, regardless of age and gender, who moved south to continue their studies. However, male Greek Cypriot students must demonstrate they are not yet performing military duties. Greek Cypriots and Maronites resident in the north no longer require police permits for internal travel and may use private vehicles registered and insured in the north. Implementation of this policy has been inconsistent.

The Government generally cooperated with the office of the UNHCR. Cyprus continued to attract a growing number of asylum seekers (652 applications by November), many of whom arrived in small boats. Many claimed to be from the Middle East, including Iraq. These cases were referred to the Government's asylum unit, established on January 1 (implementing legislation was enacted on January 7). If given refugee status, the applicant was granted a 3-year residence permit renewable for an additional 3 years. If applicants met the criteria for refugee status, they were permitted to stay and were given temporary work permits. However, refugees generally were not granted permanent resettlement rights, although they were permitted to remain until resettlement in another country could be arranged.

The Government's asylum unit handled all cases submitted after January. All cases submitted before that date were handled by the UNHCR, whose decisions were considered binding by the Government. At year's end, there were approximately 900 cases pending before the UNHCR. A 130-bed detention facility to house arriving migrants until their cases are evaluated was constructed and will open once administrative and support staff have been hired.

In the north, cooperation between the Turkish Cypriot authorities and the UNHCR was uneven. During the year, working with the assistance of a local non-governmental organization (NGO), the UNHCR began examination of the asylum claims of four persons who entered the north in accordance with official procedures. Their case remained pending at year's end. Forty-four asylum seekers who arrived in the north without proper documentation were arrested and subsequently deported to their country of origin.

There were no reports of the forced return of persons to a country where they feared persecution.

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

Multiparty political systems exist throughout Cyprus. The Republic's Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Political parties competed for popular support actively and without restriction. Elections for the office of President are held every 5 years; in February 1998, President Clerides won reelection to another 5-year term. Elections for members of the House of Representatives are held every 5 years or less.

The basic law provides Turkish Cypriots living in northern Cyprus with the right to change their government peacefully, and they exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. A leader and a representative body are elected every 5 years or less; in December 1998, they chose a new "National Assembly." In April 2000, Rauf Denktash was named Turkish Cypriot leader after his opponent, "Prime Minister" Dervish Eroglu, withdrew between the first and second rounds of voting.

Under the 1960 Constitution, voting takes place on a communal basis. Since the breakdown in 1963 of bicomunal governing arrangements, and the 1974 de facto partition of the island, Turkish Cypriots living in the Government-controlled area were barred from voting there, although they may travel to the north to vote in elections. Similarly Greek Cypriots and Maronites living in the north are barred by law from participating in Turkish Cypriot elections; they are eligible to vote in Greek Cypriot elections but must travel to the south to exercise that right. Officials in the north representing Greek Cypriots and Maronites are appointed by the Government of Cyprus and are not recognized by Turkish Cypriot authorities.

In both communities, women faced no legal obstacles to participating in the political process. Women held some cabinet-level, judicial, and other senior positions. In the House of Representatives, women held 6 of 56 seats; in the "National Assembly" in the north, women held 4 of 50 seats.

In addition to their political voting rights, the small Maronite, Armenian, and Latin (Roman Catholic) communities also elected special nonvoting representatives from their respective communities who sat in the Government's legislative body.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

No restrictions prevent the formation of human rights groups. A number of NGOs in both areas of the island considered themselves human rights groups; however, they generally were concerned with alleged violations of the rights of their community's members by members of the other community. Groups with a broader human rights-related mission included organizations promoting awareness of domestic violence, and those concerned with allegations of police brutality. Representatives of international human rights organizations had access throughout the island. All of these groups generally operated without restrictions by the authorities, and officials were cooperative and responsive to their views.

The United Nations, through the autonomous tripartite (U.N., Greek Cypriot, Turkish Cypriot) Committee on Missing Persons in Cyprus (CMP), is attempting to resolve the problem of missing persons who remained unaccounted for after the intercommunal violence beginning in 1963–64 and the events beginning July 1974. The CMP made little progress due primarily to Turkish Cypriot reluctance to proceed without first fully accounting for those who may have been killed in internal Greek Cypriot fighting in July 1974, prior to the landing of Turkish forces on the island. In December 2001, the leaders of both communities met to discuss the missing and agreed to redouble efforts to resolve the issue in cooperation with the CMP. As part of the direct talks that began in January, the two leaders exchanged several documents, but did not progress beyond this exchange.

Since June 1999, the Government has conducted exhumations of gravesites in the south that were thought to contain the remains of persons missing since 1974. By year's end, the remains of 127 Greek Cypriots were identified through DNA testing. Of those, 31 were listed among those missing since 1974. The remaining 96 were known to be dead, but the location of their graves previously was unknown. The Turkish Cypriot authorities did not cooperate in this DNA identification effort. In July 2000, the Government released a list of 1,493 missing Greek Cypriots whose cases were submitted to the CMP for investigation.

In May 2001, the ECHR ruled that the Government of Turkey was responsible for continuing human rights violations against Greek Cypriots missing since the 1974 Turkish military intervention and their surviving relatives. The ECHR declined jurisdiction to examine some of the Government's complaints regarding the violation of rights of Turkish Cypriots, ruling that such persons could and should first exhaust domestic remedies provided by Turkey through judicial bodies established in the north.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

Laws in both communities provide for protection against discrimination based on sex or national, racial, or ethnic origin. While each community generally respected such laws, serious problems remained concerning the treatment of the Greek Cypriots and Maronites living in the north and, to a lesser extent, concerning the treatment of Turkish Cypriots living in the Government-controlled area.

*Women.*—Spousal abuse in the Government-controlled area was a problem and continued to receive increased attention. An NGO formed to address domestic abuse reported an increase of 38 percent in the number of cases handled during the year, compared to 2001. Women constituted 81 percent of the reported victims, children 10 percent, and men 9 percent. However, the NGO noted that the 2001 figures were unreliable due to short staffing of the NGO's hot line. A small professional staff ran the NGO and relied on a volunteer staff to answer calls received by its hot line. The NGO also operated a shelter for battered women and children in Nicosia, which served 38 women and 30 children during the year, a 26 percent increase in women and 33 percent increase in children sheltered compared to 2001.

The law makes family violence easier to report and prosecute and provides that the testimony of minors and experts such as psychologists may be used as evidence to prosecute abuses. The law also provides for prison terms for the abuse of family members. Many suspected cases of domestic violence did not reach the courts, largely because of family pressure and wives' economic dependence on their husbands. Very few cases tried in the courts have resulted in convictions.

Domestic violence in the Turkish Cypriot community was reportedly a problem, but little public discussion of such violence occurred. Domestic violence cases were rare in the Turkish Cypriot legal system, since they are typically considered a "family matter."

"Honor" crimes, in which women are victimized and even killed by relatives for alleged acts that "dishonor" the family, have not occurred for many years in either the Government-controlled area or in the Turkish Cypriot community. No "honor" crime-related deaths or injuries were reported on the island during the year.



Republic of Cyprus law does not prohibit “voluntary” prostitution; however, sexual exploitation and trafficking of adults and children is a felony. Reports continued to come from credible sources that women were trafficked for sexual exploitation and forced into prostitution in both communities (see Section 6.f.).

The Greek Cypriot press reported on the mistreatment of some maids and other foreign workers (see Sections 6.c. and 6.e.).

There is no law against sexual harassment in the Government-controlled area. Although prohibited by law in the north, sexual harassment was not discussed widely, and any such incidents largely were unreported. Throughout Cyprus, women generally had the same legal status as men. Both Greek and Turkish Cypriot women married to foreigners have the right to transmit citizenship automatically to their children.

A 1998 Turkish Cypriot law on marriage and divorce provides for more equal treatment of husbands and wives. Under the law, the man no longer is considered the legal head of family and does not have the exclusive right to decide the family's place of residence. The wife may retain her surname, but must also add the husband's surname. Turkish Cypriot women may marry non-Muslim men. In cases of divorce, the court decides on a fair distribution of the family's assets, with each partner assured a minimum of 30 percent. In dividing assets, the judge must take into account which partner is receiving custody of the children and provide sufficient means to support them.

Legal provisions in both the Government-controlled area and the Turkish Cypriot community that require equal pay for men and women performing the same job were enforced effectively at the white collar level, but Turkish Cypriot women in the north employed in the agricultural and textile sectors routinely were paid less than their male counterparts.

*Children.*—Both the Government and the Turkish Cypriot authorities were strongly committed to children's rights and welfare; they fund public education and health care for those who cannot afford it. In the Government-controlled area, approximately 85 percent of the population was eligible to receive public health care. There was no difference in the health care and educational opportunities available to boys and girls. In the Government-controlled areas, free education was available at all levels through the age of 18. Education was compulsory up to the age of 15 or completion of secondary school. In the Turkish Cypriot community, education through the age of 15 was free and compulsory.

Despite improvements in living conditions for Greek Cypriots and Maronites, there were no Greek-language educational facilities beyond the elementary level in the north. For this reason, parents often were forced to choose between keeping their children with them, or sending them to the south for further education. In this case, Turkish Cypriot authorities did not permit these children to return to live permanently in the north.

Turkish Cypriot authorities screened all textbooks sent from the south to Greek Cypriot elementary schools in the north, which caused lengthy delays in their distribution, and shortages of up-to-date textbooks. The Government reported that Turkish Cypriot authorities removed pages from textbooks sent from the south. In August 2001, a request by the Government to send a fourth teacher to the Greek Cypriot school in the north was rejected by Turkish Cypriot authorities.

There was no societal pattern of abuse of children.

*Persons with Disabilities.*—In Cyprus persons with disabilities did not generally face discrimination in education or the provision of state services. In the Greek Cypriot community persons with disabilities who apply for a public sector position are entitled to preference if they are deemed able to perform the required duties and if their qualifications are equal to those of other applicants. The law provides for equal opportunities for persons with disabilities, which includes regulations promoting equal opportunities in the areas of employment, transportation, and recreation. In the Turkish Cypriot community, regulations require businesses to employ 1 person with disabilities for every 25 positions they fill, although enforcement was inconsistent.

The law in the Greek Cypriot community mandates that new public buildings and tourist facilities be accessible to all, although little has been done to enforce the law, despite the enactment in 2000 of relevant regulations. While there is increasing awareness of the issue of accessibility to public buildings for persons with disabilities, the Turkish Cypriot authorities have not enacted legislation to mandate access to public buildings and other facilities for persons with disabilities.

*National/Racial/Ethnic Minorities.*—Constitutional or other legal mechanisms prohibit discrimination in both communities. The 1975 Vienna III Agreement remains the legal basis covering the treatment of Greek Cypriots and Maronites living

in the north, and Turkish Cypriots living in the south. The agreement provides for the voluntary transfer of populations, free and unhindered access by the UNFICYP to Greek Cypriots and Maronites living in the north, and Turkish Cypriots living in the south, and facilities for education, medical care, and freedom of religion. In practice, noncompliance with some of the provisions of the Vienna III Agreement by Turkish Cypriot authorities made daily life difficult for Greek Cypriots and Maronites living in the north. At year's end, there were 417 Greek Cypriots and 147 Maronites resident in the north.

Government of Cyprus figures for the number of Turkish Cypriots living in the Government-controlled area range from 360 (in the 2001 census) to 1,204 (according to the Ministry of Interior). Some of the Turkish Cypriots living in the Government-controlled area faced difficulties in obtaining identification cards and other government documents, especially if they were born after 1974. Turkish Cypriots reportedly were subjected to surveillance by the Greek Cypriot police (*see* Section 1.f.). However, they made few formal complaints to UNFICYP about their living conditions in the south.

UNFICYP access to Greek Cypriots and Maronites living in the north remained limited. Despite improvements in living conditions for Greek Cypriots and Maronites, no Greek-language educational facilities for Greek Cypriot or Maronite children in the north exist beyond the elementary level (*see* Section 5). Both Greek Cypriots and Maronites living in the north were unable to change their place of residence at will. Although the Vienna III Agreement provides for medical care by a doctor from the Greek Cypriot community, only care provided by a Turkish Cypriot doctor registered with Turkish Cypriot authorities was permitted. Additional telephone lines have been installed for Greek Cypriots living in the north, although they, like Turkish Cypriots, must pay higher, "international" fees to make calls to the south.

Maronites continued to lack some public services available in most other Turkish Cypriot areas. Greek Cypriots and Maronites resident in the north were still unable to leave property to heirs residing in the south.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—All workers except for members of the police and military forces have the legal right to form and join trade unions of their own choosing without prior authorization; however, in the Government-controlled area, police officers were permitted only to join associations that have the right to bargain collectively but not to go on strike. More than 70 percent of the Greek Cypriot workforce belonged to independent trade unions. Approximately 50 to 60 percent of Turkish Cypriot private sector workers, and all public sector workers, belonged to labor unions.

In the Turkish Cypriot community, union officials alleged that various firms were successful in establishing "company" organizations and then pressing workers to join these unions. Officials of independent labor unions also accused the Turkish Cypriot authorities of creating rival public sector unions to weaken the independent unions.

In both the Government-controlled area and the Turkish Cypriot community, trade unions freely and regularly took stands on public policy issues affecting workers and maintained their independence from the authorities. Two of the major trade unions, one in each community, were affiliated closely with political parties. Both of the other major unions were independent.

Antiunion discrimination is not illegal in the Turkish Cypriot community. Union leaders contended that private sector employers were able to discourage union activity because the enforcement of labor regulations was sporadic, and penalties for antiunion practices were minimal. As in the Government-controlled area, parties to a dispute may request mediation by the authorities. Antiunion discrimination is illegal in the Government-controlled area.

Unions in both parts of Cyprus may and did affiliate with international trade union organizations, although Greek Cypriot unions sometimes objected to recognition of Turkish Cypriot unions formed after 1963.

*b. The Right to Organize and Bargain Collectively.*—By law trade unions and confederations are free to organize and bargain collectively throughout Cyprus. This right was generally observed in practice in the Government-controlled areas, and most wages and benefits were set by freely negotiated collective agreements; however, Greek Cypriot collective bargaining agreements were not enforceable. In the rare instances in which persons claimed that such agreements were infringed upon, the Ministry of Labor has been requested to investigate. If the Ministry is unable to resolve the dispute, the union may call a strike to support its demands.

In the Turkish Cypriot community, wage levels were reviewed several times a year for both private and public sector workers, and a corresponding cost-of-living raise was established. A special commission composed of five representatives each from organized labor, employers, and the authorities conducted the review.

All workers have the right to strike; however, in the northern part of the island, employers have an unrestricted right to hire replacement workers in the event of a strike, thereby limiting the effectiveness of the right to strike. In addition, authorities in both the Government-controlled area and the Turkish Cypriot community have the power to curtail strikes in "essential services," although this power was used rarely in practice. There were no major strikes during the year.

Small export processing zones (EPZs) existed in the port of Larnaca and in Famagusta; the laws governing working conditions and actual practice in the EPZs are the same as those outside the zones.

*c. Prohibition of Forced or Bonded Labor.*—Laws prohibit forced or bonded labor throughout the country, including by children. Foreign maids and illegal foreign workers reportedly were subject to the nonpayment of wages and the threat of deportation (see Section 6.e.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—In both the Government-controlled area and the Turkish Cypriot community, the minimum age for employment in an "industrial undertaking" is 16 years of age. Turkish Cypriots may be employed in apprentice positions at the age of 15. There were labor inspectors in both communities who enforced the law effectively. However, in family-run shops it was common for younger children to work after school, and according to press reports, children as young as 11 or 12 years of age worked in orchards during their school holidays in the Turkish Cypriot community.

In 2001 a law enacted by the Government updated provisions of previous legislation in line with the EU "acquis." The new legislation significantly increased fines for child labor abuses and added regulations that deal with culture, sports, and advertising.

*e. Acceptable Conditions of Work.*—The legislated minimum wage in the Government-controlled area, which is reviewed every year, was approximately \$538 (294 Cyprus pounds) per month for shop assistants, practical nurses, clerks, hairdressers, and nursery assistants. The wage rose to \$581 (318 Cyprus pounds) after 6 months' employment. Neither amount was sufficient to provide a decent standard of living for a worker and family. Unskilled workers typically earned about \$475 (260 Cyprus pounds) per month, which was barely adequate to support a family. All other occupations were covered under collective bargaining agreements between trade unions and employers within the same economic sector, and the wages set in these agreements were significantly higher than the legislated minimum wage (see Section 6.b.). The legislated minimum wage in the Turkish Cypriot community, while subject to frequent review because of high inflation, was approximately \$238 (380 million Turkish lira) per month at year's end. This amount was insufficient to provide a decent standard of living for a worker and family.

In the Government-controlled area, the legal maximum workweek in the private sector was an average of 39 hours for white-collar workers and 38 hours for blue-collar workers. In the public sector, it was 38 hours during the winter and 35 hours in the summer. In the Turkish Cypriot community, the legal maximum workweek was 38 hours in the winter and 36 hours in the summer. Labor inspectors effectively enforced these laws.

Steps have been taken to improve health and safety standards in the workplace in the Government-controlled area. A 1997 law harmonized health and safety standards with those in the EU. The law incorporates EU principles and standards for health and safety in the workplace and complies fully with the 1981 International Labor Organization convention on occupational health and safety. A second 1997 law requires employers to provide insurance liability coverage for work-related injuries. According to labor union officials, these laws were enforced effectively.

Occupational safety and health regulations were enforced sporadically in the Turkish Cypriot community. In both the Government-controlled and the Turkish Cypriot areas, factory inspectors processed complaints and inspected businesses in order to ensure that occupational safety laws were observed. Workers in the Government-controlled area may remove themselves from dangerous work conditions without risking loss of employment. Turkish Cypriot workers who file complaints do not receive satisfactory legal protection and may face dismissal.

There were reports about the mistreatment of maids and other foreign workers in the Greek Cypriot press. Such reports usually involved allegations that maids, often from East or South Asia, were mistreated by their employers or fired without cause in violation of their contracts. Many women did not complain to authorities,

fearing deportation. A law passed in 2001 protects domestic workers who file a complaint with the Labor Ministry from being deported until their cases have been adjudicated.

A significant percentage of the labor force in the north consisted of illegal migrants, mostly from Turkey. According to some estimates, illegal workers constituted as much as 10–15 percent of the total work force there. There were frequent allegations that such workers were subject to mistreatment, including the non-payment of wages and threats of deportation.

*f. Trafficking in Persons.*—The law in the Government-controlled area criminalizes trafficking, but the regulations in the Turkish Cypriot community do not specifically prohibit trafficking. During the year, there continued to be credible reports that women were trafficked into both communities for the purpose of prostitution.

In 2000 the Cypriot legislature passed a law making it a felony to engage in the sexual exploitation and trafficking of adults (with or without their consent) and children. The law provides for punishment of up to 20 years' imprisonment for trafficking. There were no reported convictions during the year; however, three individuals were charged with trafficking ("exploitation") under the new law in 2001, and their cases were pending at year's end. A holdover from British preindependence law makes it illegal in both communities to procure a woman for prostitution, although the crime is only a misdemeanor. During the year, the office of the Ombudsman began preparing a report on trafficking in persons in Cyprus, to be published in 2003.

In January 2000, the Turkish Cypriot "National Assembly" passed a law designed to regulate the hiring of women in nightclubs, including penalties for women and employers who engage in prostitution; the law does not prohibit trafficking. Turkish Cypriot authorities denied the existence of trafficking, and no resources specifically were earmarked to combat it. While past corruption among law enforcement and immigration personnel was an obstacle to the effective policing and prevention of trafficking in both communities, the Government and the Turkish Cypriot authorities have increased their focus on combating and preventing trafficking.

Traffickers in Eastern Europe recruited young women for prostitution in the Government-controlled area. The women came principally from Ukraine, Romania, Moldova, Russia, and Bulgaria. Most of them entered the country on temporary 3-month work permits. In some instances, the women reportedly were forced to surrender their passports or stay beyond the period of their work permits, and in some cases, they reportedly were not paid their full salaries. A similar pattern existed in the recruitment and hiring of Eastern European women to work in the Turkish Cypriot community, and reports persisted regarding coercion of nightclub workers, such as the confiscation of their passports. Estimates on the extent of the problem were difficult to obtain.

The law obligates the State to provide protection and support for victims. The Government made some efforts to protect women who brought complaints against employers by allowing them to remain in the country to press charges, or by facilitating their return home. Under the law, the Government must also provide shelter, medical, and psychiatric care until the victims have recovered from the trauma of their experiences. The Government reported receiving complaints against employers for exploitation. While the cases were pending, the women stayed in Cyprus at government expense. However, by year's end, all had chosen to leave Cyprus just before the trial date, and the Government was left each time with no witnesses.

Persons convicted of trafficking may be required by the court to pay for this provision of shelter and medical care, in addition to any repatriation costs. The Government may appoint a guardian for victims to advise and give counsel, and to represent the victim with the appropriate government agency. Victims may sue traffickers for damages. There were no similar legal provisions in the Turkish Cypriot community; consequently, many of the women were reluctant to press charges, fearing retaliation by employers or deportation.

NGOs that protect the rights of women and immigrant workers were available to assist victims of trafficking; however, they reported that they rarely received any requests for assistance.

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## CZECH REPUBLIC

The Czech Republic is a constitutional parliamentary democracy with a bicameral Parliament. Following elections in June, Prime Minister Vladimir Spidla's left-of-center Social Democrat Party joined forces with the centrist Christian Democrat and center-right Freedom Union parties to form a coalition government that placed the

right-of-center Civic Democrat Party and the Communists in opposition. Spidla's coalition held a one-seat majority in Parliament. President Vaclav Havel, in his second 5-year term, had been in office since 1993. The Constitution provides for an independent judiciary, but the judiciary was somewhat hampered by structural and procedural deficiencies and a lack of resources.

The Ministry of the Interior oversaw the police. The civilian internal security service, known as the Security and Information Service (BIS), reported to the Parliament and the Prime Minister's office through the Foreign Minister, who was a Deputy Prime Minister. Police and BIS authorities generally observed constitutional and legal protection of individual rights in carrying out their responsibilities. However, some members of the police committed some human rights abuses.

The economy was market-based, with over 80 percent of the gross domestic product (GDP) produced by the private sector. The country's population was approximately 10.3 million. The economy grew by approximately 2 percent during the first half of the year. Inflation decreased to 2 percent, while unemployment increased to 10 percent. The workforce was employed primarily in industry, retail trade, and construction.

The Government generally respected the human rights of its citizens; although there were a few problems in some areas, the law and judiciary provided effective means of dealing with individual instances of abuse. Occasional police violence and use of excessive force remained a problem. Long delays in trials were a problem, due to structural and procedural deficiencies as well as a lack of resources for the judicial system. There were some limits on freedom of association for groups that promoted racial hatred and intolerance. There was some violence and discrimination against women. Violence against children remained a problem. Discrimination and occasional skinhead violence against Roma remained problems. There were reports that employers attempted to prevent the formation of collective bargaining agreements. Trafficking in women and children was a problem. Reform of the country's political and economic structure led to an invitation in December to join the European Union (EU) in May 2004. The Czech Republic was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

Investigations continued in unresolved cases from previous years, including the 1967 killing of Charles Jordan, in which involvement of the Czechoslovak state security service was suspected.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there were reports that police occasionally used excessive force.

In April 2001, a police officer in Ostrava was charged with assaulting a suspect during questioning; the officer was not suspended, and remained on the force pending the outcome of the case, which was ongoing at year's end.

On March 1, five police officers were suspended and formally charged with racially-motivated violence and abuse of power in the 2001 beating of a Rom in Karlovy Vary; the five were awaiting trial at year's end. At times individual police officers reportedly failed to take sufficient action in cases of threats or attacks against Roma. However, in general, the police continued to treat such incidents in a more serious and professional manner than in the past (*see* Section 5).

A lawsuit filed by a protestor after the September 2000 protests against the International Monetary Fund and the World Bank alleged that police had beaten and otherwise mistreated him during his detention remained pending at year's end.

The Office for the Documentation and Investigation of the Crimes of Communism (UDV) continued to investigate cases of torture and misconduct from the Communist era (*see* Section 1.e.). The case of two former secret police officers accused of torturing dissident Vladimir Hucin remained under investigation at year's end.

Skinhead violence against Roma and other minorities remained a problem (*see* Section 5).

Prison conditions generally met international standards. There was overcrowding in many prisons; however, overcrowding declined during the year. By mid-year the prison system was at 93 percent of capacity, with the total number of prisoners at 16,512. The ratio of prisoners to prison guards was approximately three to one.

Women and men were held separately, juveniles were held separately from adults, and pretrial detainees were held separately from convicted prisoners. Attorney and family visits were permitted. The authorities followed these guidelines in practice.

On October 1, a new facility allowing female prisoners to care for their infants while incarcerated was opened within the Světa nad Sázavou prison. The unit accommodates 15 prisoners and their three-year-old and younger children. In exceptional cases, female prisoners were also allowed to care for their 4 and 5-year-old children at the facility.

The Government permits visits by independent human rights observers.

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

Lengthy pre-trial detention and long delays in trials were problems. Police may hold persons without charge for up to 48 hours, during which time they have the right to counsel. The law does not allow bail for certain serious crimes. Under the law, pre-trial detention may last no longer than 4 years and then only for cases considered “exceptionally grave” under the Criminal Code. Pre-trial detention for most crimes may last as long as 2 or 3 years, with mandatory judicial review intervals beginning at the end of the first 6 months of detention. If the court did not approve continued detention during a judicial review, the suspect must be released. In practice few pre-trial detainees were held for longer than 2 years. As of September, the average length of pre-trial detention was 81 days. A suspect may petition the appropriate investigating authorities at any time for release from detention.

The law prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, structural and procedural deficiencies, as well as a lack of training and resources hampered the effectiveness of the judiciary.

A judicial reform law took effect on April 1 that provides for term limits of 10 years for Constitutional Court judges, a mandatory retirement age of 70 for all judges, and measures to streamline the judicial process. A provision mandating continuing education and evaluation of judges was struck down by the Constitutional Court in July for infringing upon the independence of the judiciary.

The court system consists of district, regional, and high courts. The Supreme Court is the highest court of appeal. The separate Constitutional Court has final authority for cases concerning the constitutionality of legislation. Under the terms of the new law, the President was the appointing authority for all judges, and judges who had at least 10 years’ experience as lawyers were eligible for appointment to the Supreme Court.

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants have the right to be informed of their legal rights and of the charges against them, to consult with counsel, and to present a defense. The State provided lawyers for indigent defendants in criminal and some civil cases through the bar association. All defendants enjoy a presumption of innocence and have the right to refuse to testify against themselves. They may appeal any judgments decided against them. However, the lack of experienced police investigators and qualified judges combined with a still-evolving legal environment contributed to a backlog of court cases. As of July, the Ministry of Justice reported that there were 391 judges and 268 prosecutors needed to fill vacant positions; 395 judges and 113 prosecutors had been identified to fill these empty positions and were undergoing training at that time.

The UDV continued to investigate as criminal acts some actions taken by state authorities and the Communist Party during the 1948–1989 Communist regime. The UDV, an independent part of the Czech Police Office of Investigations, was empowered to launch and conduct prosecutions and to propose the filing of suits to State Attorney’s offices. As of July, the UDV had launched the prosecution of 171 persons in 84 separate criminal cases. Nine of those were sentenced; five were placed on probation, and four received unconditional sentences, the longest of which was 5 years’ imprisonment. Approximately 2,000 investigations were dropped because of the death of suspects or witnesses, various presidential amnesties, or statutes of limitation.

The UDV continued to work with Charles University to prepare “moral trials” to discuss crimes whose perpetrators could not be punished because of their death or a statute of limitation. It targeted primarily cases of torture (*see* Section 1.c.); border shootings; treason (connected with the 1968 Warsaw Pact invasion of Czechoslovakia); state repression of opponents of the Communist regime; and investigation of Czech authorities whose negligence caused exposure of citizens to hazardous waste from the nuclear accident in Chernobyl. Although the statute of limitations

for many of the Communist-era crimes under investigation by the UDV had been set to expire in 2000, in December 1999, Parliament voted to suspend the statute of limitations for serious crimes committed during the Communist regime, enabling the UDV to continue investigating these cases. The Interior Ministry extended the UDV's mandate indefinitely and lengthened the period covered to include 1945–1948.

On July 25, Lubomir Strougal, former Czechoslovak Premier and Interior Minister, was acquitted of charges of interference with murder investigations during the Communist regime to protect members of the secret police.

On September 23, former Communist officials Milos Jakes and Jozef Lenart were acquitted on charges of treason and subversion for their complicity with the Soviet Union following the 1968 Warsaw Pact invasion of Czechoslovakia. In December 2001, charges of treason and subversion were filed against Communist-era judge Pavel Vitek for his role in Communist show trials. His case was pending at year's end.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice. Electronic surveillance, the tapping of telephones, and the interception of mail required a court order, and violations were subject to effective legal sanction.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. Individuals could and did speak out on political topics and freely criticized the Government and public figures.

In separate decisions early this year, the courts rejected both a criminal complaint filed by the Government in November 2001 against Petr Holub, the publisher of the magazine *Respekt*, and a lawsuit filed by then-Minister of Trade and Industry Miroslav Gregr. Holub had accused the then Prime Minister of corruption in a 2001 article.

The print media were varied and independent and published without interference by the Government; however, there were restrictions on certain types of propaganda. In addition, the editorial staffs of many newspapers were viewed widely by the public and politicians as favoring certain political parties. There were four national newspapers and two national tabloids, along with numerous regional and local newspapers. There were also many magazines and journals that covered a wide spectrum of topics. Various Czech and foreign investors owned the print media.

The electronic media were independent. There were three national television stations: One public (with two separate channels) and two private, and more than 61 private radio stations, in addition to Czech Public Radio. A third private television station, TV3, ceased operations in January following a protracted battle among its investors over control of the company. The leading television channel, Nova, was privately owned. Citizens also had access to foreign broadcasts via satellite, cable and the Internet. The State funded television and radio programs for Roma on public stations, and also supported Romani publications.

A 13-member Council for Radio and Television Broadcasts had limited regulatory responsibility for policy-making and answered to the parliamentary media committee, which exercised broad oversight of the Council and had to approve its members. The Council could issue and revoke radio and television licenses and monitored programming.

There was also a nine-member Czech Television (CTV) Council charged with oversight of public Television.

In the closely watched case of journalist Zdenek Zukal, Zukal continued to face three charges of criminal libel for reporting that police had provided false information in their investigation of high-level corruption in Olomouc. In December 1999, Zukal was charged with slander for publishing documents he knew, or should have known to be forgeries. One day before a planned presidential pardon, local authorities changed the charge to false accusation. Zukal's trial was delayed when the presiding judge was removed from the case in January for bias, after an appeal to a higher court. The case remained ongoing at year's end.

The Penal Code imposes prison terms of between 6 months and 3 years on persons who denied the Nazi Holocaust or the Communist genocide had taken place. The law also outlawed the incitement of hatred based on race, religion, class, nationality, or other group.

In August 2001, authorities brought charges against a Communist activist for supporting a movement leading to the suppression of citizens' rights and freedoms and inciting panic and criminal slander. The accused had repeatedly called for impo-

sition of a dictatorship of the proletariat, nationalization of industry and capital, and a return to Communist rule. He had also labeled several prominent politicians "criminals and traitors." The case remained pending at year's end.

In September 2001, the Republican Party filed a similar criminal complaint against the League of Ethnic Minorities over a series of public service announcements using humor to discredit far-right and neo-Nazi supporters. The complaint was later dismissed for lack of merit.

A Freedom of Information law provided for freedom of access to information under the control of state and local authorities as well as other institutions, and citizens exercised this right in practice.

Citizens also had access to foreign broadcasts via satellite, cable, and the Internet. The Government did not restrict or monitor access to the Internet.

The law provides for academic freedom, but forbids activities by established political parties at universities.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the freedom of assembly, and the Government generally respected this right in practice; however, it may legally restrict assemblies that promoted hatred and intolerance, advocated suppression of individual or political rights, or otherwise jeopardized the safety of participants. Permits normally were required for demonstrations, but police generally did not interfere with spontaneous, peaceful demonstrations.

During the year, skinhead groups organized rallies and protests. In keeping with the Interior Minister's publicly stated displeasure with such events, the police closely monitored skinhead and neo-Nazi activities. The cases of eight persons arrested in May 2001 in connection with a skinhead concert that took place in April of that year were still pending at year's end. Four were accused of "supporting and promoting movements designed to suppress civil rights and freedoms." The other four were accused of "publicly expressing sympathies for fascism" (see Section 5).

The law forbids political party activity of any kind at universities (see Section 2.a.).

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Organizations, associations, foundations, and political parties were required to register with local officials or the Interior Ministry, but there was no evidence that this registration was either coercive or arbitrarily waived.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The State subsidized all religions that were registered officially with the Ministry of Culture. To register, a religious group must have at least 10,000 adult members permanently residing in the country. For any religious group already recognized by the World Council of Churches, only 500 adult members permanently residing in the country were required.

On January 1, the Law on the Freedom of Religious Belief and on the Status of Churches and Religious Societies entered into force. The law creates a two-tiered registration system, establishing the membership requirement for the first tier (non-profit religious association with limited tax benefits) at 300, and setting the membership requirement for the second tier (full religious association with benefit of state funding and property rights) to approximately 10,000. The new law also imposes a 10-year observation period on all first-tier organizations wishing to obtain second-tier status. Under the old law, registered churches groups would automatically receive second-tier status.

Several unregistered religious groups have criticized the law because they believe that it is prejudicial against smaller religions. Some critics also argued that complete registration at the second tier would be difficult to attain due to the 10-year observation period. By year's end, two groups had registered under this new law, and three applications were pending. In November the Constitutional Court issued a decision striking down a part of the law which had barred churches from using the profits from church-owned enterprises for religious activities.

Unregistered religious groups, such as the small Muslim minority, could not own community property legally, although they were otherwise free to assemble and worship in the manner of their choice. Their members could and did issue publications without interference.

Missionaries must obtain a long-term residence and work permit if they intend to remain in the country for more than 30 days.

A small but persistent and fairly well-organized extreme rightwing movement with anti-Semitic views still existed in the country. The Ministry of Interior continued a forceful effort to counter the neo-Nazis, which included increased monitoring of their activities, closer cooperation with police units in neighboring countries, and



concentrated efforts to shut down unauthorized concerts and gatherings of neo-Nazi groups.

On June 26, a smoke bomb was thrown through the window of a bookshop in Liberec, where the country's Chief Rabbi was attending a public meeting. No arrests had been made by year's end.

On June 30, vandals defaced a newly unveiled memorial to Jewish victims of the Holocaust in Karlovy Vary. Red paint was sprayed on the memorial and anti-Semitic posters were left at the scene. On July 18, police in Jihlava destroyed dozens of posters bearing neo-Nazi insignia and messages.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice. Since 1997, when over 1,200 Roma submitted applications for refugee status in Canada and the United Kingdom, Roma continued to emigrate in significant numbers. During the year, many Roma families in the Ostrava area made public their intention to emigrate. Some Roma activists stated that the motive for the increased emigration was fear of racist violence and discrimination (see Section 3); however, others (including some within the Roma community) believed the Roma were emigrating for economic reasons.

On August 1, the Prime Minister issued an unprecedented call for Roma to remain in the country and work with the Government and majority population to address their economic and social problems.

Continued high numbers of Czech Roma seeking asylum in the United Kingdom during the year led to continuation of pre-inspection controls at Prague's international airport. Roma activists in the United Kingdom criticized the controls as "racist" because they appeared to target Roma.

In July 2001, the Romani Civic Initiative and the Democratic Union of Roma filed a lawsuit with the Czech Constitutional Court against the Government, charging the Government with inciting racial and ethnic hatred. The groups alleged that the selective screenings by British officials at Prague's Ruzyně airport restricted the right to travel for Roma. They also alleged that many Roma had been denied permission to fly to the United Kingdom based on their ethnicity alone since the checks began. The case remained pending at year's end.

Czechs who emigrated during the period of Communist rule frequently returned to visit or live. The law permits these individuals to regain citizenship without having to relinquish the foreign citizenship that they acquired during their absence. The law also provides for former Czechoslovak citizens who have lived in the country since 1993 to reclaim citizenship by simple declaration. Citizenship was not revoked for political reasons.

As of the end of 1999, the Government granted citizenship to 3,200 former citizens of Slovakia and 564 former citizens of other countries. The new citizenship law passed in September 1999 enabled thousands more Slovaks to become citizens (see Section 5).

The law includes provisions for the granting of refugee and asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. A legal and institutional framework was in place for the processing of requests for refugee and asylee status. A law on asylum that entered into effect in 2000 expedited refugee processing by establishing a list of "safe countries of origin" from which applicants are unlikely to be granted refugee status, providing financial support for towns with refugee camps, and increasing access to legal advice for asylum-seekers. Amendments to the asylum law that took effect in November 2001 expedited the process and made it more difficult for economic migrants to obtain asylum. No independent body had been established to handle the appeals of those denied refugee status. The Government provided first asylum and cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees.

As of May, 3,260 asylum requests had been processed during the year. Persons from Ukraine, Vietnam, Moldova, Armenia, Georgia, Iraq, Romania, and India submitted the most asylum requests during the first half of the year. In 2001 more than 18,000 requests for refugee status were filed and 83 claims were approved.

The Government fully funded an integration program to assist those granted refugee status in locating housing and receiving other social assistance. Two reception centers, six camps, and six integration centers were provided for recognized refugees. The country was both a transit point and destination for illegal migrants. Migrants from economically disadvantaged countries in Central and Eastern Europe often entered the country to take up illegal residency or to transit to other countries. As of July 1, border guards reported 7,639 illegal entry attempts. A growing concern

was the smuggling of large groups of refugees and economic migrants into and across the country. No specific laws criminalize alien smuggling. The number of illegal migrants detained by Czech authorities through September was roughly the same, compared with the same period in 2001. Illegal migrant groups were composed primarily of persons from Romania, Moldova, Ukraine, Afghanistan, India, Iraq, Georgia, Armenia, and Vietnam. A 1999 law on residence and visas tightened considerably previous rules for change of status and extension of stay and required visas in advance for everyone but tourists.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Citizens over the age of 18 were eligible to vote by secret ballot in national, regional, and local elections.

In July the Government of Prime Minister Vladimir Spidla took office. The Government consisted of the Prime Minister's left-of-center Social Democrat party, the centrist Christian Democrat Party, and the center-right Freedom Union Party. The opposition consisted of former Prime Minister Vaclav Klaus' right-of-center Civil Democratic Party and the Communist Party. The Constitution mandates elections to Parliament at least every 4 years based on proportional representation. To enter Parliament, a political party must obtain 5 percent of the votes cast in the election. Coalitions must obtain 5 percent of the votes per party (i.e., a three-party coalition would have to receive 15 percent of the votes cast) to enter Parliament). The President was elected by Parliament and serves a 5-year term. The President has limited constitutional powers, but may veto legislation and return it to the Chamber of Deputies, which then may override that veto by a simple majority of all members.

The law provides for the formation of political parties. Opposition groups, including political parties, functioned openly and participated without hindrance in the political process. Citizens may join political organizations or vote for the political party of their choice without government interference. Political parties must register with the Ministry of the Interior. In November the Interior Ministry registered the National Party following an order of the Supreme Court. The Ministry had previously denied the right-wing party registration because its position did not uphold constitutional principles.

Either the Government or the President may submit a proposal to the Supreme Court calling for a political party to be disbanded.

A citizenship law passed in September 1999 remedied the situation for some individuals (predominantly Roma) who lacked voting and other rights due to restrictions under the previous citizenship laws. These individuals were enfranchised under the former Czechoslovakia, but were unable to obtain Czech citizenship at the time of the split with Slovakia, despite birth or long residency in the Czech Republic (see Section 5). Non-resident Czechs may vote in national elections.

The 1991 "Lustration" (vetting) Law barred many former Communist Party officials, members of the People's Militia and suspected secret police collaborators from holding a wide range of elected and appointed offices, including senior appointed positions in State-owned companies, academia, and the media. In 1995 Parliament extended this legal constraint to 2000, overriding a veto of President Havel. In November 2000, the Chamber of Deputies extended the validity of the law over the veto of President Havel until new civil service and security laws could be passed and implemented. Parliament passed a civil service reform law, which will take effect in January 2004.

The extended law exempted persons born after December 1, 1971 from the lustration process, an exemption not included in the earlier version of the law. Some private employers also required applicants to produce lustration certificates proving non-collaboration. At year's end, the special section of the Interior Ministry handling lustration requests had processed 7,280 lustration certificates. Since the beginning of the lustration process in 1991, approximately 3 percent of applications did not receive confirmation of a clear record. The lustration law remained on the books. Those who did not receive confirmation of a clear record could file a civil suit against the Interior Ministry for a charge similar to slander; however, no such suits were filed during the year. During the year, the European Commission again noted the need to eliminate the law.

The 200 member Chamber of Deputies had 34 female Deputies, including two Deputy Speakers. There were 10 female Senators in the 81-member Senate. The new government had two female Cabinet members: Petra Buzkova (Minister of Edu-

cation) and Marie Souckova (Minister of Health). In June Hana Marvanova resigned as head of the Unie Svobody (Freedom Union) party after becoming the first female head of a parliamentary party a year earlier. Slovaks, of whom there were an estimated 300,000, were almost all "Czechoslovaks" who elected to live in the Czech Republic after the split. For the most part, these Slovaks defined their interests in the context of national politics, not along ethnic lines; there was no Slovak party in Parliament. Most of the estimated 150,000–175,000 Roma were not fully integrated into political life (see Section 5). Roma were not united in support of any specific program or set of goals to advance their interests within the political processes of the country. Few Roma served in local government, although some were appointed to advisory positions in government ministries.

*Section 4. Governmental Attitude Regarding International Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

In 1999 the Government created a \$14 million (500 million Czech crowns) endowment that was being used by 39 NGOs to work on issues of social welfare, health, culture, education, human rights protection, and the environment. In 2000 the Government Council for NGOs announced it was dedicating an additional \$37.5 million (1.5 billion Czech crowns) for organizations focusing on human rights and the environment.

The Human Rights Commissioner served as head of the Government Committee for Nationalities, and of the Government Council for Romani Community Affairs, which was established in 1997 (see Section 5). A Council for Human Rights, which consisted of 10 representatives from government ministries and 10 human rights activists, advised the Government on human rights issues and proposed legislation to improve the observation of human rights in the country.

Former Justice Minister Otakar Motejl served as "Public Rights Protector" or Ombudsman. Appointed by the Chamber of Deputies, Motejl, a political independent, addressed citizens' complaints of violations of civil and human rights and freedoms by government entities. By the end of October, the Ombudsman's Office had received 4,619 requests for assistance. The Ombudsman had no legal power to sanction offending individuals or offices, but did provide a means of alternative dispute resolution and often mediated between citizens and government offices.

In each house of Parliament there was a petition committee for human rights and nationalities, which included a subcommittee for nationalities. A government-sponsored Council for Nationalities, which advised the Cabinet on minority affairs, was composed of three Slovak and three Roma representatives; two Polish and German representatives; one Hungarian representative; and one Ukrainian representative. The law on the rights of ethnic minorities provides that ethnic minorities who have "lived in the country traditionally and over a long period of time" have the right to use their native language in interactions with the Government, the provision of voting materials, and in education. There was also a government commission staffed by members of an NGO and journalists that monitored inter-ethnic violence.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution provides for the equality of citizens and prohibited discrimination. By law, health care, education, retirement, and other social services were to be provided without regard to race, sex, disability, or social status. However, in practice, Roma faced discrimination in such areas as education, employment, and housing; and women faced discrimination in employment.

*Women.*—The actual extent of violence against women was unknown; however, some experts' studies indicated that it was more common than publicly acknowledged. ROSA, an NGO that provides direct assistance to victims of domestic abuse, estimated that 1 in 10 women in domestic situations were emotionally or physically abused and that 30 percent of the abusers were university-educated. A 1998 study conducted by Prague's Institute for the Study of Human Sexual Behavior indicated that 13 percent of women were raped at some point in their life. The study found that spouses and domestic partners were responsible for 51 percent of rapes, acquaintances committed an additional 37 percent of the rapes, and strangers attacked 12 percent of rape victims.

According to police statistics, there were 500 rapes reported countrywide in 2000. According to the Ministry of Justice, there were 140 convictions for rape throughout the country in 2001. During the year, 503 rapes were reported, and there were 126 convictions for rape. Institute researchers and NGOs estimated that approximately

3.3 to 7 percent of rape victims filed reports with the police. According to experts, both rape and domestic violence were greatly underreported.

There was no legislation specifically addressing spousal abuse; however, the Criminal Code covered other forms of domestic violence. An attack was considered criminal if the victim's condition warranted medical treatment for 7 days or more and caused the victim to miss work. If medical treatment was necessary for less than 7 days, the attack was classified as a misdemeanor and punished by a fine of no more than approximately \$100 (3,000 Czech crowns)—an amount equivalent to approximately one-fourth of the average monthly wage. Repeated misdemeanor attacks did not result in stricter sanctions against the abuser.

Gender studies experts reported that women were ashamed to report or even speak about rape, and that police were neither appropriately trained nor behaved in a helpful manner toward rape victims. The Ministry of the Interior did run a training program in protocols for investigating family violence and sexual offenses in order to improve police responsiveness and prosecution efforts.

The police also trained some specialized personnel to handle cases of domestic violence. The police did not work regularly with welfare and medical services. However, training materials to help police officers improve the identification and investigation of domestic violence and sexual abuse cases and to help sensitize them in the treatment of victims of abuse were introduced into both the introductory and continuing education curriculums.

The Government maintained a comprehensive awareness and prevention program designed to address problems of trafficking, abuse, and violence against women (*see* Section 6.f.).

According to Elektra, a crisis center for abused women, rape victims could seek psychological counseling through (a number of hotlines and crisis centers in the country. Crisis centers that offered support to rape victims included the White Circle of Safety, an association for crime victims that provided free psychiatric and legal counseling, and Riaps, a hotline that counseled persons who had suffered some form of abuse. According to NGOs, there were 107 state-supported shelters located in most major cities and towns which took in women who had been raped or abused; NGOs also provided medical and social assistance to women on a local level. According to NGOs, there still were not enough places available in shelters to meet the demand for them.

Public debate about violence against women was rare, despite the efforts of women's groups to focus public attention on the problem. The press occasionally reported on the problems of violence against women and trafficking in prostitutes (*see* Section 6.f.).

Pimping is illegal; prostitution is not, although local communities have the right to regulate prostitution and enforce restrictions on it. The Interior Ministry estimated that up to 25,000 persons worked in the sex industry during the year. Prostitution and sex shops were prevalent, particularly in the regions bordering Germany and Austria where international vehicular traffic was heaviest. The law prohibited forcing persons into prostitution; however, trafficking in women was a problem (*see* Section 6.f.).

Sexual harassment was a recognized problem, and the labor law contains a definition of, and prohibition against sexual harassment. The law defines sexual harassment as unwanted, inappropriate, or offensive sexual behavior, the acceptance or rejection of which could be interpreted by the employee being harassed as affecting his or her status in the workplace. Although the law prohibits sexual harassment, studies concluded that approximately one-half of all women have experienced sexual harassment in the workplace.

Women are equal under the law, and in principle women enjoyed equal property, inheritance, and other rights with men. By law women receive equal pay for equal work. Although women constituted roughly half of the labor force, they were employed disproportionately in professions with a lower median salary than were men. Women's median wages lagged behind those of men by approximately 20 percent.

The law bans discrimination based on gender; however, in practice employers remained free to consider gender, age, or attractiveness when making hiring decisions. Amendments to the law in 1999 and 2000 explicitly prohibited employment discrimination based on a variety of factors including gender, race, skin color, sexual orientation, language, religion, health and family status, and repeated offenses were punishable by fines of up to \$33,333 (1 million Czech crowns). Employers often blatantly used factors such as age, gender, and lifestyle in advertising jobs and making employment decisions. The unemployment rate for women exceeded that for men by about one-third (10 percent to 7.8 percent) and a disproportionately small number of women held senior positions.

*Children.*—The Government was committed to children's welfare; it funded programs for health care and basic nutrition, and provides free and compulsory education through age 15 (through age 14 in special schools). Girls and boys enjoyed equal access to health care and education at all levels. Language and cultural barriers frequently impeded the integration of Roma children into mainstream schools. Official estimates indicated that less than 20 percent of the Roma population completed ninth grade, and less than 5 percent completed high school. A significant number of Roma children were transferred at an early age to "special schools" for the mentally ill and "socially maladjusted after a psychological exam.

According to unofficial government estimates, 60 percent or more of pupils placed in these special schools were Roma children, though less than three percent of the population were Rom. Graduates of the "special schools" were not restricted from attending secondary schools (*see* Section 5). Some Roma parents did not send their children to school regularly due to fear of violence, and the expense of books and supplies.

In 1999 12 Roma families filed suit in the Constitutional Court to protest the "de facto segregation" of Roma children into special schools. Although the Constitutional Court rejected the complaint in 1999, an appeal remained pending at the European Court of Human Rights in Strasbourg at year's end.

The Ministry of Education later took steps independently to implement some of the recommended changes. They began work on changes to the psychological exam given to Czech children that many claimed was culturally biased against Roma children. Children were assigned to "special schools" based on poor results on the exam. In January the Education Minister announced a long-term plan to phase out the special schools and mainstream pupils from them into regular classrooms.

Many districts with high concentrations of Roma held yearlong programs (so-called "zero grades") to prepare Roma children for their first year in school; these programs were funded by the Government and administered by local NGOs. More than 100 "zero grades" operated throughout the country. Some districts tracking local Roma students reported that up to 70 percent of the children who attended "zero-grade" training successfully entered and remained in mainstream schools.

In addition, Roma teaching assistants were placed in primary and special schools to help teachers communicate with Roma pupils, and encourage cooperation between schools and Roma parents. According to the Ministry of Education, there were 300 Roma teaching assistants in the school system during the year, an increase from 200 in 2001. Bilingual Romani-Czech language textbooks were used in 60 elementary schools to help overcome the cultural and language differences between Roma children and non-Romani-speaking teachers in the early school years. The Ministry of Education commissioned a textbook for use in schools on the cultural and historical roots of the Roma minority and on successful members of the Roma community. Local NGOs supported additional studies and private initiatives to prepare Roma children for mainstream schools.

In 2000 the Ministry of Justice reported a 6 percent decrease in the number of reported neglect and welfare cases. There were 5,894 in 2000, compared with 6,207 in 1999. Laws criminalize family violence, physical restraint, sexual abuse, and other forms of abuse of minors (the age of majority in the country is 15 years). A Children's Crisis Center established in 1995 was 70 percent state supported. The Fund for Endangered Children estimated that the total number of children suffering from physical, psychological, or sexual abuse was between 20,000 and 40,000, but only about one-tenth of such cases were registered by the police. Between 50 and 100 children died each year from domestic violence.

Sexual abuse of children continued to receive press attention during the year. Press and government reports throughout the year indicated that the country remained a popular destination for pedophiles due to its location and the common misperception of a low risk of sexually transmitted disease (*see* Section 6.f.). Some experts estimated that the number of visits to the country, primarily from Western Europe, for the purpose of sexually abusing children had increased by 20 percent since 1997.

During the year, the police took measures to prevent this type of "sex tourism" more effectively. Police maintained patrols in high-risk areas, enforced curfew-type policies more actively, and worked to raise public awareness of the issue through the media. Despite increased police efforts, press reports still indicated that in many border regions, sex tourism for the purpose of molesting adolescent minors continued. Dissemination of child pornography in print, or on video, CD-ROM, or the Internet was a criminal act; laws against child pornography were generally enforced (*see* Section 2.a.). Convictions of sexual abusers of children were reported routinely in the media.

According to NGOs, there were approximately 10,000 children living in institutional settings and 4,000 foster families supported by the Government and various NGOs.

Trafficking in children was a problem (*see* Section 6.f.)

*Persons with Disabilities.*—The law prohibits discrimination against persons with disabilities in the areas of employment, education, or in the provision of other state services, and there were no reports of such discrimination; however, persons with disabilities suffered disproportionately from unemployment. Businesses in which 60 percent or more of the employees were disabled qualified for special tax breaks and the Government provided transportation subsidies to disabled citizens. Numerous NGOs supported social assistance programs to help level the playing field for persons with disabilities. These NGOs also reported that the situation of persons with disabilities had received more attention, and had improved over the last few years, although some problems persisted.

Regulations and the Construction Code required architects to ensure adequate access for the disabled in all new building projects, as well as in older buildings undergoing restoration; these regulations were applied in practice. However, many buildings and means of public transportation remained inaccessible to those in wheelchairs, although access did improve during the year. In Prague 24 of the 50 metro stations were wheelchair-accessible; however, most of those stations were in the suburbs, and the majority of stations in the city center remained inaccessible. A growing number of bus lines were accessible to persons with disabilities. Tram lines in Plzen were wheelchair-accessible. Access to education was a problem for children with physical disabilities due to the lack of barrier-free access to most public schools, but there is at least one barrier-free school in each district.

In an effort to call attention to the problem of access for persons with physical disabilities, two wheelchair-users filed a complaint with the European Court of Human Rights in February. They alleged that the Government violated the rights of citizens with disabilities by failing to enforce requirements for barrier-free access for persons with disabilities. On June 3, the court ruled that the complaint was inadmissible, and the case was dropped.

*National/Racial/Ethnic Minorities.*—After ethnic Slovaks, the largest minority was the Romani population, officially estimated to number between 150,000 and 175,000. However, in the 2001 census, only 11,716 persons identified themselves as Roma. The census used “self-identification,” and it is believed that many persons chose not to identify themselves as Roma for fear of negative consequences. Roma lived throughout the country but were concentrated in the industrial towns along the northern border, where many Roma originally from eastern Slovakia were encouraged to settle in the former homes of “Sudeten” Germans transferred to the West more than 40 years ago. Roma suffered disproportionately from poverty, unemployment, interethnic violence, discrimination, illiteracy, and disease.

Members of skinhead organizations and their sympathizers were the most frequent perpetrators of inter-ethnic violence, particularly against Roma and other “dark-skinned” persons. An estimated 5,000 skinheads were active in the country. Some observers believed that the actual figures were higher. Police registered 452 racially motivated crimes in 2001 (the last full year for which statistics were available). During the last 4 years, registration of “racially motivated or extremist crimes” continued to increase, and reflected police and prosecutors’ growing recognition of the ethnic/racial motives for many crimes in the country. Despite these developments, some observers cited judicial inconsistency in dealing with racially and ethnically-motivated crimes as a continuing problem.

On August 2, two Roma were attacked and beaten in Prerov after a waiter refused to serve them and an argument ensued. One of the victims was loaded into a car, driven some distance out of town, and dumped there. Police arrested two men, one of whom was the owner of the bar in which the altercation occurred, and accused them of breach of peace, limiting personal freedom, and violence. The case remained pending at year’s end.

On August 9, police in Ostrava arrested a man in connection with a late July attack on two Roma at a gasoline station. The victims were punched, kicked, and beaten with bats as the perpetrator shouted racial epithets. The accused was charged with racially motivated violence, inflicting bodily harm, and disorderly conduct. The case remained pending at year’s end.

Several cases from last year remained pending at year’s end. These included two men charged in a May 2001 attack on two Algerians and a Taiwanese, two skinheads charged with attacking an Indian medical student in April 2001, a racially motivated attack against a 14-year-old boy in Sternberk, several skinheads and Roma detained for hooliganism in Novy Bor following an April 2001 confronta-

tion, and four skinheads arrested in Ostrava in June 2001 in connection with the stabbing of a Rom.

On March 30, Vlastimil Pechanec was convicted of racially motivated violence for the July 2001 stabbing death of Rom Ota Absolon in the eastern Bohemia town of Svitavy. Pechanec was sentenced to 13 years in prison. On October 17, an appeals court upheld the sentence.

Appeals were denied in the March 2001 convictions of 23 skinheads on charges of racially motivated violence and property damage and organized rioting in a 1999 attack on 60–70 Roma in a restaurant in Ceske Budejovice in which six persons were injured. Six of the 21 were sentenced to a minimum of 18 months in prison, while the remaining 15 were given suspended sentences of 10 to 24 months. Several 2001 cases remained pending at year's end.

During the year, Interior Minister Stanislav Gross continued to state his displeasure with extremist activity and his desire for stronger police action against it, and police continued monitoring and actively investigating such groups and arrested those accused of committing such crimes.

The site of a former Romani concentration camp at Lety continued to be a source of controversy. In 1974 a pig farm was built on the site of the camp; the Roma community and the Human Rights Commission called for its removal.

Roma who wished to integrate into mainstream society faced practical difficulties in the areas of employment and education. Precise figures for unemployment among Roma were unavailable, but the rate was disproportionately high, with many unemployed Roma subsisting on government support or earnings from illegal activities. Some employers refused to hire Roma and asked local labor offices not to send Rom applicants for advertised positions. An amendment to the Labor Code prohibits hiring and employment discrimination based on ethnicity, but no enforcement statistics were available. Under the law, individual Roma do not have the right to file discrimination complaints; such action must come from governmental authorities. The stereotype of Roma was that they were qualified only for low-paying jobs, such as manual laborers, since so few completed secondary education.

Roma also faced discrimination in housing and other areas of everyday life. Despite constitutional prohibitions against discrimination, a framework to implement those provisions in civil law was not incorporated to address specific offenses under the Criminal Code. Some restaurants, pubs, and other public places refuse service to Roma and post signs prohibiting their entry.

A higher-than-average percentage of the Roma population applied for partial or full disability pensions because of the relatively high incidence of serious and chronic illnesses among their population. To a large extent, this situation resulted from lack of access to basic and preventive health care. Some Roma parents refused to allow their children to receive compulsory vaccinations. Some Roma were refused treatment by general practitioners who had full quotas of subsidized patients. NGOs and some health and education professionals working to improve living conditions for the Roma had only minimal impact, sometimes due to the attitudes or intransigence of local authorities. Romani leaders themselves had limited success in organizing their own communities, which often were disunited and suspicious of outsiders.

In a continuation of its Plan for Roma Integration, the Government allocated several million dollars (tens of millions of crowns) at various times throughout the year for projects designed to promote integration of the Roma community. One of the allocations, \$300,000 (9 million crowns) supported an NGO project to create housing in Ostrava for both Roma and members of the majority population. The project was widely acclaimed for its success in breaking down stereotypes and for involving members of the minority and majority populace in the creative and decision-making processes. Other allocations supported construction of community centers and educational assistance to minorities.

The Government Council for Romani Community Affairs, which includes 12 government representatives and 12 Romani representatives, as well as the Commissioner for Human Rights and his deputy, continued to take an active role in resolving disputes between Romani communities and their non-Romani neighbors in towns such as Usti nad Labem and Rokycany. The Commission also promoted positive initiatives in housing, education, and discrimination.

The Ministry of Foreign Affairs' Roma Affairs Coordinator continued to function as the Ministry's liaison with Roma groups, NGOs, and the diplomatic community.

During the year, the Government continued an active effort to identify, train, and recruit qualified Roma to serve in law enforcement. Police trainees continued to attend the national police academy's course in Romani language and culture, designed to improve police officers' communications with and response to the Roma communities in their precincts.

In September the Human Rights Commission's "Project Tolerance," which had been discontinued in 2001 for procedural reasons resumed, with an open-air music festival in Prague. Other events planned as part of the overall program included groups of ethnically-mixed students who traveled to 130 secondary schools to discuss tolerance issues; a program to distribute books about minority issues to 500 libraries throughout the country; and an awareness campaign to highlight the work of grass-roots level social workers.

*Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers with the right to form and join unions of their own choice without prior authorization, and workers exercised this right in practice. Union membership continued to decline during the year. Most workers were members of unions affiliated with the Czech-Moravian Chamber of Trade Unions (CMKOS). The CMKOS was a democratically oriented, nationwide umbrella organization for branch unions. It was not affiliated with any political party and carefully maintained its independence.

The law prohibits anti-union discrimination. There were no restrictions on trade union contacts with international organizations, and unions developed a wide range of ties with international trade union bodies.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining, which generally is carried out by unions and employers on a company basis. The 2002 ICFTU Annual Survey of Trade Union Rights stated that some employers attempted to prevent workers from organizing by means of direct and indirect pressure. Those tactics reportedly included preventing union members from gaining access to company property, offering money in exchange for dissolving union organization within a company, firing union leaders, and refusing to withhold union dues from salaries.

The scope for collective bargaining was more limited for civil servants, whose wages were regulated by law. There were 11 free trade zones. Their workers possessed and practiced the same right to organize and bargain collectively as other workers in the country.

Workers have the legal right to strike, with the exception of those in critical sectors such as health care, nuclear energy, oil and gas pipelines, air traffic control, fire fighting, and telecommunications. The law requires that labor disputes be subjected first to mediation and that strikes would take place only after mediation efforts failed. There were no major strikes during the year.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Code stipulates a minimum working age of 15 years, although children who completed courses at special schools (schools for persons with mental disabilities and the "socially maladjusted") may work at the age of 14. Employment conditions for children aged 15 to 18 were subject to strict safety standards. These regulations were enforced in practice.

*e. Acceptable Conditions of Work.*—The Government sets minimum wage standards. The national minimum wage was approximately \$190 (5,700 Czech crowns) per month. The national minimum wage provided a decent standard of living for a worker and family. The monthly average wage was approximately \$488 (14,642 Czech crowns) per month. Average net wages were 2.9 times higher than official subsistence costs.

Government subsidies were available to families with children. Retraining was carried out by district labor offices to provide labor mobility for those at the lower end of the wage scale.

The law provides for a 40-hour work week and requires a paid break of at least 30 minutes during the standard 8 hour workday, and between 4 and 8 weeks of paid vacation, depending on the profession. Subject to the consent of the employee, employers may establish mandatory overtime not to exceed 8 hours per week although the local employment office may permit additional mandatory overtime. The Labor Ministry enforces standards for working hours, breaks, and paid vacation.

The Government, unions, and employers promote worker safety and occupational health standards, but conditions in some sectors of heavy industry did not meet these standards, particularly those still awaiting privatization.

The situation had improved at year's end, and the Government worked to harmonize its standards with those of the EU. There were 93,289 work-related accidents registered in 2001, compared with the 92,906 registered in 2000. The Office of Labor Safety was responsible for enforcement of health and safety standards.



Workers had the right to refuse work endangering their life or health without risking the loss of their employment.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however trafficking in women and children for the purpose of sexual exploitation was a problem.

There are other relevant statutes that can be used to prosecute traffickers. The penalties for trafficking are generally commensurate with those for rape and sexual assault. The Government investigated and prosecuted cases of trafficking in persons, although the conviction rates were low. According to police statistics, there were 139 trafficking-related arrests during the year.

Organizing prostitution and pimping are illegal and punishable by a prison term of up to 8 years, with a term of up to 12 years if the victim is under the age of 15. (Adults may be prosecuted for engaging in sexual activity with a minor under the age of 15.) On July 1, changes in the law on child pornography took effect. The definition of child pornography was expanded; circulation, propagation, producing, exporting, transiting and making child pornography available to the public were criminalized; possession of child pornography was criminalized, and a special provision was enacted to cover dissemination of child pornography through mass media, including via the Internet. The Government cooperated extensively with other Central and Eastern European countries, the EU, and the United States during investigation and prosecution of trafficking cases.

The country was a source, transit point, and destination for trafficking in persons. A small number of Czech men were trafficked to the United States for coerced illegal work. Czech women and girls were trafficked to other European countries. Women and girls were trafficked to the country from the former Soviet Union, Africa, Asia, and the Middle East. Women from Moldova, Romania, Bulgaria, Ukraine, and the Balkan countries were trafficked to and through the country—to other European countries and the United States—to work as prostitutes. There was some evidence that a small amount of trafficking of Czech women and children for prostitution took place within the country from areas of low employment to border areas with Germany and Austria. The full extent of trafficking in children was unknown; however, convictions for sexually assaulting children were reported routinely in the media (*see* Section 5).

Trafficked women were offered jobs as models, maids, waitresses, and dancers, then forced into prostitution. Once in a destination country, traffickers withheld the victims' travel documents and used isolation, violence, threats of violence, and the threat of arrest and deportation to ensure compliance. Most traffickers were members of organized crime groups. Such groups were from Russia, Bulgaria, former Yugoslavia, and East Asia who worked in cooperation with individual Czechs, Slovaks and, less often, Austrians and Germans.

The Czech Police Organized Crime Division included a Unit on Trafficking in Persons, established in 1995, which cooperated with other nations to enforce these laws. A school curriculum package was introduced in schools across the country in 2001 to educate minors about trafficking.

Police maintained close contact with the IOM and other NGOs in order to provide services to women after trafficking arrests. Foreign victims of trafficking were treated as illegal immigrants and either detained or asked to leave the country within 30 days; however, foreign victims also could be offered temporary residence if they agreed to testify against a trafficker. Those detained were sometimes deported, but more often were eventually released and ordered to depart the country within 30 days.

The Government did not provide direct assistance to victims, but did refer them to NGOs that provided such assistance. The Government provided funding to some of these NGOs. "La Strada" was the primary domestic NGO providing services and awareness campaigns to young girls and women who might have become or were victims of trafficking. Czech citizens who were trafficked to other countries often could not receive government assistance upon their return, because their identity documents were stolen or taken by the traffickers. Returnees also frequently were hesitant to go to their families or public social service providers for help because of the stigma attached to having been trafficked.

## DENMARK

Denmark is a constitutional monarchy with parliamentary democratic rule in which citizens periodically choose their representatives in free and fair multiparty elections. Queen Margrethe II is Head of State. The Cabinet, which is accountable to the unicameral Parliament (Folketing), leads the Government. A minority center-

right coalition government led by the Liberal Party and formed after elections in November 2001 remained in power. The judiciary is independent.

The national police have sole responsibility for internal security. The civilian authorities maintained effective control of the security forces.

The advanced, market-based industrial economy provides residents with a high standard of living. The population is approximately 5.4 million. Nearly one-quarter of the work force is employed in the public sector. The key industries are food processing and metalworking, and a broad range of industrial goods is exported. The service sector, including information technology and consulting, is also a significant contributor to wealth generation.

The Government generally respected the human rights of its citizens, and the law and judiciary provided effective means of dealing with individual instances of abuse. Violence against women was a problem, but the Government took steps to deal with it. Trafficking in women for prostitution remained a problem. Denmark was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents. In 2001 four disciplinary cases against police for bodily harm yielded one conviction, three cases remained pending. This year, two such cases arose and remained pending at year's end.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. The Government maintained restrictions on the length of solitary confinement permitted and its rules for imposing it. Under the new rules, the percentage of detainees in solitary confinement dropped from about 10 percent of the total number of detainees in the late 1990s to less than 7 percent in 2001.

Men and women were housed separately. Juvenile detention facilities exist. Only those juvenile offenders convicted of the most violent crimes were incarcerated. The law provides that "violent" juvenile offenders between the ages of 15 and 17 may be sent to adult correctional facilities, but they were segregated from violent adult inmates. Pretrial detainees were held in remand centers, which also held nonviolent convicted criminals serving sentences of 30 months or less.

The Government permits visits by independent human rights observers, and such visits occurred during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. The Constitution guarantees persons under arrest the right to a hearing before a judge within 24 hours of arrest. If a judge decides to hold persons in detention, he must issue an order stating why. The Constitution allows for the immediate appeal of detention orders.

The Constitution prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judicial system consists of a series of local and regional courts, with the Supreme Court at the apex. There are no military courts or tribunals. A military criminal code exists, but enforcement is in the public judicial system.

The Constitution provides for the right to a fair trial, and an independent judiciary enforced this right. The law provides for defendants' right to timely consultation with an attorney, at public expense if needed. Defendants and their attorneys have access to government evidence relevant to their case. Defendants have the right to question witnesses against them and to present their own witnesses; they are presumed innocent until proven guilty; and the right of appeal encompasses both procedural matters and sentences imposed.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combine to provide freedom of speech and of the press, including academic freedom.

There are 10 nationally distributed and 99 local newspapers, which are independent and privately owned. The Government owns two of the three national television networks and a share in the third national television network; however, there are several private satellite and cable television channels. A total of 140 local and 3 national private and public radio stations broadcast. The Government does not exercise editorial control over its radio and television outlets.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. A permit is required for public demonstrations, but the Government used objective criteria in evaluating requests and did not discriminate in issuing permits.

*c. Freedom of Religion.*—The Constitution provides for religious freedom, and the Government generally respected this right in practice.

The Constitution provides for an official state religion, the Evangelical Lutheran Church, which is subsidized by the Government. The Government does not require that religious groups be licensed; however, the State's permission is required for religious ceremonies such as weddings to have civil validity.

The Evangelical Lutheran faith is taught in public schools, but students may withdraw from religious classes with parental consent.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The law provides for the granting of refugee and asylum status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government provided first asylum and in the first 9 months of the year granted it to 1,147 persons out of a total of 4,412 applications filed (a recognition rate of 26 percent), reflecting a decline both in the number of applications and in the recognition rate. The Government attributed this decrease (from the usual 50–60 percent) to changes in Iraq and Afghanistan which caused the Immigration Service to reject more asylum applications or temporarily delay decisions regarding these countries' citizens.

On July 1, the Government's new immigration legislation (the Alien Act) took effect which continued a trend of further restricting the standards for granting asylum and also decreased welfare for immigrants.

There were no reports of the forced return of persons to a country where they feared persecution. The Alien Act provides that refugees traveling to their countries of origin on holiday will automatically have their cases reassessed (*see* Section 5). If they are found to be persecuted there no longer, they will be returned to their country of origin after residency is revoked.

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

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

The territories of Greenland (whose population is primarily Inuit) and the Faroe Islands (whose inhabitants have their own Norse language) have democratically elected home rule governments whose powers encompass all matters except foreign and national security affairs, police services, the judiciary, and monetary matters. Greenlanders and Faroese are Danish citizens with the same rights as those in the rest of the Kingdom. Each territory elects two representatives to the Parliament.

There were 68 women in the 179-seat Parliament, and 5 of 18 ministers in the Government were women.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on

human rights cases. Government officials were cooperative and responsive to their views.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Government's operations and extensive public services do not discriminate on the basis of any of these factors. The Constitution and the law prohibit discrimination on the basis of sex, creed, or ethnicity. The law also prohibits discrimination on the basis of race, national or ethnic origin, or faith. The Government protects the rights of the country's indigenous people carefully.

*Women.*—Violence against women was a problem, but the Government took steps to combat it. An umbrella nongovernmental organization (NGO) reported that in 2001 women's crisis shelters were contacted 10,483 times, compared with 8,825 times in 2000. A total of 2,012 women stayed at shelters during 2001. There were 493 reported rapes in 2001 and 262 during the first 6 months of the year. Rape, spousal abuse, and spousal rape are criminal offenses, and the Government effectively prosecuted those accused of such crimes. Statistics were not available regarding the numbers of abusers that were prosecuted, convicted, and punished.

Trafficking in women for the purpose of prostitution was a problem (see Section 6.f.). Although street prostitution was illegal, enforcement was inconsistent. Prostitutes were more commonly charged, if at all, with the lesser offense of "loitering", rather than for selling sexual services. However, private soliciting through newspaper advertisements and the Internet is legal. Police did not pursue cases involving prostitution in public establishments such as nightclubs unless seeking to track down pimps or people suspected of involvement in trafficking. Pimping is illegal, as is patronizing a prostitute under the age of 18.

The law requires equal pay for equal work, but some wage inequality remained. The law prohibits job discrimination on the basis of sex and provides recourse, such as access to the Equal Status Council, for those affected. Women held positions of authority throughout society, although they were underrepresented in senior business positions. Women's rights groups lobbied the Government on matters of concern, such as wage disparities and parental leave.

*Children.*—The Government is strongly committed to children's rights and welfare; it amply funded systems of public education and medical care. Education is compulsory through the ninth grade and is free through the university level. School attendance is nearly universal. The Ministries of Social Affairs, Justice, and Education oversee implementation of programs for children.

All children except those requiring special assistance attend school. In 2000 96 percent of those completing ninth grade continued their education, of whom 52 percent chose academic secondary education and 38 percent vocational secondary education. Boys and girls were treated equally. Slightly more women than men completed post-secondary education.

There is no societal pattern of abuse against children. The law bans the physical punishment of children by adults, including their parents. The Government prosecuted those engaged in child prostitution and broke a Denmark-based, child pornography ring operating on the Internet.

*Persons with Disabilities.*—There is no discrimination against persons with disabilities in employment, education, or in the provision of other state services. Building regulations require special facilities for the disabled in public buildings built or renovated after 1977 and in older buildings that come into public use. The Government generally enforced these provisions in practice.

*Indigenous Persons.*—The law protects the rights of the inhabitants of Greenland and the Faroe Islands. Greenland's legal system seeks to accommodate Inuit customs. Accordingly it provides for the use of lay persons as judges and sentences most prisoners to holding centers (rather than to prisons) where they are encouraged to work, hunt, or fish during the day. Education in Greenland is provided to the native population in both the Inuit and Danish languages.

In 1999 a court ruled that the Government unjustly resettled Greenland Inuits in 1953 to accommodate the expansion of a U.S. Air Force base in northwest Greenland; the court ordered the Government to pay compensation to those displaced and their descendants. The compensation was substantially less than the amount that the defendants sued for, and the case remained under appeal in the Supreme Court at year's end.

*National/Racial/Ethnic Minorities.*—The inflow of ethnically and racially diverse refugees and immigrants caused some tension between citizens and immigrants (mostly Iranians, Palestinians, Pakistanis, Sri Lankans, Somalis, or refugees from the former Yugoslavia) and led to several legislative reforms. In response to publicity concerning the involvement of foreigners in street crime and allegations of ref-

ugee social welfare fraud, Parliament tightened immigration laws in 1999 and passed additional comprehensive legislation (the Alien Act) on July 1 (*see* Section 2.d).

The new law abolished the status of de facto refugee; only persons entitled by international convention to protection are able to obtain residency. Family reunification is now more difficult, and immigrants and refugees may no longer acquire permanent residence by living in the country for 3 years; rather, they must now reside in the country for 7 years and demonstrate that they have integrated into society and developed ties to the country. The new law also abolished access to reunification with parents over 60 years old.

There is no statutory right to reunification with a spouse. Both spouses must be at least 24 years old and be able to demonstrate a closer combined association to Denmark than to the foreign spouse's country. Access to reunification of foreign spouses with refugee spouses is abolished in cases where they marry after the refugee's flight to Denmark; these cases will be processed as would any application for reunification with a Danish spouse. For a marriage to be legal, both spouses must be lawful residents; persons with unlawful or procedural residence may not marry in Denmark.

There were 63 incidents of racial discrimination or racially motivated violence, compared with 100 in 2001; only 6 of these incidents involved violence, with the remainder involving such acts as vandalism and verbal abuse. The Government effectively investigated and dealt with cases of racially motivated violence.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law states that all workers, including military personnel and the police, may form or join unions of their choosing. Approximately 80 percent of wage earners belonged to unions that were independent of the Government and political parties.

The law prohibits antiunion discrimination by employers against union members and organizers, and there are mechanisms to resolve disputes. Employers found guilty of antiunion discrimination are required to reinstate workers fired for union activities.

Unions may affiliate freely with international organizations, and they did so actively.

*b. The Right to Organize and Bargain Collectively.*—The right to organize is protected by law. Workers and employers acknowledged each other's right to organize. Collective bargaining is protected by law and is widespread in practice. In the private sector, salaries, benefits, and working conditions are agreed upon in biennial or triennial negotiations between various employers' associations and their union counterparts. If the negotiations fail, a national conciliation board mediates, and management and labor vote on its proposal. If the proposal is rejected, the Government may impose a legislated solution on the parties (usually based upon the mediators' proposal). The agreements are used as guidelines throughout the public as well as the private sector. In the public sector, collective bargaining is conducted between the employees' unions and a government group led by the Finance Ministry.

More than 50 percent of wage earners were in unions affiliated with the Confederation of Danish Labor (LO). The LO traditionally has had a close relationship with the Social Democrat Party. There were also 3 other umbrella labor organizations with which 41 unions were affiliated. There are also several independent unions not affiliated with any labor federations or umbrella organizations.

All unions except those representing civil servants or the military have the right to strike. Workers often exercised their right to strike. In 2001 approximately 59,500 workdays were lost due to strikes.

Labor relations in Greenland are conducted in the same manner as in Denmark. Greenland's courts are the first recourse in disputes, but Danish mediation services or the Danish Labor Court also may be used.

There is no umbrella labor organization in the Faroes, but individual unions engage in periodic collective bargaining with employers. Disputes are settled by mediation.

There are no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The minimum legal age for full-time employment is 15 years. The law sets a minimum of 13 years of age for any type of work. The law is enforced by the Danish Working

Environment Service (DWES), an autonomous arm of the Ministry of Labor. Export industries do not use child labor.

The law prohibits forced and bonded labor by children, such practices are not condoned, and all forms of child exploitation are investigated and prosecuted (*see* Section 5)

*e. Acceptable Conditions of Work.*—The law does not mandate a minimum national minimum wage, but national labor agreements effectively set a wage floor. The lowest contractual hourly wage paid allowed in 2001 was approximately \$13 (88 kroner). However, the average wage of adult workers was \$26 (178 kroner) per hour, which is sufficient to provide a decent standard of living for a worker and family. The law provides for 5 weeks of paid vacation per year, and labor contracts added an average of 4 extra paid holidays in 2001. Workers normally worked a 37-hour workweek, which is established by contract, not by law. The law requires at least 11 hours between the end of one work period and the start of the next.

The law also prescribes conditions of work, including safety and health; the duties of employers, supervisors, and employees; work performance; rest periods and days off; and medical examinations. The DWES ensures compliance with labor legislation. Workers may remove themselves from hazardous situations or weapons production without jeopardizing their employment rights, and legal protections cover workers who file complaints about unsafe or unhealthy conditions.

Similar conditions of work are found in Greenland and the Faroes, except that the workweek is 40 hours. As in Denmark, the workweek is established by contract, not by law. Foreign workers with residence and work permission enjoy the same rights as citizens. Illegal foreign workers have no such labor protection.

*f. Trafficking in Persons.*—Trafficking was a problem. Late in the year, Parliament passed a new law specifically defining and criminalizing trafficking in persons. Previously, the Government had used laws against kidnapping and pimping to prosecute traffickers; Danish authorities had broadly identified “trafficking in women” as the bringing into the country of women for the purpose of prostitution even if they came to the country legally and voluntarily. The new definition aligned the law more closely with the international definition, which includes essential components of force, fraud, or coercion. Experience applying the new law has been limited but demonstrated possible technical enforcement problems where the force, fraud, or coercion components were lacking. Four persons involved in trafficking who were convicted earlier in the year under the old law appealed, and their cases were pending at year’s end.

The Government cooperated with international investigations of trafficking.

Authorities believed that women continued to be brought from Eastern Europe (the Baltics, in particular) and Asia to work as prostitutes. Victims lured by the prospect of higher wages and a better life, only to be forced into prostitution or have their passports withheld, were covered under the new law. Their traffickers were suspected to have ties to organized crime, specifically Russian and Baltic mafia, and were the subjects of ongoing police investigations and prosecutions.

The Government takes seriously trafficking in all its forms but is limited by a legal regime in which prostitution is, except for “streetwalking/solicitation,” legal and well-paid.

An interagency working group, created in 2000 to address trafficking—with members from the Ministries of Justice, Social Affairs, Gender and Equality, Employment, and Education, as well from NGOs—met monthly to share information. The Parliament appropriated approximately \$4.5 million (32 million kroner) for use during the next 3 years in projects related to trafficking, ranging from efforts to combat trafficking to assistance for trafficking victims. Working group ministries will be involved in administering these resources.

The Government did not provide medical or legal assistance directly to victims, and there was no governmental or nongovernmental entity specifically concerned with victims of trafficking. Several government-supported organizations provided services to victims on a case-by-case basis.

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## ESTONIA

Estonia is a parliamentary democracy. The Constitution established a 101-member unicameral legislature (State Assembly), a prime minister as Head of government, and a president as Head of State. In January the coalition government elected in 1999 stepped down and was replaced by a new coalition comprised of the Reform and Center Parties. The judiciary is independent.

The police, who are ethnically mixed, are subordinate to the Ministry of Internal Affairs. Corrections personnel are subordinate to the Ministry of Justice. The security service—Security Police—is subordinate to the Interior Ministry but also reports to the Prime Minister. Police leadership continued to work to develop, strengthen, and professionalize the police force. Police and corrections personnel continued to commit human rights abuses.

The country has a market economy and a population of approximately 1.4 million. Services, particularly financial, transit, and tourism, grew in importance compared to the historically more prominent light industry and food production. The privatization of firms, including small-, medium-, and large-scale enterprises, was virtually complete. The country experienced a growth rate of 5.5 percent, compared with 5.4 percent 2001. While wages and benefits kept up with inflation, there was a growing disparity between Tallinn (where one-third of the population resides) and the slower growing rural southeast and industrial northeast.

The Government generally respected the human rights of its citizens and the large ethnic Russian noncitizen community; however, there were problems in some areas. Police continued to mistreat prisoners and detainees and used excessive force. Prison conditions remained poor, although there were some improvements, including renovations in facilities nationwide. There was continued criticism of the discriminatory nature of the Citizenship and Aliens' Law due to its Estonian language requirements. Violence against women was a problem, and there were reports that women were trafficked for prostitution. Reform of the country's political and economic structure led to an invitation in December to join the European Union (EU) in May 2004. Estonia was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, police continued to use excessive force and verbal abuse during the arrest and questioning of suspects. Six police officers were charged and found guilty of using excessive force; two others charged in 2001 were awaiting trial at year's end.

Prison conditions remained poor, although there were some improvements. By midyear the prison population was 4,737 inmates. Overcrowding was reported in the major prisons. A lack of funds and trained staff continued to be serious problems. The percentage of prisoners suffering from tuberculosis was much higher than in the general population.

The Government continued renovating and restructuring all of the country's prisons. A new prison in Tartu, built to EU standards, with a capacity of 500 inmates, opened in October. Modest gains were made in hiring new prison staff and retaining existing personnel. Work and study opportunities for prisoners continued to increase. During the year, 564 prisoners were released under the Government's early release program. Men and women were housed separately; prison facilities for men, but not for women, were overcrowded. Juveniles also are housed in separate penal facilities. Pretrial detainees and convicted prisoners were held in the same prisons, but in different sections. On September 1, a revision to the Penal Code went into effect that offered the possibility of replacing prison sentences with community service.

The Government permits prison visits by independent human rights observers; the last such visit occurred in 1999.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution and laws prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions. Under the Constitution, warrants issued by a court are required to make arrests. Detainees must be informed promptly of the grounds for the arrest and given immediate access to legal counsel. There is a functioning bail system. A person may be held for 48 hours without being charged formally; further detention requires a court order. Police rarely violated these limits. A person may be held in pretrial detention for 2 months; this term may be extended for a total of 12 months by court order. Lengthy pretrial detention is not a problem: The average time of detention was 3 ½ months. At year's end, 1,251 of the 4,415 prisoners were awaiting trial.

The Constitution prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judiciary operates through a three-tier court system: Rural and city courts, district courts, and the State Court (which functions as a supreme court). The district and State courts are also courts for “constitutional supervision.” At the rural and city levels, court decisions are made by a majority vote, with a judge and two lay members sitting in judgment. All judges and lay judges must be citizens. The President nominates and the State Assembly confirms the Chief Justice of the State Court. The Chief Justice nominates State Court judges who are subject to confirmation by the State Assembly. He also nominates the district, city, and rural court judges who are appointed by the President. Judges are appointed for life.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. It also provides that court proceedings shall be public. Closed sessions may be held only for specific reasons, such as the protection of state or business secrets, and in cases concerning minors. The Constitution further provides that defendants may present witnesses and evidence as well as confront and cross-examine prosecution witnesses. Defendants have access to prosecution evidence and enjoy a presumption of innocence. If a person cannot afford an attorney, the State provides one.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice. The law requires a search warrant for the search and seizure of property. During the investigative stage, the prosecutor issues warrants upon a showing of probable cause. Once a case has gone to court, the court issues warrants. The Constitution provides for the privacy of the mail, telegrams, telephones, and other means of communication. Police must obtain a court order to intercept communications. Illegally obtained evidence is not admissible in court.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. The Law on Language prohibits the use of any foreign language on public signs, advertisements, and notices, including election posters. Translation may be provided into other languages; international conferences are exempt from the law.

Four major national Estonian-language and two Russian-language daily newspapers were published, in addition to several weeklies. These publications were independent and not subject to government influence; more than half were foreign-owned. A local politician’s company owned one Russian daily. All newsprint, printing, and distribution facilities were privately owned. Foreign newspapers and magazines were widely available.

In January the city court of Tallinn found a journalist accused of libel not guilty. The plaintiff, whom police held briefly in connection with the 2001 murder of the publisher of a Russian-language daily, filed an appeal in District Court; the case was pending at year’s end.

A 2000 administrative court decision to fine a local television newscaster for using insulting words on the air against a local writer was under appeal at year’s end; further action appeared unlikely.

After a dispute in late 2001, the organization representing the country’s print press ended its cooperation with the existing ombudsman organization and created a new organization—the Press Council—with a similar purpose.

State (public) broadcast media, including one nationwide television channel (Estonian Television—ETV), continued to receive large government subsidies. The Government instructed ETV to stop broadcasting commercials as of July.

There were two commercial Estonian-language television channels and a wide range of private radio stations.

Some Russian-language programs, mostly produced in Estonia, were broadcast over state and private or commercial television channels. The Government played a large role in encouraging Russian-language programs on state television. However, in proportion to the size of the Russian-speaking minority in the country, the actual amount of Russian-language programming remained small, due in part to the Russian service’s limited budget. Russian state television and Russian commercial channels were available widely via cable.

Internet access was available and generally unrestricted.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these



rights in practice. Permits for all public gatherings must be obtained 3 weeks in advance. The authorities have wide discretion to prohibit such gatherings on public safety grounds but seldom did so. There were no reports of government interference in mass gatherings or political rallies during the year. Noncitizens are prohibited from joining political parties, although they may form social groups.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The law requires all religious organizations to have at least 12 members and to be registered with the Interior Ministry and the Board of Religion. Leaders of religious organizations must be citizens with at least 5 years' residence in the country.

Beginning in 1993, a group of ethnic Estonian and Russian parishes preferring to remain under the authority of the Russian Orthodox Church structure have attempted to register under names similar to the registered Estonian Apostolic Orthodox Church (EAOC), which is independent. In May 2001, the Ministry of Foreign Affairs (MIA) declined to approve an application by representatives of the Moscow Patriarchate, explaining that it could not formally register this church under its desired name, since it would be confused too easily with the EAOC. Following an exchange between the Estonian Prime Minister and the Moscow Patriarch in 2001, as well as other discussions, on April 17, the MIA registered the church under the name Estonian Orthodox Church (EOC), Moscow Patriarchate.

On February 12, Parliament adopted a revised Law on Churches and Religious Organizations. The law removed a disputed provision from legislation proposed in 2001 that would have barred the registry of any church or union of congregations whose permanent or temporary administrative or economic management was performed by a leader outside the country. The President promulgated the revised law on February 27.

The majority of citizens are nominally Lutheran, but relations between the various religious communities generally are amicable. Tension between the ethnic Estonian and ethnic Russian populations generally did not extend to religious matters; however, the hierarchical dispute and legal conflict over church property did result in some resentment on the part of Christian Orthodox believers belonging to the EOC, Moscow Patriarchate.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice. Passports served as identification but do not have to be carried at all times. There were no exit visas.

The Government did not restrict the right of noncitizen residents—persons who are citizens of another country or stateless persons—to foreign travel, emigration, or repatriation, although some noncitizens complain of delays in obtaining travel documents. The majority of noncitizens were ethnic Russians (see Section 5). The Government issued alien passports to resident aliens not in possession of other valid travel documents. Such aliens included: Persons who are designated as stateless, foreign citizens who cannot obtain travel documents from their country of origin or from another state, persons who file for Estonian citizenship and pass the language examination if required (pending receipt of citizenship), and aliens who are departing Estonia permanently. The Government approved the issuance of alien passports to noncitizens intending to study abroad and agreed to issue them to former military personnel who cannot or do not want to assume Russian citizenship.

The law provides for the granting of refugee and asylum status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Citizenship and Migration Board has authority over domestic refugee issues and oversees the state registry for asylum. Since 1999 an accelerated procedure has been in effect for processing refugee applications for those in the country, in addition to the already existing procedure at the border. Temporary residence permits may be granted to persons whose applications for a residence permit are based on an international agreement.

In the past, the Government granted first asylum, but it denied first asylum to all seven applicants during the year. The accelerated program began in 1999; during the year, 69 persons applied for asylum, of whom 7 were waiting for a reply at year's end. Of the applicants processed, four were granted asylum, and seven were granted temporary residence permits. The Citizenship and Migration Board turned down the remaining applications on the grounds that the applicants did not fulfill the criteria for refugee status as defined in the 1951 U.N. Convention.

The Government deported a small number of illegal aliens during the year, usually persons caught in criminal acts. By the end of July, three illegal aliens were held as internees pending deportation or a court order granting them residence.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. On January 8, the coalition government elected in 1999 stepped down and on January 28 was replaced by a new coalition comprised of the Reform and Center Parties. On October 20, nationwide municipal elections were held.

Only citizens may vote in parliamentary elections and be members of political parties. However, resident noncitizens and those who have lived permanently in the area for at least 5 years preceding the election may vote in local elections, although they may not run for office. Approximately 1.1 million persons were citizens, of whom approximately 117,000 received their citizenship through the naturalization process. Holders of permanent or temporary residence permits numbered approximately 270,000 persons, 80 percent of whom are ethnic Russians (*see* Section 5). Illegal residents numbered approximately 30,000, and most were ethnic Russians; they were not included in the census figures.

There were 17 women in the 101-seat legislature. Four of the 13 cabinet ministers were women.

Ethnic Russians, who made up 28 percent of the population, held 7 of the 101 seats in the State Assembly. The law requires that Members of Parliament speak Estonian.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were usually cooperative and responsive to their views. A nongovernmental legal information center in Tallinn provided free legal assistance to individuals—citizen and noncitizen alike—seeking advice on human rights-related issues.

The Government's Human Rights Institute monitored human rights and provided information to the international community. It investigated reports of human rights violations, such as allegations of police abuse and the inhuman treatment of detainees. The Institute operated an information center in the heavily ethnic Russian town of Kohtla-Järve.

A presidentially established roundtable composed of representatives of the State Assembly, the Union of Estonian Nationalities, and the Russian-speaking population's Representative Assembly discussed and made recommendations on social integration issues, as did an analogous but independent roundtable that met monthly in the county of East Virumaa.

The role of the Chancellor of Justice and the ombudsman were combined under legislation passed by the State Assembly in 1999. The chancellor-ombudsman, who also operated a branch office in the heavily ethnic Russian northeastern town of Narva, handled complaints by private citizens against state institutions.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination for any reason; however, reports of discrimination against ethnic Russian residents continued.

*Women.*—Violence against women, including spousal abuse, reportedly was common and continued to be the subject of discussion and media coverage. Neither domestic violence nor marital rape are criminalized, although they may be prosecuted under existing law. Rape and attempted rape occurred infrequently. In the first 11 months of the year, there were reports of 67 rapes and 10 attempted rapes, compared with 43 rapes and 9 attempted rapes for all of 2001. However, studies showed that 40 percent of crime, including domestic violence, went unreported. Even when the police were called, the abused spouse often declined to press charges, due to societal pressure.

There were reports that women were trafficked for prostitution (*see* Section 6).

Sexual harassment existed but was not reported officially. Although sexual harassment is not specifically mentioned in the penal code, it is possible to prosecute such cases under Code provisions on "Violation of Gender Equality." Although

women have the same legal rights as men under the law and are entitled in theory to equal pay for equal work, this was not the case in practice. While women's average educational level was higher than that of men, their average pay in general was lower, and there continued to be female- and male-dominated professions. Women constituted slightly less than one-half of the work force; they also carried most major household responsibilities.

The Center of Women Citizens and a roundtable of women's organizations worked to promote women's rights.

*Children.*—The Government is strongly committed to education; it gave a high priority to building and refurbishing schools. The mandatory education period is 9 years. Education is free. Approximately 97 percent of those eligible attended school, with attendance in proportion to the breakdown by gender in the population. The Government provided free medical care for children and subsidized school meals.

There is no societal pattern of child abuse; however, studies, including one published by the local U.N. Development Program office during 2000, found that a significant proportion of children had experienced at least occasional violence at home, in schools, or in youth gangs. In the first 11 months of the year, police registered 27 cases of sexual abuse involving 26 female victims and 1 male victim, all below age 16. In the same period, there were 32 cases of procurement for prostitution or criminal activity of victims younger than 18 years old. In one rape case, the victim was younger than age 14.

*Persons with Disabilities.*—While the Constitution provides for the protection of persons with disabilities against discrimination, and both the Government and some private organizations provide them with financial assistance, little has been done to enable persons with disabilities to participate normally in public life. There is no public access law, but some effort was made to accommodate persons with disabilities; for example, ramps were installed at curbs on new sidewalk construction, and public transportation firms acquired some vehicles that are accessible, as have some taxi companies. The law allows for persons with serious sight, hearing, or speech impediments to become naturalized citizens without having to pass an examination on the Estonian Constitution and language.

*National/Racial/Ethnic Minorities.*—During the years of the country's forced annexation by the Soviet Union, large numbers of non-Estonians, predominantly ethnic Russians, were encouraged to migrate to Estonia to work as laborers and administrators. These immigrants and their descendants made up approximately one-third of the total population; about 40 percent of these persons were born in Estonia.

The Law on Cultural Autonomy provides for the protection of cultures of citizens belonging to minority groups. Some noncitizens termed the law discriminatory, because it restricts cultural autonomy only to citizens; however, noncitizens may participate fully in ethnic organizations, and the law includes subsidies for cultural organizations.

In districts where more than one-half of the population speak a language other than Estonian, the law entitles inhabitants to receive official information in that language.

All residents, whether or not they are citizens, may complain directly to the State Court about alleged violations of human or constitutional rights. The State Court justices review each case. All decisions are in Estonian, but if a complaint is received in a language other than Estonian (usually Russian), the court provides a translation.

Some noncitizen residents, especially ethnic Russians, continued to allege job, salary, and housing discrimination because of Estonian language requirements. The Citizenship Law includes a residency requirement for naturalization of 5 years and requires knowledge of the Constitution and the Citizenship Law, as well as Estonian language capability. Persons who were legal residents in the country prior to July 1, 1990, were exempt from the 5-year legal residence and 1-year waiting period requirements. The law allows the Government to waive the language and civic knowledge requirements for applicants who have Estonian-language elementary or higher education, or who have performed valuable service to Estonia. The Citizenship Law, as amended in 1998, grants citizenship to stateless children born to legally resident stateless parents after February 26, 1992 (upon the parents' or guardians' application). As of December, parents had applied for citizenship for 2,178 such children; 2,026 of the applications were approved.

While the OSCE and some other international organizations, such as the Finnish Helsinki Committee, have found the citizenship law to be satisfactory, some U.N. officials, the Russian government, and members of the local ethnic Russian community continued to criticize the Citizenship Law as discriminatory, notably for its Estonian language requirements.

By law the following classes of persons are ineligible for naturalization: Those filing on the basis of false data or documents; those not abiding by the constitutional system or not fulfilling the laws; those who have acted against the State and its security; those convicted of felonies; those who work or have worked in the intelligence or security services of a foreign state; or those who served as career soldiers in the armed forces of a foreign state, including those discharged into the reserves or retired. The latter category includes spouses who came to Estonia in connection with the service member's assignment to a posting, the reserves, or retirement. A provision of the law allows for the granting of citizenship to a foreign military retiree who has been married to a native citizen for 5 years. During the year, 4,091 persons received citizenship by naturalization. A total of 213,717 persons held permanent residence permits; 52,758 held temporary residence permits. Bureaucratic delays also were cited as disincentives for securing citizenship.

Partly in response to allegations by foreign governments of human rights violations against the noncitizen population, the Government in 1998 established a high-level commission to examine all aspects of bilateral relations, including a subgroup that would examine the humanitarian aspects of the Russian minority in Estonia and possibly of the Estonian minority in Russia. However, by year's end, there had yet to be a formal session of the commission, and no action appeared likely.

A 2000 amendment to the law on aliens provides that the annual immigration quota does not apply to non-Estonian spouses of Estonian citizens if the spouses have a common child up to 15 years of age or if the female spouse is more than 12 weeks pregnant. In addition, the amendment provides that the quota does not apply to children up to 15 years of age if the parents are applying for a residence permit. On June 28, Parliament adopted an amendment to the aliens law that allows permanent residents who have resided in the country for at least 5 years to bring in spouses or close relatives without regard to the immigration quota.

Other than for land ownership, the law does not distinguish between citizens and noncitizens for purposes of business or property ownership, and land ownership by foreigners is restricted only in certain strategic areas. All legal residents of the country may participate equally in the privatization of state-owned housing.

The Language Law requires that all public servants and public sector employees, service personnel, medical professionals, and sole proprietors must use the Estonian language, with actual proficiency determined through examination. Non-Estonian citizens who have obtained at least primary education proficiency in the language are exempted from the requirement to pass a language examination. A total of 28 prison officials were fired for noncompliance with the language requirement.

The Language Law, amended in 2000, conforms with EU recommendations regarding language requirements for persons working in the private sector. For employees of private enterprises, nonprofit organizations, and foundations, as well as sole proprietors, the amended law establishes a requirement of proficiency in the Estonian language if it is in the public interest.

The language office liberally granted extensions to persons who can explain their failure to meet the requisite competence level. The Government established language-training centers; however, they lack qualified teachers, financial resources, and training materials. There were allegations that the examination process, which 75 to 90 percent of persons pass, was arbitrary. Some ethnic Russians asked for free language training. The examination fee for either language test—for employment or citizenship—was 15 percent of the monthly minimum wage, although it was waived for the unemployed. An EU program reimbursed language training costs for those who passed the examination.

The President's Roundtable continued to seek practical solutions to the problems of noncitizens. The Government continued implementing an integration program instituted in 2000 for the years 2000–07 aimed at fostering the integration of the non-Estonian-speaking population into Estonian society. In addition, at least 10 non-governmental organizations (NGOs) developed and implemented local programs to assist the integration of non-Estonians into society.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right to form and join a union or employee association. The largest trade union is the Central Organization of Estonian Trade Unions (EAKL); it was wholly voluntary and had approximately 50,000 members. Another trade union, the Organization of Employee Unions, split from the EAKL and has approximately 40,000 members. A third central union represented food processing and rural workers. Approximately one-third of the country's labor force belonged to one of the three labor federations. Unions were independent of the Government and political parties.

The ICFTU's 2000 "Annual Survey of Violations of Trade Union Rights" stated that the registration requirements for trade unions, set out in the 1996 Non-Profit Associations Act, were "overly detailed" and "limited their right to decide upon the functioning of their decision-making bodies, stipulated procedures in respect to the establishment, merger, and separation of trade unions, federations and confederations, and gave the authorities the power to liquidate trade unions." A 2000 trade union law eliminated many of the problems.

The Labor Code prohibits antiunion discrimination, and employees may go to court to enforce their rights. The law provides for collective bargaining, collective dispute resolution, and shop stewards.

Unions may join federations freely and affiliate internationally.

*b. The Right to Organize and Bargain Collectively.*—While workers have the legally acquired right to bargain collectively, collective bargaining has not developed fully. According to EAKL leaders, few collective bargaining agreements have been concluded between the management and workers of a specific enterprise. However, the EAKL has concluded framework agreements with producer associations, which provide the basis for specific labor agreements, including the setting of the minimum wage (*see* Section 6.e.). The EAKL also was involved with developing the Labor Code, which covers employment contracts, vacation, and occupational safety.

The law provides for the right to strike, and the Constitution and statutes prohibit retribution against strikers. On December 9, railwaymen, metalworkers, and airline employees staged an 11-hour warning strike, which the unions said was necessitated by the Government's nonfulfillment of its obligations concerning labor market policy.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution does not specifically prohibit forced or bonded labor by children, and there were reports that families forced children into begging (*see* Section 6.d.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The statutory minimum age for employment is 16 years. Minors 13 to 15 years of age may work provided that they have the written permission of a parent or guardian and the local labor inspector. The work may not endanger the minor's health or be considered immoral, cannot interfere with education, and must be included on a government-approved list. Government authorities effectively enforce minimum age laws through inspections.

There were instances in which families forced their children to engage in peddling or begging (*see* Section 6.c.).

*e. Acceptable Conditions of Work.*—The Government, after consultations with the EAKL and the Central Producers Union, sets the minimum wage. The monthly minimum wage was \$115 (EEK 1,850). The national minimum wage—received by 5 to 6 percent of the workforce—was not sufficient to provide a decent standard of living for a worker and family. The average monthly wage in the second quarter was approximately \$321 (EEK 5,140).

The standard workweek is 40 hours, and there is a mandatory 24-hour rest period per week. According to EAKL sources, legal occupational health and safety standards are satisfactory in theory; however, they were extremely difficult to achieve in practice. The National Labor Inspection Board is responsible for enforcement of these standards, but it has not been very effective. The labor unions also have occupational health and safety experts who assisted workers to bring employers into compliance with legal standards. Workers have the right to remove themselves from dangerous work situations without jeopardizing their continued employment.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however, while there were no official reports during the year that persons were trafficked to, from, or within the country, it was generally believed that women were trafficked to other countries, and there were reports of prostitution of victims younger than 18 years old (*see* Section 5).

The new Penal Code that took effect on September 1 specifically criminalized the trafficking of persons. There were no arrests or prosecutions of traffickers during the year.

There were reports that women were trafficked from the country to Scandinavia and Central Europe. Reportedly job advertisements placed from abroad to recruit women were in some cases associated with international prostitution rings.

In May the Nordic Council of Ministers, in cooperation with the Government, held a seminar in Tallinn entitled, "Trafficking in Women." The Conference drew public attention to the issue of trafficking in women and promoted international cooperation to address the problem. NGOs carried out several anti-trafficking campaigns.

## FINLAND

Finland is a constitutional republic with a directly elected head of state (President), a Parliament, a head of government (Prime Minister), and an independent judiciary.

The Government maintains effective control of the police, all security organizations, and the armed forces.

The economy is primarily market based, and it provides citizens with a high standard of living. The population was approximately 5,195,000.

The Government generally respected the human rights of its citizens, and the law and judiciary provided effective means of dealing with individual instances of abuse. The Government took steps to address the problem of violence against women. There were reports of trafficking in persons, primarily women but also some girls, for prostitution. Finland was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that government officials employed them.

During the year, there were a number of attacks by skinheads on Muslim owned businesses, and street fights between different ethnic groups occurred occasionally between younger groups. Somalis and Muslim immigrants were most at risk. The Government took steps to deal with this problem (*see* Section 5).

Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. Male and female prisoners were held separately. Juveniles were held separately from adults, and pretrial detainees were held separately from criminals.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

Warrants are required for arrest. If an individual is arrested while committing a crime, a warrant must be obtained within 3 days. Once arrested the accused must be given a court hearing within 3 days. There is no system of bail except for very serious crimes. Preventive detention is only permitted during a declared state of war for narrowly defined offenses, such as treason, mutiny, and arms trafficking.

The law prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judiciary consists of the Supreme Court, the Supreme Administrative Court, and the lower courts. The President appoints Supreme Court justices, who in turn appoint the lower court judges. Supreme Court justices may serve until their retirement, which usually is at age 63, although justices may serve until age 67.

The law provides for the right to a fair public trial, and an independent judiciary generally enforced this right. Local courts may conduct a closed trial in juvenile, matrimonial, and guardianship cases, or when publicity would offend morality or endanger the security of the state. In national security cases, the judge may withhold from the public any or all information pertaining to charges, verdicts, and sentences. The law provides for sanctions against violators of such restrictions.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such practices, and the Government generally respected these prohibitions in practice. Violations were subject to effective legal sanction.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combine to provide freedom of speech and of the press, including academic freedom.

There were 226 newspapers, including 56 that appeared at least 4 times a week and 26 dailies. A majority of the newspapers were independent; political parties published others. The country had 70 commercial radio stations; 3 national public service radio channels in Finnish and 2 in Swedish; a radio network in the Sami language; 3 digital radio channels; and 4 independent national television channels: 2 public service and 2 commercial channels.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the freedoms of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. There are two state churches: The Evangelical Lutheran Church and the Orthodox Church. Nontraditional religious groups practiced their religion freely.

All citizens who belong to one of the two state churches pay, as part of their income tax, a church tax. Those who do not want to pay the tax must inform the applicable state church that they are leaving that church. Nontraditional religious groups were eligible for some tax relief (e.g., they may receive tax-free donations), provided they are registered with, and recognized by, the Government as religious communities.

The Ministry of Education has outlined requirements for recognition of religious communities. Religious groups should have at least 20 members, the purpose of the group should be the public practice of religion, and the activities of the group should be guided by a set of rules. The Government recognized 45 religious communities as churches.

Instruction in the tenets of the state religions is incorporated into the curriculum of all public schools; however, students who are not members of the state churches may substitute general classes on religion and philosophy.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

The law provides for the granting of refugee and asylum status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. Approved refugees and asylum seekers were processed directly for residence. A 1999 law promotes the integration of immigrants who have been granted asylum. The issue of the provision of first asylum has never arisen.

A total of 3,129 applications for asylum were submitted during the year. There were 592 applications from Romanian Roma, 349 from Slovakian Roma, 252 from Russians, 248 from Bulgarian Roma, and 226 from refugees from Bosnia-Herzegovina. By year's end, the Government had processed 3,334 applications; it granted asylum to 14 applicants and residence permits to 577 others, including 250 who received it on the basis of need for protection. The authorities refused 2,312 applications. Following an initial asylum examination by the police (which can take several months), asylum applications must be heard within 7 days, and applicants have 8 days to appeal a decision.

There were no reports of the forced return of persons to a country where they feared persecution.

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

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

Women were well represented at all levels of government. There were 75 women in the 200-member Parliament and 7 in the 18-member Cabinet. The President, the Speaker of Parliament, and one of the two Deputy Speakers of Parliament were women. The law requires a minimum of 40 percent membership from each sex on all state committees, commissions, and appointed municipal bodies.

### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials are very cooperative and responsive to their views.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination based on sex, age, origin, language, conviction, opinion, or disability, and the Government effectively enforced these provisions.

*Women.*—Violence against women continued to be a problem. Although police statistics annually report around 3,000 cases of domestic violence (with one-fourth of the victims being men), the Government estimated that some 100,000 women lived in an atmosphere of violence. Approximately 30 women died every year from violence. An estimated one-half of divorced women have experienced violent behavior from their partners. Approximately 460 rapes were reported during the year. The true number of rapes remained unknown, as the threshold to report the act to police remained very high, particularly when the victim knew the perpetrator. Reports on violence against women indicated that only one rape in four was committed by an unknown assailant. The law criminalizes rape, spousal rape, and domestic abuse. The law provides for stringent penalties for violence against women, and the police and the courts enforced this provision. Courts have begun to impose slightly tougher sentences for rape; in the past 2 years, unconditional sentences have been lengthened by 6 months—from 18 months to an average of 2 years. Suspended sentences also have become longer.

The number of calls to the police concerned with domestic violence was not compiled centrally, but it was estimated at 10,000 to 12,000 annually, an estimate that shelter officials believed understated by one-half the number of actual incidents. The Union of Shelter Homes, as well as the municipalities, maintained 23 shelter homes for female, male, adult, and child victims of violence. Officials also established shelter homes for minors, mainly 15- to 18-year-olds. Most persons seeking shelter were women between 25 and 35 years of age, either married or in a common-law relationship, and nearly one-third were immigrants.

Administration of equality issues was divided between two units in the Ministry of Social Affairs and Health: The Office of the Ombudsman for Equality and the Gender Equality Unit. The Ombudsman for Equality continued to operate within the Ministry of Social Affairs and Health as an independent authority monitoring compliance with the Equality Act. The Gender Equality Unit had responsibility to prepare and develop the Government's equality policy in cooperation with the other ministries, to help mainstream gender equality, and to handle tasks related to the European Union's (EU's) equality law and policy and international activities. The Government's Council for Equality coordinated and sponsored legislation to meet the needs of women as workers, mothers, widows, or retirees.

Trafficking in women and children for the purposes of sexual exploitation was a problem (*see* Section 6.f.).

The Constitution calls for the promotion of gender equality in social activities and working life—the latter particularly in the determination of remuneration—and the country has a comprehensive equal rights law; however, in practice comparable worth has not been implemented because of the difficulty of establishing criteria. Women's average earnings were 82 percent of those of men, and women tended to be employed in lower paying occupations. While women individually have attained leadership positions in the private and public sectors, there were disproportionately fewer women in top management jobs. Industry and finance, the labor movement, and some government ministries remained male dominated. More than one-half of the country's physicians and 65 percent of medical school graduates in 2001 were women. Women served in the armed forces. Of the 79 complaints processed by the Government's Equality Ombudsman between January 1 and September 30, 14 cases were judged to be violations of the law. In such cases, the law provides for correction of the situation as well as compensation for the complainant.

*Children.*—The Government is strongly committed to children's rights and welfare; it amply funded systems of public education and medical care. Education is free and compulsory for children between 7 and 16 years of age. More than 99 percent of children between these ages attended school, and girls and boys were treated equally in the education system.

There was no pattern of societal abuse of children, and the law reflected the national consensus supporting children's rights.

There were reports of trafficking in children for prostitution (*see* Section 6.f.).

*Persons with Disabilities.*—There was no discrimination against persons with disabilities in employment, education, or in the provision of other state services. The deaf and the mute were provided 120 to 240 hours of interpretation services annually. The Government provided subsidized public housing to persons with severe disabilities.



Although the law requires that new public buildings be accessible to persons with physical disabilities, many older buildings remained inaccessible. No such law applies to public transportation, but municipalities subsidized measures to improve accessibility to public vehicles. Local governments maintained a free transport service that provided a minimum of 18 free trips per month for each person with disabilities.

*Indigenous Persons.*—Sami (Lapps), who constitute less than 0.1 percent of the population, benefited from legal provisions that provide for the protection of minority rights and customs. The Constitution provides for the protection of Sami language and culture and the Government financially supported Sami culture. Sami received subsidies to enable them to continue their traditional lifestyle, which revolves around reindeer herding. Sami have political and civil rights, and they were able to participate in decisions affecting their economic and cultural interests. The use of the Sami language, a minority language that is used regionally, is permitted in schools, the media, dealings with administrative and judicial authorities, economic and commercial life, and cultural activities.

*National/Racial/Ethnic Minorities.*—The number of immigrants rose from 91,074 in 2000 to 98,577 in 2001. Immigrants account for 1.9 percent of the population. For 2001 the Police reported 426 racially motivated crimes. However, a study conducted among immigrants showed that 71 percent of victims of racially motivated crimes had not reported it to the police. Most of the victims were Somalis and Arabs, who said they experienced police discrimination. The Government took steps to address racism and intolerance. All government ministries included anti-racism provisions in their educational, information, and personnel policy programs and included relevant measures in those programs. Ministries must lower the threshold for intervention in cases of racism and promote appropriate administrative practices. In addition, the Government monitored police, border guard officers, and teachers in their treatment of immigrant groups.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the rights of trade unions to organize and assemble peacefully. Approximately 79 percent of the work force was organized. All unions were independent of the Government and political parties.

The law protects workers against antiunion discrimination. Collective bargaining agreements as well as labor law, both of which were enforced, governs complaint resolution.

Trade unions freely affiliate with international bodies.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to organize and bargain collectively. Collective bargaining agreements usually are based on income policy agreements between employee and employer central organizations and the Government.

The law grants public sector employees the right to strike, with some exceptions for employees who provide essential services. A strike is legal when an employment contract is not in effect and the action is directed against the contract, but a strike would be illegal after a contract agreed to by labor, employers, and the Government is in effect. Fines were imposed for illegal striking. During the first half of the year, there were 35 brief strikes, most of them in the industrial sector and most of them illegal.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits youths under 16 years of age from working more than 6 hours a day or at night. The Labor Ministry enforces child labor regulations; there were virtually no complaints of the exploitation of children in the work force.

*e. Acceptable Conditions of Work.*—There is no legislated minimum wage, but the law requires all employers—including nonunionized ones—to meet the minimum wages agreed to in collective bargaining agreements in each industrial sector. These minimum wages generally provided a decent standard of living for a worker and family.

The legal workweek consists of 5 days not exceeding 40 hours. Employees working shifts or during the weekend are entitled to a 24-hour rest period during the week. The law was enforced effectively as a minimum, and many workers enjoyed stronger benefits through effectively enforced collective bargaining agreements.

The Government sets occupational health and safety standards, and the Labor Ministry effectively enforced them. Workers can refuse dangerous work situations without risk of penalty.

*f. Trafficking in Persons.*—The law does not explicitly prohibit trafficking in persons; however, traffickers can be prosecuted under other laws that prohibit slavery, the exploitation of prostitution by means of coercion or fraud, pimping and other related activities, and arranging illegal entries. In a few cases, the authorities prosecuted traffickers; however, according to the Government, the trafficker was often abroad and therefore difficult to prosecute. There were 22 prosecutions for these offenses during the year.

There were reports that persons were trafficked to and through the country. Most trafficking involved women and girls for prostitution from Russia and Estonia, with lesser numbers from Belarus and the Ukraine. Women generally believed that they would be offered normal employment in jobs such as dancers, waitresses, or home assistants. Investigations revealed that they were recruited by organized crime groups and, upon arrival, were directed to locations and accommodations reserved for them by intermediaries in their countries of origin.

The law includes some provisions for witness protection. Legal council is provided to victims as well as medical care and psychological counseling. The Government participated in the funding of shelters, which were generally municipally run.

The Government and NGOs made efforts to prevent trafficking. A working group consisting of representatives of the police, border control, and immigration authorities handled illegal immigration, including trafficking; however, police budget constraints limited the Government's ability to address trafficking. The Ministry of the Interior supervised the EU's antitrafficking "STOP" project—a multinational network to monitor, analyze, and combat trafficking in persons.

## FRANCE

France is a constitutional democracy in which citizens directly elect the President and the National Assembly in periodic, free, and fair elections. The judiciary is independent.

The law enforcement and internal security apparatus consisted of the Gendarmerie, the national police, and municipal police forces. Civilian authorities maintained control of the security forces. Some members of the police forces committed human rights abuses.

The country's population was approximately 60 million. The highly developed, diversified, and primarily market-based economy provided residents with a high standard of living.

The Government generally respected the human rights of its citizens, although there were a few problems in some areas; the law and judiciary provide effective means of dealing with cases of individual abuse. There were instances of the abuse of detainees, particularly foreigners, and reports of the use of excessive force by law enforcement officers. Long delays in bringing cases to trial and lengthy pretrial detention were problems. Violence against women and children were problems, which the Government took steps to address. After an increase during the first half of the year, anti-Semitic incidents decreased during the second half of the year. There were instances of violence and discrimination against immigrants and religious minorities. Trafficking in women and girls was a problem, which the Government took steps to address. France was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings by the Government or its agents. However, there were isolated incidents of law enforcement officers using excessive force, which may have led to the death of one person in custody. There was no evidence of a pattern of abuse.

In September Georges Mondesir died of a heart attack after police took him into custody for threatening a neighbor with a knife. At year's end, the court of Nanterre continued an investigation into allegations that the police used excessive force.

There were some deaths of persons in custody (*see* Section 1.c.).

In April Richard Durn, held for killing eight municipal officials in Nanterre, jumped to his death from a window in the office where police were questioning him.

Administrative and judicial inquests determined that there was no official negligence in connection with Durn's suicide.

In a similar incident in December, Jerome H., a suspected pedophile, jumped to his death from the window of the interrogation room where he was being questioned by police. The Inspector General of Police Services opened an investigation, which was ongoing at year's end.

In April 2000, a police officer shot and killed 25-year-old Ryad Hamlaoui while he was attempting to steal a car in Lille-Sud. The officer was prosecuted and convicted of voluntary manslaughter, although he claimed he acted in self-defense. In July the case was retried on appeal, and a jury reduced the finding to involuntary manslaughter and issued a suspended sentence of 3 months.

In 1997 a police officer shot and killed Abdel Kader Bouziane as he attempted to run into a police barricade in a stolen car. The officer claimed he acted to protect his colleague at the barricade, and in December 2001 the Orleans Court of Appeals dismissed the case against him.

The eight Breton militants allegedly involved in the 2000 lethal bombing of a restaurant near Dinan remained in custody while the investigation continued. Eight Corsican nationalists charged in the 1998 killing of Corsican Prefet Claude Erignac remained in custody. The Paris Court of Appeals rejected an appeal by four of them; the eight are to be tried in early 2003.

Former Vichy official Maurice Papon, who was convicted in 1998 and sentenced to 10 years imprisonment for complicity in crimes against humanity for signing orders leading to the deportation of 1,690 Jews from 1942 to 1944, appealed his sentence under a law passed in April that frees mortally ill prisoners who do not pose a threat to public order. On September 18, the Court of Appeals of Paris ruled that Papon, who is elderly and infirm, should be released on grounds of ill health. He was freed later that day. The Minister of Justice, the Prime Minister, and civic groups publicly condemned the decision. The Government appealed the decision to the Court of Cassation and sought Papon's return to prison. The case remained pending at year's end.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, there were allegations of isolated incidents in which law enforcement officers used excessive force. There was no evidence of a pattern of abuse. The authorities investigated alleged abuse by officials and punished those responsible when the allegations were substantiated. The Inspector General of the National Police and the Office of Judicial Police investigated and prosecuted allegations of police brutality. The independent National Commission on the Conduct of Police and Security Forces investigated and reported to the Prime Minister and Parliament on cases of misconduct by national and municipal police, gendarmes, and private security forces. The National Consultative Commission on Human Rights also monitored police conduct.

On February 22, police reportedly physically assaulted and shouted racial insults at French national Karim Latifi after he interrupted police officers in the process of questioning a group of youths at a roadblock in Paris. Approximately 15 other officers reportedly were implicated in the subsequent assault, striking him with truncheons and punching and kicking him. He received serious head injuries and a broken nose. The public prosecutor of Paris opened an inquiry into the case, which continued at year's end.

Government authorities continued to be concerned about violence in Corsica. The Corsican National Liberation Front claimed responsibility for 12 bombings this year; there were many other bombings that had not been claimed but were under investigation to determine whether their motivation was political or criminal. By year's end, investigations continued in the killings of three members of the Armata Corsa and the 2000 shooting deaths of former Corsican nationalist militant Jean-Michel Rossi and his bodyguard.

The Government took steps to address the concerns of Corsican nationalists. In December 2001, Parliament approved the Matignon Agreement of 2000 that gives Corsica greater autonomy. However, in January the Constitutional Council declared that the first article violated the Fifth Republic's constitutional prohibition against delegating legislative authority to local or regional assemblies. At year's end, both the National Assembly and the Senate approved an extensive decentralization reform package that includes measures to reform the Constitution to allow delegation of authority in the manner called for by the Matignon Agreement. A final vote is scheduled for early 2003.

Prison conditions generally met international standards; however, public debate continued on the adequacy of prison conditions. In the past several years, credible

nongovernmental organizations (NGOs) have reported overcrowding and unacceptable hygiene conditions in prisons. In September Parliament approved a prison reform bill that provided for the replacement of old prisons and the building of space for 13,200 more prisoners. The Government began construction and anticipated completing its plan to build 30 new prisons by 2006.

According to the Ministry of Justice, there were 54,950 persons in custody as of June. There was no evidence of deaths in prison due to mistreatment during the year. The Ministry of Justice reported 235 deaths of persons in custody in 2001, of which 104 were suicides. The country does not keep statistics on causes of death of prisoners other than suicide. The NGO French Prison Suicide Observatory reported 116 suicides and suspicious deaths during the year.

Men and women were held separately, juveniles were held separately from adults, and convicted criminals were held separately from pretrial detainees and those serving sentences of less than 1 year.

The Government permitted prison visits by independent human rights observers. The Council of Europe's Committee for the Prevention of Torture visited the country in June but had not released a report of its findings by year's end.

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions; however, credible sources have criticized the judicial system for its inability to process suspects quickly. Some suspects spend many years in prison before a trial. According to the Prison Administration, as of June 18,598 of the 54,950 persons held in jails and prisons were awaiting trial.

Police are required by law to obtain warrants prior to taking persons into custody. Detainees have access to lawyers. Suspects must have access to a lawyer within 1 hour of being detained. Pretrial detention is generally only allowed if there is a possibility that the suspect would be sentenced to more than 3 years in prison for crimes against persons and to more than 5 years in prison for crimes against property. There is a system of bail.

The law prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected this provision in practice.

The court system includes local courts, 35 regional courts of appeal, and the highest criminal court, the Court of Cassation, which considers appeals on procedural grounds only. Prospective magistrates compete for entry into the National School for Judges; upon completion of their course of study and rigorous exams, magistrates are placed according to their class ranking.

The judicial system has been criticized by credible sources for its inability to process suspects quickly (*see* Section 1.d.). In cases of serious crimes, investigating judges detain suspects for questioning and direct the criminal investigation that occurs before a case is tried. The *chambre d'accusation* reviews the investigating judge's investigation to determine whether the charge established by the investigating judge was appropriate. The Court of Assises investigates and decides cases involving serious criminal offenses.

There were no significant developments during the year in Abdelhamid Hakkar's suit before the European Court of Human Rights (ECHR) charging that the Government violated Article 5 of the European Convention on Human Rights by keeping him in provisional detention for 5 years.

Omar Raddad, convicted of murder in 1994 and later pardoned by President Chirac, submitted a motion for a retrial in 1999 after new DNA evidence was discovered. On November 20, the Court of Revision determined that there was insufficient evidence to merit either a retrial or the annulment of Raddad's original conviction. Raddad stated his intention to appeal to the ECHR.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice. Violations were subject to effective legal sanction.

Wiretapping is recognized as a legal right of the Government. The judge investigating the 1999 wiretapping cases deemed inappropriate by the National Commission for the Regulation of Wiretapping (NCRWT) presented his findings to the Paris public prosecutor's office in February 2000; that office was considering the matter at year's end. According to the 2001 report of the NCRWT, the number of requests for administrative wiretaps increased from 3,161 in 2000 to 4,625 in 2001.

Some religious minorities have experienced problems with the wearing of special religious clothing (*see* Section 2.c.).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press, including academic freedom. However, an 1881 press law that may be used to restrict freedom of expression remained in force despite criticism from the ECHR.

The independent media was active and competitive and expressed a wide variety of views without government restriction. Internet access was widely available and unrestricted.

In June the ECHR found that the prosecution of two journalists under the 1881 press law prohibiting insulting foreign leaders was unjustified, and the court criticized the law as outdated. The ECHR found that the Paris Court of Appeals interfered with the freedom of expression of two journalists in its 1995 ruling that they had insulted King Hassan II of Morocco. In a separate case, three African heads of state invoked the same law in their suit against the author and publisher of the book, "Noir Silence." In 2001 a French court dismissed the case on the grounds that the 1881 law restricted speech in a manner incompatible with the European Convention on Human Rights. The plaintiffs appealed, but in July, the Paris Court of Appeals dismissed the case.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the Government generally respected these rights in practice. Regular demonstrations on various issues occurred without incident.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The 1905 law on the separation of church and state prohibits discrimination on the basis of faith. Minority religious groups continued to be concerned about the possible impact of legislation passed in 2001.

In order to receive tax-exempt status, religious groups must apply with the local prefecture to be recognized as an association of worship and disclose certain management and financial information.

The Government has encouraged public caution toward some minority religious groups that it may consider to be cults. A 1996 parliamentary commission report identified as so-called cults 173 groups, including Jehovah's Witnesses, the Theological Institute of Nimes (an evangelical Christian Bible college), and the Church of Scientology. Members of some of the groups included in the list have alleged instances of intolerance due to the ensuing publicity. The "Interministerial Mission in the Fight Against Sects/Cults" (MILS) was formed in 1998 to coordinate government monitoring of sects/cults. In February MILS released its annual report on the monitoring of cults. The president of MILS resigned in June under criticism and an interministerial working group was formed to determine the future parameters of the Government's monitoring of sects/cults. In November the Government announced the formation of the Interministerial Monitoring Mission Against Sectarian Abuses (MIVILUDES), which is charged with observing and analyzing sect/cult movements that constitute a threat to public order or that violate French law, coordinating the appropriate response, informing the public about potential risks, and helping victims to receive aid. In its announcement of the formation of MIVILUDES, the Government acknowledged that its predecessor, MILS, had been criticized for certain actions abroad that could have been perceived as contrary to religious freedom.

Religious organizations remained concerned about the June 2001 About-Picard law, which tightens restrictions on associations and provides for the dissolution of groups, including religious groups, under certain conditions. By the end of the year, no cases had been brought under the new law. In November the Council of Europe passed a resolution inviting the Government to reconsider the About-Picard law and to clarify certain terms in it, stating that only the ECHR could make a determination as to the law's compatibility with the European Convention on Human Rights.

Some observers were concerned about the tax authorities' scrutiny of the financial records of some religious groups. On February 28, the Versailles Court of Appeals upheld a Nanterre court's 2000 decision that the Jehovah's Witnesses must pay more than \$47.5 million (45.7 million euros) in back taxes. The Jehovah's Witnesses, some branches of which are not recognized as tax-exempt religious organizations, were appealing the decision to the Court of Cassation at year's end.

In 2001 local authorities in La Rochelle and Lorient refused to rent Jehovah's Witnesses public space for meetings, citing as a basis for their decision the inclusion of the group in the 1996 parliamentary report on sects. In February and May, administrative tribunals overturned each city's decision, concluding that the par-

liamentary report had no legal basis and that the cities could not refuse the group access to public space.

In 2001 charges were filed against the Church of Scientology for fraud and false advertising in a lawsuit brought by three former members. In May the court found the Paris branch guilty of violating the privacy of former members and fined it approximately \$8,316 (8,000 euros); however, the branch was cleared of attempted fraud and false advertising. The court fined the president of the Ile-de-France section of the organization approximately \$2,079 (2,000 euros). Church of Scientology representatives reported that a case filed by a parent whose child attended an "Applied Scholastics"-based school remained ongoing.

Foreign missionaries from countries not exempted from visa requirements to enter the country must obtain a 3-month tourist visa before leaving their own country. All missionaries who wish to remain in the country longer than 90 days must obtain visas before entering the country. Upon arrival, they must apply with the local prefecture for a *carte de sejour* (a document that allows a foreigner to remain in the country for a given period of time) and must provide the prefecture a letter from their sponsoring religious organization.

Debate continues over whether denying some Muslim girls the right to wear headscarves in public schools constitutes a violation of the right to religious freedom. Various courts and government bodies have considered the question on a case-by-case basis; however, there has been no definitive national decision on this issue.

The State subsidizes private schools, including church-affiliated schools. Central or local governments own and provide upkeep for religious buildings constructed before the 1905 law separating church and state.

During the year, some religious minorities experienced problems. In the first half of the year, the number of anti-Semitic incidents increased. Attacks ranged from graffiti and harassment to cemetery desecration and firebombing, mainly as a result of increased tensions in the Middle East. According to the press, the police reported approximately 400 incidents from March 29 to April 17, with the most serious occurring over the Easter-Passover weekend. French authorities increased security for Jewish institutions, investigated the attacks, and made arrests. Disaffected youths were apparently responsible for many of the incidents.

In addition, several incidents occurred against members of the large Arab/Muslim community, including incidents of harassment and vandalism.

Scientists continued to report cases of societal discrimination during the year. Panda International software company claimed that press reports in 2001 and critical statements by government officials linking it to the Church of Scientology continued to cause a significant loss in business.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The law provides for the granting of refugee and asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government provides first asylum. In 2001 the Government received 47,291 requests for asylum and issued 7,323 refugee certificates (a document issued to successful asylum applicants).

During the year, thousands of illegal immigrants massed in Calais, in the north of France, and staged attempts to cross into Britain through the trans-Channel rail tunnel connecting France and England. These migrants were allowed to seek refuge in shelters and to apply for asylum, but many refused and tried to enter the United Kingdom. In November Sangatte, an overcrowded Red Cross refugee center in Calais that was seen as a "magnet" for illegal migrants, was closed to new occupants under a Franco-British accord. The accord also improved security at the Channel tunnel. Sangatte was closed permanently in December and its remaining occupants were granted asylum in either the United Kingdom (1,000) or France (150). Asylum-seekers continued to come to Calais to attempt to cross to the United Kingdom; finding Sangatte closed, some slept in the streets, public buildings, and churches. The Government required them to use other refugee centers in the vicinity and to apply for asylum.

There were no reports of the forced return of persons to a country where they feared persecution.

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

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

There were 101 women in the 898-seat legislature and 10 women ministers in the 38-member Cabinet. Of the 190 members of the Court of Cassation, 74 were women. Thirty-five of France's 87 elected representatives to the European Union (EU) Parliament were female. In 2001 a constitutional amendment was implemented requiring parties to have equal numbers of women and men on their list of candidates or face fines. The amendment had a more significant impact on municipal elections than on national elections. As a result, the proportion of women elected in municipal councils increased from 25 percent in 1995 to 50 percent in 2001. The percentage of towns with populations greater than 3,500 that have female mayors grew from 5 percent in 1995 to 7 percent in 2001. The President and the Prime Minister continued discussions on modernizing the country's political institutions, including measures to encourage a greater number of women in political, social, and public positions.

The citizens of the collective territory of Mayotte and the territories of French Polynesia, Wallis and Futuna, and New Caledonia determine their legal and political relationships to France by means of referendums and, along with the overseas departments, they elect deputies and senators to the French Parliament.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights organizations generally operated without government restrictions, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. The National Consultative Commission on Human Rights (NCCHR)—an independent body in the Office of the Prime Minister—which has nongovernmental as well as governmental members also monitored complaints and advised the Government on policies and legislation.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

Statutes ban discrimination based on race, sex, ethnic background, or political opinion.

*Women.*—The Penal Code prohibits rape and spousal abuse, and in general these laws were enforced; however, violence against women remained a problem. The Ministry of Interior reported that in 2001 there were 9,574 rapes and 15,273 instances of other criminal sexual assault; in 2001 there were 1,718 convictions for rape. The penalties for domestic violence vary according to the type of crime and range from 3 years' imprisonment and a fine of approximately \$46,778 (45,000 euros) to 20 years in prison. The penalty for rape is 15 years in prison, which may be increased due to other circumstances (such as the age of the victim or the nature of the relationship of the rapist to the victim). The Government sponsored and funded programs for women who were victims of violence, including shelters, counseling, and hot lines. Numerous private associations also assisted abused women.

On October 4, in the Parisian suburb of Vitry-sur-Seine, a 17-year-old woman named Sohane, was burned to death in an attack by 19-year-old Jamal Derrar. Derrar was taken into police custody on October 6 and was awaiting trial at year's end. Although the killing was an isolated incident, press reports and civil rights NGOs linked the incident to the "repressive atmosphere" in some suburbs dominated by immigrants from Arab countries. Some men in these suburbs reportedly intimidated women whom they perceived as breaking with social norms. The Government and NGOs have spoke out to condemn this behavior, which ranged from verbal abuse to physical assault and rape. On October 14, President Chirac announced the creation of an "independent authority" to combat all forms of discrimination, especially that against women.

Prostitution is legal; acting as a pimp is illegal. Trafficking in women for the purpose of sexual exploitation was a problem (*see* Section 6.f.). A government agency, the Central Office on the Treatment of Human Beings (OCRTEH), addresses trafficking in women, prostitution, and pimping.

The law prohibits sex-based job discrimination and sexual harassment in the workplace. In January the Social Modernization Law modified existing laws on sexual harassment to prohibit harassment by colleagues as well as supervisors, to place on the employer the burden of proof that discrimination did not take place, and to create a mediation process to help workplaces address problems with harassment.

The law requires that women receive equal pay for equal work; however, this requirement often was not implemented in practice. Reports by various governmental organizations and NGOs have indicated that men continued to earn more than women and that unemployment rates continued to be higher for women than for men. The National Institute of Statistics and Economic Studies reported that in 2002 the unemployment rate for women was 10.1 percent, compared with 8.2 percent for men.

*Children.*—The Government was strongly committed to children's rights and welfare; it amply funded systems of public education and medical care. The Ministry for Family Affairs oversees implementation of the Government's programs for children.

There are strict laws against child abuse, particularly when committed by a parent or guardian, and the Government effectively prosecuted abusers. Child abuse was a problem, which the Government took steps to address. In 2001 there were approximately 18,000 reported cases of mistreatment (physical violence, sexual abuse, mental cruelty, or severe negligence) of children, compared with 18,300 in 2000. Approximately 5,900 of these cases involved reports of sexual abuse. Special sections of the national police and judiciary are charged with handling these cases. In 2001 there were 502 convictions for rapes of minors under the age of 15 and 3,750 convictions for cases of sexual assault against minors. In 2001 there were 7,961 convictions for cases of violence, mistreatment, and abandonment of minors. The Government provided counseling, financial aid, foster homes, and orphanages for victims, depending on the extent of the problem. Various associations also helped minors seek justice in cases of mistreatment by parents.

Trafficking in girls was a problem, which the Government took steps to address (see Section 6.f.).

*Persons with Disabilities.*—There was no discrimination against persons with disabilities in employment, education, or in the provision of other state services.

A 1991 law requires new public buildings to be accessible to persons with disabilities; however, many older buildings and public transportation were not accessible.

*National/Racial/Ethnic Minorities.*—Anti-immigrant sentiments led to some incidents of violence and discrimination, including occasional attacks on members of the large Arab/Muslim and black African communities. The annual NCCHR report noted an increase in the number of reported incidents of racist threats—163 threats were reported in 2001, compared with 129 in 2000; there were 38 incidents of racist violence in 2001, compared with 30 in 2000. According to the report, there were no deaths due to racist violence in 2001.

On October 4, two cafes frequented by North Africans in the outskirts of Dunkerque were the targets of drive-by shootings. A 17-year-old man was killed and three people were injured in the attacks. The investigation remained ongoing at year's end.

The Government has criticized strongly such actions and attacks and has strict antidefamation laws. Government programs attempted to combat racism and anti-Semitism by promoting public awareness and bringing together local officials, police, and citizen groups. There also were antiracist educational programs in some public school systems.

During the year, the Government launched a campaign against racism and worked with NGOs to sensitize people to the problems of racism and discrimination through advertising campaigns, public service messages, and reminders that racial discrimination is punishable by 2 years imprisonment and a \$31,185 (30,000 euros) fine. The campaign also publicized the Government's free hot line to report discrimination. The hot line, a joint project of the Ministry of Labor and the NGO Group for Study and Combat of Discrimination (GELD), received over 86,594 calls between its debut in May 2000 and the end of May 2002.

On December 10, the French National Assembly voted unanimously in favor of a new law to toughen penalties for crimes of a "racist, anti-Semitic, or xenophobic" nature. The new law calls for harsher sentences for perpetrators of "physical or material violence committed because of the victim's membership or nonmembership, real or supposed, in an ethnicity, nationality, race, or specific religion." This law would double the prison sentences and increase fines for racist violence. The Senate is scheduled to consider the bill in 2003.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for freedom of association for all workers, and workers exercised this right. Trade unions exercised significant economic and political influence, although less than 10 percent of the work force was unionized. Unions have legally mandated roles (as do employers) in the administra-



tion of social institutions, including social security (health care and most retirement systems), the unemployment insurance system, labor courts, and the Economic and Social Council, a constitutionally mandated consultative body. Unions and labor federations were independent of the Government, and most were not aligned with any political party; however, many of the leaders of the General Confederation of Labor and its unions belonged to the Communist Party.

The law strictly prohibits antiunion discrimination; employers found guilty of such activity are required to correct it, including the reinstatement of workers fired for union activities.

Unions were permitted to join federations and confederations, including international bodies, and many did so.

*b. The Right to Organize and Bargain Collectively.*—Workers, including those in the three small export processing zones, have the right to organize and bargain collectively, and workers exercised this right. The law requires at least annual bargaining in the public and private sector on wages, hours, and working conditions at both plant and industry levels but does not require that negotiations result in a signed contract. In case of an impasse, government mediators may impose solutions that are binding unless formally rejected by either side within a week. If no new agreement can be reached, the contract from the previous year remains valid. Over 90 percent of the private sector work force was covered by collective bargaining agreements negotiated at national or local levels. Trilateral consultations (unions, management, and government) also take place on such subjects as the minimum wage, the duration of the legal workweek, temporary work, social security, and unemployment benefits. Labor tribunals, composed of worker and employer representatives, were available to resolve complaints.

The law requires businesses with more than 50 employees to establish a works council, through which workers are consulted on training, working conditions, profit sharing, and similar issues. Works councils, which are open to both union and non-union employees, are elected every 2 years.

Workers, including civil servants, have the right to strike except when a strike threatens public safety. One-fourth of all salaried employees worked for the Government; however, the Ministry of Social Affairs did not track the number of workdays lost to strike action in the public sector. The number of workdays lost to strike action in the private sector in 2001 decreased by 16 percent, and the number of strikes fell by 26 percent.

Most unions did not call strikes during the first half of the year, when public attention was focused on presidential and legislative elections in April, May, and June. However, private physicians held a series of 1-day strikes in the spring, seeking a government increase in patients' fees per visit. Their demands were met after the new government was installed. In late spring, the economy slowed and the number of layoffs increased; strikes in the private sector during this time remained uncommon. However, workers in the public sector called a series of strike actions in the fall. Their principal concerns were a de facto return to the 39-hour workweek, a reduction in the overall number of civil servants, the end of guaranteed life employment contracts, and the reform of the retirement system.

In September pilots at Air France went on strike demanding higher pay and protested plans to partially privatize the airline. In October 40,000 utility workers staged a march to protest plans for layoffs and decreased retirement benefits. The same issues concerned workers at the public rail company.

In October 50,000 members of the education sector demonstrated to protest the 2003 budget. In November truckers, air traffic controllers, postal workers, driving test examiners, French telecom employees, and the regional transport system employees staged various strikes. A rail workers strike in the southwest of the country began on November 26 and ended on December 11.

The law prohibits retaliation against strikers, strike leaders, and union members, and in general the Government effectively enforced this provision.

The Constitution's provisions for trade union rights extend to the country's overseas departments and territories.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children; however, there were reports that such practices occurred (see Section 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—With a few exceptions for those enrolled in certain apprenticeship programs or working in the entertainment industry, children under the age of 16 may not be employed. In general, work considered arduous, or work between the hours of 10 p.m. and 5 a.m., may not be performed by minors under age 18. Laws prohibiting child employment

were enforced effectively through periodic checks by labor inspectors, who have the authority to take employers to court for noncompliance with the law.

*e. Acceptable Conditions of Work.*—The administratively determined minimum wage is revised whenever the cost-of-living index rises two percentage points. This year it was \$7.10 (6.83 euros) per hour. This wage represented the maximum rate of a multi-step minimum wage scale, which was created to lower the burden of the 35-hour workweek for small and medium sized companies. The minimum wage provided a decent standard of living for a worker and family.

The new center-right government introduced legislation to revise the laws on working conditions. The legal workweek was 35 hours. In September the Labor and Social Affairs Minister presented a plan to raise the annual overtime ceiling from 130 to a maximum of 180 hours (depending on the employment sector); the plan went into immediate effect and allowed a de facto return to the 39-hour workweek.

The Ministry of Labor has overall responsibility for policing occupational health and safety laws. Standards were high and effectively enforced. The law requires each enterprise with 50 or more employees to establish an occupational health and safety committee. Over 75 percent of all enterprises, covering more than 75 percent of all employees, have fully functioning health and safety committees. Workers have the right to remove themselves from dangerous work situations.

*f. Trafficking in Persons.*—The law prohibits the trafficking of persons; however, trafficking in women and girls for prostitution and domestic slavery was a problem.

In January the Government passed a bill to eliminate human trafficking. The law creates a specific infraction in the penal code focused on trafficking in persons.

Prostitution is legal; however, the law prohibits pimping, including aiding, assisting, maintaining, or profiting from the prostitution of another, and the public solicitation of another person for the purpose of inciting sexual relations also is illegal. Pimps and traffickers usually were prosecuted under these laws. Aiding, abetting, or protecting the prostitution of another person; obtaining a profit, sharing proceeds or receiving subsidies from someone engaged in prostitution; or employing, leading, corrupting, or pressuring someone into prostitution are punishable by up to 5 years in prison and a fine of up to approximately \$145,530 (140,000 euros). Penalties increased to a maximum of 10 years in prison and approximately \$1.46 million (1.4 million euros) if a minor or several persons are involved, or if force is used. Pimping by organized groups is punishable by up to 20 years in prison and a fine of up to \$2.9 million (2.8 million euros). The use of “torture” or “barbarous acts” in the course of pimping is punishable by up to life imprisonment and up to \$4.37 million (4.2 million euros) in fines. These laws were enforced to various degrees; there also are strict laws combating trafficking in persons as it relates to domestic slavery. Slavery is punishable by up to 2 years’ imprisonment and \$73,800 (71,000 euros). When the crime applies to more than one victim, punishments increase to 5 years’ imprisonment and \$145,530 (140,000 euros) in fines.

The Government used existing legislative tools to further combat prostitution and trafficking networks. One set of laws targets the client; the other targets the prostitute. Soliciting sex from a prostitute is a minor offence subject to a fine; however, legislators under pressure from the Minister of Interior moved to categorize this behavior as a crime. The second tool being used to combat prostitution is to charge the client with the offense of “sexual exhibition” (engaging in sexual behavior in public). Prostitutes may also be prosecuted for touting sex or “sexual exhibition.” Constituents criticized mayors of large cities including Strasbourg, Bordeaux, and Lyon for the highly visible prostitution in those cities; as a result, the local governments moved prostitutes away from the city centers, schools and public institutions by invoking a police decree against stationing prostitutes within city limits.

In March new laws that target clients of child prostitutes took effect. They prohibit solicitation of sex with a minor in exchange for money and make this a crime punishable by up to 10 years in jail and a maximum fine of \$207,900 (200,000 euros). In July two men were charged in separate cases after being caught by authorities with Romanian child prostitutes, but judgements had not been rendered by year’s end. In October a man in Bordeaux was convicted for sexual relations with a child prostitute and required to pay \$260 (250 euros) of the \$1,040 (1,000 euros) fine originally imposed.

Several law enforcement agencies were involved in the effort to combat trafficking. OCRTEH was under the authority of the central criminal investigation directorate of the police judiciary, which handled organized crime. OCRTEH centralized information and coordinated operations to counter trafficking and maintained contacts with the police, the Gendarmerie, the border police, foreign and international law enforcement authorities, and NGOs. Regional services of the police judiciary also combat trafficking, and the police judiciary had brigades to combat

pimping in Paris and Marseille. Local police forces also addressed problems of prostitution and pimping.

The Government regularly cooperated on a bilateral basis or with international institutions such as Europol to investigate, track, and dismantle trafficking rings. In early October, a multinational operation dubbed "Girasole" (Sunflower) led to 80 arrests and the dismantling of a major trafficking network that operated out of the Ukraine, but was also present in France, Spain, Germany, and Austria.

In July 2001, police broke up a human trafficking ring involving at least 12 non-French traffickers operating from a refugee center in Calais, where they were accused of trafficking people through the Channel tunnel to the United Kingdom (*see* Section 2.d.). In January the court in Boulogne sentenced the primary organizers to periods ranging from 4 to 6 years in jail. The other members of the ring were given shorter sentences.

The country was a destination for trafficked victims, primarily women from Moldova, Ukraine, and Romania. Women were also trafficked from Haiti and Africa, particularly Nigeria, Togo, and the Democratic Republic of the Congo. The number of women trafficked from the former Soviet Union, Eastern Europe, and the Balkans increased and received increased press attention. In general victims were trafficked into sexual exploitation or domestic slavery. In addition, the country was a transit point for women trafficked for sexual purposes from South America and Eastern and Southern Europe.

NGOs estimated that there were between 3,000 and 8,000 child prostitutes in the country. The majority were brought in illegally and exploited by organized crime networks. Most were between 15 and 18 years old; however, some were as young as 10 years old. The girls were primarily trafficked from Eastern Europe (Albania, Kosovo, Ukraine, Bulgaria, Russia, and the Czech Republic) and West Africa (Sierra Leone, Nigeria, Ghana, and Cameroon). The country was also a destination for trafficked Romanian children, many of Romani descent. These children have traditionally been widely used by their handlers as beggars and thieves throughout the country. Many of these child thieves/beggars increasingly turned to prostitution. In October Minister of Interior Sarkozy and the Romanian Minister of Foreign Affairs signed an agreement that would return Romanian children and prostitutes illegally in France to Romania. The first deportations under this agreement took place in December.

There were organized rings of traffickers, primarily from southeast Europe, and the number of young women, often between the ages of 16 and 19, brought into the country to work as prostitutes continued to increase. Many women and girls were resold from one network to another, and the open borders under the Schengen Accords made it difficult for police to monitor and count them. During the year, officials estimated that the prostitution trade had increased by 30 percent since 1997. Police estimated that of the 12,000 to 15,000 women prostitutes who worked in France, as many as 90 percent were forced into the trade by "micro-trafficking networks." Some victims came as a result of fraud or force; some were brought by a friend, or a friend of a friend; others had worked as prostitutes in their home countries and were willing to continue the practice to pay for their immigration papers. Traffickers used methods ranging from the confiscation of the victim's identification papers to cultural isolation to physical or psychological abuse.

In September media reports stated that Nigerian organized crime groups were taking over the African prostitution market in the country. The traditional African "mamas" and their volunteer prostitute networks were being forced out in favor of a more strictly controlled sexual slave trade. The articles claimed that African prostitutes constituted 35 percent of all prostitutes in the country, surpassing the number of prostitutes from Eastern Europe (25 percent). The influx of new women exacerbated turf wars between the different organized crime groups operating the trafficking networks in the country.

Aide Sociale a l'Enfance (ASE), the national social services branch for childcare, was responsible for caring for and assisting victims under the age of 22. The Government had no specific protection programs in place for trafficking victims. Those victims located or arrested by the authorities normally were processed as illegal immigrants and may be detained or jailed. Trafficking victims may be granted temporary residency while they apply for asylum. Victims were encouraged to file legal action against traffickers. The Government worked closely with other countries and NGOs to combat trafficking. The Government supported trafficking prevention programs as part of the EU, including information and media campaigns, seminars, and a trafficking prevention project in West Africa. ASE worked closely with the Office for the Protection of Refugees and Stateless Persons. The Committee Against Modern Slavery brought cases of domestic and modern slavery to the authorities for prosecution.

Numerous NGOs dealt with trafficking in persons and prostitution. The Parada Association worked towards integrating Romanian child beggars and prostitutes into society. The Scelles Foundation, which had a center for international research and documentation of sexual exploitation, provided information to the media on the issue and supported other associations in the country and around the world. The NGO L'Amicale du Nid worked directly with prostitutes.

## GEORGIA

The Constitution provides for an executive branch that reports to the President and a legislature. The President appoints ministers with the consent of Parliament. Local and municipal elections were held in June. The elections were marred by irregularities that prevented some eligible voters from participating. International observers criticized the election, citing hasty and poor organization by authorities and inaccurate voter registers. Lengthy recounts prevented the Tblisi city council from convening until November. The 2000 elections in which Eduard Shevardnadze was reelected to a second term as President were also criticized by international observers. Parliamentary elections in 1999 were characterized by the Organization for Security and Cooperation in Europe (OSCE) as a step toward the country's compliance with OSCE commitments. The civil war and separatist wars that followed the 1992 coup ended central government authority in Abkhazia and South Ossetia, and weakened central authority in the autonomous republic of Ajara and elsewhere in the country. The Constitution provides for an independent judiciary; however, the judiciary was subject to executive pressure.

The Ministry of Internal Affairs (MOIA) and the Prosecutor General's office had primary responsibility for law enforcement, and the Ministry of State Security played a significant role in internal security. In times of internal disorder, the Government could call on the MOIA or the military. Elected civilian authorities did not maintain effective control over the law enforcement and security forces. Members of the security forces committed a number of serious human rights abuses.

Government efforts to develop a market-based economy were stifled by corruption and mismanagement. The country has a total population of approximately 4.4 million which represented a steep decline in population since the 1990 census. Key exports were scrap metal, manganese, wine, mineral water, and agricultural products. Agriculture represents approximately 19 percent of gross domestic product (GDP), and GDP during the first 6 months of the year increased 4.2 percent to \$1.6 billion (3.4 billion GEL). Official data indicated that approximately 53 percent of the population lived below the poverty level. There was a growing fiscal deficit due to continued low revenue collection. Government salaries and pensions remained in arrears.

The Government's human rights record remained poor; although there were a few improvements, serious problems remain. Numerous serious irregularities in the 1999, 2000, and June elections limited citizens' right to change their government. Numerous nongovernmental organizations (NGOs) reported that police brutality continued. Security forces continued to torture, beat, and otherwise abuse detainees. Corruption in law enforcement agencies was pervasive. NGOs also blamed several deaths in custody on physical abuse, torture, or inhumane and life-threatening prison conditions. Arbitrary arrest and detention remained a problem during the year. The Government took no concrete steps to address these problems, and lack of accountability remained a problem. The judiciary was subject to pressure and corruption and did not ensure due process. Reforms to create a more independent judiciary were undermined by failure to pay judges in a timely manner. There were lengthy delays in trials and prolonged pretrial detention remained a problem. Law enforcement agencies and other government bodies occasionally interfered with citizens' right to privacy. The press generally was free; however, occasionally security forces and other authorities intimidated and used violence against journalists. Journalists practiced self-censorship. Government officials infringed upon freedom of religion. The Government continued to tolerate discrimination and harassment of some religious minorities. Violence and discrimination against women were problems. Trafficking for the purpose of forced labor and prostitution was a problem. Georgia was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as an observer.

Internal conflicts in Abkhazia and South Ossetia remained unresolved. Ceasefires were in effect in both areas, although sporadic incidents of violence occurred in Abkhazia. These conflicts and the problems associated with approximately 270,000 internally displaced persons (IDPs) from Abkhazia, 60,000 from South Ossetia, and 3,900 refugees from Chechnya, posed a continued threat to national stability.

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no confirmed reports of political killings by government agents.

There were 34 deaths in custody; security force abuses reportedly contributed to several of these deaths.

During the year, there were 31 deaths in prison attributed to suicide, disease, or sickness (*see* Section 1.c.).

Killings were committed by elements on both sides of the separatist conflict in Abkhazia, including partisan groups and forces of the Abkhaz separatist regime. The most recent serious outbreak of hostilities between armed groups took place in 2001 and resulted in the deaths of approximately 60 members of armed groups and 21 civilians. Killings and other abuses on both sides of the conflict were not investigated, prosecuted, or punished adequately. During the year, the Government criticized these partisan groups, but took no concrete action to curtail their activities, particularly those of Davit Shengelia, the leader of the partisan organization Forest Brothers.

Both government and Abkhaz forces laid tens of thousands of landmines during the 1992–93 fighting. There were numerous reports in 1999 and 2000 that groups from the country, allegedly linked to the Government, infiltrated Abkhazia and laid antipersonnel mines. There was a reduction in landmine casualties during the year due to migration out of the area and to the activities of landmine clearing organizations such as the Halo Trust.

*b. Disappearance.*—Partisan groups active in Abkhazia engaged in criminal activity and frequently took hostages to exchange for captured compatriots. Abkhaz and government officials agreed on joint law enforcement efforts to prosecute kidnapers and other criminals that could threaten to destabilize the ceasefire. During the year, there also were many instances of kidnaping for ransom elsewhere in the country, which included both local and foreign citizens. The MOIA reported 15 cases of kidnaping in the first half of the year and stated that investigations had resulted in charges for 9 of these cases. There was widespread speculation that corrupt law enforcement officials were involved in some of these kidnappings. Many citizens, including some members of Parliament, alleged publicly that senior law enforcement officials were involved in kidnappings for ransom. Kidnaping of foreigners continued.

On June 19 in Tbilisi, persons in police uniforms kidnaped banker Peter Shaw, a British citizen, from his car. The Minister of State Security publicly announced that the identities of Peter Shaw's kidnapers were known to the authorities and alleged Interior Ministry officials were involved in the abduction. The Minister of State also publicly confirmed the possible involvement of government officials in the kidnaping. Shaw escaped on November 6; an investigation into the kidnaping was underway at year's end.

Government and Abkhaz commissions on missing persons reported that over 1,000 Georgians and several hundred Abkhaz remained missing as a result of the 1992–1994 war in Abkhazia (*see* Section 1.g.). Officials agreed to joint efforts to determine their location and repatriate the remains of the dead. The International Committee of the Red Cross (ICRC) assisted this effort.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, according to the U.N. Human Rights Committee (UNHRC), members of the security forces continued to torture, beat, and otherwise abuse prisoners and detainees, usually to extract money or confessions. International and domestic observers noted that incidents of police abuse increased following the 2000 presidential elections. Serious abuses and police misconduct, such as the fabrication or planting of evidence, remained problems. During the year, there were several cases of police officers brought to trial, dismissed, or demoted for abuses; however, impunity remained a problem. According to human rights observers, many police appeared to believe that they would not be held accountable for such actions.

Government officials acknowledged that MOIA personnel in the past routinely beat and abused prisoners and detainees. Government officials cited a lack of proper training, poor supervision of investigators and guards, and a lack of equipment as contributing to the continuation of these practices in law enforcement facilities. After law enforcement agencies expressed concern that the safeguards contained in the new Criminal Procedures Code would make it difficult for them to combat crime, amendments made to the code in 1999 and 2000 reinstated many of their powers (*see* Section 1.e.). These amendments stripped away detainees' right to file complaints about abuse with the courts rather than with the prosecutor's office.

Human rights advocates reported that allegations of the use of torture, such as electric shock, to extract money or confessions continued during the year. Throughout the year, Human Rights Watch (HRW) reported that mistreatment and physical abuse of detainees was a major problem. However, some observers noted that when the Ministry of State Security (as opposed to the MOIA) managed an investigation, allegations of physical abuses were rare.

On January 29, police detained and severely beat Aleksander Lichelli in Gori. His attorney intervened with the Public Defender on February 4. A medical examination of Lichelli confirmed extensive scarring and wounds including the pulling out of four nails on his left hand. Lichelli was released only upon the intervention of the Public Defender's Office, which continued to investigate the case at year's end.

In May the Public Defender's police officers with the Mtatsminda-Krtsanisi police department in Tbilisi occasionally beat and systematically extorted money from 15-year-old D. Asaturov and his family while periodically detaining him during the past two years in Tbilisi #5 prison. Police started harassing the family when they attempted to extract bribes from the boy's parents in exchange for not registering a minor offense. On two occasions the officers penetrated the family's apartment, beating Asaturov and demanding more payments. On March 12, the police officers again burst into the Asaturovs' apartment, beat the minor, and assaulted his mother. A medical examination of Asaturov initiated by the Public Defender's Office documented a concussion to the brain, bruises to the ear, and loss of consciousness. The prosecutor's office started criminal proceedings against the two police officers for extortion.

The most serious incidents of abuse occurred during pretrial detention when suspects were interrogated by police. Human rights observers and lawyers noted that abuses occurred more frequently at the time of arrest and in police stations, rather than in pretrial detention facilities, and noted that a growing number of confessions were made in police stations. According to human rights observers, those who suffered such abuse were held routinely for lengthy periods in pretrial detention to give their injuries time to heal (*see* Section 1.e.). HRW reported that, in January and February, 44 detainees transferred into pretrial detention centers from police stations bore fresh injuries. During a Council of Justice meeting on July 8, the Minister of Justice Roland Giligashvili acknowledged that detainees were brought from preliminary detention cells to the penitentiaries of the Ministry of Justice with various types of injuries. During the year, the Ministry of Justice recommended 39 cases of beatings in preliminary detention to the Prosecutor General for investigation, but the Prosecutor General's office reportedly investigated only 4 cases by year's end.

Police often claimed that injuries were sustained during or before arrest. Police agents within the prison population also allegedly committed abuses in pretrial detention facilities.

To counter incidents of torture and abuse by police officials, the Public Defender's Office (also known as the Human Rights Ombudsman) instituted a rapid reaction group in January with the support of the OSCE. This pilot project had the mandate to provide immediate response to all claims of human rights violations during the most critical phase, the first 72 hours of a person's detention. In a May press conference, the Ombudsman reported that the Rapid Reaction Group had registered 97 cases of human rights violations since December 2001, of which all but 8 required immediate reaction.

The Rapid Reaction Group was instrumental in initiating the dismissal of three police officers of the Didube-Chughureti police station in Tbilisi. These officers had detained minor Vakhtang Mamuliani for theft at a photo store in January. According to a witness, police severely beat and threatened to rape Mamuliani during his detention. In addition, Mamuliani's transfer to the police station was not properly registered, limiting the ability of third parties to verify his arrest. The Rapid Reaction Group's work was noted in the U.N. Human Rights Committee's annual review, which criticized overall human rights practices and prisoner treatment in the country.

The cases of David Sturua and Dimitry Romanov—whom police reportedly tortured in 2000 and 2001 respectively—were closed during the year with no charges brought against the police.

In the past, security forces tortured defendants in politically sensitive cases, such as those involving members and supporters of the former Gamsakhurdia government and members of the paramilitary Mkhedrioni (*see* Section 1.e.). Local human rights observers alleged that abuses continued to occur in two pretrial detention facilities: Isolator Five in Tbilisi and the pretrial facility in Kutaisi. Detainees suspected of serious crimes or whose cases had political overtones were incarcerated in Isolator Five, located in the basement of the MOIA. As a condition of membership in the Council of Europe, Isolator Five officially was closed in January 2000; how-

ever, domestic human rights organizations claimed the facility remained open and served the same function, only under a different name. According to local human rights observers, many detainees in Isolator Five reported beatings and abuse despite calls for investigators to show restraint. Often the threat of incarceration in this facility was sufficient to induce confession or extortion.

Unlike in previous years, there were no reports of security forces beating and raping prostitutes, although victims often did not report these incidents.

There were no reports of security forces beating members of religious minorities as in past years (*see* Section 2.c.).

On September 27, over 20 police officers allegedly entered a local television station and beat employees, destroyed equipment, and threatened a correspondent's family after an exposé on police involvement in smuggling gasoline to the separatist region of Abkhazia. Following an internal police investigation, the deputy police chief was dismissed (*see* Section 2.a.).

In June family members reported the unexplained detention of Tbilisi resident Giga Bitsadze by officers from the Didube-Chugureti police department in Tbilisi. Police officers beat Bitsadze to the point of hospitalization. A member of the Public Defender's Rapid Reaction Group intervened in the case. A criminal case was opened and in the prosecutor's office at year's end.

On July 31, a police officer shot and wounded a 12-year-old boy during a dispute with a vendor at an open-air market in Tbilisi. The officer intervened in the dispute. When the boy refused to accompany the officer to the police station, the officer shot him twice. The Inspector General's Office of the MOIA and the prosecutor's office was investigating the case at year's end.

Despite an overall culture of impunity, some policemen were arrested or administratively disciplined in high-profile cases of physical abuse or deaths in custody. In the first 8 months of the year, 209 cases against MOIA employees were sent to the Prosecutor General's office for investigation, which resulted in the opening of criminal cases against 31 persons. This represented a large increase from last year. Of these 31 persons, 4 MOIA employees were placed in pretrial detention. During the same time period, 82 MOIA employees were fired for disciplinary violations and 57 employees were demoted. In general officers were held accountable for abuses only in extreme cases and changes to the Criminal Procedures Code weakened a detainee's ability to substantiate claims of such abuses (*see* Section 1.e.). Many observers claimed that prosecutors frequently were reluctant to open a criminal case against the police or they closed a case for lack of evidence. Human rights NGOs also believed that many instances of abuses go unreported by victims due to fear of reprisals or lack of confidence in the system. In May the MOIA submitted draft Ethical Standards for the Georgian Police that entered into force during the year. Human rights groups welcomed the initiative, but noted that a culture of corruption could undermine officers' ability to observe the stipulations of the draft document.

The Ministry of Justice (MOJ) implemented a system to provide for medical examinations of prisoners transferred from police stations to pretrial detention facilities in order to document injuries that may have occurred while in police custody and to establish baseline medical condition information for each prisoner that could be used in cases where abuse in prison is alleged. Injuries consistent with abuse were documented and reported to the MOJ authorities, who in turn reported this to the MOIA for investigation.

Parliament's Committee on Human Rights and Ethnic Relations and local human rights groups independently investigated claims of abuse. There was a significant increase in the number of claims filed; however, many claimants failed to follow through after filing, allegedly due to fear. The Committee noted that since the presidential election in 2000, claims shifted from requests for economic assistance to complaints about mistreatment and violations by the police and the prosecutor's office and the failure of the prosecutor's office to pursue criminal investigations of alleged violators.

Human rights observers expressed concern that corruption was related to the large number of police officers nationwide. According to the MOIA, there were 13,881 police officers in 2000; however, NGOs estimated there were closer to 35,000. The MOIA claims a figure of 29,500 officials, the number also cited by the Ministry of Finance, but insists that this includes various departments, such as fire and emergency units, which do not serve a policing function. The Government has not consistently paid the salaries of police officers; consequently police solicited bribes from the general population, particularly motorists, and also from suspects detained on suspicion of criminal activity (*see* Section 1.d.).

The MOJ was responsible for overall administration of the prison system; however, the law permits MOIA personnel to continue to staff the facilities. The MOIA maintained several of its own cells in various prisons. Other legislation permits the

MOIA to conduct investigations without judicial approval among inmates to gather evidence for trials. Observers noted little change in prison conditions; however, advocates noted an improvement in access for family members and telephone privileges since the transfer.

According to the U.N. and many NGOs, including HRW, prison conditions continued to be inhumane and life threatening. Prison facilities remained unsanitary, overcrowded, and understaffed and were in desperate need of repair. Most prison facilities lacked proper ventilation, plumbing, lighting, waste disposal, or sanitary medical facilities. Regional penitentiaries and pretrial detention facilities were without electricity for months. Guards and prison staff were not paid in a timely manner, if at all. According to human rights observers and government officials, the problem was exacerbated by the transfer of responsibility for prison administration to the MOJ before it was prepared to assume these responsibilities. Overcrowding remained a major problem; however, some facilities, such as in Zugdidi, were at only 50 percent capacity, while Tbilisi facilities sometimes had 16 or more persons to a cell typically designed for 10 to 12 persons. During the first 8 months of the year, 133 people were pardoned and 450 cases were under review by the pardoning commission. Abuse and extortion of prisoners and detainees by prison staff continued.

On April 9, the UNHRC, in its review of the country's compliance with the International Covenant on Civil and Political Rights, cited systemic problems with the criminal justice and prison systems and continued widespread use of torture and arbitrary detention by police. In issuing recommendations for improving the country's treatment of detainees and prisoners, the Committee requested the Government to report on progress in addressing its specific concerns within 12 months rather than waiting for its third periodic report scheduled for 2006.

In 2001 former Justice Minister Saakashvili attempted to address overcrowding in the country's prisons by accelerating the construction of a new prison facility in Rustavi near Tbilisi. The new facility, which opened in 2001, could hold 1,200 prisoners and had larger cells and modern conveniences. While the new prison should help to alleviate overcrowding, conditions in other facilities had not significantly improved. While Justice Minister, Saakashvili fired some corrupt administrators, released some inmates to reduce overcrowding, and took steps to create a prison inspection system that would include NGO participation; however, Saakashvili resigned in 2001 and was subsequently elected to Parliament. Since his resignation, some corrupt administrators have been rehired, access to prisons for the independent public oversight council of the MOJ sometimes has been limited, and the council's recommendations have been implemented only sporadically.

The prison mortality rate reportedly improved; however, human rights NGOs claimed that authorities kept the official rates artificially low by releasing prisoners who were terminally ill or by sending prisoners to the hospital when they were dying. Observers claimed deaths of prisoners without families usually went unreported. During the year, there were 34 registered deaths in prison, a large proportion of which were attributed to tuberculosis. According to the ICRC, tuberculosis was widespread in the prison system; in cooperation with the MOJ, the ICRC has treated nearly 2,000 infected prisoners since 1998.

Observers reported an increase in violence among prisoners, sometimes resulting in deaths. The increase was attributed to the insufficient and demoralized guard staff. One observer stated that the failure to pay guard staff and the loss of promotion possibilities due to the penitentiary reform created a staffing problem. Some human rights groups claimed that rape by inmates or prison guards was common.

On August 29, Nugzar Mestopashvili, who earlier that day escaped from the Rustavi penitentiary, presented himself at the studios of television station Rustavi 2 in Tbilisi. In a live broadcast, he decried inhumane treatment at the Rustavi prison. Mestopashvili said supervisors and other prisoners systematically beat him to the point of forcing his escape. He threatened to commit suicide if he was returned to the Rustavi penal colony and expressed readiness to complete his remaining sentence at any other facility except the Rustavi prison.

Attempted suicides and self-mutilation occurred in prisons as protests against declined prison conditions or human rights violations. There were also sporadic hunger strikes by prisoners to protest poor conditions, visitor limitations, and the perceived arbitrary parole policy of the Government.

The MOJ took steps to reform prison administration and conditions. In April the Minister of Justice Giligashvili dismissed 25 prison system employees for losing control of a situation that resulted in the April killing of two prisoners and the escape of another at the Avchala 9 and Rustavi 2 penal institutions in one month. The Minister acknowledged systemic problems in the penitentiary system, but said that many violations were the result of poor and incompetent management that could be avoided if prison officials did not attempt to hide transgressions by corrections offi-



cers or other prison managers. The Chair of the Parliamentary Committee for Human Rights Elene Tevdoradze also demanded employees at the Avchala penitentiary and the MOJ Department for Punishment involved in the deaths of two prisoners be brought to justice. In the string of incidents, Zurab Gogberashvili, a former policeman convicted of murder, was severely beaten in a mass brawl and killed with a self-made knife. Earlier the same month, another prisoner at the Avchala penitentiary died in an explosion of a self-made device. In November a prisoner was shot and killed by another inmate who had smuggled a pistol inside the prison.

In May a delegation of the Council of Europe advising a Co-ordinating Council for Penitentiary System Reform expressed satisfaction with some progress in the course of the reforms. The delegation concluded that the situation in the penitentiary system had substantially improved over the last year while acknowledging that serious problems remained. The Council of Europe delegation submitted recommendations to the MOJ focusing on psychological care for long-term prisoners and regular inspection of the penitentiary facilities.

Other reform steps included the May opening of a special section for juvenile offenders at the Avchala facility with a capacity of 110 spaces. The specially renovated facility includes classrooms, sports grounds, meeting rooms, and a medical section. Twenty-six juvenile offenders were transferred from the Khoni prison colony to the Avchala facility.

Men and women were held separately. Juveniles were usually separated from adults; however, at times they were held together in pretrial detention. Pretrial detainees were often kept with convicted prisoners due to overcrowding.

The ICRC had full access to detention facilities, including those in Abkhazia, and access included private meetings with detainees and regular visits. The OSCE reported bureaucratic delays but no serious problems in obtaining access to prisoners or detainees; however, local human rights groups reported increasing difficulty in visiting detainees, particularly in cases with political overtones.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arrest and detention; however, authorities frequently disregarded these provisions. The Constitution provides for a 9-month maximum period of pretrial detention, mandates court approval of detention after 72 hours, and imposes restrictions on the role of the prosecutor (*see* Section 1.e.). These amendments generally were observed; however, prosecutors maintained undue influence over criminal procedures.

Judges issue warrants and detention orders, and by law, suspects must be charged within 3 days. Judges may extend pretrial detention by 3-month intervals up to 9 months. NGOs stated that the amendments to the old Soviet Code (maximum 18 months detention) made the pretrial detention period less arbitrary; however, international and domestic observers noted that such detention usually was longer—sometimes up to 2 years—because this protection routinely was interpreted to include only the prosecutor's investigative period, not the defense's investigative period. Police frequently detained persons without warrants. There was no bail system available to detainees. As of September, there were 7,343 persons in custody, of which 5,133 were convicted and 2,210 were in pretrial detention.

In 1999 Parliament approved a new Criminal Code and other legislation that contained constitutional protections and restricted the powers of the Prosecutor General (*see* Section 1.e.). Following enactment of the new Criminal Code, the Criminal Procedures Code was amended substantially. A number of amendments sought to harmonize the Criminal Procedures Code with the Criminal Code; however, several amendments significantly weakened protections against arbitrary arrest and detention. Specifically the changes imposed severe restrictions on a detainee's access to the courts in the pretrial period. Before these amendments were enacted, a defendant could complain directly to the court prior to a trial regarding abusive actions committed by the police or the Prosecutor General's office during a criminal investigation and could request medical examination; however, under the amended provisions, a defendant could file a complaint of abuse only with the Prosecutor General's office. The Prosecutor General's decision could not be appealed to the courts. NGOs claimed that this regulation hindered their ability to substantiate police misconduct because of the close ties between the Prosecutor General's office and the police. A 2001 amendment to the criminal procedure code reinstated the right of a witness to be accompanied by a lawyer when being questioned by the police. The police could hold a witness for 12 hours without being charged. Police frequently charged witnesses as suspects at the end of this period. HRW reported in 2000 that police often called a detainee's lawyer as a witness, thereby denying him access to his client.

Detainees had difficulty obtaining objective medical examinations in a timely manner. If a medical examination is not conducted within 3 to 4 days of an incident, it is difficult to establish the cause of injuries. Only a state-employed forensic medical examiner, which in most cases was an employee of the Ministry of Health's Ju-

dicial Medical Expert Center, could testify about injuries. Human rights advocates routinely criticized the state forensic examiners as biased in favor of the Prosecutor General, and stated that permission for an independent forensic medical examination rarely was granted.

Police often failed to inform detainees of their rights and prevented them access to family members and lawyers. Some observers charged that police also conducted interrogations in apartments outside police stations to avoid registering detainees. While officially suspects were charged within 3 days of registration, observers claimed that police frequently delayed registering detainees for long periods in order to seek bribes; according to international and domestic observers, at times the police attempted to extort money from suspects in exchange for not registering an arrest. Police reportedly approached suspects' families and offered to drop charges in exchange for a bribe. Correct legal procedures were observed more often once a detainee was charged and registered formally.

In a move to address torture, amendments to the criminal procedure code granting witnesses the right to legal counsel were implemented during the year. However, this right was only occasionally observed in practice. It was common police practice to label detained suspects as 'witnesses' in order to deny them access to a lawyer.

The criminal procedure code calls for detainees to be charged within 72 hours. However, Ministry of Justice figures for 2001 showed that for the Tbilisi pretrial detention center, 493 detainees were registered in violation of the 72-hour deadline. The most serious incidents of police abuse occurred in the investigative phase of pretrial detention when police interrogated suspects (*see* Section 1.c.).

Authorities often held prisoners who were tortured and abused in police stations and pretrial detention for lengthy periods in order to give their injuries time to heal (*see* Sections 1.c. and 1.e.).

The law prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice the judiciary often did not exercise full independence, and judicial impartiality was limited. While 1999 judicial reforms resulted in the appointment of some better qualified judges, observers agreed that judicial authorities continued to experience pressure from the executive branch and powerful outside interests. Several observers have questioned the sustainability of a reformed judiciary without reform of law enforcement institutions. Human rights organizations, including HRW, alleged that investigators sometimes planted or fabricated evidence and extorted confessions in direct violation of the Constitution. Judges were reluctant to exclude evidence obtained illegally if the Prosecutor General objected. Courts continued to convict on the strength of confessions that may have been extracted under torture. The state continued to prevent defendants from obtaining and presenting forensic evidence of torture to the courts through procedural restrictions and by not licensing nongovernment forensic doctors.

Other results of the judicial reform effort were inconclusive. Judicial incompetence and corruption, including the payment of bribes to judges, still were problems. Although there were reports by several trial attorneys and local NGOs in Tbilisi that some cases were being handled in a more expeditious manner since reforms, progress outside of Tbilisi was not as marked. Observers commented that although judges were better educated, they were hindered by lack of practical experience. Human rights organizations pointed to judges' limited experience in case law as a contributing factor. Due to the Government's fiscal crisis, at times judges' salaries went unpaid up to 6 months, creating an incentive for corruption. Pressure from family and political and economic interest groups was extensive, and bribery was common.

The law establishes a three-tier court system. At the lowest level are district courts, which heard routine criminal and civil cases. At the next level are regional (city) courts of appeal, which served as appellate courts for district courts. The regional courts also tried major criminal and civil cases, reviewed cases, and either confirmed verdicts or returned cases to the lower courts for retrial. The Supreme Court acted as a higher appellate court but was the court of first instance for capital crimes and appeals from the Central Election Commission (CEC). The courts followed a judicial code of ethics; however, some observers alleged that the Supreme Court's decisions were subject to political and other undue influences. In 2001 the Supreme Court implemented a system of regional managing judges to monitor the performance of lower courts throughout the country.

A separate Constitutional Court arbitrated constitutional disputes between branches of government and rules on individual claims of human rights violations. The Court has interpreted this latter function narrowly, agreeing to rule only in cases in which the complainant alleged that the violation was sanctioned by law.

The Court only considered one case at a time. The Court's rulings demonstrated judicial independence.

The Council of Justice administered the court system. The Council had 12 members, 4 selected from within each branch of government. To reduce incompetence and corruption, the law has established a three-part testing procedure for working and prospective judges administered by the Council. All judges except for three recognized legal scholars were required to take the exams, which were given twice annually. In December 36 out of 171 examinees passed the two rounds of the examination.

At the district level—particularly in extremely rural or mountainous regions—it was difficult to find candidates who had passed the exam and who were willing to fill judge positions. Supreme Court judges were required to take the examination. In 2000 the President nominated and the Parliament ratified the appointment of 12 new Supreme Court Justices, 10 of whom passed the judicial exams, and 2 of whom were appointed pursuant to Article 20 of the law on the Supreme Court, which provides that distinguished legal specialists may be appointed.

In July the General Directorate of the Council of Europe supported the Supreme Court in hosting a seminar on the practical use of the European Human Rights Convention in the judicial system. The seminar was for regional and district judicial staff and covered the protection of rights and limitations of human rights, the role of courts in the implementation of the Human Rights Convention, Article 8 of the Convention, and related court procedures.

In July the OSCE hosted the second of three training seminars on international human rights law and relevant monitoring techniques for participants from eight cities. Among them were representatives of 21 domestic NGOs and 4 representatives of state structures, including Public Defenders.

Aside from the judicial system, law enforcement as a whole had not undergone significant reform. During the year, reforms took place that included additional training and testing for prosecutor's office personnel and periodic internal reviews. Payment of bribes to police and prosecutor's office officials reportedly was common (*see* Section). The Prosecutor General's office is identified as part of the judicial system in the Constitution, and there were calls from legislators and others to move the Prosecutor General's office into the executive branch.

According to the Constitution, a detainee is presumed innocent and has the right to a public trial. A detainee has the right to demand immediate access to a lawyer and the right to refuse to make a statement in the absence of counsel. Officers must inform detainees of their rights and notify their families of their location as soon as possible. However, these rights were not observed fully in practice. Authorities frequently did not permit detainees to notify their families of their location in violation of the 2001 amendments to the criminal procedure code that specifically provide that if a witness so requests his lawyer can attend his questioning, who may in turn notify family members. However, local police authorities limited lawyers' access to detainees. Defense attorneys and family members often had difficulty obtaining permission to visit clients. Investigators seldom informed individuals of their rights. Lengthy trial delays were common. Defense counsel was not required to be present at pretrial hearings, and defendants and their attorneys regularly complained that they were not notified of scheduled hearings. Under the Criminal Procedures Code, the police are not obliged to allow a lawyer to enter a police station unless hired by a detainee. In 2001 the Parliamentary Committee on Human Rights and National Minorities created a card listing a citizen's rights in case of arrest. The committee has distributed approximately 30,000 printed cards to students, NGOs, and visitors to the committee. However, since 2001 no cards have been printed due to lack of funding.

The 1999 Criminal Procedure Code significantly weakened many constitutional protections designed to circumscribe the powers of the Prosecutor General, increase the rights of defense attorneys, and enhance the independence of the judiciary. Prosecutors continued to direct investigations, supervise some judicial functions, and represent the state in trials. They also continued to wield disproportionate influence over judicial decisions. The Criminal Procedure Code prohibits the same judge who signed a warrant from hearing the case; however, this rule frequently was disregarded outside of Tbilisi since few regions had more than one judge.

In instances where defendants were unable to afford legal counsel, attorneys were assigned to a case upon the recommendation of the prosecutor's office by the Office of Legal Assistance, a part of the state-controlled Bar Association. In certain cases, defendants were pressured or coerced by procurators to accept a state-appointed attorney or other attorneys who did not vigorously defend their interests. However, in general individuals who could afford to pay were able to obtain the attorney of their choice in both criminal and civil cases. The prosecutor's office not only had

control over state-appointed lawyers; it also determined whether to grant a defendant's request to change lawyers. However, several NGOs provided free legal services for those whose human rights were violated in Tbilisi. The quality of attorneys varied significantly. In addition, the licensing of forensic medical examiners did not ensure competence.

There was disagreement among NGOs over who should be counted as a political prisoner; most international and local human rights organizations estimated that there were 20 to 25 political prisoners in the country. The Parliamentary Human Rights Committee considered there to be only 3 to 5 political prisoners, while the Ombudsman claimed that there were no official political prisoners in the country; however, many individuals, including members of the former paramilitary Mkhedrioni, so-called Zviadists (followers of the deceased former president Gamsakhurdia), and some former state security personnel considered themselves political prisoners. According to human rights observers, some Zviadist prisoners never took up arms and should be considered political prisoners. Some Zviadists were convicted on poorly substantiated charges of treason, banditry, and illegal possession of weapons and were serving sentences of from 7 to 12 years.

In 2000 Parliament passed a resolution on national reconciliation directing the Prosecutor General to review the cases of those convicted in connection with the civil war. President Shevardnadze subsequently pardoned or reduced the sentences of several hundred prisoners convicted of crimes committed during the civil war. Approximately 95 percent of imprisoned Zviadists were released.

In July President Shevardnadze pardoned three persons convicted for the 1995 assassination attempt on appeals by Rusudan Beridze, Deputy Secretary of the National Security Council. They included Temur Khachishvili, former Deputy State Security Minister, Giga Gelashvili, and Guram Papukashvili, former commander of a special security services unit. In April President Shevardnadze also pardoned former Finance Minister Guram Absandze, who had been associated with the 1998 assassination attempt.

In September two well-known Zviadists (Petre Gelbakhiani and Irakli Dokvadze), charged with a terrorist attack against Mkhedrioni leader Jaba Ioseliani in 1992, were released from prison. However, their court release occurred as a result of having served two-thirds of their sentence and was not considered a presidential pardon.

Although President Shevardnadze pardoned and the Supreme Court ordered the release of Tengiz Asanidze, who was accused of abduction and financial crimes, authorities in the autonomous region of Ajara refused to release him. Both Amnesty International the Council of Europe's Commissioner for Human Rights called for Asanidze's release. At year's end, he was awaiting the terms of the examination of his suit filed with the European Court of Human Rights in Strasbourg, and his case remained pending.

The Government permitted international human rights and domestic organizations to visit political prisoners, and some organizations did so during the year.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions without court approval or legal necessity; however, in practice law enforcement agencies and other government bodies occasionally monitored private telephone conversations without obtaining court orders. The Government stated that security police and tax authorities entered homes and workplaces without prior legal sanction in emergency cases as permitted by the Criminal Procedures Code. Traffic Police often stopped and searched vehicles without probable cause in order to extort bribes (*see* Section 1.c.).

*g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—Internal conflicts in Abkhazia and South Ossetia remained unresolved. Ceasefires were in effect, and CIS and joint peacekeeping forces, respectively, were present in both areas, although sporadic incidents of violence occurred in Abkhazia. These conflicts and the problems associated with approximately 270,000 IDPs from Abkhazia, 60,000 from South Ossetia, and 3,900 refugees from Chechnya posed a continued threat to national stability. In 1993 Abkhaz separatists won control of Abkhazia, and most ethnic Georgians were expelled from or fled the region. A Russian peacekeeping force also has been in South Ossetia since 1992 as part of a joint peacekeeping force with Ossetians and Georgians. The Government had no effective control over Abkhazia or South Ossetia during the year.

There was limited information on the human rights situation in Abkhazia and South Ossetia due to limited access to these regions. The UNHRC Office in Abkhazia reported a modest improvement in the human rights situation. However, systemic problems in the criminal justice system, in particular the failure to conduct impartial investigations and to bring alleged perpetrators to trial, sustained a cli-

mate of impunity. Limited access to qualified legal counsel aggravated the situation. The Parliament Human Rights Office remained concerned at the length of pretrial detentions and violations of due process in individual cases. In July an independent legal aid office in the Gali district of Abkhazia began to provide legal advice to the population free of charge.

In September the Ministry of Education of the separatist government of Abkhazia announced a ruling prohibiting instruction in Georgian in schools in Abkhaz-controlled territory, including in the district of Gali inhabited by returned IDPs. This decision contradicted previous agreements by the Coordinating Council working group on Social and Economic Issues chaired by the Special Representative of the Secretary General to the country. The Public Defender's Office (Ombudsman) expressed indignation with the decision based on international legislative norms and the U.N. conventions on discrimination in the field of education.

On July 15, the non-recognized government of South Ossetia established a Human Rights Commission consisting of lawyers and representatives of civil society and NGOs. The South Ossetian Human Rights Commission planned to work in close collaboration with the Commission for Human Rights in the Autonomous Republic of North Ossetia in the Russian Federation and the representative of the President of the Russian Federation for Human Rights.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution and the law provide for freedom of speech and of the press; however, although the independent press was generally free, there were several instances of intimidation of journalists. According to journalists and NGOs, security and other authorities on occasion attempted to intimidate the press through public comments, private admonitions, and violence. Nevertheless, during the year journalists were able to publish wide-ranging and extremely critical views of officials and their conduct; however, some journalists practiced self-censorship.

The Administrative Code contains a freedom of information section that provides for public access to government meetings and documents; however, few journalists employed it. The adoption of a freedom of information act and judicial enforcement of this law made agencies more willing to provide information. However, the Government often failed to register freedom of information act requests, as required by the administrative code. Although the law states that a public agency shall release public information immediately, or no later than 10 days, the release of requested information could be delayed indefinitely. A requesting party had no grounds for appeal.

There were approximately 200 independent newspapers in circulation. The press frequently criticized senior government officials; however, few newspapers were editorially independent and commercially viable. Typically newspapers were subsidized by and subject to the influence of their patrons in politics and business. The Government financed and controlled one newspaper which was published in Russian-, Azeri-, and Armenian-language versions; the newspaper reflected official viewpoints. The highest-circulation independent daily newspaper, *Alia*, had a national circulation nearly 20 percent higher than the Government-controlled daily; however, independent newspapers continued to struggle in the regions, due largely to the population's poverty. High printing costs, a lack of advertising, and general poverty limited the circulation of many newspapers. Several newspapers were reputable sources of information, although lack of financial resources hindered overall journalistic development and standards. State tax authorities continued to harass independent newspapers.

Most persons received their news from television and radio. The Government financed and controlled the main radio and television network with a national audience; network broadcasts reflected official viewpoints. *Rustavi-2*, a member of the independent television network TNG, was considered the only station other than the state-run channel with a national audience. In late 2001, members of the State Security Ministry raided TNG's headquarters demanding financial information, even though the tax department had completed an audit a few weeks earlier. The head of *Rustavi-2* refused to release the information and broadcast the events live. The broadcast led to protests in front of the Parliament and to President Shevardnadze's dismissal of all Ministers. Prior to the incident, *Rustavi-2* broadcast three detailed investigations into alleged MOIA and Office of the Prosecutor General corruption that involved high police officials attempting extortion and planting evidence in a narcotics case.

In addition to *Rustavi-2*, there were seven independent television stations in Tbilisi. An international NGO estimated that there were more than 45 regional television stations, 17 of which offered daily news. While these stations ostensibly were

independent, a lack of advertising revenue often forced them to depend on local government officials for support. Some regions, such as Samtskhe-Javakheti and Kutaisi, had relatively independent media. Rustavi-2 had a network of 15 stations, 5 of which broadcast Rustavi-2's evening news program daily. State tax authorities continued to harass independent television stations. Stations desiring benefits and better working relations with authorities practiced self-censorship.

Channel 25 was the only independent television station broadcasting in the autonomous region of Ajara. A lawsuit brought by the four owners of Channel 25 against Mikhail Gagoshidze, chairman of Ajaran Television and Radio, remained in the appeal process at year's end.

On September 27, more than 20 police officers allegedly entered the local Zugdidi television station and beat employees and destroyed equipment. The station provided information and footage in support of a Georgian "60 Minutes" exposé on police involvement in smuggling gasoline to the neighboring separatist region of Abkhazia. The "60 Minutes" Zugdidi correspondent's family was also threatened. Following an internal police investigation, the deputy police chief was dismissed (*see* Section 1.c.).

On January 20 and May 7, the private television station Stereo One was the object of threats. On both occasions the station's offices were attacked by the Orthodox Christian radical group led by excommunicated Orthodox priest Father Basil Mkalavishvili for broadcasting a foreign evangelical program (*see* Section 2.c.).

Libel laws inhibited investigative journalism. The Civil Code and other legislation make it a crime to insult the honor and dignity of an individual and place the burden of proof on the accused.

Journalists stated that they were vulnerable to pressure from authorities, as well as from business and societal elements.

On May 28, Parliamentarian Vitali Khazaradze threatened to discredit Ia Bobokhidze and Maia Metskhvariashvili of the Tbilisi edition of *Ahali Taoba* by publishing a pornographic photomontage of the female journalists. An article by Metskhvariashvili associated Khazaradze with a notorious criminal and accused Khazaradze of inappropriate lobbying efforts for a municipal council in Kutaisi. Khazaradze further demanded an apology by the editor-in-chief of *Akhali Taoba* and threatened that otherwise the newspaper would be closed and that journalists would be beaten.

In 2001 a suspect was arrested in the killing that year of independent TV journalist Giorgi Sanaia and was awaiting trial at year's end. During the year, the investigation into the 2000 death of Italian reporter Antonio Russo was temporarily suspended due to lack of a suspect.

The lack of an active journalists' association limited the effectiveness of media advocacy. Media observers noted that few journalists and government officials, particularly in the regions, understood the legal protections afforded journalists; and few journalists had the resources to hire a lawyer. Some enlisted the assistance of the NGO community.

The Government did not limit access to the Internet; however, poor infrastructure and poverty limited access outside of the major cities.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly without permission from the authorities; however, both the national government and local authorities restricted this right in practice. The law requires political parties and other organizations to give prior notice and obtain permission from local authorities to assemble on a public thoroughfare. Members of the NGO community argued that the law violated the Constitution and sought to have it overturned by the Constitutional Court. However, the Court has refused to hear the case, on the grounds that a test case must be brought before it to consider the challenge and an individual must prove there was personal injury from the law. Most permits for assemblies were granted without arbitrary restriction or discrimination; however, this was not uniformly the case for Zviadists (supporters of former President Gamsakhurdia). Extreme Zviadists never accepted any successor to the Gamsakhurdia government as legitimate and regularly held demonstrations in front of parliament demanding that the present government resign. The Government viewed the public rallies of the Zviadists as a threat because of the publicity that they generated for themselves and against the Government.

Private meetings and public gatherings of religious minority groups were repeatedly broken up, often with extreme violence, by Orthodox extremists with the tacit approval or active cooperation of law enforcement authorities (*see* Section 2.c.). The Government did not take effective action against the perpetrators of such attacks.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Authorities granted permits for registration

of associations without arbitrary restriction or discrimination; however, two organizations affiliated with Jehovah's Witnesses were unable to register on the grounds that there was no law regulating the registration of religious organizations (see Section 2.c.).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, local authorities sometimes restricted the rights of members of nontraditional religious minority groups. At times local police and security officials harassed several non-Orthodox religious groups, particularly local and foreign missionaries, including Jehovah's Witnesses, Baptists, Evangelicals, Pentecostals, and Hare Krishnas.

The Constitution recognizes the special role of the Georgian Orthodox Church in the country's history but stipulates the independence of the Church from the State. The tax code grants tax exemptions only for the Orthodox Church. The Georgian Orthodox Church lobbied Parliament and the Government for laws that would grant it special status and restrict the activities of missionaries from nontraditional religions. On October 22, Parliament ratified a constitutional agreement (Concordat) signed by the President and the Georgian Orthodox Patriarch, that further defined church-state relations. The Concordat states that, with the consent of the Church, the Government could issue permits or licenses for the use of official symbols and terminology of the Church, as well as for the production, import, and distribution of worship articles. This provoked widespread concern among minority religious groups.

In November the Constitutional Court refused to admit a petition by the True Orthodox Church (a schismatic Orthodox church) that the Concordat violated the constitutional protections of freedom of religion, on the grounds that there was no evidence of discrimination. In December the True Orthodox Church was refused permission by the Kutaisi City Council to build a church on the grounds that the building was not sanctioned by the Georgian Orthodox Church, as required by the Concordat.

Some nationalist politicians continued to use the issue of the supremacy of the Georgian Orthodox Church in their platforms and criticized some Protestant groups, especially evangelical groups, as subversive. Jehovah's Witnesses in particular were the targets of attacks from such politicians.

There were no laws regarding the registration of religious organizations; however, a draft bill that would provide for registration of all religious groups in the country was proposed to Parliament in November. The Government viewed the proposed Law on Religion as a crucial step towards reducing religious intolerance and violence. The Ministry of Justice prepared the bill, but it had not been submitted to Parliament for a vote by year's end. Human rights NGOs criticized the proposed law as restrictive and indirectly unfavorable to nontraditional religious groups. Followers of religious extremist Father Basil Mkalavishvili (Basilists) in turn criticized the draft law, claiming it would effectively legalize what they termed criminal sects, i.e. nontraditional religious groups. Under the proposed law, religious groups that perform humanitarian services may be registered as charitable organizations, although religious and other organizations may perform humanitarian services without registration. Organizations that were not registered could not conduct religious services, rent office space or import literature, among other activities. Members of unregistered organizations could engage in these activities as individuals but were exposed to personal legal liability in such cases.

In 2001 a Supreme Court ruling upheld a 2000 Appeals Court ruling revoking the Jehovah's Witnesses legal registration. The Court issued a statement clarifying that the judgement did not ban the organization but had simply revoked its legal status. However, many local law enforcement officials interpreted the ruling as a ban and thus used it as a justification not to protect Jehovah's Witnesses from attacks by religious extremists.

On December 6, MOIA officials at Ponichela impounded a truck carrying religious literature of the Watch Tower Bible and Tract Society that had cleared Georgian customs and legally entered the country. Supporters of Father Mkalavishvili (Basilists) subsequently surrounded the truck, beat the driver, and seized the shipping documents. MOIA officials released the truck on December 12.

The Roman Catholic Church and the Armenian Apostolic Church were unable to secure the return of churches closed during the Soviet period, many of which Soviet authorities gave to the Georgian Orthodox Church. A prominent Armenian church in Tbilisi remained closed, and the Armenian Apostolic Church, the Catholic Church, and Protestant denominations had difficulty obtaining permission to construct new churches as a result of pressure from the Georgian Orthodox Church. During the year, the Catholic Church faced difficulties in attempting to build churches in the towns of Kutaisi and Akhaltsikhe. On April 5, the Catholic Union

of Western Georgia filed suit in a Tbilisi court against the Patriarchate for return of the Annunciation Cathedral in Kutaisi.

The Jewish community also experienced delays in the return of property confiscated during Soviet rule. In 1997 a court ordered that a former synagogue—rented from the Government by a theater group—be returned to the Jewish community. In 1998 the theater group brought suit, claiming that the building was never a synagogue. The Supreme Court ruled in 2001 that the central hall of the synagogue should be returned to the Jewish community, but that the theater groups should retain part of the building. By year's end, the theater group had not yet vacated the central hall.

Regular and reliable information about separatist-controlled Abkhazia was difficult to obtain. An Abkhaz presidential decree bans Jehovah's Witnesses. A number of members of Jehovah's Witnesses have been detained in the last few years; however, according to a representative of Jehovah's Witnesses, none were in detention at year's end.

At times local police and security officials harassed nontraditional religious minority groups, particularly members of Jehovah's Witnesses. There were a number of cases in which police not only failed to intervene to protect such minorities from attacks by Orthodox extremists but also participated in or facilitated the attacks.

The MOIA (including the police) and Prosecutor General's office generally failed to pursue criminal cases against Orthodox extremists for their attacks against religious minorities. On the few occasions in which there were investigations into such attacks, they proceeded very slowly. In 2000 the Government initiated a criminal case against Father Basili Mkalavishvili, whose followers engaged in a number of violent attacks on nontraditional religious minorities; however, the investigation has proceeded very slowly. While the criminal case prevented Mkalavishvili from making personal appearances at most attacks during the year, his followers continued their violence in his absence.

In November Basilists physically expelled a foreign radio correspondent from the courtroom with the acquiescence of MOIA security forces. The Basilists also threatened plaintiffs and brought weapons into the courtroom. In December the plaintiffs moved to have the judge removed due to his inability to control the proceedings.

In 2001 Parliament passed a resolution condemning religious violence. Shortly thereafter the Procurator questioned Father Mkalavishvili and released him on his own recognizance with the understanding that he was not to leave Tbilisi. However, after a brief period of relative calm, attacks by Mkalavishvili and others resumed. Mkalavishvili's followers and another extremist group Jvari (the Cross) continued to act with impunity.

During its review of the country, the UNHRC expressed deep concern about a rising intolerance and escalating attacks against religious minorities in the country, facilitated by government inaction. That same day, the Council of Europe released a report that strongly criticized authorities' disregard of religious and racial violence and harassment in the country. President Shevardnadze announced government measures to improve the human rights situation including the protection of religious minorities that included establishing a coordination group within the MOIA. During the year, the MOIA published a Directive from the Minister of Combating Religious Violence, which ordered MOIA forces to react decisively to acts of religious violence and investigate all instances of it.

Despite a general tolerance toward minority religious groups traditional to the country—including Catholics, Armenian Apostolic Christians, Jews, and Muslims—citizens remained very apprehensive about Protestants and other nontraditional religions, which were seen as taking advantage of the populace's economic hardships by gaining membership through the distribution of economic assistance to converts. Some members of the Georgian Orthodox Church and the public viewed non-Orthodox religious groups, particularly nontraditional groups or so-called sects, as a threat to the national Church and Georgian cultural values and argued that foreign Christian missionaries should confine their activities to non-Christian areas. Foreign and local members of nontraditional religious groups continued to report harassment by extremist Orthodox groups, police, and other authorities (*see* Section 2.c.).

Followers of excommunicated Orthodox priest Basili Mkalavishvili (Basilists) engaged in a number of violent attacks on nontraditional religious minorities, including Baptists, Seventh-day Adventists, and particularly members of Jehovah's Witnesses. During the attacks, Basilists burned religious literature, broke up religious gatherings, and beat parishioners, in some cases with nail-studded sticks and clubs. As during other attacks, Mkalavishvili held an impromptu press conference with the violence in the background. Representative cases included the following incidents:



On January 25, a group of Basilists including Basili Mkalavishvili surrounded the building housing the television channel Stereo One. The Basilists had been threatening Tbilisi-based Stereo One since early 2001 for broadcasting an evangelical religious program. Two Basilists broke into the building and were arrested. However, approximately 100 Basilists quickly gathered outside the police station and demanded their release. The police complied with the demand. When Stereo One resumed broadcast of the religious program on May 7, Mkalavishvili and four followers again tried to break into the station's offices, physically assaulting one staff member. Police intervened after being alerted by a local human rights NGO.

On August 15, in Otarsheni approximately 50 persons wielding truncheons arrived in front of a Jehovah's Witnesses meeting hall to break up a religious meeting. However, members of the congregation had been warned there might be violence and the meeting was canceled. Undeterred, the mob entered the building, smashing windows and furniture and beating a caretaker. Stacks of literature and benches were dragged into the street and set on fire. Eyewitnesses recognized at least two of the attackers as Basilists. Witnesses also reported seeing a police car drive by the scene of the incident. Police opened an investigation, but no arrests had been made at year's end.

On August 16, in Kaspi, in a near-identical attack, approximately two dozen men, wearing crosses of the Georgian Orthodox church, arrived on buses and ransacked the home of Ushangi Bunturi who was planning to host a Jehovah's Witness meeting in the field next to his residence. Due to its similarity to the August 15 incident, observers believed Basilists carried out the attack. The attackers burned Bibles, religious pamphlets, and Bunturi's belongings in the yard and filled the baptismal pool with diesel fuel. Local law enforcement officials reportedly approached Bunturi several times, asking him to refuse to host the Jehovah's Witness congress because they could not guarantee security. The authorities forced Bunturi to sign a letter taking full responsibility for the event, but he added a footnote saying he had been forced to sign the letter. Approximately 1,000 Jehovah's Witnesses had been expected to gather at Bunturi's house, where they held congresses since 1996. According to witnesses, the local police chief was present, although it was not clear whether the police joined the attack or simply observed it. No one was arrested.

On November 18, approximately 25 Basilists surrounded a foreign radio correspondent who was covering the trial of Mkalavishvili and threatened to "break his head" with iron bars if he did not leave the courtroom. Several Basilists attempted to strike the reporter but were restrained by fellow members. They grabbed the reporter and physically pushed him out of the courtroom.

Although law enforcement authorities were present at some attacks, they failed in most instances to intervene, leading to a widespread belief in police complicity in the activities of the Basilists.

In 2001 police and followers of Mkalavishvili prevented members of Jehovah's Witnesses from holding a convention in Marneuli by stopping buses, physically attacking followers, and burning and looting the convention site. Members of Jehovah's Witnesses alleged that police actively participated in these activities, and at least one eyewitness confirmed that police did not impede the Basilists. An investigation continued at year's end. On May 13, the Marneuli district court acquitted police officers of wrongdoing during an attack by Basilists on a September 2000 Congress of the Jehovah's Witnesses in Marneuli.

On occasion members of Jvari, another Orthodox extremist group, joined Mkalavishvili's supporters in their activities. For example, 14 members of Jvari attacked a meeting of Jehovah's Witnesses in Rustavi in 2001. According to an eyewitness, Jvari leader Paata Blashvili personally assaulted one of the victims. The extremists apparently used sawed off shotguns and other firearms when they ransacked the Jehovah's Witnesses convention site. Two days earlier, members of Jvari participated in attacks by religious extremists in which dozens were injured. Jehovah's Witnesses had received permission to hold the convention from the local government and local authorities were at the convention site; however, they did not intervene to stop the attacks.

The Patriarchite of the Georgian Orthodox Church has strongly criticized the attacks perpetrated by Orthodox extremists against nontraditional religious minorities and has distanced itself from Basil Mkalavishvili. However, the Church did not speak with one voice on the subject. On February 10, a senior bishop in Rustavi stated on a leading television newscast that all 'sectarians' (including nontraditional religious minorities such as the Jehovah's Witnesses) in the country should be killed. The Patriarchite later released a press statement saying the bishop's comments were quoted out of context. In June Bishop Levan Pirtskhalaishvili, secretary to Patriarch Ilya II, wrote to the owner of a Tbilisi stadium warning him not to rent

the venue to the Jehovah's Witnesses for a meeting due to negative public reaction; the event was subsequently cancelled.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution and the law generally provide for these rights, and the Government generally respected them in practice. Registration of an individual's residence was not required nor were internal passports. Soviet passports bearing a propiska (proof of legal residence in a particular locality) were accepted as proof of identity because passports and identity cards were expensive to purchase and difficult to obtain, especially in poor and remote areas.

Approximately 275,000 so-called Akhiskha or Meskhetian Turks were relocated from southern Georgia to Central Asia by the Soviet Union in the 1940s. Many of the Meskhetians were expelled a second time from Central Asia when the Soviet Union collapsed, and a number remained stateless in Russia. A 1999 presidential decree established the State Commission on Repatriation and Rehabilitation of the Population Deported from Southern Georgia, and the Government undertook to begin the repatriation process within three years. However, there has been no legislation to allow for repatriation of Meskhetian Turks to Georgia, and there was some official and public opposition to their repatriation. There were 643 Meskhetians living in the country, most of whom had citizenship.

The 1994 agreement between Russia, Georgia, Abkhazia, and the UNHCR on repatriation in Abkhazia called for the free, safe, and dignified return of internally displaced persons (IDPs) and refugees. The Abkhaz separatist regime prevented such repatriation and unilaterally abrogated the agreement. In January 1999, the Abkhaz separatist regime unilaterally invited IDPs to return to Gali starting in March 1999 but did not adequately ensure their safety. The move did not affect significantly the return to Gali of IDPs, who continued to travel back and forth to the area to tend their property. As many as 40,000 persons were estimated to be living in Gali on a more or less permanent basis, depending on the security situation.

The 1992 ethnic conflict in South Ossetia also created tens of thousands of IDPs and refugees. In 1997 the UNHCR began a program to return IDPs and refugees; however, both sides created obstacles that slowed the return. During the year, the South Ossetian separatists continued to obstruct the repatriation of ethnic Georgians to South Ossetia, although some families returned. Meanwhile, South Ossetia continued to press for the return of all Ossetian refugees to South Ossetia rather than to their original homes in other regions of the country. The Government publicly has recognized the right of Ossetian refugees to return to their homes in the country but has taken little facilitative action. Opposition by government authorities to the return of illegally occupied homes has prevented the return of Ossetian refugees to Georgia proper.

Government stipends to IDPs of approximately \$7 (14 GEL) per person per month were paid inconsistently. The Government subsidized 50 kilowatts per hour of electricity per month for each IDP. Stipends were paid more frequently in Tbilisi than elsewhere in the country. IDPs also were not afforded the right to vote in local elections (see Section 3).

The law did not provide for the granting of refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government did not provide first asylum. According to the UNHCR, the Government processed no asylum cases during the year. The Ministry for Refugees and Accommodation (MRA) was responsible for the screening and registration of refugees and new arrivals. Since the outbreak of hostilities in Chechnya, the Government has admitted what was estimated to be 4,000 to 5,000 refugees from the conflict. Chechen refugees settled in the Pankisi Valley in the eastern part of the country. Both local and international NGOs provided sporadic assistance to refugees living in the Pankisi Valley; however, after the kidnaping in 2000 of three ICRC staff members, international humanitarian organizations had only periodic access to the Pankisi Valley.

In April the Ministry of Refugee Affairs reregistered Chechen refugees with the assistance of the UNHCR. At the end of the year, approximately 4,000 Chechen refugees were living in the Pankisi Valley and 400 in Tbilisi. The significant reduction in the number of refugees was due to the successful screening out of the local Kist (ethnic Chechen citizens), as well as departures of refugees for Azerbaijan and other countries. The majority of the Chechen refugees lived with the local Kist population; only 15 percent were sheltered in communal centers.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution and the 1995 parliamentary and presidential election laws provide citizens with the right to change their government peacefully, and citizens exercised this right through regular elections; however, the June local and municipal elections, the 2000 presidential elections, and the 1999 parliamentary elections were marred by numerous serious irregularities, and the Government limited this right in practice. An elected president and parliament governed most of the country.

On June 2, local and municipal elections that had originally been scheduled for 2001—and had been postponed by the CEC due to financial and technical reasons—were held. The elections were marked by poor preparation to meet basic conditions and irregularities, which limited the rights of citizens to change their government. In Rustavi elections were cancelled because an unidentified group of persons attacked the CEC's vehicle and hijacked the ballots. A person suspected of hijacking the Rustavi ballots was arrested on July 4; the investigation was pending at year's end. In Zugdidi ballot boxes were stolen by unidentified armed groups. In Khashuri and Akhalkalaki, the elections were cancelled because the CEC failed to provide ballots in time. Voting started hours later than originally planned in many locations. Make-up elections in those cities were scheduled a week later. There were many other violations in almost every voting district; armed police officers were observed at polling stations and there were reports of multiple voting by persons in different districts. In Tbilisi the state of voter registration lists was so poor that there were instances where several hundreds of citizens, often residents of the same block of apartment buildings, could not vote.

Shortly after the elections, Parliament formed a commission to investigate reports of irregularities. The commission published findings and recommended reforms in the CEC and in the administrative process. After protests by political parties, the CEC agreed on November 1 to a recount of votes in the Tbilisi local elections. The recount did not change the number of seats won by each party, but left the Socialist Party below the four-percent threshold for representation. On November 4, National Movement leader Mikhail Saakashvili was elected Chairman of the Sakrebulo (city council). The Socialist Party charged that Saakashvili's election was fraudulent, and challenged the election of several members of Parliament who were serving simultaneously in Parliament and the Sakrebulo. The Socialists asserted that the Constitution prohibits a deputy from also serving in the city council and demanded that the MOIA investigate the vote. The district court rejected the Socialists' suit.

International and local observers criticized the Government's poor preparation of the elections in a rush to test popular support for the various political parties before the next elections. While observers did not report massive or organized fraud, they criticized the election due to overall poor organization.

In the 2000 presidential elections only two candidates campaigned actively: the incumbent, Eduard Shevardnadze; and Jumber Patiashvili of the Revival of Georgia Party. The CEC reported that Shevardnadze won with over 78 percent of the vote to Patiashvili's 16 percent, in contrast to observer estimates of 50 to 70 percent of the vote for Shevardnadze and 30 percent for Patiashvili. International observers strongly criticized the election; the OSCE noted serious irregularities, including ballot stuffing, group voting, groups of identical signatures on voter's lists, media bias, and lack of transparency in counting and tabulation. Some observers noted a police presence in polling places and insufficiently representative electoral commissions at all levels. The OSCE noted that the situation deteriorated during the counting process and that, in general, procedural safeguards were not implemented. The CEC annulled the election results of six polling stations. A number of smaller political parties boycotted the election, and another party urged the electorate to vote against all candidates. Police disrupted a number of opposition rallies, and bureaucratic obstacles were erected to prevent their organization (*see* Section 2.b.). Parliament adopted extensive amendments to the electoral laws less than 3 weeks before the presidential election, causing confusion in the election administration. In addition, there was inadequate time to implement some of the election law amendments properly. The OSCE also raised concerns about the transparency of the candidate registration process and ballot distribution.

Parliamentary elections were held in late 1999. The Citizens' Union of Georgia, chaired by President Shevardnadze, won an outright majority. International observers judged the conduct of the elections throughout the country to be a step towards compliance with OSCE commitments. However, they noted a number of irregularities including restrictions on freedom of movement. A second round was held, which OSCE observers described as well-conducted in some districts but marred with irregularities in others. There was no voting in the separatist regions of Abkhazia or South Ossetia, which were outside government control.

In August 2001, Parliament passed a new law on local self-government, and in response the CEC postponed until local elections that had been scheduled for November 2001. The CEC cited inadequate financing and claimed that the legislation required a number of technical amendments that could not be implemented by the original election date. Most political parties did not object to the postponement. In 2001 by-elections were held in Vake and Bagdadi districts. The Vake elections were marred by two incidents of ballot box theft; however, the elections showed improvement over previous elections.

There were 16 women in the 235-seat Parliament. A woman was the speaker of Parliament and several women held important committee chairmanships. Two women held ministerial posts.

There were 16 members of minority groups (7 Azeris, 6 Armenians, 2 Abkhaz, and 1 Greek) in the 235-seat Parliament.

Elections were held periodically by the separatist governments of Abkhazia and South Ossetia, which were outside government control. International observers determined that these elections were illegitimate. International organizations, including the U.N. and the OSCE, declared presidential elections held in Abkhazia in 1999 to be illegal. Government authorities also called the election illegitimate, as they had the Abkhaz local elections of 1998, on the basis that a majority of the population had been expelled from the region. In 2001 Parliament stated that any further polls held before a settlement to the conflict was reached and displaced persons were returned to their homes would be considered illegal. In 2001 the unrecognized separatist government held presidential elections in South Ossetia, resulting in the defeat of the incumbent and a peaceful transfer of power.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigations of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. However, some local human rights NGOs reported that government officials were slightly less responsive during the year than in the past.

There were a number of credible local organizations that monitored human rights, most of them in Tbilisi. Other local human rights groups were extensions of partisan political groups and these had little influence. NGOs were permitted to bring suits to courts of the first instance on behalf of persons whose rights were abused.

On July 10, there was a physical assault on the Tbilisi headquarters of the Liberty Institute, the leading human rights organization in the country. Approximately one dozen well-organized men entered the offices of the Liberty Institute and proceeded to beat the director and other staff. They also smashed computers, furniture, and other equipment. The attack left Liberty Institute Director Levan Ramishvili hospitalized with multiple contusions, eye injuries, and speech problems. Five other staff members were beaten. Several other staff and visitors, including a British government member of a Council of Europe fact-finding delegation, escaped the attack by barricading themselves behind a door. The July 10 attack followed a demonstration days earlier outside the Liberty Institute by supporters of Guram Sharadze, a member of Parliament. In a previous television debate, Ramishvili had accused Sharadze of publicly inspiring ethnic and religious intolerance. On July 25, a Tbilisi District Court released Giorgi Doijashvili, a member of the radical Orthodox group Jvari, suspected of carrying out the Liberty Institute attack. Doijashvili originally acknowledged his role in the attack but has since retracted his statement. Members of Jvari participated in numerous attacks on non-traditional religious groups in the past. The verdict of the court was hailed by the followers of defrocked Orthodox priest Basil Mkalavishvili who accused the Liberty Institute of protecting nontraditional religious groups such as the Jehovah's Witnesses (*see* Section 2.c.). The case remained under investigation at year's end.

During the year, legislation was adopted allowing the Ministry of Finance to access the funding records of international NGOs, alarming some in the NGO community. In August the International Federation of the Red Cross and Red Crescent Societies stopped financing all projects and programs developed with the local Red Cross division after its leader was suspected of misuse of funds.

In 1997 the UNHRC and the OSCE Mission established a joint human rights office in Sukhumi, Abkhazia to investigate human rights abuses. The office has operated sporadically because of security conditions but has provided periodic findings, reports, and recommendations. During the year, the office registered relatively few complaints of abuse by de facto police and judicial authorities operating in the region.

NGOs continued to view the Parliamentary Committee on Human Rights as the most objective of the Government's human rights bodies. The Constitutionally man-

dated office of the Public Defender, or Ombudsman, was created in 1995. The National Security Council's human rights advisor, who has a mandate to investigate claims of abuse, and the Public Defender were active in several individual cases involving police misconduct (*see* Section 2.c.). However, while government representatives were effective in individual cases, neither they nor NGOs were successful in prompting systemic reform.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution recognizes the equality of all citizens without regard to race, language, sex, skin color, political views, national, ethnic, or social affiliation, origin, social status, land ownership, or place of residence; however, discrimination against women was a problem. The Constitution stipulates that Georgian is the state language. Ethnic Armenians, Azeris, Greeks, Abkhaz, Ossetian, and Russian communities usually communicated in their native languages or in Russian. Both Georgian and Russian were used for interethnic communication.

*Women.*—Societal violence against women was a problem. There are no laws that specifically criminalize spousal abuse or violence against women, although the Criminal Code, in force since June 2000, classifies marital rape and sexual coercion as crimes. During the year, 867 crimes were registered against women, compared with 678 in 2001. Part of this apparent increase may have been due to increased reporting. Crimes included 36 murders, 18 attempted murders, 52 rapes, and 25 attempted rapes; the remainder consisted of battery, assault and lesser crimes. According to a poll conducted in 1998 by the NGO Women for Democracy, younger women reported that spousal abuse occurred frequently but rarely was reported or punished because of social taboos against raising the problem outside of the family. Spousal abuse was reportedly one of the leading causes of divorce. Domestic violence continued to rise as economic conditions became more difficult. Police did not always investigate reports of rape. A local NGO operated a shelter for abused women, and the Government operated a hot line for abused women but did not provide other services. There were anonymous telephone services that assisted rape victims, but no shelters, specialized services, or other mechanisms to protect or assist them.

The kidnaping of women for marriage continued to occur, particularly in rural areas, although the practice continued to decline. Such kidnapings often were arranged elopements; however, at times these abductions occurred against the will of the intended bride, and sometimes involved rape. Police rarely took actions in such cases even though such kidnapings are a crime according to the criminal code.

Prostitution was not a criminal offense, and trafficking in women for the purpose of prostitution was a problem (*see* Section 6.f.). In the past, police officers reportedly beat and raped prostitutes; there were no such confirmed reports this year.

Sexual harassment and violence against women in the workplace was a problem, especially as economic conditions worsened, according to a U.N. Development Program (UNDP) report. Sexual harassment in the workplace rarely, if ever, was investigated.

The Constitution provides for the equality of men and women; however, discrimination against women was a problem. The Civil Code gives women and men equal inheritance rights. Divorce was legal and can be initiated by either a husband or wife. Younger women reported that the economic balance had shifted in their favor because many traditionally male jobs had disappeared due to the depressed economy. Women's access to the labor market had improved but remained primarily confined, particularly for older women, to low-paying and low-skilled positions, often without regard to high professional and academic qualifications. As a result, many women sought employment abroad. Salaries for women continued to lag behind those of men. Reportedly men were given preference in promotions. Of the 114,512 registered unemployed persons throughout the country, 46 percent were women. Women sometimes, but not often, filled leadership positions. According to the UNDP, employers frequently withheld benefits connected to pregnancy and childbirth.

A number of NGOs promoted women's rights, including the women's group of the Georgian Young Lawyers' Association, the Women's Center, and Women for Democracy. Women's NGOs took an active role in the 1999 parliamentary election, the 2001 by-elections, and the June local and municipal elections, engaging candidates in discussions about issues of concern. Posters urging women to vote were a prominent part of the publicity campaign.

*Children.*—Government services for children were extremely limited. While education officially was free through high school, many parents were unable to afford books and school supplies, and most parents were forced to pay some form of tuition or teachers' salaries. Most children of school age attended school; however, in some places schools did not function or functioned sporadically because teachers were not

paid and facilities were inadequate, especially in winter when some schools could not afford to heat buildings. Many schools lacked libraries or even blackboards. Free health care was available only for children over the age of 3 years.

There was no societal pattern of abuse of children, but difficult economic conditions broke up some families and increased the number of street children. A local NGO estimated that there were approximately 1,500 street children in the country, with 1,200 concentrated in Tbilisi, due to the inability of orphanages and the Government to provide support. The private voluntary organization Child and Environment and the Ministry of Education each operated a shelter; however, the two shelters could accommodate only a small number of street children. No facilities existed outside of Tbilisi. Street children often survived by turning to criminal activity, narcotics, and prostitution. Police increasingly harassed and abused street children with impunity. The Government took little other action to assist street children.

The Isolator detention facility for street children in Gldani was overcrowded, and children frequently were abused by other children and guards. There were no confirmed reports of police violence against street children this year.

The lack of resources affected orphanages as well. Children received inadequate food, clothing, education, and medical care; facilities lacked heat, water, and electricity. The staff was paid poorly, and wages were many months in arrears. Staff members often diverted money and supplies provided to the orphanages for personal use. Orphaned children in government institutions were not eligible for foreign adoption.

The Criminal Code states that child prostitution and pornography are punishable by imprisonment for up to 3 years.

*Persons with Disabilities.*—There is no legislated or otherwise mandated provision requiring access for persons with disabilities; however, the law mandates that the State ensure appropriate conditions for persons with disabilities to use freely the social infrastructure and to ensure proper protection and support. The law includes a provision of special discounts and favorable social policies for persons with disabilities, particularly veterans; however, many facilities for persons with disabilities remained closed due to lack of funding. Most persons with disabilities were supported by family members or by international humanitarian donations. Societal discrimination against persons with disabilities exists.

*National/Racial/Ethnic Minorities.*—The Government generally respected the rights of members of ethnic minorities in non-conflict areas but limited self-government and played a weaker role in ethnic Armenian and Azeri areas (see Section 3). School instruction in non-Georgian languages was permitted. A draft language law that would make knowledge of Georgian compulsory for persons employed by state institutions was under discussion in Parliament at year's end.

The State Language Chamber was tasked with organizing free language courses for government employees in regions inhabited by ethnic minorities. During the year, the language courses were organized and planned but were cancelled due to lack of funding. On February 8, the OSCE announced a project to support government programs to teach the Georgian language to ethnic minorities.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and the law provide for the right of citizens to form and join trade unions, and workers exercised this right.

The principal trade union confederation was the Amalgamated Trade Unions of Georgia (ATUG), which was the successor to the official union that existed during the Soviet period. The ATUG consisted of 31 sectoral unions. The organization officially claimed 600,000 members, but acknowledged that the number of active, dues-paying members was lower. The union had no affiliation with the Government and received no government funding (except for support to send 200 children each year to summer camp).

The ATUG was involved in a legal action with the Government regarding the Palace of Culture, which the ATUG inherited when the Soviet Union collapsed. In 1998 the Constitutional Court awarded the property to the ATUG, but in 1999 a lower court ruled that the ATUG had no rights to the property. On May 30, following a number of court decisions, a decision was made that the union had no right to discuss the issue in its council meeting. The ATUG met with the Justice Council, which confirmed that this decision violated the law, the Constitution, and ILO regulations. The president of the ATUG continued to speak out on the issue, and in 2001 the city prosecutor opened a case against the president for violating the findings of the court. Both cases remained ongoing at year's end.

There were two trade unions in addition to the ATUG: The Free Trade Union of Teachers of Georgia Solidarity (FTUTGS) based in Kutaisi; and the Independent Trade Union of Metropolitan Employees, which was formed in Tbilisi in 2000.

The law prohibits discrimination by employers against union members, and employers may be prosecuted for antiunion discrimination and forced to reinstate employees and pay back wages; however, the ATUG and its national unions reported frequent cases of management warning staff not to organize trade unions. Some workers, including teachers in the Imereti region, employees of various mining, winemaking, pipeline, and port facilities, and the Tbilisi municipal government reportedly complained of being intimidated or threatened by employers for union organizing activity. Observers also claimed that employers failed to transfer compulsory union dues, deducted from wages, to union bank accounts. The Ministry of Labor investigated some complaints, but no action had been taken against any employers by year's end.

There were no legal prohibitions against affiliation and participation in international organizations. The ATUG was a full member of the International Confederation of Free Trade Unions (ICFTU).

*b. The Right to Organize and Bargain Collectively.*—The Constitution and the law allow workers to organize and bargain collectively, and some workers exercised this right; however, the practice of collective bargaining was not widespread.

During the year, the ATUG supported public sector strikes by teachers, medical service employees, and energy sector workers, most of which were wildcat actions. During the year, teachers went on strike for unpaid wages. Energy workers went on strike to demand unpaid wages and increased salaries.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, including by children, and provides for sanctions against violators; however, there were reports that such practices occurred (see Section 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—According to the law, the minimum age for employment of children is 16 years; however, in exceptional cases, the minimum age can be 14 years. The Ministry of Health, Social Service, and Labor enforces these laws and generally they were respected.

The Government has not ratified the ILO Convention 182 on the worst forms of child labor.

*e. Acceptable Conditions of Work.*—The state minimum wage was raised in 1999 to \$10.80 (20 GEL) a month. There was no state-mandated minimum wage for private sector workers. The minimum wage was not sufficient to provide a decent standard of living for a worker and family. In general salaries and pensions were insufficient to meet basic minimum needs for a worker and family. Average wages in private enterprises were \$75 to \$100 (150 to 200 GEL) monthly; in state enterprises, \$15 to \$30 (30 to 60 GEL). Salaries often were supplemented by unreported trade activities, assistance from family and friend networks, and the sale of personally grown agricultural products.

The old Soviet labor code, with some amendments, still is in effect. The law provides for a 41-hour workweek and for a weekly 24-hour rest period. The Government workweek often was shortened during the winter of 2000 due to the continuing energy crisis. The labor code permits higher wages for hazardous work and permits a worker to refuse duties that could endanger life without risking loss of employment.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons specifically, although trafficking could be prosecuted under laws prohibiting slavery, forced labor, illegal detention, and fraud; the country was both a source and transit country for trafficked persons. There were unconfirmed reports that government customs and border officials were involved in the trafficking of persons.

The Government prosecuted some traffickers using fraud statutes, but otherwise had no active programs to address the problem of trafficking. A government program for combating violence against women included a proposal for measures to eliminate trafficking in women for the purpose of sexual exploitation; however, it has not been implemented due to budgetary constraints.

During the year, the MOIA created a seven-person unit specifically to combat trafficking. The unit received support from the American Bar Association Central and Eastern European Law Initiative, the International Organization for Migration (IOM), and other organizations. Local NGOs (Women for the Future, Peoni, and People's Harmonious Development Society) worked closely with the Public Defender's office, the body primarily responsible for prosecuting criminal cases involving trafficking.

Women primarily were trafficked from the country to Turkey, Greece, Israel, and Western Europe to work in bars, restaurants, or as domestic help. Many worked in the adult entertainment sector or as prostitutes. There also was evidence that Russian and Ukrainian women were trafficked through the country to Turkey, sometimes using fraudulently obtained passports. There were reports of Russian and Ukrainian women being sent to beach resorts in the summer months to work as prostitutes. The country was generally not a destination place for trafficked persons.

Trafficked persons often were lured by jobs abroad offered through tourism firms and the media; employment agencies falsely advertised jobs as au pairs, models, and housekeepers. For example, many of the women working in the adult entertainment sector as prostitutes were informed, or led to believe, that they actually would be employed as waitresses in bars and restaurants or as domestic help.

On July 15, Nugzar Sulashvili was the subject of an armed attack on his family at his home in Tbilisi. Sulashvili was the chairman of the NGO Center for Foreign Citizens' and Migrants' Rights and Security (FCRS). The attacker was detained by the police but released quickly; the police reportedly refrained from initiating an investigation. Sulashvili's NGO worked against trafficking and over the past two years provided victims with legal, medical, psychological, and financial assistance. The organization also pointed out possible government involvement in trafficking. During the past 3 years several acts of vandalism were perpetrated against the NGO; 7 criminal cases were brought to the attention of the police, but none were investigated. On May 13, unidentified persons attacked and beat Sulashvili on his way home. The attackers reportedly warned him that he should cease to investigate activities about employment firms participating in trafficking.

There were no government programs to help victims; however, there were several NGOs involved in aiding its victims. One internationally funded NGO opened a hotline offering psychological support and assistance to victims. In 2000 the NGO Women Aid Georgia received international funding and launched a widespread public information campaign to educate women about the dangers of trafficking. The IOM also worked on trafficking problems in the country. Victims who had returned to the country reported problems resuming normal life.

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## GERMANY

The Federal Republic of Germany is a constitutional parliamentary democracy; citizens periodically choose their representatives in free and fair multiparty elections. The head of the Federal government, the Chancellor, is elected by the Bundestag, the first of two chambers of Parliament. The powers of the Chancellor and of the Parliament are set forth in the Basic Law (Constitution). The 16 states represented in Parliament in the Bundesrat enjoy significant autonomy, particularly regarding law enforcement and the courts, education, the environment, and social assistance. The judiciary is independent.

Law enforcement was primarily a responsibility of state governments, and the police are organized at the state level. The jurisdiction of the Federal Criminal Office was limited to counterterrorism, international organized crime, particularly narcotics trafficking, weapons smuggling, and currency counterfeiting. Police forces in general were well trained, disciplined, and mindful of citizens' rights; however, there have been instances in which police committed human rights abuses.

A well-developed industrial economy provided citizens with a high standard of living. The population was approximately 82 million.

The Government generally respected the human rights of its citizens; although there were problems in some areas, the law and judiciary provided effective means of addressing individual instances of abuse. There were some limits on freedom of assembly and association. There was some discrimination against Scientologists and members of the Unification Church, and one regional court upheld a ban on the wearing of Muslim headscarves by teachers in public schools. Some minority religious groups reported instances of societal discrimination. Violence against women and children continued to be a problem, which the Government took steps to address. Instances of societal violence and harassment directed at minority groups and foreign residents continued. Women continued to face some wage discrimination in the private sector, as did minorities and foreigners. Trafficking in persons, particularly women and girls, was a problem. Germany was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.



## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports during the year of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

The case of Aamir Ageeb, a Sudanese asylum seeker who died in 1999 during a deportation flight while in the custody of Federal Border Police, remained pending before a Hesse state appeals court. Ageeb allegedly resisted deportation violently and was restrained on the plane by police. An investigation was initiated following allegations that the police had restrained Ageeb in such a way as to hinder his breathing. In February the Frankfurt City Public Prosecutor's Office brought charges of negligent homicide against three Federal Border Police officers; however, the accused appealed the indictment. A court decision on the appeal is expected in 2003.

On May 11, Cologne police arrested a 31-year-old man for rioting, and allegedly beat the man while in custody in a police station. The man was taken to a hospital, where he fell into a coma and died 2 weeks later. The Cologne city prosecutor initiated a criminal investigation against six police officers allegedly involved in the beating. However, according to an expert medical opinion, the man did not die as a result of the beating, but rather as a result of a pre-existing medical condition. Therefore, the prosecutor's office announced it would seek charges against the police officers for bodily injury. The officers were suspended from duty during the investigation, and a trial is expected to take place in 2003.

During the year, the case of Dr. Hans-Joachim Sewering, who allegedly sent children with congenital disabilities to a hospital for euthanasia during the Nazi period, resurfaced. The Munich city prosecutor's office closed its investigation of the case in 1995, citing lack of evidence. Following interest expressed by foreign governments in the case, the Munich chief prosecutor indicated his willingness to reopen the investigation if new evidence is developed. Joint plaintiffs announced that they would appeal; however, there has been no court action on the appeals.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, in 2001 the U.N. Committee for the Elimination of Racial Discrimination expressed concern about "repeated reports of racist incidents in police stations as well as ill-treatment by law enforcement officials against foreigners" in the country.

The Government investigated abuses and prosecuted police who mistreated persons in custody (*see* Section 1.a.).

There were a number of violent rightwing attacks on minority groups and foreigners (*see* Section 5).

Prison conditions generally met international standards. A hunger strike by thirty-two prisoners in Berlin's Tegel prison in 2001, in which prisoners were protesting what they called poor living conditions (the prison was built in the 19th century and renovations were constrained by its status as a state historic site), ended when authorities responded to some of the prisoners' demands. Men were held separately from women, juveniles were held separately from adults, and pretrial detainees were held separately from convicted criminals.

The Government permitted visits by independent human rights monitors, although there were no reports that such visits were requested during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The Basic Law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. A person can be arrested only on the basis of an arrest warrant issued by a competent judicial authority, unless the person is caught in the act of committing a crime, or the police have strong reason to believe that the person intends to commit a crime. If there is evidence that a suspect might flee the country, police may detain that person for up to 24 hours pending a formal charge. Any person detained by police must be brought before a judge and charged within 24 hours of the arrest. The court then must issue an arrest warrant stating the grounds for detention or order the person's release.

Police at times detained known or suspected rightwing and leftwing radicals for brief periods when they believed such individuals intended to participate in illegal or unauthorized demonstrations (*see* Section 2.b.). The rules governing this type of detention are different in each state, with authorized periods of detention ranging from 1 to 14 days, provided judicial concurrence is given within 24 hours of initial apprehension. There were no reports of such detention during the year.

Detainees have access to lawyers. Only judges may decide on the validity of any deprivation of liberty. Bail exists but seldom is employed; the usual practice is to release detainees unless there is clear danger of flight outside the country. In these cases, a person may be detained for the course of the investigation and subsequent trial. Such decisions are subject to regular judicial review, and time spent in investigative custody applies toward the sentence. In cases of acquittal, the Government must compensate the individual.

The Basic Law prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Basic Law provides for an independent judiciary, and the Government generally respected this provision in practice.

Ordinary courts have jurisdiction in criminal and civil matters. There are four levels of such courts (local courts, regional courts, higher regional courts, and the Federal Court of Justice), with appeals possible from lower to higher levels. In addition to the ordinary courts, there are four types of specialized courts: Administrative, labor, social, and fiscal. These courts also have different levels, and appeals may be made to the next higher level.

Separate from these five types of courts is the Federal Constitutional Court, which is the supreme court. Among other responsibilities, it reviews laws to ensure their compatibility with the Basic Law and adjudicates disputes between different branches of government on questions of competencies. It also has jurisdiction to hear and decide claims based on the infringement of a person's basic constitutional rights by a public authority.

The judiciary provided citizens with a fair and efficient judicial process, although court proceedings at times were delayed because of increasing caseloads. For simple or less serious cases, the Government adopted a procedure allowing for an accelerated hearing and summary punishment at the local court level. The maximum sentence for such cases was limited to 1 year, and if a sentence of 6 months or more was expected, a defense counsel was required to be present.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Basic Law prohibits such actions, and government authorities generally respected these prohibitions; violations were subject to effective legal sanction. For example, one regional court upheld a ban on the wearing of headscarves by Muslim teachers in public schools (see Section 2.c.).

Several hundred organizations were under observation by the federal and state Offices for the Protection of the Constitution (OPC). The OPCs were charged with examining possible threats to the constitutional democratic system; they had no law enforcement powers, and OPC monitoring by law could not interfere with the continued activities of any organization. However, because the OPCs published a list of organizations being monitored, being on the list could have a negative influence on an organization's reputation, thus disturbing its normal activities. In observing an organization, OPC officials sought to collect information, mostly from written materials and first-hand accounts, to assess whether a threat existed. At times more intrusive methods, such as the use of undercover agents, were used, but they were subject to legal checks (see Section 2.c.).

In May the European Court for Human Rights in Strassbourg issued a ruling in the "Kutzner Case," in which a local court in the state of Lower Saxony in 1997 removed a couple's two daughters from their custody because the couple were "not intellectually capable of providing their daughters with a proper upbringing." The couple, both of whom have been employed continuously and who had not been diagnosed medically with neurological abnormalities, fought the social service system's actions to remove their children, claiming the removal was arbitrary. The court in Strassbourg agreed, ruling that the German authorities had violated the family's human rights, commenting that ". . . the fact that a child might be afforded better development in a different environment does not in itself justify forcible separation of the child from its biological parents."

In March the federal Administrative Court ruled that wiretap recordings of Helmut Kohl collected by the East German secret police (Stasi) be sealed. The court stated that protection for Stasi victims outweighed the value of releasing spy records on public figures.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Basic Law provides for freedom of the press, and the Government generally respected this right in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of the press and of speech; however, there were some limits on freedom of speech. Distribution of the propaganda of proscribed organiza-

tions, statements inciting racial hatred and endorsing Nazism, and denying the Holocaust, are illegal, and the authorities seek to block what they consider dangerous material on the Internet.

There were more than 800 radio stations and nearly 400 television stations in the country. In addition, there were hundreds of daily and weekly newspapers and periodicals. Foreign broadcasts and publications were available readily, particularly in the major cities. The media was independent; a wide range of political and other opinions were expressed freely.

There were approximately 120 Internet service providers. The law bans access to prohibited material (for example, child pornography and Nazi propaganda) on the Internet, and the Government explored ways to expand bilateral and multilateral cooperation in countering Internet crime. German officials estimated that there were approximately 800 Internet sites with what they considered objectionable or dangerous rightwing extremist content. The Federal Court of Justice held that the country's laws against Nazi incitement may apply to individuals who post Nazi material on Internet sites available to users in the country, even if the site resides on a foreign server.

In February and again in September, the Duesseldorf city administration, through the North Rhine-Westphalia (NRW) media regulatory agency, ordered several Internet service providers (ISPs) to deny access to certain web sites with rightwing extremist content. Fifteen ISPs separately have filed suits against this order in various NRW courts; decisions were pending at year's end.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly, and the Government generally respected this right in practice; however, outlawed organizations were not permitted to hold public assemblies. Permits must be obtained for open-air public rallies and marches, and state and local officials have the authority to deny such permits when public safety concerns arise or when outlawed organizations attempt to hold public assemblies. For example, rallies and marches by neo-Nazis and rightwing radicals commemorating the death of Nazi official Rudolf Hess were banned routinely.

The law provides for freedom of association, and the Government generally respected this right in practice; however, the Basic Law permits the banning of organizations whose activities were found to be illegal or opposed to the constitutional democratic order as established by the Basic Law. The Federal Constitutional Court is the only body that can outlaw political parties on these grounds; under this provision, the Court in the 1950s banned a neo-Nazi and a Communist party. Federal or state governments may ban other organizations on these grounds, but legal recourse against such decisions is available. Such banned organizations included a number of groups that authorities generally classified as rightwing or leftwing, foreign extremist, or criminal in nature. Several hundred organizations were under observation by the federal and state OPCs (*see* Section 1.f.).

In 2000 the Government established a commission of experts to examine whether evidence against the rightwing extremist National Democratic Party (NPD) would meet the threshold to support a legal ban, which was demanded widely after a surge of rightwing extremist activity. The Bundestag and Bundesrat filed separate petitions for the banning of the NPD with the Court. A decision remained pending before the Federal Constitutional Court at year's end.

The mayor of Munich banned all demonstrations during the February Conference on Security Policy held in that city, citing a danger of violence. Anti-globalization groups had advertised plans for large, coordinated demonstrations at the Conference. Activists challenged the ban, but it was upheld in the local court.

In December 2001, the Federal Interior Minister banned the extremist Islamic organization Caliphate State on the grounds that the organization "actively worked to undermine the country's constitutional order." The ban was possible due to enactment of the Interior Ministry's first "Security Package," specifically to a section of the new law that removed a previous exception for religious organizations. Members of the organization have filed several suits in NRW courts against the ban and the accompanying searches and seizures of the organization's assets; however, on November 27, in each case the courts found for the state and upheld the ban.

*c. Freedom of Religion.*—The Basic Law provides for the freedom of religion, and the Government generally respected this right in practice; however, there was some discrimination against minority religious groups.

Church and state are separate, although historically a special relationship existed between the State and those religious communities that had the status of a "corporation under public law." If they fulfill certain requirements, including assurance of permanence, size of the organization, and no indication that the organization is

not loyal to the State, organizations may request that they be granted "public law corporation" status, which, among other things, entitles them to levy taxes on their members that the State collects for them. Organizations pay a fee to the Government for this service, and all public law corporations do not avail themselves of this privilege. The decision to grant public law corporation status is made at the state level.

Religious organizations were not required to register; however, most were registered and were treated like nonprofit associations and therefore enjoyed tax-exempt status.

Several states, noting their responsibility to respond to citizens' requests for information about nontraditional religious groups, have published pamphlets detailing the ideology and practices of these groups. While many of the pamphlets were factual and relatively unbiased, others could harm the reputations of some groups through innuendo and inclusion in a report covering known dangerous "cults," "sects," or "psychogroups." Scientology was the focus of many such pamphlets, some of which warn of the alleged dangers posed by Scientology to the democratic political order and free-market economic system and to the mental and financial well being of individual Scientology practitioners. For example, the Hamburg OPC published "The Intelligence Service of the Scientology Organization," which claimed that Scientology tried to infiltrate governments, offices, and companies, and that the church spied on its opponents, with the aim of defaming and "destroying" them.

Within the federal system, the states showed large differences with respect to their treatment of the Church of Scientology. One state, Schleswig-Holstein, did not have Scientology under observation by its OPC. Bavaria, on the other hand, announced in November that it might seek to ban Scientology based on recommendations of a recently released study commissioned by the state. The basis for the ban would be medical malpractice associated with Scientology's "auditing" techniques. The Bavarian Interior Ministry is expected to test a ban in courts during 2003.

A July ruling by the Federal Constitutional Court clarified the Government's "warning" function with respect to nontraditional religions. In a case pending since the 1980s involving the "Bagwan/Osho Spiritual Movement," the Court ruled that the Government is allowed to characterize such nontraditional religions as sects, "youth religions," and "youth sects," and is allowed to provide accurate information about them to the public; however, the Government is not allowed to defame them by using terms such as "destructive," "pseudo-religion," or "manipulative."

The Church of Scientology, which operated 18 churches and missions, remained under scrutiny by both federal and state OPCs, which contended that its ideology is opposed to democracy. Since 1997 Scientology has been under observation by the federal and state OPCs, with the exception of Schleswig-Holstein's (*see* Section 1.f.). The federal OPC's annual report for 2001 concluded that the original reasons for initiating observation of Scientology in 1997 still were valid, but noted that Scientology had not been involved in any criminal activity. When the issue of OPC observation was discussed at the annual gathering of state interior ministers in Bremen in December, the ministers also acknowledged that Scientology had not been involved in illegal activities.

In December 2001, the Berlin Administrative Court ruled that the Berlin OPC was barred from using undercover agents or other covert means for observing Scientology activities. However, the observation of Scientology activities through other means (e.g., open sources or electronic surveillance) was not affected by the ruling, which applied only to the city-state of Berlin.

Government authorities contended that Scientology was not a religion but an economic enterprise and therefore at times sought to deregister Scientology organizations previously registered as nonprofit associations and required them to register as commercial enterprises. With the exception of the Church of Scientology in Baden-Wuerttemberg, no Scientology organization in the country had tax-exempt status.

Until March 2001, the federal government required firms to sign a declaration when bidding on government contracts stating that neither the firm's management nor employees were Scientologists. In March 2001, the Economics Ministry persuaded the federal and state interior ministries to accept new wording that would only prohibit use of the "technology of L. Ron Hubbard" in executing government contracts. Firms owned or managed by or employing Scientologists could bid on these contracts. The private sector on occasion required foreign firms that wished to do business in the country to declare any affiliation that they or their employees may have with Scientology. Private sector firms that screen for Scientology affiliations frequently cited OPC observation of Scientology as a justification for discrimination. The Federal Property Office barred the sale of some real estate to

Scientologists, noting that the federal Finance Ministry had urged that such sales be avoided, if possible.

In August the federal Interior Ministry extended its refusal of entry to the country (refusal to issue a visitor visa) to the founder of the Unification Church, Reverend Sun Myong Moon, and his wife, Hak Ja Har Moon. The couple had been refused entry to the country (and through the Schengen Treaty visa ineligibility, to other Schengen countries) since 1995, when the Chief Office for Border Security issued a notice of refusal of entry for an initial period of 3 years. The stated reason for refusal of entry was that Reverend Moon and his wife were considered by the federal government to be leaders of a "sect" that endangered the personal and social development of young people; therefore, their entry to the country would not be in the national interest. The Government had extended the refusal of entry repeatedly, last in August for a period of 2 years, citing only the original basis for the refusal. Unification Church legal challenges to the refusal of entry were unsuccessful, but continued at year's end.

In March the Baden-Wuerttemberg Administrative Court ruled that Scientologists were not permitted to sell books and brochures in pedestrian zones in the cities of Stuttgart and Freiburg. The court noted that such activity required a permit, which the Church of Scientology never applied for. The Church of Scientology argued that this restriction violated the basic right of religious freedom; however, the court did not accept this argument.

In September 2001, responding to an appeal by a Scientologist who ran an au pair agency in Rheinland-Pfalz, the State Social Court upheld the Kassel court's finding, ruled out further appeals, and barred the woman from running the au pair agency.

On June 26, an administrative court upheld a 1998 ban in the southern state of Baden-Wuerttemberg on Muslim teachers wearing headscarves in the classroom. In July the Federal Administrative Court affirmed the lower court's ban on teachers wearing headscarves. Muslim students were free to wear headscarves.

Most public schools offered religious instruction in cooperation with the Protestant and Catholic churches and were prepared to offer instruction in Judaism if enough students expressed interest. A nonreligious ethics course or study hall usually was available for students not wishing to participate in religious instruction. The issue of Islamic education in public schools continued to be controversial; however, since 2000, the Islamic Federation has qualified as a religious community and must be given the opportunity to provide religious instruction in Berlin schools.

Scientologists continued to report instances of societal discrimination; however, there were fewer reports during the year. In the state of Bavaria, applicants for state civil service positions were required to complete questionnaires detailing any relationship they may have with Scientology. Currently employed civil servants were not required to provide this information. The questionnaire specifically stated that the failure to complete the form would result in the employment application not being considered. However, previous court cases have ruled in favor of employees who have refused. According to Bavarian and federal officials, no one in Bavaria lost a job or was denied employment solely because of association with Scientology; Scientology officials confirmed this fact. A number of state and local offices shared information on individuals known to be Scientologists. There were numerous unconfirmed reports from Scientologists that they were denied banking services when the account was to be opened under the name of the Church of Scientology, and were denied the right to rent facilities to hold meetings and seminars.

The Catholic and Lutheran churches in the country employed "sect commissioners" to investigate and publish their opinions on those groups they considered "sects, cults, and psycho-groups."

With an estimated four million adherents, Islam was the third most commonly practiced religion in the country (after Catholicism and Lutheranism). All branches of Islam were represented in the country, with the large majority of Muslims coming from other countries. At times this led to societal discord, such as local resistance to the construction of mosques or disagreements over whether Muslims can use loudspeakers in residential neighborhoods to call the faithful to prayer. There also remained areas where the law conflicted with Islamic practices or raised religious freedom issues.

In January the Federal Constitutional Court ruled that Muslim butchers could apply for waivers of animal slaughtering regulations, like other religious communities.

In the past, opposition to the construction of mosques was reported in various communities around the country. There was no further discussion of the dispute in Heselach regarding the construction of a mosque.

There also was a case of a planned mosque in the Frankfurt suburb of Roedelheim. Neighbors expressed concerns about an increase in traffic if visitors

came to attend services at the mosque. There were newspaper reports of open opposition to the project voiced at citizen meetings with the city administration. Leading city officials appeared to support the construction of the mosque, but the case was pending at year's end.

During the year, anti-Semitic incidents in the country received increased media and law enforcement attention amid comments by several Jewish community leaders that German Jews increasingly felt threatened. Such incidents had occurred in the past; however, the context this time was marked by significant pro-Palestinian public sentiment, harsh criticism of Israeli policy by some well-known German politicians, and anecdotal evidence of growing indignation toward Israel on the part of Germany's Muslims.

It was common during the year to see groups of Hamas and Hizbollah members and supporters marching together with antiglobalization activists and even Green Party members of the German Bundestag at anti-U.S. demonstrations. The Muslim extremist Hizb-ut-Tahrir organization was able to rent space at a public university in Berlin in order to have an anti-Israel meeting, attended also by leaders of German neo-Nazi organizations. Both at anti-U.S. demonstrations and in Muslim extremist meetings and seminars, calls to violence against Jews were common. State and federal authorities have begun to investigate possible links between neo-Nazi and Muslim extremist organizations.

Crimes that were classified by the police as anti-Semitic are: propaganda inciting racial hatred (e.g., distribution of anti-Semitic literature, hate letters sent to Jewish institutions), destruction of property (e.g., desecration of Jewish memorials by graffiti, bombing or vandalism of Jewish sites), and assaults on persons (e.g., physical and/or verbal abuse of a person wearing a Jewish symbol). During the first few months of the year in Berlin, there were approximately 50 attacks compared with 106 in 2001. Desecration of memorial sites dedicated to victims of Nazi crimes was common. In September an attack on a museum dedicated to a Nazi death march in Brandenburg involved the planting of sophisticated incendiary devices, which resulted in extensive property damage.

Government authorities on all levels took anti-Semitic activities very seriously and consistently have taken a strong stance against it. Police forces continued to provide protection for Jewish sites and some Jewish leaders, and in some cases have increased the level of protection.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Basic Law provides for these rights, and the Government generally respected them in practice. For ethnic Germans from Eastern Europe and the former Soviet Union, the Basic Law provides both for citizenship immediately upon application and for legal residence without restrictions. The law provides that children born to legal foreign residents may be granted citizenship. Individuals may retain both German citizenship and that of their parents until the age of 23, when they must choose one or the other. The law reduced the period of residence legal foreign residents must spend in the country in order to earn the right to naturalize from 15 to 8 years.

Legislation aimed at rationalizing immigration law passed the Bundestag during the 2002 legislative session; however, the federal Constitutional Court in Karlsruhe ruled in December that the procedures followed during Bundesrat ratification were unconstitutional. New immigration legislation is expected to be taken up again during the 2003 session.

The Basic Law and subsequent legislation provide for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. Both the Federal government and state governments cooperated with the office of U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees, although immigration matters were primarily a state-level responsibility.

Individuals attempting to enter via a "safe third country" (any country in the European Union (EU) or adhering to the Geneva Convention on Refugees) were ineligible for asylum and could be turned back at the border or returned to that "safe third country" if they managed to enter the country. Persons coming from any country which officials designated as a "safe country of origin" could not claim asylum, and individuals whose applications were rejected on these grounds had up to 2 weeks to appeal the decision. Individuals who arrived at an international airport and who were deemed to have come from a "safe country of origin" could be detained at an airport holding facility. In these cases, the Federal Office for the Recognition of Foreign Refugees was required to make a decision on an asylum application within 48 hours or allow the person to enter the country. The person could appeal a neg-

ative decision to an administrative court within 3 days, and the court was required to rule within 14 days or allow the individual to enter the country. Although stays in the airport facility in theory are limited to a maximum of 19 days, applicants whose claims were rejected, but who could not be deported immediately, have been held at the airport for months, a practice criticized by some refugee assistance groups and human rights advocates (*see* Section 1.c.).

Applicants who entered the country and were denied asylum at their original administrative hearing could challenge the decision in court, and 80 percent of applicants denied asylum did so. Approximately 3 to 4 percent of such rejections were overturned. The rejected applicant was allowed to remain in country during the course of the appeal, which usually took at least a year and sometimes significantly longer. Applicants received housing and other social service benefits during this time. Since 2000 applicants for asylum and civil war refugees have been allowed to work after a 1-year waiting period. Individuals who failed to cooperate during the deportation process or who were deemed liable to flee to avoid deportation could be held in predeportation detention, with the average detention period lasting 5 to 6 weeks.

Some foreigners whose asylum applications were rejected, but who would be endangered if they were returned to their home country, such as those fleeing civil wars, received temporary residence permits; however, they were expected to leave when conditions in their home country allowed for their safe return. The vast majority of the approximately 345,000 Bosnians and the approximately 200,000 Kosovars whom the Government admitted during the conflict in the former Yugoslavia fell into this category; most of these persons since have been repatriated or resettled outside of the country. For the remaining Bosnians and Kosovars, once their residence permits expired, they could be deported, although some exceptions were made for certain vulnerable groups, such as members of ethnic minorities, including Serbs, Roma, Ashkalia, and Muslim Slavs. In a number of cases, there also were exceptions made for medical reasons. The Government continued to support voluntary return programs for refugees from the former Yugoslavia, providing financial incentives of between \$765 and \$2,250 (765 and 2,250 euros) to help cover travel and resettlement costs; many states provided additional resettlement funds. However, failure to accept voluntary repatriation subjected these refugees to the threat of deportation, forced them to leave their personal property behind, and excluded them from reentering the country for a 5-year period.

In some cases, unsuccessful asylum seekers attempt to thwart their deportation by refusing to disclose to authorities their country of origin or their identity. This situation was prevalent among asylum seekers from West Africa; however, it is also not unusual among asylum seekers from the former Soviet Union. Bavaria attempted to speed up repatriation of uncooperative rejected asylum seekers by opening "departure facilities," i.e., communal accommodations where foreigners are housed while authorities obtain valid information regarding their identity and citizenship. A new departure center was opened on a trial basis in Fuerth, and was planned to house 50 unsuccessful uncooperative asylum seekers from the former Soviet Union. Some refugee-rights and church organizations criticized the Fuerth center as inhumane. They claimed that the basic amenities and relative lack of freedom of movement exerted psychological pressure on the residents. Bavarian authorities countered that the center's emphasis on counseling and job skill development promoted the residents' willingness to depart voluntarily and enhanced their chances of success in their home countries.

During the year, police in Trier, Rhineland-Palatinate, allegedly forced an Armenian asylum applicant to submit to an examination of his genitalia. The police asserted that the applicant submitted voluntarily to the examination, and that the examination was necessary to determine his nationality. The applicant claimed that the examination was forced. Refugee rights groups requested an investigation and that the police officers be held accountable. The police investigated the incident; no indictments were handed down by the Public Prosecutor by year's end.

The right of most Kosovar refugees to stay in the country expired in spring 2000 and most states began regular deportations in March 2000. During 2001 approximately 4,500 Kosovar refugees were deported and approximately 8,200 returned home on a voluntary basis. Some national officials, the UNHCR, and domestic refugee support organizations have cautioned that the refugees' place of origin and ethnicity should be given careful consideration in the implementation of Kosovar returns. Incentive programs for the voluntary return of Bosnian and Kosovar refugees remained in effect, but on a reduced scale compared to earlier years. In the first 6 months of the year, 1,160 refugees from Kosovo returned voluntarily, compared with 2,239 during the same period in 2001.

State authorities, working in close cooperation with the International Organization for Migration (IOM), the UNHCR, and other domestic nongovernmental organizations (NGOs), continued to repatriate Bosnian refugees, unless they qualified for an extension of stay on certain humanitarian grounds. In 2000 the Federal and State Interior Ministers decided at their annual meeting to grant severely traumatized Bosnians and their family members, including unmarried adult children, temporary residence permits for the duration of their medical treatment. In addition, the Government would permit some older Bosnian refugees, as well as some categories of Kosovars (such as orphaned children, ethnically mixed couples from areas with no minority protection, and war crimes tribunal witnesses) to stay in the country.

Refugee assistance organizations have expressed concern regarding courts' interpretations of certain provisions related to the right of asylum, notably the practice of excluding "quasi-governmental" persecution as a basis for granting asylum. In 2000 the Federal Constitutional Court ruled that lower courts had erred in denying asylum to three Afghan applicants because their persecutors were not a state government but members of a Mujahadeen group—a quasi-governmental entity. The case was remanded back to the lower court with instructions to reconsider the issue of quasi-governmental persecution. The lower court confirmed that "quasi-governmental" persecution is excluded as a basis for asylum decisions. In response to the Constitutional Court ruling, the Federal Office for the Recognition of Foreign Refugees postponed making decisions in all pending asylum cases involving quasi-governmental persecution until the lower court reissues its ruling.

In July the case of the ethnic Turkish juvenile delinquent Mulis A. ("Mehmet") resurfaced. Mehmet, a Turkish citizen, was born in Germany to Turkish parents resident in Germany for 30 years. By the age of 14, he had committed several criminal offenses. In 1999 Munich authorities cancelled Mehmet's residence permit; however, his parents refused to leave the country. The court ruled that Mehmet could be deported without his parents, and he was forcibly expelled to Turkey, where he lived with relatives for more than 2 years. In July the Federal Administrative Court ruled that Mehmet's crimes were not serious enough to warrant revocation of his residence permit and ordered that it be restored immediately. The city complied, and Mehmet returned to Bavaria (now as an adult).

An investigation into the 1999 death of a Sudanese asylum seeker who died during a deportation flight while in the custody of the Federal Border Police remained pending at year's end (*see* Section 1.a.). As a result of this incident, the Federal Interior Ministry instituted new deportation procedures that prohibit methods that could hinder breathing.

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

The Basic Law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections. Members of Parliament's first chamber, the Bundestag, are elected every 4 years from a mixture of direct-constituency and party-list candidates on the basis of universal suffrage and secret balloting. The second chamber, the Bundesrat, is composed of delegations from state governments; there are no collective Bundesrat elections.

In the Bundestag, there were two major political parties, the Social Democrats (SPD) and the Christian Democratic Union/Christian Social Union (CDU/CSU), as well as two smaller parties, the Free Democrats (FDP) and the Greens. Parties that failed to win either 5 percent of the vote nationwide or three seats in head-to-head contests ("direct mandates") were not allotted their proportional share of seats (although they retain any seats won directly). In the September 22 national elections, the PDS won two direct mandates, but failed to gain the 5 percent needed; therefore, there were only two PDS deputies in the new Bundestag. The federal Constitutional Court may outlaw political parties that actively work to undermine the liberal democratic order (*see* Section 2.b.).

The law entitles women to participate fully in political life, and a growing number are prominent in the Government and the parties. Less than 31 percent of the members of the Bundestag were women. Women occupied 7 of 15 Federal Cabinet positions. On the Federal Constitutional Court, 5 of the 16 judges were female, including the Chief Justice. Two of the parties represented in the Bundestag were headed by women: The CDU and the Greens/Alliance 90 (co-chaired by a woman and a man). All of the parties had undertaken to enlist more women. The Greens/Alliance 90 Party required that women constitute half of the party's elected officials; and 57.5 percent of the Party's federal parliamentary caucus members are women. The Social Democrats had a 40-percent quota for women on all party committees and



governing bodies, and they met that goal. The Christian Democrats required that 30 percent of the first ballot candidates for party positions be women, a goal that they met.

There were two Turkish-German Bundestag deputies, and one German-Indian mixed race deputy in the Bundestag.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of international and domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were very cooperative and responsive to their views.

In 2000 the Bundestag voted to create the National Institute for Human Rights, an autonomous foundation whose function will be to monitor human rights domestically and abroad and to promote education and scientific research in the field. The Institute was founded in 2001 and is expected to begin full operation during 2003.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The law prohibits the denial of access to housing, health care, or education on the basis of race, disability, sex, ethnic background, political opinion, or citizenship.

*Women.*—Violence against women was a problem and was underreported. In 2001 countrywide, 7,891 cases of rape were reported, 5 percent more than in 2000. The law prohibits violence against women and the Government has implemented a vast array of legal and social structures to combat it. Societal attitudes toward such violence are strongly negative, and legal and medical recourse are available. During the year, the Government conducted campaigns in schools and through church groups to bring public attention to the existence of such violence and supported numerous pilot projects to combat such violence throughout the country. For example, there were 435 “women’s houses,” including 115 in the eastern states (excluding Berlin), where victims of violence and their children could seek shelter, counseling, and legal and police protection. In the last few years, the Federal Ministry for Women and Youth has commissioned a number of studies to obtain information on violence against women, sexual harassment, and other matters.

Prostitution is legal in the country. Lawmakers have approved new rules affording prostitutes more benefits such as the chance to enter the social security system and to use the courts to obtain payment for their services.

Trafficking in women was a serious problem (*see* Section 6.f.).

There were no reports that women were victims of sexual harassment.

The Government continued to implement its multiyear action plan, “Women and Occupation.” The program promoted the equality of women and men in the workforce, including increased vocational training for women, greater representation of women in political advisory councils, and the promotion of female entrepreneurs through government grants and participation in regional projects earmarked for women. The Federal Ministry for Families, the Elderly, Women, and Youth also announced a multiyear initiative designed to increase the number of women and girls who receive training in information technology (IT) and in media careers, with the goal of raising the number of IT-training slots to 60,000 by 2003 and the share of female IT-trainees to 40 percent by 2005. The law provides for equal pay for equal work; however, in practice many employers categorized individual jobs held by women differently from the same job held by a man, thereby creating inequalities in pay for men and women. Union contracts typically identified categories of employment in which participants are to be paid less than 100 percent of the wage of a skilled laborer covered by the same contract. Women were represented disproportionately in these lower-wage scale occupations. In general a women’s average monthly income was lower than a man’s average monthly income. However, if factors such as differences in age, qualification, occupational position, structure of employment or seniority are taken into consideration, women usually were not discriminated against in terms of equal pay for equal work, although they were underrepresented in well paid managerial positions.

In 2000 the European Court of Justice ruled that the Government’s prohibition on women in combat roles in the armed forces violated EU directives against discrimination based on gender. The Government accepted the ruling and in 2000 amended the Basic Law to open all military jobs to women on a voluntary basis. The first group of 244 women reported for duty in January 2001. The integration of women into new armed forces roles took place without problems.

*Children.*—The Government was strongly committed to children’s rights and welfare; it amply funded systems of public education and medical care. Public education

was provided free of charge through the university level and was mandatory through the age of 16; almost all children attended school on a daily basis.

Child abuse was a problem. The law stresses the need for preventive measures, and in response the Government has increased its counseling and other assistance to abused children.

The Criminal Code provides for the protection of children against pornography and sexual abuse. For possession of child pornography, the maximum sentence is 1 year's imprisonment; the sentence for distribution is 5 years. The law makes the sexual abuse of children by citizens abroad punishable even if the action is not illegal in the child's own country. Due to increased law enforcement efforts in this area, 2,745 arrests for possession or distribution of child pornography were made in 2001, an increase of 72 percent over 2000.

Trafficking in girls was a serious problem (*see* Section 6.f.).

*Persons with Disabilities.*—The Basic Law specifically prohibits discrimination against persons with disabilities, and there were no reports of discrimination against persons with disabilities in employment, education, or in the provision of other state services. The law mandates several special services for persons with disabilities; they are entitled to assistance to avert, eliminate, or alleviate the consequences of their disabilities and to secure employment commensurate with their abilities. The Government offered vocational training and grants for employers who hired the disabled. Persons with severe disabilities could be granted special benefits, such as tax relief, free public transport, special parking facilities, and exemption from radio and television fees.

The Government set guidelines for the attainment of “barrier-free” public buildings and for modifications of streets and pedestrian traffic walks to accommodate persons with disabilities. All 16 states incorporated the federal guidelines into their building codes, and 98 percent of federal public buildings follow the guidelines for a “barrier-free environment.” There were no reports of societal discrimination against persons with disabilities.

*National/Racial/Ethnic Minorities.*—The authorities' concerns about terrorism in the last year have led to a reduction of police resources directed at right- and left-wing extremism. The OPC Report for 2001 stated that during the year there were 709 violent right-wing extremist crimes; of these, 18 were anti-Semitic and 374 were anti-foreigner. There were also 9,345 non-violent right-wing extremist crimes, mostly propaganda offenses (6,336). During 2001 there were 750 violent left-wing extremist crimes, and 1,145 non-violent left-wing extremist crimes. Also in 2001 there were 84 violent crimes perpetrated by members of extremist foreign organizations for political reasons, and 427 non-violent crimes perpetrated by these foreigners.

Harassment of foreigners and racial minorities, including beatings, remained very common throughout the country. Media reports indicated that several such incidents occurred per week. In May an ethnic German immigrant from Russia was stoned to death by a group of neo-Nazis in the town of Wittstock (Brandenburg), the location of a government housing facility for 300 Russian immigrants. This high-profile case and the known concentration of leaders of the “right-wing scene” in the area led Brandenburg authorities to form a special police task force to address right-wing extremist crime in northwest Brandenburg. In December a group of approximately ten “skinheads” taunted a black man with racist slurs and beat him with a baseball bat in the town of Voerde (North Rhine-Westphalia). The man was left lying on a rapid-transit train platform where the attack occurred. The perpetrators escaped by boarding a train.

“Membership” in rightwing organizations was difficult to ascertain; however, authorities estimated that there were approximately 1,500 persons nationwide who were leaders of rightwing activities. Authorities estimated an additional 10,000 persons were sympathizers.

A 24-year-old rightwing extremist was sentenced to life in prison for the murder of Alberto Adriano (from Mozambique); his two 16-year-old accomplices were each sentenced to 9 years in prison. All three were imprisoned at year's end.

After a 17-month trial by a court in Cottbus (Brandenburg), 3 of the 11 juvenile defendants in the Farid Guendoual case were acquitted and the rest were found guilty and given “warning” sentences that did not require jail time. The court found that the youths, from the town of Guben, had followed and harassed Guendoual and two other foreigners, and that Guendoual, out of fright, had jumped through a window and sustained fatal injuries. Relatives of Guendoual from Algeria were contemplating an appeal of the sentences.

The Federal government and state governments remained firmly committed to combating and preventing rightwing violence, although police resources increasingly were allocated to address the terrorist threat. In 2000 Federal and State Interior

Ministers agreed on a slate of measures to combat extremist violence, which included increased physical protection of Jewish and other potential targets, the creation of a national register of violent rightwing extremists, increased patrolling or video monitoring by the border police in transit stations, and the prosecution of illegal rightwing content on the Internet (*see* Section 2.a.). The Federal Border Police also established a hot line for concerned citizens to report rightwing crimes. The Government announced that it would use \$34 million (34 million euros) from the EU Social Fund for antirightwing initiatives, to be cofinanced by the states or communities wishing to apply for project funds. In addition a number of state and local governments continued programs to crack down on rightwing extremist activities and to engage young persons considered most “at risk” for rightwing behavior.

In April the 8th Party Congress, the PKK (Kurdistan Communist Party) declared that its historic mission was completed and called for a halt to all activities by members. However, during the year there was a signature collection drive for a petition by PKK members in North Rhine-Westphalia (NRW). This led to the authorities’ discovery of the identities of many PKK members, many of whom were indicted on charges of extremist leftwing activity, consistent with the Government’s ban of the PKK.

The Government protected and fostered the languages and cultures of national and ethnic minorities that traditionally lived in the country (for example, Serbs, Danes, Roma, Sinti, and Frisians). Although the Government recognized the Sinti and Roma as an official “national minority” since 1995, the federal and state interior ministries resisted including Romani among the languages to be protected under relevant EU statutes. Critics contended that the Sinti/Romani minority was the only official national minority that did not have unique legal protection, political privilege, or reserved representation in certain public institutions.

Resident foreigners and minority groups continued to voice credible concerns about societal and job-related discrimination. Unemployment affected foreigners disproportionately, although at times this was due in part to inadequate language skills or nontransferable professional qualifications of the job seekers (*see* Section 6.e.). The Federal government and all states established permanent commissions to assist foreigners in their dealings with government and society.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Basic Law provides for the right to associate freely, choose representatives, determine programs and policies to represent workers’ interests, and publicize views, and workers exercised these rights. Approximately 28.5 percent of the total eligible work force belonged to unions. The German Trade Union Federation (DGB) represented approximately 85 percent of organized workers.

The law effectively protects workers against antiunion discrimination. Labor courts are courts of first instance; therefore, complainants file their cases directly with the labor courts. Specialized labor court judges render decisions in these cases.

The DGB participated in various international and European trade union organizations, including the European Trade Union Confederation (ETUC) and the International Confederation of Foreign Trade Unions (ICFTU).

*b. The Right to Organize and Bargain Collectively.*—The Basic Law provides for the right to organize and bargain collectively and workers exercised these rights. Collective bargaining was widespread due to a well-developed system of autonomous contract negotiations; mediation was used infrequently. Basic wages and working conditions were negotiated at the industry level. However, some firms in the eastern part of the country refused to join employer associations or withdrew from them and then bargained independently with workers. In addition, some firms in the west withdrew at least part of their work force from the jurisdiction of employer associations, complaining of rigidities in the industrywide, multicompany negotiating system; however, they did not refuse to bargain as individual enterprises. The law mandates a system, known as co-determination, whereby workers are able to participate in the management of the enterprises in which they work through “works councils” and worker membership on boards of directors.

The Basic Law provides for the right to strike, except for civil servants (including teachers) and personnel in sensitive positions, such as members of the armed forces. In the past, the International Labor Organization (ILO) criticized the Government’s definition of “essential services” as overly broad. The ILO continued to seek clarifications from the Government on policies and laws governing the labor rights of civil servants.

In May more than 100,000 workers from 85 firms organized a week-long strike, demanding pay increases and more jobs. It was the country’s first large-scale strike

in 7 years. This was followed by a construction industry strike in June, the first since World War II.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Basic Law prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

In 2000 agreement was reached among eight nations, German companies, and victims' representatives on the establishment of a German foundation that will distribute funds for payments to private and public sector Nazi era forced and slave laborers and others who suffered at the hands of German companies during the Nazi era. The Government and German companies each will contribute \$2.3 billion (2.3 billion euros) to the "Remembrance, Responsibility, and the Future Foundation," which was established under the law. The Foundation concluded agreements with partner organizations such as the IOM that are to receive Foundation funds in order to process and pay claims according to agreed procedures and subject to audit. Payments to former forced laborers began in July 2001. Since then the Foundation has paid approximately \$2 billion (2 billion euros) to more than one million claimants worldwide.

In October the Foundation signed an agreement with the International Commission on Holocaust Era Insurance Claims, marking another important step in the country's cooperative efforts to address the injustices of World War II and the National Socialist era. This agreement on procedures should enable the International Commission to compensate unpaid or confiscated Holocaust-era insurance claims.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits the employment of children under the age of 15, with a few exceptions: Those 13 or 14 years of age may do farm work for up to 3 hours per day or may deliver newspapers for up to 2 hours per day; and those 3 to 14 years of age may take part in cultural performances, albeit under stringent curbs on the kinds of activity, number of hours, and time of day. The Federal Labor Ministry effectively enforced the law through its Factory Inspection Bureau.

*e. Acceptable Conditions of Work.*—There was no legislated or administratively determined minimum wage; wages and salaries were set either by collective bargaining agreements between unions and employer federations or by individual contracts. Covering approximately 90 percent of all wage and salary-earners, the collective bargaining agreements set minimum pay rates and were enforceable by law. These minimums provided a decent standard of living for a worker and family.

Federal regulations limit the workweek to a maximum of 48 hours, but the number of hours of work per week was regulated by contracts that directly or indirectly affect 80 percent of the working population. The average workweek for industrial workers was 36 hours in the western part of the country and approximately 39 hours in the eastern states; rest periods for lunch were accepted practices. Provisions for overtime, holiday, and weekend pay varied depending upon the applicable collective bargaining agreement.

There was an extensive set of laws and regulations on occupational safety and health. A comprehensive system of worker insurance carriers enforces safety requirements in the workplace. The Labor Ministry and its counterparts in the states effectively enforced occupational safety and health standards through a network of government bodies, including the Federal Institute for Work Safety. At the local level, professional and trade associations—self-governing public corporations with delegates both from the employers and from the unions—oversaw worker safety. The law provides for the right to refuse to perform dangerous or unhealthy work without jeopardy to continued employment.

Foreign workers legally in the country were protected by law and generally worked in conditions equal to that of citizens; however, wage discrimination affected legal foreign workers to some extent. For example, foreign teachers in some schools were paid less than their German counterparts. In addition, seasonal workers from Eastern Europe who came to the country on temporary work permits often received wages below normal German standards. Workers from other EU countries at times were employed at the same wages that they would receive in their home country, even if the corresponding German worker would receive a higher wage. Foreigners who were employed illegally, particularly in the construction industry in Berlin, were likely to receive substandard wages.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in persons, primarily women and girls for sexual exploitation, was a serious problem.

The law specifically prohibits trafficking in persons and trafficking in persons is punishable by up to 10 years' imprisonment. The Federal Criminal Office and state

police actively investigated cases of trafficking and published their findings in an annual trafficking report. In the 2001 report, officials counted and registered 746 trafficked victims—26 percent fewer than in 2000. However, these numbers referred to trafficking for the purposes of sexual exploitation only and did not include trafficking for other purposes. The Federal Ministry for Families, the Elderly, Women, and Youth headed an interagency working group to coordinate the efforts of state and federal agencies to combat trafficking and to aid victims of trafficking. The Federal Criminal Office offered a 2-week seminar twice a year to train police officers from all over the country in the handling of trafficking cases. The federal and state governments worked actively with NGOs and local women's shelters in combating human trafficking. The Government published a brochure that provided information on residency and work requirements, counseling centers for women, health care, warnings about trafficking, and information for sex-industry workers that was printed in 13 languages and distributed by NGOs and German Consulates abroad.

The Federal government continued a multiyear "Action Plan to Combat Violence Against Women." This effort included the creation of a number of combined federal and state working groups, with the participation of relevant NGOs, to address possible legislative changes, public educational campaigns, and opportunities for greater institutional cooperation. Under this program, the Government planned to spend approximately \$373,000 (373,000 euros) over 3 years to establish a "National Coordination Group Against Trafficking in Women and Violence Against Women in the Migratory Process."

In September police in Rhineland-Palatinate and Saarland arrested 14 persons, including an army colonel, for running a human trafficking ring. The arrests were the result of effective collaboration between German and Polish authorities, who obtained incriminating information from a woman arrested in Poland.

Germany was a destination and transit country for trafficking in persons, overwhelmingly women and girls. Most trafficking victims were women and girls between the ages of 16 and 25 who were forced to work as prostitutes; according to police statistics, less than 0.5 percent of trafficking victims were men or boys. Estimates varied considerably on the number of women and girls trafficked to and through the country; they ranged from 2,000 to 20,000 per year. Approximately 80 percent of trafficking victims came from Eastern Europe and the countries of the former Soviet Union, primarily from Poland, Ukraine, Russia, Moldova, Lithuania, Slovakia, Latvia, and the Czech Republic. Frequently crime rings would traffic women who already had been caught in, and deported from, one European country to another European country. The other 20 percent of trafficking victims came from Southeast Asia, Africa, and Latin America.

Traffickers used fake employment offers, arranged marriages, fraud, and coercive measures to find victims and used various methods to insure their compliance, including threats of "selling" the victim to other traffickers, threats against family members in the country of origin, physical violence, and the withholding of documents.

The Ministry has lobbied states successfully to provide victims of trafficking who had been detained by police 4 weeks to leave the country, rather than have them face immediate deportation. The 4-week grace period allowed the victims time to decide whether to cooperate with police on investigations of those suspected of trafficking. During this time, the women were housed, fed, and provided counseling. However, the interagency Working Group on Trafficking in Women and NGOs claimed that the directive allowing a 4-week grace period was not applied uniformly or correctly. According to the Working Group, victims often were deported immediately after being taken into custody. Those who cooperated, although they are very few in number, were granted a temporary stay for at least part of the proceedings and could be eligible for witness protection at the state level. In three past cases, the children of women in such witness protection programs were brought to the country to prevent possible retaliation against them due to their mother's testimony; however, protection ends once the case is concluded.

Because victims technically were illegal residents, they were not allowed to work during the period of a trial, and because they do not have a residence permit, they only qualified for financial assistance under the federal Law on Payments for Asylum Seekers, which were lower than regular welfare payments. Trafficking victims who could not afford to pay for their return tickets home could be eligible for state and federal funds for transportation and some pocket money.

The Federal government continued its funding of six counseling centers for women from Central and Eastern Europe, and most states and many communities co-financed institutions that helped counsel and care for victims of trafficking. The Government also funded the "Coordination Network" (Koordinierungskreis der Fachberatungsstellen/KOK), a network of more than 30 NGOs that participated in

processing the caseload of victims of human trafficking. There were more than 30 organizations that fell under the network of the KOK. These organizations provided food, shelter, and counseling to victims.

The country worked with the OSCE on social programs aimed at preventing trafficking in persons. These programs targeted "at risk" young women in their countries of origin and provided information about the dangers of trafficking as well as offering job skill development assistance.

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## GREECE

Greece is a constitutional republic and multiparty parliamentary democracy in which citizens choose their representatives in free and fair elections. The Panhellenic Socialist Movement (PASOK) won the majority of parliamentary seats for a second consecutive term in parliamentary elections held in April 2000. Its leader, Constantine Simitis, has been Prime Minister since 1996. The New Democracy Party was the main opposition party. The judiciary is independent.

The national police and security services are responsible for internal security. Civilian authorities generally maintained effective control of all security forces. The police and security services are subject to a broad variety of restraints; however, some members of the police and security forces committed human rights abuses.

The country had a market economy with a large public sector that accounted for some 40 percent of the estimated gross domestic product (GDP) of \$125 billion for the year. With a population of 10.9 million, residents enjoyed a high standard of living. Net flows from the European Union (EU), mainly from structural adjustment funds and subsidies, accounted for 3.3 percent of the country's GDP.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Security forces personnel sometimes abused persons, particularly illegal immigrants and Roma. There was one report of police torture of an illegal immigrant. Overcrowding and harsh conditions continued in some prisons. Police sweeps resulted in the detention of undocumented immigrants under often squalid conditions. There were legal limits on the freedom of association of ethnic minorities. Some leaders of minority religions noted a general improvement in government tolerance, but others reported difficulty with the authorities. Laws restrictive of freedom of speech remained in force, and some legal restrictions and administrative obstacles on freedom of religion persisted. Violence and discrimination against women were problems. Discrimination against ethnic minorities and Roma remained a problem. There were reports that foreign children were forced into begging. Trafficking in women and children into the country for the purpose of prostitution was a problem. Greece was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

### RESPECT FOR HUMAN RIGHTS

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

a. *Arbitrary and Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

In October a government inquiry and an internal police council found a police officer guilty of the shooting death of Rom Marinos Christopoulous in October 2001. They recommended that the police officer be dismissed from the police force; however, he had not been dismissed by year's end.

There were no deaths resulting from terrorist activity during the year. The terrorist group November 17 claimed responsibility for 23 killings since 1975. By year's end, police had arrested 19 suspected members of the group.

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

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and the law makes the use of torture punishable by a sentence of 3 years' to life imprisonment; however, security force personnel occasionally abused persons, particularly illegal immigrants and Roma (see Section 5). A Report on Greece issued in May 2001 by the U.N. Committee Against Torture expressed concern about the excessive or unjustifiable use of force by police against ethnic and national minorities and foreigners. In January a policeman allegedly kicked a pregnant woman during a raid on the Apropyrgos Roma camp; she later miscarried. No disciplinary action was taken.

Yannis Papacostas alleged that he was beaten and tortured on August 18 in a police station near Athens after being arrested for a driving offense. Greek Helsinki

Monitor and the World Organization Against Torture alleged, that on June 25, police tortured Nigerian national Joseph Okeke after he resisted deportation. The Ministry of Public Order announced investigations into both incidents which were not concluded at year's end.

By year's end, no one had been charged in the reported June 2001 abuse by Port Authority personnel of 164 migrants who came ashore in Hania, Crete.

After an internal inquiry into the police beating of a man in Rhodes in July 2001, no one was arrested or charged.

Roma experienced police abuse more frequently than some other groups. Amnesty International called on the authorities to conduct an impartial investigation into allegations made by Andreas Kalamiotis, a 21-year-old Rom, who claimed that he was beaten and mistreated by police in July 2001 while in custody for disturbing neighbors in Aghia Paraskevi with loud music. The Ombudsman wrote to the police in 2001 and this year to request an administrative inquiry; however, no action had been taken at year's end. By year's end, no one had been charged in the police beating of a Rom during a traffic stop in Nafplio in September 2001.

Immigrants—mostly Albanian citizens—accused police of physical, verbal, and other mistreatment (including the confiscation and destruction of their documents), particularly during police sweeps to apprehend illegal immigrants (*see* Section 2.d.). The severity of this problem did not diminish during the year despite legislation that extended a program to allow immigrants to regularize their status.

The European Committee for the Prevention of Torture (CPT) carried out one of its periodic visits during September 2001. The committee reviewed developments concerning the treatment and detention conditions of persons held under laws concerning aliens. The CPT found that ill-treatment of detainees by law-enforcement officials was a serious problem. The ill-treatment included kicks, blows with hands, fists, batons or other objects, excessive force at the time of arrest and ill-treatment of prisoners during transfers. The CPT also found that detention conditions by law enforcement agencies varied from "acceptable" to "unacceptable." The Committee found that the principal obstacle to providing decent conditions in prisons was severe overcrowding.

In August 2000, two foreigners accused police in Crete of mistreatment while under detention. There was no investigation into or action taken in this case by year's end.

During the year, the Bureau of Internal Affairs of the Ministry of Public Order took several disciplinary measures, including dismissal and suspension, against officers involved in corruption, mainly for the forging of documents and the taking of bribes for illegal construction. During the period of October 1999 to August 2002, 1,609 complaints were filed. Most cases involved violation of duty, false certificates, abuse of power, corruption, violations with arms and explosives, illegal release of persons in police custody, pimping, and various violations relating to alien registration. Lawsuits were filed in 364 cases against 222 policemen and 202 civilians by year's end.

Local police corruption facilitated trafficking in persons (*see* Section 6.f.).

Numerous anarchist and extremist groups attacked a wide spectrum of targets, mostly commercial property, during the year. There were occasional firebomb attacks on vehicles and commercial offices during the year.

Conditions in some prisons remained harsh due to substantial overcrowding and outdated facilities. As of September, the Ministry of Justice reported that the total prison population was 8,328 inmates, while the total capacity of the prison system was 5,284. In general juveniles were held separately from adults, and women were held separately from men. Pre-trial detainees were held together with convicted prisoners awaiting trials in Korydallos Prison.

The CPT found that conditions were acceptable in the Amygdaleza detention center for illegal alien women. The CPT found that the Drapetsona detention center conditions were unhygienic. The Ministry of Justice continued its program to improve prison conditions and expand capacity. Construction continued on four new prisons. During the June visit of the Commissioner for Human Rights for the Council of Europe, the Justice minister said that plans for 17 new prisons were underway but that local opposition was delaying their construction.

The Government permitted prison visits by independent human rights observers, and several took place during the year; however, it did not consistently allow visits to police detention centers.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, throughout the year, the police conducted large-scale sweeps and temporarily detained, often under squalid conditions, large numbers of foreigners while determining their residence status (*see* Section 2.d.). Some of these detentions occurred indefinitely with no judicial review.

The Constitution requires judicial warrants for all arrests, except during the commission of a crime, and the law prohibits arbitrary arrest orders; the authorities generally respected these provisions in practice. By law the police must bring persons who are detained or arrested before an examining magistrate within 24 hours. The magistrate must issue a detention warrant or order the release of the detainee within three days, unless special circumstances warrant a 2-day extension of this time limit.

Defendants brought to court before the end of the day following the commission of a charged misdemeanor offense may be tried immediately, under an “expedited procedure.” Although legal safeguards, including representation by counsel, apply in expedited procedure cases, the short period of time may inhibit defendants’ ability to present an adequate defense. Defendants may ask for a delay to provide time to prepare their defense, but the court is not obliged to grant it. The expedited procedure was used in less than 10 percent of applicable cases.

The effective legal maximum duration of pretrial detention was 18 months for felonies and 9 months for misdemeanors in practice. Defense lawyers assert that pretrial detention was exceedingly long and overused by judges. A panel of judges may grant release pending trial, with or without bail. Pretrial detainees made up 31 percent of those incarcerated, contributing to overcrowding, according to government sources. A person convicted of a misdemeanor and sentenced to 2 years’ imprisonment or less may, at the court’s discretion, pay a fine instead of being imprisoned.

The Government paid \$13,000 (5 million drachmae), as ordered by the European Court of Human Rights (ECHR) in 2001, to Mohamed Dougoz, who was held in the Drapetsona detention center and Police Headquarters for several years under inhuman conditions.

The Constitution prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judicial system includes three levels of civil courts, (first instance, appeals, and supreme) and three levels of criminal courts (first instance—divided into misdemeanor and felony divisions, appeals, and supreme), appointed judges, and an examining magistrate system, with trials by judicial panels.

The Constitution provides for public trials, unless the court decides that privacy is required to protect victims and witnesses or the cases involve national security matters. Defendants enjoy a presumption of innocence, the standard of proof beyond a reasonable doubt, the right to present evidence and call witnesses, and the rights of access to the prosecution’s evidence, to cross-examine witnesses, and to counsel. Lawyers are provided to defendants who are not able to afford legal counsel only in felony cases. Both the prosecution and the defense may appeal.

Defendants who do not speak Greek have the right to a court-appointed interpreter. According to several immigrant associations in Athens, the low fees paid for such work often resulted in poor interpretation. Foreign defendants who depended on these interpreters frequently complained that they did not understand the proceedings of their trials. Also defendants often were not advised of their rights during arrest in a language that they can understand. Several complained that they were not shown the Hellenic Police Informational Bulletin, which contains prisoners’ rights in a variety of languages, and that they were forced to sign blank documents later used for their deportation.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits invasion of privacy and searches without warrants, and the law permits the monitoring of personal communications only under strict judicial controls; however, these provisions were not always respected in practice.

The Government paid \$13,000 (12,041 euros), as ordered by the ECHR in 2001, to Donald Peers, whose mail was opened by officials at the Korydallos prison where he was held for drug offenses.

The European Roma Rights Center (ERRC) reported that police conducted regular raids and searches of Romani neighborhoods for alleged criminal suspects, drugs, and weapons (*see* Section 5).

Local authorities evicted or threatened to evict Roma from camps and tent dwellings during the year (*see* Section 5).

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, legal restrictions on free speech remained in force. Articles of the Penal



Code that can be used to restrict free speech and the press include Article 141, which forbids exposing to danger of disturbance the friendly relations of the Greek state with foreign states; Article 191, which prohibits spreading false information and rumors liable to create concern and fear among citizens and cause disturbances in the country's international relations; or inciting citizens to rivalry and division leading to disturbance of the peace; and Article 192, which prohibits inciting citizens to acts of violence or to disturbing the peace through disharmony among them. Those convicted in the past of violations of these articles were allowed to convert their prison sentences, up to 3 years, into a fine of approximately \$13.50 (12.50 euros) per day.

In most criminal defamation cases, the defendant typically was released on bail pending appeal, and no jail time was ever served.

The Constitution allows for seizure by order of the public prosecutor of publications that insult the President, offend religious beliefs, contain obscene articles, advocate violent overthrow of the political system, or disclose military and defense information. However, seizures were very rare, and there were none during the year.

There were numerous independent newspapers and magazines. Satirical and opposition newspapers routinely criticized the highest state authorities. Members of ethnic, religious, and linguistic minorities freely published periodicals and other publications, often in their native language.

The Constitution provides that the state exercise "immediate control" over radio and television, and the law establishes ownership and technical frequency limits on electronic media; the Government and media outlets have disputed application procedures and frequency allocations. The law also legalizes stations operating with pending applications. The National Radio and Television Council has an advisory role in radio and television licensing, whereas the Ministry of Press and Mass Media has final authority.

In May 2001 and in March, 35 private radio stations were granted operating licenses. The cases of 15 more radio stations had not been heard by year's end. Television stations continued to operate with pending applications; there were more applicants than available frequency. In the past, the Government occasionally closed stations for violating intellectual property rights or interfering with civil aviation, military, and law enforcement transmissions, although there were no reports of such closings during the year. State-run stations tended to emphasize the Government's views but also reported objectively on other parties' programs and positions. Private radio and television stations operated independently of any government control over their reporting. Turkish-language television programs were widely available via satellite in Thrace.

Internet access was available and unrestricted.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the freedoms of assembly and association, and the Government generally respected these rights in practice; however, the courts continued to place legal restrictions on the names of associations involving ethnic minorities (see Section 5).

Police permits were issued routinely for public demonstrations, and there were no reports that the permit requirement was abused. Peaceful demonstrations against government policies occurred regularly in Athens and other large cities, and the protesters included students, workers, political parties, pensioners, and foreigners.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and although the Government generally respected this right, at times non-Orthodox groups faced administrative obstacles or legal restrictions on religious practice. The Constitution establishes the Eastern Orthodox Church of Christ (Greek Orthodoxy) as the "prevailing" religion. The Orthodox Church continued to exercise significant political and economic influence. The Government, under the direction of the Ministry of Education and Religion, provided some financial support to the Orthodox Church, for example, by paying for the salaries and religious training of clergy and financing the construction and maintenance of Orthodox Church buildings.

The Government, by virtue of the Orthodox Church's status as the prevailing religion, recognizes de facto its canon law. Leaders of some non-Orthodox religious groups claimed that all taxes on religious organizations were discriminatory, even those that the Orthodox Church has to pay, because the Government subsidizes the Orthodox Church, while other groups are self-supporting. The Government also pays the salaries of the two official Muslim religious leaders ("muftis," Islamic judges and religious leaders with limited civic responsibilities) in Thrace and provides them with official vehicles.

Several religious denominations reported difficulties in dealing with the authorities on a variety of administrative matters. Privileges and legal prerogatives grant-

ed to the Greek Orthodox Church were not extended routinely to other recognized religions.

Although Jehovah's Witnesses was recognized as a "known" religion, members continued to face some harassment in the form of arbitrary identity checks, difficulties in burying their dead, and local officials' resistance to their construction of churches (which in most cases was resolved quickly and favorably).

Several religious denominations, including foreign Protestants and Mormons, reported difficulty in renewing the visas of their non-EU citizen ministers because the Government did not have a distinct religious workers' visa category. As part of the country's obligations under the Schengen Treaty and the Treaty of Amsterdam, all non-EU citizens face a more restrictive visa and residence regime than they did in the past.

Differences remained within the Muslim community and between segments of the community and the Government over the means of selection of muftis. In 1991 in accordance with the law, the Government, upon receiving recommendations from a government-selected committee of Muslims selected by the Government, appointed two muftis and one assistant mufti, all resident in Thrace, to 10-year terms. Most Muslims accepted the authority of the two officially appointed muftis; other Muslims, with support from Turkey, have "elected" two different muftis to serve their communities, although there is no established procedure or practice for election. The Government prosecuted the "elected" muftis for usurping authority, and the courts repeatedly convicted one of the elected muftis for usurping the authority of the official mufti; all of his respective sentences remained suspended pending appeal at year's end. On October 17, the ECHR ruled the Greek government had violated one of the "elected" mufti's rights under Article 9 of the Convention for the Protection of Human Rights and Fundamental Freedoms by infringing on his right to worship freely.

Non-Orthodox citizens have claimed that they face career limits in the military, police, fire-fighting forces, and the civil service due to their religions.

The rate of employment of Muslims in the public sector and in state-owned industries and corporations continued to be much lower than the Muslim percentage of the population. The Government claimed and Muslims and Christians agreed that a lack of fluency in written and spoken Greek and the need for university degrees for high-level positions limited the number of Muslims eligible for government jobs.

Two laws from the late 1930s require recognized or "known" religious groups to obtain house of prayer permits from the Ministry of Education and Religion to open houses of worship. By law the Ministry may base its decision to issue permits on the opinion of the local Orthodox bishop. According to ministry officials, once a "known" religion received a house of prayer permit, applications for additional houses of prayer were numerous and were approved routinely. An appeal by the Church of Scientology to obtain recognition and a house of prayer permit was pending at year's end. The non-Greek Orthodox churches must provide separate and lengthy applications to government authorities on such matters as gaining permission to move places of worship to larger facilities.

The Constitution prohibits proselytizing and stipulates that no rite of worship may disturb public order or offend moral principles. Members of missionary faiths reported that they were subject to harassment and police detention due to constitutional and legal prohibitions on proselytizing.

Religious instruction in Orthodoxy in public primary and secondary schools is mandatory for all Greek Orthodox students. Non-Orthodox students were exempt from religious instruction. Some government-approved religious textbooks made derogatory statements about non-Orthodox faiths. During the year, government officials announced and then retracted a decision to allow any student to opt out of religious instruction. Members of the Muslim community in Athens sought Islamic religious instruction for their children, but neighborhood schools offered no alternative supervision for the children during the period of religious instruction. The community complained that this forced the parents to have their children attend Orthodox religious instruction by default. In November the Council of State issued a decision forcing the Ministry of Education to lift restrictions on appointment of non-Orthodox teachers at single-class elementary schools. The Council ruled that the Ministry of Education does not have the right to request its personnel to reveal their religious beliefs.

Members of minority faiths reported incidents of societal discrimination. Officials of the Orthodox Church acknowledged that they refused to enter into dialog with religious groups considered harmful to Greek Orthodox worshippers; church leaders instructed Orthodox Greeks to shun members of these faiths.

A November report by Greek Helsinki Monitor alleged that anti-Semitism was widespread in Greece, but was “systematically denied or ignored” by most of Greek society.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

A section of the Citizenship Code, Article 20, permits the Government to strip citizenship from those who “commit acts contrary to the interests of Greece for the benefit of a foreign state.” While the law as written applies equally to all citizens regardless of ethnic background, it has been enforced, in all but one case, only against citizens who identified themselves as members of the “Macedonian” minority. The Government has not revealed the number of Article 20 cases that it pursued. There were no reports of such cases during the year. Dual citizens who were stripped of Greek citizenship under Article 20 sometimes were prevented from entering the country using the passport of their second nationality.

According to government officials, between 1955 and 1998 approximately 60,000 citizens lost their citizenship, and approximately 143 individuals, mainly Muslims in Thrace, who lost their citizenship under Article 19 of the Citizenship Code—which permitted the Government to revoke the citizenship of citizens of non-Greek ethnic origin who traveled outside the country—continued to reside in the country. Following the 1998 repeal of Article 19, the authorities issued 143 persons who lost their citizenship identification documents characterizing them as stateless but permitted them to apply to reacquire citizenship. Of 106 applications, 54 had been granted and 31 were pending as of October.

On April 17, the Government passed legislation extending temporary residence permits for immigrants who could prove they had resided in Greece before June 2000. Legislative amendments, the decentralized registration process, and improved services for applicants such as a help line run by the Ministry of Interior, made the process more successful than the Government’s first effort in 1998. Over 350,000 illegal migrants applied during this second legalization process. However, by year’s end, the Government extended all of the residence permits through June 2003 since most migrants were unable to complete the application process, which many migrants have complained were needlessly difficult.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. A 1999 presidential decree significantly expanded the rights of asylum-seekers and brought the law into compliance with the standards of the U.N. High Commissioner for Refugees (UNHCR) on asylum procedures; however, in practice this legislation remained largely unenforced. The Government cooperated with the office of the UNHCR and other humanitarian organizations in assisting refugees.

Individuals recognized as refugees under the terms of the U.N. convention are eligible for residence and work permits necessary to settle permanently. During the first 9 months of the year, 4,135 individuals submitted applications for refugee status; 26 individuals were recognized as refugees. Another 38 were granted temporary residence on humanitarian grounds until return to their countries becomes possible. The recognition rate was 1 percent during the year.

According to the Greek Council for Refugees, the Government routinely approved applications from people who arrived from “safe” countries. However, the UNHCR expressed concern that very few applicants were granted asylum without UNHCR involvement. The UNHCR also expressed concern that no publicly funded legal aid system for free counseling for asylum-seekers and refugees existed.

In June a group of domestic and international nongovernmental organizations (NGOs) published an appeal expressing concern about frequent violations of the rights of individuals who enter the country illegally, such as an absence of translators and failure of local authorities to inform individuals of their right to apply for asylum.

Anecdotal evidence has suggested that thousands of individuals from Iraq, Afghanistan, Turkey, and Iran enter the country illegally each year; only a small percentage eventually apply for official asylum or refugee status. In December at least 24 illegal immigrants, mostly Iraqi Kurds, drowned in 4 shipwrecks. In July more than 100 illegal immigrants tried to escape from a detention center in northern Greece but were recaptured. Policemen in Alexandroupoli condemned the overcrowded state of detention centers in their prefecture. In Crete 203 illegal immigrants held a hunger strike to demand asylum; they were eventually transferred to police detention centers throughout Attica. Some of those who did not apply for refugee or asylum status remained illegally, often living in camps or in NGO shelters

where conditions ranged from adequate to very poor. Others proceeded to Western Europe, often applying for asylum there. Many individuals waiting to board boats to Italy remained at the port of Patras in squalid conditions at year's end. In June 2001, Port Authority personnel reportedly abused 164 migrants who came ashore in Hania, Crete (*see* Section 1.c.). The Greek Coast Guard reported 6,864 illegal immigrants were arrested in 2001 in 370 incidents, an 87 percent increase over the previous year.

The Government generally did not seek out such individuals for deportation. The 2001 bilateral readmission agreement Greece signed with Turkey did not result in many deportations by September due to implementation difficulties. In August a Medecins du Monde delegation visited refugee/immigrant detention centers in Thrace and reported that conditions in most of the centers were "degrading."

Deportations of both illegal and legal immigrants, abusive treatment by police, and inconsistencies and inequities in the way employers provided wages and benefits to domestic and foreign workers were common. The police conducted many large-scale sweeps of neighborhoods populated by immigrants, temporarily detaining large numbers of individuals while determining their residence status. A report by Human Rights Watch in December 2000 cited severe overcrowding and a lack of sufficient exercise, sleeping accommodations, adequate food, or medical care. The Government-funded center for asylum-seekers in Lavrion was old and in need of repair.

There were no reports of the forced return of persons to a country where they feared persecution.

Official statistics indicated that approximately 500,000 of the estimated 800,000 aliens living in the country held temporary residence permits under a legalization program launched in 2001 and extended during the year. Approximately 250,000 other aliens held "green cards" from previous legalization programs that allowed residence for limited periods of time. According to press reports and immigration groups, the obstacles of a complex bureaucracy and the unwillingness of employers to pay social security contributions were the primary reasons for the limited ability of white cardholders to advance to the green card application process. Of the 750,000 aliens who had received green cards under the previous legalization opportunities, only 220,000 managed to collect all documents required and to meet all criteria for legalization by December. Legislation provides for the green card program to remain in effect until June 2003. Press reports estimated that it would take 3 years to process the applications already submitted.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Greece is a multiparty democracy headed by Prime Minister Constantine Simitis of the PASOK, who was elected in free and fair elections in September 1996 and again in April 2000. Parliament elects the President for a 5-year term. Members of the unicameral 300-seat Parliament are elected to maximum 4-year terms by secret ballot. Opposition parties function freely and have broad access to the media. Voting is mandatory for those over age 18; however, there are many conditions under which citizens may be exempted from voting, and penalties were not applied in practice.

Romani representatives reported that local authorities sometimes deprived Roma of the right to vote by refusing to register them; however, Romani representatives also reported that some municipalities encouraged Roma to register. Municipalities may refuse to register Roma who do not fulfill basic residency requirements, which many Roma have trouble meeting.

There are no legal restrictions against the participation of women in politics. There were 25 women in Parliament. There were 2 women among the 20 ministers in the Government. Women also held 2 of the 29 sub-ministerial positions. A quota system was implemented for elections to local government, requiring 30 percent of all candidates to be women.

While citizens exercised their political rights, there occasionally were charges that the state limited the right of some individuals, particularly Muslims and Slavo-Macedonians, to speak publicly and associate freely on the basis of their self-proclaimed ethnic identity. In the 2000 parliamentary elections, a Muslim was elected in Thrace, from PASOK. A second Muslim, also from PASOK, became an M.P. in September 2000 after winning a court challenge to the eligibility of a seated M.P. for violating a constitutional provision. There were two Muslims in Parliament this year.

Responsibility for the oversight of all rights provided to the Muslim minority under the Treaty of Lausanne (including education, zoning, administration of wakfs,

and trade) belongs to a government-appointed regional administrative official, the regional governor of Eastern Macedonia and Thrace. Some minority members charged that oversight by this office rather than by elected local governors reduced their ability to use the democratic process to influence decisions that affect them. The Government stated that it made the change because the central authorities could administer the country's treaty obligations more effectively. Elected nomarchs govern at the provincial level. These officials worked in close cooperation with both elected mayors and local leaders (Christian and Muslim). Members of the Muslim community noted that this decentralization has been a positive factor in local and regional development.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without restriction in the country, investigating and publishing their findings on human rights cases. The Government permitted domestic human rights organizations to operate, but cooperation with them varied. The Government usually cooperated with international human rights groups, had good working relations with them, and when feasible, took their views into account.

In 2001 the Government ombudsman's office received 1,731 complaints in the first 8 months of the year directly related to human rights. The office has proved to be an effective means for resolving human rights and religious freedom concerns.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution provides for equality before the law irrespective of nationality, race, language, or political belief; however, government respect for these rights was inconsistent in practice.

*Women.*—Violence against women was a problem. The law does not specifically prohibit domestic violence. The General Secretariat for the Equality of the Sexes provided counseling and assistance to domestic violence victims. The incidence of violence against women reported to the authorities was low; however, the General Secretariat for Equality of the Sexes (GSES), an independent government agency that operated the only shelter for battered women in Athens, believed that the actual incidence is "high." According to press and academic estimates, there were approximately 4,500 cases of rape in 1999. Reportedly only 6 to 10 percent of the victims contacted the police, and only a small fraction of the cases reached trial. Conviction rates on rape charges were low for those accused for the first time, but sentences are harsh for repeat offenders. Spousal rape is not a crime.

The GSES claimed that police tended to discourage women from pursuing domestic violence charges and instead encouraged them to undertake reconciliation efforts. The GSES also claimed that the courts are lenient when dealing with domestic violence cases. GSES, in cooperation with the Ministry of Public Order, continued training courses for police personnel on how to treat domestic violence victims.

Facilities for battered women and their children often were staffed inadequately to handle cases properly, but many facilities hired new personnel during the year. Two government shelters provided services in Athens and Piraeus, including legal and psychological advice. The Secretariat operated a 24-hour emergency telephone hotline for abused women; during the summer, it conducted a campaign to publicize this service and to raise awareness of domestic violence. An interministerial committee composed of the GSES, the Ministry of Public Order, the Ministry of Health and Welfare, and the Ministry of Justice, serves as an information-sharing forum on women's issues.

Prostitution is legal at the age of 18. Prostitutes must register at the local prefecture and carry a medical card that is updated every two weeks. While the number of Greek women in the profession declined, according to the police and academic sources, trafficking in women for prostitution increased sharply (*see* Section 6.f.). It was estimated that fewer than 1,000 prostitutes were ethnic Greeks, and approximately 20,000 were of foreign origin—most in the country illegally. Most prostitutes who were arrested were foreigners who were apprehended for noncompliance with legal requirements. They were deported by plane to avoid re trafficking at land borders. Media reports implicated several police officers as participants in prostitution rings. The press alleged on a number of occasions that police accepted bribes from traffickers or pimps or forced illegal immigrants to have sex with them and then channeled them into prostitution rings (*see* Section 6.f.). In October the Government passed a law introducing stiffer penalties for police who facilitate trafficking (*see* Section 6.f.).

The law prohibits sexual harassment. Trade unions reported that lawsuits for sexual harassment were very rare: According to the unions, only four women filed such

charges in the past three years. In all four cases, the courts reportedly imposed very lenient civil sentences. The General Confederation of Greek Workers (GSEE) women's section reported that sexual harassment was a widespread phenomenon but that women were discouraged from filing charges against perpetrators by family members and coworkers, since they believed they might be socially stigmatized.

The law provides for equal pay for equal work; however, according to official statistics in 2001, women's pay amounted to 76.2 percent of men's pay.

Although relatively few women occupied senior positions, women continued to enter traditionally male-dominated occupations such as the legal and medical professions in larger numbers. However, women still faced discrimination when they were considered for promotions in both the public and private sectors. Women also were underrepresented in labor unions' leadership. According to the women's section of the GSEE, 59 percent of the country's long-term unemployed were women, while women constituted only 38 percent of the work force. The GSES operated two regional employment offices for women in Thessaloniki and Patras. It also continued to provide vocational training programs for unemployed women and programs to reinforce entrepreneurship, subsidies to women for setting up an enterprise, information and counseling to unemployed women, and childcare facilities to assist unemployed women to attend training courses and look for a job.

*Children.*—The Government was committed strongly to children's rights and welfare; it amply funded a system of public education and health care. Education is free and compulsory through the ninth grade, but the legislation does not provide for enforcement or penalties. University education is public and free at all levels. New universities have opened in the provinces, along with new departments in already existing universities.

In 2001 the Ministry of Education reported that the illiteracy rate was dropping among Roma children: The school enrollment rate of Romani children increased by 17 percent, and the dropout rate decreased to 75 percent as a consequence of an identity card system, set up by the Ministry, which allowed students to change schools more easily as their parents moved. The Greek Helsinki Monitor and Panhellenic Federation of Greek Roma (POSER), the organization that represents the views of the Romani community, challenged this statistic. The idea of setting up satellite elementary schools near Romani camps was set aside in favor of the policy of integration (except for preschool centers). Ethnic Greek parents in some schools have resisted the acceptance of many Romani children.

Several government organizations had responsibility for children's issues. The National Organization for Social Care had a nationwide and regional network of offices and was active in the field of child protection; the regional offices provided greater access to child welfare services and funding, prioritized according to regional needs.

There was no societal pattern of abuse of children; however, research by the Institute for Child Health (ICH) revealed a high percentage of socially accepted physical punishment (i.e., spanking) by parents. No national data existed on the incidence of child abuse; authorities other than police are not required to report such cases. Societal abuse of children in the form of pornography was rare. Some NGOs reported child prostitution in some parts of central Athens.

There were reports that foreign children were forced into panhandling (*see* Section 6.c.).

Penal law prohibits the mistreatment of children and sets penalties for violators, while welfare legislation provides for preventive and treatment programs for abused children and for children deprived of a family environment; it also seeks to ensure the availability of alternative family care or institutional placement. There was a gradual decline in the number of ethnic Greek children in public care; however, children of ethnic minority groups (i.e., Albanians) who worked in Greece entered public care because of abuse or abandonment.

Children's rights advocacy groups claimed that the protection of high-risk children in state residential care centers was inadequate and of low quality. They cited lack of coordination between welfare services and the courts, inadequate funding of the welfare system, and poor staffing of residential care centers as systemic weaknesses in the treatment of child abuse. Athens had two municipal shelters for battered children. Child health specialists noted that the number of children in residential care facilities was decreasing, while the number in foster care was rising. With EU funding, special care was available for juvenile offenders, Romani children, children from remote mountain and island areas, and children with disabilities.

*Persons with Disabilities.*—Legislation mandates the hiring of persons with disabilities in public and private enterprises that employ more than 50 persons; however, the law reportedly was enforced poorly, particularly in the private sector. The law states that persons with disabilities should account for three percent of employ-

ees in private enterprises. In the civil service, 5 percent of administrative staff and 80 percent of telephone operator positions are reserved for persons with disabilities. Recent legislation mandates the hiring of persons with disabilities in the public sector from a priority list. They are exempt from the civil service exam, and some have been appointed to important positions in the civil service. There was no societal discrimination against persons with disabilities.

The Construction Code mandates physical access for persons with disabilities to private and public buildings, but this law, also, was enforced poorly. Many public buildings complied with the proposals of the interministerial committee on accessibility by year's end. Ramps and special curbs for persons with disabilities were constructed on some Athens streets and at some public buildings, and sound signals have been installed at some city street crossings. In 2001 the Ministry of Public Works installed special sound equipment for 200 traffic lights in Attika that were selected by the Association for the Blind. The Government continued to replace old city buses with new accessible buses. Athens subway lines provided full accessibility.

*National/Racial/Ethnic Minorities.*—An increase in xenophobia has paralleled an increase in the number of non-Greeks living and working in the country.

Anti-foreigner sentiment was directed mainly at Albanians, who made up approximately 5 percent of the population. Of the approximately 800,000 aliens in the country, approximately 500,000 were Albanians, 90 percent of whom were legalized. The Government extended a second legalization process during the year, allowing undocumented immigrants who had lived in the country for more than a year to apply for residence and work permits. While this legalization has decreased official cases of discrimination, Albanian immigrants faced widespread societal discrimination. For example, the population regularly blamed Albanians for the reported rise in crime in the last few years. The sometimes difficult relationship with Albania intensified the problem. Debate also arose over Albanian immigrants' rights to Greek national identity. For example, a controversy occurred in some areas in 2001 and during the year over whether Albanian pupils would be allowed to carry the Greek flag in national day parades; eventually they were allowed to do so.

Significant numbers of Greek citizens identify themselves as Turks, Pomaks, Vlachs, Roma, Arvanites (Orthodox Christians who speak a dialect of Albanian), or "Macedonians" or "Slavomacedonians. Most are integrated fully into society. The Government formally recognizes only the "Muslim minority" specified in the 1923 Treaty of Lausanne (see Section 2.c.), although it stated publicly in 1999 that members of that minority could identify themselves individually as belonging to different ethnic groups. Most of the Muslim minority (officially estimated to number 130,000) are ethnically Turkish or Turcophone and live in Thrace. The Muslim minority also includes Pomaks and Roma. Many Greek Muslims, including Pomaks, identified themselves as Turks and say that the Muslim minority as a whole has a Turkish cultural consciousness.

The Government has failed to acknowledge formally the existence of non-Muslim ethnic groups, principally Slavophones, under the term "minority." The Government has affirmed an individual, but not a collective, right of self-identification. As a result, some individuals who defined themselves as members of a minority found it difficult to express their identity freely and to maintain their culture. Use of the terms "Tourkos" and "Tourkikos" ("Turk" and "Turkish") is prohibited in titles of organizations, although individuals legally may call themselves "Tourkos." To most Greeks, the words "Tourkos" and "Tourkikos" connote Turkish identity or loyalties, and many objected to their use by Greek citizens of Turkish origin. By year's end, an appeals court had not ruled on the closure of the "Turkish Union of Xanthi."

Northwestern Greece is home to an indeterminate number of citizens who speak a Slavic dialect at home, particularly in Florina province. Estimates ranged widely, from under 10,000 to 50,000. A small number identified themselves as belonging to a distinct ethnic group and asserted their right to "Macedonian" minority status. Their assertions have generated strong objections among the 2.2 million non-Slavophone Greek inhabitants of the northern Greek region of Macedonia, who use the same term to identify themselves. The Government does not recognize their Slavic language as "Macedonian," a language distinct from Bulgarian. Members of the minority asserted that the Government pursues a policy designed to discourage use of their language. The Government was concerned that members of the "Macedonian" minority may have separatist aspirations. The Government's dispute with the Former Yugoslav Republic of Macedonia over that country's name heightened this sensitivity.

Roma continued to face discrimination from some local authorities and society at large. An interministerial committee headed by the Ministry of Interior was responsible for coordinating government projects for Roma; it estimated the total Romani

population to be between 85,000 and 120,000. Nonofficial sources estimated the total at 250,000 to 300,000. Most of the Roma in Thrace were Muslims; elsewhere the majority were Greek Orthodox. Many Roma were settled permanently, mainly in the Athens area. Others were either mobile, working mainly as agricultural laborers, peddlers, and musicians throughout the country, or they lived in camps. The number of Roma who moved around the country continued to decrease gradually as families settled mainly into quasi-permanent settlements around major cities.

The ERRC claimed that Roma were subject to systematic police abuse (*see* Section 1.c.), mistreatment while in police custody, and regular raids and searches of Roma neighborhoods for criminal suspects, drugs, and weapons.

Since 1999 the Ministry of Interior has erected approximately 1,000 prefabricated houses for Roma. In September 2001, the Minister of Interior also announced a \$284 million (284 million euros) program to address Roma needs and to promote Roma integration, including: Housing, subsidized mortgage loans, infrastructure in Roma camps, employment schemes, cultural and sports activities, and welfare allowances.

Roma frequently faced discrimination in employment and in housing, particularly when attempting to rent accommodations. The approximately 400 Roma families in Tyrnavos, Thessaly, lived in tents because the authorities refused to include the area in city planning. There were approximately 70 Romani camps with a total population between 100,000 and 120,000 persons. Most Romani camps have no running water, electricity, garbage disposal, or sewage treatment. The Roma of Tyrnavos, Thessaly, attempted to build their own lavatories to improve their living conditions, but local authorities pulled them down and imposed fines for violating construction codes.

Local authorities harassed and threatened to evict Roma from their camps or other dwellings, and the NGO Greek Helsinki Monitor reported that many communities of Romani tent-dwellers were evicted in Thessaloniki in early September and in Aspropyrgos, Athens, in July.

Romani representatives reported that some local authorities have refused to register Roma as residents in their municipalities. Until registered with a municipality, no citizen can vote or exercise other civil rights such as obtaining an official marriage, commercial, or driver's license, or contributing to social security.

The Government considered the Roma a "socially excluded" or "sensitive" group, not a "minority." As a result, government policy was to encourage the integration of Roma. The Prime Minister designated a member of his staff to coordinate the efforts of all government ministries having a role in their integration, and the Ministry of Interior established an interministerial committee in March 2001 with the same aim. Nevertheless poverty, illiteracy, and prejudice continued to affect large parts of the Romani population; these problems were most severe among migrant Roma or those who lived in quasi-permanent settlements. The illiteracy rate among Roma was estimated at 80 percent, and according to an NGO, the average Roma family's income was approximately \$205 (190 euros) per month. The research also concluded that the average life expectancy of Roma was below 60 years of age.

The integration of Roma into social security systems also was quite low. It was estimated that 90 percent of Roma were not insured by the public social security systems, since they were unable to make the required contributions. Like other qualified citizens, indigent Roma were entitled to free health care; however, their access at times was hindered by the fact that their encampments were located far from public health facilities.

The Ministry of Health and Welfare continued work on projects to address the chronic problems of the Roma community. The projects included training courses for civil servants, policemen, and teachers to "increase sensitivity to the problems of the Roma," the development of teaching materials for Roma children, and the establishment of six youth centers in areas close to Roma communities.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and the law provide for the right of association, and workers exercised this right. All workers, with the exception of the military, have the right to form or join unions. Police have the right to form unions but not to strike. Approximately 26 percent of wage earners (nearly 650,000 persons) were organized in unions. Unions received most of their funding from a Ministry of Labor organization, the Workers' Hearth, which distributes mandatory contributions from employees and employers. Workers, employers, and the state were represented in equal numbers on the board of directors of the Workers' Hearth. Approximately ten public sector unions had dues withholding provisions in their contracts, in addition to receiving Workers' Hearth subsidies.

Over 4,000 unions were grouped into regional and sectoral federations and two umbrella confederations; one for civil servants (ADEDY), and another, the General



Confederation of Greek Workers (GSEE), for private sector employees and employees of state enterprises. Unions were highly politicized, and there were party-affiliated factions within the labor confederations; however, neither political parties nor the Government controlled day-to-day operations. There are no restrictions on who may serve as a union official.

Antiunion discrimination is prohibited. The Labor Inspectorate or a court investigates complaints of discrimination against union members or organizers. Court rulings have mandated the reinstatement of improperly fired union members.

Unions are free to join international associations and maintain a variety of international affiliations, and almost all did so.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to organize and bargain collectively in the private sector and in public corporations, and unions exercised these rights freely. There are no restrictions on collective bargaining for private sector employees.

Civil servants have the right to organize and bargain collectively with the Ministry of Public Administration.

The law provides for mediation procedures, with compulsory arbitration as a last resort. A National Mediation, Reconciliation, and Arbitration Organization is used in the private sector and public corporations (the military and civil service excluded). While mediation is voluntary, failure to agree during mediation makes arbitration compulsory, as decided by the mediation organization.

Legal restrictions on strikes include a mandatory period of notice, which was 4 days for public utilities and 24 hours for the private sector. Legislation mandates a skeleton staff during strikes affecting public services, such as electricity, transportation, communications, and banking. Public utility companies, state-owned banks, the postal service, Olympic Airways, and the railroads also are required to maintain a skeleton staff during strikes. The courts have the power to declare strikes illegal, although such decisions seldom were enforced. However, unions complained that this judicial power served as a deterrent to some of their members from participating in strikes. The courts declared some strikes illegal during the year for reasons such as failure of the union to give adequate advance notice of the strike or the addition of demands by the union during the course of the strike. No striking workers were prosecuted.

Many strikes took place during the year. Although most strikes were fairly brief, they affected productivity and disrupted daily life in the center of Athens. Strikes by public sector employees, including mass transport employees, lasted between 1 and 5 days and primarily concerned securing timely pay increases and greater job security.

Three free trade zones operated according to EU regulations. The labor laws apply equally in these zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor. The Government may declare the “civil mobilization” of workers in the event of danger to national security, life, property, or the social and economic life of the country. The International Labor Organization (ILO) Committee of Experts has criticized this power as tantamount to forced labor. In July the Government used civil mobilization to break a seaman’s strike which was posing a serious economic hardship to inhabitants of Greek islands.

The Constitution prohibits forced or bonded labor by children; however, some parents forced their children to beg for money or food. During the year, the number of street children who panhandled or peddled at city intersections on behalf of adult family members or for criminal gangs decreased. However, it was believed widely that even those who were deported managed to return eventually to the country and the streets. The Greek chapter of UNICEF estimated that 5,800 children were illegally employed in the streets of the country in jobs from windshield washing to prostitution. The head of Greek UNICEF believed they generate nearly \$3 million (2.8 million euros) in revenue yearly. The Government and NGOs agreed that the majority of beggars are either Roma or Albanian. Since 2000 many children who are beggars have disappeared from the streets. Local NGOs reported that they were driven to restaurants and busy shopping areas to beg for money.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The minimum age for employment in the industrial sector is 15 years, with higher limits for certain activities. The minimum age is 12 years in family businesses, theaters, and the cinema. These age limits were enforced by occasional Labor Inspectorate spot checks and generally were observed; however, families engaged in agriculture, food service, and merchandising often had younger family members assisting them, at least part time.

The Constitution contains a blanket prohibition of forced or bonded labor by children; however, there were reports of such practices among Romani children (see Section 6.c.).

*e. Acceptable Conditions of Work.*—Collective bargaining between the GSEE and the Employers' Association determines a nationwide minimum wage. The Ministry of Labor routinely ratifies this minimum wage, which has the force of law and applies to all workers. The minimum wage of \$21 (19 euros) daily and \$472 (437 euros) monthly, effective July 1, provided a decent standard of living for a worker and family. The maximum legal workweek is 40 hours in the private sector and 37 ½ in the public sector. The law provides for at least one 24-hour rest period per week, mandates paid vacation of one month per year, and sets limits on overtime.

Legislation provides for minimum standards of occupational health and safety. Although the GSEE characterized health and safety legislation as satisfactory, it stated that enforcement, which is the responsibility of the Labor Inspectorate, was inadequate. The Labor Inspectorate operates under a central authority. Workers do not have the legal right to remove themselves from situations that they believe endanger their health; however, they do have the right to lodge a confidential complaint with the Labor Inspectorate. Inspectors have the right to close down machinery or a process for a period of up to five days if they see safety or health hazards that they believe represent an imminent danger to the workers.

Foreign workers are protected by law, but in practice their wages were lower, and they worked longer hours.

*f. Trafficking in Persons.*—An October law criminalizes trafficking in persons. The country was both a transit point and destination for trafficked women and children, primarily for sexual exploitation. Local police corruption facilitated trafficking in the country.

In October the Government adopted a new anti-trafficking law which made trafficking a specific criminal offense, imposed harsh penalties on traffickers, and called for shelters and medical assistance for victims of trafficking. The law calls for traffickers to be punished with up to 10 years of incarceration and fines of \$10,000 to \$50,000 (9,263 to 46,313 euros). There were harsher penalties for child traffickers. The law was still being implemented at year's end.

On December 19, police arrested eight people who they alleged were involved in the trafficking of women from the former Soviet Union, in a nine-club sweep over various parts of the country. These women, according to police officials, were lured to the country under false pretenses, and forced to work in strip clubs in the southern part of Greece.

Since October there were 62 arrests of traffickers. On September 20, Attika police announced a raid on a bar in Nikaia, Piraeus, where they found ten young women from Latvia and Russia without work permits. Police discovered handcuffs, pepper spray, and electroshock devices. The raid revealed a network that was forcing women to work in the bar for 6 months in order to pay off a \$3,000 (2,778 euros) fee for smuggling them into the country. In the first week of October, police arrested four Greeks who were trafficking young women from Moldova, Serbia, and Bulgaria by promising them work in Greece as waitresses.

On March 28, law enforcement officials and the NGO community attended a seminar to discuss trafficking of women and children. The Ministry of Public Order also took initiatives for training new police officers to identify trafficked women and children. Trafficking experts conducted this training at local police academies. The Government began stiffening its border controls, in part because of European Union Schengen Treaty requirements; however, many women and children continued to be brought into the country from the Balkans and the former Soviet Union. In April 2001, an interministerial committee was formed with the objective of establishing a separate police task force on trafficking, drafting national legislation, and promoting a nationwide anti-trafficking campaign.

Trafficking in women and children for prostitution in the country increased sharply in the last few years. An academic observer estimated that approximately 40,000 women and children, most between the ages of 12 and 25, are trafficked to the country each year for prostitution. At any given time, 16,000 to 20,000 trafficked women or girls were in the country, according to unofficial estimates, although authorities estimated the number of trafficked women and children was much lower. Major countries of origin include Ukraine, Russia, Bulgaria, Albania, and Romania. Women from Asia, specifically Thailand and the Philippines, the Dominican Republic, Moldova, Kazakhstan, Serbia, and the Middle East also were trafficked to the country.

There were reports that some Albanian parents "sold" or "rented" their children to traffickers in exchange for a monthly income. There were unconfirmed reports

that some foreign children were forced into panhandling. There were reports that teenage boys worked as prostitutes in Athens.

According to a Panteion University study, over 85,000 trafficked women and children have worked in the country in the past decade. Some women and children arrived as "tourists" or illegal immigrants; seeking work, they were lured into prostitution by club owners who threatened them with deportation. Some women and children were kidnaped from their homes by Greek traffickers, and smuggled into the country where they were "sold" to local procurers. There were reports that some victims of this practice were minors. Trafficked women and children often were confined to apartments, hotels, and clubs against their will, were not registered with the Government, and were forced to surrender their passports to their local "owner." Frequently, connections existed between illegal prostitution and other criminal activities. According to NGO observers, traffickers "owned" approximately 80 percent of the illegal prostitutes in Greece.

Local police corruption also played a role in facilitating trafficking into the country. NGOs reported that some police officers were on the payrolls of organized crime networks involved in trafficking. In 2001 a number of police officers were arrested in connection with trafficking offenses. Most arrests were in small towns, villages, and border areas.

In the past, foreign women illegally in the country who were apprehended by the authorities for prostitution were placed in a deportation center or deported immediately by train, plane, or on foot. Laws were passed in 2001 that increased protection for women who press charges against their traffickers by allowing them to remain in the country legally and setting aside any previous convictions.

A number of domestic NGOs worked on trafficking issues during the year. A group of NGOs created a coalition known as the "Stop Now" group which created public service announcements to raise awareness of trafficking issues.

## HUNGARY

Hungary is a parliamentary democracy with a freely elected legislative assembly. Prime Minister Peter Medgyessy led a coalition government formed by the Hungarian Socialist Party and the Alliance of Free Democrats after multiparty elections in April. The judiciary is independent.

The internal and external civilian security services reported directly to a State Secretary in the Prime Minister's Office, and the police reported to the Interior Minister. Civilian authorities maintained effective control of the security forces, and the Government investigated and charged police for human rights violations. Some police committed human rights abuses during the year.

Most international organizations and financial institutions agreed that the country completed successfully its transition from a centrally directed economy to a fully functioning market economy. The country's population was approximately 10.1 million. The private sector accounted for more than 80 percent of gross domestic product (GDP). The Socialist government maintained a strong commitment to a market economy, but has done little to address remaining problems in agriculture, health care, tax reform, and the energy market. Despite 6 years of strong economic growth, an estimated 25 percent of the population lived in poverty, with the elderly, large families, and the Roma most affected. The Finance Ministry estimated the per capita GDP at \$6,800 for the year. The economy was expected to grow by approximately 3.4 percent; inflation continued to decline to 5.5 percent; and unemployment remained below 6 percent.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were reports that some police used excessive force, beat, and harassed suspects, particularly Roma. In practice authorities may impose lengthy pretrial detention on suspects. Some local officials attempted to evict Roma from their homes and relocated them to other cities. There were allegations of government interference in editorial and personnel decisions of state-owned media. The Government continued to implement legislation on refugee issues and established seven regional centers to administer refugee processing. Violence against women and children remained serious problems. Sexual discrimination in employment also continued to be a problem. Anti-Semitic and racial discrimination persisted and a number of racially motivated attacks, particularly against Roma, occurred during the year. Societal discrimination against Roma was a serious problem. Trafficking in women and children for the purposes of prostitution and in men for forced labor remained a problem. Reform of the country's political and economic structure led to an invitation in December to join the European Union (EU) in May 2004. Hungary was invited by the Community of Democracies' (CD) Convening

Group to attend the November 2002 second Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

Six cases of persons charged with crimes against humanity for incidents during the 1956 revolution remained pending at year's end; two before the Supreme Court. The defendants were accused of shooting into demonstrations with machine gun fire and using hand grenades. In 1993 the Government charged the defendants with murder, but they were acquitted because the statute of limitations for murder had passed. The Supreme Court overturned the finding of the lower court, and in 1999 stated that the defendants could be charged with war crimes, which have no time limit. By year's end, twelve defendants had been convicted.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, the police occasionally used excessive force, beat and harassed suspects, particularly Roma.

During the year, the National Police confirmed that it had conducted investigations into 11 cases of forced questioning and six cases of unlawful detention. The police referred 14 of these cases to the Office of the Prosecutor to commence judicial proceedings. In the first half of the year, authorities investigated 67 cases of suspected abuse by police involving 55 police officers. The majority of cases occurred during interrogations. A total of 47 incidents resulted in court cases, with 28 guilty verdicts. The Government more actively pursued allegations of police abuse compared with previous years. According to the Ministry of Interior, approximately half of the court cases involved abuse against Roma. Punishments for abuses committed by police included fines, probation, prison sentences, and dismissal. Some attributed the increase in the number of reports of police abuse to an increased willingness to seek official redress.

In January Pest County dropped charges against thirteen officers in a 2001 incident in the village of Bag, citing a lack of evidence. Police were accused of assaulting several Roma during a raid on a funeral wake.

In 2001 the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) reported that minors, dark-skinned foreign nationals, and Roma were at highest risk of verbal and physical abuse by police; Roma bore the brunt of such abuse. There were occasional reports that police punched, kicked, and struck persons with truncheons while in police custody. The CPT found verbal abuse committed by police against detainees to be common. The Government conducted investigations in some cases and brought charges against individual police officers. In March the European Roma Rights Center reported that charges were brought against five border guards for abuse of authority and causing bodily harm to two Roma men in a 2001 incident in Beremend on the border with Croatia. The complaint alleged the border guards beat them and used racial insults while the Roma were handcuffed to a radiator at a local police station. Police officials did not intervene to stop the actions of the border guards.

Local NGOs estimated the number of actual incidents of abuse by police to be greater than official statistics indicated. The CPT report identified a practice whereby some police advised detainees who wished to file a complaint that to defame a police officer was a criminal offense. This practice discouraged some individuals from lodging complaints. During the year, the Government Office of Ethnic Minorities received regular complaints from Roma of police abuse and misconduct. Despite increased investigations into allegations of police abuse, the Minority Affairs Ombudsman, who investigated constitutional violations in the public sector, believed that the situation remained constant and possibly was marginally better.

NGOs reported fewer cases of police harassment of foreign residents, particularly of non-Europeans; however, police continued to show indifference toward foreigners who were victims of street crime. Social discrimination against dark-skinned foreigners persisted. In July a Native American was denied admission to a restaurant in Budapest; the owner stated that the restaurant did not serve Roma. The municipal government fined the restaurant for discrimination. Also in Budapest, youths identified as skinheads beat an African man in an attack authorities classified as racially motivated.

In July a police officer allegedly beat a protestor in detention (*see* Section 2.b.).

Border guards facilitated trafficking in persons by taking bribes from traffickers (*see* Section 6.f.).

The police and Interior Ministry continued to work to improve the image of the police, and human rights organizations reported that police generally were more cooperative than in previous years with outside monitoring of their behavior.

The Hungarian Helsinki Committee (HHC) reported that prisons were overcrowded but generally met international standards. Their 2001 study stated that 5 percent of inmates in one detention facility had alleged mistreatment by prison guards, which included 49 cases of minor physical assault. The Military Prosecutor's Office, which has responsibility for such cases, declined to conduct an investigation and determined that no mistreatment had occurred. As of September, the prison and detention centers' population was 18,106 persons or 160 percent of capacity—an increase of 16.5 percent since 2000. Tougher maximum sentences contributed to the increase.

An estimated 63 percent of prisoners earned wages while in prison, either from work in prison or from work-release programs. The HHC reported that prisoners' wages were lower than those of non-prisoners, and also expressed concern that the period of time prisoners worked in custody did not count toward social security service time. Some programs allowed prisoners to spend weekends at home; there were sports facilities, radio and television, and libraries available in each penal institution. Prisoners could also attend training programs to assist in their eventual return to life outside of prison. Civic- and state-operated organizations, private foundations, charities, and churches assisted in the rehabilitation process.

There were no reports of deaths in custody resulting from official negligence or abuse.

The Government continued to expand the number of detention facilities, and a new prison was scheduled to open in 2003. Men and women were held separately; juveniles were held separately from adults; and pretrial detainees were held separately from convicted prisoners.

The Government permitted visits by independent human rights monitors, and such visits occurred during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The law requires that police obtain warrants to place an individual under arrest. Police must inform suspects upon arrest of the charges against them, but may hold detainees for a maximum of 72 hours before filing charges. The law requires that all suspects be allowed access to counsel prior to questioning and throughout all subsequent proceedings, and that the authorities provide counsel for juveniles, the indigent, and persons with mental disabilities; however, credible reports suggested that that police did not always allow access to counsel, particularly for persons accused of minor crimes. There was no system of bail; however, a law allows some foreigners to make a financial deposit to the courts allowing them to reside abroad during their court case. This provision of the law was used infrequently. The lack of a bail system gives a great deal of discretionary authority to judges.

Pretrial detention, based on a warrant issued by a judge, initially is limited to 1 year while criminal investigations are in progress; it may be extended indefinitely on the prosecutor's motion, provided that a judge concurs. The Government may detain individuals in pretrial detention only after charges are brought. Not all suspects were remanded to detention centers pending trial. The law stipulates that authorities can request pretrial detention in cases when it is likely the suspect will flee, when the gravity of the charges warrant detention, and when the release of the suspect would endanger the investigation.

The Prosecutor General's Office reported that the average length of pretrial detention during the first 6 months of the year was 116 days, compared with 108 days in 2001, although nearly 10 percent of detainees were held for periods ranging from 8 to 12 months. Aliens usually were held until their trials, since they were considered likely to flee the country. Roma alleged that they were kept in pretrial detention longer and more frequently than non-Roma (*see* Section 1.e.). The law provides for compensation if a detainee or victim of forced medical treatment is released for lack of evidence, but the procedure rarely was exercised, since detainees must undertake a complicated legal procedure to pursue such claims. The Minister of Justice, on behalf of the State, decides upon compensation. The amount is decided on a case by case basis, and may cover the costs of the trial, attorney's fees, lost wages, and some miscellaneous sums.

The law permits police to hold suspects in public security detention (PSD) under certain circumstances, including when a suspect has no identity papers, when blood or urine tests must be performed to determine blood alcohol content, or when a suspect continues to commit a misdemeanor offense in spite of a prior warning. Sus-

pects may be held in PSD for up to 24 hours. Such detainees were not always informed of the charges against them, because such periods of “short” detention were not defined as “criminal detention” and therefore were not considered covered by the Criminal Code. However, there were no reports that police abused these rights in practice.

The law does not provide for forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

Under the Constitution, the courts are responsible for the administration of justice, with the Supreme Court exercising control over the operations and judicial procedure of all other courts. There were three levels of courts. Original jurisdiction in most matters rested with the local courts. Appeals of their rulings may be made to the county courts or to the Budapest municipal court, which had original jurisdiction in other matters. The Supreme Court was the final court of appeal, while the Constitutional Court was the final court on constitutional matters. Appeals of decisions by military courts also may be heard by the Supreme Court.

The Constitutional Court was charged with reviewing the constitutionality of laws and statutes brought before it, as well as the compliance of these laws with international treaties that the Government has ratified. Parliament elected the 11 members of the Constitutional Court, who serve 9-year terms. In theory a judge’s mandate may be renewed, but no judge has been reelected. The judges elect the president of the Constitutional Court among themselves by secret ballot. Citizens may appeal to the Constitutional Court directly if they believe that their constitutional rights were violated. The Constitutional Court is required to address every petition it receives; however, no deadline is specified for the Court to render a decision. Consequently a considerable backlog of cases has developed. No judge or member of the Supreme or Constitutional Courts may belong to a political party or trade union. Members of the Constitutional and Supreme Courts also may not be members of Parliament, or be employed in local government. The compulsory retirement age for Constitutional Court judges is 70 years.

A National Judicial Council nominated judicial appointees other than the Constitutional Court and oversaw the judicial budget process.

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public, but in some cases, judges may agree to a closed trial to protect the accused or the victim of a crime, such as in some cases of rape. Judicial proceedings generally were investigative rather than adversarial in nature. Defendants were entitled to counsel during all phases of criminal proceedings and were presumed innocent until proven guilty. Counsel was appointed for indigent clients, but the public defender system generally provided substandard service. There was no public defender’s office; private attorneys may or may not choose to serve in this capacity. Public defenders were paid poorly—less than \$4.00 (1,000 HUF) for the first hour of the trial and less than \$2.00 (500 HUF) for each additional hour—and did not give indigent defendants priority. Lawyers often met indigent clients for the first time at trial.

Judicial proceedings varied in length and delays of several months to a year were common before the commencement of trials. Cases on appeal may remain pending before the courts for indefinite periods, during which time defendants are held in detention. There is no jury system; judges are the final arbiters. Recent changes to the law, which are scheduled to take effect in 2003, would limit the length of judicial proceedings to 3 years. Under the new Law, prosecutors are to have greater influence over their cases. Plea-bargaining, which was known as a trial waiver, was a tool available to prosecutors. Police believed that plea-bargaining may be an important weapon in the fight against organized crime.

Many human rights and Romani organizations claimed that Roma received less than equal treatment in the judicial process. Specifically they alleged that Roma were kept in pretrial detention more often and for longer periods than non-Roma. This allegation was credible in light of general discrimination against Roma; however, there was no statistical evidence since identifying the ethnicity of offenders is not allowed under the data protection law. Since the majority of Roma were among the lowest economic strata, they also suffered from substandard legal representation.

Military trials followed civil law and may be closed if national security or moral grounds so justified. In all cases, sentencing must take place publicly. The law did not provide for the trial of civilians in military courts.

A Victims’ Protection Office operated in each county to provide psychological, medical and social services to victims of crime. At the conclusion of judicial proceedings, victims may apply through the National Public Security and Crime Prevention Public Foundation for financial compensation, which was to be paid by the person con-

victed of the crime. The White Ring Nonprofit Association, which was a member of the European Victims' Protection Forum, supported the work of the Victims' Protection Offices. A book on victim protection, used to train police officers and activists, also contained a list of all NGOs that provided protection to victims of crime. In December 2001, Parliament enacted legislation that expanded legal protection of persons involved in court cases.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such actions and the Government generally respected these prohibitions in practice. The law provides that the prosecutor's office may issue search warrants. Police must carry out searches of private residences in the presence of two witnesses and must prepare a written inventory of items removed from the premises. Wiretapping, which may be done for national security reasons and for legitimate criminal investigations requires a court's permission. These provisions appeared to be observed in practice.

According to NGOs, during the year, there were several instances of evictions of Roma. In Budapest in February, security guards entered the home of a Roma family without prior notification, which is required, and began to demolish their residence. The family had resided there for 5 years, and had begun legal proceedings to purchase it. As a result of the security guards' action, the adult members of the family were made homeless and three minors were placed in state custody. The Roma Civic Rights Foundation and other NGOs visited and reported on cases of forced eviction, and urged local governments to provide temporary shelters. Several municipal governments began construction of public housing for low-income residents during the year.

In September local government officials in the village of Paks condemned and subsequently demolished housing occupied by Roma. The Paks municipal authorities provided replacement housing in neighboring villages; however, the mayor of Nemetek, one the neighboring towns, then refused to allow the Roma families to reside there. Authorities have taken advantage of situations such as the eviction for nonpayment of bills or condemnation of Roma homes to relocate and concentrate Roma populations, in effect creating segregated communities (see Sections 1.d. and 5).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, the current and previous governments were criticized by opposition parties for influencing editorial and personnel decisions of state-owned media. Individuals may criticize the Government publicly or privately without reprisal, and did so in practice.

Numerous privately owned print publications expressing a variety of views were available to the public. The Government generally did not interfere with the operation of private news media. However, there were allegations that the Government regularly limited access to government officials by journalists and editors of a newspaper that had published reports critical of the Government, as well as an investigatory article on the Prime Minister.

There were several state-owned radio and television stations; the audience for private news outlets significantly exceeded that for state-owned broadcasters. The current government's interference in state-owned media remained a concern. The previous government attempted to "balance" news coverage through personnel decisions and appointments to the public media oversight board. For the first 6 months of the year, the oversight board functioned without proportional political representation that the law requires. Opposition political parties were traditionally critical of the pro-government news coverage in state-owned media. The current government pursued a similar form of manipulation of the state-owned media through personnel decisions.

There were minority-language print media, and the state-run radio broadcast 2 hours of daily programs in languages of the major minority groups: Romani, Slovak, Romanian, German, Croatian, and Serbian. State-run television carried a 26-minute program produced by and for each major minority group; programs serving the smaller minority communities were seen every other week or on a monthly basis. All of the programs were repeated on the weekends. In October Radio C, a nonprofit station sponsored by public foundations that began broadcasting in February, was granted a 7-year license; 80 percent of its staff were Roma.

The Media Law created institutions designed to foster a free and independent electronic media. The law provided for the creation of nationwide commercial television and radio boards and was intended to insulate the remaining public service

media from government control. The National Television and Radio Board monitored news broadcasts for equal treatment of all political parties, and censured and fined public and private broadcasters. During the year, the Parliament amended the Media Law to conform to European Union standards.

Internet access was unrestricted.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

There essentially were no restrictions on peaceful public gatherings. The Government did not require permits for assembly, except when a public gathering was to take place near sensitive installations, such as military facilities, embassies, or key government buildings. The Government may alter or revoke permits for assembly, but there were no reports that they used this authority during the year.

On July 4, right-wing groups opposed to the election results staged several protests in Budapest, including one in front of the Parliament in which protestors confronted the police. At a separate rally, several hundred demonstrators blocked vehicle traffic over a central bridge. The police dispersed these demonstrations and reported that organizers had not obtained the necessary permits or had understated the size of the assembly. One court case of alleged police abuse in which a protestor claimed a police official struck him after he was detained was pending at year's end.

Ten or more persons may form an association, if it does not commit criminal offenses or interfere with the rights of others. Associations with charters and elected officers must register with the courts. Registration of associations was granted routinely and without bias.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

There were 136 officially recognized religions. A group must provide 100 signatures to register as a religion, which it may do in any local court. While any group was free to practice its faith, formal registration made available to religious groups certain protections and privileges, and granted access to several forms of state funding. During the year, the Government elevated religious affairs to the Office of the Prime Minister from its previous location in the Ministry of Cultural Heritage, and assigned a State Secretary to oversee church issues.

There was no state religion; however, there are four historically recognized religions: Roman Catholic, Calvinist, Lutheran, and Jewish. Not all religions received state support. The Government has provided subsidies to some religious groups each year, and taxpayers may contribute 1 percent of their net tax payments to a registered religious body. During the year, the Government provided subsidies to 100 religious groups, compared with 90 in 2001.

The Government treated the larger, better-established religions more favorably than minority religious communities. In 2000 Parliament amended the tax code and set criteria under which direct contributions to churches were tax deductible; these criteria limited the benefit to 23 of the 136 registered churches.

In 2000 the Hungarian Tax Authority (ÁPEH) initiated investigations of the Church of Scientology, based on questions regarding the registration of its clergy. The APEH concluded its investigation early this year and determined that the Church of Scientology had not violated tax regulations.

During the year, the Government paid churches \$25 million (6.25 billion HUF) in compensation for assets confiscated during the Communist regime. By 2011 the Government is expected to pay an estimated \$168 million (42 billion HUF), adjusted annually for inflation, to religious groups for buildings that are not returned.

Representatives of the Jewish community expressed concern over anti-Semitism in some media outlets, in society, and in coded political speech. The previous government was criticized for not taking a public stand against anti-Semitic statements. An increase in anti-Semitic activity coincided with the April elections for Parliament and included the defacement of some left-wing campaign billboards with anti-Semitic graffiti. The Hungarian Justice and Life Party (MIÉP), the extreme rightwing party known for its anti-Semitic statements, failed to qualify for representation in Parliament because it did not obtain 5 percent of the vote.

The Council of Europe's Commission Against Racism and Intolerance criticized the anti-Semitism in some media, in Parliament, and in society. NGOs noted an increase in coded anti-Semitic speech in right-wing political dialogue that coincided with the elections for parliament. On August 20, a Catholic bishop speaking at a celebration of Saint Stephen's Day made derogatory statements using an oblique reference understood to mean Jews.



According to police reports, there were 200 cases of persons vandalizing grave-stones and cemeteries during the year. There was no data on which churches the cemeteries belonged to. The Jewish Community (MAZSIHISZ) claimed that there were fewer acts of vandalism in Jewish cemeteries than in 2001, and most of the cases were committed by youths; the MAZSIHISZ did not consider these incidents anti-Semitic actions.

In one instance, the municipal government of Forro allowed the destruction of an unregistered Jewish cemetery in contravention of customary practice for Jewish cemeteries and without notification of the national government or Jewish organizations. MASZIHISZ contends that the actions of the Forro administration violate the law concerning preservation of cemeteries. The cemetery contained graves of the Jewish community that resided in Forro before its deportation in World War II. The destruction took place to permit the construction of private homes. Construction workers discarded gravestones and some caskets in an adjacent dump. The municipal government of Forro contended that as an unregistered cemetery there were no legal provisions barring the use of the land.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice. However, some local authorities tried to expel Roma from towns. There were reports that local government officials in the village of Paks demolished housing occupied by Roma and provided replacement housing in neighboring villages. This resulted in allegations that the local government deliberately sought to resettle Roma outside its boundaries (*see* Section 1.f.).

The Government may delay but may not deny emigration for those who have significant court-assessed debts or who possess state secrets. Those with approximately \$40,000 (over 10 million HUF) or more in public debt may be denied travel documents. The Government did not impose an exit visa requirement on its citizens or on foreigners.

Discrimination, poverty, and unresolved social problems continued to drive Roma emigration, particularly to Canada and EU member states. In January the Government of Canada reintroduced a visa requirement for citizens of Hungary to stem frivolous asylum claims (*see* Section 5).

In January the Status Law took effect, which provided certain social, educational, and economic benefits to ethnic Hungarians living in neighboring countries, with the exception of Austria. Under this law, ethnic Hungarians living abroad could qualify for temporary work permits and the Government would promote Hungarian minority education in neighboring states. The new government proposed amendments to the Status Law to respond to regional criticism of the extraterritorial effects of the law. During the year, the Government reached agreement with Romania on implementation of the Status Law.

The law on asylum and refugees provides for the granting of such status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations assisting refugees. The Government provided first asylum. During the first 8 months of the year, UNHCR reported that approximately 4,411 asylum seekers entered the country—a decrease from previous years—of whom 1,499 were from Afghanistan and 1,287 from Iraq. In 2001 the Government granted 174 applicants refugee status under the Geneva Convention; 297 applicants were granted temporary protected status. The primary countries of origin for refugee and asylum seekers were Afghanistan, Iraq, Bangladesh, Sri Lanka, and Pakistan. Political changes in the former Yugoslavia resulted in a decrease in the number of asylum seekers. The Government Office of Immigration and Nationality (OIN) (formerly the Office of Migration and Refugee Affairs) is the central authority for asylum and immigration matters.

Asylum applicants were housed in three government-owned camps and two temporary camps run by NGOs. The camps have been in operation since the early 1990s, largely because of the influx of refugees fleeing various regional conflicts. In 2001 the Government estimated that there were approximately 5,000 asylum seekers and as many as 40,000 to 60,000 immigrants living in the country illegally; however, the local office of the UNHCR believed that these figures were too high.

In October 2001, Parliament passed amendments to the Laws on Asylum and on Aliens aimed at streamlining and simplifying the court process for asylum; the amendments took effect during the year. As a result of the amendments and subsequent restructuring of the Office of Immigration and Nationality, the Ministry of Interior established seven regional offices to process asylum requests. The OIN also assumed some responsibilities previously granted to the Border Police, including ad-

ministration of reception centers. Prospective refugees who sought only to transit to other European countries were encouraged to return to their countries of origin. At the end of the year, there were approximately 1,224 asylum seekers located in three permanent and one temporary reception centers. Another temporary reception center closed during the year. For aliens requiring greater monitoring in a more restrictive environment, the OIN operated three different shelters it called community shelters. Aliens housed in the reception centers enjoyed fewer restrictions of freedom of movement than those in community shelters did. Several NGOs and human rights organizations supported asylum seekers and provided legal information.

Foreigners caught trying to cross the border illegally either may apply for refugee status if they have valid travel documents, or are housed temporarily at one of eight border guard facilities throughout the country, pending deportation. During the first 9 months of the year, 8,451 persons occupied these facilities. On average there were 313 persons in the facilities per day. In 2001 the greatest number of aliens in the border guard facilities came from Romania (3,638), Moldova (1,098) and Afghanistan (732). While police sought the timely deportation of detainees who did not qualify for refugee status, a shortage of funds and the detainees' lack of property or documentation, such as passports, often resulted in lengthy stays. NGOs criticized indefinite detention of stateless and some undocumented foreigners by the Government pending resolution of their cases. There were no reports of abuse during deportation. NGOs and foreign governments continued to criticize the Government for inhumane conditions in the border guard facilities and for the arbitrary application of asylum procedures. The restructuring of the OIN, the transfer of some asylum adjudication procedures from the Border Police and the establishment of OIN reception facilities were efforts to redress the situation. The Government has sought to work with NGOs to improve conditions.

There were no reports of the forced return of persons to a country where they feared persecution during the year.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage. Elections are held at least every 4 years. Elections for Members of Parliament took place in April, and municipal elections were held in October.

Members of Parliament are elected every 4 years through a complex, multi-stage process, in which voters cast ballots for individual candidates and party lists. In May the Socialist Party and the Alliance of Free Democrats established a post-election coalition, which gave the two parties a 10-member majority in Parliament. The Socialist Party was the senior coalition member and nominated Peter Medgyessy as Prime Minister. The FIDESZ-Hungarian Civic Party and the Hungarian Democratic Forum (MDF) represented the opposition faction in Parliament. MIEP as well as the Smallholders' Party did not obtain the necessary 5 percent vote threshold to make it into Parliament. The law on ethnic minorities and the election law provide for the establishment of minority self-governments (*see* Section 5).

There were no legal impediments to women's participation in politics or government. However, only 35 of 386 parliamentary representatives were women. Three women served in the Cabinet and several women were State Secretaries and Deputy State Secretaries. Few women occupied other leadership positions in the Government or political parties. However, a woman was the head of the Hungarian Democratic Forum, one of four parties represented in Parliament, and the Speaker of Parliament was a woman from the Socialist Party. The level of women's political participation was greater in provincial and municipal governments than at the national level. The Hungarian Women's Alliance held weekend courses throughout the year to promote the participation of women in public life.

Despite the lack of ensured minority representation, there were several Members of Parliament, including ethnic Germans and ethnic Slovaks, who were members of ethnic minorities; however, none specifically represented their respective minority group. The number of Romani Members of Parliament increased after the April elections. There were four Roma Members of Parliament, three from FIDESZ, and one from the Socialist Party.

The law provides for the establishment of local minority self-governments as a necessary precondition for the enforcement of the rights of ethnic minorities. With some funding from the central budget and some logistical support from local governments, local minority self-governments sought to influence and oversee matters affecting minorities, particularly in the fields of education and culture. Local minority self-government elections, in conjunction with local government elections, have been

held since 1994. Any of the 13 minorities can set up a minority self-government if at least 50 valid votes are cast in settlements with fewer than 10,000 inhabitants and if at least 100 votes are cast in larger settlements.

Since ethnicity was not registered officially, voting on minority self-governments was not limited to the minorities themselves; all the voters received a minority ballot in addition to the local government ballot. The elected local minority self-governments could elect their national minority self-governments; all 13 minorities have formed national self-governments. Several Roma self-governments formed regional groupings to facilitate cooperation. Minority self-government has been criticized mainly on two grounds. First, several minority representatives have objected to the fact that members of the majority can vote for minority candidates and thus influence minority politics; second, critics called for an increase in the competence of the minority self-governments and considerably more financial resources for them.

There were cases of non-minority candidates being elected to minority self-governments in this year's elections. In Jaszladany, where tensions between Roma and non-Roma were strained, the participation of members of the majority in the Roma minority self-government elections resulted in four non-Roma being elected to the five-member body. Roma rights observers viewed this move as a deliberate attempt to undermine the local Roma community. The Minister of Justice and the State Secretary for Roma Affairs criticized the election outcome. According to government officials, since the law does not proscribe who may be a candidate or vote in minority self-government elections, there were no grounds to challenge the result.

Roma mayors headed four municipal governments and 544 Roma sat on local and county government assemblies.

In October there were 1,004 Roma minority self-governments elected in the local minority elections, an increase over the 770 elected self-governments in the minority elections held in 1998. Of those elected in 1998, a number of self-governments ceased functioning due to a lack of resources, knowledge, and leadership. Following the October municipal elections, minority self-governments were established in 1,317 settlements, bringing the total number of active self-governments to 1,811. The Roma minority poses a special challenge for the system of national minority self-governments. In contrast to other minorities for whom the preservation of their identity and culture was the basic goal, the Roma also had to contend with the fact that they generally belonged to the lowest socio-economic strata of society. Both ethnicity and poverty were problems that the Roma had to deal with; the Roma self-governments, unlike others, were faced with the task of improving the lives of their constituents with no additional resources.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Many NGOs reported that the Government continued to be responsive to their requests for information. Human rights groups indicated improvement in the degree of cooperation from government Ministries and prosecutors' offices on cases involving Roma and police abuse. An increasing number of NGOs were involved in the law-making process; however, NGOs claimed that the Government's cooperation in this area was insufficient.

The Government did not interfere with activities of international NGOs and several established offices in the country, including Human Rights Without Frontiers and the Helsinki Committee.

There was a 21-member parliamentary Committee for Human, Minority, and Religious Rights, which conducted hearings and participated in the law-making process. The Committee was composed of both majority and opposition Members of Parliament, which reflected the proportion of party representation in Parliament. In 1995 the Parliament created separate Ombudsmen for human rights, data protection, and minority affairs. The Ombudsmen's offices were independent from the Government, and prepared annual reports to Parliament on their activities and findings. Parliament elected Ombudsmen for a 6-year term, with the possibility of reelection. In June 2001, the Minority Affairs Ombudsman was reelected for a second 6-year term. Persons with complaints who have not obtained redress elsewhere may seek the assistance and investigative authority of the Ombudsmen's office.

The Minority Affairs Ombudsman—an ethnic German reelected in June 2001—was charged specifically with defending minority rights. The Ombudsman played an active role in the examination of allegations of discrimination against the Roma community in such cases as school segregation, access to housing and the election of non-Roma to the Roma minority self-governments (see Section 5).

In 2001 the Minister of Justice established an interministerial antidiscrimination committee to consider the antidiscrimination bill drafted by the Ombudsman; committee members included representatives of relevant ministries, the Government Office of Ethnic Minorities, and the Ombudsman.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution provides for individual rights, equality, and protection against discrimination; however, in practice discrimination persisted, particularly against the Roma.

*Women.*—Spousal abuse was believed to be common, but the vast majority of such abuse was not reported, and victims who came forward often received little help from authorities. The NGO Women Against Violence reported that 20 percent of women were threatened by or were victims of domestic violence and that one woman per week was beaten to death. NGOs also reported that there was insufficient emphasis on the protection of female crime victims. Police and prosecutors usually were unsympathetic to victims of domestic abuse.

The laws criminalize spousal rape. Women's rights organizations claimed that one woman in ten was a victim of spousal abuse and that societal attitudes towards spousal abuse were archaic. The law prohibits domestic violence and establishes criminal penalties for those convicted of such acts. During the year, there were no known prosecutions for domestic violence.

While there are laws against rape, often it was unreported for cultural reasons. Police attitudes toward victims of sexual abuse reportedly were often unsympathetic, particularly if the victim was acquainted with her abuser. In the first 6 months of the year, women were victims of 43,655 reported crimes; in 2001 women were the victims of 91,004 reported crimes. During the first 6 months of the year, there were 2,402 reports of crimes against family, youth, and sexual morality. NGOs claimed that the police were unwilling to assist victims in one-third of the reported cases. During the year, there was minor improvement in police attitudes toward victims of sexual assault. Police recruits began to receive training from representatives of NGOs and international organizations in how to properly respond to rape and sexual assault cases. Victims of domestic violence may obtain help and information via a national hot line or at one of several shelters. The hot line operated intermittently for three hours each day; a message system existed for when a counselor was unavailable in person. Shelters provided short-term refuge, and their locations were concealed to protect victims.

Prostitution is illegal; however, in accordance with the law, municipal governments may establish "tolerance zones" where such activity may occur. Only one tolerance zone was in operation, in the eastern city of Miskolc.

The law makes illegal relationships between an adult and a minor where the minor is under 14 years of age.

Trafficking in women for the purposes of sexual exploitation was a serious problem (see Section 6.f.).

The law does not prohibit sexual harassment in the workplace. A report on the country prepared under the auspices of the U.N. to evaluate compliance with the Convention on the Elimination of Discrimination Against Women found that sexual harassment in the workplace was "virtually epidemic." Women's groups reported that there was little support for efforts to criminalize sexual harassment, and that sexual harassment was tolerated by women who feared unemployment more than harassment. The Labor Code regulates questions of security in the workplace; acts of sexual harassment may be prosecuted under the defamation statutes (if violent, such acts are considered sexual misconduct). Sentences of up to 3 years' imprisonment may be imposed for sexual harassment. During the year, no charges were brought under this provision of the Labor Code.

Women had the same rights as men, including identical inheritance and property rights. For budgetary reasons, the Office for Women's Issues suspended operation of its antidiscrimination hot line, which offered free legal advice to women who believed that they were discriminated against with respect to employment. According to the head of the office, the hot line received 20 to 30 calls per day. While there was no overt discrimination against women, the number of women in middle or upper managerial positions in business and government remained low, and in practice women received lower pay compared to men in similar positions and occupations. Nevertheless, the number of women in the police and the military has risen over the past several years, and women were represented heavily in the judiciary and in the medical and teaching professions. During the year, the Government created new positions for women's affairs, which included a directorate general in the Ministry of Employment and Labor Affairs and a separate division to promote equal opportunity.

*Children.*—The Government was committed to children's rights. Education was mandatory and free through 16 years of age. The Ministry of Education estimated that 95 percent of school-age children, with the exception of Roma children, were enrolled in school. Roma were far more likely than non-Roma to stop attending school before age 16. Reliable figures on Roma enrollment and graduation rates were unavailable due to the prohibition of collecting data on ethnicity.

Roma and other civic organizations highlighted the practice of placing Roma children in remedial education programs designed for children with mental disabilities or low academic performance, resulting in de facto segregation. Although the children could be returned to the regular school system, only a small percentage returned. In April the Ombudsman for National and Ethnic Minority Rights declared that segregation continued to exist in public education. The Ombudsman cited the case of a primary school in Verpelet in Heves County, where Roma children were educated in separate classrooms beginning in first grade, without the consent of the parents. An earlier report by the Ombudsman's office found that the high proportion of Roma children in "special schools" for children with mental disabilities was a sign of prejudice and a failure of the public education system. To prevent the improper placement of children in remedial education, particularly Roma children, parents were required to concur in the decision of the school to enroll their child in such a program and the child was tested yearly to measure educational performance. NGOs remained concerned that Roma children were still improperly referred to special schools despite the safeguards. The Government Office of National and Ethnic Minorities estimated that as many as 700 schools had segregated classrooms. The Government contested the claims of human rights organizations and stated that the Roma schools were designed to provide intensive help for disadvantaged children.

In one case of segregation in the education of Roma, the municipal government of Jaszladany in central Hungary established eleven private classrooms in the public school, which the Roma minority self-government and the Ministry of Education interpreted as a move to separate Roma and non-Roma students. The municipal government had applied for the classrooms to be accredited as a separate charter school during the former government and were scheduled to begin operation in September. The new Minister of Education suspended the accreditation process and barred the private classrooms from operating. Nevertheless, ethnically divided classrooms continued to function in the Jaszladany public schools.

In 2001 the former government converted the family allowance into a school attendance allowance. This measure was intended to force children to go to school, but some Romani NGOs feared that this could be another form of discrimination against Roma, many of whom lived in small villages with no high schools within manageable distance. The extreme poverty of many Roma made it difficult for them to clothe their children appropriately for school. The Roma alleged that the taking away of the family allowance was punishment for neglecting to do something that they could not afford.

There were programs aimed at increasing the number of Roma in higher education. The Romaversitas program supported Romani students finishing degrees in institutions of higher education, and there were Departments of Roma Studies in the Teachers' Training Colleges in Pecs and Zsambek. The Government provided a number of scholarships to Roma children at all levels of education through the Public Foundation for the Hungarian Roma. The Government reported that in the previous academic year, 12,777 Roma students received state-funded scholarships, of which 1,200 were given for studies at the university level. School-age children may receive free medical care at state-operated institutions and most educational facilities. Psychologists were available to evaluate and counsel children, and provisions existed for children to obtain dental care; the Social Security Office provided these services.

Child abuse remained a problem. A 1999 survey showed that over 25 percent of girls suffered from abuse by a family member before they reached the age of 12. The percentage of girls who faced abuse in the family during the year was believed to be unchanged. NGOs reported that neglect and abuse were common in state care facilities. A number of laws were passed to address family violence, including a law on the protection of children. The Criminal Code provided for serious sanctions against the neglect and endangerment of minors, assault, and preparation of child pornography. The application of laws to protect children were enforced infrequently. In August a minor killed her stepfather after several years of repeated physical and sexual abuse. Police and social services failed to intervene to protect the minor despite frequent requests for assistance by the minor and her mother. The minor reportedly confessed to the killing but police continued to investigate and have not brought charges. During the first half of the year, children were the victims of 1,639 crimes; in 2001 they were the victims of 2,828 crimes.

Child prostitution was not a common practice, although isolated incidents existed. Severe penalties existed under the law for those persons convicted of engaging in such acts. Trafficking in children for the purpose of sexual exploitation was a problem (see Section 6.f.).

*Persons with Disabilities.*—The law does not permit discrimination against persons with disabilities in employment, education, or in the provision of other state services. Government sources estimated that there were between 600,000 and 1 million persons with disabilities (6 to 10 percent of the population). Of these persons, 300,000 to 350,000 were considered seriously disabled and received increased government benefits. Persons with disabilities faced societal discrimination and prejudice.

A Council for the Disabled was established in 1999 under the leadership of the Minister of Social and Family Affairs. The Council served as an advisory board to the Government. A decree requires all companies that employ more than 20 persons to reserve five percent of their jobs for persons with physical or mental disabilities, with fines of up to 75 percent of the average monthly salary for noncompliance. The foreign NGO Mental Disability Rights International (MDRI) and the local NGO Hungarian Mental Health Interest Forum (PEF) noted that no procedures existed to oversee the treatment and care of persons with disabilities who were under guardianship. The MDRI and the PEF also criticized the use of cages in government facilities for persons with mental disabilities.

The law mandates access to buildings for persons with disabilities; however, services for persons with disabilities were limited, and most buildings were not wheelchair accessible.

*National/Racial/Ethnic Minorities.*—The law recognizes individuals' minority rights, establishes the concept of the collective rights of ethnic minorities, and states that it is their inalienable collective right to preserve their ethnic identity. The law also permits associations, movements, and political parties of an ethnic or national character and mandates the unrestricted use of ethnic languages. For an ethnic group to be recognized it must have at least 100 years' presence in the country, and its members must be citizens. On this basis, minority status was granted specifically to 13 national or ethnic groups (among which the Roma were by far the most numerous). Other groups may petition the Speaker of Parliament for inclusion if they believe that they fulfill the requirements.

According to the national census conducted in 2001, Roma constituted about 2 percent of the population. Census questions regarding ethnicity were voluntary, although the results may not reflect actual numbers, which many NGOs and government offices estimated at approximately 9 percent. In view of the higher birth rate among Roma compared with the general decline in the majority population, observers expected this trend to remain constant or to grow, something which continued to cause widespread concern among the majority population. Ethnic Germans, the second largest minority group, constituted approximately 0.7 percent of the population. Smaller communities of Slovaks, Croats, Romanians, Poles, Ukrainians, Greeks, Serbs, Slovenes, Armenians, Ruthenians, and Bulgarians also were recognized as ethnic minorities. Living conditions for Romani communities continued to be significantly worse than for the general population. Roma were the target of government and societal discrimination and racist attacks. They were significantly less well educated, and had below average income and life expectancy. The unemployment rate for Roma was estimated to be approximately 70 percent, more than 10 times the national average. The majority of Roma lived in extreme poverty.

The Government established a secretariat within the Office of the Prime Minister to coordinate Roma Affairs. A Political State Secretary directed this new office; he was a Roma Member of Parliament and former president of the Roma minority self-government of Nagykanizsa. A new Ministerial Commissioner for Roma Affairs was also created, and the Government planned to place a commissioner in six ministries. At the end of the year, only one Ministerial Commissioner for Roma Affairs was in place, in the Ministry of Education.

The Minority Affairs Ombudsman played an active role in the examination of allegations of discrimination against the Roma community and continued to promote a uniform antidiscrimination law (see Section 4). There was 1 Roma lawyer out of 11 in the Ombudsman's office.

Reports of police abuse against Roma were common, but many Roma were fearful to seek legal remedies or notify NGOs (see Section 1.c.). Police also failed to intervene to prevent violence against Roma. In June the Salgotarjan Municipal Court sentenced two police officers to multiple year prison terms for threatening a Roma family with a firearm and for abuse of their official positions. According to the Roma Press Center, on January 29, in Pecsvarad village, an unknown assailant set fire

to the Roma minority self-government building. The fire extinguished itself and damage was minor. Police conducted an investigation but did not identify a suspect. At year's end, there had been no progress in this case.

Changes to the Penal Code made it easier to enforce and stiffened penalties for hate crimes committed because of the victim's ethnicity, race, or nationality. During the year, the Government brought charges in five separate cases for incitement of the public, two of which resulted in convictions. Three cases from 2001 were pending at year's end. Authorities used the prohibition against public incitement to curb some forms of hate speech in the absence of specific hate speech legislation. The Office of the Prosecutor charged a member of the extremist Justice and Life Party with the publication of an anti-Semitic article in a local newspaper, resulting in a conviction. In a second instance, two individuals were charged with reprinting and distributing World War II era anti-Semitic tracts. The courts did not reach a verdict in a 2001 case against the distributors of the Elders of Zion, another anti-Semitic publication.

Local government officials continued to punish Roma who were unable to pay utility bills by evicting their families from their homes without providing alternative housing (see Section 1.f.). In some areas, the relocation and concentration of Roma populations has, in effect, created segregated communities. In the summer of 2000, laws on the tenancy of flats were amended to ease administrative procedures for evicting squatters. Under the new procedures, notaries public may authorize evictions and are required to enforce the order within 8 days, even if an appeal was filed against the decision. Roma families continued to be most affected by the new rules.

The Government reduced the limit on unemployment benefits from 1 year to 9 months in 2000, affecting the Romani community disproportionately and further exacerbating their poverty. Negative stereotypes of Roma as poor, shiftless, and a social burden persisted. Widespread discrimination against Roma continued in education, housing, and access to public institutions such as restaurants and pubs. In some instances, the authorities fined establishments that banned Roma.

Education was available to varying degrees in most minority languages. There were certain minority schools where the minority language was also the primary language of instruction, and there were some schools where minority languages were taught as a second language.

Schools for Roma were more crowded, more poorly equipped, and in significantly worse condition than those attended by non-Roma. Government sources estimated that graduation rates for Roma remained significantly lower than for non-Roma students, although no statistics were available at the end of the year.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Labor Code recognizes the right of unions to organize and permits trade union pluralism. Workers have the right to associate freely, choose representatives, publish journals, and openly promote members' interests and views. There were six trade union federations; each was targeted broadly at different sectors of the economy. The largest labor union organization was the National Confederation of Hungarian Trade Unions, the successor to the former monolithic Communist union, with approximately 235,000 members. According to the Tax Authority of Hungary, in 2001, 654,000 taxpayers declared a deduction for payment of union fees.

Employers are prohibited from discriminating against unions and their organizers. The new Ministry for Employment Policy and Labor Issues enforced this provision.

There were no restrictions on trade union contacts with international organizations, and unions have developed a wide range of ties with international trade unions.

*b. The Right to Organize and Bargain Collectively.*—The Labor Code permits bargaining at the enterprise and industry level, but collective bargaining was not widespread in many sectors of the economy. However, labor organizations appeared willing to cooperate with each other. For example, the major trade unions worked closely together in the Interest Reconciliation Council, which brought together government, employers, and trade unions to advise the Government on labor policies and to set target wage increases. Individual trade unions and management may negotiate higher wages at the plant level. Under a separate law, public servants may negotiate working conditions, but the final decision on increasing their salaries rests with Parliament. In July the Government re-established the Labor Ministry, disbanded in 1998, under the name of the Ministry for Employment Policy and Labor Issues. The Labor Ministry was responsible for drafting labor-related legislation, among other tasks.

With the exception of military personnel and police officers, workers had the right to strike.

There were no export processing zones, but individual foreign companies frequently were granted duty-free zone status for their facilities. Employees in such facilities and zones are protected under the labor laws.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Government adopted laws to protect children from exploitation in the workplace. The Labor Code prohibits labor by children under the age of 15 and regulates labor conditions for minors (14 to 16 years of age), including prohibitions on night shifts and hard physical labor. Children may not work overtime. The National Labor Center enforced these regulations in practice, and there were no reports of any significant violations of this statute.

*e. Acceptable Conditions of Work.*—In July the Government reestablished the Interest Reconciliation Council (IRC), replacing the National Labor Council. The IRC had the right to establish the minimum wage through agreement among its participants, representatives of the Government, employers, and employees. In January the minimum wage was raised to \$200 (50,000 HUF). By year's end, public school teachers and health care professionals also received a 50 percent wage increase. The minimum wage did not provide a decent standard of living for a worker and family. The minimum wage was only 41 percent of the average wage. Many workers needed a second job to support themselves; others, while officially earning the minimum wage, were paid more under the table. This practice allowed workers and employers to avoid paying high pension and health care contributions, which were determined as a percentage of the wage. The Government established the National Labor Affairs Supervising Authority to reduce the underreporting of wages. In 2001 the Authority audited 48,000 employers.

The Labor Code specifies various conditions of employment, including termination procedures, severance pay, maternity leave, trade union consultation rights in some management decisions, paid vacation and sick leave entitlements, and labor conflict regulations procedures. Under the Code, the official workday is set at 8 hours. However, it may vary depending upon the nature of the industry. A 48-hour rest period was required during any seven-day period. In July the Parliament amended the Labor Code to incorporate nine EU directives that covered protection and rights of employees, conditions of employment, and equal opportunity in employment. The amendments have brought the Labor Code into conformity with EU standards. In September the Government ended employers' flexibility in scheduling the obligatory 2 days of rest per week, something often criticized by labor groups in the past.

Labor courts and the Ministry of Economy enforced occupational safety standards set by the Government, but specific safety conditions were not consistent with internationally accepted standards. The enforcement of occupational safety standards was not always effective, in part due to limited resources. Under the Labor Code, workers had the right to remove themselves from dangerous work situations without jeopardizing their continued employment; this right was respected in practice.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in persons remained a serious problem. Some border guards facilitated trafficking.

Parliament amended the Penal Code to add a trafficking law that provides penalties commensurate with those for rape. Under the law, even preparation for the trafficking of persons is a criminal offense. The penalty for trafficking was between 2 and 8 years in prison; the trafficking of minors was punishable by up to 10 years in prison. However, if an organized trafficking ring is involved, the sentence can be life imprisonment or seizure of assets. An amendment to the alien law provided for immediate expulsion from the country of foreign traffickers. Prosecution of traffickers was difficult because there was no legislation to protect victims; however, in 2001 a total of 34 trafficking cases were brought to trial, all of which remained pending at year's end. The Police Organized Crime Task Force investigated trafficking cases involving organized crime, and the Government cooperated with other countries to facilitate improved police cooperation to combat organized crime and trafficking in persons.

The country was primarily a transit point, but was also a source and destination country for trafficked persons. Women and children were trafficked for sexual exploitation primarily from Romania, Ukraine, Moldova, Poland, Yugoslavia, and China to and through the country to Austria, Germany, Spain, the Netherlands, Italy, France, Switzerland, and the United States. Trafficking victims from Hungary typically were women from the eastern part of the country, where unemployment



was high. They were trafficked to other European countries or other parts of the world, primarily to Austria, Belgium, Germany, Italy, and the Netherlands, as well as Canada, Japan, Spain, Switzerland, and Turkey. In October the Government repatriated several Hungarian women trafficked to Cyprus for prostitution. Men trafficked for forced labor through the country en route to EU countries and the United States were from Iraq, Pakistan, Bangladesh, and Afghanistan.

Organized crime syndicates brought many of the victims of trafficking to the country, either for work as prostitutes in Budapest, or in transit to Western Europe or North America. Hungarian trafficking rings also exploited victims by using them as babysitters, housekeepers, and manual laborers. Russian-speaking organized crime syndicates were active in trafficking women, primarily from Ukraine and other countries of the former Soviet Union to EU countries through Hungary. Hungarian victims mainly were young women, although they also included men, middle-aged women, and children. They were recruited at discos and modeling agencies, through word-of-mouth, or even through open advertisements in local papers and magazines. Reportedly, some victims knew that they were going to work illegally; others believed they were getting foreign visas; others expected to work, but believed their employers were obtaining the appropriate papers and permission, but their employers turned out to be traffickers. Once at their destination, they were forced into prostitution or other exploitation. Traffickers often confiscated identification documents and severely restricted the freedom of movement of their victims.

Corruption among some border officials persisted during the year; this corruption aided traffickers. During the year, the Ministry of Interior concluded two investigations involving 65 border guards, and charged 12 with corruption. Both investigations confirmed that certain border guards stationed on the Slovakian, Ukrainian, and Romanian borders received bribes to allow foreigners to enter the country without inspection of their travel documents, and to waive inspection of the contents of some vehicles. Those guards charged with corruption were held in pretrial detention pending the commencement of their case in a military court. At year's end, these cases remained pending.

The Government provided limited assistance to victims of trafficking. In principle assistance with temporary residency status, short-term relief from deportation, and shelter assistance were available to trafficking victims who cooperated with police and prosecutors; however, there were no documented cases where such assistance was provided. Reportedly, police and immigration officials often treated trafficking victims as criminals, and refused to believe reports of kidnaping of young women.

The Ministry of Interior established a Victims' Protection Office, a victims' protection fund, and has posted information on victim protection in every county police headquarters. Branches of a new Victims' Protection Office, which provided psychological and social support services and legal aid for victims in an effort to safeguard their rights and minimize the trauma of trials, operated in 42 localities (*see* Section 1.e.). However, the women's NGO Women Against Violence Against Women (NANE) reported that the Victim Protection Office did not deal exclusively or even primarily with victims of trafficking.

The International Organization on Migration (IOM) continued a program funded by the EU to raise awareness of the problem of trafficking and to educate potential victims. Women's rights organizations, the IOM, and the Ministry of Youth and Sports Affairs were conducting preventive programs for teenagers in schools. NANE established an information hot line that operated simultaneously with the IOM campaign to provide information on the types of trafficking-associated advertisements and situations that young women should beware of. NANE, the IOM, the Public Fund For a Safe Hungary, and funding from foreign governments established a joint project to continue and enhance the operation of the hot line.

NGOs working on trafficking problems reported that cooperation with government agencies working on trafficking issues was improving. The NGOs provided some training to law enforcement officers in the recognition and identification of trafficking victims. This included sensitivity training as well as techniques to combat trafficking in persons.

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## ICELAND

Iceland is a constitutional republic and a parliamentary democracy in which citizens periodically choose their representatives in free and fair multiparty elections. The judiciary is independent.

Elected officials maintained effective control of the police forces, which were responsible for internal security. There were no military forces. There were no reports that security forces committed human rights abuses.

The mixed, open economy provided residents with a high standard of living. The country had a population of approximately 286,000. The gross domestic product (GDP) during the year was approximately \$8 billion; GDP growth was approximately 2 percent. Fish and other marine products accounted for about 40 percent of the country's exports. Aluminum was the second leading export.

The Government generally respected the human rights of its citizens, and the law and judiciary provided effective means of dealing with individual instances of abuse. Human rights monitors expressed concern about the Government's policy on dissent by foreign visitors and on protections of citizens' privacy. Violence against women remained a problem that the Government took steps to address. Some societal discrimination against women persisted, especially in the area of equal pay. There were reports of trafficking in women for prostitution. Iceland was invited as a participant to the second Ministerial Meeting of the Community of Democracies in Seoul, Republic of Korea, in November.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

Prison conditions generally met international standards. Most of the country's prison population of fewer than 110 inmates were held at Litla Hraun Prison, which included a state-of-the-art detention facility. However, the prison system used a sub-standard jail (Hegningarhusid, built in 1874), where the 16 individual cells lacked toilets and sinks. In most cases, prisoners were kept in Hegningarhusid Prison only a short time for evaluation and processing before being transferred to another facility. Some prisoners with short sentences (less than 30 days) elected to serve their time there to be closer to friends and family.

Human rights observers expressed concern about the use of illegal drugs by some inmates at Litla Hraun Prison and about the lack of social services to help inmates overcome drug addiction and prepare them for eventual release. For humanitarian reasons, authorities have not instituted stringent controls on visitation that could stop narcotics from being smuggled into the prison.

In 2001 in response to the Council of Europe's 1999 finding that authorities used solitary confinement excessively, the Ombudsman of the Parliament investigated its use as a punishment for violations of prison regulations. He concluded that the Ministry of Justice needed to adopt clearer guidelines to prevent the arbitrary use of solitary confinement by prison authorities. By year's end, the Ministry had not done so. During the year, 94 of 108 persons placed in custody spent some time in isolation. The average time spent in isolation was approximately 14 days.

There was a separate minimum-security prison for women inmates. However, because so few women were incarcerated, some men who have been convicted of non-violent crimes were held there as well. Juvenile offenders 15 years of age or older could be sentenced to prison terms, but the vast majority were given probation, suspended sentences, or attended a treatment program instead of going to jail. In the rare instances when juvenile offenders were incarcerated, they were held with adults since there was no separate facility for juveniles. The Government argued that such separation was not practical since the need to incarcerate a juvenile occurred infrequently.

The law allows pretrial detainees to be held with the general prison population; some human rights observers criticized this law. In 2001 the Government budgeted planning funds for a new remand prison just outside of Reykjavik; however, construction had not begun by year's end.

The Government permitted prison visits by independent human rights observers. The Icelandic Red Cross carried out regular prison visits to counsel prisoners and address their individual concerns. The independent Ombudsman of Parliament monitored prison conditions during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions; however, followers of the Falun Gong religious movement complained in June that the Government detained them for several hours before admitting them to the country (see Section 2.b.). Officials said that the names of Falun Gong practitioners were

gathered by police with the help of police in countries where these persons had been involved in civil disturbances.

Police may only make arrests where there is a strong suspicion of a crime having been committed or where a person refused to obey police orders to move. There were no reports of arbitrary arrests. All persons placed under arrest were presented with a form for their signature that outlines their rights and options. Within 24 hours of the arrest they appear before a judge who rules on whether they need to remain in custody during the investigation. They were entitled to legal counsel.

The law prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution and the law provide for an independent judiciary, and the Government generally respected this provision in practice.

There were two levels of courts. A five-member Judicial Council appointed by the Minister of Justice administered the eight district courts, and the Supreme Court administers itself. All judges, at all levels, served for life.

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Juries were not used, but multijudge panels were common, particularly in the Supreme Court, which heard all appeals. Depending upon the seriousness of the case, a Supreme Court panel could have from three to seven judges. Defendants were presumed innocent and generally were tried without delay. They were provided access to legal counsel of their own choosing with sufficient time in general to prepare their defense. For defendants unable to pay attorneys' fees, the State covered the cost, as set by the court; however, defendants were required to reimburse the State. Defendants had the right to be present at their trial, to confront witnesses, and to participate in the proceedings. No groups were barred from testifying, and all testimony was treated alike. The courts had the discretion to allow the introduction of evidence obtained illegally by the police. With limited exceptions, trials were public and conducted fairly, with no official intimidation. Defendants had the right to appeal, and appeals were handled expeditiously.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

Scientists and privacy advocates criticized the Ministry of Health and Social Security's national medical data program as a threat to citizens' privacy. The Government maintained access to health records under the 1998 Act on the Health Sector Database without prior affirmative consent by citizens. Its purpose was national health planning and policy. The program is expected to be completed in 2003. During the year, approximately seven percent of citizens exercised their option not to participate in the program.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press. The law bans the production, exhibition, distribution, or sale of violent motion pictures, which strive to show mistreatment or the brutal killing of men or animals. A six-member Motion Picture Review Committee, appointed by the Minister of Education and Culture, reviewed all motion pictures before they were shown and rated their suitability for children.

The country had three national daily newspapers, numerous radio stations, and two television stations that broadcast news, one of which was state owned but journalistically independent. There were also numerous Internet magazines devoted to news and political debate.

Internet access was available and unrestricted.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice; however, during the June visit of Chinese President Jiang Zemin, the Government attempted to prohibit approximately 100–120 Falun Gong practitioners from entering the country. Authorities asserted that they lacked the capacity, including facilities and officers, to maintain order and handle the assembly of hundreds of foreign followers of the spiritual movement, which is illegal in China. On June 11, police detained approximately 70 Falun Gong followers on their arrival at Keflavik International Airport; they were released late that night. The detainees did not allege mistreatment. Falun Gong representatives demanded an apology from

the Government, which met them after significant pressure. On June 14, approximately 500 persons assembled peacefully in front of the parliament building (*see* Section 2.c.) to protest Chinese policies and government actions against Falun Gong demonstrators. The Government's treatment of Falun Gong members provoked heavy criticism within the country from politicians, the media, and the public.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The State financially supported and promoted the official religion, Lutheranism.

The State directly paid the salaries of the 146 ministers in the State Lutheran Church, and these ministers were considered to be public servants under the Ministry of Justice and Ecclesiastical Affairs (MOJ); however, the Church was autonomous in its internal affairs. The Government did not pay Lutheran ministers in the nonstate churches, also known as Free Churches.

All citizens 16 years of age and older had to pay a church tax of approximately \$73 (ISK 6,800) per year. For persons who were not registered as belonging to a religious organization, or who belonged to one that was not registered and recognized officially by the Government, the tax payment went to the University of Iceland, a secular institution.

The law sets specific conditions and procedures that religious organizations must follow to be registered by the Government. Such recognition was necessary for religious organizations other than the state church to receive a per capita share of church tax funds from the Government. The law applies only to religious organizations that are seeking to be, or are already, officially recognized and registered. No restrictions or requirements were placed on unregistered religious organizations, which had the same rights as other groups in society.

By law religious instruction in Christianity is required in the public schools; however, students may be exempted.

In June Falun Gong followers from China experienced entry difficulty and detention in connection with the visit of Chinese President Jiang Zemin (*see* Section 2.b.).

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

Although neither the Constitution nor the law includes provisions for the granting of refugee or asylum status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, in practice the Government adjudicated cases in accordance with their provisions. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. In May the Government adopted the Act on Foreigners, which is scheduled to enter into force in January 2003. There was concern that the 1965 Supervision of Foreigners Law gives police and customs officers at ports of entry too much discretion to deny admission to asylum seekers whose claims they deem not credible. The new law will provide guidelines on the granting of asylum and refugee status, particularly that only the Directorate of Immigration will have the discretion to deny admission to asylum seekers.

In 2001 the country became part of the Schengen free travel area, resulting in the elimination of formal border controls on the movement of persons into the country from other Schengen countries.

The Government has not formulated a policy of first asylum. Because of the country's geographic isolation, the question of first asylum rarely has arisen; however, the Directorate of Immigration and the Icelandic Red Cross (which housed and assisted asylum seekers under a government contract) reported that 94 persons had applied for asylum by October, compared with 52 in 2001. Of these 33 were sent to other countries and 60 withdrew their applications or disappeared. At year's end, the applications of 18 persons still were being processed. Most asylum seekers applied for asylum after entering the country, rather than in the international sector (airside) of the airport. Official asylum procedures require that asylum seekers who are admitted into the country be turned over immediately to the Icelandic Red Cross and the Directorate of Immigration for processing and care. Processing of asylum cases could take 1 year or more, during which time asylum seekers were eligible for state-subsidized health care but could not work or enroll their children in public schools.

In June Falun Gong supporters visiting from China were detained for a brief period (*see* Section 2.b.).

The Government planned to receive 10 to 15 UNHCR-designated quota refugees during the year, substantially fewer than in previous years. However, no refugees were accepted during the year due to a reduction in funding.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The last elections to the Althingi, the unicameral legislature, were held in 1999.

A center-right coalition has governed since 1991. The next national elections are scheduled for May 2003. There were 23 women in the 63-member Parliament, 3 women in the 12-member Cabinet, and 2 on the 9-member Supreme Court. In April the Government gave foreigners who have resided in the country legally for 5 years or more the right to vote in municipal elections.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. An independent Ombudsman, elected by the Parliament, monitors national and local authorities to ensure equal protection of persons residing in the country, whether citizens or aliens. Complaints may be lodged with the Ombudsman regarding decisions, procedures, and conduct of public officials and government agencies. The Ombudsman may demand official reports, documents, and records and may summon officials to give testimony. The Ombudsman has access to official premises. While the Ombudsman's conclusions are not binding on the authorities, his recommendations normally have been followed, and he made annual reports of his work to the Parliament. There was also a Children's Ombudsman (*see* Section 5).

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination based on these factors. The population was strongly egalitarian and opposed discrimination based on any of these factors.

*Women.*—The law prohibits domestic violence and rape, including spousal rape. Violence against women continued to be a problem, with gang rapes reportedly becoming more frequent during the year. Police statistics indicated that the incidence of violence against women—including rape and sexual assault—was low; however, the number of women seeking assistance at the public women's shelter, the counseling center, and the emergency ward of the National Hospital indicated that many incidents go unreported. Each year about 100 women ask for temporary lodging at the women's shelter, while 300 to 400 women and children seek assistance at the counseling center. During the year, they had 410 visitors, 225 of whom came to the center for the first time.

The Government helped finance various facilities and organizations that provided assistance to victims of violence. The City of Reykjavik, in addition to partially funding such services, provided help to immigrant women in abusive relationships, offering emergency accommodation, counseling, and information on legal rights. Courts could issue restraining orders. Victims of sexual crimes were entitled, under the Criminal Code, to lawyers to advise them of their legal rights and help them pursue cases against the alleged assailants. However, a large majority of victims declined to press charges or chose to forgo trial, in part to avoid unwanted publicity in a small, tightly knit society. Some local human rights monitors also attributed underreporting to the fact that convictions traditionally yield light sentences: The maximum penalty for rape is 16 years' imprisonment, but the actual sentences imposed typically are much closer to the minimum sentence of 1 year.

Prostitution is not illegal, but it is illegal to engage in prostitution as a main source of income. It is also illegal to act as an intermediary in the sale or procurement of sex. There were reports that some foreign women were trafficked to work as striptease dancers (*see* Section 6.f.).

The rate of participation by women in the labor market was high at over 80 percent. In part this reflected the country's comprehensive system of subsidized day care, which made work outside the home more affordable and convenient for parents. The law requires that preference be given to hiring and promoting women in areas where they are underrepresented, as long as they are equal in all other respects to male job seekers. Despite laws that require equal pay for equal work, a

pay gap existed between men and women. According to one of the largest labor unions, women on average earned 16 percent less than men in 2001. A 12 percent difference in pay may be attributable to the fact that men work on average 4.2 hours more a week than women.

Fathers had the same right as mothers to paid leave upon the birth of a child. Under the law, which is expected to be fully implemented in 2003, both mothers and fathers would be allowed to take 3 months of paid leave (at 80 percent of the normal salary), with an additional 3 months that can be taken by either parent or shared between them. Previously a mother was given 6 months of paid maternity leave and the father just 2 weeks. The new leave requirements apply equally to the public and private sectors.

*Children.*—The Government was strongly committed to children's rights and welfare; it amply funded a system of public education and health care. School attendance was compulsory through the age of 15 and free through public university level. Approximately 85 percent of students continued to upper secondary education, which was financed completely by the Government. The Government provided free prenatal and infant medical care, as well as heavily subsidized childcare. The Children's Ombudsman, appointed by the Prime Minister but independent from the Government, fulfilled its mandate to protect children's rights, interests, and welfare by, among other things, exerting influence on legislation, government decisions, and public attitudes. When investigating complaints, the Ombudsman had access to all of the country's public and private institutions and associations that house children or otherwise care for them. However, the Ombudsman's conclusions were not legally binding on parties to disputes.

The Government-funded Agency for Child Protection coordinated the work of approximately 40 committees around the country that were responsible for managing child protection issues (for example, adoption and foster care) in their local areas. In June, Law number 80/2002 article 7 went into effect, raising the minimum size of child protection areas from 200 to 1,500 inhabitants. The change was made to address concerns about conflicts of interest and improper influence. The law also took away the committees' power to terminate parental rights and provided that longer-term care decisions must be adjudicated in court. The Agency also operated eight treatment centers and a diagnostic facility for abused and troubled minors.

There was no societal pattern of abuse directed against children. In an effort to improve the rate of prosecution of child sexual abuse and lessen the trauma to the child, the Government established the Children's Assessment Center (Barnahus). The center, which handled 100 to 125 cases annually, was intended to create a safe and secure environment where child victims feel more comfortable talking about what happened to them. The center brought together police, prosecutors, judges, doctors, and officials from child protection services. Under a 2000 Supreme Court ruling, a district court judge could hold an investigatory interview in the courthouse rather than at the center. Human rights observers criticized this ruling as a step backward in the protection of children's rights.

Human rights observers also criticized the establishment of a national health database that included children. Medical records of children under the age of 18 automatically were entered into the database unless their legal guardians requested otherwise. On reaching the age of 18, a person could elect to discontinue their inclusion in the database, but information already stored could not be withdrawn (*see* Section 1.f.).

*Persons with Disabilities.*—There was no reported discrimination against persons with disabilities in employment, education, or the provision of other state services. The law provides that such persons have the right to all common national and municipal services and provides that they be given assistance to make it possible for them to live and work normally in society. The law also provides that persons with disabilities receive preference for a government job when they are qualified equally, or more qualified, than regular applicants.

Building regulations require that public accommodations and government buildings, including elevators, be accessible to persons in wheelchairs. The regulations also specify that one percent of parking spaces (a minimum of one space) be reserved for persons with disabilities. The regulations also specify that, to the extent possible, the sidewalk outside the main entrance of such a building be heated so that it remains clear of ice and snow. Violations of these regulations are punishable by a fine or a jail sentence of up to 2 years; however, the main association for persons with disabilities has complained that enforcement is lax and that penalties rarely are assessed for noncompliance.

In 2000 the Supreme Court ruled that the reduction of social security payments to persons with disabilities based on the income of their spouses violated constitu-

tional protections regarding equality and support for persons with disabilities. In response, Parliament in 2001 increased the minimum payment to persons with disabilities who have able-bodied spouses, but continued to subject benefits to a modified means test. The Association of Disabled Persons protested that the legislation did not comply with the Supreme Court ruling and challenged the law in court. The case was on appeal at year's end.

While significant progress has been made in addressing the concerns and needs of persons with physical disabilities, some mental health advocates criticized the Government for not devoting sufficient attention and resources to the care of persons with mental disabilities.

*National/Racial/Ethnic Minorities.*—There is no law that prohibits organizations that promote and incite racial discrimination. The Prime Minister and others expressed concern that the rapidly increasing number of foreigners entering the country to meet labor shortages could lead to future problems, especially in the event of an economic downturn. According to the National Statistical Office, at the end of 2001, 9,850 foreigners were living in the country, approximately 3 percent of the population. Many temporary workers come from Central and Eastern Europe and the former Soviet Union, and the Directorate of Immigration expected most to seek to remain permanently rather than return to their countries of origin. The term *nyblar*—newcomer—has taken on a negative connotation according to human rights observers and is increasingly applied to immigrants of color. Asian women in public at night reportedly were taunted on the assumption that they were prostitutes, and minority children were teased for allegedly having been purchased on the Internet. In September a Gallup Poll revealed that only 27 percent of citizens aged 45 to 54 had positive feelings toward foreigners; however, nearly half the 16- to 24-year-olds had positive feelings.

The City of Reykjavik, together with three other municipalities and the Icelandic Red Cross, operated an Intercultural Center that helps foreigners adjust to living in the country. The center offered free translation, education, research, and advice services. The Ministry of Social Affairs operated a Multicultural Center in Isafjordur that facilitated the interaction of citizens with foreign nationals and provided support services for foreign nationals in rural municipalities.

Human rights observers continued to express concern about a tiny ultranationalist organization, Iceland for Icelanders, which was founded in 1997 with the goal of limiting the further settlement of foreigners in the country to persons of European origin. In 2001 the Supreme Court fined the deputy leader of the organization for making disparaging remarks about foreigners in a newspaper interview.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right of workers to establish unions, draw up their own constitutions and rules, choose their own leaders and policies, and publicize their views, and workers exercised these rights. Labor unions were independent of the Government and political parties. Approximately 85 percent of all eligible workers belonged to unions.

Labor courts effectively adjudicated disputes over contracts and over the rights provided by the law, which prohibits antiunion discrimination. By law employers found guilty of antiunion discrimination are required to reinstate workers fired for union activities; however, in practice the charges often were difficult to prove.

Unions were permitted to affiliate internationally, and they took active part in Nordic, European, and other international trade union bodies.

*b. The Right to Organize and Bargain Collectively.*—Union membership is not impeded by law or practice. Employers were required to withhold union dues (one percent of gross pay) from the pay of all employees, whether or not they were union members, to help support disability, strike and pension funds and other benefits to which all workers are entitled.

Trade unions and management organizations periodically negotiate collective bargaining agreements that set specific terms for workers' pay, hours, and other conditions. Collective bargaining agreements were negotiated in 2000, and most are scheduled to expire in 2003 and 2004. The Government played a minor role in the bargaining process, providing mediation assistance in a few cases (through the State Mediator's Office).

The Icelandic Federation of Labor (IFL) lost two lawsuits in 2001 in which it charged that Parliament's intervention in the fish industry strike violated the seamen's constitutional rights to associate freely and to bargain collectively (*see* Section 6.a.). In December 2001, the IFL made the same complaints to the International

Labor Organization (ILO). The Government answered ILO questions in August, and the case remained open at the end of the year.

With the exception of limited categories of workers in the public sector whose services are essential to public health or safety, unions have the right to strike. There were no strikes during the year.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred. Work permit practices left newly arrived foreign workers vulnerable to abuse by employers (see Section 6.e.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits the employment of children younger than age 16 in factories, on ships, or in other places that are hazardous or require hard labor; this prohibition is observed in practice. Children 14 or 15 years old may be employed part time or during school vacations in light, nonhazardous work. Their work hours must not exceed the ordinary work hours of adults in the same occupation. The Occupational Safety and Health Administration enforced child labor regulations effectively.

*e. Acceptable Conditions of Work.*—No minimum wage is mandated by law, but the minimum wages negotiated in various collective bargaining agreements applied automatically to all employees in those occupations, whether they were union members or not. Labor contracts provided a decent standard of living for a worker and family.

The standard legal workweek was 40 hours, which included nearly 3 hours of paid breaks a week. Work exceeding 8 hours in a workday must be compensated as overtime. Workers were entitled to 11 hours of rest within each 24-hour period and to a day off every week. Under defined special circumstances, the 11-hour rest period could be reduced to 8 hours, but workers would then have to be compensated with 1.5 hours of rest for every hour received less than 11 hours. The day off could be postponed by 1 week, in which case the worker had a right to 2 additional hours off the following week.

Health and safety standards were set by Parliament and administered and enforced by the Ministry of Social Affairs through its Occupational Safety and Health Administration, which could close down workplaces until safety and health standards were met. Workers had a collective, not an individual, right to refuse to work in a place that did not meet occupational safety and health criteria. Firing workers who report unsafe or unhealthy conditions was illegal.

The Government's practice of issuing work permits for newly arrived foreign workers or refugees to the employer rather than to the employee made workers vulnerable to abuse by the employer in some instances (see Section 5).

*f. Trafficking in Persons.*—The law does not prohibit specifically trafficking in persons, although a number of legal provisions may be used to prosecute such cases. There were reports that women were trafficked to and within the country.

Article 206 of the Constitution specifies imprisonment for a conviction of facilitating a minor's entry or departure from the country if the purpose was commercial sex or if the victim was unaware of the genuine purpose, as through fraud. Criminal procedures also provide that victims may testify at government expense against traffickers. However, no person has ever been arrested or charged with trafficking in persons.

The 1984 Extradition Law provides that a person may be extradited as long as the offense involved would be punishable by more than 1 year's imprisonment. Article 206 of the general penal code provides for a sentence of up to 4 years imprisonment for an offense tantamount to trafficking in persons; therefore the law would allow the extradition of persons who were charged with trafficking in other countries.

Evidence of trafficking has been reported by police, NGOs, researchers and foreign diplomats, mainly in connection with foreign women who entered the country to work in striptease clubs. There was an assumption that some women travelling to Iceland to work in the country's striptease clubs were victims of trafficking. Hungary, the Czech Republic, Slovakia, Estonia, Latvia and the former Soviet Union were the main countries of origin for these dancers, but there were no statistics on the number or origin of women actually trafficked. While most attention has been focused on the country as a possible destination point for trafficked women, there have been some cases during the year that indicated that the country was also being used as a transit point for the movement of trafficked women between Europe and North America. There were no reliable estimates on how many women this may have involved.



Parliament in 2000 closed a loophole that allowed striptease dancers to enter the country as artists and perform without a work permit for up to 4 weeks. Subsequently, in order to work as a striptease dancer, any foreigner from outside the European Economic Area (EEA) was required first to obtain a work permit, which was typically valid for 3 months. Due to the action of government authorities in denying work and residence permits, the influx of nightclub dancers from outside the EEA slowed considerably in the second half of 2001. During the year the number of foreign dancers plummeted following a ban by Reykjavik authorities on private dances that served as a front for prostitution. At the end of the year, club owners were contesting the ban in the courts.

There were two cases since 2001 of foreign striptease dancers complaining to police that a club owner had pressured them into prostitution. The police investigation, which involved a total of six women from Estonia and Denmark, concluded without any charges being brought against the club owner. Foreign embassies reported that they had helped to repatriate women who realized upon arrival that they had been deceived concerning the work that they were expected to perform. Many employers required their dancers to live in small, crowded group houses provided by the clubs. Some clubs allegedly restricted their dancers' movement, enforced a curfew, and kept dancers under constant surveillance, confiscating their passports and airline tickets and warning them not to fraternize with persons outside work. The club owners reportedly limited the dancers' stay in the country to minimize the number of contacts that the women could make, moving them quickly to the next country and job.

Victims of trafficking could seek help at the women's shelter, counseling center, and hospital, all of which were government funded. There were no domestic NGOs dedicated solely to assisting victims of trafficking, nor was there an established government assistance program. Some NGOs provided government-supported counseling and shelter to women and children who were victims of violence or sexual abuse. The Icelandic Human Rights Center, which is also government funded, assisted with trafficking cases and made referrals (*see* Section 5).

There were no ongoing information, public awareness, or other antitrafficking programs during the year.

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## IRELAND

Ireland is a parliamentary democracy with a long tradition of orderly transfer of power. The Government consists of an executive branch headed by a prime minister, a legislative branch with a bicameral parliament, and a directly elected president. The judiciary is independent.

The national police (Garda Siochana) were under effective civilian control and had primary responsibility for internal security. Since the police were primarily an unarmed force, the army, which was under the effective civilian control of the Minister for Defense, acted in their support when necessary. The country's principal internal security concern since September 2001 has been the prevention of terrorist activity by international terrorists; however, the Government continued to monitor closely indigenous paramilitary groups active in the Republic and Northern Ireland. While most paramilitary groups, on both sides of the border, have declared permanent cease-fires pursuant to the 1998 Good Friday Peace Agreement, several groups remained active. Members of the police used excessive force during a May Day demonstration.

The country had an open, market-based economy that was highly dependent on international trade. Its population was 3.92 million. Assistance received from the European Union (EU) over the past two decades has helped the country to address socio-economic imbalances and infrastructure deficiencies. Although the country's economic performance in the past decade has been strong, unemployment during the year rose to 4.5 percent. However, per capita gross national product also increased by approximately 15 percent to \$29,425.

The Government generally respected the human rights of its citizens; although there were some problems, the law and judiciary provided effective means of dealing with individual instances of abuse. There were problems in prison sanitation and health care; however, recent renovations and new building projects significantly lessened prison overcrowding. The use of special arrest and detention authority and the use of non-jury courts in specific circumstances continued. Films, books, and periodicals were subject to occasional censorship; however, only videos actually were censored. Abuse and mistreatment of women and children were problems. Asylum seekers and Travellers (a nomadic community) faced some discrimination, and there were incidents of violence against racial minorities and immigrants. Ireland was in-

vited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life by the Government or its agents.

In January the Special Criminal Court in Dublin convicted Irish citizen Colm Murphy and sentenced him to 14 years for conspiracy in the 1998 bombing in Omagh, Northern Ireland. Murphy was the first person to be convicted in connection with the worst terrorist attack on the island in 30 years.

The Commission for the Location of Victims' Remains—established to locate the remains of persons abducted by the Provisional Irish Republican Army (IRA) in the 1970's—remained suspended during the year pending receipt of new information from the IRA.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them. Unlike in previous years, there were no confirmed instances of police abuse of detainees and prisoners.

The Government recorded the questioning of suspects in Garda stations, a practice designed to deter abuse or mistreatment. The Garda Complaints Board recorded 1,281 complaints (ranging from rudeness to physical abuse by police officers) in 2001.

There were incidents of societal violence against racial minorities and immigrants (see Section 5). The Garda Racial and Intercultural Office developed an electronic recording mechanism to track racially motivated incidents, but statistics generated were not available at year's end.

Prison conditions generally met international standards. Recent renovations and new building projects significantly improved physical infrastructure and reduced overcrowding; however, some prisons still lack in-cell sanitation facilities such as toilets and running water. Prisons also lacked sufficient health care facilities and services. The country had a low incarceration rate (80 inmates per 100,000 population), and the prison regime was generally liberal. Male prisoners were held separately from female prisoners, juveniles were held separately from adults, and pre-trial detainees were held separately from convicted prisoners.

Prisoners with complaints of mistreatment by prison officials or negligence of health and safety due to prison conditions had access to mechanisms for redress; however, the Justice Department indicated that there were no allegations of mistreatment of prisoners by the Prison Service during the year, and there were no outstanding claims from previous years.

The authorities continued to arrest and incarcerate at Portlaoise Prison persons involved in paramilitary activity. Conditions for these inmates were generally the same as those for the general prison population.

The Government permitted prison visits by domestic and international human rights observers in most cases; however, appointments were necessary to tour facilities. In December the Prison Service refused prison access to an NGO planning to conduct a study on racism; the Prison Service made the decision on the grounds that it had funded a similar study that was already underway. The Council of Europe's Committee for the Prevention of Torture (CPT) visited prisons during the year to assess the Government's response to their 1998 recommendations for improving conditions; its report was not available at year's end. Diplomatic observers who visited the Central Mental Hospital in Dundrum, the country's only prison for inmates with mental disabilities, which was condemned by the CPT in 1999, reported that little progress had been made to improve deplorable conditions.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution stipulates that no person shall be deprived of personal liberty without due process under the law; however, the use of special arrest and detention authority continued. A detainee has the right to petition the High Court, which is required to order the detainee's release unless it can be shown that the person is being detained in accordance with the law. The Criminal Justice Act provides for an initial period of detention of 6 hours, with an extension of another 6 hours pursuant to the direction of a police officer of the rank of superintendent or above in cases where there are grounds for believing that such detention is necessary for the proper investigation of an offense. A continuation of detention for 8 hours overnight is possible, to allow a detainee to sleep.

The Offenses Against the State Act allows police to arrest and detain for questioning anyone suspected of committing a “scheduled offense”—crimes involving firearms, explosives, or membership in an unlawful organization. Although the stated purpose of the act is to “prevent actions and conduct calculated to undermine public order and the authority of the State,” it is not restricted to subversive offenses. As a result, the police have broad arrest and detention powers in any case involving firearms. In cases covered by this act, the initial period of detention without charge is 24 hours at the direction of a police superintendent; detention may be extended another 24 hours by a judge. However, under the terms of the Decommissioning Law, the authorities may not institute proceedings against individuals for any offense committed in the course of decommissioning illegally held arms in accordance with an approved arms decommissioning scheme. Detainees and prisoners are allowed unrestricted access to attorneys. If the detainee does not have an attorney, the court will appoint one; if the detainee cannot afford an attorney, the Government will provide one through the Free Legal Aid program.

The law allows a court to refuse bail to a person charged with a serious offense where it is considered reasonably necessary to prevent the commission of another serious offense. A schedule of serious offenses is defined by law; the offense must be one that carries a penalty of 5 years’ imprisonment or more.

The Offenses Against the State Act also provides for the indefinite detention, or internment, without trial of any person who is engaged in activities that are “prejudicial to the preservation of public peace and order or to the security of the State”; however, this power has not been invoked since the late 1950’s. The act allows police to detain suspects in certain crimes, usually those involving serious offenses with firearms or explosives, for 48 hours. A 24-hour extension is possible if approved by a judge. The act also curtails the right of silence. Under the amendment, if the accused was informed of the consequences of remaining silent to questions regarding his whereabouts, associations, or actions, then the accused person’s silence may be used as corroborative evidence of guilt. The accused person’s failure to respond to accusations of membership in an illegal organization also may be used as corroborative evidence of guilt. However, the accused may not be convicted based solely on a refusal to speak.

Membership in or leadership of an illegal organization as defined by the Offenses Against the State Act carries a possible life sentence. The word of a police superintendent can be used as corroborative evidence of membership. Collecting information to aid in the commission of a serious offense carries a penalty of up to 10 years’ imprisonment, a fine, or both. Withholding information that could prevent a “serious” offense or that could aid in the apprehension or conviction of a perpetrator also is illegal, with a penalty of up to 5 years’ imprisonment, a fine, or both.

The Criminal Justice (Drug Trafficking) Act permits detention without charge for up to 7 days in cases involving drug trafficking; however, to hold a suspected drug trafficker for more than 48 hours the police must seek a judge’s approval.

The Constitution prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judicial system consists of a district court with 23 districts, a circuit court with 8 circuits, the High Court, the Court of Criminal Appeal, and the Supreme Court. The President appoints judges recommended by the Judicial Appointment Board, who choose from a list presented by the Government.

The Director of Public Prosecutions, an independent government official, prosecutes criminal cases. Jury trials usually are used in criminal cases, and the accused may choose an attorney. For indigent defendants, the State assumes the cost of providing counsel under the criminal legal aid scheme.

The Constitution explicitly allows “special courts” to be created when “ordinary courts are inadequate to secure the effective administration of justice and the preservation of public peace and order.” In 1972 the Government created a non-jury “Special Criminal Court” (SCC) to try “scheduled offenses.” Largely a reaction to paramilitary violence related to the troubles in Northern Ireland, the use of the SCC was justified as necessary to address the problem of jury intimidation in cases involving defendants with suspected paramilitary links. In 2001 the SCC indicted 29 persons and held 18 trials; 22 individuals were convicted on guilty pleas and 7 persons were convicted on not guilty pleas.

In addition to scheduled offenses, the Director of Public Prosecutions can have any nonscheduled offense tried by the SCC by certifying that the ordinary courts are inadequate to secure the effective administration of justice and the preservation of public peace. In lieu of a jury, the SCC always sits as a three-judge panel, and its verdicts are by majority vote. Rules of evidence are generally the same as in regular courts; however, the sworn statement of a police chief superintendent identifying the

accused as a member of an illegal organization is accepted as prima facie evidence. Sessions of the SCC generally are public, but judges may exclude certain persons other than journalists. Appeals of SCC decisions are allowed in certain circumstances. The Government continued to review the ongoing need for the SCC.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution and the law prohibit such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech; however, freedom of the press is subject to the constitutional qualification that it not “undermine public order or morality or the authority of the state.” The Constitution prohibits the publication or utterance of “blasphemous, seditious, or indecent matter.”

There were eight independent national newspapers and many local newspapers; two independent current affairs magazines were published, along with hundreds of special interest magazines.

Broadcasting remained mostly state controlled, but private sector broadcasting continued to grow. There were 49 independent radio stations and an independent television station. Expanded access to cable and satellite television lessened considerably the relative influence of state-controlled broadcasting. The Broadcasting Complaints Commission oversees standards and investigates complaints about programming. The Broadcasting Act empowers the Government to prohibit the state-owned radio and television network from broadcasting any matter that is “likely to promote or incite to crime or which would tend to undermine the authority of the State.” The Act was not employed during the year.

The Office of the Film Censor must classify films and videos before they can be shown or sold, and distributors pay fees to finance the censor’s office. Under the Censorship of Films Act, the censor has the authority to cut or ban any film that is “indecent, obscene, or blasphemous,” or which tends to “inculcate principles contrary to public morality or subversive of public morality.” During the year, no theatrical films were banned, but 16 videos were banned—primarily because of their pornographic or violent content—compared with 26 in 2001. Decisions of the censor can be appealed to a nine-member appeal board within 3 months, but neither the censor nor the appeal board is required to hear arguments or evidence in public or to state the reasons for its decisions.

Books and periodicals also were subject to censorship; however, as in previous years, no books or periodicals were censored. The Censorship of Publications Act calls for a five-member board to examine publications referred to it by the customs service or the general public. It also may examine books (but not periodicals) on its own initiative. The board may prohibit the sale of any publication that it judges to be indecent or obscene or that advocates the procurement of abortion or miscarriage.

While the press operated freely, some observers believed that the Defamation Act (which puts the onus on newspapers and periodicals accused of libel to prove that defamatory words are true) and the Official Secrets Act (which gives the State wide scope to prosecute unauthorized disclosures of sensitive government information) may result in some self-censorship.

Internet access was available and unrestricted. An Internet Advisory Board supervised self-regulation by Internet service providers and operated a hot line for complaints about any Irish-hosted child pornography sites the Internet.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides citizens with the right to “assemble peaceably and without arms”; however, it also allows the State to “prevent or control meetings” that are calculated to breach the peace or to be a danger or nuisance to the general public. It is unlawful to hold any public meeting on behalf of, or in support of, an illegal organization; however, the Government allowed meetings and assemblies by some groups that are associated with illegal terrorist organizations.

Police conduct during demonstrations generally was restrained; however, seven gardai accused of using their batons excessively during a May Day demonstration in Dublin faced charges of assault; at year’s end, the seven gardai were awaiting trial and were confined to indoor duties pending the outcome of the proceedings. An additional seven or eight police officers who used their batons excessively on the demonstrators were not identified.

The Constitution provides citizens with the right to form associations and unions; however, the law mandates the prosecution and incarceration of persons for mere

membership in a terrorist organization. Nevertheless the Government permitted some groups associated with illegal terrorist organizations to meet.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Constitution prohibits promotion of one religion over another and discrimination on the grounds of religion or belief, and the Government did not restrict the teaching or practice of any faith.

While approximately 92 percent of the population is Roman Catholic, the Church is not officially established. However, adherence to Roman Catholicism may be politically advantageous because of the country's history and tradition as a predominantly Catholic country and society. A majority of officeholders from the major political parties (Fianna Fail and Fine Gael) were practicing Catholics.

The Government does not require but does permit religious instruction in public schools. Most primary and secondary schools are denominational—the majority Catholic—and the Catholic Church partially controls their boards of management. The Government provides equal funding to the schools of different religious denominations. Although religious instruction is an integral part of the curriculum, parents may exempt their children from such instruction.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

The Government grants refugee and asylum status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government developed specific administrative procedures for the implementation of the convention in consultation with the U.N. High Commissioner for Refugees (UNHCR), and pursuant to a Supreme Court ruling, these procedures are binding on the Department of Justice, Equality, and Law Reform. The 1996 Refugee Act provides for asylum procedures that are in accordance with EU guidelines and also makes provision for invited refugees under UNHCR programs. The Government cooperated with the office of the UNHCR and other humanitarian organizations in assisting refugees.

A large number of asylum seekers continued to strain the Government's processing system and challenge societal acceptance (see Section 5). A record number of 11,530 asylum seekers entered the country, compared with 10,325 in 2001. The Government reduced processing time for new asylum applications from over 1 year to approximately 4 months: At year's end, 4,900 applications awaited processing, compared with 8,483 at the end of 2001. The Government granted first asylum to 893 persons, compared with 458 in 2001; in the same period, 1,097 persons were granted asylum on appeal, compared with 479 in 2001.

The Garda National Immigration Bureau (GNIB) monitored nonnationals who were the subject of deportation orders. The GNIB coordinated activities that led to deportation, including "Operation Hyphen"—a July raid on illegal immigrants that resulted in the arrest of 140 persons, 16 of whom were former asylum seekers awaiting deportation (the remainder had entered or were in the country legally). The GNIB also oversaw operational strategies and resources at ports of entry, coordinated efforts to combat trafficking in illegal immigrants, strengthened international liaison on immigration issues, administered the non-national registration service, and generally enforced immigration law.

The law forbids, and there were no reports of, the forced return of persons to a country where they fear persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for citizens over the age of 18. The Parliament is bicameral; members of the Dail (House of Representatives)—the chamber that carries out the main legislative functions—are elected popularly, while most members of the Seanad (Senate) are elected by vocational and university groups, with the others appointed by the Prime Minister. Several political parties have seats in both bodies. The President is elected popularly for a 7-year term and is limited to 2 terms. An appointed Council of State advises the President. Parliamentary elections were held on May 17, and Presidential elections were held in October 1997.

The President was a woman, and 22 of the 166 deputies in the Dail and 9 of the 60 senators were female. Two of the 15 government ministers were female, as were

2 of the 17 junior ministers. Three women sat on the 26-member High Court, and 2 of the 8 Supreme Court judges were female.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

A government ombudsman investigated complaints by those who believed that they had been unfairly treated by the Government or by local authorities.

The Human Rights Commission, established by the Government in 2000 as stipulated in the Good Friday Agreement, began functioning at year's end. The Commission was responsible for providing information and promoting awareness of human rights, commenting on human rights draft legislation referred to it by the Parliament, making recommendations to the Government on the adequacy and effectiveness of laws and practices, and initiating court proceedings or providing assistance to individuals doing so. The Good Friday Agreement also mandates equivalency with regard to protection of human rights in Northern Ireland and the Republic of Ireland.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Employment Equality Act outlaws discrimination in relation to employment on the basis of nine distinct discriminatory grounds: Gender, marital status, family status, sexual orientation, age, disability, race, and membership in the Traveller community. The 2000 Equal Status Act outlaws discrimination in the provision of goods, facilities, and services on these grounds.

*Women.*—Domestic violence and emotional abuse were common problems, although there were modest improvements. The Garda recorded 9,983 incidents of domestic violence in 2001, a decrease of 18 percent from 2000. The National Steering Committee on Violence Against Women (a multiagency government body) continued its public outreach campaign to combat violence against women, which it described as a "hidden" and "severely under reported" problem. Since the campaign began in 1999, there have been increases in the number of counseling calls to the country's 18 rape crisis centers, in the number of rapes reported, and in public awareness about the extent of the problem. In addition to the 18 rape crisis centers, there were 15 women's shelters and 13 women's centers throughout the country, funded in part by the Government.

In 2001 the Dublin Rape Crisis Center reported receiving 9,982 counseling calls in all categories (child sexual abuse, adult rape, adult sexual assault, sexual harassment), which was a significant increase over the previous year. The center estimated in 2001 that 167 rape victims reported the crime to police. Recent victims and victims raped by a stranger were more likely to report the rape to police. In 2001 17 rape cases were tried, resulting in 15 convictions.

The law criminalizes rape within marriage, and the Civil Legal Aid Act provides for free legal advice to victims in cases of serious sexual assault. In rape cases, the State brings the case against the accused, with the complainant (victim) acting as a witness. The 2000 Sex Offenders Bill provides that "separate legal representation will be provided to complainants in rape and other serious sexual assault cases where application is made to adduce evidence or to cross-examine the complainant about his or her past sexual experience."

The law prohibits discrimination against women in the workplace; however, inequalities persisted regarding pay and promotions in both the public and the private sectors. Women held 46 percent of public sector jobs but were underrepresented in senior management positions. A 1999 government report found that at least 50 percent of state-sponsored bodies have no guidelines for dealing with sexual harassment and no policy on equal opportunity. The law provides for protection and redress against discrimination based on gender and marital status, and the Equality Authority monitored the implementation of the law. In 2001 the earnings of women averaged 85 percent of those of men.

Women's participation in the workforce was hampered by the lack of adequate childcare facilities. To encourage the participation of parents, both men and women, in the workforce, the Government included in its 2000–2006 national development plan an equal opportunities childcare program, which allocated approximately \$275 million (317 million Euros) to improve childcare availability and quality.

The Maternity Protection Act provides a woman with 14 weeks of paid maternity leave and the right to return to her job. The Parental Leave Act allows a child's mother and father each to take 14 weeks of unpaid leave to care for a child under

the age of 5. Although each parent has a separate entitlement to parental leave, the leave is not transferable, i.e., the mother cannot take the father's leave or vice versa. Parental leave does not affect a mother's right to maternity leave.

*Children.*—The Government was committed strongly to children's rights and welfare; it amply funded systems of public education and health care. Under the Child Care Act, education is free and compulsory for children from 6 to 15 years of age. Almost all children attended school. The Minister of State (junior minister) for Health has special responsibility for children's policy, including monitoring the implementation of the Child Care Act by the eight regional health boards. The Status of Children Act provides for equal rights for children in all legal proceedings.

The sexual abuse of children was a problem and continued to receive significant media attention. During the year, past sexual abuse by Catholic priests came under intense media and public scrutiny. Following an October national television program that exposed numerous cases of child sexual abuse by priests and possible cover-ups by Church authorities, the Government announced plans to establish a commission to investigate these charges. The Dublin Rape Crisis Center reported that 44 percent of calls to its crisis line involved child sexual abuse. The Child Care Act places a statutory duty on government health boards to identify and help children who are not receiving adequate care, and it gives the police increased powers to remove children from the family when there is an immediate and serious risk to their health or welfare. The Child Trafficking and Pornography Act aims to protect children from sexual exploitation, including any exchange of information on the Internet that implies a child is available for sex.

*Persons with Disabilities.*—The Government Commission on the Status of People with Disabilities estimated that approximately 10 percent of the population have a disability. It is unlawful to discriminate against anyone on the basis of disability in relation to employment. Nongovernmental organizations (NGOs) claimed that there is societal discrimination against persons with disabilities.

As a result of public dissatisfaction with provisions of the proposed 2001 Disability Act and The Education Disability Bill the Government withdrew the proposals that were intended to build on existing legislation.

The 1991 Building Regulations Act established minimum criteria to ensure access for persons with disabilities to all public and private buildings constructed or significantly altered after 1992; however, enforcement was uneven.

A National Disability Authority has responsibility for setting disability standards, monitoring the implementation of these standards, and researching and formulating disability policy. The authority's strategic plan for 2000–03 has three priorities: The development of policies to promote the equal status of persons with disabilities, influencing societal attitudes, and ensuring services for persons with disabilities.

*National/Racial/Ethnic Minorities.*—Approximately 25,000 nomadic persons regard themselves as a distinct ethnic group called "Travellers," roughly comparable to the Roma of continental Europe. The Traveller community has its own history, culture, and language. Travellers faced societal discrimination and regularly were denied access to premises, goods, facilities, and services; many restaurants and pubs, for example, will not serve them. Anti-trespassing legislation enacted this year led to evictions of Travellers from public and private property. Despite national school rules that provide that no child may be refused admission on account of social position, Travellers frequently experienced difficulties enrolling their children in school, and the students at times were segregated into all-Traveller classes. Of the estimated 5,000 Traveller families, approximately 1,200 lived on roadsides or on temporary sites without toilets, electricity, or washing facilities. Many Travellers were dependent on social welfare for survival and were unable to participate in the mainstream economy because of discrimination and a lack of education.

The Employment Equality Act outlaws job discrimination against Travellers. As recommended by a 1995 task force report, a monitoring committee oversaw reforms to address problems encountered by Travellers.

The Housing (Traveller Accommodation) Act requires local elected officials to draw up and implement Traveller accommodation plans on a 5-year basis and requires Traveller input in the process. In 2001 the monitoring committee issued a report with 85 recommendations, including providing 2,200 housing units to Traveller families this year. At year's end, 129 units had been allocated. The report acknowledged that tracking the progress of improvements in the Traveller community was difficult because of a lack of data on Travellers' use of education and health services. To develop better relations between Travellers and the settled community, the Government agreed to provide a Traveller Mediation Service and \$1 million (1.14 million Euros) over a 3-year period for awareness programs.

Societal discrimination and racial violence accompanied the growing influx of foreign workers. These developments sparked public debate over the openness of society to immigrants and how to address outbreaks of xenophobic incidents of violence. In 2001 an Amnesty International survey found that 78 percent of respondents reported having experienced racism. Racially motivated incidents involved physical violence, intimidation, and verbal slurs, and the majority of incidents of racist violence took place in public places. In January a group of youths taunted and with an iron bar beat a 29-year-old Chinese student who was walking home from a party in north Dublin with two other Chinese nationals. The student later died in the hospital—the country's first confirmed racially motivated fatality. One of the six juvenile perpetrators was charged with manslaughter, and the other five were charged with violent disorder; the cases remained pending at year's end.

*Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers with the right to join—or refrain from joining—a union, and workers exercised this right in practice.

Approximately 50 percent of workers in the private and public sectors were union members. Police and military personnel may form associations, but technically not unions, to represent themselves in matters of pay, working conditions, and general welfare. The Irish Congress of Trade Unions (ICTU) represented 58 unions island-wide, including 48 in the Republic of Ireland. The ICTU was independent of the Government and political parties.

The Anti-Discrimination (Pay) Act and the Employment Equality Act make the Equality Authority responsible for the investigation of allegations of antiunion discrimination, which is prohibited under the law. If the authority is unable to obtain resolution, the dispute goes before the Labor Court, which consists of one representative each for the employer and the union, plus an independent chairperson. The Unfair Dismissals Act provides for various forms of relief in cases where employers are found guilty of antiunion discrimination, including the reinstatement of workers fired for union activities.

Unions may freely form or join federations or confederations and affiliate with international bodies, and many did so.

*b. The Right to Organize and Bargain Collectively.*—Labor unions have full freedom to organize and to engage in collective bargaining, and unions exercised this right in practice. Most terms and conditions of employment were determined through collective bargaining, in the context of a national economic pact negotiated every 3 years by the “social partners,” i.e., unions, employers, farmers, and the Government. The latest version of these agreements, the Partnership for Prosperity and Fairness, was signed in 2000.

The Labor Relations Commission provides advice and conciliation services in industrial disputes. The Commission may refer unresolved disputes to the Labor Court, which may recommend terms of settlement and may set up joint employer-union committees to regulate conditions of employment and minimum wages in a specific trade or industry.

The law provides for the right to strike, and this right was exercised in both the public and private sectors; however, police and military personnel are prohibited from striking. A number of strikes occurred during the year, notably in the manufacturing, transport, storage and communication sectors, although the number of days lost to industrial disputes fell sharply from last year—12,110 in the first 6 months of this year, compared with 110,133 in the same period in 2001. All strikes concluded peacefully, with the unions involved achieving some, if not all, of their goals. The 1990 Industrial Relations Act prohibits retribution against strikers and union leaders; the Government effectively enforced this provision through the Department of Enterprise, Trade, and Employment.

The export processing zone at Shannon Airport operated under the same labor laws as the rest of the country.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Under the law, employers may not employ children under the age of 16 in a regular, full-time job. Employers may hire 14- or 15-year-olds for light work on school holidays, as part of an approved work experience or educational program, or on a part-time basis during the school year (for children over the age of 15 only). The law sets rest intervals and maximum working hours, prohibits the employment of 18-year-olds for late night work, and requires employers to keep specified records for workers who are under 18 years of age. Enforcement was reportedly lax, but violations were rare.



*e. Acceptable Conditions of Work.*—During the year, a new national minimum wage, \$6.00 (6.35 Euros) per hour, went into effect. This wage does not provide a decent standard of living for a worker and family; however, low-income families are entitled to benefits such as subsidized housing and children's allowances.

The standard workweek is 39 hours. Working hours in the industrial sector are limited to 9 hours per day and 48 hours per week. Overtime work is limited to 2 hours per day, 12 hours per week, and 240 hours per year. The Department of Enterprise, Trade, and Employment is responsible for enforcing the laws dealing with occupational safety, which provide adequate and comprehensive coverage; no significant complaints arose from either labor or management regarding enforcement of these laws. Regulations provide workers with the right to remove themselves from dangerous work situations that present a "serious, imminent and unavoidable risk" without jeopardy to their continued employment.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons, and there were no confirmed reports that persons were trafficked to, from, or within the country; however, NGOs believed there were cases of trafficking, although they had no concrete evidence.

The Child Trafficking and Pornography Act criminalizes trafficking in children for the purpose of sexual exploitation, with penalties of up to life imprisonment. The Illegal Immigrants (Trafficking) Bill criminalizes the activities of persons trafficking in illegal immigrants and asylum seekers. There is no specific legislation addressing trafficking in women for sexual criminal activities, although laws prohibit the exploitation of prostitutes, and the exploitation of prostitutes by means of coercion or fraud. Traffickers who facilitate for gain the entry of illegal immigrants or asylum seekers are liable for fines or imprisonment for terms ranging from 1 to 10 years.

The Ministries of Justice and Foreign Affairs and the GNIB were involved in antitrafficking efforts, and there were links between government officials, NGOs, and other elements of civil society on trafficking issues. A coalition of NGOs that deal in part with trafficking issues met periodically during the year.

## ITALY

Italy is a longstanding, multiparty parliamentary democracy. Executive authority is vested in the Council of Ministers, headed by the president of the Council (the Prime Minister). The Head of State (President of the Republic) nominates the Prime Minister after consulting with the leaders of all political forces in Parliament. In May 2001, the Parliament was elected in elections that were considered free and democratic. The Constitution provides for an independent judiciary; however, long trial delays and the impact of organized crime on the criminal justice system complicated the judicial process.

The armed forces are under the control of the Ministry of Defense. The Ministry of Defense controls the Carabinieri, a military security force; however, the Ministry of Interior assumes control of the Carabinieri when they are called upon to assist police forces in maintaining public order. Four separate police forces report to different ministerial or local authorities. Under exceptional circumstances, the Government may call on the army to provide security in the form of police duty in certain local areas, thereby freeing the Carabinieri and local police to focus on other duties. During the last few years, the army intermittently has supported the police in Sicily and in the province of Naples, where there are high levels of organized crime. There were allegations that police committed human rights abuses.

The country had an advanced, industrialized market economy, and the standard of living was high for the country's population of approximately 57.8 million. Small and midsize companies employed from 70 to 80 percent of the work force. Major products included machinery, textiles, apparel, transportation equipment, and food and agricultural products. The Government owns a substantial number of enterprises in finance, communications, industry, transportation, and services, but privatization continued to move forward at a measured pace.

The Government generally respected the human rights of its citizens; although there were some problems, the law and judiciary provide effective means of dealing with individual instances of abuse. There were some reports of police abuse of detainees, and use of excessive force against ethnic minorities. Accusations of police abuse were investigated by the judiciary. Prisons were overcrowded. The pace of justice was slow, and perpetrators of some serious crimes avoided punishment due to trials that exceed the statute of limitations. Lengthy pretrial detention was a serious problem. The Government has taken steps to combat violence against women and child abuse; however, they remained problems. Societal discrimination against

women and discrimination and sporadic violence against immigrants and other foreigners continued to be problems. Child labor, mainly involving immigrant children, continued in the underground economy, but authorities investigated such reports actively. Trafficking in persons into the country, particularly women and girls for prostitution, was a problem, which the Government took steps to address. Italy was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

In December the investigating prosecutor recommended dismissing all charges against a policeman who shot and killed a rioting demonstrator during violent assaults by antiglobalization demonstrators during the July 2001 G-8 summit in Genoa. The prosecutor judged the policeman to have acted in self defense against "imminent and real danger" (see Section 1.d.).

There were a number of deaths in prison (see Section 1.c.).

The Red Brigades, a domestic terrorist movement, was believed to be responsible for the assassination of Marco Biagi in March outside his home in Bologna. The same group claimed responsibility for the 1999 shooting death of Massimo D'Antona outside his home in Rome. Forensic analysis indicated that the same weapon was used in both killings. Both men were respected academics who were employed as senior advisers to the Minister of Labor and had been associated with mainstream trade union organizations. At their September sentencing for other crimes, two Red Brigade members declared that Biagi's death had weakened the Government.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, there were reports of incidents in which police abused detainees. According to Amnesty International (AI), police occasionally used excessive force against persons detained in connection with common criminal offenses or in the course of identity checks. While this behavior affected both citizens and foreigners, Africans and Roma were at particular risk (see Section 5).

Judicial investigation of events at mass antiglobalization demonstrations in Naples (March 2001) and Genoa (July 2001) supported charges that some police used deliberate and excessive force on detainees. Some of the worst abuse occurred in connection with a July 2001 police raid at the Diaz school, where the antiglobalization group Genoa Social Forum had its headquarters. Of the approximately 100 detainees, approximately 60 sustained numerous and severe injuries, with additional abuse inflicted as detainees were transported to detention facilities. Although judicial investigators confirmed that abuses occurred, identifying those responsible proved difficult—something that AI stated created "substantial impunity" (see Section 1.d.).

Overcrowded and antiquated prisons continued to be a problem. Fifty-six thousand detainees were incarcerated in a prison system designed to hold 42,100. Older facilities tend to lack outdoor or exercise space, compounding the difficulties of close quarters. Approximately 55 percent of detainees were serving sentences; the other 45 percent consisted mainly of persons awaiting trial or the outcome of an appeal. Thirty percent of inmates were foreigners; however, in some prisons, foreigners outnumbered Italian citizens. In August prisoners in nearly half the prisons staged a coordinated protest against overcrowding and poor conditions and in favor of an amnesty. Nearly one in three prisoners was jailed for a drug violation. Approximately 108 prisoners died while in jail during the year, the same number as in 2001; 52 committed suicide, a 25 percent reduction from the 68 suicides in 2001. An additional 878 unsuccessful suicide attempts and approximately 6,300 acts of self-mutilation also were reported.

Men were held separately from women, and juveniles were held separately from adults; however, pretrial detainees were not held separately from convicted prisoners.

The Government permitted visits by independent human rights organizations, parliamentarians, and the media. Politicians from opposition parties conducted a highly publicized September inspection of prison conditions in connection with prisoner protests of overcrowding. AI, the U.N. Human Rights Commission (UNHRC), the U.N. Committee Against Torture, and the U.N. Special Rapporteur on Torture regularly assessed the country's judicial and prison system. The nongovernmental

organization (NGO) Antigone, which is composed primarily of lawyers, magistrates, and academics, promoted the rights of detainees, worked closely with the European Commission for Prevention of Torture, and monitored the prison system.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. However, judicial investigations of violence at March and July 2001 antiglobalization protests suggested that authorities did not always fully respect these rights. One officer testified that a ranking police official ordered him to plant the two Molotov cocktails reportedly found by police during their July 2001 raid on the Diaz school (headquarters of one of the principal groups that organized the antiglobalization demonstrations in connection with the Genoa G-8 summit). Despite conflicting statements from other officers, investigators concluded in October that telephone records and videotape corroborated the testimony. The Molotov cocktails subsequently had been used by police to justify the arrest of 93 individuals detained during the raid. Scientific tests did not corroborate police claims of a knife attack on one of the first officers to enter the school. This alleged assault was cited subsequently as the reason for rough police behavior during the raid that resulted in serious injury to at least 60 of the detained demonstrators. Conflicting testimony by police contributed to the magistrates' decision to place under investigation 29 officers involved in the Diaz raid. An additional 48 officers suspected of committing abuses elsewhere in Genoa during the antiglobalization protests also were placed under investigation.

Warrants are required for arrests unless there is a specific and immediate danger to which the police must respond without waiting for a warrant. Under the law, detainees are allowed prompt and regular access to lawyers of their choosing and to family members. The state provides a lawyer to indigents. Within 24 hours of a suspect's detention, the examining magistrate must decide whether there is enough evidence to proceed to an arrest. The investigating judge then has 48 hours in which to confirm the arrest and recommend whether the case goes to trial. In exceptional circumstances—usually in cases of organized crime figures—where there is danger that attorneys may attempt to tamper with evidence, the investigating judge may take up to 5 days to interrogate the accused before the accused is allowed to contact an attorney. The U.N. Human Rights Committee, the treaty monitoring body for the International Covenant on Civil and Political Rights, recommended in 1998 that this 5-day period be reduced and that all detainees have access to legal advice immediately upon arrest.

There is no provision for bail; however, judges may grant provisional liberty to suspects awaiting trial. As a safeguard against unjustified detention, panels of judges (liberty tribunals) review cases of persons awaiting trial on a regular basis per a detainee's request and rule whether continued detention is warranted. Persons in detention included not only those awaiting trial, but also individuals awaiting the outcome of a first or second appeal (*see* Section 1.e.). Pretrial detention may last for a maximum of 24 months. The Constitution and the law provide for restitution in cases of unjust detention (*see* Section 1.e.).

Preventive detention can be imposed only as a last resort if there is clear and convincing evidence of a serious offense (such as crimes involving the Mafia or those related to drugs, arms, or subversion) or if there is a risk of an offense being repeated or of evidence being falsified. In these cases, a maximum of 2 years of preliminary investigation is permitted. Except in extraordinary situations, preventive custody is not permitted for pregnant women, single parents of children under 3 years of age, persons over 70 years of age, or those who are seriously ill. Preventive custody may be imposed only for crimes punishable by a maximum sentence of not less than 4 years. Prosecutors are required to include all evidence favorable to the accused in requests for preventive detention. The defense may present any favorable evidence directly to the court. Magistrates' interrogations of persons in custody must be recorded on audio tape or videotape to be admissible in judicial proceedings.

In April Naples prosecutors ordered the preventive detention of eight policemen accused of brutality against March 2001 antiglobalization protestors, reportedly because they were frustrated by police reluctance to supply information. The order generated immediate controversy, in part because circumstances a year after the 2001 events did not appear to satisfy the law's requirements for "preventive" arrest and in part because prosecutors had not taken similar action against violent demonstrators. The arrests prompted protests by Naples policemen, which were supported by national police unions and police demonstrations elsewhere in the country. Revelations that some judicial authorities had taken part in the March 2001 protest prompted charges that investigating magistrates were politically motivated. Justice Minister Castelli wrote to the autonomous judiciary's self-governing body (*see* Section 1.e.) to suggest that prosecutors' plans to attend a May 10 seminar on dissent and globalization, concurrent with their ongoing investigations of the March 2001

protests, were “inopportune.” On May 11, a Naples review court ordered the arrested officers freed; however, they remained under investigation at year’s end.

In early December, a court ordered the release of 18 antiglobalization activists held under investigative detention as flight risks. Critics had charged that their mid-November detention (on possible charges of subversion and conspiracy in connection with violent 2001 protests in Naples and Genoa) amounted to repression of political speech and were another example of lack of judicial independence (*see* Section 1.e.). Also in December, police arrested 23 antiglobalization activists for specific property destruction crimes committed during the 2001 riots in Genoa.

The law prohibits forced exile—either internal or abroad—and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. However, most cases involve long trial delays and the impact of organized crime on the criminal justice system complicates the judicial process.

The judiciary is comprised of professional magistrates who are selected through competitive exams, and in general advance through seniority. Magistrates function either as prosecutors (the executive branch does not perform prosecutorial functions) or trial and appellate judges. It is not unusual for magistrates to switch between these functions over the course of their career. The judiciary is self-governed by the Superior Council of the Magistracy (CSM). Two-thirds of its members are selected by magistrates, the rest by Parliament.

There are three levels of courts. A single judge hears cases at the level of courts of first instance. At the second level, separate courts hear appeals for civil and penal cases. Decisions of the Court of Appeals can be appealed to the highest court, the Court of Cassation (Supreme Court) in Rome, but only for reasons related to correct application of the law, not to a case’s merit. A separate Constitutional Court hears cases involving possible conflict between laws and the Constitution or involving conflicts over the duties or powers of different units of government.

Prosecutors may appeal unfavorable court verdicts, including sentences they deem too lenient. The Constitution gives prosecutors broad latitude to investigate filed complaints and media reports of crimes. Since magistrates cannot investigate every report of a crime, this allows for them to set their own investigative priorities.

The law provides for the right to fair and public trials, and the judiciary generally enforced this right. The law grants defendants the presumption of innocence. Defendants have access to an attorney sufficiently in advance to prepare a defense and can confront witnesses. All evidence held by prosecutors may be made available to defendants and their attorneys. Defendants may appeal verdicts to the highest appellate court. Trials were slow throughout the country.

Although some observers noted improvement, domestic and European institutions continued to criticize the slow pace of justice in the country. A January analysis by national newspaper *Corriere della Sera* indicated that the average wait for a definitive verdict in a criminal case declined slightly to 1,760 days (slightly less than 5 years). In 2001 the European Court of Human Rights issued 391 judgments against Italy for excessively long proceedings, more than half of the court’s 683 rulings. Observers cited several reasons for delays: The absence of effective limits on the length of pre-trial investigations; the large number of minor offenses included in the penal code; unclear and contradictory legal provisions; prosecutors’ complete freedom to set prosecutorial priorities (and some prosecutors’ decisions to devote inordinate resources to a small number of cases); and insufficient resources, including an inadequate number of judges.

In December an appellate court again convicted two professors for the 1997 shooting death of a student at Rome’s La Sapienza University. In 2001 the Court of Cassazione previously had ordered the case retried after the defendants appealed an earlier appellate conviction.

Reforms passed in 2001 reduced prosecutor’s procedural advantages during trials and addressed problems created by abuses of some anti-Mafia measures, most notably those involving “pentiti,” or Mafia informants. Judges may order the immediate detention of potentially dangerous individuals to reduce intimidation of witnesses and the risks that additional crimes could be committed while cases are under appeal. Pentiti must give testimony in open court, where it can be challenged by defense attorneys, and must provide significant testimony in order to receive benefits such as state protection and, for those convicted of other crimes, reduced sentences.

Despite these reforms, organized crime cases continued to generate controversy. In November an appellate court convicted former prime minister Andreotti of conspiracy to commit murder while simultaneously determining that there was insufficient evidence to convict the alleged murderers. Andreotti previously had been both acquitted and convicted of the charges in other trials stretching back to 1993. The

conviction, based largely on the testimony of pentiti, sparked widespread criticism (including indirectly from the CSM) and calls for additional judicial reform from across the political spectrum.

The Berlusconi government continued to press new reform proposals despite strong opposition from the magistrates. In March Parliament reduced the CSM's membership from 30 to 24 and abolished electoral tickets as the basis for election to the 16 CSM slots held by magistrates. In June magistrates staged a 1-day strike to protest government reform proposals. Those proposals included: Reducing magistrates' ability to switch between the trial judge and prosecutor career tracks, tying magistrates' advancement to merit rather than seniority, and having Parliament set priorities for categories of crimes to be prosecuted. In November the Parliament approved a measure restoring a legal provision that allows defendants to request a change of venue, if they had "legitimate suspicion" of bias by the trial judge. Critics stated that this measure was designed to help Berlusconi delay the remaining case involving his business dealings before he became Prime Minister.

Prime Minister Berlusconi continued to face one trial associated with his business activities prior to taking office the first time in 1994. Several prior cases were dismissed for lack of evidence, for exceeding the statute of limitations, or because the courts judged him innocent of the charges. Berlusconi attributed these cases to the leftist political agendas of some judges. The magistrates and the political opposition, in contrast, accused the Prime Minister of using his position to protect his legal and business interests.

There were no reports of political prisoners.

*f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice. Searches and electronic monitoring may be carried out only under judicial warrant and in carefully defined circumstances; violations are subject to legal sanctions. However, after September 11, 2001, Parliament expanded antiterrorist laws to apply to suspects responsible for directing violent acts outside the country's borders and authorized prosecutors to order wiretaps in connection with ongoing investigations. Parliament imposed safeguards to prevent the release of information intercepted without prior judicial authorization to unauthorized persons and forbade its use in criminal proceedings.

In June Parliament discovered that wiretaps were used to probe how journalists acquired leaked information, in addition to investigate criminal allegations. A combination of conservative and liberal parliamentarians and press organizations criticized the autonomous judiciary for having authorized wiretaps that, in the case of an *Il Giornale* reporter—whom the authorities believed had knowledge of a fugitive's whereabouts—lasted 4½ months in 1998. Critics noted that the judiciary authorized 48,000 wiretaps. Privacy Authority Chairman Stefano Rodota warned against the proliferation of electronic surveillance by unobserved video cameras in public places.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. However, the autonomous judiciary is sensitive to investigative leaks and press criticism and imposes fines for defamation (*see* Section 1.f.). In connection with press leaks, in March and May, judges authorized raids on the homes and offices of journalists working for leading dailies *La Repubblica*, *Corriere della Sera*, and *La Stampa*. Police questioned journalists and seized their laptop computers, mobile telephones, electronic diaries, and paper and digitized archives. Political leaders and press organizations criticized the raids. In 2001 defamation suits against journalists and newspapers amounted to more than \$1.5 billion (1.52 billion euros). The costs to major publications resulting from legal fees and the settlement of lawsuits by successful plaintiffs amounts to an estimated several million dollars annually. Many defamation lawsuits were filed by politicians. In 2001 the highest appeals court ruled that journalists and editors could be sued for defamation for quoting insulting remarks by third parties in their publications. However, another part of the ruling stated that public figures, including prominent politicians, could not utilize this provision.

The media provided a broad spectrum of political opinions, including those critical of Prime Minister Berlusconi and his policies. The press included dozens of newspapers, of which six have nationwide readership. One is controlled by a member of the Berlusconi family. There were three state-supported radio channels and dozens of privately owned ones. However, six of the country's seven national broadcast channels were owned either by Mediaset (a company in which Prime Minister Berlusconi has a major interest) or by the state-owned network (RAI); critics alleged that this allows for the Prime Minister to control the broadcast media. In April

Berlusconi accused two RAI journalists and one RAI comedian of using their broadcast time to attack him personally and expressed the view that the RAI board should prevent such occurrences. The featured programs of the three journalists were not renewed when RAI made programming changes for the subsequent season; one of the journalists claimed this amounted to a restriction on freedom of expression. RAI's three channels historically reflected the views of major political parties, and disputes over partisanship on the airways were a recurrent feature of political discourse.

The country's highest appeals court ruled in 2001 that the Government may block foreign-based Internet sites if they contravene national laws. A 2001 law required registration of online information sites and acceptance of liability by site sponsors. These developments led to a 2-year investigation that resulted in action by the Financial Police who, in July, blocked five U.S.-based web sites that "specialized" in blasphemy against God and the Virgin Mary.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Constitution authorizes the State to enter into relations with non-Catholic religious confessions pursuant to an accord ("intese"), on the basis of which the Government can provide support (including financial support) to the confession; these accords are voluntary, initiated by religious confessions, and do not infringe on the practice of religion. A 1929 agreement between the Catholic Church and the Government, which was revised in 1984, accords the Church certain privileges. For example, the Church can select Catholic religion teachers, whose earnings are paid by the State. The Government has signed accords with several minority religious groups. At year's end, the Buddhist Union and Jehovah's Witnesses awaited Parliamentary ratification of government accords.

The continuing presence of Catholic symbols, such as crucifixes, in many government offices, courtrooms, and other public buildings has drawn criticism and has been the object of lawsuits.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution and the law provide for these rights, and the Government generally respected them in practice. The Constitution forbids the deprivation of citizenship for political reasons. Citizens who leave are ensured the right to return. In July Parliament abolished the 1947 Constitution's "transitory provision" barring male heirs of the former king, Umberto I of Savoy, from entering the country, ending what had been the country's sole limit on the freedom of movement of its citizens.

The Constitution provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees, and provided first asylum to refugees fleeing hostilities or natural disasters. Such refugees were granted temporary residence permits, which must be renewed periodically and did not ensure future permanent residence.

In 2001 the Ministry of Interior approved approximately 1,740 asylum requests and denied approximately 18,250 others. Of requests that were approved, approximately 44 percent involved nationals of the former Yugoslavia, Iraq, and Turkey.

Large numbers of illegal immigrants from eastern Europe, North Africa, the Middle East, China, and West Africa continued to arrive, primarily by sea. According to the Interior Ministry, the number of immigrants increased by approximately 30 percent during the year. In the first 6 months of the year, 12,300 illegal immigrants were detained, as compared with 8,400 in the first 6 months of 2001. Many of these immigrants entered the country with the intent to transit to other European Union (EU) countries. Most illegal migrants paid fees to smugglers and many risked death due to unseaworthy vessels or forced disembarkation. At least 42 died in two separate incidents in September within sight of the Sicilian coast. Other illegal immigrants were forced to engage in illegal activities, were paid substandard wages, or forced to work as prostitutes to pay off debts incurred for their passage (see Section 6.f.).

In July Parliament passed a new immigration law that increased penalties for alien smuggling, trafficking, immigration fraud, and employment of illegal immi-

grants (*see* Section 6.f.). The new law also created an agency to coordinate border police operations and combat alien smuggling. According to the Ministry of Interior, authorities repatriated 75,448 illegal immigrants in 2001.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. In May 2001, Parliament was elected in elections that were free and democratic. There were numerous political parties that functioned without government restrictions.

There were no restrictions on women's or minorities' participation in government and politics. There were 25 women in the 315-seat Senate and 64 women in the 630-seat Chamber of Deputies; women held 2 of 25 cabinet positions.

In 2000 Parliament approved a constitutional change allowing an estimated 3.9 million citizens abroad to vote and setting aside 12 seats in the 630-seat Chamber of Deputies and 6 in the 315 seat Senate to represent them. Enabling legislation enacted in 2001 set technical details for their absentee participation in the country's next national elections.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

There were government human rights organizations in the Ministry of Foreign Affairs, the Prime Minister's office, the Privacy Authority, and the Senate had a committee on human rights.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The law prohibits discrimination on the basis of race, sex (except with regard to hazardous work), ethnic background, or political opinion, and provides some protection against discrimination based on disability, language, or social status; however, some societal discrimination against women, persons with disabilities, and Roma persisted.

*Women.*—Violence against women remained a problem. The NGO Telefono Rosa, which provides a hot line through which abused women may obtain legal, medical, and other assistance, reported that 37 percent of the 1,766 calls it received this year involved physical violence in the home, a decline from 49 percent in 1991, according to a statistical survey taken that year. Thirty-one percent of the cases involved psychological violence and 16 percent, economic violence.

Legislation protects women from physical abuse, including by family members, allows for the prosecution of perpetrators of violence against women, and shields women who have been objects of attack from publicity. The law treats spousal rape in the same manner as any other rape. Law enforcement and judicial authorities are not reluctant to prosecute perpetrators of violence against women, but victims sometimes did not press charges due to fear, shame, or ignorance of the law. According to Telefono Rosa, approximately 3 out of 4 women who experienced violence declined to report it to the authorities. However, Telefono Rosa also noted that the entry of more women into the police force contributed greatly to a willingness of female victims of violence to cooperate with police.

Trafficking of women into the country for prostitution was a growing problem (*see* Section 6.f.).

In 1999 the Labor Ministry and major trade union confederations agreed on a code of conduct regarding sexual harassment in the workplace. The code, which follows an EU recommendation, is attached to national sectoral labor contracts as they are negotiated. Telefono Rosa reports that previous ad hoc sexual harassment provisions in labor contracts worked as a deterrent to workplace harassment both in the public and private sectors.

Women enjoy legal equality with men in marriage, property, and inheritance rights. Males and females enjoy equal access and treatment with regard to education, health, and other government services.

The law regulates night work for women; with some exceptions, women may work at night. These exceptions include pregnant women who are mothers of one or more children below the age of 3, or women with disabilities. As a result of liberal mater-

nity leave laws introduced to benefit women, some employers have found it advantageous to hire men instead. The law on parental leave grants mothers and fathers an equal right to take leave when a child is sick. The law also requires civil service recruiters to explain in writing their motives for hiring or promoting a man rather than a woman as a manager. The rule was designed to promote women's access to the higher echelons of public administration and is to apply in offices where women managers number less than a third of the total. A study during the year indicated that women constituted 51 percent of civil servants but only 24 percent had high-level assignments.

Nevertheless, according to research conducted in 2001 by an independent research center, women's salaries were 26.6 percent lower than men's for comparable work. Women were underrepresented in many fields, such as management, entrepreneurial business and the professions. In public education, women represented 80 percent of the personnel but only 22 percent of general directors, 37 percent of executives, 33 percent of inspectors, and 33 percent of union members. By year's end, the National Statistical Institute (ISTAT) reported that employed women were more likely to have a high school diploma (36 percent) than employed men (31 percent). Employed women did better in higher education; the comparable figures for a university degree are 14.4 percent for women and 10.9 percent for men. In October 12.1 percent of females were unemployed, compared to 6.9 percent of males. Youth unemployment (ages 15 to 24) was 24 percent for men and 32.3 percent for women.

Women in the military have been integrated quickly into the military ranks. Voluntary female military service was introduced in a 1999 law.

A number of government offices worked to ensure women's rights. The Ministry for Equal Opportunity is headed by a woman, and there is an equal opportunity commission in the office of the Prime Minister. The Labor Ministry has a similar commission that focuses on women's rights and discrimination in the workplace, as well as equal opportunity counselors who deal with this problem at the national, regional, and provincial government levels. However, many counselors had limited resources with which to work. Many NGOs, most of which are affiliated with labor unions or political parties, actively and effectively promoted women's rights.

*Children.*—The Government demonstrates a strong commitment to children's rights and welfare. Schooling is free and compulsory for children from age 7 to age 18; those unable (or unwilling) to follow the academic curriculum are allowed to shift to vocational training at age 15. This reform was intended to reverse the middle and secondary school dropout rate, which historically has been high. The dropout rate for the academic year 2000–2001 was 4.6 percent.

The abuse of children was a problem; in 2001 the NGO Telefono Azzurro received 511,000 calls related to child abuse. It was estimated that 60 percent of violence against minors was committed within the home. According to a survey by Telefono Azzurro, almost 400 cases involved sexual violence, for which fathers were responsible 31 percent of the time; mothers were responsible 4 percent, and relatives 27 percent. In 78 percent of the cases, the victims were female; almost half were ages 10 or younger. Both public and private social workers counseled abused children and were authorized to take action to protect them. Telefono Azzurro maintains two toll-free hot lines for reporting incidents of child abuse. Research conducted in 2000 on behalf of the Government by a private institute estimated that the number of minors involved in cases of violence (including prostitution) was between 10,000 and 12,000. There were between 1,880 and 2,500 minors who worked as street prostitutes, of whom 1,500 to 2,300 were trafficked into the country and forced into prostitution (see Section 6.f.). The domestic NGO Social Service International assisted in repatriating unaccompanied immigrant minors. Police reported that they monitored 28,200 websites for child pornography and related crimes. Police arrested 23 persons, registered 474 complaints, and conducted 522 searches for internet-based child pornography.

The law provides for the protection of children and there are several government programs to enhance the protection available for minors. The law prohibits pedophilia, child pornography, the possession of pornographic material involving children, sex tourism involving minors, and trafficking in children (see Section 6.f.). The law provides for an information gathering network to collect data on the condition of minors, and there is a legally mandated office in the Ministry of Labor and Welfare that protects the rights of unaccompanied immigrant minors. There are minors offices staffed by trained police (often women) in police stations around the country to offer emergency help for minors and families in distress, as well as advice in dealing with other government social and judicial entities. The law established a special police unit to monitor and prosecute Internet sites devoted to promoting pedophilia.



*Persons with Disabilities.*—There was no discrimination against persons with disabilities in employment, education, or in the provision of other state services, although there was some societal discrimination. Current law, passed in 2000, replaced previous legislation that prohibited discrimination against persons with disabilities in employment, education, or the provision of state services. The law also requires companies having 15 or more employees to hire one or more workers with disabilities: Those with 15 to 35 employees must hire 1 disabled worker, those with 35 to 50 must hire 2, and in larger companies 7 percent of the work force must consist of persons with disabilities. Companies hiring persons with disabilities are granted certain benefits, including lower social security contributions, while the Government pays the cost of worker training. The law also provides for more severe sanctions against violators.

Although the law mandates access to buildings for persons with disabilities, mechanical barriers, particularly in public transport, left such persons at a disadvantage. In April the trade union confederation—Confederazione Generale Italiana del Lavoro (CGIL)—set a precedent by providing sign language interpreters and a reserved area for its hearing impaired members at a major rally.

*National/Racial/Ethnic Minorities.*—Some traditional minorities, including French- and German-speaking Alpine communities in the north and a mixture of German and Slovene speakers in the northeast, enjoy special autonomous status. The special rights of these areas—respectively the Valle d’Aosta, Trentino Alto Adige, and Friuli Venezia Giulia—include the use of non-Italian languages in government offices and, in Trentino Alto Adige and Valle d’Aosta, in public schools. The law provides for Slovene to be used in government offices and schools.

Roma are another traditional minority but without a specific geographic base or official recognition of their language. There were no accurate statistics on the number of Roma in the country. Roma community members and Roma-oriented NGOs estimated that the population was approximately 120,000, of whom up to 80 percent could be Italian citizens—most of whom can trace their ancestry in the country to the late 14th Century. These Roma tend to live in the central and southern parts of the country. They worked principally as artisans or in small circuses or amusement parks and lived in conditions indistinguishable from those of other Italians.

Additional Roma have immigrated from Eastern Europe. Roma immigrants, or the children of Roma immigrants, are concentrated on the fringes of urban areas in the central and southern parts of the country, living in camps characterized by poor housing, unhygienic sanitary conditions, limited employment prospects, inadequate educational facilities and, in the absence of a police presence, an environment of illegal activity. While many municipalities are building permanent settlements, an absence of programs to promote the integration of immigrant Roma into local communities leaves them isolated on society’s margins. Faced with limited income and job opportunities, and suffering from harassment, some Roma turned to begging or petty crime, which reinforced negative societal attitudes and generated repressive measures by police and some judicial authorities. In 2001 a male Rom was convicted for the 1998 killing of an 11-year-old boy. Press accounts of the police investigation reported that a principal witness offered conflicting versions of the killing. Societal prejudice may have been a factor in the conviction, which in March an appeals court annulled because of trial irregularities.

Increasing immigration, much of it from China, South Asia, North and West Africa, Eastern Europe, the Balkans, Turkey, and the Middle East, altered demographic and cultural patterns in communities across the country and led to some anti-immigrant sentiment. As many migrants are Muslim, religion became an additional factor differentiating them from native-born citizens. Some Catholic prelates contributed to popular reaction by emphasizing the perceived threat posed by immigrants to the country’s “national identity” and what they viewed as the country’s need to favor immigration by Catholics “or at least Christians.”

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right to establish trade unions, join unions, and carry out union activities in the workplace, and workers exercised this right. The unions stated that they represented between 35 and 40 percent of the work force. Trade unions were free of government controls and have no formal ties with political parties. All trade unions are professional trade union organizations that defend trade union interests. Individual trade unionists are free to identify with and support political parties of their choosing.

The law prohibits discrimination by employers against union members and organizers. Dismissals of workers must be justified in writing. If a judge deems the grounds spurious, he can order the employer to reinstate or compensate the worker; in firms employing more than 15 workers, workers have the option to choose be-

tween reinstatement and compensation, whereas in firms with fewer than 15 workers, the employer makes the choice. To encourage small firms to cross this 15-worker threshold, the Government reached an accord in June with the Confederazione Italiana Sindacati dei Lavoratori (CISL), the Unione Italiana del Lavoro (UIL), the Unione Generale del Lavoro (UGL), and other unions (but not the CGIL) to change the law by exempting such firms from this provision's coverage.

Unions associate freely with national and international trade union organizations. The CGIL is the largest national trade union confederation. There are three other confederations: CISL, UIL, and UGL. CGIL, CISL, and UIL are affiliated with the International Confederation of Free Trade Unions (ICFTU); the UGL has been associated with the World Confederation of Labor (WCL).

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides for the right of workers to organize and bargain collectively, and workers exercised this right. By custom, although not by law, national collective bargaining agreements apply to all workers, regardless of union affiliation.

The Constitution provides for the right to strike, and this right was exercised frequently. The law restricts strikes affecting essential public services (e.g., transport, sanitation, and health). The law also defines minimum service to be maintained during a strike as 50 percent of normal service, with staffing by at least one-third the normal work force. The law established compulsory cooling off periods and more severe sanctions for violations and covered transport worker unions, lawyers, and self-employed taxi drivers. The law has been effective in preventing complete work stoppages in essential public service sectors on the frequent occasions during the year on which such strikes occurred. However, there were numerous strikes in many sectors during the year, including an April 16 general strike. That protest, which all major unions backed, was called to oppose the Government's liberalization of restrictions on an employer's right to fire workers (*see* Section 6.a.). The unions considered these restrictions an important symbolic right. In July all major trade unions, except CGIL, accepted a limited, experimental liberalization of the restrictions as part of an annual labor pact. In October CGIL staged a national 1-day strike to protest the Government's proposed 2003 budget and to reiterate its opposition to the liberalized dismissal provisions.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children; however, there were reports that such practices occurred. In March police discovered clandestine Chinese immigrants working under forced circumstances in a textile plant near Rome. Similar discoveries have been made elsewhere in the country, particularly in Tuscany's large Chinese immigrant community (*see* Sections 6.d. and 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law forbids the employment of children under age 15 (with some limited exceptions), and there are specific restrictions on employment in hazardous or unhealthful occupations for men under age 18, and women under age 21; however, these laws were not respected fully in practice. The enforcement of minimum age or other child protection laws is difficult in the extensive underground economy. In June ISTAT issued a report on a child labor survey, conducted in conjunction with the International Labor Organization (ILO), that for the first time provided reliable statistics on child labor in the country. ISTAT reported that approximately 31,500 children—a large number of whom are 14 years old—worked in agriculture (mostly boys) and urban hotels, coffee bars, and restaurants (mostly girls). This child labor occurred primarily within the family, and mistreatment was not a problem. However, ISTAT stated that mistreatment and exploitation were problems for child labor that occurred outside of families, particularly for children of immigrants.

Illegal immigrant child laborers from Northern Africa, the Philippines, Albania, and particularly China continued to enter the country in large numbers, and the influx from China continued to rise. According to the Carabinieri, an estimated 30,000 illegal Chinese worked in sweatshop conditions near Florence, with many minor children working alongside the rest of their families to produce scarves, purses, and imitations of various brand name products. Many of these factories, which face threats of infiltration or coercion by Chinese organized crime, were equipped with escape tunnels to thwart labor inspections. Carabinieri officers who worked on child labor used a videocassette program to educate schoolchildren on child labor laws, their rights as specially protected workers, and workplace hazards. Labor Ministry inspections in 2001 of almost 25,000 firms revealed that the employment of approximately 1,000 minors entailed some irregularity of age, occupation, prescribed medical evaluation, or required rest or vacation period. More than 800 people faced charges as a result of the investigations.

The Government, employers' associations, and unions continued their tripartite cooperation on child labor. Their periodic consultations, begun in 1997, cover such matters as better enforcement of school attendance regulations and programs to reduce the number of school dropouts (*see* Section 5); faster assistance for families in financial difficulty; and canceling economic or administrative incentives for companies found to make use of child labor, whether domestically or abroad. The Prime Minister's office provides a toll-free telephone number to report incidents of child labor. The footwear and textile industries and the goldsmith associations have codes of conduct that prohibit the use of child labor in their national and international activities; codes are applicable to subcontractors as well. In 1999 a child labor clause was attached to the national labor contract in the health sector, whereby the parties committed themselves not to use surgical tools produced by child labor.

*e. Acceptable Conditions of Work.*—Minimum wages are not set by law but by collective bargaining agreements on a sector by sector basis, which specify minimum standards to which individual employment contracts must conform. When an employer and a union fail to reach an agreement, courts may step in to determine fair wages on the basis of practice in comparable activities, although this rarely happened in practice. These wages provided a decent standard of living for a worker and family.

The legal workweek is 40 hours; most collective agreements provide for a 36- to 38-hour workweek. The average contractual workweek was 39 hours but was actually less in many industries. Overtime work may not exceed 2 hours per day or an average of 12 hours per week. Unless otherwise limited by a collective bargaining agreement, the law sets maximum permissible overtime hours in industrial sector firms at no more than 80 hours per quarter and 250 hours annually.

The law sets basic health and safety standards and guidelines for compensation for on-the-job injuries. For most practical purposes, EU directives on health and safety also have been incorporated into the law. Labor inspectors are from the public health service or from the Ministry of Labor, but they are few in number in view of the scope of their responsibilities. Courts impose fines and sometimes prison terms for violation of health and safety laws. In 2001 the Workmen's Compensation Institute reported an increase of accidents by 1.1 percent over the 2000 figures and a 3.1 percent increase in the number of accidents resulting in death, a trend attributed to increased overall employment. Accidents occurred with the greatest frequency in the underground economy, which employs approximately four million workers. Workers have the right to remove themselves from dangerous work situations without jeopardizing their continued employment.

*f. Trafficking in Persons.*—There is no law specifically addressing trafficking in persons. However, trafficking may be prosecuted through application of provisions of a 1958 law on prostitution and other articles of the Penal Code. Trafficking in persons for prostitution and forced labor was a problem, which the Government took steps to address. Government officials did not participate in, facilitate, or condone trafficking.

While there is no law that specifically prohibits trafficking in persons, other laws used to prosecute traffickers include laws prohibiting the exploitation of prostitution (the Merlin law), slavery, sexual violence, kidnaping, and assisting the entry of illegal migrants. Cases prosecuted for reduction into slavery can bring penalties of up to 20 years; however, such cases were usually only used for minors because of the difficulty under the law in proving slavery for adults. Penalties for infractions of the Merlin law include 6 years' imprisonment and fines of up to \$10,000 (10,000 euros). The law contains provisions on the exploitation of prostitution, pornography, and sexual tourism to the detriment of minors with penalties of up to 20 years. In July Parliament approved a new immigration law (*see* Section 2.d.) that strengthened penalties to combat alien smuggling and human trafficking. Smugglers would face sentences of 4 to 12 years, and fines up to \$15,000 (15,000 euros), for each alien smuggled. Higher penalties (5 to 15 years, fines of up to \$25,000 (25,000 euros) per alien) would apply to trafficking involving minors or people destined for prostitution. Since this law was newly enacted, there were no statistics available for its efficacy.

The Government investigated and prosecuted many cases against traffickers using existing laws (except the new immigration legislation), primarily using the Merlin law. Some prosecutions resulted in convictions. There were no statistics for the number of prosecutions that ended in sentencing. The Government also cooperated with foreign governments investigating and prosecuting trafficking cases. In early October, the Government announced the results of "Operation Sunflower Two." The operation covered Germany, Austria, Poland, the Ukraine, and 10 regions in the country by Italian Carabinieri (policeman) in conjunction with Europol forces from the aforementioned countries and resulted in 80 arrests in the country. In December

Parliament approved a permanent law applying special prison conditions to traffickers. The measures, previously limited to Mafia members, were designed to limit criminals' ability to continue their operations from jail.

The Ministry of Equal Opportunity leads an intergovernmental committee charged with monitoring trafficking and coordinating government activity to combat it. Other members include the Ministries of Social Affairs, Justice, Interior, and Foreign Affairs, as well as a special anti-Mafia prosecutorial unit. Major lay and Catholic NGOs concerned with trafficking, among which Parsec and Caritas were the most active, cooperated with this body. There were no statistics from either the Government or from NGOs to show the extent of the trafficking problem.

Italy was a country of destination and a transit point for trafficked persons. According to the social research institute, Parsec, exact statistics on women and children involved in prostitution have not been updated since 1998. Estimates are in the range of 2,000 persons a year. However, press reports on Operation Sunflower Two stated up to 50,000 persons from just Russia and Ukraine were trafficked to the country in 2001, although no source was provided for this statistic.

Trafficking in persons for the purpose of sexual exploitation involved economically and socially vulnerable, illegal immigrants, mostly from Nigeria, Albania, Eastern Europe (Moldova, Ukraine, Russia, Romania, Bulgaria), China, and South America (Ecuador, Peru, Colombia). Trafficked persons arrived to the country by boat, bus, or airplane. Victims of trafficking endured the classic conditions of trafficked persons: Lured to Western Europe with promises of a job, or sold by relatives/friends/acquaintances, they were then forced into prostitution, laboring in restaurants or sweatshops, or begging on the streets. Their traffickers enforced their compliance by taking their documents, beating and raping them, threatening their families, or frightening them with voodoo rites. Some trafficked women were killed when they showed opposition or went to the authorities.

Trafficking in children for sweatshop labor was a particular problem in Tuscany's expanding Chinese immigrant community, where children were considered to be part of the family "production unit" (see Section 6.d.).

One of the reasons for the lack of statistics is that criminal organizations moved trafficked persons around the country. Prostitution gangs have established routes to move prostitutes from city to city, making it harder for police to identify and track trafficked persons. Trafficked persons were not in one place long enough for police to garner their confidence and break up a route. Three north-south axes (focused along the Adriatic and Tyrrhenian coasts) and three east-west axes were identified as routes that gangs used.

Organized criminal groups, both large and small, were behind most trafficking in the country, particularly from Albania. Trafficked persons from Nigeria usually were controlled by a madam, usually a former trafficked person, who held the lien on the loan that was paid for the trafficked person. They had to work off their debt to her before they were "freed."

According to a recent article in *Il Giornale*, 19 Italian diplomatic posts were investigated for visa fraud over the past 3 years; however, a direct connection of government officials in trafficking was not established. A number of employees remained under investigation in connection with the sale of visas. There was no evidence of official, institutional, or government involvement in trafficking.

Victims of trafficking who were in the sex trade faced the attending health risks resulting from unsafe or unprotected sex. They usually were out on the streets day and night in all sorts of inclement weather. They generally did not go to health centers or doctors. Trafficking victims in the Tuscany region working in sweatshops possibly were exposed to dangerous chemicals in the leather tanning and working industry. Due to the long hours they worked in close proximity to possibly dangerous machinery, there were health risks to life and limb.

The law provides temporary residence/work permits to persons who seek to escape their exploiters. Victims were encouraged to file complaints and there are no legal impediments for them to do so. If a complaint is lodged, victims usually did not face prosecution for any laws they have broken. There was still some deportation of victims, particularly involving Nigerian prostitutes. Repatriated victims do face problems in their home countries; this is particularly true in Nigeria and Albania. There was a growing problem of recognizing victims' rights when the victims have broken immigration laws. This concern was raised by NGOs as more deportations occurred during the year, and the Government has strengthened illegal immigration laws. The NGOs alleged that not enough time was allowed: Between apprehending illegal immigrants and deporting them; discovering if the people who have broken immigration laws also have been trafficked; obtaining information on their traffickers; and informing them of their rights as victims before they were deported. The Government did provide legal and medical assistance once a person has been identified

as having been trafficked. There were shelters and programs for job training. There also were assistance and incentive programs to those willing to return to their home country.

The Government, in conjunction with other governments and NGOs, worked to orchestrate awareness campaigns. In March the country hosted a preliminary session of the EU STOP program culminating in a September meeting in Brussels on trafficking. On July 11–12, a group of NGOs, representatives from the Ministry of Foreign Affairs, and the City of Rome, hosted a conference to address trafficking of children, with an emphasis on identifying and reporting patterns of trafficking into and within the country for purposes of prostitution and child slavery. The event was attended by more than a dozen organizations, including the Lelio Basso Foundation, Terre des Hommes Italia and Save the Children Italia (co-sponsors), the ILO, International Organization for Migration, Caritas, and UNICEF. Representatives from national and regional governments of Albania and Romania also were present.

## KAZAKHSTAN

The Constitution of Kazakhstan concentrates power in the presidency. President Nursultan Nazarbayev was the dominant political figure. The Constitution permits the President to control the legislature and judiciary, as well as regional and local governments; changes or amendments to the Constitution required the President's consent. President Nazarbayev was elected to a 7-year term in a 1999 election that fell far short of international standards. The law allows the President to maintain certain policy prerogatives and a seat on the Security Council after he leaves office. The Constitution limits Parliament's powers by precluding it from appropriating state money or lowering taxes without executive branch approval. However, Members of Parliament (M.P.s) had the right to introduce legislation, and some bills introduced by M.P.s have become laws. Parliamentary elections in 1999 were an improvement over the presidential election but fell short of the country's commitments as a member of the Organization for Security and Cooperation in Europe (OSCE). In 2001 experimental local akim (county-level leader) elections were held in some rural areas. Parliamentary by-elections in December were marked by serious irregularities; preliminary results of the elections conflicted with independent exit polling. The judiciary remained under the control of the President and the executive branch.

The Committee for National Security (KNB) was responsible for national security, intelligence, and counterintelligence. The KNB also played a law enforcement role in border security, internal security, and antiterrorism efforts and oversaw the external intelligence service, Barlau. The Chairman of the KNB reported directly to the President. The Ministry of Interior (MVD) supervised the police, who were poorly paid and widely believed to be corrupt. Members of the security forces committed human rights abuses.

The country undertook significant market-based economic reforms since independence: many businesses and industries were privatized, restrictions on currency convertibility removed, and wage rates were allowed to be determined by market forces. The population was approximately 14.8 million. The economy was mainly driven by revenue from the country's vast energy and mineral resources. Agriculture, which represented approximately 10 percent of gross domestic product (GDP), was slower to reform because the Government had not established a legal basis for private ownership of agricultural land. The average monthly wage in the second quarter of the year was \$131. During the year, about 29.4 percent of the population lived below the minimum subsistence level, compared with 32 percent in 2001. Real GDP growth was estimated at 9.5 percent, while inflation was 6.6 percent during the year. The official unemployment rate was 8.3 percent.

The Government's poor human rights record worsened, and it continued to commit abuses. The Government severely limited citizens' right to change their government and democratic institutions remained weak. Members of the security forces mistreated detainees on some occasions. Police tortured, beat, and otherwise mistreated detainees. Government officials acknowledged that abuses by police constituted a serious problem. Prison conditions remained harsh; however, the Government took an active role in efforts to improve prison conditions and the treatment of prisoners. The Government continued to use arbitrary arrest and detention, and prolonged detention was a problem. Corruption in the judiciary remained deeply rooted. Amendments to several laws governing the authority of prosecutors further eroded judicial independence by, among other provisions, allowing prosecutors to suspend court verdicts. The Government infringed on citizens' privacy rights, and new legislation granted prosecutors broad authorities to monitor individuals.

There were instances when the Government harassed independent media, and as a consequence, many journalists practiced self-censorship. Several opposition news outlets were attacked and/or had operations suspended during the year. The Government restricted freedom of assembly and association. The Government limited democratic expression and continued to impose restrictions on the registration of political parties. Although the Constitutional Council deemed unconstitutional restrictive amendments to the Religion Law in April, at times local authorities harassed nontraditional religious groups or their members. Some human rights observers reported that the Government monitored their activities.

Violence against women, including domestic violence, was a serious problem. There was discrimination against women, persons with disabilities, and ethnic minorities. The Government discriminated in favor of ethnic Kazakhs. Child labor persisted in agricultural areas. Trafficking in women and children, primarily teenage girls, was a problem, although the Government continued to take steps to address the problem.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings by the Government or its agents; however, there were reports that police used excessive force that led to some deaths of persons in and out of custody. Information on deaths in the military as a result of mistreatment was unavailable at year's end.

One case of possible death due to excessive force by the security services was reported. On May 5, 18-year-old Andrey Cherniy died after allegedly being beaten by a Pavlodar police captain at a local disco where the police captain was on duty. Local press reported that Pavlodar police denied that the beating took place, although an eyewitness continued to maintain it did. In June police closed their investigation on the basis of conflicting eyewitness testimony and lack of forensic evidence.

There were no reports of killings in custody. During the year, the Prosecutor General reopened the case in the 2001 death of Kanat Biyembetov, who died in a Turkistan hospital following his arrest by the KNB on suspicion of being a member of an extremist group. According to signed statements by Biyembetov and his family, arresting KNB officers beat him. The KNB officers alleged that Biyembetov sustained his injuries when he jumped from a moving police car. The Government reported that Turkistan district KNB officers had violated the law and two officers were fired. No criminal charges were brought against them. The case had been closed by the MVD, but the Prosecutor's investigation continued at year's end.

There were deaths of some persons while detained or in custody. Many of these were from disease while in prison.

On June 21, 25-year-old Leila Bayseitova, the daughter of a prominent opposition journalist, died in an Almaty hospital after being taken there from police custody. She was arrested on June 16 on drug possession charges. A police investigation concluded that she tried to hang herself in her jail cell as a result of a severe drug withdrawal reaction (*see* Section 2.a.).

On September 11, 28-year-old Vladislav Shishov died while being held in police custody in Pavlodar. Police originally maintained that he had died suffering from violent seizures, but in December police arrested two of Shishov's cellmates for beating him continuously for 4 days. Criminal negligence charges were also filed against a medical assistant on duty at the time of death, who admitted responsibility, and the head of the detention center, who denied the charge.

In 2001 a police sergeant was acquitted on charges of inflicting bodily harm in the 2000 death of Boris Bekov. The prosecutor appealed to the Supreme Court, which ordered the district court in July to retry the case, considering evidence excluded from the first trial. The police sergeant's lawyer maintained that other officers should have been charged as well.

Additional information became available during the year about the 1999 beating death of 24-year-old Nurzhan Saparov, who was in custody following his arrest for disturbing the peace in Makhtaarsk (Southern Kazakhstan Oblast). According to the Government, four police officers were imprisoned in 2000 for illegal detention and the fatal beating. Saparov's mother disputed this information, saying one officer was freed after serving only 2½ years of a 9-year sentence for abuse of power and premeditated murder, while three others were sentenced to 3 years probation for misconduct but then amnestied immediately.

In the 2001 killing of Dilbirim Samsakovaya, director of a charitable Uighur foundation and a well-known Uighur community activist, police reported in April that

a suspect had been identified, but not apprehended. Police stated earlier that they believed that the killing was related to Samsakovaya's personal or business dealings.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution states that no one must be subject to torture, violence or other treatment and punishment that is cruel or humiliating to human dignity; however, police tortured, beat, and otherwise abused detainees, often in order to obtain confessions. Prison officials beat and mistreated prisoners.

Government officials acknowledged the seriousness of the problem of police abuse and undertook some efforts to combat it, for example by punishing violators through the criminal justice system. According to a Vice Minister of Interior, 100 criminal charges were placed against police officers for the unlawful use of physical force against citizens during the first 8 months of the year. According to the Deputy Prosecutor, 38 of these were new cases filed during the year. Human rights observers believed that these cases covered only a small fraction of the incidents of police abuse of detainees, which they characterized as routine. Training standards and pay for police were very low, and individual law enforcement officials often were supervised poorly. Law enforcement officers participating in a government conference on pretrial detention facilities in 2001 noted that beatings by officials were common in such facilities (*see* Section 1.d.).

On December 21, the President signed the Law on Amendments and Additions to the Criminal, Criminal Procedure, and Criminal Executive Codes which expanded the definition of torture and criminalized the deliberate infliction of physical or psychological suffering by an investigator or other official aimed at extracting a confession. The law was developed with assistance from human rights groups. The law, which had been submitted to Parliament in September, amended the Criminal Code to provide for more extensive use of alternative sentencing by reclassifying punishment requirements for more than 100 crimes.

In an April interview that appeared in the official press, the Deputy Prosecutor in Pavlodar Oblast (province) cited specific instances where police had resorted to beatings and torture. In one case, two officers shocked a suspect with electric cables to force a confession after they had planted evidence on him. One of the officers was sentenced to 5 years in prison and the other escaped. A second case cited the use of suffocation as an interrogation technique; the police officer involved was sentenced to 3 years in prison. The names of the victims of these incidents were not disclosed.

On May 5, 18-year-old Andrey Cherniy died after allegedly being beaten by a Pavlodar police captain some days before at a local disco where the police captain was on duty (*see* Section 1.a.).

During the year, the Prosecutor General reopened the case in the 2001 death of Kanat Biyembitov after his arrest by the KNB on suspicion of being a member of an extremist group (*see* Section 1.a.).

Army personnel continued to subject conscripts to brutal hazing, including beatings and verbal abuse. No statistics were available on the extent of the problem. In 2000 the Government began a program to improve the training of military forces on social and legal issues in order to reduce hazing. The Army punished violators of its antihazings policy, and the Government occasionally took action against officials charged with abuses, often levying administrative sanctions such as fines on those found guilty. In October an official TV station reported a September beating of an Army private at a military unit in Pavlodar. The hospital where he underwent surgery for kidney damage provided him with documents attesting to his injury after two Mazhilis deputies intervened. It is unclear whether the private filed a complaint. In November the press reported several military court prosecutions for hazing in Aktobe Oblast; the names of the military officials involved were not disclosed.

Prison conditions remained harsh and sometimes life threatening, although there were some signs of improvements during the year. Some instances of mistreatment occurred in pretrial detention facilities and in prisons. Guards were poorly paid and often did not have sufficient experience to supervise large groups of prisoners. Violent crime among prisoners was common. During the year there were approximately 65,000 prisoners in facilities designed to hold at least 1,000 fewer persons. A general amnesty announced in late 2001 for the 10th anniversary of the country's independence released over 10,000 persons from prisons during the year, while even more did not serve terms for which they were sentenced.

Prisons remained overcrowded. Prisoners were housed in close proximity, barracks-style facilities. The head of the Criminal Corrections Committee in the Min-

istry of Justice said in July that government funds were allocated to build new correctional facilities with prison cells. Facilities rehabilitated with government funds included maximum-security penitentiaries in Zarechniy (Almaty Oblast) and Uralsk; a general-security penitentiary in Zhambyl Oblast; and a juvenile facility in Karaganda Oblast. A new women's and a new juvenile penitentiary in Eastern Kazakhstan Oblast also opened during the year. Reconstruction continued at a general-security penitentiary in Pavlodar Oblast and a juvenile facility in Aktau. Fifty percent of the prison population served their terms in facilities that, contrary to the law, were not near their places of residence.

In the past several years, the adequacy of prison diets and availability of medical supplies improved. In addition, the Government initiated training programs for prison medical staff. There were five tuberculosis colonies and three tuberculosis hospitals for prisoners. While the incidence of tuberculosis stabilized, HIV and AIDS was a growing problem. Prisoners were permitted to have visitors. The number and duration of visits depended on the security level of the prison and the type of sentence received. This could range from unlimited visits of short- (3 hours) and long-term (up to 3 days) duration for some prisoners to two each of short- and long-term duration a year for prisoners at maximum-security facilities. Prisoners were permitted to use telephones.

On January 1, control of the prison system moved to the Ministry of Justice from the MVD, in accordance with international standards. The Ministry of Justice has been active in improving prison conditions since the transfer, including through human rights training for its employees in each oblast, an extensive rehabilitation program of facilities, and cooperation with international organizations. However, control of pretrial detention facilities remained with the MVD. The Minister of Interior stated in a September interview that such facilities should not be transferred to the Ministry of Justice for some time, since they were a key tool of investigators in uncovering crimes. The head of the Criminal Corrections Committee responded that investigators would still have access to these facilities under the Ministry of Justice, and that the guards in such facilities were not investigators.

Reported incidents of self-mutilation in prisons to protest conditions declined during the year. Government statistics on self-mutilation generally matched information available to NGOs and human rights monitors. According to the head of the prison system, there were 14 such cases in the first half of the year, compared with 100 in 2001. Statistics for the entire year were not yet available. The MVD did not provide similar statistics for pretrial detention facilities that remained under its control.

On April 8, 28 inmates at a Karaganda pretrial detention facility slashed their abdomens to protest their transfer to the Dolinka 151/7 maximum-security penitentiary in the oblast, where they reportedly believed the rights of prisoners were not respected. In May three inmates at Dolinka also slashed their abdomens. In the former incident, the oblast prosecutor and the MVD initiated an investigation. The prison warden was reportedly fired and the regional prison director punished for negligence as the result of that investigation.

In August approximately 70 inmates at Juvenile Penitentiary 163/3 in Aktobe rioted to protest the failure of the prison administration to investigate the suicide of an inmate who had repeatedly complained of beatings by prison officials. To resolve the riot, the head of the facility was removed from his position and the administration promised to launch an investigation. The investigation reportedly led to the firing of the prison warden and punishment of the regional director for the prison system for negligence.

The Government was active in pursuing penal reform and projects to improve prison conditions. During the year, the Government, together with the OSCE and the international NGO Penal Reform International (PRI), continued projects providing medical and human rights training to prison officials. The Government, in cooperation with the PRI and the OSCE, expanded the Pavlodar prison personnel training project to all of the country's oblasts. The Government, again in conjunction with OSCE, held seminars during the year for the directors of pretrial detention facilities in the oblast seats of Kyzyl-Orda and Aktobe and the cities of Astana and Almaty on international standards at such facilities. The series of seminars began in late 2001 with a session in Pavlodar.

The prison (Criminal Corrections) system under the Ministry of Justice consisted almost exclusively of dormitory-style penitentiaries (including general and maximum-security facilities, and women's and juvenile facilities); there was also one maximum-security prison. There were separate facilities for men and women, and juveniles were held separately from adults. There were no special prisons for political prisoners. The MVD administered both pretrial detention facilities and police



detention facilities, which were separate from facilities for convicted criminals administered by the Ministry of Justice.

Although there was no known statutory requirement, human rights observers and journalists wishing to visit prisons must receive authorization; observers and journalists generally were allowed access to penal colonies, except during protests. Access to pretrial detention centers, which were controlled by the MVD, sometimes was denied. Prison administrators were hesitant to allow civilians into the maximum-security facilities for reasons of personal security. The Kazakhstan International Bureau for Human Rights and Rule of Law visited men's, women's, and juveniles' facilities during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, arbitrary detention remained a problem. In a series of seminars on pretrial detention facilities held by the Government with participation from the OSCE, the Bureau for Human Rights, and PRI, law enforcement officials stated that cases of violation of detainees' rights and illegal detentions were common.

The Government arrested and detained government opponents and critics, sometimes for minor infractions of the law such as unsanctioned assembly (*see* Section 2.b.).

Oleg Okhulkov, a lawyer known to provide legal assistance to opposition figures, was held in pretrial detention from December 2000 until his conviction on April 16 for fraud in connection with a civil suit. The Kazakhstan International Bureau for Human Rights filed an appeal with the Prosecutor General to reconsider the case; that appeal was denied in December. Okhulkov's time in pretrial detention was counted toward his 5-year prison sentence.

The Constitution provides that arrests and detentions may occur only with the sanction of a court or a prosecutor. Human rights observers alleged that police routinely failed to register the name of a person arrested in order to extend the maximum 72-hour period that a person could be held without the approval of the prosecutor. The official Russian-language press reported in 2001 on an investigation into detentions by the Zhambyl Oblast Prosecutor General's Office. The office found that oblast police illegally detained more than 3,500 persons and that in some cases the registration logs of detainees were falsified. Disciplinary action reportedly was taken against police officers who were found at fault.

The Constitution also provides that every person detained, arrested, or accused of committing a crime has the right to the assistance of a defense lawyer from the moment of detention, arrest, or accusation (*see* Section 1.e.). While this right generally was respected in practice, human rights observers alleged that law enforcement officials dissuaded detainees from seeing an attorney or gathered evidence through preliminary questioning before the person's attorney arrived and the formal interrogation began. Police were not required under the law or in practice to inform detainees that they had the right to an attorney.

A bail system exists, but was rarely used. Individuals generally remained in pretrial detention until their trial. The Deputy Prosecutor stated that 56 persons were released on bail in the first 8 months of the year, compared with 73 during 2001.

The law sanctions pretrial detention. According to the Constitution, police may hold a detainee for 72 hours before bringing charges. The Criminal Procedure Code allows continued detention for much longer periods with the approval of the Prosecutor General. Lower-ranking prosecutors may approve interim extensions of detention. The Criminal Procedure Code allows persons to be held for up to 1 year in pretrial detention facilities after they have been charged and were awaiting trial, with the sanction of the prosecutor. There were improvements in the respect for time limits on detentions, although individuals could still be held for weeks or months.

The MVD administered pretrial detention centers. Local human rights NGOs generally had access to pretrial detention facilities; however, there were reports of some individuals who had difficulty gaining access. Conditions and treatment in pretrial facilities remained harsh, although the Ministry actively participated in training seminars on international human rights standards for the directors of such facilities. There were more than 14,000 persons in pretrial detention centers during the year, several thousand fewer than in previous years. In September the Minister of Interior stated that, unlike the prisons, pretrial detention facilities should not be transferred to the Ministry of Justice for some time because investigators rely on such facilities to gather evidence (*see* Section 1.c.).

The Constitution prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The court system's independence was compromised by legislative, administrative, and constitutional arrangements that in

practice subjugate the judiciary to the executive branch of government. On August 9, new legislation covering the authority of prosecutors went into effect. The new law grants a quasi-judicial role to the Prosecutor General by, among other provisions, allowing him and his deputies to suspend court decisions. There was no time period specified for referral back to the court for a retrial. By allowing the Prosecutor General to suspend court decisions without specifying a time period for mandatory referral back to the court, the new law further undermined the independence of the judiciary.

Corruption was evident at every stage and level of the judicial process. Lawyers and human rights monitors alleged that judges, prosecutors, and other officials solicited bribes in exchange for favorable rulings in nearly all criminal cases. Nonetheless, judges were among the most highly paid government employees. District court judges earned approximately \$300 (45,540 tenge) per month and oblast court judges earned almost \$500 (75,900 tenge) per month; Supreme Court judges could earn more than twice that. According to a November 2001 poll conducted by the Association of Political Scientists and Sociologists, only 17 percent of respondents described the court system as completely or partly free of corruption.

There are three levels in the court system: Local, oblast, and the Supreme Court. Local courts try less serious crimes, such as petty theft and vandalism. Oblast courts handle more serious crimes, such as murder, grand theft, and organized criminal activities. The oblast courts also may handle cases in rural areas where no local courts were organized. Judgments of the local courts may be appealed to the oblast-level courts, while those of the oblast courts may be appealed to the Supreme Court. There were also military courts.

According to the Constitution, the President proposes to the upper house of Parliament (the Senate) nominees for the Supreme Court. Specifically nominees were recommended by the Supreme Judicial Council, which includes the chairman of the Constitutional Council, the chairman of the Supreme Court, the Prosecutor General, the Minister of Justice, senators, judges, and other persons appointed by the President. The President appoints oblast judges (nominated by the Supreme Judicial Council) and local level judges from a list presented by the Ministry of Justice. The list was based on recommendations from the Qualification Collegium of Justice, an institution made up of deputies from the Mazhilis, judges, public prosecutors, legal experts, and Ministry of Justice officials. The President appoints the Collegium chairman.

Under the law judges were appointed for life, although in practice this means until mandatory retirement at age 65. Procedures to remove judges were established by a December 2000 law, which specifies that the Chairman of the Supreme Court can initiate disciplinary cases against judges; Oblast Court Chairmen may initiate the procedure for judges within an oblast. Judicial collegiums review the cases and can recommend dismissal. Dismissal decisions were made by presidential decree, except in cases of members of the Supreme Court, for whom a presidential proposal to dismiss must be confirmed by the Senate. The law lists the grounds for which a removal action can be taken.

The Constitution provides for the Constitutional Council to rule on election and referendum challenges, to interpret the Constitution, and to determine the constitutionality of laws adopted by Parliament. The President directly appointed three of its seven members, including the chairman, and had the right of veto over Council decisions. The Council could overturn a presidential veto if at least two-thirds (five) of its members voted to do so. Therefore, at least one presidential appointee had to vote to overturn the President's veto for the Council to overrule the President. Citizens did not have the right to appeal to the Council regarding the constitutionality of government actions, although they were allowed to make such appeals to the former Constitutional Court. Under the Constitution, only the President, chairman of the Senate, chairman of the Mazhilis, Prime Minister, one-fifth of the members of Parliament, or a court of law may appeal to the Constitutional Council. The Constitution states that a court shall appeal to the Council if it "finds that a law or other regulatory legal act subject to application undermined the rights and liberties of an individual and a citizen."

The Constitution and the law establish the necessary procedures for a fair trial; however, trials often were not fair in practice. Trials were public with the exception of instances in which an open hearing could result in state secrets being divulged, or when the private life or personal family concerns of a citizen had to be protected. The Constitution gives defendants the right to counsel and states that for those who cannot afford an attorney, the Government must provide one free of charge. However, there was no system of public defenders, and as a consequence lawyers were reluctant to take state-assigned cases when the Government often did not provide payment for their services. A Ministry of Justice official acknowledged that access

to lawyers was a serious problem during a 2001 conference and said that a system of public defenders was being developed. According to the Constitution, defendants also have the right to be present at their trials, the right to be heard in court, and the right to call witnesses for the defense.

Defendants enjoyed a presumption of innocence, were protected from self-incrimination, and had the right to appeal a decision to a higher court. Legal proceedings were conducted in the state language, Kazakh, although Russian also may be used officially in the courts. Proceedings also may be held in the language of the majority of the population in a particular area. In most cases, these rights were generally respected.

A Supreme Court interpretive decision during the year began requiring courts to base their legal reasoning on arguments presented by both the defense and prosecution, in accordance with the law. The Court had found a disproportionately high volume of written court decisions based only on the prosecution's case.

The Government selectively prosecuted political opponents. Two founding members of the Democratic Choice for Kazakhstan (DVK) movement were arrested in late March (*see* Section 2.b.). Both underwent trials during the summer and were convicted. Mukhtar Ablyazov, former Minister of Energy, was convicted by the Supreme Court of abuse of power and sentenced to 6 years in prison. Galymzhan Zhakiyanov, former Akim (Governor) of Pavlodar Oblast, was convicted on corruption charges in late July and sentenced to 7 years in prison. A minister also was arrested and lost his job during the year on suspicion of corruption; unlike Ablyazov and Zhakiyanov, he remained free on his own recognizance while a criminal investigation was carried out. International organizations and foreign governments, while not commenting on the guilt or innocence of either defendant, criticized the timing of the Government actions. The arrests came years after the alleged crimes were committed, but only months after Ablyazov and Zhakiyanov founded an opposition political movement. In a televised appearance on September 20, President Nazarbayev stated that corrupt officials "rush to set up political parties in order to use them as cover."

Observers at the trials reported that both the judicial process and the judges themselves, particularly in the case of Zhakiyanov, heavily favored the State's case. The force of subpoena during the trials only applied to prosecution witnesses and many of the witnesses, mainly government officials, stated during testimony in court that they had been intimidated during the investigation by the threat of legal action. Many witnesses also contradicted in court their testimony during the investigations. Most motions filed by the defense were denied.

Zhakiyanov was transferred to a prison facility in Kostanay Oblast in September. He and Ablyazov remained imprisoned at year's end. President Nazarbayev stated before the trials began that he would consider exercising his constitutional power of pardon should the courts find them guilty and should they ask him for it. Local human rights groups lobbied international human rights organizations extensively to have Zhakiyanov and Ablyazov declared political prisoners.

There were no other reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, the Government occasionally infringed on these rights. The Constitution provides that citizens have the right to confidentiality of personal deposits and savings, correspondence, telephone conversations, postal, telegraph, and other messages; however, the limitation of this right was allowed in cases and according to procedures directly established by law. Laws provide that only the Prosecutor can approve limitations of these rights when they are necessary for investigative purposes. Courts may hear an appeal on such decisions by prosecutors, but cannot issue an immediate injunction to cease the limitation of rights.

New legislation on prosecutors, enacted on August 9 after a Constitutional Council review upon the request of 24 parliamentary deputies, expanded the authority of prosecutors to limit citizens' constitutional rights. The KNB, Ministry of Interior, Financial Police, and other agencies, with the concurrence of the Prosecutor General's Office, maintained their authority under the new law to infringe on the secrecy of writings, telephone conversations, telegraphic communications, and postal dispatches, as well as the inviolability of the home. The new law expanded that list to include access to confidential bank records, the freezing of bank assets, and explicit authorization to record conversations secretly and to wiretap and record communications by telephone and other devices. The Criminal Procedure Code continued to allow for investigative measures affecting the legally protected secrecy of telephonic conversations without a prosecutor's warrant only in certain urgent cases; in such cases, the Prosecutor is to be notified of the interception of conversations within 24 hours. The new law added the explicit definition of methods.

On occasion, government opponents reported that the Government monitored their movements and telephone calls. In one such instance, opposition activist Nurbulat Masanov was sued for libel after a tape originating from an alleged wiretap on his cellular phone was distributed. In June an Almaty court found Masanov guilty of slander based on comments from the tape; he was ordered to pay a fine of \$65 (10,000 tenge) and publish an apology. Masanov's appeals, which went up to the Supreme Court, were denied and a criminal contempt case opened against him in August for refusal to publish the apology. At a 2001 press conference, Masanov claimed that his telephone had been wiretapped for 2 years.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution and the Media Law provide for freedom of speech and of the press; however, throughout the year, the Government used a variety of means, including criminal and administrative charges, and, observers reported, the use of physical attacks and vandalism to silence its critics. As a consequence, many journalists practiced self-censorship.

The Media Law reaffirms the constitutional provision for free speech and prohibits censorship; however, the Media Law enabled the Government to restrict media content. For example, amendments enacted in 2001 codify the constitutional prohibition on the mass media from undermining state security or advocating class, social, race, national, or religious superiority or "a cult of cruelty and violence." The amendments also establish that owners, editors, distributors, and journalists may be held civilly and criminally responsible for content, regardless of the source of information. The law defines websites as mass media, although they were specifically excluded from some of the law's provisions. The Media Law also prohibits violence and all pornography from television broadcasts. The law also requires all media to register with the Government, although websites were exempted from this requirement. President Nazarbayev said in August that the Media Law should be amended again to further define journalists' responsibility not to undermine the State and to create a journalistic code of ethics.

The Law on National Security gives the Prosecutor General the authority to suspend the activity of news media that undermines national security; however, this authority has never been invoked. A 1999 State Secrets Law established a list of government secrets, the release of which is proscribed in the Criminal Code. The law defines, for example, certain foreign policy information as secret if disclosure of this information might lead to diplomatic complications for one of the parties. The list of state secrets enumerated in the law includes all information about the health, financial, and private life of the President and his family. Also defined as state secrets is economic information such as the volumes of national mineral reserves and the amount of government debt owed to foreign creditors.

The Media Law amendments, signed by the President in 2001, limited the rebroadcast of foreign-produced programming. The amendments require a graduated reduction in rebroadcast of foreign programming: 50 percent beginning January 1 and 20 percent by January 1, 2003. Some media outlets were sanctioned under this provision during the year, although the Government stated that the majority of outlets were compliant.

The 1997 Language Law established that the amount of time television and radio stations broadcast in the state language (Kazakh) must not be less than the sum of the volumes of transmissions in other languages. The same wording appears in the Media Law, which allowed its enforcement from the beginning of the year. The Ministry of Culture, Information, and Public Accord monitored compliance with this requirement and sanctioned some violators during the year with 6-month license suspensions.

A new Administrative Code, adopted in 2001, charges the Ministry of Culture with oversight over administrative violations of the media. The code allows the Ministry to suspend the activity of a media outlet for 3 days while preparing a legal case and to confiscate newspaper print runs.

During the year, there were several serious incidents involving journalists that were critical of government leaders or their relatives.

On June 21, 25-year-old Leila Bayseitova, daughter of opposition journalist Lira Bayseitova, died in an Almaty hospital, after being taken there from police custody. She was arrested on June 16 on charges of drug possession. The police asserted that she tried to hang herself in her jail cell as a result of a severe drug withdrawal reaction and closed the case in July. An August investigation by an independent, international NGO found that the police explanation could not be verified without a forensic autopsy and a reconstruction of the incident. In December the Government invited foreign government forensic experts to conduct another independent evaluation. These experts concluded that the police version of events was possible, includ-

ing evidence of the victim's drug use as police had claimed. Neither investigation established that Bayseitova's death was linked to her mother's journalism (*see* Section 1.d.).

In July the KNB opened an investigation against independent journalist Sergey Duvanov for an article critical of President Nazarbayev that he published on an opposition website. On August 29, three unknown persons attacked Duvanov in the darkened hallway outside his apartment. The assailants carved a cross and several other marks on Duvanov's chest and allegedly told Duvanov that he was aware of why they were attacking him. President Nazarbayev denounced this attack, calling it a provocation, and charged Interior Minister Suleymenov with personally leading the investigation. Suleymenov said publicly that members of the opposition had orchestrated the attack in an effort to discredit the Government. No arrests had been made in the case by the end of the year.

On October 29, Duvanov was arrested and charged several days later with the rape of an underage girl. His supporters argued that the charge was fabricated, while others demanded justice for the young alleged victim. International organizations and human rights groups were critical of the charge, noting a pattern of harassment of Duvanov during the year, and pressed the Government to conduct an impartial and transparent investigation. Court proceedings began on December 24, but were postponed until the 2003 to give Duvanov's lawyers opportunity to review the investigative materials.

The Government did not permit individuals to criticize the country's leadership and, early in the year, enforced laws limiting this aspect of freedom of speech. The Constitution provides for the protection of the dignity of the President, and the law prohibits insulting the President and other officials. Media outlets generally practiced self-censorship regarding information on the President and his family to avoid possible legal problems. Most media did not present the story, which had been widely reported internationally in 2000 and developed during the year, about foreign investigations into possible illicit payments from abroad to senior government officials, including President Nazarbayev. Local media outlets, when they did report on these charges, informally dubbed them Kazakhgate. Most media did carry an April speech before Parliament by Prime Minister Tasmagambetov claiming that a billion-dollar secret Swiss bank account in the President's name was for state emergencies.

During the year, several criminal investigations began under Section 318 of the Criminal Code, which prohibits insulting the honor and dignity of the President. A conviction carries a maximum 3-year jail term. In at least two of these cases, charges were filed, and those accused appeared in court. In a July interview that appeared in the international press, President Nazarbayev stated that it was not necessary to enforce Section 318; on September 3, local news outlets reported Interior Minister Suleymenov repeating this pronouncement by the President. Following these pronouncements, the Government did not initiate any new prosecutions under Section 318, and no new cases were reported.

In June Oksana Martynuk, a journalist with the Atyrau-based newspaper Al Zhayik, was acquitted on criminal charges under Section 318, pending her apology. The charges stemmed from a 2001 article reporting on new security measures designed to protect sturgeon fishing concerns. One of the companies to benefit reportedly was owned by Timur Kulibayev, the President's son-in-law.

In July the KNB began an investigation under Section 318 against independent journalist Sergey Duvanov for a May 6 article he had published on an opposition website. The article compared President Nazarbayev to Milosevic and Pinochet, among others. It also referred to the Kazakhgate allegations that had appeared elsewhere. No charges resulted from this investigation.

On September 18, Saghingali Kapizov, an oblast legislator and newspaper editor, was acquitted on criminal charges under Section 318 by an Atyrau court. The charge stemmed from an article he wrote in 2001 that appeared in the newspaper Al Zhayik. Kapizov was arrested on July 29 in Pavlodar for leaving the jurisdiction where the investigation was taking place and remained in custody until the conclusion of the trial.

In 2001 the Zhetisu District court of Almaty tried Yermurat Bapi, editor in chief of SolDat newspaper and a member of the executive committee of the RNPk, and journalist Karishal Asanov under Section 318 for two articles printed in SolDat in 2000, which addressed corruption and the role of President Nazarbayev in the December 1986 student uprisings in Almaty. Bapi was found guilty and sentenced to 1 year in prison; however, the conviction fell under the purview of the general amnesty and Bapi did not serve his sentence. Bapi was forced to pay \$275 (40,000 tenge) in court costs, and the press run of SolDat in which the articles appeared was destroyed. The oblast court denied Bapi's appeal. Asanov was acquitted of the charges.

According to government statistics, there were 841 privately owned newspapers and 319 privately owned magazines, compared with 950 and 342, respectively, in 2001. The Government ran one of the two Russian-language newspapers and the only Kazakh-language newspaper that appeared most frequently (5 times a week). In addition, a number of privately owned media were believed to be controlled by members of the President's family. Many newspapers that nominally were independent, particularly Kazakh-language print media, received government subsidies. Each major city has at least one independent weekly newspaper. Two new, nationally circulated weeklies, published by the centrist opposition Ak Zhol political party, began operation during the year.

The Government controlled nearly all broadcast transmission facilities. There were 77 independent television and 30 radio stations. There were only two government-owned, combined radio and television companies; however, they represent five channels and were the only stations that can broadcast nationwide. Regional governments own several frequencies; however, independent broadcasters have arranged with local governments to use the majority of these. There were several electronic media organizations, including the Association of Independent Electronic Media of Central Asia and the National Association of Broadcasters.

The extent of government influence over mass media was not clearly defined. Many media outlets considered to be independent were controlled by holding companies which do not make public the names of their controlling investors. Several NGOs alleged that most large media outlets were controlled by members of the President's family and close circle of friends through holding companies. However, according to government statistics, there were 1,431 mass media and information agencies in the country as of August 1, nearly 80 percent of which were privately owned.

In 2001 journalist Andrey Sviridov published findings of a poll conducted among journalists, media experts, and representatives of human rights organizations on the media. The majority of those polled stated that they felt the Kazakhstani media market was controlled by Dariga Nazarbayeva (the President's daughter), Rakhat Aliyev (her husband), Timur Kulibayev (another son-in-law of the President) and other so-called oligarchs. There were no retaliatory actions reported against Sviridov for his publication of the poll results.

The Government continued to be in a strong position to influence most printing and distribution facilities and to subsidize periodicals, including many that supposedly were independent. In addition, many publishing houses were government owned.

In 2001 Yermurat Bapi, editor in chief of the independent newspaper SolDat and member of the executive committee of the opposition RNPk party, alleged that his newspaper was forced to cease publication for 8 months because all local publishing houses had refused to print it.

Owners, editors, distributors, and journalists were held responsible for the content of information conveyed, regardless of its source, promoting self-censorship at each level. At times fines for libel were exorbitant and bankrupted small media outlets. Publishing houses, which also were responsible legally for the information that they publish, were reluctant to publish anything that might be perceived as undesirable by influential officials. While these actions were not government initiated, they effectively limited the media's ability to publish strongly critical items. Both the Criminal and Civil Codes contain articles establishing broad libel liability.

In January a libel lawsuit initiated by presidential son-in-law Rakhat Aliyev against the NGO Internews began. Aliyev complained that he had been libeled by an August 2001 story in the Internews web-based bulletin repeating allegations that Aliyev and his wife, Dariga Nazarbayeva, controlled several TV and radio networks in Kazakhstan. An Almaty district court found Internews guilty of civil libel on May 24 and the Supreme Court upheld the verdict on July 30. Because libel laws place the burden of proof on the defendant, Internews' case was weakened because it could not produce documents proving Aliyev was an owner. The verdict required Internews to publish as its own a retraction prepared by Aliyev.

On April 30, Atyrau prosecutors filed a criminal case against Zhumbai Dospanov, editor of Vecherniy Atyrau newspaper and RNPk party oblast chief for Atyrau, for failure to pay a \$13,300 (2 million tenge) fine levied against him in 2001. In September the criminal charge was dropped. The fine stemmed from a civil conviction for publishing derogatory information about the oblast akim. Dospanov appealed the civil verdict to the Supreme Court, which had not informed Dospanov by the end of the year whether his case was accepted for appeal.

In 2001 the city court of Aktobe found journalist Oleg Adorov guilty of libel and sentenced him to 180 hours of community service. The criminal proceedings were instituted after Abay Yeschanov, a judge in the Alga district court, filed a suit stat-

ing that he had been insulted in an article Adorov wrote for Yevrika newspaper. The newspaper was fined \$2,000 (300,000 tenge).

Many observers maintained that the Government engaged in a systematic campaign throughout the year to silence its most vocal critics. Media outlets and journalists that reported on the Kazakhgate allegations and on the opposition DVK movement were often mentioned as targets of this campaign. The Government claimed the incidents commonly cited as part of the campaign were the result of provocations by those attempting to discredit the Government, or violations by media outlets of the law. However, President Nazarbayev stated in August that it was necessary to put an end to interference in the legitimate activity of both the state and nonstate press and ordered an investigation to determine whether instances of closure of some media had been done by illegal methods. Senior government officials briefed the press in early September on the status of the criminal investigations in many of these cases, attempting to dispel the concerns that had arisen among journalists.

On March 4, the broadcast license of independent Tan-TV was suspended for 6 months for what its leadership claimed were trivial infractions. President Nazarbayev publicly declared 3 days later that the suspension should be reviewed; it was lifted on March 9. On March 29, one of Tan's antenna feeder cables was severed; several days later a line of automatic gunfire knocked out the main line. On May 15, the feeder cable was again damaged and rendered inoperable after several nails were driven into it. The Government claimed these were acts of hooliganism, although no one was arrested for the crimes. Repairing the damage required the installation of new equipment, necessitating an application with the Ministry of Transport to resume transmitting. This approval was not forthcoming for several months. On September 4, Tan was sold to the media company that operated Channel 31.

Several regional television stations that had rebroadcast Tan's news stories were also closed, including Irbis and 6x6 in Pavlodar and Era in Astana. In February Irbis had its license suspended for 3 months for allegedly airing a pornographic movie that had been broadcast previously on another channel without incident. In May the Ministry of Transport and Communications revoked the broadcast licenses for Irbis, 6x6, and Era for violating their tender obligations. On June 18, Irbis journalist Kanat Tusupbekov was sentenced to 2 years in prison for assaulting three men in April; Tusupbekov claimed he had been the one beaten. Journalists and cameramen for Tan and Irbis were harassed on several occasions in the aftermath of the arrests of DVK leaders Mukhtar Ablyazov and Galymzhan Zhakiyanov (see Section 1.e.).

Throughout February and March, Respublika newspaper could not find printing presses in Almaty and Astana to publish it, after it had given extensive coverage to January's DVK convention. It found regional presses to publish individual editions. On April 12, an Almaty court suspended the newspaper for 2 months for violations of the Media Law's information disclosure requirement, since, among other alleged violations, it was not publishing the addresses of the printing houses it was using.

On August 20, three former police officers attacked and beat KTK-TV journalist Artur Platonov in his car outside his home. Platonov hosted a weekly program on political issues. He maintained that his reporting on police abuses and human rights had caused the police to retaliate. His attack sparked a series of denunciations, including from Dariga Nazarbayeva, the President's daughter, on law enforcement's inability to protect journalists. On November 26, an Almaty court convicted the three former officers of the beating and sentenced each to 1-year probation.

Some journalists alleged that the KNB or tax police threaten publishing houses if they print opposition media; concern over criminal or civil proceedings influenced publishing houses. The Al Zhayik printing house in Atyrau that prints the newspaper of the same name, as well as other newspapers in the oblast, was firebombed on May 3. Police claimed to have arrested the perpetrators. Police seized copies of *Ekonomika*, *Finansy i Rynki* from a private printing house in Almaty on September 23, although they had no authority to do so.

On May 21, the Almaty offices of the opposition SolDat newspaper were attacked, resulting in the theft of equipment and the hospitalization of one of SolDat's employees. On June 7, Almaty police announced that they had made an arrest in the case; Yermurat Bapi, SolDat's editor, disputed the connection of the person arrested to the crime. Bapi also held a press conference on September 16 to announce that the day before, KNB, police, and prosecutors raided the printing house preparing an edition of SolDat under the pretext of an anonymous bomb threat to the facility.

Following Respublika's publication of articles cataloging allegations of corruption against the President and his circle, the newspaper and its editor, Irina Petrushova,

were subjected to a intense campaign of intimidation during which a decapitated dog with an attached threat note was left at the newspaper and a dog's head with another threat note was left at Petrushova's home. On May 23, Respublika's Almaty offices were firebombed. In July authorities announced that Muratbek Ketebayev, one of Respublika's cofounders, paid two people to carry out the attack. On July 4, an Almaty court found Irina Petrushova, Respublika's editor, guilty of licensing violations and sentenced her to 1 ½ years in prison; she was amnestied immediately under the Amnesty Law. Throughout the year, the parent company of Respublika, PR Consulting, appealed multiple court decisions that would have liquidated it.

On May 27, an Aktobe court confirmed a March 15 Ministry of Culture recommendation that local Radio Rifma's license be revoked for violations of the Kazakh-language broadcast requirements. Radio Rifma's owners also operated Aktobe's top-circulation newspaper, Diapazon, several of whose reporters local human rights activists claim had been harassed over the previous 2 years. Media rights activists cited several other regional publications that were targets of similar harassment.

The Media Law defines Kazakhstan-based websites as media outlets. There were occasions during the year when the content of websites was material in libel lawsuits and criminal charges. Clients of the two largest Internet providers, Kaztelecom and Nursat, periodically were blocked from direct access to several opposition websites, including Evrasia, Navigator, and Kub, although access was still available through anonymous proxy servers.

The Government generally did not restrict academic freedom; however, as was the case for journalists, academics could not violate certain restrictions, such as criticizing the President and his family. In September at least one youth activist participating in a campaign against the Government's proposed Law on Youth Policy was threatened with expulsion from her university and the loss of her scholarship for continuing with the campaign.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government and the law impose significant restrictions on this right. The Law on National Security defines as a threat to national security unsanctioned gatherings, public meetings, marches, demonstrations, illegal picketing, and strikes that upset social and political stability.

Under the law, organizations must apply to the local authorities for a permit to hold a demonstration or public meeting at least 10 days in advance, or the activity is considered illegal. In some cases, local officials routinely issued necessary permits; however, opposition and human rights monitors complained that complicated procedures and the 10-day notification period made it difficult for all groups to organize public meetings and demonstrations. They also reported that local authorities, especially those outside Almaty, turned down most applications for demonstrations in central locations. During the year, certain religious groups repeatedly were denied permits for conventions or large public gatherings. Organizers of unsanctioned gatherings, including religious gatherings, frequently were fined (*see* Section 2.c.).

There were at least two instances when the Government denied permits for political rallies. On January 12, DVK leader Galymzhan Zhakiyanov was denied permission to hold a protest rally in Pavlodar. On April 21, pensioners in the northern city of Petropavlovsk were also denied permission to protest; in that instance the mayor of the city claimed that such a rally would threaten the inviolability of the president's honor and dignity. DVK, the United Democratic Parties (UDP), and the Ak Zhol political party received permits to hold rallies in Almaty and other cities during the year.

On March 29, Zhakiyanov, fearing arrest, sought refuge in a foreign government's embassy after the arrest 2 days earlier of fellow DVK leader Mukhtar Ablyazov on corruption-related charges. Zhakiyanov spent 6 days in the building, attracting numerous protesters, both progovernment and proopposition.

During the summer trials of Zhakiyanov and Ablyazov (*see* Section 1.e.), protest rallies were held in the cities in which the trials were taking place, Pavlodar and Astana, respectively, as well as in Almaty. At a July 19 rally, several people were detained on charges of illegal assembly, including Irina Savostina, leader of the national Pokolenie pensioners' movement. A reporter covering the event, Batyrkhan Darymbet, was also among those detained, although he had shown the arresting officers his press credentials. His lawsuit against Almaty police was dismissed in August.

The Constitution provides for freedom of association; however, the Government and the law imposed significant restrictions on this right. Organizations that conducted public activities, held public meetings, participated in conferences, or had bank accounts had to be registered with the Government. Membership organizations, such as religious groups and many others, must have 10 members and estab-



lish branches in more than half of the oblasts (there were 14 oblasts; Almaty and Astana cities were special administrative districts with the status of oblast, making 16 such districts in all) for national registration. Registration at the local level required a minimum of 10 members. Political parties and labor unions were considered membership organizations, but each had specific registration requirements established by legislation. The new Political Parties Law (*see* Section 3), enacted in July, requires parties to have 50,000 members, including 700 in each oblast.

Nonmembership organizations, generally NGOs, must register at the national level only. These organizations were no longer exempt from taxes due to a change in the tax code during the year. A registration fee of approximately \$105 (16,460 tenge) was required for both membership and nonmembership organizations; half that amount was required for reregistration, which became necessary if the organization changed its charter, its address, or its leadership. Most organizations had to hire lawyers or other consultants to expedite their registrations through the bureaucracy, which increased the registration cost considerably. Some groups considered these costs to be a deterrent to registration. According to government regulations, registration was supposed to be granted within 15 days. Local NGOs reported that registration often took 1 month to a year because the Government may return applications for additional information or require investigations into certain portions of the application. There were numerous cases of the activities of religious groups being suspended pending registration; the Administrative Code requires they be registered, while the Religion Law does not. The registration of some religious groups took much longer than 1 year (*see* Section 2.c.).

The new Political Parties Law requires that all parties registered at the time of its enactment complete a reregistration process by January 2003, according to the new criteria established by the law. Many of the 19 parties registered at that time were not expected to meet these new requirements. The new law prohibits political parties established on an ethnic, gender, or religious basis; parties established on a religious basis are specifically prohibited by the Constitution. Two small Kazakh ethnic nationalist parties, Alash and Kazakh Yely, as well as an ethnic Russian party that was granted temporary registration in April, were among the 19 registered parties during the year. The Russian party changed its name to the Com-patriot Party in July to comply with the new law and in December announced that it had surpassed 50,000 members. The Democratic Party of Women announced in October that it had changed its name to Yel Dana (Wisdom of the Nation) and would meet the membership requirements of the new law. Two pro-presidential parties, Otan and the People's Cooperative Party, announced they had merged in late September, although a Ministry of Justice official had stated in August that political parties would not be allowed to merge to meet the new law's registration requirements. Otan and the People's Cooperative Party both claimed sufficient membership to qualify for reregistration before the merger. Three opposition parties (RNPK, Azamat, and the People's Congress of Kazakhstan) announced in September that they would merge and also that they would boycott the new law. The centrist opposition Ak Zhol party, first granted temporary registration status in March, announced in September that it had surpassed 50,000 members. On December 12, Ak Zhol was granted temporary (6-month) registration.

By year's end, three political parties (Otan, Civic, and Ak Zhol) were officially re-registered.

Joining a political party required members to provide personal information, including date and place of birth, address, and place of employment. For many citizens, the requirement to submit such personal data to the Government tended to inhibit them from joining political parties. There were credible allegations that people entering government service were required to join the pro-presidential Otan party.

The Constitution bans public associations, including political parties, whose goals or actions were directed at a violent change of the Constitutional system, violation of the integrity of the republic, undermining of the security of the state or fanning of social, racial, national, religious, class, and tribal enmity. The major religious and ethnic groups had independently functioning cultural centers.

Membership in trade unions or political parties and actions in support of political parties are forbidden under the Constitution to members of the armed forces, employees of national security and law enforcement organizations, and judges.

The Constitution prohibits foreign political parties and foreign trade unions from operating. In addition, the Constitution prohibits the financing of political parties and trade unions by foreign legal entities and citizens, foreign states, and international organizations (*see* Section 6.a.).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the various religious communities worshiped largely without government interference;

however, the Government's concerns regarding regional security threats from alleged religious extremists led it to encourage local officials to limit the practice of religion by some nontraditional groups.

The Constitution defines the country as a secular state. The Government invited the leaders of the two largest religions, Islam and Russian Orthodoxy, to participate jointly in state events. The leaders of the Catholic and Jewish religions, which were represented by small proportions of the population, also participated in some official events. While the Government unsuccessfully sought on several occasions to amend the National Religion Law to give the Muslim Spiritual Association (a national Muslim organization) a quasi-official role, both the Government and the association denied that there was any official connection between them. There were reports that the Mufti sent Kazakh-speaking imams through the country to mosques that served Uighur and Chechen-speaking communities that had no connection to the Mufti's organization.

In contrast to laws governing other public associations, the National Religion Law does not explicitly require religious organizations to register with the Government. It states that all persons are free to practice their religion alone or together with others. Because the clause makes no reference to registration, legal experts interpret it to ensure the right of members of unregistered groups to practice their religion. However, it does specify that religious organizations must register to receive legal status. Religious organizations had to have legal status to buy or rent real property, hire employees, or engage in other legal transactions.

The Government exempted registered religious organizations from taxes on church collections and income from certain religious activities. The Government donated buildings and provided other assistance for the construction of new mosques, synagogues, and Russian Orthodox churches.

Article 375 of the Administrative Code allows national and local authorities to suspend the activities or fine the leaders of unregistered religious organizations. Lower courts consistently cited Article 375 in sanctioning religious organizations for nonregistration, but such decisions often were overturned on appeal. In January Parliament passed amendments to the National Religion Law that included a registration requirement for religious organizations, a ban on extremist religious associations, an increase in the number of members required for registration, authorization for local officials to suspend the activities of religious groups for criminal violations of one or more of their members or for conducting religious activity outside the place where they are registered, and a requirement that foreign religious organizations be affiliated with a nationally registered organization. In April the Constitutional Council discarded the entire set of amendments after ruling that the provisions giving a quasi-official role to the Muslim Spiritual Association were unconstitutional. The Council also ruled that the amendments as a whole restricted the constitutional right to express religious beliefs freely.

In practice local officials generally insisted that religious organizations register at the local level, despite the fact that registration at the national or the oblast level legally was sufficient to obtain the rights that registration offers. Although the law specifies a maximum of 30 days for authorities to complete the registration process, many religious groups reported delays of several months.

Members of Jehovah's Witnesses attempted to register in Northern Kazakhstan Oblast for more than 4 years. On November 2, a city court in Petropavlovsk ruled in favor of Jehovah's Witnesses regarding registration in Northern Kazakhstan; however, the local branch of the Ministry of Justice did not implement the court order by year's end. The 2001 application by members of Jehovah's Witnesses to register in Atyrau Oblast remained pending at year's end.

Law enforcement authorities conducted inspections of religious groups throughout the country, claiming they were preventing the development of religious extremism and ensuring that religious groups pay taxes. These inspections provided authorities with information about the registration status of groups, which in some cases led to authorities requiring the groups concerned to suspend their activities pending registration.

Representatives of many religious organizations and religious rights observers regarded Parliament's passage of restrictive amendments to the National Religion Law in January (notwithstanding their later rejection on constitutional grounds) as the pretext for local officials to engage in a coordinated campaign of harassment directed at smaller, local religious groups. The representatives claimed that local officials began enforcing the new law upon its passage.

Neither law nor regulation prohibits foreign missionary activity; however, there was no mechanism governing such activity.

The national Jehovah's Witnesses Religious Center alleged continuing incidents of harassment by a number of local governments. It claimed that city officials in

Astana, Almaty, Ust-Kamenogorsk, Kostanay, Karaganda, Aktubinsk, and Shymkent sometimes blocked the group from renting stadiums or other large public or private sites for religious meetings. Jehovah's Witnesses were registered nationally, as well as in 12 of the country's 14 oblasts. Local KNB officials disrupted some meetings in private homes of unregistered groups of Jehovah's Witnesses, Adventists, Baptists as well as other Protestants, and other nontraditional groups throughout the country.

There were several court cases against unregistered local Jehovah's Witnesses, including in the cities of Taraz, Atyrau, and Petropavlovsk and in several smaller villages. Courts typically ruled that unregistered groups were in violation of the Administrative Code and issued warnings, levied fines of up to almost half of an average monthly salary, or suspended the activities of the group. When adequate legal counsel was brought in on appeal, the decisions usually were overturned.

On January 23, according to a report by the Keston News Service, Tursunbay Auelbekov, a Baptist in the southern town of Turkestan, was arrested while distributing religious literature in a public area. Prosecutors maintained that his activity was illegal because the Baptists in Turkestan were not registered; however, they decided not to press charges, citing Auelbekov's poor health.

In April regional authorities raided an unregistered farm run by the Society for Krishna Consciousness in the village of Yeltay in Almaty Oblast. Tax, immigration, fire, and health and hygiene officials were involved in the inspection. Police confiscated the passports of 15 foreign members of the community, 5 of whom were sentenced to deportation at a May local court hearing at which no charges were stated and the lawyers for the accused were not permitted to speak. In early June, the Hare Krishnas appealed the deportations, and the court also levied fines against three other members. Leaders of the Krishna Center, registered in Almaty City, alleged that the authorities arrived for the April inspection with television camera crews and then ordered the stations to report on the raid. In one television report, the Krishnas were described as extremists and criminals. On May 18, the Krishnas' application for registration in Almaty Oblast was approved after an 8-month delay. No members of the group were deported.

In June a Semipalatinsk court found the actions of the prosecutor in his pursuit of the local Jehovah's Witnesses congregation to be illegal. In a 2001 case in Taraz, the prosecutor's office withdrew its protest over the court's ruling in favor of the local Jehovah's Witnesses congregation.

In 2001 a court in the town of Ayaguz (Eastern Kazakhstan Oblast) convicted Pavel Leonov, a Baptist pastor, for failing to uphold a 2000 court order requiring his church to register. He was assessed a fine of approximately \$135 (20,575 tenge). By the end of the year, Leonov had not paid the fine and authorities had made no attempt to recover it.

According to an unconfirmed press report, Kulsary prosecutor Hagibula Kasymov threatened to jail Kurmangazy Abdumuratov and Askhat Alimkhanov, leaders of the Iman Kazakhstani Baptist Church, if their church continued to meet without registering. Religious freedom activists were not aware of the two subsequently being jailed. In 2001 prosecutors required them to stop meeting. Prosecutors also sought to suspend the activities of Baptist churches associated with the Council in Taraz, Serebriansk, and Kazalinsk.

Other than the brief detentions of a Baptist adherent in Turkestan and Hizb ut-Tahrir members in Kentau (Southern Kazakhstan Oblast), there were no reports of religious prisoners or detainees.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides the right to those who were legally present in the country to move freely in its territory and freely choose a place of residence except in cases stipulated by law; however, in practice citizens were required to register to prove legal residence and obtain city services. Registration in most of the country generally was routine, but it was difficult to register in Almaty and Astana due to their relative affluence and local officials' fears of overcrowding. Persons who were suspects in criminal investigations were often required to sign statements that they would not leave their place of residence. Many individuals were detained for identity checks without suspicion of a criminal offense (see Section 1.d.).

In July 2001, the Government formally abolished the exit visa requirement for temporary travel of citizens. Although exit visas no longer were required, there remained certain instances in which exit from the country could be denied, including if there were pending criminal or civil legal proceedings, unserved prison sentences, evasion of duty as determined by a court of law, presentation of false documentation during the exit process, and travel by active-duty military. The Law on National Se-

curity requires that persons who had access to state secrets obtain permission from their employing government agency for temporary exit from the country.

The Constitution provides for the right to emigrate and the right to repatriate, and the Government generally respected these rights in practice; however, the Law on National Security prohibits persons who had access to state secrets from taking up permanent residence abroad for 5 years after leaving government service. A permanent exit visa still was required for emigrants. A permanent exit visa for intending emigrants required criminal checks, documents from every creditor stating that the applicant had no outstanding debts, and letters from any close relatives with a claim to support giving their concurrence to the exit visa. There was one reported instance of an individual being denied an emigrant exit visa for failing to document the continued support of dependents. Citizens have the right to change citizenship, but were not permitted to hold dual citizenship.

Foreigners were required to have exit visas, although they received them routinely as part of their entry visa. Foreigners who overstayed their original visas, or who did not receive exit visas as part of their original visas, were required to get exit visas from the immigration authorities before leaving. Foreign visitors were required to register, depending on their circumstances, either with the immigration officials who admit them at the airport or with the local migration police (often referred to as OVIR, after the office that formerly had this function). Foreigners no longer were required to register in every city they visit; one registration was sufficient for travel throughout the country. Immigration authorities occasionally fined foreigners without proof of registration before allowing them to leave the country.

Foreigners were required to obtain prior permission to travel to some border areas with China and cities in close proximity to military installations. In 2001 the Government declared the following areas closed to foreigners due to their proximity to military bases and the space launch center: Gvardeyskiy village, Rossavel village, and Kulzhabashy railway station in Zhambyl Oblast; Bokeyorda and Zhangaly districts in Western Kazakhstan Oblast; the town of Priozersk and Gulshad village in Karaganda Oblast; and Baykonur, Karmakshy, and Kazakly districts in Kyzyl Orda Oblast.

The Government accorded special treatment to ethnic Kazakhs and their families who fled during Stalin's era and wished to return. Kazakhs in this category were entitled in principle to citizenship and many other privileges. Other persons, including ethnic Kazakhs who were not considered refugees from the Stalin era, such as the descendants of Kazakhs who moved to Mongolia during the 19th century, had to apply for permission to return. It was government policy to encourage and assist all ethnic Kazakhs living outside the country to return. Since independence approximately 215,000 ethnic Kazakhs, mostly from other former Soviet republics, Iran, Afghanistan, Mongolia, Turkey, China, and Saudi Arabia have immigrated. In 2001 the Government introduced a quota for returning Kazakh migrants that allowed 600 families to return annually. The Government helped provide these families with housing, stipends, and other benefits. The number of Kazakh migrants in 2001 far exceeded the 600-family quota. As a result, the quota for the year was increased to 2,665 families. The number of immigrants during the year again far exceeded the quota. The Government struggled to find resources for integration programs for those who arrived outside the quota, many of whom lived in squalid settings. International organizations and local NGOs assisted in these efforts, and the Government supported them. In October the Government announced that the quota for 2003 would be 5,000 families.

Ethnic Kazakh migrants were automatically eligible for citizenship; however, the prohibition on dual citizenship prevented many of them from receiving it immediately. Amendments to the Citizenship Law, passed in May, streamlined the acquisition of citizenship. Complicated procedures to renounce the citizenship of one's former country no longer delayed the process; the migration police simply turned in a new citizen's passport to the embassy of their former country at the conclusion of the citizenship process, which took 6 months on average. The Government made significant progress in granting citizenship before the implementation of the new procedure.

In 1999 the Government ratified the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, the Government had not passed implementing legislation by year's end. The absence of implementing legislation left unclear many aspects of the status of refugees, such as whether they had a right to work. Following the passage of a 1997 Migration Law and the creation of the Agency for Migration and Demography, the Government began in 1998 to register asylum seekers and to determine their status in consultation with the U.N. High Commissioner for Refugees (UNHCR). The Government generally cooperated with the UNHCR and other humanitarian organizations in assisting refugees. The Govern-

ment allowed the UNHCR access to detained foreigners and in practice was generally tolerant in its treatment of local refugee populations. Migrants from former Soviet republics were not considered to be refugees because they could travel and settle freely within the Confederation of Independent States (CIS). The Government often did not allow refugees without passports to register and in practice restricted registration almost exclusively to refugees from Afghanistan. All non-CIS citizens were considered to be intending immigrants. The Government generally respected the right of other CIS citizens to settle in the country; however, in practice it frequently did not extend this right to laborers from other Central Asian republics.

The Agency for Migration integrated the UNHCR and a local NGO, Kazakhstan Refugee Legal Support, into the process of reviewing refugee claims. The Government provided first asylum for certain categories of refugees, including certain categories of Afghan refugees. Only the President could grant political asylum, and he did not do so during the year. Nonpolitical asylum claims could theoretically be processed anywhere in the country, after the Agency for Migration established a national refugee determination committee in Astana during the year; however, in practice, claims continued to be processed only in Almaty. By October the Government had registered more than 1,300 asylum seekers and accorded refugee status to almost three-fourths of them. The UNHCR estimated that, at year's end, there were approximately 20,000 refugees in the country (approximately 12,000 Chechens from Russia, 4,000 persons from Tajikistan, 2,500 from Afghanistan, and 1,300 Palestinians, with the remainder including Uighurs and other nationalities).

Beginning with the renewal of conflict in Chechnya in 1999, a large population of Chechens fleeing the fighting came to the country; most remained during the year. Many Chechens had also entered the country during the earlier Chechen conflict and returned to Chechnya at its conclusion. Consistent with the Minsk Convention on Migration within the CIS, the Government did not recognize Chechens as refugees; however, the Government, in cooperation with the UNHCR and Chechen organizations, did grant temporary legal resident status to Chechens until they could return home to safe conditions. This arrangement functioned effectively, despite reports that some Chechens had to pay bribes to receive registration, until late October. After Chechen terrorist groups held civilians hostage in a Moscow theater in October, the Government stopped its nationwide policy of issuing temporary residence permits to Chechens. At least 100 were deported to Russia in December.

Kazakhstan and China agreed in 1999 not to tolerate the presence of ethnic separatists from one country on the territory of the other. Human rights monitors were concerned with the impact of this agreement on Uighurs from China in Kazakhstan. The Government did not consider any asylum claims by Uighurs; it was unclear whether any Uighurs applied. In general the Government was tolerant toward the Chinese Uighur population.

The deportation of approximately 100 Chechens to Russia in December constituted the only report of the forced return of persons to a country where they feared persecution. In a different case, the Government complied with its international refugee obligations by refusing to deport a prominent dissident of another former Soviet republic and allowing the UNHCR access to him. The UNHCR declared him a refugee, and arranged for his transportation to a third country. There were few reports of extrajudicial deportations during the year.

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

The Constitution provides for a democratic government with universal suffrage for those over 18 years of age; however, in practice the Government severely limited the right of citizens to change their government.

The Constitution concentrates power in the presidency, granting the President considerable control over the legislature, judiciary, and local government. The President appoints and dismisses the Prime Minister and the Cabinet. His appointment of the Prime Minister, but not of cabinet members, is subject to parliamentary consent. Presidential appointments of the Prosecutor General and the KNB Chief require the consent of the Senate. The President has the power to dismiss Parliament and to appoint judges and senior court officials. The President also nominates for approval by the Mazhilis the chairman and members of the Central Election Commission (CEC), who oversee presidential and parliamentary elections. The Mazhilis has never failed to confirm a presidential nomination. Modifying or amending the Constitution requires the President's consent.

President Nazarbayev was elected to a 7-year term in a 1999 election that was held nearly 2 years earlier than scheduled and fell far short of international standards.

In 1998 the President and the Parliament passed, without prior public notice, a series of constitutional amendments enabling them to call early presidential elections. Among other changes, the amendments extended the presidential term of office from 5 to 7 years and removed the 65-year age limit on government service. (The President will be 65 years of age before the end of his 7-year term.) government opponents and international observers criticized the short-notice elections because they did not leave time for the Government to implement promised electoral reforms or for candidates to organize effective campaigns.

The Government imposed onerous requirements on candidates for the 1999 presidential ballot, including requiring them to submit petitions with 170,000 signatures, pass a Kazakh-language test, and make a nonrefundable payment of approximately \$30,000 (2.4 million tenge). Less than a week after the presidential election was called, the Government disqualified a number of potential contenders on the basis of a provision of the presidential decree on elections that prohibited persons convicted of administrative offenses from running for public office within a year of their conviction. Five opposition leaders, including former Prime Minister Kazhegeldin, were summoned and tried for participating in a nonregistered organization. A sixth was disqualified for a previous conviction. The Supreme Court upheld the disqualifications.

The OSCE Office for Democratic Institutions and Human Rights (ODIHR) sent a small election assessment team to report on the election. The team concluded that the presidential election fell far short of the country's commitments as an OSCE participating state, citing in particular the exclusion of candidates, the short duration of the election campaign, obstacles to free assembly and association, the use of government resources to support President Nazarbayev's campaign, unequal access to the media, and the flawed presidential decree that served as the election law.

Although in many ways an improvement over the presidential election, the 1999 elections for the Mazhilis were marred by election law deficiencies, executive branch interference, and a lack of transparent vote counts. There was convincing evidence of government manipulation of results in some cases. The OSCE mission observing the elections concluded that they were a tentative step toward democracy but fell short of OSCE commitments.

On December 28, by-elections were held for three vacant seats in the Mazhilis from single-mandate districts in Karaganda, Atyrau, and Pavlodar Oblasts. The election was announced on October 21 by the CEC, and candidates were given until November 29 to register. In Karaganda the two leading candidates—Nikolay Usatov from the pro-presidential Otan party and Bulat Abilov from the moderate opposition Ak Zhol party—were disqualified from the ballot 3 days before the election. Abilov appealed the CEC decision to the district court, which reinstated him; the oblast court upheld the CEC disqualification hours before the polls opened. In Pavlodar one candidate, Valeriy Maksimonko, was also a member of the district election commission, which under the election law should have disqualified him as a candidate. The CEC released preliminary results on December 29 that showed government-favored candidates winning all three seats. In two races, independent exit polling showed that the margin of victory was inflated for the winning candidate. In Pavlodar exit polls showed Karlygash Zhakiyanova—the wife of imprisoned former oblast akim Galymzhan Zhakiyanov—receiving more than half the votes, although Maksimonko was declared the winner (*see* Section 1.e.). Independent election monitors recorded violations of the electoral law, including intimidation of election monitors, relocation of polling stations with little or no notice to voters, and manipulation of voter lists. The CEC had not certified the election results by year's end.

The Election Law requires candidates for both houses to meet minimum age and education requirements and to pay a registration fee. The law requires Senate (but not Mazhilis) candidates to obtain signatures from 10 percent of the members of the local assemblies in their oblasts in order to be placed on the ballot. Political parties wishing to compete for the 10 proportionally allocated seats in the Mazhilis must be registered by the CEC and regional electoral commissions in two-thirds of the principal administrative jurisdictions (the 14 oblasts, plus the former and new capital cities, Almaty and Astana).

The introduction of 10 proportionally allocated Mazhilis seats for the 1999 parliamentary elections enhanced the role of political parties, which, with the exception of the Communist Party, were previously very weak. The Communist Party and three pro-presidential parties—Otan (Fatherland), the Civic Party, and the Agrarian Party—shared the 10 new party-list seats in the 1999 parliamentary election.

Parliament exercised little oversight over the executive branch, although it has the constitutional authority to remove government ministers and to hold a no-confidence vote in the Government. During the year, the legislature exercised its authority over proposed legislation by forwarding bills for consideration to the Con-

stitutional Council. Although Parliament must approve the state budget, the Constitution precludes Parliament from increasing state spending or decreasing state revenues without executive branch approval. Nearly all laws passed by Parliament originate in the executive branch. The executive branch controls the budget for Parliament's operations; it has not provided funds for Members of Parliament to hire staff, a situation generally viewed as decreasing Parliament's effectiveness. The executive branch also blocked legislation on establishing Parliamentary staff, which Parliament passed in 2001; the law was found unconstitutional because Parliament may not make additions to the state budget.

If Parliament failed to consider within 30 days a bill designated urgent by the President, the President could issue the bill by decree. Although the President has never resorted to this authority, it gave him additional leverage with Parliament. While the President had broad powers to dissolve Parliament, Parliament can remove the President only for disability or high treason, and only with the consent of the Constitutional Council appointed by the President (*see* Section 1.e.).

Many activities of Parliament remained outside public view. During the year, the Parliament continued to become more open by publishing some draft laws; in 2001, Parliament published its voting record for the first time.

According to the Constitution, the President selects oblast akims based on the recommendation of the Prime Minister; they serve at the discretion of the President, who may annul their decisions. The oblast akims then appoint the county-level equivalent and city leaders below them. The Constitution permits direct election of such officials and in 2001 experimental local district akim (county-level equivalent leader) elections were held, representing the first tentative movement away from appointment of local district akims. In each of the 14 oblasts, elections were held to fill 2 positions. The local akims were elected by secret ballot by a group of electors chosen by local residents through a public show-of-hands vote. The OSCE noted that the procedure violated international standards requiring a secret ballot and did not provide transparency while counting and registering election results. During the year, President Nazarbayev appeared to move away from the idea of continuing experimental local elections. He stated in an August speech that there should be no haste in the matter of changing to local self-government. In the same speech, he asserted there was international trend toward managers instead of elected officials at the local level and claimed that such direct elections would divide the country into fiefdoms, threatening stability. On several other occasions, he stated that the people were not ready for such direct democracy.

The Government restricted the functioning of the political opposition. One opposition group, the DVK movement, was founded in 2001 by 11 senior government leaders, members of parliament, and prominent businessmen. Four of the senior government officials were fired several days after the founding at the request of the Prime Minister, and in December 2001 parliamentary deputy Bulat Abilov was expelled from his party slate seat in Parliament. On January 8, the DVK successfully registered with the Ministry of Justice as a public association.

DVK held a notable meeting of 900 sympathizers on January 19 and a public rally the following day with close to 2,000 persons in attendance. Both events received extensive coverage from several independent media outlets. DVK leaders advocated more progress toward democracy including direct election of oblast akims, media freedom, and poverty reduction. They also spoke out against past electoral fraud and government corruption.

By April two of DVK's leaders had been arrested and most of the independent media that had given the party favorable coverage had experienced government efforts to silence them (*see* Sections 1.e. and 2.a.). A political party, Ak Zhol, split off from DVK in March; it was granted temporary registration under the restrictive new Law on Political Parties in December (*see* Section 2.b.). DVK added under its umbrella a broad collection of traditional opposition parties during the year.

Several expected participants in foreign-sponsored political party training sessions from DVK in June and RNPk in July were prevented from attending. Some had their travel delayed, while others were charged with crimes and forbidden to travel right before the events.

At the end of the year, three women held ministerial portfolios. There were no female oblast akims (governors). Of 39 Senate members, 4 were female; of 77 Mazhilis members, 8 were female. There were no legal restrictions on the participation of women and minorities in politics; however, the persistence of traditional attitudes meant that few women held high office or played active parts in political life.

Although minority ethnic groups were represented in the Government, ethnic Kazakhs held the majority of leadership positions. Nearly half the population were non-Kazakhs according to the national census completed in 1999. Non-Kazakhs held 1 of 4 deputy prime minister positions and headed 2 of 15 government ministries

and the national bank. Non-Kazakhs were underrepresented in the Mazhilis and the Senate. In Parliament 8 senators and 19 members of the Mazhilis were non-Kazakhs.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases; however, some human rights observers reported that the Government monitored their movements and telephone calls (see Section 1.f.). In addition, in September at least one NGO participant in a campaign against a draft Law on Youth Policy was told by university authorities to cease the activity (see Section 2.a.).

The Kazakhstan International Bureau for Human Rights and Rule of Law and the Almaty Helsinki Commission were the most active of a small number of local nongovernmental human rights organizations. They cooperated with each other on human rights and legal reform issues. Although these groups operated largely without government interference, limited financial means hampered their ability to monitor and report human rights violations. Some human rights observers periodically received threatening or harassing telephone calls; however, the source of these calls was unknown.

In general the Government showed greater willingness to focus on abuses highlighted by human rights monitors and individual citizens in the criminal justice system and to investigate allegations of corruption. The Government tended to deny or ignore charges of specific human rights abuses that were levied by both international and domestic human rights monitors and by individual citizens, although it often acknowledged that human rights abuses existed in general.

The Civil Code requires NGOs to register with the Government, and most NGOs were registered (see Section 2.b.); however, some continued to operate without legal standing.

The Government permitted international and foreign NGOs and multilateral institutions dealing with human rights to visit the country and meet with local human rights groups as well as government officials. The International Labor Organization (ILO), the International Federation of Red Cross and Red Crescent Societies (IFRC), the UNHCR, the IOM, and the OSCE, have permanent offices in the country. During the year, the country joined the IOM as a full member; it previously had only observer status.

The Presidential Commission on Human Rights was a consultative and advisory body that prepared annual reports to the President; none has been released to the public since 1998. The Commission provided free legal and consultative assistance to citizens. In addition, the Commission monitored fulfillment of international human rights conventions and proposed legislative improvements. The Commission received complaints from citizens in person, by telephone or in writing. In 2001 the Commission received 629 written complaints; for the first 6 months of the year, it received 318. According to the Commission, the majority of complaints were economic or social in nature, such as nonpayment of benefits or salaries, and housing conditions. The Commission also received complaints relating to conditions of military service, education, abuses by investigative authorities, and nonenactment of court decisions.

The Commission reported that it had received no complaints of abuses of political rights, language or racial discrimination, or violations of freedom of speech during the year, or in any previous year. NGOs believed that the Commission, due to its status as a government body, was influenced by the Government and downplayed cases.

In late September, a series of presidential decrees created the position of Human Rights Ombudsman, appointed the former head of the Presidential Commission on Human Rights to the newly created position, and established the regulations and authority of the position. However, under the decrees, the new Ombudsman was not authorized to investigate any complaint dealing with the President, the Parliament, the Government, the Constitutional Council, the Prosecutor General, the Central Election Commission, or the courts. Police abuse and violations of rights in detention facilities and prisons were under the Ombudsman's purview.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution states that everyone is equal before law and court and that no one may be subjected to any discrimination for reasons of origin, social position, occupation, property status, sex, race, nationality, language, convictions, place of residence, or any other circumstances; however, the Government did not enforce this



provision effectively on a consistent basis. The Government favored ethnic Kazakhs in government employment and, according to many citizens, in the process of privatizing state enterprises.

*Women.*—Violence against women, including domestic violence, was a problem. In June a MVD survey said that 52 percent of women had reported some form of domestic abuse, with the highest incidence in rural areas. The MVD further stated that only 30 percent of domestic violence cases were prosecuted. A September press report indicated that on average 160 women died annually as a result of domestic violence. In February the head of the National Commission on Women reported that 28,000 crimes were committed against women in 2001 and that the majority of victims of violent crime were women. NGO activists and prison officials stated that domestic violence was a significant factor in the majority of cases of women serving sentences for murder.

There was no specific law on domestic violence; however, it could be addressed under assault and battery provisions of the Criminal Code. The maximum sentence for wife beating was 10 years in prison, the same as for any beating. The punishment for rape ranged from 3 to 15 years imprisonment. There was no information on the percentage of crimes against women that were prosecuted successfully. Police often were reluctant to intervene in domestic disputes, considering them to be the family's business, unless they believed that the abuse was life threatening. Under the Criminal Procedure Code, prosecutors could not initiate a rape case, absent aggravating circumstances such as gang rape, unless the victim filed a complaint. There were unconfirmed reports that prosecutors sometimes interpreted this provision to require rape victims to pay for forensic testing, pay the expenses of prosecution, and prosecute rape cases personally. Police also could not detain a suspect legally for more than 72 hours unless the victim provided a written complaint, which women often refused to do.

One Almaty crisis center (there were three, two of which operated shelters) reported that it received 100–150 calls from women per month for domestic violence, and that a very small percentage followed through with charges. Another Almaty crisis center reported 1,800 calls from women in the first 10 months of the year, 9 of which were to report a rape. When victims did decide to press charges for domestic violence or rape, police often tried to persuade them not to pursue it. In one such incident, a police officer was disciplined. There were domestic violence units within the Almaty and Astana police departments, which cooperated with the crisis centers. When domestic violence cases did come to trial, the charge was most often for light beating, the penalties for which include fines of up to \$535 (82,300 tenge) or 3 months' imprisonment. In approximately 30 cases during the year, the conviction of a husband resulted in a divorce. The National Statistics Agency reported 948 rapes and 138 attempted rapes in 2001. There was very little reporting on rape in the press.

Prostitution is not prohibited by law; however, forced prostitution or prostitution connected to organized crime is illegal. Prostitution was a serious problem.

Trafficking in women was a serious problem (*see* Section 6.f.).

The Criminal Code and the Labor Code prohibit only some forms of sexual harassment, and legal and gender-issue experts regarded the legislation as inadequate to address the problem. There were reports of such harassment, but none of those reports constituted situations where victims were protected under the law. Prosecutors, law enforcement agencies, and victims were generally not aware of the problem, and there were no reports of any cases being prosecuted.

There was no legal discrimination against women, but traditional cultural practices limited their role in society and in owning and managing businesses or property. The President and other members of the Government spoke in favor of women's rights, and the official state policy held that constitutional prohibitions on sex discrimination must be supported by effective government measures; however, women were underrepresented severely in senior positions in state enterprises and overrepresented in low-paying and some menial jobs. The head of the National Commission on Women noted that women's salaries were, on average, 62 percent that of men's. Women had unrestricted access to higher education.

There were approximately 150 women's rights organizations registered in the country, 15 of which were active in Almaty. These included the Feminist League, Women of the East, the Almaty Women's Information Center, and the Business-women's Association.

*Children.*—The Government was committed to children's rights and a new Children's Rights Law was enacted in August; however, budget limitations and other priorities severely limited the Government's effectiveness in dealing with children's issues. The new law codified many rights already contained in the Constitution and

provided little in the way of funding or specific programs. Education was mandatory through age 16, although students could begin technical training after the 9th grade. Primary and secondary education was both free and universal. The law provided for equal access to education by both boys and girls.

There was no societal pattern of abuse against children. Rural children normally worked during harvests (*see* Section 6.d.).

Trafficking in girls was a problem (*see* Section 6.f.).

There was one local NGO that worked with juveniles released from prisons.

*Persons with Disabilities.*—Citizens with disabilities were entitled by law to government assistance, and there was no legal discrimination against persons with disabilities; however, in practice employers did not give them equal consideration. Assisting persons with disabilities was a low priority for the Government. Laws mandate the provision of accessibility to public buildings and commercial establishments for persons with disabilities; however, the Government did not enforce them. There have been some improvements to facilitate access in Almaty and Astana, such as wheelchair ramps.

Mentally ill and mentally retarded citizens could be committed to state-run institutions, which were poorly managed and inadequately funded. The NGO Kazakhstan International Bureau for Human Rights observed that the Government provided almost no care for the mentally ill and mentally retarded due to a lack of funds.

*National/Racial/Ethnic Minorities.*—According to the Government, the population consisted of approximately 53 percent Kazakhs and 30 percent ethnic Slavs (Russians, Ukrainians, Belarusians, and others), with many other ethnic groups, including Uzbeks and Germans represented. The Government continued to discriminate in favor of ethnic Kazakhs in senior government employment, where ethnic Kazakhs predominated. President Nazarbayev has emphasized publicly that all nationalities were welcome to participate; nonetheless, many non-Kazakhs remained concerned about what they perceived as expanding preferences for ethnic Kazakhs (*see* Section 3).

Most of the population spoke Russian and approximately half of all ethnic Kazakhs spoke Kazakh fluently. According to the Constitution, the Kazakh language is the official state language. The Constitution states that Russian may be used officially on an equal basis with Kazakh in organizations and bodies of local self-administration. The Government continued to move toward using Kazakh for official business. Two oblasts adopted Kazakh as the official working language during the year. Kazakh became or was the lingua franca in local law enforcement offices in Kyzyl Orda, Southern Kazakhstan, Zhambyl, Atyrau, and Aktobe Oblasts. The MVD said that more than 20,000 of its employees were being trained in Kazakh during the year. Some ethnic Russians believed that Russian should be designated as a second state language. The Government encouraged more education of children in the Kazakh language but did little to provide Kazakh-language education for adults. The Language Law was intended to strengthen the use of Kazakh without infringing on the rights of citizens to use other languages; however, it has not been funded sufficiently to make Kazakh-language education universal.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and the Labor Code provide for basic worker rights, including the right to organize; however, the Government at times infringed on these rights. The largest trade union association, the Federation of Trade Unions, contained the vestiges of formerly state-sponsored trade unions established during the Soviet period. It claimed a membership of 2.3 million workers. The Confederation of Free Trade Unions (CFTUK), formerly the Independent Trade Union center of Kazakhstan, claimed a membership of approximately 320,000 persons. Observers estimated the actual number of members in both associations to be lower and agreed that the Government exercised considerable influence over both.

To obtain legal status, a trade union had to apply for registration with the judicial authority at the oblast level and with the Ministry of Justice. The registration procedure followed largely that of other membership organizations (*see* Section 2.b.); branches of unions were each required to register. During the year, 20 new trade unions were registered, including the Trade Unions of Aviation Employees, the Trade Unions of Central Kazakhstani Small Businesses, and the Trade Unions of Astana. The two major trade union associations, the Federation of Trade Unions and the Confederation of Free Trade Unions, were registered. During the year, seven unions split from the Federation and established the Kazakhstani Trade Union Center. The Ministry of Justice did not deny registration to any union during

the year. Courts could cancel a union's registration; however, there were no such cases during the year.

The Constitution prohibits the operation of foreign trade unions and prohibits the financing of trade unions by foreign legal entities and citizens, foreign states, and international organizations. The CFTUK received financing from foreign sources because it was registered as a public association and not a labor union. The law did not forbid other nonmonetary types of assistance such as training; participation in training programs increased in recent years.

Under the Constitution, workers are protected against antiunion discrimination. The Law on Trade Unions reiterates this right and makes no distinction between different kinds of labor unions. However, in practice there were violations of this right. Members of some trade unions have been dismissed, transferred to lower paying or lower status jobs, threatened, and intimidated. The two major trade union associations were competitive with one another and sometimes alleged that members of the other association were given precedence for layoffs.

By law unions freely may join federations or confederations and affiliate with international bodies. The CFTUK joined the Worldwide Labor Union Organization during the year. Unions belonging to the CFTUK were not members of international federations but were able to maintain contacts with foreign trade union federations.

On April 16, the Federation of Trade Unions filed a complaint against the Government with the ILO Committee on Free Association alleging various violations involving freedom of association in connection with efforts to organize workers at the Tengizchevroil company. In November the Committee requested that the Government take actions that would allow workers at the company to organize in accordance with international rules.

*b. The Right to Organize and Bargain Collectively.*—The law permits collective bargaining and collective agreements; however, collective bargaining was not widely understood and only occasionally practiced during the year. Unions may have a minimum of 10 members; however, registration requirements created obstacles to organization. If a union's demands were not acceptable to management, it could present those demands to a tripartite commission, composed of the Government, employer associations, and labor union representatives. The tripartite commission was instituted under the Law on Social Partnerships of 2000 and was to develop and sign a general agreement each year governing approximately 80 aspects of labor relations. The Labor Law provides for an individual contract between employers and each employee. Collective bargaining agreements were allowed as long as they did not reduce protections afforded to workers in individual contracts or under law; previously the terms of contracts were set only by law and collective bargaining agreements.

The Law on Collective Bargaining and Strikes gives workers the right to join or form unions of their choosing. It also establishes that workers may request in writing to have their union dues paid by direct payroll deductions of 1 percent. Amendments to the Labor Law that went into force in 2000 stipulate that the consent of an employee's union was no longer required to fire a worker (the old Law on Trade Unions had required a union's consent to fire a worker). Employers increasingly used the new Labor Law to fire workers without a union's consent; however, the general agreement contained a provision limiting the proportion of a company's workforce that could be dismissed at once to 9 percent. The Labor Law requires advance notice of dismissal. An employee still could choose to be represented by a union in a labor dispute; however, the employee had the option of choosing other representation as well.

The Constitution provides for the right to strike; however, there was a list of enterprises where strikes were not permitted. Unions and individual workers exercised the right during the year, primarily to protest the nonpayment of wages and unsafe working conditions and to recover back wages. According to the law, workers may exercise the right to strike only if a labor dispute has not been resolved through existing compulsory arbitration procedures. In addition, the law requires that employers be notified that a strike is to occur no less than 15 days before it commences. According to the Ministry of Labor, the incidence of labor disputes declined significantly in recent years.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution and law prohibit forced and bonded labor, except at the sentence of the court or in the conditions of a state of emergency or martial law, but there were reports that such practices occurred (*see* Section 6.f.).

The Constitution prohibits forced or bonded labor by children; however, child labor was routinely used in agricultural areas (*see* Section 6.d.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The minimum age for employment was 14 years, but only for part-time work (5 hours a day) that was not physically onerous. Children from the ages of 16 to 18 could work full-time provided that they were not required to do any heavy work. The Government has acknowledged that children in this age group worked in construction and other heavy industries but reported that duties for children were limited to washing windows, general cleaning, laying tile, and similar nonstrenuous activities.

A child between the ages of 14 and 16 could work only with the permission of his or her parents. The law stipulates harsh punishment for employers who exploit children under the age of 16. The Ministry of Labor was responsible for enforcement of child labor laws and for administrative offenses punishable by fines; the MVD was responsible for criminal offenses. Child labor was used routinely in agricultural areas, especially during harvest season; but abuse of child labor generally was not a problem.

On December 13, the Parliament ratified ILO Convention 182 on the Elimination of the Worst Forms of Child Labor.

*e. Acceptable Conditions of Work.*—The Government has set the monthly minimum wage at \$27 (4,181 tenge), an increase from the approximately \$24 (3,484 tenge) minimum wage of 2001. The minimum monthly pension rose to approximately \$28 (4,336 tenge) a month during the year, although the average pension was almost \$10 a month higher (5,780 tenge). The minimum wage did not provide a decent standard of living for a worker and family. The minimum wage also was below the minimum subsistence amount \$30 (4,663 tenge) a month for one person as reported for September by the National Statistics Agency. However, the average monthly wage was \$131 (20,112 tenge) compared with an average monthly wage in 2001 of \$117 (17,288 tenge). Monthly average wages grew 9 to 10 percent annually since 1999.

The Labor Law stipulates that the workweek should not normally exceed 40 hours, but specifies no maximum for other than normal circumstances. The Law limits heavy manual labor or hazardous work to no more than 36 hours a week. The Labor Law requires overtime to be paid at a rate of not less than one-and-a-half times normal wages for hours worked in excess of the normal 40-hour week. The Labor Law requires that overtime not exceed 2 hours in a calendar day or 1 hour a day for heavy manual labor. Overtime is prohibited for work in hazardous conditions. The Constitution provides that labor agreements may stipulate the length of working time, vacation days, holidays, and paid annual leave for each worker.

Minimum wages, work hour restrictions, and limits on overtime established under the Labor Law were enforced by the Ministry of Labor. Ministry labor inspectors conducted random inspections of employers to enforce all laws and regulations under their purview.

The Constitution provides for the right to “safe and hygienic working conditions”; however, working and safety conditions in the industrial sector were often substandard. Safety consciousness in both employees and employers was low. Workers in factories usually did not wear protective clothing, such as goggles and hard hats, and worked in conditions of poor visibility and ventilation.

Management largely ignored regulations concerning occupational health and safety, which were not well enforced by the Ministry of Labor. Since the Ministry of Labor took over responsibility for labor inspectors in 2001, there was an increase in the number and frequency of labor inspector visits. During the year, the Ministry reported a staff of 360 inspectors. Although the frequency of inspections remained insufficient to provide fully for occupational health and safety, the number of fines, penalties, and warnings to employers increased. According to the Ministry, 147 workers were injured due to unsafe working conditions during the first 9 months of the year. Under the Labor Law, employers were obligated to suspend work where its continuation could endanger the life or health of workers and to warn workers about any harmful and dangerous work conditions and about the possibility of any occupational disease.

There were no reports of workers suffering physical or sexual abuse, although it is probable that limited employment opportunities contributed to the underreporting of abuses. There are no laws protecting workers who file complaints about work conditions.

Foreign workers (those legally present with labor permits) were provided the same minimum wages and labor standards as local workers under the law. Legal foreign labor was limited by a yearly quota of workers, which generally was filled by Turkish, Western European, and American workers in the oil industry. These highly skilled workers earned more on average than local workers and enjoyed work and living standards above local standards. Several foreign corporations reported

difficulty in obtaining work permits for their expatriate workers, saying the Government favored local workers for the positions.

Labor laws do not cover illegal workers, who did not receive the same legal protections as those with permits. Illegal workers were generally unskilled migrant laborers from Uzbekistan, Kyrgyz Republic, and Tajikistan, who crossed into southern Kazakhstan seeking agricultural jobs. They frequently were paid considerably less than local workers and worked in substandard conditions. Law enforcement agencies periodically conducted campaigns to deport illegal workers; employers were often fined as well during such campaigns. Between May 23 and June 5, 306 persons were deported from Mangystau Oblast and 61 of the oblast's employers fined.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in persons remained a problem during the year. There was no evidence of a pattern of official complicity in trafficking, although corruption of law enforcement officials was widespread.

There are several articles of the Criminal Code that cover most forms of human trafficking. Article 128, passed in 1997, criminalizes the recruitment of any person for sexual or other exploitation. It is punishable by a maximum 2-year prison term. If a minor is involved, the maximum penalty is 5 years in prison. If the exploited person is transferred abroad, the maximum penalty is 8 years in prison. Article 330 was added to the Code in February to strengthen existing law. Article 330 prohibits the organization of illicit migration by providing transportation or fraudulent documents, or residence or other services for the illicit entry, exit, or movement on the territory of the country. It also covers the operation of a tourist or excursion agency for the purpose of illicit migration. The Criminal Code (Article 133) also prohibits the sale of children.

Prosecutions under these articles of the Criminal Code were rare. However, prosecutors used other articles of the Criminal Code to charge traffickers including the illegal involvement in prostitution (Article 270), which provides punishment of up to 3 years in prison; and prostitution connected with organized crime (Article 271), punishable by up to 5 years in prison. Official statistics differed on the number of investigations during the year under Article 271, the article the Government stated was most commonly used in antitrafficking efforts. It was difficult to estimate what percentage of investigations under Article 271 involved trafficking, since the Government did not maintain statistics specifically on trafficking. Prostitution was not explicitly prohibited under the law, nor was it legally regulated. Under Article 125 of the Code, kidnaping is punishable by a term of up to 7 years. In a case that was ongoing at year's end, several victims of trafficking filed suit in civil court against a travel agency for breach of contract.

In 2001 the Government formed a working group in which NGOs participated to draft comprehensive trafficking legislation. The Government did not submit draft legislation produced by the group to Parliament before the end of the year. The goals of the working group were to develop a comprehensive definition of all forms of trafficking and to provide new protections for trafficking victims.

Within the Government, the National Commission for Women's and Family Issues, law enforcement agencies, the KNB, and the Prosecutor General were most involved in combating trafficking. Prosecutors had the authority to direct law enforcement to begin investigations and during the year initiated investigations specifically related to trafficking, including many reports of trafficking that had appeared in the media.

The Government maintained that it seeks cooperation from authorities in destination countries for its citizens who have been trafficked and in the source countries of trafficking victims brought into the country. There were no cases where the Government has been asked to extradite a person charged with trafficking in another country.

The country was a source, transit, and destination country for victims of trafficking. Internal trafficking was also a problem. No reliable statistics were available on the number of victims each year, but many experts maintain that it was less than 5,000. Individuals were trafficked to the United Arab Emirates, South Korea, Turkey, Greece, Cyprus, France, Italy, Portugal, Switzerland, Belgium, Israel, and Albania. They were trafficked from the Kyrgyz Republic, Uzbekistan, and Tajikistan.

Traffickers mainly targeted young women in their teens and 20s. According to the Kazakhstan Crisis Center for Women and Children, most women were recruited with promises of good jobs or marriage abroad. Travel, employment, and marriage agencies often recruited victims through advertisements promising lucrative jobs in other countries. Offers to participate in international beauty contests also were used. Formerly trafficked women reportedly have recruited new victims personally. There was also evidence that young and middle-aged men have been trafficked from

the country, either for sexual exploitation or for labor. Many trafficking victims appeared to be aware or at least to suspect that they were going to work as prostitutes, but not that they would be working under slavery-like conditions. Most trafficked persons traveled to their destinations on passports obtained abroad, most often from Russia or the Kyrgyz Republic.

There was no evidence of a pattern of official complicity with trafficking, although corruption of law enforcement officials was widespread. In 2000 a customs official was charged with accepting bribes for facilitating passage of trafficking victims, relieved of his duties, and imprisoned.

The Government did not assist trafficked women who returned to the country; however, NGOs ran crisis support centers that provided assistance.

In 2001 the IOM, in conjunction with 19 NGOs across the country, began an information campaign on the dangers of trafficking and set up hot lines for its victims. By the end of July, the hot line identified 35 cases of trafficking from among the almost 10,000 calls it received. The IOM also held press conferences to announce the names of travel agencies engaged in trafficking and planned to publish a report detailing trafficking networks in the country.

The Government, in conjunction with NGOs, supported training programs for judges, prosecutors, and law enforcement employees at the local level on how to deal with trafficking cases.

In 2001 the Government reinstated mandatory licensing for tourist agencies in an effort to uncover agencies involved in trafficking. The Prosecutor General's office conducted several inspections late that year and found that many tourist agencies failed to provide for the return of their clients to the country. The Prosecutor General reported that most of these tourist agencies closed voluntarily after the inspections.

The Government did not provide any trafficking prevention programs; however, nongovernmental efforts to combat trafficking in persons continued and the Government cooperated with these groups.

## KYRGYZ REPUBLIC

Although the 1993 Constitution defines the form of government as a democratic republic, President Askar Akayev dominated the Government. Despite constitutional limitations, Parliament has become more independent and sometimes modified or blocked presidential initiatives. Civil society was relatively strong. In October parliamentary by-elections took place in four electoral districts. The elections were generally orderly and competitive in three districts, but serious voting irregularities were observed in one district where the race was strongly contested. In 2000 serious irregularities marred parliamentary and presidential elections. The Constitution provides for an independent judiciary; however, the executive branch dominated the judiciary, and the Government used judicial proceedings against prominent political opposition and independent media figures in numerous instances.

Law enforcement responsibilities were divided among the Ministry of Internal Affairs (MVD) for general crime, the National Security Service (SNB) for state-level crime, and the procurator's office for both types of crime. Both the MVD and the SNB deal with corruption and organized crime. The civilian authorities generally maintained control of the MVD and the SNB and maintained full control of the newly created State Border Guard Service (SBGS). Some members of the security forces committed serious human rights abuses.

The country is poor and mountainous, with a rough balance between agricultural and industrial production and a population of approximately 5 million. The Government has carried out progressive market reforms, although some intended reforms have not been implemented fully. The economy was stable during the year. Gross domestic product declined by 0.5 percent. Inflation was 2.3 percent. Industrial production remained significantly below preindependence levels. Foreign assistance played a significant role in the country's budget. Unemployed workers and government workers with low salaries or unpaid benefits continued to face considerable hardship. Pensions were being paid, but the amount provided only for subsistence living. The average annual income was \$230, while the subsistence level income was estimated at \$366 per year. Sixty percent of the population lived below the poverty level.

The Government's human rights record remained poor, and it continued to commit numerous abuses. Nongovernmental organizations (NGOs) and parliamentary deputies sometimes succeeded in blocking presidential initiatives through parliamentary action and grassroots campaigns. Members of the security forces at times beat and otherwise mistreated persons; police killed six persons participating

in demonstrations in March. Prison conditions remained very poor, and there were many cases of arbitrary arrest or detention. Executive domination of the judiciary limited citizens' right to due process. Executive branch interference affected verdicts involving prominent opposition figures. The Government restricted some privacy rights. The Government restricted freedom of speech and of the press. The Government used bureaucratic means to harass and pressure the independent media, some NGOs, and the opposition. The Government restricted freedom of assembly and freedom of association. The Government generally respected freedom of religion; however, at times it infringed on this right, in particular for radical Islamic groups it considered to be a threat to the country. There were some limits on freedom of movement. Citizens were usually able to move freely in the country; however, the Government attempted to block the travel of citizens to politically significant events on several occasions. The Government harassed and pressured some human rights groups. Violence and discrimination against women were problems. Violence against children was a problem, and there were growing numbers of street children. Discrimination against ethnic minorities was a problem, as was child labor. Trafficking in persons was a persistent problem, which the Government took steps to address.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings; however, police killed six persons during demonstrations in March.

On March 17, MVD forces opened fire on a group of unarmed demonstrators marching in support of jailed parliamentarian Azimbek Beknazarov in Aksy District, Jalal-Abad Oblast. The security forces killed 5 demonstrators and injured 17, mostly with bullet wounds. On March 18, MVD forces again fired on demonstrators in the village of Kerben, Aksy District, killing one person and injuring seven. On December 28, a court convicted four of the seven local law enforcement officers charged in the killings of five protesters; three officers were acquitted. In its May 20 report, the presidentially appointed Kyrgyz State Commission investigating the Aksy violence recommended that officials from the prosecutor's office also be investigated for complicity; by year's end no investigations had taken place. Citizens continued to call for higher ranking officials to face accountability for the Aksy events (*see* Section 2.b.).

There were no reported casualties from landmines laid by Uzbekistan forces in Kyrgyz territory in response to the Islamic Movement of Uzbekistan (IMU) incursions into both countries in 1999 and 2000 (*see* Section 1.c.).

On June 29, unknown assailants killed a Chinese diplomat in Bishkek. Three suspects were detained in connection with the shooting on July 3.

During the year, Uzbekistan border patrols shot five Kyrgyz civilians, killing one person and injuring four, in incidents near nondemarcated border areas.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture, mistreatment, and inhuman or degrading punishment; however, police and SNB forces committed abuses including beatings and other mistreatment. There were no reports of the use of torture. At times police used beatings to extract confessions. There were several credible reports that police beat human rights activists and demonstrators while in detention. The supervision of conditions for pretrial detainees was poor; police were supervised poorly, were not always paid promptly, and at times committed crimes.

On August 28, the Military Court of the Chui Garrison acquitted Belovodsk police officers for the July 2001 torture and forced confession of a prisoner. On September 4, the procurator appealed the acquittal. On December 2, the appellate court upheld the lower court's acquittal. Following that decision, the prosecutor filed an appeal with the Supreme Court, which had not heard the case at year's end.

The police at times used force to disrupt opposition demonstrations (*see* Section 2.b.).

Government officials facilitated, or were complicit in, trafficking (*see* Section 6.f.). On September 6, an unknown assailant threw three grenades at the acting Head of the Presidential Administration and Secretary of the National Security Council, Misir Ashirkulov, who was seriously injured.

No casualties were reported from landmines laid by Uzbekistan in Kyrgyz territory in response to the IMU incursions into both countries in 1999 and 2000.

Prison conditions were very poor and included overcrowding, food shortages, and lack of heat and other necessities. On July 1, the Government transferred control over non-SNB prisons from the MVD to the Ministry of Justice (MOJ). Prisoners

detained by the SNB were kept in SNB facilities; after conviction they were held in a regular prison. Male and female prisoners were held separately. Conditions in the women's prison were less overcrowded than in those for men, and inmates were allowed to perform menial labor to earn money needed to provide necessities. Juveniles were held separately from adults. There were no special facilities for political prisoners. Pretrial detainees were held separately from convicted prisoners. Pretrial detention facilities were extremely overcrowded, and conditions generally were worse than in regular prisons. Prison visits by family members were at the discretion of the investigator during the investigation phase. After a conviction, family members were allowed to visit a prisoner regularly.

The Government usually permitted domestic and international human rights observers to visit prisons. On August 14, the International Commission of the Red Cross (ICRC) reached an agreement with the MOJ allowing free access to visit detainees in prisons under its jurisdiction. The ICRC was allowed to visit detainees in SNB prisons in accordance with the ICRC's standard procedures. The ICRC made multiple visits to jailed opposition leader Feliks Kulov during the year. Diplomatic observers also visited Kulov in October and reported that he appeared to be well treated.

*d. Arbitrary Arrest, Detention, or Exile.*—The law and the Constitution prohibit arbitrary arrest and detention; however, police at times used ill-defined charges to arrest persons and could be bribed to release them.

The procurator's office determined who could be detained, arrested, and prosecuted. The procurator must issue an arrest warrant before a person may be detained, and there were no reports that this provision was abused. The Criminal Code permits law enforcement officials to detain suspects for 72 hours before releasing them or charging them with a crime. The Criminal Procedure Code requires notification of a detainee's family by the investigator within 12 hours of detention; however, this requirement often was not observed in practice. Persons arrested or charged with crimes had the legal right to defense counsel; if a suspect was charged, the procurator was required to advise defense counsel immediately. Defense counsel should be permitted to visit the accused within the first 3 days of incarceration; however, at times the accused did not see defense counsel until trial.

The SNB, the MVD, and the General Procurator carried out investigations. The accused usually remained in detention while the procurator investigated and prepared the case for trial. The procurator had the discretion to keep the accused in pretrial detention for as long as 1 year, but there were regulations that provided for provisional release before trial. After 1 year, the procurator was required to release the accused or ask Parliament to extend the period of detention. There have been no known instances in which Parliament was asked to extend a detention.

Security forces detained 49 persons during the year for membership in the illegal Hizb ut-Tahrir Islamic organization and distribution of its literature (*see* Section 2.c.).

Authorities detained some demonstrators during the year (*see* Section 2.b.).

There were no developments in the case of Noomanjan Arkabayev from the Osh branch of the Kyrgyz Committee for Human Rights (KCHR), who was arrested in June 2001 for allegedly distributing antigovernment leaflets. In July Arkabayev became an assistant to the first deputy minister of the MVD.

On January 5, the Government detained parliamentarian Azimbek Beknazarov on charges related to his work as a criminal investigator in 1995. Beknazarov, the chairman of the Committee on Courts and Legal Issues of the Legislative Assembly, was an outspoken critic of the Government's border agreements with China and Kazakhstan. He was held in pretrial detention until March 19, when he was summarily released in the aftermath of the MVD shootings of his supporters in Aksy District. On May 24, Beknazarov was given a 1-year suspended sentence.

In the past, the SNB arrested Uighurs (an Islamic Turkic group native to western China) on ill-defined charges (*see* Section 2.c.); however, there were no reports of such arrests during the year. Two Uighurs were detained in connection with the shooting of a Chinese diplomat and reportedly deported to China.

The law does not provide or prohibit forced exile, however, there were no reports that the Government employed it in practice. The president of the KCHR, previously in self-imposed exile abroad, returned to the country in April (*see* Section 4).

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the executive branch continued to dominate the judiciary. The courts were perceived widely as a rubber stamp for the procurator and for high-ranking government officials.



Cases originated in local courts; they could move to appeals courts at the district or regional level and finally to the Supreme Court. There were separate military courts and a separate arbitration court system that handled economic disputes.

The Constitutional Court had responsibility for determining the constitutionality of laws, resolving disputes concerning the interpretation of the Constitution, and determining the validity of presidential elections.

Traditional elders' courts considered property and family law matters and low-level crime. Cases were submitted by agreement of the parties; decisions of elders' courts could be appealed to the corresponding municipal court. Local elders' courts were under the supervision of the procurator's office but did not receive close oversight since many were located in remote regions. The procurator, not the judge, was in charge of criminal proceedings. The procurator brought cases to court and tried them before a judge and two people's assessors. The court compared the facts as presented by the procurator and the defense and in most cases made its decision after receiving all available information in each case. The court could render one of three decisions: Innocent, guilty, or indeterminate. If indeterminate, a case was returned to the procurator for further investigation. The decision of a court to return a case to the procurator for further investigation could not be appealed, and accused persons were returned to the procurator's custody, where they could remain under detention.

The law provides for defendants' rights, including the presumption of the innocence of the accused; however, such rights were not always respected. The judicial system continued to operate, in many cases, under Soviet laws and procedures in which there was no presumption of innocence and the focus of pretrial investigation was to collect evidence sufficient to show guilt. The Criminal Procedure Code provided for an unlimited number of visits of unlimited duration between an attorney and a client. Although official permission for such visits still was required, such permission usually was granted.

Defense lawyers could obtain access to all evidence gathered during the course of the investigation. In practice all members of the court had equal rights and could question witnesses. Witnesses did not have to present their testimony in court; instead they could affirm or deny their statements in the procurator's files. Under the law, the accused and the defense counsel had access to all evidence gathered by the procurator. They could attend all proceedings, which were usually public, and were allowed to question witnesses and to present evidence. However, this right was not always respected in practice.

The Constitution provides terms for judges that range from 15 years for Constitutional Court judges to 3 years for first-term local judges. Judges of the highest courts were nominated by the President and approved by the Parliament. Local court judges were appointed by the President. Very low judges' salaries led to a credible view among lawyers and citizens that all but a very few scrupulously honest judges were open to bribes or pressure.

Legislators in the past used their parliamentary immunity to avoid being brought to court; however, a 1998 change in the law limited their immunity to official acts only. Defendants were afforded the same constitutional protections in both military and civilian courts, although military court proceedings could be closed to the public. A civilian could be tried in a military court if one of the codefendants was a member of the military. Military court cases could be appealed to a military appellate court and ultimately to the Supreme Court.

During the year, two individuals were prosecuted for apparently political reasons. On May 8, Feliks Kulov, former parliamentary and presidential candidate and opposition Ar Namys Party leader, was convicted in a Bishkek district court of abuse of power related to his activities when he was governor of Chui Oblast in the mid-1990s. The trial was open to the public. The initial prosecution of Kulov, considered the most popular opponent of President Akayev in the 2000 elections, began after his unsuccessful bid for a parliamentary seat in March 2000. On October 11, an appellate court upheld the lower court's finding. This was the third prosecution of Kulov in 2 years.

On January 5, parliamentarian Azimbek Beknazarov was charged with abuse of power in connection with his role in a murder investigation that occurred in 1995 when he was a criminal investigator. Beknazarov's trial was held in Toktogul on March 11-13 and was marked by serious flaws. Sentencing was set for March 18 in Toktogul, but was delayed by mass demonstrations in Jalal-Abad Oblast. Beknazarov was released on March 19. On May 24, the court gave Beknazarov a 1-year suspended sentence. On June 28, an appeals court ruled to close the criminal case, but left the criminal conviction in place (*see* Sections 1.a. and 1.d.).

Economic crimes such as tax evasion, embezzlement, and theft of government property were common; prosecution for these crimes was rare but at times appeared to be directed at opponents of the Government.

There were no reports of other political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, the Government at times violated these prohibitions. The Constitution prohibits unlawful entry into a home against the wishes of the occupant and states that a person's private life, privacy of correspondence, telephonic, and telegraphic communications are protected; however, this prohibition was not always respected in practice. The law and procedures require the General Procurator's approval for wiretaps, searches of homes, interception of mail, and similar acts; however, the prosecutor could give approval over the telephone for searches, which meant that in such cases no written proof exists to verify that the search was approved. In certain cases, law enforcement officers could carry out a search first and then get approval within 24 hours. If approval was not given, any evidence seized was inadmissible in court.

The SNB continued to monitor the Uighur community (*see* Section 1.d.). There were unconfirmed reports by citizens active in politics or human rights monitoring that the privacy of their communications was violated. After September 11, 2001, the Government has conducted widespread document checks of some foreigners. These checks often resulted in the detention and deportation of those who were not in the country legally (*see* Section 2.d.).

Organizational structures responsible for violations of privacy rights during the Soviet era largely remained in place.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press; however, the Government restricted these rights. A 1998 referendum amended the Constitution to preclude Parliament from passing laws that infringe on free speech.

There were approximately 25 to 30 newspapers and magazines with varying degrees of independence, including some that had only local circulation. The state printing house, Uchkun, was the primary newspaper publisher in the country, with several small presses located inside and outside of the capital.

The Government used its influence over printing and distribution of print media to impede the dissemination of information by the independent print media. In January Uchkun stopped printing two independent newspapers, Moya Stolitsa and Res Publica, following publication of articles critical of the Government and the President's family. The printing house claimed the printing was stopped due to an unsigned servicing agreement with the newspaper. Uchkun initially refused to print Moya Stolitsa, but when Res Publica offered their printing run to Moya Stolitsa, Uchkun refused to print either paper. In November Uchkun threatened not to publish an issue of the independent newspaper Aalam because it contained material critical of the President's son. Once the article was removed, the issue was printed.

In December the Government registered the nongovernmental Media Support Center and its independent printing press.

There also were several independent television and radio broadcasting outlets. Two television stations in Osh broadcast in Uzbek: Osh Television, which broadcast in Uzbek part of the time, and Mezon Television, all of whose programs were in Uzbek. The latter was founded by the Mezon Uzbek Ethnic Center to serve the needs of the large Uzbek population in Osh.

Government interference with independent television and radio stations occurred in the past, but there were no reports of such interference during the year. Osh Television successfully settled its dispute with the National Agency for Communications (NAC). The NAC had required Osh Television to change its broadcast frequency from VHF to UHF, which is not used by most Soviet-period television sets. The station and the Association of Journalists protested the change, which would have reduced the number of viewers and imposed financial hardship on the station, as unfair and not justified technically. The station retained its VHF frequency. In addition, Osh Television was engaged in an ongoing dispute with tax authorities over what it considered unfair tax assessments.

Government newspapers, television and radio continued to receive government subsidies, which permitted the Government to influence their coverage and to apply financial pressure on independent media by fostering unfair competition for increasingly scarce advertising revenue. Some news outlets were owned and controlled partly or fully by individuals with close ties to the Government.

The third honor and dignity case against the newspaper Delo No since 2000 was ongoing a year's end.

During the year, 15 lawsuits were filed against the independent newspaper Moya Stolitsa by individuals or organizations claiming encroachment on their honor and dignity; 14 of these cases were filed between mid-November and the end of December.

All media were required to register with the Ministry of Justice and wait for ministry approval before beginning to operate. The Media Law states that the registration process should require 1 month.

On November 28, militia at Toktogul seized 2,500 copies of Kyrgyz Ordo with articles critical of President Akayev as they were being shipped South for distribution.

In January the state publishing house Uchkun refused to print the independent newspaper Moya Stolitsa after it carried articles critical of the Government and the President's family. On March 1, the Bishkek city court of arbitration postponed a trial of Moya Stolitsa on charges of encroachment on the honor and dignity of Uchkun. The same court had ruled on January 29 that Uchkun must print Moya Stolitsa while the investigation was completed and a special court decision was being considered. However, the court cancelled its decision on February 4, upholding Uchkun's appeal, and ruled that the paper should not be printed until a contract between it and the publishing house was renewed for the year. The contract was renewed and Moya Stolitsa was permitted to publish as of May.

On January 14, the Government issued Decree 20, which introduced mandatory government inventory and registration of all typographical and printing equipment and imposed strict importation controls, among other provisions. On May 25, the Government repealed Decree 20, but announced it would establish measures to control publishing on the basis of the Constitution and existing legislation.

In its May 20 report, the Kyrgyz State Commission investigating the Aksy violence named biased coverage from the State Television and Radio Corporation (KTR) as a factor contributing to the unrest, in which police killed six protesters. The Commission's report proposed the creation of a public council to reform KTR. By year's end, its largely progovernment members had made little progress toward reform.

The law on the mass media prohibits the dissemination of government and commercial secrets; material advocating war, violence, or intolerance toward ethnic or religious groups; desecration of national norms, ethics, and symbols (such as the national seal, flag, or anthem); pornography; and encroachment on the honor and dignity of a person (libel). Libel was a criminal, not a civil, action. The Government, acting through compliant courts, used the prohibition of material that encroaches on the honor and dignity of a person to harass and apply pressure on the independent media.

Members of the media were subject to violence and intimidation from unknown elements. On January 19, unidentified persons threw two Molotov cocktails into the offices of a newly established opposition newspaper, Agym, which was owned and operated by the former owner of the independent newspaper Asaba. The office of the independent newspaper Tribuna was robbed on May 28; in addition to equipment, the thieves stole research materials and rough drafts of articles that reporters were writing.

There were no credible reports of the Government censoring or blocking access to the Internet.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, at times the Government restricted this right in practice. On occasion the Government used force—including lethal force—to disrupt peaceful demonstrations.

Prior to a new law on public demonstrations and meetings passed on June 24, the law required official written permission for holding assemblies, rallies, and demonstrations. The new law requires that authorities be given notification of public gatherings and gives authorities the right to prohibit gatherings under certain conditions. At times authorities, including those at local levels, used the requirements for permission and notification to prevent rallies and demonstrations. Permits were required for public marches and gatherings. These usually were available, but in some cases authorities refused to issue permits to opponents or critics of the Government.

Rallies and demonstrations were held regularly in front of the White House, Parliament, and in other places. Throughout the year, numerous protests, demonstrations, and pickets took place in different areas of the country, including Bishkek, Osh, Jalal-Abad, and Naryn. In most cases, demonstrations took place without interference from authorities; however, there were instances in which security forces forcibly disrupted demonstrations and meetings.

In September the Government issued a 3-month ban on all demonstrations that was subsequently withdrawn.

Following the January 5 arrest of opposition Member of Parliament Azimbek Beknazarov, his supporters in the town of Kara-Suu in Jalal-Abad Oblast responded with actions such as demonstrations, hunger strikes, road closings, keeping children home from school, and hostage-taking of local officials. Sheraly Nazarkul died on February 6 after 21 days on a hunger strike.

On March 17, the day before Beknazarov's sentencing was set to take place, approximately 2,000 of his supporters began to march to the city of Kerben in the Aksy District of Jalal-Abad Oblast to demand his release. Bishkek human rights activist Tursunbek Akunov was taken into police custody after attempting to negotiate with demonstrators. The crowd protested Akunov's arrest, and some demonstrators began throwing rocks. Police were ordered to advance and attempted to disperse the crowd by shooting into the air. Some police shot into the crowd, killing at least five demonstrators (see Section 1.a.). Other demonstrators were beaten. None of the demonstrators were given medical assistance at the scene. Several hours later, several thousand demonstrators in Kerben stormed the police building and set several buildings on fire. One demonstrator was killed and five wounded in the clash between police and protesters. MVD troops were dispatched from Bishkek and elsewhere to restore calm.

In April following the release of a videotape showing police firing on unarmed demonstrators in Aksy, President Akayev dismissed a number of local officials and appointed a state commission to investigate the shootings. In its report issued on May 17, the commission cited the Beknazarov arrest as the main cause of unrest, criticized the state media for biased reporting, and suggested that high-level officials shared blame for the shootings.

In mid-May, numerous protests took place throughout the country following the May 8 sentencing of opposition leader Feliks Kulov to 10 years' imprisonment and the ratification of an agreement delimiting the Kyrgyz-China border. From May 13–21, approximately 1,000 protesters blocked the Osh-Bishkek road demanding Beknazarov's acquittal and punishment of those responsible for the Aksy shootings. On May 16, police forcefully broke up a demonstration involving approximately 500 in front of the Parliament and briefly detained more than 80 demonstrators. Police arrested KCHR head, Ramazan Dyrlydayev, and Kyrgyz Public Committee for Human Rights director, Tursunbek Akunov; both were released on May 17.

On June 5, protesters set up a roadblock near Tash-Kumyr on the Bishkek-Osh highway. Police dispersed the protesters on June 8 and arrested seven people, including the Jalal-Abad correspondent for Radio Liberty. On June 12, the marchers regrouped, headed towards Jalal-Abad, and arrived in the city on June 17. They staged a demonstration in the central square to demand Beknazarov's release and accountability for the Aksy events.

On September 4, protesters from villages in Aksy District began to march to Bishkek. They reached the city of Karakul on September 9 but were prevented by authorities from continuing. Police arrested several protesters and stopped a truck reportedly carrying food supplies for the marchers. On September 12, government officials and protesters agreed to end the march and signed a memorandum laying out further actions.

On October 16, authorities in Toktogul detained approximately 40 demonstrators traveling in a bus towards Bishkek to express their support for local officials charged with involvement in the Aksy events.

On November 14, approximately 300 protesters, primarily from the South, converged on Bishkek to attend a Kuraltai (public forum) organized by opposition leaders and scheduled for November 16. On November 15, the protesters entered the city and approximately 200 demonstrators staged a protest near the city's main bazaar on November 16. Police used nonlethal force to disperse them and detained 129 persons, who were released and transported back to the South on buses with police escorts on November 17. The Kuraltai did not take place because organizers were unable to secure a meeting space. Activists continued efforts to organize the Kuraltai, but it had not taken place by year's end.

In November opposition candidate Usen Sydykov was fined for organizing an unsanctioned rally following a court decision that ruled he was ineligible to run for a vacant parliamentary seat.

The Constitution provides for freedom of association; however, at times local authorities restricted this right in practice. The Law on Public Organizations—which include labor unions, political parties, and cultural associations—requires registration of these organizations with the Ministry of Justice.

During the year, the KCHR continued to report that its members were the targets of threats and intimidation. On May 20, the KCHR's Kochkorka office was ran-

sacked by a crowd. KCHR coordinator Kachkyn Bulatov was taken to the local police station where he was held for 15 days under administrative arrest and interrogated by local authorities.

The law on NGOs distinguishes them from political parties, labor unions, and religious organizations and lowers the required number of members for registration. The registration of an NGO requires at least 3 members; the registration of a political party requires at least 10.

*c. Freedom of Religion.*—The Constitution and the law provide for freedom of religion, and the Government generally respected this right in practice; however, the Government restricted the activities of radical Islamic groups that it considered to be a threat to the country. Islam was the most widely practiced faith.

Since 2001 the Government worked with representatives of various religious faiths and NGOs to develop a draft law on religion. The draft law remained incomplete as the Government attempted to tighten regulations on missionary activities. Representatives of religious communities expressed concern that some Muslim believers could be named extremists under the law. In April the Central Asian Eparchy of the Russian Orthodox Church issued a statement strongly opposing the draft law, citing concerns that its passage would result in a flood of foreign missionaries.

The State Commission on Religious Affairs (SCRA) was responsible for promoting religious tolerance, protecting freedom of conscience, and overseeing laws on religion. Under the law, all religious organizations were required to register with the SCRA, which was required to recognize the registrant as a religious organization. Each congregation was required to register separately. Religious organizations, including religious schools, were required to register with the Ministry of Justice to obtain status as legal entities, which was necessary for them to own property, open bank accounts, and otherwise engage in contractual activities. Under the tax code, religious organizations were required to pay taxes on commercial activities. The Ministry's registration process was cumbersome, taking a month on average. In practice the Ministry never registered a religious organization without prior registration by the SCRA.

Several religious organizations had difficulty registering with the SCRA. The majority of these were small Christian congregations. On February 28, the SCRA approved the application for registration of the Catholic Mission, which previously experienced difficulties with registration, possibly related to procedural errors in its application. Registration of the Roman Catholic Church was finalized in October. According to the SCRA, all Muslim communities that applied for registration were registered successfully. In February the SCRA and the OSCE cohosted a regional conference on religious tolerance in Jalal-Abad.

The Government was concerned about the threat of political extremism in the guise of conservative Islam, whose followers it labeled "Wahabbis." Armed incursions by militants of the IMU in the summers of 1999 and 2000 increased the Government's apprehension about radical Islam and the actions of its followers. The Government continued to express concern about groups that it viewed as extremist with either radical religious or political agendas. In September senior law enforcement officials testified in Parliament that the primary danger to the state came from religious extremists and the outlawed Hizb ut-Tahrir organization.

A number of missionary groups operated in the country. Missionary groups are required to register with the Government, and in the last 5 years more than 700 foreign missionaries were registered. However, according to official statistics, since independence authorities ordered approximately 20 missionaries who disseminated dogma inconsistent with the traditional customs of Kyrgyz Muslims to leave the country. Information on the religion of these missionaries was not available. Government authorities indicated that they would monitor the activities of the Unification Church, which was led by Reverend Moon, although there were no reports of interference with its activities. The Unification Church was not active in the country, but it had a presence through the charity organization of Reverend Moon's wife.

The Government expressly forbids the teaching of both religion and atheism in public schools. In 2001 the Government instructed the SCRA to draw up programs for training clergy and to prepare methodologies for teaching about religion in public schools. These instructions came in response to concerns about the spread of Wahhabism and what the Government considers to be unconventional religious sects. The SCRA is developing a program to teach about various religions, in cooperation with the Ministry of Education and several academic institutions. However, the program was not implemented by year's end due to lack of funding.

A government decree passed in January imposed strict control on printing activities and instructed the SCRA to issue a report listing all registered religious organizations and creating an inventory of houses of worship. Following protests by local

media, human rights NGOs, and other organizations, the decree was rescinded in May.

On January 11, the National Security Service (NSS) detained Bakhodyr Akhmedov, head of the Committee to Protect Muslims' Rights and son of a prominent Jalal-Abad imam, on illegal weapons possession charges. On December 30, he was sentenced to time served on the charge and released.

The arrest and prosecution of persons accused of possessing and distributing literature of the Hizb ut-Tahrir organization increased during the year. Most arrests occurred in the South and involved ethnic Uzbeks; those arrested typically were charged with violation of Article 299 of the Criminal Code, which prohibits the distribution of literature inciting ethnic, racial, or religious hatred. The SCRA chairman stated in October that there were approximately 2,000 Hizb ut-Tahrir followers in the country.

Arrest figures varied depending on the source. The MVD reported that during the year 47 Hizb ut-Tahrir-related cases were investigated by authorities; 49 persons were detained for Hizb ut-Tahrir membership and distribution of its literature, and criminal proceedings were initiated against 40 individuals. In July two Islamic activists in the southern city of Osh were sentenced to 5 years in prison for distributing and possessing Hizb ut-Tahrir materials. According to the International Crisis Group (ICG), which monitors Hizb ut-Tahrir in the South, during 2001 police detained 49 persons in Osh Oblast and 86 in Jalal-Abad Oblast. Of those arrested in Osh Oblast, the Government criminally prosecuted 30. The ICG estimated that the number of prosecutions in Jalal-Abad Oblast was approximately the same. The SNB reported 117 arrests of Hizb ut-Tahrir members in Jalal-Abad Oblast in 2001.

In March members of the Jewish Cultural Society reported that they heard calls for anti-Semitic violence issued in Russian and Kyrgyz from a loudspeaker at a Bishkek mosque.

There was anecdotal evidence of periodic tension between followers of conservative Islam and foreign missionaries in rural areas. Converts from Islam at times faced discrimination. In May the family of a Baptist convert in Naryn was refused permission to bury him in the local Muslim cemetery. Similar incidents were reported in the Issyk-Kul and Chui Oblasts. Muslim and Russian Orthodox spiritual leaders defended such actions with criticism of nontraditional Christian groups' proselytizing activities. The SCRA chairman called for tolerance on all sides.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice; however, certain policies continued to complicate internal migration, resettlement, and travel abroad.

The law requires that citizens have an official government permit (*propiska*) to work and settle in a particular area of the country. Applicants for such a residence permit had to file a request for registration with the local police and be able to prove that they have a permanent residence in the area. In addition, home and apartment owners could sell their property legally only to buyers with such permits. During the year, law enforcement agencies conducted sweeps and random checks to verify the proper registration of residents (*see* Section 1.f.). Authorities fined or imprisoned individuals without residence permits stamped in their passports. Local administrations tied the availability of utilities and social services to registration; individuals who do not register may not have proper access to water, heat, light, subsidized health care, or schooling. The linkage between obtaining a residence permit and obtaining community services disproportionately affected the growing number of internal migrants. Many employers refused to hire applicants residing illegally. In July a new law on internal migration took effect that was developed with the OSCE's assistance. The law's provisions, aimed at moving away from the *propiska* system, were not yet implemented by year's end.

There was no law on emigration. All passport applications were reviewed by the Ministry of National Security. There were no exit visa requirements and citizens could travel abroad without an exit visa. Unlike in the past, travelers were not required to present letters of invitation to receive an "international page" if they had never traveled abroad. After the validation of the passport, travel was unrestricted. The law prohibits emigration within 5 years of working with state secrets; however, there were no reports that anyone was barred from emigration under this statute during the year.

Although official figures were not available, press reports indicated that the emigration of both ethnic Russians and Russian speakers continued during the year, primarily as a result of the lack of economic opportunities. According to the Inter-

national Organization for Migration (IOM), approximately 100,000 Kyrgyz labor migrants worked in Kazakhstan and Russia.

Emigrants were not prevented from returning to the country, and there reportedly was a small but steady flow of returnees.

The law provides for the granting of asylee or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The law provides for first asylum. According to the U.N. High Commission on Refugees (UNHCR), a total of approximately 500 refugees from Chechnya had received first asylum. Chechen refugees were not granted official refugee status by the Government, but were allowed to obtain asylum seeker status, which provided them with some legal protection. Chechen refugees reported experiencing low-level harassment from law enforcement officials.

Other asylum seekers who received permission to stay in the country while their applications for refugee status were pending included 114 Afghans and 5 ethnic Uighurs from China. The UNHCR has registered 2,004 Afghans in the country, of whom 804 had refugee status from the Government, 800 were without status, and 400 had status pending. These refugees, most of whom were ethnic Tajiks, tended to live in small groups isolated from local populations and were viewed by the Government as a potential source of instability. More than 200 Afghan refugees were selected for resettlement in other countries. The Government granted refugee status to 81 Afghans and 127 Tajiks during the year. In addition to Afghans, there were 8,271 persons with refugee status in the country. Of these, six were from Iran and one was from Sri Lanka; the remainder were from Tajikistan. The Government denied four asylum requests by Afghans during the year. During the year, 1,328 cases were closed due to voluntary repatriation, naturalization by Tajik refugees, and resettlement in other countries. The Government cooperated with the office of the UNHCR and other international humanitarian organizations in assisting refugees.

The UNHCR maintained programs to provide medical aid, legal advice, and other services to refugees. The UNHCR also worked closely with the Government to develop documents for legal protection. In June the UNHCR organized the repatriation of 33 Afghan refugees to Afghanistan. According to the UNHCR, 68 Afghan refugees were repatriated during the year.

After September 11, 2001, the Government instituted new controls on the movement of some foreign nationals and conducted sweeps in order to find undocumented foreigners. The UNHCR estimated in 2001 that the Government detained approximately 300 foreigners, primarily Tajiks and Uzbeks but also including some Afghan refugees and asylum seekers, who were later released. The arrests were related to new security measures that included verification of the documents of noncitizens. During the year, refugees and asylum seekers continued to be subject to heightened security measures. The UNHCR intervened in several cases on behalf of individuals detained by the MVD until their status could be determined and documented.

There were no reports of the forced returns of persons to a country where they feared persecution, although there were reports in earlier years of Uighurs opposed to Chinese policies being repatriated forcibly to China where they feared persecution. According to the UNHCR, Uighurs remained at risk of deportation, particularly if they were involved with political and religious activities in China. The UNHCR granted refugee status to eight Uighurs during the year.

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

The Constitution provides citizens with the right to change their government peacefully; however, in practice, the Government restricted citizens' ability to do so. Both parliamentary and presidential elections held in 2000 were marred by serious irregularities.

The Government continued to impede the functioning of opposition political groupings and the expression of opposition views in the media. Opposition parliamentarians Azimbek Beknazarov and Adaham Madumarov reported in April that they were shadowed. Opposition newspapers were periodically refused printing services by the Government-controlled printing press, and journalists faced libel suits from government officials (*see* Section 2.a.).

President Askar Akayev dominated the Government. In 2000 President Akayev was elected to a third term as President. Although the Constitution specifies a two-term limit for the President, the Constitutional Court ruled that Akayev could serve a third term because he had been elected to his first term under the Soviet-era Constitution. The Office of Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE/ODIHR) stated that international standards for equal, free, fair, and accountable elections were not met. The Government took steps to disqualify otherwise qualified candidates by charging and

convicting them on questionable criminal charges. There was intervention by local officials in the electoral process. Although six competing candidates offered the electorate some political choice, the restrictive process of candidate registration excluded a number of prominent opposition leaders from the election. Harassment of opposition candidates negatively influenced the fairness of the campaign. Pressure on a major domestic election-monitoring NGO violated fundamental freedoms, a step backward in comparison with the parliamentary elections. Executive authorities, mostly at local and regional levels, interfered in the functioning of election commissions and the electoral process in general. Central Election Commission Chairman Sulaiman Imanbaev conceded that violations occurred but accused the OSCE of bowing to pressure from unnamed political forces to give an overly negative evaluation of the election.

The Constitution provides for parliamentary elections every 5 years. In 2000 the first and second rounds of parliamentary elections were held. For the first time, 15 of the Legislative Assembly's 60 seats were distributed proportionally based on party lists. In the period prior to the parliamentary elections, the Government took numerous actions that disadvantaged opposition political parties. Four political parties were blocked from competing because their charters did not state specifically that they could compete in elections for state bodies. Because they were registered less than 1 year prior to the announcement of elections, 8 parties were barred from competing. The OSCE noted that executive and judicial branch interference in the electoral process continued through the runoffs. In decisions that appear to have been politically motivated, a number of prominent opposition candidates were disqualified or deregistered before the runoffs, despite having led the voting after the first round. A number of opposition candidates were harassed. Although there were improvements in overall election administration on the day of the vote, there were allegations of ballot tampering, government intimidation of voters, and harassment of campaign officials in the elections of a number of opposition leaders.

In 2001 nationwide elections of heads of city and village administrations were held for the first time; previously these officials had been appointed by the President. Voting was conducted in a generally orderly manner, although there were minor technical and organizational failures. Observers reported that it was the first time that voters were not pressured to vote for specific candidates. However, the preelectoral candidate selection process lacked transparency. Voter turnout in some regions was extremely low.

On October 20, parliamentary by-elections were held in four districts in Batken, Osh, and Jalal-Abad Oblasts. Observers reported the Jalal-Abad district elections were generally fair and expressed the will of the voters. In the Osh district elections, significant irregularities were observed, including voting without identity documents, multiple voting using the supplemental list, and distribution of ballots upon presentation of a student card.

There were 7 women in the 105-seat legislature. The Chief Justices of the Constitutional Court and the Supreme Court, the Minister of Education and Culture, and the Minister of Labor and Social Welfare were women. The Democratic Party of Women participated in the parliamentary elections in 2000 and won 2 party seats, earning 13 percent of the party-list votes. There were 19 seats in the legislature held by members of minority groups. Russians and Uzbeks were underrepresented in government positions. The Prime Minister, Minister of Agriculture, and Chief Justice of the Supreme Court were members of minority groups.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Human rights groups generally operated in a hostile environment and were faced with continuous government pressure to curtail their activities. Despite this pressure, most domestic independent human rights organizations, including the KCHR and the Coalition for Democracy and Civil Society, were able to continue investigating and publishing their findings on human rights cases.

There was no action taken on the 2001 assault on the executive director of the Coalition for Democracy and Civil Society.

KCHR president Ramazan Dyryldayev, who fled the country in 2000 after being charged with failure to comply with the Labor Code in firing an employee, returned on April 15 and remained in the country since then. On April 18, the General Prosecutor's Office announced that there were no charges pending against Dyryldayev.

Authorities threatened criminal prosecution of and violence toward high-profile activists involved in human rights and civil society related NGOs. On February 7, human rights activist Aziza Abdurasulova was assaulted in Bishkek by two individuals while coming home from a meeting with hunger strikers. Robbery did not appear to be the motive, since nothing was taken. On March 19, Interior Minister



Akmataliev accused Tursunbek Akunov, chairman of the Human Rights Movement of Kyrgyzstan, of inciting protests that took place in Jalal-Abad Oblast on March 17 and said that a criminal case should be filed against Akunov.

A progovernment NGO called the Association of NGOs created by the Government in 2000 was largely inactive during the year.

A number of international groups reported on human rights problems in the country although none had offices in the country.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution provides for the rights and freedom of individuals and prohibits discrimination, including that based on language. The Government expressed a strong commitment to protecting the rights of members of all ethnic and linguistic groups, as well as those of women; however, in practice it did not always ensure these rights effectively.

*Women.*—Violence against women, including domestic violence, was a problem. The law specifically prohibits domestic violence and spousal abuse.

Interior Ministry statistics indicated that during the year there were approximately 300 sexual crimes against women, but actual figures were probably significantly higher. Many crimes against women were not reported due to psychological pressures, cultural traditions, and apathy by law enforcement officials.

Activists noted that rape was becoming more common, although it was not clear whether the incidence of rape or only the reporting of such attacks was becoming more common. The authorities often ignored such attacks. There were reports that police raped women in custody. The Government did not take specific action to deal with this problem of violence against women.

Several organizations provided services for victims of domestic violence. Organizations involved with battered women also lobbied for new laws on domestic violence. The Umut (Hope) Center in Bishkek, which had provided basic protection and counseling for battered women and girls, closed during the year due to a lack of funding. A new organization, the Association of Crisis Resolution Centers for Women and Children (ACRC), began operations with support from the Soros Foundation. ACRC has member organizations in Bishkek, Osh, Jalal-Abad, Naryn, Batken, Cholpon-Ata, and Talas. Another center in Bishkek, Sezim, maintained a staff of lawyers, psychologists, and doctors, and operated a crisis hot line for the public. Staff members conducted training, debates, and seminars on women's rights and family planning. During the year, Sezim sponsored a series of travelling theater educational performances on the problem of domestic violence in Batken, Osh, and Jalal-Abad Oblasts. There also were internationally funded crisis centers in both Talas and Jalal-Abad. In Naryn a crisis center operated by the NGO Tendesh maintained a hot line to support women affected by violence and provided psychological, legal, and medical assistance.

Trafficking in women and girls for the purpose of prostitution was a persistent problem (see Sections 6.c. and 6.f.).

Some rural inhabitants continued the traditional practice of kidnaping women and girls for forced marriage; the MVD reported that each year between 10 and 30 women were kidnaped and forced into marriage.

Sexual harassment is prohibited by law and is covered in the Criminal Code. Penalties range from fines to imprisonment.

Discrimination against women persisted. Family law prohibits divorce during pregnancy and while a child is younger than 1 year of age. The law gives equal status to women, and they were represented well in the work force, in professions, and in institutions of higher learning.

Women were prominent in law, medicine, accounting, and banking and played an active role in the rapidly growing nongovernmental sector. However, deteriorating economic conditions had a severe effect on women, who were more likely than men to lose their jobs. According to government statistics, the unemployment rate was 3.7 percent for women compared with 2.7 percent for men. The average wages for women were less than \$22 per month (1,022 soms), compared to \$35 per month (1,620 soms) for men. Women with children under the age of 16 accounted for 67 percent of unemployed women. Women made up the majority of pensioners, who have felt the negative effects of the country's economic downturn, which led to inflation and the erosion of pensions that often were paid late. Women's groups expressed particular concern about the situation of rural women. With the end of communism, traditional attitudes toward women reasserted themselves strongly in the countryside, where women were relegated to the roles of wife and mother, and educational opportunities were curtailed. Data indicated that women were becoming less healthy, more abused, less able to work outside the home, and less able to dispose of their earnings independently.

The Congress of Women operated legal clinics for women throughout the country to help counsel women on legal issues and women's problems. Center Mercy ran a program to find employment in handicraft production for mothers of large families. The Center for Women's Initiative, Agerim, had programs to assist needy families. According to Counterpart Consortium, 236 NGOs dealing with women's problems operated in the country during the year, of which 25 dealt with women's advocacy. Women's organizations focused on violence against women, gender equality, women's reproductive health, women's involvement in politics, and education in women's rights. One NGO, Diamond Association, focused on promoting the participation of women in traditional courts of elders.

*Children.*—There were government programs, many of them financed from abroad, directed at improving the condition of children; however, the Government lacked resources to address fully basic needs for shelter, food, and clothing.

The country had a 97 percent literacy rate. The Constitution states that education is compulsory and free of charge for the first 9 years. The Law on Education and the Law on Protection of Children's Rights require that secondary education be free and universal. These laws contradict the Constitutional mandate of 9 years' compulsory education but were adhered to instead of the Constitution.

Financial constraints prevented the Government from implementing free basic education for all students. Those families that kept their children in public schools had to pay burdensome administrative fees. Girls and boys attended school in equal ratios. According to UNICEF, the primary school enrollment ratio was 98 percent for both girls and boys. The secondary school enrollment ratio was 75 percent for boys and 83 percent for girls. The Criminal Code penalties for infringing on a student's right to obtain free secondary education range from receiving a public reprimand to 1 year of forced labor; the law penalizes parents who do not send their children to school or who obstruct their attendance. Many of those families who could afford it chose to send their children to more expensive private schools.

The Government has established two funds, Jetkinchek and Kadry XXI Veka (Cadres of the 21st Century), to provide educational benefits for low-income children and children with disabilities. Jetkinchek, a Presidential Educational Program created in 1999, provided assistance such as pens, books, and clothes to low-income children. The program was funded primarily by the Government but received assistance from international organizations. Kadry XXI Veka was financed by international organizations and helped some youth continue their education abroad.

According to the Government, deaths from tuberculosis accounted for almost half of all deaths among infants under 2 years of age, and the incidence of the disease continued to grow. After independence, vaccine-preventable diseases such as diphtheria, polio, and measles reemerged. A range of serious nutrition-related problems affected a large number of children, especially in rural areas. According to UNICEF, approximately 11 percent of infants were moderately or severely underweight. The infant mortality rate was 53 percent, and the under-five mortality rate was 63 percent. The Government provided health care for children. According to UNICEF, the Government financed 30 percent of routine vaccinations. The system of residence registration restricted access to social services, including healthcare and education, for children that belonged to certain groups, such as refugees, migrants, and internally displaced persons, and to noncitizens (*see* Section 2.d.).

Child abuse was a problem. Traditional social safety measures were inadequate to cope with the social pressures that affect families. There were increasing reports of abandonment due to parents' lack of resources to care for children, which led to larger numbers of children in institutions, foster care, or on the street. According to UNICEF, the children most at risk were those in these 3 categories, with 10- to 14-year-olds the highest-risk age group. State orphanages and foster homes faced a lack of resources and often were unable to provide proper care. The Kyrgyz Children's Fund (KCF) was concerned particularly about the growing number of street children, many of whom left home because of abusive or alcoholic parents or desperate economic conditions. Save the Children Fund and UNICEF estimated that as many of 7,000 children may live on the street, while the Government estimate was 1,500. As of January, 140 street children were officially registered in the city of Jalal-Abad, although the actual number was believed to be much higher. The majority of street children found temporary shelter at bazaars and bus or train stations. Approximately 80 percent of street children were internal migrants. In September NGOs and the Commission on the Affairs of Under-Age Children organized conferences in Bishkek and Osh on the problem of homelessness among children.

During the last 3 years, 36 persons were convicted for involvement of a child in prostitution, sexual actions, and for the production of pornography and 10 persons were convicted for sale and trafficking of children.

There were almost 300 child inspectors (MVD policemen) in the country charged with enforcing the law with respect to juveniles (*see* Section 6.f.).

The lack of social workers or a well-established social work tradition meant that cases involving abandoned or orphaned children were viewed typically as law enforcement matters. As a result, authorities conducted sweeps to round up and institutionalize street children. Children who were found were sent to orphanages and police holding centers, depending on the space available. The KCF had one shelter in Bishkek to provide food, clothing, and schooling to approximately 30 children. The Svetlii Put shelter received training assistance from UNICEF and cared for more than 200 children during the year. The SOS Children's Village, funded by the Austrian organization Kinder Dorf International and other foreign and domestic organizations, cared for orphans. Approximately 120 children and 14 mothers lived in this village, which offered housing and a kindergarten. KCF also maintained a Children's Village in Issyk-Kul Oblast with capacity for 120 children.

Human rights groups noted that children who were arrested usually were denied lawyers. Police often did not notify parents of children who were arrested, and neither parents nor lawyers generally were present during questioning, despite laws to the contrary. Children often were intimidated into signing confessions.

The forced marriage of underage girls is illegal; however, it has become more common, and authorities often tacitly approved this practice. Cultural traditions and social structures discouraged victims from going to the authorities. The MVD reported that during the year six underage girls were kidnaped to become brides, but the actual number was probably significantly higher.

Girls were trafficked for the purpose of prostitution (*see* Section 6.f.).

Child labor was a problem (*see* Section 6.d.).

Human rights groups and the KCF monitored the condition of children and advocated for child rights. In response to the lack of a focal agency for protecting the rights of children, the Government established an interministerial body, the Commission on the Affairs of Under-Age Children, under the Office of the Prime Minister. This body provides a forum for discussing and coordinating responses to children's problems. The Commission was involved in the adoption in January of the National Program on Human Rights for 2002–10. The program contained components on children's rights, such as education, health care, and access to employment. The joint efforts of the Commission and several NGOs led to the adoption on July 12 of the Program on Homeless Children and Crime Prevention Among Under-Age Children for 2002–03.

The Government and its Commission continued to disseminate information regarding children's rights among both children and adults. The Ministries of Justice, Education, Culture, and Health, as well as the state television and radio company and various NGOs, also helped disseminate such information, including by translating information into Kyrgyz, Russian, and Uzbek to reach different segments of the population. The Children's Media Centre (CMC), a Bishkek-based NGO, produced magazine and video stories about children's rights and the situation of children in the country. Student journalists participating in the CMC were required to receive training on the main principles of the U.N. Convention on the Rights of the Child. During the year, the state-run television channel, KTR, began to donate airtime twice a month to the CMC's programs.

*Persons with Disabilities.*—The laws provide for convenient access to public transportation and parking for persons with disabilities, subsidies to mass media sources that make their services available to the hearing or visually impaired, and free plots of land for the construction of a home. The National Human Rights Program 2002–10, adopted by presidential decree in January, contains provisions for protection of the rights of children with disabilities.

In practice few special provisions were in place to allow persons with disabilities access to transportation, public buildings, and mass media. In addition, persons with disabilities often had difficulty finding employment because of negative societal attitudes and high unemployment among the general population. The lack of resources made it difficult for persons with disabilities to receive adequate education. Social facilities for persons with mental disabilities were strained severely, because budgets have fallen and workloads remained heavy.

The Government provided support to a network of enterprises operated by the Society for Blind and Deaf. The Government also supported education programs for persons with disabilities. Seventeen blind students began studies in therapeutic massage at the Medical Academy. Numerous NGOs worked to improve conditions and provide services for children with disabilities.

*National/Racial/Ethnic Minorities.*—There were no further developments in the March 2000 murder of Nigmat Bakakov, a leading representative of the ethnic mi-

nority Uighur community. In February arson was suspected in a fire that destroyed Bishkek's Uighur market. There were no reports of violence or harassment of ethnic Uighurs during the year.

There were reports of discrimination in the treatment of citizens who were not ethnic Kyrgyz. Minorities alleged discrimination in hiring, promotion, and housing and that government officials at all levels favored ethnic Kyrgyz. The latest statistical data released in August reflected the following ethnic breakdown of the population: 66.3 percent were Kyrgyz; 11.2 percent were Russians; 14 percent were Uzbeks; 1.1 percent were Dungans (ethnic Chinese Muslims); and 1 percent were Uighurs. Other ethnic groups, including Tatars and Germans, made up 6.4 percent of the population.

When President Akayev reassigned key government posts in late May, he appointed Nikolai Tanayev, an ethnic Russian, as Prime Minister (*see* Section 1.e.). The only ethnic Uzbek appointment was Deputy Minister of Regional Development Bakhtiyar Fattahov.

According to participants at a May conference sponsored by the Soros Foundation, the main concerns of ethnic minorities in the country included limited representation in the executive branch of government, nationalistic attitudes, and biased media coverage. On July 20, Jalal-Abad businessman Kadyrjan Batyrov initiated an Assembly of Uzbeks to express demands for political representation at national and local levels and request greater cultural rights, such as Uzbek programs on state television and more Uzbek schools.

The Constitution designates Kyrgyz as the state language, but it provides for preservation and equal and free development of Russian and other languages spoken in the country. Kyrgyz increasingly replaced Russian, and the Government announced that by 2010 all government documents are to be in Kyrgyz. Russian-speaking citizens (those who do not speak Kyrgyz) also alleged that a ceiling exists in government employment that precludes their promotion beyond a certain level. In 2001 President Akayev signed legislation that made Russian an official language. Some otherwise qualified candidates were disqualified on the basis of exams, the fairness of which was questioned. In June ethnic Uzbeks sent a petition to the Government requesting that Uzbek be granted the status of a state language.

Since independence more than 400,000 ethnic Russians have emigrated (*see* Section 2.d.). In 2000 the Government signed a bilateral agreement with Russia clarifying the legal status of citizens of one country residing in the other country.

University education continued to be carried out largely in Russian (although Kyrgyz instruction was available in some departments in some universities where textbooks were available), so that Russian-language capability remained an important skill for those who wished to pursue higher learning.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Labor Law provides for the right of all workers to form and belong to trade unions, and there were no reports that the Government tried to obstruct the formation of independent unions. The Federation of Trade Unions of Kyrgyzstan, the successor to the former official union, remained the only trade union umbrella organization in the country, although unions were not required to belong to it. In 2001, the most recent year for which figures were available, the Federation had 980,400 members. According to the Federation, approximately 94 percent of workers in the country belonged to unions. There was one small independent union, the Union of Entrepreneurs and Small Business Workers, whose membership reached approximately 30,000.

The Federation was critical of government policies, especially privatization, and their effect on working class living standards. According to the Federation, the Government has taken no action in response to this criticism. The Federation continued to regard itself as being in a process of transition, during which it is adjusting its relations with the Government, other unions in the countries of the former Soviet Union, and other foreign unions. Growing numbers of smaller unions were not affiliated with the umbrella organization.

The law protects union members from antiunion discrimination, and there were no reports of discrimination against persons because of union activities.

The law permits unions to form and join federations and to affiliate with international trade union bodies; however, no meaningful affiliation with international trade union bodies took place.

*b. The Right to Organize and Bargain Collectively.*—The law recognizes the right of unions to negotiate for better wages and conditions; however, there were no cases of workers exercising this right during the year. Although overall union structure and practice has changed only slowly from those of the Soviet era, there was growing evidence of active union participation in state-owned and privatized enterprises.

The Government set the minimum wage, after which each employer set its own wage level.

While the right to strike was not codified, strikes were not prohibited. There were no retaliatory actions against strikers, nor were there instances of abuse directed specifically at unions or individual workers. In early February, architectural design instructors at the Kyrgyz State University of Construction, Transport, and Architecture held a 4-day strike protesting the suspension of their salaries and the university administration's personnel policy. Their demands were met after the strike was reported in the local media. In mid-February, traders from 3 markets in Karakol held a 1-day strike protesting a local tax increase and demanding a reduction in fees for bazaar facilities. The head of the local district administration met with the strikers, but no further information was available about the status of their demands. In early October, local employees of the Turkish Entes company, involved in the reconstruction of the Osh-Bishkek highway, held a strike protesting a 3-month suspension of their wages. The strikers' demands were met after local authorities became involved in the case.

There were Free Economic Zones (FEZs) that were used as export processing zones. The minimum wage law does not apply to the approximately 3,000 workers in ordinary FEZs.

*c. Prohibition of Forced or Bonded Labor.*—The law forbids forced or bonded labor, including by children; however, there were reports that such practices occurred (see Section 6.f.). The press reported that Kyrgyz citizens were forced to work without pay on tobacco farms in Kazakhstan.

Schools required children to participate in the tobacco harvest—some fields were located on school grounds—and the income earned went directly to the schools, not to the children (see Section 6.d.). The Government undertook additional initiatives to help protect minors from forced labor; however, since the budget was facing severe funding constraints, many children who were entitled to receive help did not receive it.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Labor Code provides for the protection of children from economic exploitation and from work that poses a danger to their health, or spiritual, physical, mental, or academic development. The minimum age for employment varied with the type of work, but was no lower than 14. According to the Labor Code, the minimum age for basic employment was 18. This was consistent with the age for completing educational requirements.

The Labor Code is contradictory in the requirements it sets for the minimum age of employment of youths in work that could harm their physical and moral well being (e.g., employment in casinos, bars, and night clubs). Article 285 states that such work is prohibited for those under age 21; however, Article 319 prohibits such employment for those under age 18. According to the Labor Code, children under the age of 16 are permitted to perform strenuous work with parental consent. However, minors younger than age 18 could not work in underground conditions. For children between ages 14 and 16, Article 319 sets the maximum daily hours of work at 5 to 7 hours, respectively; children under 16 could not work during night shifts. These laws also applied to children with disabilities who work. A July 2 decree banned the employment of persons under 18 in a wide variety of categories of employment involving difficult or dangerous conditions, including work in such sectors as the metal or oil and gas industries, mining and prospecting, food industry, entertainment, and machine building. The National Human Rights Program for 2002–10 also contains provisions aimed at eradicating exploitative child labor.

Child labor was a problem and was becoming more widespread both in towns and rural areas. According to participants in a September conference on child labor, child laborers were prevalent in the following sectors: Construction, prostitution, narcotics, tobacco, cotton, rice, cattle breeding, heavy industry, gasoline sales, car washing, shoe cleaning, retail sales of tobacco and alcohol, and work involving pesticides and chemicals. Since many children worked for their families or were “self-employed” in such occupations as selling newspapers, pushing handcarts at markets, and selling cigarettes and candy on the streets, it was difficult for the Government to determine whether their work schedules and environment conformed to government regulations. Families traditionally were large, and they considered it necessary at times for children to work at an early age to help support the family on the family farm or in the family business.

According to reports from various NGOs, child labor was particularly evident in the South. During the fall, classes were cancelled, and children were sent to fields to pick cotton. During the summer, children worked during the tobacco harvest and were involved in all steps of production from the actual picking of the leaves to the

preparation for shipping. Children also were involved in family enterprises such as shepherding, bread baking, selling products at roadside kiosks, and growing fruits and vegetables.

The procurator's office and the State Labor Inspectorate were responsible for enforcing employers' compliance with the Labor Code laws. During the year the State Labor Inspectorate received \$10,400 (500,000 soms) in state budget funding and had a total of 64 inspectors throughout the country. The Legislative Assembly established a special commission on education, women's affairs, the family, and minors that oversees the legal protection of the interests of minors whenever new laws are discussed in Parliament. Compliance with the labor code was enforced by trade unions; however, given its budget constraints and lack of resources, the Government was unable to enforce the child labor laws adequately. Although those employers caught violating the Labor Code may be charged with disciplinary, financial, administrative, or criminal penalties, the punishment was usually minimal. In recent years, the State Labor Inspectorate usually conducted 15 to 20 child labor inspections annually. The Federation of Trade Unions also had the right to carry out child labor inspections when it received a complaint.

The Government supported several social programs to prevent the engagement of children in exploitative child labor. Araket, a national poverty reduction program, provided financial support for low-income families. New Generation, a children's rights program, worked to define suitable working conditions for children and to introduce new methods of monitoring employers' compliance with labor legislation. Various ministries and local government officials met in September to discuss implementation of the program.

The Government has not ratified International Labor Organization (ILO) Convention 182 on the worst forms of child labor and the country's laws and regulations do not define such forms of labor the same way as the ILO.

The law prohibits forced and bonded labor by children; however, some tobacco fields were located on school grounds, and schools required children to participate in the harvest. The income earned went directly to the schools, not to the children (see Section 6.c.).

*e. Acceptable Conditions of Work.*—The Government mandated the national minimum wage. During the year, the legal minimum wage was approximately \$2 (100 soms) per month. In practice this wage was insufficient to ensure a decent standard of living for a worker and family. However, industries and employers generally paid somewhat higher actual minimum-level wages. According to official statistics, the lowest salaries paid in 2001, \$15 (734 soms) per month, were in the field of medicine. The Federation of Trade Unions was responsible for enforcing all labor laws, including the Law on Minimum Wages; minimum wage regulations largely were observed. Although, the enforcement of labor laws was nonexistent in the growing underground economy, market forces helped wages in the unofficial sector keep pace with official wage scales.

The standard workweek was 41 hours, usually within a 5-day week. For state-owned industries, there was a mandated 24-hour rest period in the workweek.

Safety and health conditions in factories were poor. A deterioration in enforcement of existing regulations continued to hamper investment to improve health and safety standards. The State Inspectorate of Labor was responsible for protecting and educating workers as well as informing business owners of their respective rights and responsibilities. The law establishes occupational health and safety standards, as well as enforcement procedures. Besides government inspection teams, trade unions were assigned active roles in assuring compliance with these laws, but compliance was uneven among businesses. During the last 3 years, the State Labor Inspectorate carried out 3,400 inspections for all types of labor issues and detected approximately 17,000 violations. Workers had the legal right to remove themselves from unsafe working conditions; however, in practice refusal to work in situations with relatively high accident rates or associated chronic health problems could result in loss of employment, although only if informal methods of resolution failed.

*f. Trafficking in Persons.*—The law does not address specifically trafficking in persons; however, trafficking was a persistent problem. Government officials facilitated, or were complicit in, trafficking.

There was no law specifically prohibiting trafficking in persons; however, existing laws could be used to prosecute traffickers for kidnaping, trading in children, recruiting persons for exploitation, coercion into prostitution, rape, and deprivation of freedom. The maximum sentence for those prosecuted under these laws was 15 years; however, the very few traffickers who were caught received lenient sentences or fines.

Accurate and comprehensive information on the number of persons convicted for trafficking-related offences during the year was not available. According to the Government, four criminal cases were initiated in connection with illegal recruitment of persons during the year. In addition, there were 28 criminal cases (on charges of illegally crossing the border) brought against 31 persons who were potential victims of trafficking. The Government did not actively investigate specific cases of trafficking or provide any specialized training for trafficking investigations. Law enforcement bodies considered trafficking under the umbrella of "contraband" or organized criminal groups and did not target trafficking specifically. A lack of coordination between government agencies involved in migration issues, the obscure wording of laws regarding trafficking, and corruption contributed to the problem. The Government did not extradite citizens charged with trafficking in other countries.

On April 21, President Akayev signed Presidential Decree 94 authorizing implementation of a national countertrafficking plan. The decree created a national council responsible for coordinating government efforts to implement the program. However, the Government lacked adequate resources to implement many aspects of the program.

The Government agencies involved in antitrafficking efforts were the Ministry of Foreign Affairs, the Ministry of Interior, the National Security Service, the Ministry of Health, the State Procurator's Department, the State Agency of Migration, and the State Committee for Tourism, Sport and Youth Policy. The Government created an Inter-Ministerial Council after the release of a 2001 IOM report to develop a plan of action to combat trafficking. The Council recommended that the Government cooperate with other governmental ministries and departments, as well as with international organizations, NGOs, and Interpol. Local NGOs stated that the Government did not cooperate with these groups to help assist victims although, according to Sezim, the General Procurator's Office cooperated in the past with Sezim and indicated a desire to increase cooperation. However, many observers stated that there appeared to be an overall lack of understanding of trafficking problems in the Government and inadequate training of law enforcement officers in identifying and fighting trafficking.

According to the IOM, approximately 4,000 women and 7 boys were trafficked abroad in 1999. No estimates were available for subsequent years; however, the IOM reported that it dealt with several cases of trafficking during the year. The country was primarily a source and transit point for trafficked persons, although there were a few reports of the country being a destination for women trafficked as prostitutes. According to the Ministry of Internal Affairs, 65 prostitutes from Uzbekistan and Tajikistan worked in the cities of Osh and Batken. According to the IOM, the country has become a transit point for individuals trafficked mostly from South Asia, China, and Afghanistan to the West. The exact number of those in transit was unknown. The country was a source for trafficked women and girls, largely to the United Arab Emirates, Turkey, Germany, and China, for the purpose of prostitution. Government and NGO data also indicated that women could have been trafficked to India, Iran, Sweden, Malaysia, Hong Kong, South Korea, Qatar, Italy, Luxembourg, Denmark, and Poland.

The IOM reported some instances of trafficking of children for prostitution and labor. A flourishing sex trade draws girls as young as age 10 from destitute mountain villages. According to the IOM, the sex trade involved trafficking abroad. The extent of this problem was unknown.

The Bishkek Migration Management Center (an independent NGO) and the State Agency of Migration estimated that between 500 and 5,000 persons, mostly poor farmers from the South, also may have been trafficked to Kazakhstan as forced laborers on tobacco plantations. An agreement drafted by the Legislative Assembly Committee on Kyrgyz Labor Migration, aimed at protecting the rights of Kyrgyz laborers in Kazakhstan, was under consideration by the Government. The local press also carried reports of Kyrgyz forced laborers trafficked to the United States.

Groups targeted by traffickers included young under- or unemployed women who were unable to earn a living, particularly ethnic Slavic women under the age of 25. Poor economic conditions, high unemployment, particularly in the South, and gender inequality made young women and poor workers vulnerable to traffickers who exploited them by offering lucrative jobs abroad. Often women were trafficked through deception and lured abroad, at times by means of newspaper advertisements, under the pretext of legitimate employment. Women responding to job offers for waitresses, au pairs, or dancers could find themselves abroad without documents or money for return tickets and forced to work for their traffickers. Internet marriage agencies also reportedly recruited young women with false offers of marriage to foreigners.

The IOM reported that traffickers were often persons who previously operated local prostitution networks. They used networks of returnees, family members, and friends to recruit victims. The IOM also indicated that tour agents, restaurants, and nightclubs supplemented their activities by providing young women to foreign prostitution rings. In July the MVD's migration services division reported that eight recruitment firms registered in the country advertised their services in helping women find work abroad but did not ask for any special qualifications. The IOM uncovered 28 trafficking firms by year's end.

Observers widely believed that some government authorities might have facilitated or otherwise been complicit in trafficking activities. In 1999 and 2000, 11 law enforcement officers were accused of preparing fraudulent documentation for trafficked women, and criminal proceedings were instituted against 3 of the accused officers. The results of the proceedings were unknown, although there was no evidence that the officers were tried.

According to NGOs, victims in destination countries often had their identification documents taken away, were punished with gang rape if they tried to resist or escape, and were denied medical treatment.

NGOs reported that the Government deported foreign victims of trafficking. According to an NGO, TAIS-Plus, three Uzbek women who had been sex workers were deported to Uzbekistan in 2001. The IOM reported that women working in the UAE were often deported to Azerbaijan. Many of those who transited the country were abandoned by the traffickers and lived in hiding out of fear of being discovered by authorities. The OSCE and IOM reported that many of those who returned from commercial work overseas stated that they were forced to pay bribes to law enforcement officials to avoid imprisonment. According to NGOs, the Government did not assist trafficking victims with any special services or care facilities and did not provide funding to foreign or domestic NGOs for services to victims. The Government did not provide assistance to its repatriated nationals who were trafficking victims.

International NGOs that were involved in trafficking issues included the IOM and OSCE. The IOM conducted a series of workshops for law enforcement officers. A number of NGOs—including Women's Support Center, TAIS-Plus, Sotsium, Sezim and Umot—provided legal, medical, and psychological counseling and assistance and economic aid to victims of trafficking. Several media articles raised public awareness of the problem.

The IOM, OSCE, and local organizations sponsored various preventive programs. In January the OSCE and IOM produced antitrafficking public service announcements. The IOM held numerous roundtables and workshops to increase awareness among the Government, nonprofit, tourism, and media sectors. The Women Support Center distributed brochures in Kyrgyz and Russian targeting women who may be approached about going abroad.

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## LATVIA

Latvia is a parliamentary democracy. The Prime Minister, as chief executive, and the Cabinet are responsible for government operations. The President, as Head of State, is elected by the Parliament. The Parliament elected Vaira Vike-Freiberga to a 4-year term in June 1999. The October 1998 elections for the 100-seat Parliament and the national referendum to amend the Citizenship Law to meet European standards were free and fair. The Constitution provides for an independent judiciary; although there was some improvement in the quality of the judiciary, significant problems, including inefficiency and allegations of corruption, remained.

The security apparatus consists of the national police and other services—such as the Special Immigration Police and the Border Guards—who are subordinate to the Ministry of Interior, municipal police who are under local government control, the military Counterintelligence Service and a protective service which are under the Ministry of Defense, and the National Guard—an element of the national armed forces—which also assists in police activities. Civilian authorities generally maintained effective control of the security forces. The Constitution Protection Bureau is responsible for coordinating intelligence activities. Members of the security forces, including police and other Interior Ministry personnel, committed human rights abuses.

Privatization essentially is complete, although some large utility companies remained in state hands including the national electric company, railroads, and shipping. Two-thirds of employment and 60 percent of gross domestic product is now in the private sector. The country has a population of approximately 2.5 million. The currency remained stable and was traded freely; unemployment was 7.9 percent, and annual inflation was 3 percent.



The Government generally respected the human rights of its citizens and the large resident noncitizen community; however, there were problems in some areas. Members of the security forces, including the police and other Interior Ministry personnel, sometimes used excessive force and mistreated persons. In most instances, the Government took disciplinary measures against those responsible. Prison conditions remained poor. Lengthy pretrial detention was a problem. The inefficient judiciary did not always ensure the fair administration of justice. Violence against women was a problem, and women were discriminated against in the workplace. Child prostitution and abuse were problems. There were some reports of discrimination on the basis of ethnicity. Trafficking in women and girls for the purpose of prostitution was a problem. Reform of the country's political and economic structure led to an invitation in December to join the European Union (EU) in May 2004. Latvia was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

Fifteen members of the army's Special Operations Unit were convicted in May in connection with the hazing death of a conscript in 2001. The ringleader was sentenced to 3 years probation, and the other 14 soldiers received suspended sentences. In addition, the army's anti-hazing program was fully established.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there were credible reports that members of the security forces used excessive force and mistreated persons.

The Government took action against those responsible for the abuse of prisoners. According to the National Human Rights Office (NHRO), which records and investigates allegations of abuse of prisoners, 32 prisoner complaints were received during the year, of which 9 were resolved, 1 was dismissed, and the remainder were pending resolution.

There were credible reports of police violence. In one case, two officers were accused of beating an individual who was subsequently hospitalized. The officers have been suspended pending resolution of the case. On another occasion, members of Parliament demanded a written report regarding the videotaped beating of a suspect by police. In this case, the victims chose not to file a complaint, and no charges were brought against the officers.

Prison conditions remained poor, although progress continued in renovating older facilities. The Central Prison Administration opened a newly renovated wing at the Riga Central Prison during the year. Overcrowding remained a problem, particularly in facilities that housed prisoners awaiting trial, which were at 110 percent of capacity. In 2001 the Government enacted "temporary regulations" designed to ease the conditions for those held in such detention facilities, including restrictions on the number of occupants per cell and the continuation of the physical rehabilitation of older prisons. Government figures indicated that regular prisons were filled to 85 percent of overall capacity. Despite efforts by the Central Prison Administration, inadequate sanitation facilities, a persistent shortage of medical care, and insufficient lighting and ventilation were common problems; all stemmed from a lack of resources. During the year, the NHRO received 51 complaints regarding treatment by guards in prisons and other places of detention; these complaints were forwarded to the appropriate government offices for action. The Government, as well as human rights groups, remained concerned regarding the high number of drug-resistant tuberculosis cases, and the Government received assistance from several foreign organizations to address this problem. Due in part to action by prison authorities, the number of such cases—including primary and acquired multi-drug resistant tuberculosis cases at Riga Central Prison Hospital—continued to decline. The overcrowding at Riga Prison Hospital eased during the year.

Efforts to improve the criminal code progressed; a draft of the new code was circulated prior to its scheduled submission to Parliament in early 2003. Lengthy pretrial detention of juveniles remained a problem; however, the number of such detainees decreased (*see* Section 1.d.). In 2001 the President visited the Brasas Detention Facility and publicly criticized the conditions in which the juveniles were incarcerated and the length of their pretrial confinement. Female prisoners were held separately from male prisoners, and juveniles were held separately from adults.

Overall 43 percent of all prisoners in the country were awaiting trial at year's end (*see* Section 1.d.). Unlike convicted criminals, persons in pretrial detention were not allowed to work or go to school, had limited contact with outside NGOs or family, and suffered from considerably worse living conditions than prisoners in general. Pretrial detainees were held separately from convicted criminals.

The Government permitted independent human rights observers to visit prisons. Domestic groups, such as the Latvian Center for Human Rights and Ethnic Studies, closely monitored prison conditions during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, at times the Government did not respect these prohibitions in practice. The law requires the Prosecutor's Office to make a formal decision whether to charge or release a detainee within 72 hours after arrest. Charges must be filed within 10 days of arrest. The courts have responsibility for issuing arrest warrants. Detainees have the right to have an attorney present at any time. These rights are subject to judicial review but only at the time of trial. According to credible reports, these rights were not always respected in practice, especially outside of Riga.

According to Ministry of Interior personnel, detainees awaiting trial spend an average of 2 years in prison, but in practice pretrial detention could last much longer. More than 43 percent of all inmates were in pretrial detention. On November 1, the Ministry of Justice implemented changes to the Criminal Procedures Code limiting pre-trial detention to no more than 18 months from the first filing of the case, and amendments limiting the detention period for minors were also enacted. As a result of these changes, 91 persons were released from detention. The number of minors held at the Brasas facility dropped from 192 in 2001 to 58 by year's end.

The law prohibits forced exile, and there were no reports that the Government employed it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, while training and increased compensation resulted in some improvements in the quality of the judiciary, significant problems, including inefficiency and allegations of corruption, remained. In December both the President and the Minister of Justice called for improvements in the qualifications of the judiciary. The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right.

The judicial structure is composed of district (city) courts, regional courts, which hear appeals from district courts, the Supreme Court, which is the highest appeals court, and the Constitutional Court. The Constitutional Court is a seven-judge panel that is authorized to hear cases regarding constitutional issues at the request of state institutions or individuals who believe that their constitutional rights were violated. For more serious criminal cases, two lay assessors join the professional judge on the bench at the district and regional levels.

Corruption in the judicial system was allegedly widespread. On December 3, the Justice Minister stated that the new Anti-corruption Bureau should investigate the actions of judges suspected of corruption. In November the European Court of Human Rights (ECHR) issued a ruling in the long-running case of Aleksander Lavent, who had been convicted in August of offenses involving the collapse of his bank. The ECHR ruled that the Government violated Lavent's rights to liberty and security, that the courts had not been independent and impartial, and that Lavent had been denied the right to a fair hearing within a reasonable period of time. The Government was ordered to pay Lavent's court costs, but no punitive damages were imposed.

Most judges have inadequate judicial training, and the court system is too weak to enforce many of its decisions. A major difficulty in enforcing court decisions is the lack of an effective bailiff or sheriff system. The law allows for alternative punishments, including community service; however, the courts rarely used alternative punishments.

Lengthy pretrial detention was a problem (*see* Section 1.d.). During the year, the NHRO reviewed 143 cases regarding the right to a fair and timely trial. By year's end, a domestic human rights NGO recorded four complaints regarding the right to a fair and public trial within a reasonable time. An outdated and time-consuming judicial process, the lack of plea-bargaining, and a shortage of judges have so overloaded the courts that the average case takes 2 years to reach judicial review.

Court decisions were not published systematically, nor was there a centralized index for those that were published. Trials may be closed if state secrets might be revealed or to protect the interests of minors. All defendants have the right to hire an attorney, and the State lends funds to indigent defendants for this purpose. De-

endants have the right to read all charges, confront all witnesses, and may call witnesses and offer evidence to support their case. They also may make multiple appeals.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice. The law requires that law enforcement authorities have a judicial warrant to intercept citizens' mail, telephone calls, or other forms of communication. The laws protecting privacy apply to citizens and noncitizens equally. There were no credible reports of the unsanctioned wiretapping of telephone conversations.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. The Press Law prohibits censorship of the press or other mass media; however, the Law on the Media contains a number of restrictive provisions regulating the content and language of broadcasts. At least 51 percent of television broadcasts must be of European origin, of which 40 percent should be in the Latvian language; however, these provisions were not always implemented. In addition, foreign investment may not exceed 20 percent of the capital in electronic media organizations.

Both Latvian and Russian language newspapers published a wide range of political criticism and viewpoints. Most newspapers and magazines were owned privately. A large number of independent television and radio outlets broadcast in both Russian and Latvian, and the number of persons receiving satellite television broadcasts continued to increase.

The Government generally did not restrict access to the Internet.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the authorities may not prohibit public gatherings; however, organizers of demonstrations must provide advance notice to local authorities, who may change the time and place of public gatherings for such reasons as fear of public disorder. The law also requires protesters to remain specified distances from foreign diplomatic missions, the Parliament, the Prosecutor's Office, and certain other public institutions. Independent human rights organizations argued that the law's provisions were contradictory and confusing. Nevertheless, numerous demonstrations took place peacefully and without government interference during the year.

The Constitution provides for freedom of association, and the Government generally respected these rights in practice; however, the Law on Registering Public Organizations bars the registration of Communist, Nazi, or other organizations whose activities would contravene the Constitution. Noncitizens may join and form political parties, but there must be at least 200 citizens in the party, and at least half of the total membership must be citizens (*see* Section 3). More than 40 political parties were registered officially.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, bureaucratic problems for minority religions persisted.

There is no state religion; however, the Government distinguishes between "traditional" (Lutheran, Roman Catholic, Orthodox, Old Believers, Baptist, and Jewish) and "new" religions.

Although the Government does not require the registration of religious groups, the law accords religious organizations certain rights and privileges when they register, such as status as a separate legal entity for owning property or for other financial transactions, as well as tax benefits for donors. Registration also eases the rule for public gatherings.

According to Ministry of Justice officials, most registration applications are approved once proper documents are submitted; however, the law does not permit simultaneous registration of more than one religious union (church) in a single confession, and the Government has denied applications on this basis.

Visa regulations require that religious workers present either an ordination certificate or evidence of religious education that corresponds to a Latvian bachelor's degree in theology. The visa application process still is cumbersome; however, difficulties in this area diminished, and Citizenship and Migration Department officials worked to ease the situation. The Government cooperated to resolve several difficult visa cases in favor of missionary workers.

Foreign evangelists and missionaries are permitted to hold meetings and to proselytize, but the law stipulates that only domestic religious organizations may invite

them to conduct such activities. Foreign religious denominations criticized this provision.

The law provides that religion may be taught to students in public schools on a voluntary basis only by representatives of the Evangelical Lutheran, Roman Catholic, Orthodox, Old Believers, Baptist, and Jewish religions. The State provides funds for this education. Students at state-supported national minority schools also may receive education on the religion "characteristic of the national minority" on a voluntary basis. Other denominations may provide religious education in private schools only.

Property restitution has been substantially completed. An agreement between the Observant and non-Observant Jewish communities opened the way to settling the status of the properties remaining.

Relations between the various religious communities were generally amicable. Ecumenism remains a new concept in the country, and traditional religions have adopted a reserved attitude toward the concept. Although government officials encouraged a broader understanding of and acceptance of newer religions, suspicions remained regarding newer nontraditional faiths.

Ethnicity is only indicated in citizen passports at the bearer's request (*see* Section 5). Jews are considered an ethnic group and are listed as such, rather than as Latvian, Russian, or other.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice.

The law stipulates that registered permanent resident noncitizens enjoy the right to establish and change residences, travel abroad, and return to the country; however, certain rights are denied to noncitizen residents (*see* Section 3). They are prohibited from working as armed guards or criminal trial attorneys. Noncitizens may own land only under complex procedures but may not purchase land in the border zones. The law also provides for the issuance of a noncitizen travel document that certifies these rights. The Government has readmitted noncitizens who claimed refugee status in a foreign country or who voluntarily abandoned their permanent residence and then decided to return to the country to live and work. Noncitizens who left the country as refugees during the Soviet era had no difficulty returning on foreign refugee travel documents for business reasons or for family visits. The Government also extends protections to noncitizen residents who travel abroad.

The law provides for the granting of refugee and asylum status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. Special immigration police and border guard units help prescreen asylum requests. Decisions of the Citizens and Migration Affairs Office may be appealed to the Asylum Appeals Board in the Ministry of Justice. The issue of provision of first asylum did not arise during the year. According to statistics provided by the immigration police, 6,314 undocumented aliens were identified at the border; most were denied entry. A total of 254 illegal immigrants were apprehended (219 within the country and 35 at the border), of whom 132 departed voluntarily and the rest were deported. The Government has approached Russia and Belarus about concluding refugee readmission agreements, the lack of which posed a major barrier to effective control of the eastern border; however, no such agreements had been concluded by year's end.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Free and fair elections for Parliament were held on October 5. Candidates from 6 of the 20 participating parties, representing a broad political spectrum, won seats in Parliament, and 72.5 percent of eligible voters participated. In June 1999, the Parliament elected the President.

The election law prohibits persons who remained active in the Communist Party or various other pro-Soviet organizations after January 1991, or who worked for such institutions as the former Soviet Committee for State Security, from seeking elected office. Noncitizens, most of whom are ethnic Russians, are not allowed to vote; however, many ethnic Russians are Latvian citizens and may vote (*see* Section 5). Noncitizens may join and form political parties, but there must be at least 200 citizens in the party, and at least half of the total membership must be citizens (*see* Section 2.b.).

In April the ECHR ruled that the Government had violated the rights of Ingrida Podkolzina, an ethnic Russian citizen, to free elections and awarded her \$7,500 (12,300 lats) for non-pecuniary damage and \$1,500 (2,460 lats) for legal costs and expenses. In 1998 the Central Election Commission denied Podkolzina the right to stand for election to Parliament on the grounds that she did not possess an adequate command of Latvian, despite the fact that she held a valid certificate attesting that she spoke Latvian fluently. The ECHR declined, however, to rule, on the validity of the basic law itself. In May the Parliament rescinded the Latvian language requirements of the local and parliamentary laws, which had required a higher level of Latvian language proficiency for voters than was required for citizenship.

In October 18 women were elected to the 100-member Parliament, and a woman chaired the Parliament. There were two women in the 15-member Cabinet of Ministers. The President is a woman.

There are no ethnic restrictions on eligibility to hold political office. Nonethnic Latvians, including ethnic Russians and Poles, served in various elected bodies.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A growing number of domestic and international human rights groups devoted to research and advocacy on human rights issues, including prison conditions and women's and children's rights, generally operated without government restriction. Several organizations dealt with issues of concern to local noncitizens and other nonethnic Latvians and presented such concerns to the courts and the press. The Government engaged in dialog with NGOs working on human rights issues and was generally responsive to their views. A number of NGOs provided assistance to those who wished to complain about police abuse or abuse in prisons (*see* Section 1.c.).

The NHRO is an independent governmental institution with a mandate to promote human rights, provide information on human rights, investigate individual complaints, and initiate its own investigations into alleged violations. The office acted as a general ombudsman on social issues and handled a variety of individual complaints, primarily concerning problems with receiving social benefits.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

According to the Constitution, all citizens are equal under the law. Amendments to the Constitution passed by Parliament in 1998 provide for the protection from discrimination due to race, sex, language, or disability; however, discrimination against women in the workplace was a problem.

*Women.*—Although no overall statistics were available, observers reported that domestic violence against women, often connected with alcohol abuse, was significant and underreported. Police did not compile figures for domestic violence as a distinct category. Instead, episodes were placed under more general categories such as assault or battery. During the year, 93 rape cases were reported. Women who were victims of abuse often were uninformed about their rights and were reluctant to seek redress through the justice system. Human rights groups asserted that the legal system, including the courts, tended to downplay the seriousness of domestic violence and that the police were reluctant at times to make arrests in such cases.

There are no shelters designed specifically for battered or abused women. There is one shelter in Riga where homeless women with children may reside for up to 2 months. There are no specific rape or assault hot lines; however, NGOs managed two crisis hot lines.

Prostitution was widespread and often was linked to organized crime. The Government estimated that 3,000 persons worked as prostitutes. Prostitution is legal; however, procuring is not, but the NHRO reported that adult prostitutes had no legal protections. There are no state institutions to assist prostitutes; however, the private Latvian Center for Gender Problems provided medical help and social support for prostitutes. Trafficking in women for prostitution was a problem (*see* Section 6.f.).

Sexual harassment of women in the workplace, although illegal, reportedly was common. Cultural factors tended to discourage women from coming forth publicly with complaints of abuse.

Women possessed the same legal rights as men. The Labor Code bans employment discrimination; however, in practice women frequently faced hiring and pay discrimination, especially in the emerging private sector. The Labor Code also prohibits women from performing "hard jobs or jobs having unhealthy conditions," which are specified in a list agreed upon by the Cabinet and labor unions. According to the Central Statistics Bureau, the number of women in the lower income brackets exceeded the number of men by 75 percent, while men outnumbered women 2 to

1 in upper income levels. The Ministry of Welfare established a 1-person office to deal with gender problems.

A new labor law prohibits work and pay discrimination based on gender and requires employers to set equal pay for equal work. The law also defines workplace gender-based discrimination.

Women's advocacy groups—growing in size and number—were involved in finding employment for women, lobbying for increased social benefits, and assisting victims of domestic abuse.

*Children.*—The law on the rights of the child and constitutional provisions on children provide for various protections, including health care and legal protections against physical abuse; however, these provisions were not enforced fully in practice. Schooling is mandatory through the 9th grade, between the ages of 7 and 16, and free through the 12th grade, or age 18. Despite the existence of laws on mandatory education, truancy was widespread and growing. There is a national Center for the Protection of the Rights of the Child. A few children's advocacy groups were active, particularly in lobbying for legislation to protect children's rights and for increased welfare payments for children.

Law enforcement authorities have won court suits to remove children from abusive parents and secured convictions in child molestation cases; however, evidence suggested that abandonment and child abuse, including sexual abuse, were relatively widespread, as was child prostitution. An estimated 12 to 15 percent of prostitutes were between the ages of 8 and 18. Although in theory the Constitution and the law protect children, these rights were enforced only sporadically in the case of child prostitutes. Trafficking in young girls for prostitution abroad increased (*see* Section 6.f.).

The Dardedze Center Against Abuse, opened in Riga in 2001, continued to provide support to abused children. The center offered multidisciplinary treatment and rehabilitation to victims of child abuse and their families. The center also has a forensic interview room where victims can be interviewed in a secure environment and their testimony directly transmitted to a courtroom.

*Persons with Disabilities.*—The Constitution provides for the protection of persons with disabilities against discrimination; the law provides for their right of access to public facilities. Provisions in the Labor Law and other laws aim to protect persons with disabilities from bias in the workplace and from job discrimination. There is no governmental or societal bias against persons with disabilities. In 1998 the Cabinet adopted a framework document entitled "Equal Opportunity for Everyone," which was designed to coordinate the efforts of all branches of government in assisting persons with disabilities; however, lack of funding has limited its effectiveness. The Government supported special schools for persons with disabilities.

The law requires buildings to be accessible to wheelchairs; however, the Government did not enforce the law uniformly and most buildings were not wheelchair accessible. However, some larger cities, including Riga and Ventspils, have undertaken an extensive wheelchair ramp building program at intersections.

*National/Racial/Ethnic Minorities.*—Approximately 1 million residents are of non-Latvian ethnicity, including more than 700,000 ethnic Russians, 100,000 ethnic Belarussians, almost 64,000 ethnic Ukrainians, and more than 60,000 ethnic Poles. More than 74 percent of the country's inhabitants are citizens, including nearly 400,000 persons who belong to national or ethnic minorities. There are approximately 583,000 resident noncitizens, of whom an estimated 68 percent are Russian; 12 percent, Belarussian; 9 percent, Ukrainian; and smaller percentages of Poles, Lithuanians, Jews, Roma, Germans, Tatars, Estonians, and Armenians. Due to the Russification policy pursued during the Soviet era, ethnic Latvians constitute only 56 percent of the population, and 78 percent of citizens—and less than 40 percent of the population in three of the country's seven cities, including the capital city of Riga. The country's Romani community nearly was destroyed during the Holocaust. While the community received some support from the Government, high levels of unemployment and illiteracy were problems.

Effective this year, citizen passports no longer identify the ethnicity of the bearer. Should the bearer choose, ethnicity may be identified by an amendment on the second page (*see* Section 2.c.).

Following the restoration of independence in 1991, citizenship was accorded immediately only to those persons who were citizens of the independent Latvian Republic in 1940 and their direct descendants. After independence the status of approximately 670,000 persons, mostly ethnic Russians, changed from citizens of the Soviet Union to noncitizen residents in Latvia. Since 1995 a total of 58,145 persons have become citizens: 23,000 were naturalized in 2000 and 2001, and an additional 9,000 were naturalized during the year. To facilitate the naturalization process, the

Government reduced significantly the naturalization fee and accepted high school level language certificates as sufficient for naturalization purposes. To increase the rate of naturalization, in 2001 the Latvian Naturalization Board implemented an advertising campaign in cooperation with the Organization for Security and Co-operation in Europe (OSCE), the U.N. Development Program, and other international donors.

The Citizenship Law includes a Latvian language and residence requirement for those seeking to naturalize, as well as restrictions on the naturalization of former Soviet intelligence and military personnel. The law also requires applicants for citizenship to renounce previous non-Latvian citizenship, to have knowledge of the Constitution and Latvian history, and to pledge allegiance to the country. According to Naturalization Board figures, nearly 95 percent of applicants passed the citizenship tests on the first attempt. Children of noncitizens born after August 1992 are entitled to citizenship upon application. International observers, including the resident OSCE mission, credited the Government with establishing a competent and professional Naturalization Board with offices throughout the country to implement the law and generally applying the law fairly. However, international experts, government officials, and domestic human rights monitors agreed that the country must continue to place high priority on and devote sufficient resources to implementing the citizenship law in a fair and impartial manner, as well as seek ways to expedite naturalization and promote social integration.

The Language Law regulates the uses of language that affect public safety, health care, protection of the consumer, and labor rights and requires that documents submitted to the Government be translated into Latvian, except in cases of emergency, including company reports and records. In a public event co-organized by the State, one of the working languages must be Latvian. Labels and user instructions for goods sold must be in Latvian, although other languages may be present as well. However, the implementation of this law remained a matter of public debate and continued international attention.

The Government financially supported education in both Latvian and Russian, as well as in eight other minority languages. However, under the revised Education Law, the Government continued to implement a bilingual education program at the elementary school level, with the goal of facilitating the transition to Latvian-language secondary schools by 2004. Although all non-Latvian-speaking students in public schools were supposed to learn Latvian and to study a minimum number of subjects in Latvian, there was a shortage of qualified teachers. State-funded university education is in Latvian, and incoming students whose native language is not Latvian must pass a language entrance examination. However, several private institutions offered higher education in Russian.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law stipulates that workers, except for the uniformed military, have the right to form and join labor unions of their own choosing; however, the Government's ability to protect the right to organize in the private sector was weak. Union membership was approximately 240,000 out of a workforce of 800,000. Free elections for union leadership are held every 4 years.

Unions are free to affiliate in confederations, and there was one such confederation in the country. Unions also are free to affiliate internationally and have established contacts with European labor unions and international labor union organizations.

*b. The Right to Organize and Bargain Collectively.*—Labor unions have the right to bargain collectively and are generally free of government interference in their negotiations with employers. Collective bargaining agreements were common and were negotiated by industry or company. The law prohibits discrimination against union members and organizers. While not widespread, discrimination occurred within individual companies.

The law does not limit the right to strike, but there were no major strikes during the year. The law bans the dismissal of employees who have invoked the right to strike. No cases of such dismissals were reported.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred. Inspectors from the Ministry of Welfare's State Labor Inspection Board or Inspectorate were responsible for enforcing the law.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The statutory minimum age for employment of children is 15 years, although children between the ages of 13 and 15 years may work in certain jobs outside of school hours.

The law restricts employment of those under the age of 18; for example, by banning night shift or overtime work. Enforcement of child labor laws was lax.

The Government has not ratified ILO Convention 182 on the worst forms of child labor.

*e. Acceptable Conditions of Work.*—The monthly legally mandated minimum wage was approximately \$98 (60 lats), far below the amount that trade union officials described as the bare minimum necessary for survival; it did not provide a decent standard of living for a worker and family. The actual average monthly minimum wage (the calculation of which includes wages of part-time employees and agricultural workers) was \$286 (176 lats).

The Labor Code provides for a mandatory 40-hour maximum workweek with at least one 42-hour rest period weekly, 4 weeks of annual vacation, and a program of assistance to working mothers with small children. The laws establish minimum occupational health and safety standards for the workplace; however, these standards frequently are ignored. Workers have the legal right to remove themselves from hazardous work situations without endangering their continued employment; however, these standards also frequently were ignored in practice.

*f. Trafficking in Persons.*—There is no law that specifically prohibits all forms of trafficking, although a 2000 Criminal Code revision makes it illegal forcibly to send a person to a foreign country for the purpose of sexual exploitation. On December 11, the Government signed the U.N. Protocols to Prevent, Suppress and Punish Trafficking in Persons and Against the Smuggling of Migrants. Trafficking in women for the purpose of prostitution was a problem (*see* Section 5).

During the year, there were 14 cases of trafficking, of which 6 were referred to the courts for prosecution and 8 remained under investigation at year's end.

Over the last 2 years, the Government allocated more resources towards combating trafficking in persons. There is a high-level working group on trafficking, and the Ministry of Interior, which includes the State Police and the Citizenship and Migration Department, is the principal government ministry involved in the trafficking problem. Also participating in the working group are representatives from the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Welfare, and the National Center for the Protection of the Rights of the Child. The Government has allocated funds to increase the number of police officers tasked with fighting prostitution and trafficking. However, NGOs were concerned that the Government had not developed a strategy for focusing on the problem.

Latvia was primarily a country of origin and transit for trafficked victims rather than a destination, although no exact statistics were available. The main countries of destination were Germany, Switzerland, Denmark, Spain, Greece, Italy, the United Kingdom, and to a lesser extent Cyprus and Israel. Statistics released by European police services indicated that the number of Latvian women involved as victims of trafficking increased. In 2001 a total of 186 women (not all necessarily involved in trafficking) were deported back to the country. According to authorities in Germany, Switzerland, Sweden, and Denmark, Latvian women made up a disproportionately high number of the women engaged in prostitution in those countries as well as a high number of trafficked women in those countries. There were undocumented reports that trafficking in women (including minors) for prostitution abroad increased (*see* Section 5).

Traffickers, primarily organized criminal groups, usually lured victims through offers of false employment in European countries. A large number of victims were drawn from the economically depressed areas of eastern Latvia. Other victims were recruited through job advertisements, modeling agencies, travel agencies, and nightclubs.

There are virtually no trafficking victims assistance programs in the country. Upon returning to the country, victims of trafficking were not singled out for governmental or societal abuse or mistreatment, and they can return home. Genders was the primary NGO involved in working with prostitutes, and two NGOs have begun operations to educate adolescents regarding trafficking issues. Throughout the year, several NGOs, particularly the International Organization for Migration (IOM) sponsored several conferences on Trafficking. In addition, IOM sponsored an aggressive advertising campaign warning of the dangers of accepting attractive employment offers from abroad. The posters were prominently displayed in bus stops and other public venues.



## LIECHTENSTEIN

The Principality of Liechtenstein is a constitutional monarchy and a parliamentary democracy. Prince Hans-Adam II is the head of state; all legislation enacted by the popularly elected Parliament (Landtag) must have his concurrence. The Parliament elects and the Prince appoints the members of the Government. The judiciary is independent.

The Interior Ministry maintained effective control of the regular and auxiliary police forces, which were responsible for internal and external security. There was no standing military force. There were no reports that security forces committed human rights abuses.

The country has a prosperous, highly industrialized, free-enterprise economy with a vital services sector. It participates in a customs union with Switzerland and uses the Swiss franc as its national currency. As a member of the European Economic Area (EEA), its 32,883 citizens enjoy a very high standard of living. The gross domestic product (GDP) in 2001 was approximately \$1.8 billion. There were no serious economic disparities. Unemployment remained low at 1.2 to 1.4 percent.

The Government generally respected the human rights of its citizens, and the law and judiciary provided effective means of dealing with individual instances of abuse. There were instances of violence against women. The Government continued to work to eliminate societal discrimination against women. Liechtenstein was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

Prison conditions generally met international standards. Men and women were held separately. Facilities were available to hold juvenile prisoners separately from adults in a pretrial detention facility, but there were no cases of juvenile imprisonment during the year. If a juvenile offender were to be convicted of a crime requiring imprisonment, the prisoner also could be transferred to a youth facility in Austria. Pretrial detainees were held separately from convicted criminals.

The Government permitted visits by independent human rights monitors. A Representative of *Justitia et Pax* visited prisoners twice a month; however, the CPT did not conduct visits during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. Within 24 hours of arrest, the police must bring suspects before an examining magistrate who must either file formal charges or order release. The law grants suspects the right to legal counsel of their own choosing and counsel was provided at government expense to indigent persons. Release on personal recognizance or bail is permitted unless the examining magistrate has reason to believe that the suspects are a danger to society or would not appear for trial.

Neither the law nor the Constitution prohibits forced exile, but the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judicial system has three tiers: lower court; high court; and Supreme Court. The court of first instance is the National Court. In addition, an Administrative Court hears appeals against government decisions. The State Court protects the rights accorded by the Constitution, decides conflicts of jurisdiction between the law courts and the administrative authorities, and acts as a disciplinary court for members of the Government.

The Constitution provides for the right to a fair public trial, and an independent judiciary generally enforced this right. Citizens had the right to counsel and the right to appeal, ultimately to the Highest Court (*Oberstes Gericht*). Trials involving minor offenses were heard by a single judge, more serious or complex cases by a panel of judges, and the most serious cases, including murder, by a public jury.

The Constitution authorizes the Prince to alter criminal sentences or pardon offenders. However, if the offender is a member of the Government and is sentenced

for a crime in connection with official duties, the Prince may take such action only if the Parliament requests it.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a democratic political system worked together to ensure freedom of speech and of the press. The law maintains and promotes diversity in the media; in 2001 the Parliament appointed an independent media commission to decide how to distribute approximately \$600,000 (954,000 Swiss francs) in government subsidies to the media groups for training or research programs dedicated to the promotion of news and information.

Two daily newspapers were published, each representing the interests of one of the two major political parties. There was one weekly newsmagazine. One state and one private television station broadcast, along with a private radio station, and residents received radio and television broadcasts from neighboring countries. An information bulletin also was issued by the third party (Freie Liste) represented in Parliament.

There were no restrictions on access to the Internet.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Constitution establishes the Roman Catholic Church as the official state church, and its finances are integrated directly into the budgets of the national and local governments. Under a 1998 interim regulation, state contributions to the Catholic Church temporarily had been paid into a blocked special account to be released when a new agreement was found. The 1998 regulation expired January 1 before a consensus had been reached. The Church thus again is entitled to the State's annual contributions of \$207,000 (300,000 Swiss francs) under the terms of a 1987 law. The State's financial contributions for 1999, 2000, and 2001 were paid to the Church. The Government continued to seek a wide consensus on this issue during the year.

Roman Catholic or Protestant religious education was compulsory in all schools, but the authorities routinely granted exemptions for children whose parents request them. Secondary school students were allowed to choose between religious or cultural courses of study as an interim solution.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights and the Government generally respected them in practice.

In 2000 voters approved a referendum that changed naturalization requirements to facilitate the naturalization of long-term residents, but it required that applicants relinquish their citizenship in other countries. In 2001 627 immigrants were granted citizenship, compared with 368 in 2000.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government provided first asylum; however, since the country lacks an airport or international train station, it received few requests. Although the number of asylum requests increased following passage of the 1998 asylum law, asylum requests during the year dropped to 91.

There were no reports of arbitrary arrests of asylum seekers or foreigners.

A trilateral readmission agreement with Switzerland and Austria came into effect in January 2001. The Government returns persons who enter from Austria or Switzerland without permission to the respective Swiss or Austrian authorities.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections.

The country is a constitutional monarchy and a parliamentary democracy. The monarchy is hereditary in the male line. The 25-member unicameral legislature is elected every 4 years. Suffrage was universal for adults over age 18, and balloting was secret. Political parties operated freely. Citizens regularly voted on initiatives and referendums.

A constitutional reform bill to increase the executive powers of the monarch failed to pass during the year. As a consequence, the Prince decided to put his constitutional proposals to a popular vote that is scheduled for March 16, 2003. The Prince pledged to abdicate to Austria if citizens do not approve his plan.

There were 3 women in the 25-seat Parliament, and 1 in the Cabinet, the Minister for Education, Transport and Communication, and Justice, who has served since February 2001. A growing number of women were active in politics. Women served on the executive committees of the major parties.

In 2001 the Government took several steps to promote greater participation by women in politics. Prior to the February 2001 parliamentary elections, the Government conducted two billboard campaigns to promote female candidates, one encouraging women to run for office, and another calling on voters to support female candidates. In addition, the Government organized a series of workshops for female parliamentary candidates.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A few domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

The sole domestic local human rights organization, *Justitia et Pax*, is an informal group of approximately 10 members who monitor prison conditions and assist foreign workers with immigration matters. There were also three domestic nongovernmental organizations (NGOs) focusing on women's issues.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The law prohibits discrimination on the basis of race, sex, language, or social status, and the authorities generally enforced these provisions. The law also prohibits public incitement to violence or public agitation or insult directed against a race, people, ethnic group, or state.

*Women.*—The law prohibits all forms of domestic violence, and the Government generally enforces the law. According to the police, there were 12 reported cases of violence against women during the year, of which 8 male aggressors were prevented from reentering the family home for 10 days, and 4 for a further period of 3 months. The Protection from Domestic Violence law entered into force in February 2001. The State may file charges without a complaint from the victim. *Frauenhaus* stated that one out of five women was a victim of domestic violence.

A women's shelter provided refuge for 27 women and 39 children during the year. The shelter provides refuge for noncitizens as well. Annual government financing for the shelter was approximately \$165,000 (240,000 Swiss francs). NGOs believed that, as in neighboring countries, trafficking in women occurred; however, no specific cases were documented during the year (*see* Section 6.f.).

Societal discrimination continued to limit opportunities for women in fields traditionally dominated by men. Men earned more than women and women generally did not receive equal pay for equal work. The Constitution provides for women's rights, and includes a significant number of laws to provide for equality of treatment among men and women to eliminate discrimination and sexual harassment and to create conditions that allow both men and women to combine work and family. A new law entered into force in January 2001 that mandates the division of retirement benefit claims in the case of divorce, under which the benefit claims accrued during the time of marriage are split between the parties, whether they worked outside the home or not. No case of gender discrimination had been brought to court by year's end.

Each Spring the Government adopts an action plan to promote equal opportunity for both women and men, and each Autumn the Government's Bureau for the Promotion of Equal Rights for Women and Men publishes a progress report. The 2002 action plan concentrated on women and politics, family and income, and violence against women. These themes were discussed during the second Women's Congress

of Liechtenstein that began in October. The Government also started a project with both Swiss and Austrian neighboring regions to promote prevention and assistance to victims of domestic violence. The joint project is scheduled to end in March 2004.

In 1999 the Government signed the optional protocol to the U.N. Convention on the Elimination of All Discrimination Against Women. The protocol took effect on January 24.

Three women's rights groups were active. Frauenhaus Liechtenstein, Fruehstueckstreffen fuer Frauen, and Infra (Informations-und Kontaktstelle fuer Frauen) worked in areas of public affairs, information, legal counseling, lobbying, and other political activities (see Section 4).

*Children.*—The Government was strongly committed to children's rights and welfare and funded a system of public education and health care. The Government provided compulsory, free, and universal primary school education for children of both sexes for 9 years, normally until the age of 16. It provided free health care for children under the age of 16.

The Government supported programs to protect the rights of children and matched contributions made to the three NGOs that monitor children's rights. The Office for Social Services oversaw the implementation of government-supported programs for children and youth.

Possession of child pornographic material is a statutory offense. The Government also extended the statute of limitation for sexual offenses against children. A special police unit on computer crime continued to monitor child pornography on the Internet; however, no investigations were opened during the year. In September Liechtenstein experts supported Swiss authorities in Genesis, an operation that worked to eliminate a network of pedophilia in Switzerland and Europe.

During the year, two persons were convicted of child abuse in cases concerning sexual acts between minors (children under 14) and young adults (persons of 18 years).

In 2000 the Government established a Commission for the Coordination of Professionals in Cases of Sexual Offenses Against Children. The group consists of experts from different backgrounds and focuses on assisting professionals (counselors, therapists, and physicians) who deal with sexual offences against children. There was no societal pattern of abuse against children.

*Persons with Disabilities.*—Although the law does not prohibit discrimination against persons with disabilities, complaints of such discrimination may be pursued in the courts. The law provides for compensatory payments by the Government to companies that employ persons with disabilities. The law increased opportunities for their integration into the workforce and promoted their right to be self-dependent. Persons with disabilities were not subject to discrimination in the provision of state services nor was there societal discrimination against them.

The Government requires that buildings and government services be made accessible, and new public buildings generally met these provisions; however, some older buildings had not fulfilled these requirements.

*National/Racial/Ethnic Minorities.*—Rightwing extremists, known as skinheads, were not publicly active during the year. On October 1, the Government established a commission to address violence and advise the Government on preventative measures. The commission attempted to raise public awareness in order to address the problem of acts of violence in the public areas such as schools and playgrounds.

On August 10, the police arrested four Hungarian skinheads at the Austrian border. The police found approximately 250 neonazi stamps and badges as well as 100 neofascist publications in their car that were to be sold during a fascist meeting in the Swiss Zurich area. The four skinheads later were deported to Hungary by way of Austria on criminal offense charges of racist propaganda, and police authorities in Budapest, Vienna, and Zurich were informed. The police also filed a lawsuit against the skinheads on the grounds of racial discrimination, as provided for under Article 283 of the criminal code. The case was pending at year's end at the Public Prosecutor's office, and it was not determined whether the case will be dismissed.

Shortly after the World Conference against Racism, Racial Discrimination, Xenophobia, and Related Intolerance, held in Durban in 2001, the Government established a working group to implement the conference's recommendation at the national level under a National Action Plan (NAP). The working group organized the first set of human rights education classes for police officers during the year and these training sessions have been proposed to extend to the entire national administration as a whole as well as to the schools in 2003. As Foreign Minister Ernst Walch previously had announced at the Durban World Conference, the Government submitted to Parliament a draft to accept the individual complaints procedure under

Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination (to which the country is a State party).

In March an expert group to the Council of Europe's Commission against Racism and Intolerance (ECRI) visited. The group met with representatives of various ministries and public administrations as well as with NGOs to research racism and intolerance in the country. The report is scheduled for publication in 2003.

*Section 6. Worker Rights*

*a. The Right of Association.*—The law provides that all workers, including foreigners, are free to associate, join unions of their choice, and select their own union representatives, and workers exercised these rights in practice. Due to the country's small size and population, there was only one trade union, which represented approximately 13 percent of the work force; however, the union protected the interests of nonmembers as well.

The law encourages the formation of unions but does not prohibit antiunion discrimination. Instead it states that antiunion discrimination should be avoided.

Unions were free to form or join confederations and were allowed to affiliate with international bodies. The only union was a member of the World Confederation of Labor but was represented on an ad hoc basis by a Swiss union.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right of workers to organize and bargain collectively. However, collective bargaining agreements usually were adapted from those negotiated by Swiss employers and unions. In accordance with EEA guidelines, domestic labor law requires that employers consult with unions in cases of projected mass dismissals and submit employment contracts in written form.

Workers have the right to strike except in certain essential services. No strikes were reported during the year. The law does not provide specific protections for strikers. Employers were allowed to dismiss employees for serious offenses or for breach of contract, such as having a complaisant medical certificate.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits the employment of children under 16 years of age. However, exceptions may be made for the limited employment of youths age 14 and over and for those who leave school after completing 9 years of compulsory education (*see* Section 5). Children of ages 14 and older may be employed in light duties for not more than 9 hours per week during the school year and 15 hours per week at other times.

The Government devoted adequate resources and oversight to child labor policies. The Department for Worker Safety of the Office of the National Economy effectively supervised compliance with the law. Inspections by the Department for Worker Safety were adequate. No employers have been fined or imprisoned for violations of the law.

The Government has not ratified International Labor Organization (ILO) Convention 182 on the worst forms of child labor.

*e. Acceptable Conditions of Work.*—There was no minimum wage. In 2001 a total of 59 households depended on public welfare, to obtain a yearly minimal income—set at \$12,200 (17,720 Swiss francs) for a 1-person household—and were considered working poor. A total of 474 households received public assistance in 2001.

The law sets the maximum workweek at 45 hours for white-collar workers and employees of industrial firms and sales personnel, and 48 hours for all other workers. The law provides for mandatory rest periods, and with few exceptions, Sunday work was not allowed. Workers over the age of 20 received at least 4 weeks of vacation; younger workers received at least 5 weeks.

The law sets occupational health and safety standards, and the Department for Worker Safety of the Office of the National Economy generally enforced these provisions. The law provides for a hearing in cases in which workers removed themselves from dangerous situations. The law provides for the right of workers to remove themselves from work situations that endanger health or safety without jeopardy to their continued employment.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country. However, some NGOs believe that, as in neighboring countries, trafficking in women occurred without report.

Any person leading another into prostitution faces up to 6 months in prison and/or heavy fines and up to 3 years in prison if the victim was under 18. Independent prostitutes were tolerated as long as they were confined to special salons, cabarets,

or other private apartments. The police undertook regular controls on the prostitutes' working conditions and salaries, but acknowledged that many Swiss middlemen employed women working in the country.

## LITHUANIA

Lithuania is a constitutional parliamentary democracy. The Constitution establishes a 141-member unicameral Parliament; a directly elected President; and a government whose ministers are nominated by the Prime Minister, appointed by the President, and approved by the Parliament. The Government exercises authority with the approval of the Parliament and the President. The judiciary is independent.

A unified national police force under the jurisdiction of the Interior Ministry is responsible for law enforcement. The State Security Department is responsible for internal security and reports to Parliament and the President. The police committed a number of human rights abuses.

Since its independence in 1990, the country has progressed steadily toward developing a market economy. The country has a population of 3.472 million. The Government continued to privatize the few remaining large-scale enterprises, such as energy, gas, airline, and railroad companies; most housing and small businesses have been privatized. The largest number of workers (18.3 percent) worked in the manufacturing sector.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Police at times beat or otherwise physically mistreated detainees and misused detention laws. The Government made some progress in holding the police accountable for abuses. Prison conditions remained poor, and prolonged pretrial detention remained a problem. There were some restrictions on privacy rights. Violence and discrimination against women and child abuse were serious problems. There were some limits on workers' rights. Trafficking in women and girls for the purpose of prostitution was a problem. Reform of the country's political and economic structure led to an invitation in December to join the European Union (EU) in May 2004. Lithuania was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

The Government continued to support the International Commission to Investigate the Crimes of Nazi and Soviet Occupation Regimes in Lithuania. The Commission, which includes historians, human rights representatives, representatives of international Jewish organizations, and both Lithuanian and foreign lawyers, produced reports that named the killers of Soviet prisoners of war during the Nazi occupation, described the destruction of the independent Lithuanian Army by the Soviets in 1940–41, and investigated the Soviet occupation after World War II. In June the Commission signed an agreement on cooperation with the Ministry of Education and Science to implement a program of holocaust and genocide education in the country's schools. In September the Commission organized an international conference in Vilnius on the Holocaust.

Since the restoration of independence, the Prosecutor General's Office has acted on approximately 120 war crimes and genocide cases, only 14 of them were for Holocaust-era crimes. Thirteen cases reached the court, including the genocide cases against Aleksandras Lileikis, who died without trial, and Kazys Gimzauskas, who was judged mentally ill. The remaining 11 cases remained pending.

In May prosecutors initiated two genocide cases for the mass killing of Jews from Serezzius in 1941 and for aiding in the killing of thousands of civilians in 1941.

In June a court dropped the case against two former Soviet security service agents due to mental illness and acquitted three other suspects.

Other ongoing cases included: An investigation into the killing of Jews in Serezzius in 1941, killing of 3,700 Jews in 1941, the "Lietukis" garage killings in Kaunas in 1941, the killings in Zadeikiai forest in 1941, the killing of 20 Jews in Seirijai in 1942, and 2 cases-involving 3 persons, all living abroad-of killings of Jews and prisoners of war in Nazi-occupied Belarus during World War II. Three cases were suspended pending responses to legal assistance requests to foreign states.

The law permits trial in absentia in war crimes and genocide cases when a defendant is in the country but unable to attend the proceedings due to physical disability or when a suspect flees or hides from justice in another country.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, at times police beat or otherwise physically mistreated detainees. Press reports indicated that incidents of police brutality decreased, and that victims were more willing to bring charges against police officers.

From January to August, cases for abuse of power and abuse of office were initiated against 10 police officers, and 2 of the officers were convicted and sentenced. In November the Police Commissioner General stated that 10 to 15 percent of all complaints about police violence against suspects were justified and that police officers committing such offenses were reprimanded or fired.

In June the media, many members of Parliament, and the President criticized the police for overreacting against a pro-Tibetan group during the Chinese President's visit. The police used force in pushing demonstrators away from the sight of the Chinese delegation motorcade and detained some peaceful demonstrators for several hours.

The Office of Inspector General and the Internal Investigation Division at the Police Department investigate, on the orders of the Minister of Interior, abuses committed by the police. Prosecutors and the Parliament controller carry out independent investigations. By the end of August, the controllers investigated 110 complaints—most of them deemed justified—about the activities of Interior Ministry personnel and the police. In a number of cases, the controllers proposed to the relevant institutions that they take action or amend laws.

Military personnel committed human rights abuses by hazing recruits, despite efforts to end the practice, which was inherited from the former Soviet armed forces. However, as living conditions improved for military personnel, human rights violations committed by noncommissioned officers declined. The Ministry of National Defense does not publish statistics on hazing. From January to August, 16 criminal cases were filed for statutory violations, compared with 7 cases in all of 2001. In April the military police initiated a case against a captain for abusing a recruit, and the captain was suspended immediately. From January to August, the Seimas Controller investigated four complaints against officials of the Ministry of National Defense compared with six complaints in all of 2001. According to the Seimas Controllers, the complaints were not related to hazing or abuse, and the increase in the number of the criminal cases was likely due to increased activity of the Inspectorate General of the Ministry. According to the Ministry of National Defense, most trauma inflicted on conscripts is psychological rather than physical. The 1999 disciplinary statute sets procedures for the investigation of disciplinary offences, provides for the right to appeal, and lists the types of punishments.

In June the Seimas approved a new Code on the Execution of Penalties, which is based on the Criminal Code passed in 2000 and on European and international human rights law. The new Criminal Code, the Code on Execution of Penalties, and the Criminal Procedure Code passed in March were scheduled to enter into force simultaneously in May 2003.

Prison conditions were poor and life threatening. Most of the 14 correctional institutions were overcrowded; however, two reconstructed facilities are scheduled to open in 2003. In 2001 the number of drug addicts (mostly using intravenous drugs) in prisons increased by 70 percent to 1,130, or 10 percent of all prisoners. As a consequence of needle sharing, the number of HIV infected prisoners rose to over 300. In May a sudden outbreak of HIV in the "strict regime" facility in Alytus sparked a wave of hunger strikes, involving some 7,000 inmates in many detention facilities around the country. The protests ended after the Government took measures to prevent HIV infection from spreading, satisfied some demands (for example, to allow personal linen and food), and promised to improve living conditions, healthcare, and food by 2003. Hunger strikes on a smaller scale occurred in March and April.

In February Seimas controllers warned that prisoners awaiting transfer to their places of confinement in the Lukiskes investigation ward/prison suffered from overcrowding and poor sanitation. The media reported that conditions were even worse in the Siauliai interrogation and isolation ward, and in October Seimas controllers stated that conditions there did not meet elementary standards of hygiene and human dignity. From January to August, Seimas controllers received 27 complaints about prolonged transfers of suspects to interrogation facilities (taking up to 10 hours in old rail carriages). Arrested and detained persons generally suffered considerably worse living conditions than did convicted persons. However, the Seimas con-

trollers noted that the problem of overcrowding in the poorly maintained police custody facilities was resolved as individuals not able to pay administrative fines were no longer placed in custody but, instead, were sentenced to perform community service. In May the Ministry of Health approved a new hygiene standard for 49 police custody facilities, and 9 of these facilities met the new standard. In July the Seimas amended the (old) Criminal Code, introducing parole for those convicted for small offenses; as a consequence, the number of prisoners declined and living conditions improved.

Few prisoners were involved in meaningful activities: Some 10 percent were involved in education, 18 percent performed paid labor in state production outlets set up at correctional institutions, and 8 percent worked as prison general service workers as a means of promoting future social integration. Prisoners were not forced to work.

A significant number of detainees reported mistreatment, abuse, and violence. Unlike in the previous year, there were no reports of torture. Public prosecutors and judges played a significant role in combating abuse.

From January to August, 17 prisoners died (9 of natural causes, 4 by suicide, and 4 killed by other prisoners), compared with 27 deaths (including only 1 homicide) in all of 2001. From January to August, there were 175 injuries, 157 of them self-inflicted, due to abuse by fellow inmates, depression, family problems, or as a form of protest against sanctions by authorities. Also from January to August, there were 22 criminal offenses committed in prison, compared with 34 during all of 2001. Prison personnel were not accused of committing any criminal offenses. From January to August, the Seimas controllers investigated 182 non-criminal complaints (67 of them deemed justified) about Prison Department personnel, mostly related to living conditions. In September there were 11,345 prisoners, including 459 women, and 278 juveniles. The prisoner figure included 1,632 detainees, of whom 98 were women, and 115 juveniles. Women and men were held separately; juveniles were held separately from adults; and pretrial detainees were held separately from convicted criminals.

The Government continued efforts to reform the prison system; however, progress has been slow. The Prison Department at the Justice Ministry manages the correctional system. Funding of approximately \$0.65 (2.3 litas) covered only minimal needs for 3 meals per prisoner per day. During the year, the budget allotted 2.5 percent more money for running 14 correctional institutions than in 2001. Amendments to the Criminal Code that are scheduled to enter into effect in 2003, the Code of Criminal Procedure, and the Code of Penal Enforcement aim to reduce the number of punishments that involve incarceration. The Government was reconstructing three correctional facilities and was also constructing a prison hospital at year's end.

The Government permits visits to prisons by independent human rights observers, and there were such visits during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions; however, there were instances of prolonged pretrial detention.

Under the law, police temporarily may detain suspects for up to 48 hours, based upon reliable evidence of criminal activity and approval by an investigator or prosecutor. Bail in theory is available, but it was not used widely. The parole and probation system begins when the new Criminal Code enters into force in 2003. The Constitution provides for the right to an attorney from the moment of detention (*see* Section 1.e.). Detainees have the right to inform a close relative of their situation, the right of access to a lawyer, and the right to health care.

Pretrial detention applies only in the case of felonies and when it is impossible to prevent flight, or to allow unhindered investigation. A local judge, acting on a prosecutor's request, may order longer pretrial detention, which can last up to 6 months and may be extended by a district judge using the same procedure for periods not to exceed 18 months in total (*see* Section 1.e.). In 2001 detainees on average awaited trial for 5 months. In September a court extended one person's summary pretrial detention period beyond 18 months. Unlike last year, the Prison Department reported that there were no persons whose summary preverdict detention exceeded 18 months. The Seimas controllers pointed out several occasions of detention of persons in police custody beyond the 15-day limit provided by law; the regular place of such detention is the poorly maintained isolation wards (*see* Section 1.e.).

In March the European Court of Human Rights (ECHR) ruled that the Government violated the right of the presumption of innocence for former Member of Parliament and Minister of Defense Audrius Butkevicius. In 1997 Butkevicius was charged with several counts of corruption on the basis of information from the State Security Department. Also in March, the ECHR ruled that the Government had violated the rights of businessman Arvydas Stasaitis by imprisoning him without a



court order on several occasions from 1996 to 2000. Stasaitis had been charged with large-scale financial crimes.

The Constitution prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. The Law on Courts, as revised in May, further strengthened the courts' independence.

The Constitution and the Law on Courts provide for a four-tier court system: The Supreme Court; the Court of Appeals; district courts; and local courts. The local courts are tribunals of first instance for all cases that are not assigned to some other court by law. The Constitution also provides for a Constitutional Court and specialized courts for administrative, labor, family, and other purposes.

The Constitutional Court, at the request of the President, members of the Parliament, the Government, or the judiciary, reviews the constitutionality of laws and other legal acts, as well as that of actions by the President and the Cabinet. The main function of administrative courts is to investigate the legality and validity of administrative acts and conflicts in public administration and taxation. Administrative courts may perform judicial review of documents regulating the implementation of laws, except decisions by the Cabinet of Ministers. The Ministry of Justice continued to move towards a system of specialization of judges in district and local courts.

There are no special family courts, but judges in the district courts hear juvenile criminal cases and cases related to children's rights (for example, domestic adoption and paternity matters).

If the ECHR determines that courts have violated the European Convention on Human Rights, the Supreme Court Chairman may order a retrial of a case by the Supreme Court. In October 2001, the right to appeal for a retrial in criminal cases was expanded to include the persons whose rights were violated, their representatives, and the Prosecutor General.

The Civil Code that entered into force in 2001 complies with the requirements of the European Convention on Human Rights and takes into account the jurisprudence of the ECHR. In 2003 a new Criminal Procedure Code is scheduled to take effect that would grant judges broader rights such as an active role in court investigation and collection of evidence.

The Law on Commercial Arbitration provides for the establishment of arbitration institutions. The law provides for private dispute resolution by an arbitration tribunal, either organized by a permanent arbitration institution or by the parties themselves.

The Prosecutor General exercises oversight responsibility for the whole judiciary through a network of district and local prosecutors who work with investigators to prepare evidence for the courts.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. The Constitution provides for the right to legal counsel for defendants. In practice the right to counsel was abridged by the shortage of trained lawyers, who found it difficult to cope with the burgeoning numbers of criminal cases brought before the courts. The law provides for legal assistance for indigent persons, but in practice such legal assistance was not always available. By law defense advocates have access to government evidence and may present evidence and witnesses. The courts and law enforcement agencies generally honored routine, written requests for evidence. By law a judge may decide to hold a closed trial in a limited number of circumstances. Amendments to the Criminal Process Code—adopted in April—allow appeals of the actions of prosecutors, investigator, and interrogators throughout the preliminary investigation up to the district court level.

The parliamentary ombudsman reported that there were a limited number of cases of prolonged pretrial detention without a judge's decision in violation of the law (*see* Section 1.d.). According to the ombudsman, in a typical case, judges and prosecutors wrongly interpreted the law to mean that pretrial detention can be extended automatically when a case is submitted to a court of law. In March the ECHR ruled that in 1997 the Government violated the right to a just trial and the right to a defense in the case of three individuals involved in a prison riot. They were convicted on the basis of evidence given by anonymous witnesses who also participated in the riot. In June the Supreme Court reversed its decision and the Appeals Court verdicts related to the three individuals, and the sentences for participating in the riot were annulled.

The ECHR found no violation of rights in the 2000 case of former Kaunas police commissioner Satsys Sipavicius who had complained that he did not have sufficient time to prepare a defense against charges of abusing his powers in a smuggling case.

There were no further developments regarding the 2001 petition sent by 11,500 farmers to the ECHR complaining about the Government's failure to pay subsidies.

The prison department faulted a slow justice system that cannot bring cases to trial expeditiously for the pretrial detention problems. The Government continued to address concerns that periods of detention were excessive. The Prosecutor General and prosecutors continued to monitor the investigation of cases, and additional and better-qualified judges were hired.

Government rehabilitation of over 50,000 persons charged with anti-Soviet crimes during the Stalin era led to reports in 1991 that some persons who allegedly were involved with crimes against humanity during the Nazi occupation had benefited from this rehabilitation. A special judicial procedure was established in 1997 to examine each case in which an individual or organization raised an objection that a rehabilitated person may have committed a crime against humanity. From 1997 to September, claims to "de-rehabilitate" 166 individuals were submitted to the Supreme Court, and 117 of them were sustained, making those individuals ineligible for some social welfare benefits.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, there were reports that the Government did not respect these prohibitions in practice. The authorities did not engage in indiscriminate or widespread monitoring of the correspondence or communications of citizens; however, with the written authorization of a prosecutor or judge, police and security service personnel may engage in surveillance and monitoring activities on the grounds of national security. Except in cases of hot pursuit or the danger of disappearance of evidence, police must obtain a search warrant signed by a prosecutor before they may enter private premises.

It was assumed widely that law enforcement agencies had increased the use of a range of surveillance methods to cope with the expansion of organized crime. In March the ECHR ruled that the Government violated prisoner Alvydas Puzinas' right to confidentiality in his personal correspondence by reading his correspondence without approval of the court. Pursuant to a 2001 change in the law, prisoners' complaints to courts, the Parliament controller, and human rights groups have not been censored, and censorship of their correspondence by prison authorities has been relaxed. A court permit is required for search and seizure of correspondence during investigations. After an intervention by Seimas controllers, the police custody regulations were amended to include provisions about correspondence rights. The Criminal Process Code that is scheduled to take effect in 2003 would prohibit interference with privacy, family, home, correspondence, and communication.

From January to August, the State Data Protection Inspectorate, which works to bring the data protection system up to European standards, conducted 46 investigations, examined 14 complaints, and provided numerous consultations. The 2001 Civil Code and the Criminal Code scheduled to take effect in 2003 provide for enhanced protection of the right to privacy. However, human rights groups were concerned about increasing violations of privacy laws by the media and business and by increased violations on monitoring of the Internet. In September the Constitutional Court ruled that some provisions of the Communication Law, the Criminal Process Code, and the Operational (covert) Activities Law requiring telecommunications operations to register calls without court sanction violate the right to privacy.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice.

The independent print media continued to flourish and included a wide range of newspapers and magazines. Radio and television included a mix of public and private stations.

The Constitution prohibits the censorship of either print or broadcast media and restrictions on disclosure, unless the Government determines that national security is involved. Under the media law, the media created a special ethics commission and an ombudsman to address complaints and seek conciliation in potential libel cases. The Parliament funded an Ombudsman's Office.

In October the Constitutional Court ruled that a court may order journalists to reveal their sources if refusing to do so would violate other values protected in the Constitution. The court also ruled that the media may publish information about the private life of a public figure without permission if it does not harm the person or if this information is important to society.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the freedom of assembly and association, and the Government generally respected these rights in practice; however, the Communist Party of Lithuania and other organizations associated with the former Soviet regime continued to be banned.

*c. Freedom of Religion.*—The Constitution provides for religious freedom, and the Government generally respected this provision in practice. There is no state religion; however, some religious groups enjoy government benefits not available to others.

The Constitution divides religious communities into state recognized traditional groups and others. However, in practice a four-tier system exists: Traditional, state recognized, registered, and unregistered communities. The Law on Religious Communities and Associations stipulates that nontraditional religious communities may be granted state recognition if they are “backed by society” and have been registered in the country for at least 25 years. Both traditional and state recognized communities may receive state subsidies, although only the traditional ones received the subsidies regularly. They did not have to pay social and health insurance for clergy and other employees, they may register marriages, and they were not subject to tax on such services as electricity, telephone, and heat. Only the clergy and theological students of traditional communities were exempt from military service; only their top leaders were eligible for diplomatic passports. They may also have military chaplains and had the right to establish subsidiary institutions. Only traditional communities had the right to teach religion in state schools and to buy land to build churches (other communities can rent land). Religious communities registered by the Ministry of Justice constituted the third status group; they do not receive regular subsidies, tax exemptions, social benefits, or military exemptions enjoyed by traditional and state recognized communities, but they may act as legal entities and thus rent land for religious buildings. There were also unregistered communities. They had no juridical status or state privileges, but there were no reports that any such groups were prevented from worshiping or seeking members.

The law provides that only religious instruction of traditional and other state-recognized religious communities may be taught in state educational institutions. At the request of parents from these communities, schools may offer classes in religious instruction. In practice parents can choose classes in religious instruction or classes in ethics for non-religious education.

A commission established in 2000 to investigate whether the activities of religious, esoteric, or spiritual groups comply with the law has taken no action and appeared unlikely to do so.

Activities of foreign missionary groups within the country were not restricted.

In 2001 amendments to the Law on Religious Communities and Associations took effect to provide funding from the national budget for the educational institutions of traditional religious organizations. The Government’s Department of European Law criticized the amendments as discriminating against non-traditional religious communities and associations.

Under 1995 legislation on property restitution, the Catholic community has been more successful than most other religious communities in having its property returned. Some religious property, including 26 synagogues, was returned to the Jewish community, mostly from 1993 to 1996. Early this year, the Government established a commission on communal property restitution to identify property eligible for restitution and propose amendments to the religious communities’ property restitution law so that the Jewish secular community (the majority of Lithuanian Jews) can benefit from the restitution process. The Government and Vilnius city also established a program for rebuilding parts of the Jewish quarter in Vilnius. The project will use private funds, and the Jewish community will be given parts of the reconstructed buildings.

In the past several years, the country’s Jewish communities have expressed concern over an increase in anti-Semitic remarks made by extremist and a few, more mainstream, politicians. For example, in April during the commemoration of the Holocaust Day in the Parliament, the xenophobic anti-Semitic Lithuanian Freedom Union party issued a statement criticizing the Government for “kowtowing before the Jews” in its efforts to return communal property to the Jewish community, while the Lithuanian Christian Democratic Party leaders said that the Jewish community should not receive special treatment. The political leadership of the country and the national press generally criticized anti-Semitic statements when they occur.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

In September the President signed new provisions of the Law on Citizenship allowing emigrants to retain Lithuanian citizenship. Jewish and Polish minorities criticized the provisions because they create special conditions enabling “ethnic Lithuanian” emigrants to retain dual citizenship but do not allow this for local minorities when they “repatriate” to their “homeland” (for instance, Jews to Israel, Poles to Poland, or Russians to Russia).

The law provides for the granting of asylum and refugee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Vilnius Administrative Court hears asylum appeals. The Court receives assistance from the U.N. High Commissioner for Refugees (UNHCR). The Government cooperated with the office of the UNHCR and other humanitarian organizations in assisting refugees. In January amendments to the Law on Asylum Status established that an asylum seeker coming from a secure third country could not enter the country. The right of an asylum seeker to appeal a decision denying entry into Lithuania is limited. From January to August, 31 persons (mostly from the Russian province of Chechnya) applied for asylum. From 1997 to 2001, more than 1,000 asylum requests were filed; 63 persons received refugee status, and 409 persons received a residence permit on humanitarian grounds.

On November 6 and 8, the Border Service expelled to Belarus 26 Chechens, mostly women and children, who had illegally entered the country. The UNHCR expressed concern over the expulsion of the Chechens—who planned to apply for asylum—stating that the action violated the 1951 U.N. Convention Relating to the Status of Refugees and international customary law. The UNHCR also expressed concern over the country’s tightened admission policies for asylum seekers from areas of armed conflicts or instability.

In 2001 the Government adopted new regulations on the living conditions of foreigners temporarily housed at the registration center for foreigners in Pabrade (44 individuals, including 6 children, lived there in August) and a refugee reception center for asylum seekers in the town of Rukla (which housed 59 persons, including 24 children, in August). Living conditions in both centers were good.

In recent years, irregular immigration decreased dramatically due to improved border control, stricter laws against human smuggling, and more effective detention and return of migrants to their countries of origin.

The Government continued its efforts to stop illegal migrants by negotiating readmission agreements with Russia and Belarus. In November Russia stated that it was prepared to readmit illegal migrants prior to the mid-2003 scheduled signing of a readmission treaty.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Of 141 seats in the Parliament, 71 are elected directly, and 70 are elected through proportional representation. Only those parties that receive more than 5 percent of the total ballots (or 7 percent for coalitions) are allowed representation in the Parliament.

In 1998 independent candidate Valdas Adamkus was elected President. Presidential elections are held at least every 5 years. In December municipal elections and the first round of presidential elections took place. The Social Democratic Party (SDP) came in first in the municipal election, followed by the Conservative Party and the Union of New Democracy and Peasant Parties, although the Liberal Union party was strongest in the three largest cities. There were 17 candidates in the first round of the presidential elections, and incumbent President Adamkus and Member of Parliament Rolandas Paksas qualified for a runoff to be held in January 2003. After the October 2000 general elections, Liberal Union Party leader Rolandas Paksas was sworn in as Prime Minister as part of a coalition government; however, in 2001 the coalition broke up. The new Union Party, the Liberals’ major coalition partner, forged an alliance with the SDP, and in July 2001 the SDP and former President Algirdas Brazauskas was sworn in as Prime Minister.

There were 14 female parliamentarians in the 141-seat Parliament elected in October 2000, compared with 24 in the previous Parliament. There were 3 female ministers in the 14-member Cabinet, compared with 1 in the previous Cabinet.

There were 12 members of Parliament of Russian, Polish, and Belarusian ethnic origin.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. The Association for the Defense of Human Rights in Lithuania, the Human Rights Association in Lithuania, and the Lithuanian Center for Human Rights are the major human rights groups.

The Division of Human Rights of the Department of International Law and European Integration in the Ministry of Justice monitored law and legal practice to determine whether they are in accord with the country's international obligations. The European Law Department of the Government also reviews draft legislation.

There are three ombudsman institutions. The Parliament's controllers investigated complaints of the abuse of power by public servants. The controllers had the right to forward their cases for prosecution, to initiate a reprimand or removal from office of public servants, to initiate a compensation claim, to propose changes in laws and rules, and to inform the Parliament and the President about their findings. The Office of the Equal Opportunities Ombudsman exercised similar functions for complaints of discrimination and sexual harassment. The Office of the Ombudsman for Children's Rights controlled the implementation of relevant laws, oversaw local children's rights protection services, and investigated complaints of abuse.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination based on race, sex, disability, or ethnic background; however, discrimination against women in employment and other areas persisted.

*Women.*—Violence against women, particularly domestic violence, reportedly was common, especially in connection with alcohol abuse by husbands. Official statistics on the incidence of abuse of women in the home are not reported separately from other categories of assault. Institutional mechanisms for coping with this problem developed slowly, and the law does not criminalize specifically domestic violence. If such violence takes place in the home, the victim must file a complaint. Few such complaints were filed, because women preferred to avoid publicity and were not confident that the courts will punish their assailants. Thirteen women's shelters provided assistance to victims of violence. In March a study by the Women's Information Center indicated that 80 percent of women experienced psychological abuse in the workplace or at home, 35 percent experienced physical violence, and 17 percent were sexually abused. The law specifically prohibits rape. From January to August, 116 rapes were reported, compared with 176 rapes during all of 2001. Persons convicted of rape generally received sentences of from 3 to 5 years in prison.

Prostitution is illegal but not prohibited under the Criminal Code. The penalty for prostitution is limited to a fine of \$85 to \$140 (300–500 litas) for a first offense. Trafficking in women for the purpose of prostitution was a problem (*see* Section 6.f.).

The Constitution provides for equal rights for men and women; however, women continued to face discrimination. The Office of the Ombudsman for Equal Opportunities of Women and Men is an independent agency, accountable to the Parliament, which oversees the implementation of the law and investigates complaints concerning violations of gender discrimination and sexual harassment. The ombudsman also has some enforcement powers in this regard, and the new Criminal Code contains criminal sanctions for discrimination or harassment. Since June the Law on Equal Opportunities provides for positive discrimination (affirmative action) towards women and forbids indirect discrimination and discrimination in the service sector. This law resulted from a project that began in April with U.N. assistance to reduce racial and other discrimination.

Official policy requires equal pay for equal work. Women make up about one-half of the employed population, and in the first quarter of the year, they received on average pay that was 81.4 percent that of male employees. Women were underrepresented significantly in some professions, business, and the managerial sector as a whole. Significant inequalities in society based on gender continued, but recent surveys and studies indicated that conservative views about the role of women were declining—a trend also reported by the media.

From March 2001 to August, the ombudsman received 90 complaints and initiated more than 10 investigations. Most of the complaints concerned discrimination against men due to problems in "old" legislation that has not been brought into line with more current anti-discrimination law and discrimination against women in the workplace. The ombudsman again submitted amendments to the Labor Code and, together with women's organizations, continued a public awareness campaign. The number of registered violations of the equal opportunities law by state institutions

again decreased substantially. However, enforcement of the law in private businesses remained a problem.

*Children.*—The Government was committed to children's rights and welfare; it amply funded a system of public education and medical care. The Government provided compulsory, free, and nearly universal education for children through the age of 15. In 2001 only 1.1 percent of children in this age group did not attend school. The Government provides school transportation for children in the countryside and low-cost health care for all children. The Civil Code that entered into force in 2001 addresses relations between parents and children; however, the Government did not always implement its obligations in practice.

In 2001 approximately 7,000 children lived in institutions, and approximately 8,000 were in foster homes. A 2001 law on defending children against parental violence gives authorities the right to remove children from the family and place them in the care of a temporary guardian. The Government continued to replace the Soviet-style orphanage (boarding) schools with residential homes, which permitted children to attend regular schools.

Child abuse was a problem. The ombudsman reported that assistance for children who experienced abuse was insufficient. Abuse among children in four state correctional institutions for children who commit crimes and in one isolated prison for persons 16 to 18 years old declined, due to reorganization and improving prison conditions. Seimas Controllers reported that abuse of children in police arrest facilities was rare, but violence among juveniles remained a problem.

Child abuse in connection with alcohol abuse by parents also was a problem. The prevalence of authoritarian values in family upbringing discouraged more active measures against child abuse. The press reported increases in cruelty to children, including sexual abuse, intentional starvation, beatings, and killings. The penalties for violence and cruelty against underage persons are prison terms of 1 to 2 years. Authorities reported that 4 children were killed by their parents during the first 8 months of the year, and 16 were killed during 2001.

The Penal Code provides for up to 3 years' imprisonment for sexual abuse and from 1 to 4 years' imprisonment for exploiting children in the production of pornography. There were no registered cases of exploitation of children for purposes of pornography. From January to August, 34 cases of sexual abuse of children were registered (excluding rapes, for which separate data for children is not available), compared with 35 cases in all of 2001. A government operated children's rehabilitation center provided special care for sexually abused children.

Several thousand children reportedly lived "on the street." Sixty children's rights protection agencies, other institutions, and NGOs routinely identified these children and, if they did not have parents or if their parents abused their parental obligations, placed them in foster homes or care institutions. In May the Government allocated \$170,000 (600,000 litas) to a children's day care program; in 2001 there were 77 such centers caring for approximately 2,000 children.

Trafficking in girls for the purpose of prostitution was a problem (*see* Section 6.f.).

The Children's Rights Ombudsman Institution controls the implementation of relevant laws and conventions, oversees children's rights protection institutions, investigates complaints, and advises the Government on improving the protection and legal interests of the child. From January to August, the ombudsman received approximately 300 complaints and initiated 4 investigations, primarily involving the action (or inaction) of state and local organizations, violence against children, family matters, execution of court decisions (such as bailiff activities and guardianship), the right to communication with the child, and failure to pay alimony. The ombudsman called for streamlining the children's rights protection system and mobilizing central government and local authorities to cope with growing juvenile delinquency and spreading drug addiction. In 2001 the Ministry of Social Security and Labor identified approximately 40,000 children in abusive and dysfunctional families.

*Persons with Disabilities.*—The Law on Integrating Disabled People provides for a broad category of rights and public benefits for persons with disabilities. The Law on Support for the Unemployed provides additional job security for such persons, while the Law on Special Upbringing gives children with disabilities access to regular schools and universities.

Persons with disabilities accounted for approximately 6 percent of the population, and 6 percent of the persons with disabilities were children. Many persons with disabilities lived in poverty because the state pension for a person with disabilities was lower than the minimum wage. Every local government runs home help services for persons with disabilities, and the Government finances a network of facilities for them, including daycare centers, state children care houses, and residential care homes for mentally ill adults. At the recommendation of the Disabled Persons' Af-

fairs Council—with members from the Government and from organizations representing persons with disabilities—the Government granted \$5 million (17.5 million litas) to NGOs for various employment, education, rehabilitation, and other programs.

Legal provisions for access to buildings for persons with disabilities are in place but were not enforced widely; new buildings ensured such access, but the adaptation of old buildings has been slow.

*National/Racial/Ethnic Minorities.*—Minority ethnic groups—including Russians, Poles, Belarusians, Ukrainians, Tatars, and Karaites—constituted approximately 16.5 percent of the population. As part of its Program for the Integration of Roma into Lithuanian Society, the Government established a social center and community school for the Roma. In December an Open Society Institute study reported that many government measures do not address the problems that the Roma consider most important.

The Penal Code provides for a sentence of from 2 to 10 years' imprisonment for the incitement of racial or national hatred or incitement of violence against foreigners. This law has been used to discourage racial and national hatred. The State Security Department initiated several investigations into reports of acts of tending to incite racial or national hatred but closed them either because the suspects apologized or because the cases would have been difficult to prove in court. However, in its report on minority rights in 10 EU candidate states, the Open Society Institute stated that the country did not have a comprehensive antidiscrimination law that expressly prohibits discrimination in specific areas of public activity.

Many nonethnic Lithuanian public sector employees by law are required to attain a functional knowledge of the Lithuanian language within several years, although the authorities have been granting liberal extensions to this requirement. Each year several hundred persons pass the language portion of the citizenship test and are naturalized. There was no documented evidence of job dismissals based on the language law. The authorities indicated that the intent of the law is to apply moral incentives to learn Lithuanian as the official language of the State; they asserted that no one would be dismissed solely because of an inability to meet the language requirements.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and the Law on Trade Unions recognize the right of workers and employees to form and join trade unions, and workers exercise this right in practice. The Law on Trade Unions extends this right to members of the police and the armed forces. The Lithuanian Workers' Union organized a rally at the Parliament in support of ratification of paragraphs of the Social Charter on the rights to salary, housing, and protection from poverty and social exclusion.

According to the law, unions, in order to be registered, must have at least 30 founding members in large enterprises or have a membership of one-fifth of all employees in small enterprises. Individuals employed in places where there is no trade union are free to join an established regional trade union, but this practice was not widespread.

From 10 to 20 percent of all enterprises had trade unions, and approximately 10 to 15 percent of the workforce were unionized. Union membership was low due to an often negative attitude by employers, lingering distrust in a post-Soviet society, and a high unemployment rate. There are three major trade union associations: The Confederation of Lithuanian Trade Unions (formed in May through the merger of the Lithuanian Trade Union Center and the Association of Lithuanian Trade Unions) with 120,000 members and 25 independent trade unions, the Lithuanian Trade Union "Solidarity" (the former Workers' Union) with 50,000 members, and the Lithuanian Work Federation with 20,000 members. They all worked within the Trilateral Commission, which brought together labor groups with representatives of employers' organizations and the Government.

The 2000 Law on Settlement of Labor Disputes establishes minimum conditions and procedures for investigating individual labor disputes. Trade union leaders claimed that this law prevented unions from investigating labor disputes in the workplace. Difficulties commonly arose in state enterprises in which employees were represented by more than one union. Solidarity officials charged that managers in some companies discriminated against their organizers and dismissed employees in retribution for their trade union activities.

There are no restrictions on unions affiliating with international trade unions, and some unions have affiliated with European unions.

*b. The Right to Organize and Bargain Collectively.*—In May the Government, trade unions, and the employers' associations signed an agreement on tripartite cooperation, which provides for regular meetings to discuss issues related to implementation of labor laws and the prevention of illegal labor.

The Collective Agreements Law provides for collective bargaining and the right of unions to organize employees; however, it does not allow collective bargaining by government employees involved in law enforcement and security-related work. As amended in 2001, the law provides trade unions the right to negotiate nationwide, branch, and territorial collective agreements; however, collective negotiations regarding labor relations, including wages, are not very widespread. Workers often took their complaints directly to their employers. Wage negotiations were more common in enterprises that had trade unions.

On June 4, the Parliament enacted the new Labor Code to take effect from 2003. The Code sets forth collective bargaining as the main tool to regulate labor relations, restricts short-term contracts—which are now subject to collective bargaining, and gives the employees the right to be represented in collective bargaining not only by trade unions but also by other employees' representatives—a work council elected by a secret ballot.

Managers often determined wages without regard to trade union preferences, except in larger factories with well-organized trade unions. The Government periodically issued guidelines for state enterprise management in setting wage scales. The trade unions engaged in direct collective bargaining over wages at the workplace level. Wage decisions were made mostly at the enterprise level. Trade unions supplemented their bargaining activities with active lobbying of Parliament and the Government.

The trade unions criticized amendments to the Employment Contracts Law, passed in 2001, which enable employers to fire employees without the consent of the union. They also complained that trade union lawyers could not defend union members in labor cases and that there were no special labor courts.

The Constitution and the Law on Trade Unions provide for the right to strike, although public workers in essential services may not do so. From January to August, there were no official strikes, compared with 34 strikes in 2001.

In September a special economic zone was established in the port city of Klaipeda. Worker rights were not restricted in the zone.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution specifically prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

In December the media reported that several dozen servicemen-recruits from the Interior Ministry's anti-riot, guarding, and convoying unit were enticed to work for commercial companies related to the unit's commanders. The practice was discontinued, and the Ministry of Interior initiated a probe into the case.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The legal minimum age for employment of children without parental consent is 16 years; with written parental consent, it is 14 years. Complaints about the infringement of child labor regulations are referred to local prosecutors who investigate and take legal action to stop violations. Child labor problems were rare.

The Government has not ratified ILO Convention 182 on the worst forms of child labor.

*e. Acceptable Conditions of Work.*—The legal minimum wage was \$123 (430 litas) per month, which did not provide a decent standard of living for a worker and family. Enforcement of the minimum wage was almost nonexistent, in part because the Government did not want to exacerbate unemployment. Every 3 months, the Council of Ministers and the Ministry of Social Security must submit their minimum wage proposals to the Parliament, which has the right to approve or revise the minimum wage level. According to the Ministry of Economy, the average gross wage in the first quarter of the year was \$310 (1,041 litas) per month, a 4.4 percent increase over the corresponding period of 2001. For a majority of the population, living standards remained low. The poorest 10 percent of households spent approximately 41.5 percent of their income on food and non-alcoholic beverages. The 40-hour workweek is standard by law, with at least one 24-hour rest period, and there are laws on overtime and vacation.

The Constitution provides that workers have the right to safe and healthy working conditions, and the State Labor Inspection Service is responsible for implementing the Labor Safety Law. During the first half of the year, the Labor Inspection Service received 1,999 complaints and declarations, of which 46 percent were found to have merit; 703 complaints concerned abuses of labor laws and 610 dealt with working conditions. The most numerous abuses included wage arrears, illegal



employment (working without a written contract), the violation of labor contracts, time off and work time accounting, harmful working conditions, and the unsatisfactory investigation of accidents. Workers have the right both in law and practice to remove themselves from dangerous work environments without jeopardy to their continued employment. From January to August, the State Labor Inspection Service recorded 111 fatal accidents at work and 127 other work accidents.

In June the Parliament passed amendments to the Employee Safety and Health Law that allow the introduction of longer than 8-hour night shifts provided that the average working day during a 4-month period should not exceed 8 hours. In 2001 the Government issued regulations that gave labor inspectors greater authority in investigating accidents and approved regulations on workers' safety when handling chemical substances and substances causing cancer and mutations.

The labor laws protect foreign workers.

*f. Trafficking in Persons.*—The Criminal Code prohibits trafficking in persons; however, trafficking in women and girls for the purpose of prostitution was a problem. International and local NGOs claimed that the problem increased despite significant efforts by the Government to fight it. Authorities do not facilitate or condone trafficking, but some individual members of police forces may do so.

The law criminalizes trafficking in persons for purposes of sexual abuse: The penalty is 4 to 8 years' imprisonment. The penalty is increased from 6 to 12 years if the crime was repeated, premeditated, and committed by a dangerous criminal or against juveniles. Additional punishment, such as confiscation of property, may also be applied. From January to August, the police initiated 18 investigations, and in 4 cases several individuals were convicted of trafficking in persons (compared to 16 investigations and 2 convictions in 2001). In one case in February, the police in Alytus (southern Lithuania) arrested 6 persons on charges of trafficking two juvenile women "bought" for approximately \$200 (750 litas).

NGO experts considered government efforts to prevent trafficking in persons and search for missing persons to be inadequate. A limited number of police agents were involved in investigating trafficking cases.

The Criminal Code of Procedures and the Criminal Code, as amended in 2001, allows more effective prosecution of trafficking cases. A shortage of funding for prevention and assistance to victims and, to a lesser extent, for investigation, prosecution, and witness protection, limited the Government's ability to address the problem of trafficking in practice. Some NGOs believed that government aid for victims of trafficking was also limited because of a reluctance on the part of local governments to make use of the existing social security network to provide shelter and counseling for victims of trafficking. There were a number of anti-trafficking publicity campaigns, carried out by government, NGOs, the media, and by the local bureau of the International Organization for Migration.

In April the Government signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the U.N. Convention Against Transnational Organized Crime. In January the Government approved a Program on the Control and Prevention of Trafficking in Humans and Prostitution for 2002–2005, prepared by the ministries of Education, Justice, Interior, and Health Care, as well as the Prosecutor General's Office, the Center for Crime Prevention, and NGOs. The program focussed on the causes of prostitution and human trafficking, on preventive measures, fighting organized crime groups, and on social, psychological and legal support to victims of prostitution and human trafficking. It envisions an educational program and a national database containing the records of people arrested for carrying forged documents or suspected of running prostitution rings, missing persons and people deported from or to the country.

The country was a source, transit point, and destination for trafficking in women and girls. Women were primarily trafficked to Germany, Spain, Netherlands, Denmark, Sweden, Norway, and Greece; trafficking to the Middle East (Israel and the United Arab Emirates) as well as to France and Austria reportedly declined. Women from Ukraine, Russia (Kaliningrad district), Belarus, Latvia, and the domestic countryside were trafficked to the country's major cities and to Western Europe.

A number of women, some underage, were enticed or forced into prostitution and sold abroad by organized crime figures. Traffickers particularly targeted the socially most vulnerable groups: Young females from poor, asocial, or unstable families. Many were lured by deceptive offers of jobs such as household helpers, bar dancers, or waitresses. Women also were tricked into prostitution through false marriage advertisements. Victims' compliance was ensured via threats and the withholding of their documents. Their families often were unaware of their predicament and believed that they had been kidnaped. However, it was difficult to determine what percentage were enticed or coerced and how many departed voluntarily.

In the spring, a court in Klaipeda sentenced two former police officers to 3 to 7 years in prison in a trafficking case. In June four former police officers were sentenced for abusing their positions to extort services from prostitutes and provide cover for pimps.

There are no specific government assistance programs for victims of trafficking; however, the police offered protection for witnesses. Government agencies and NGOs encouraged victims to file civil suits or to seek legal action against traffickers. There was no prosecution of trafficking victims for violations of other laws, such as those governing immigration or prostitution, but the law does not guarantee safety for victims in this regard.

The Government provided financial assistance to the Missing Persons Family Support Center, an NGO, amounting to one-third of the NGO's annual budget. The Center operated a shelter funded by various Lithuanian and foreign donors, looked for additional shelters, and tried to secure victims' access to legal and counseling services. It cooperated with the Mother and Child Care House in Vilnius operated by the Catholic charity Caritas. The Mother and Child Hostel operated by the municipality of Vilnius provided shelter for victims. The NGO Lithuanian Catholic Women's Union ran a network of shelters in Lithuania and participates in the European anti-prostitution and anti-trafficking project Magdalena. The NGO Demetra, funded primarily by foreign sources, provided medical assistance for women engaged in prostitution in Vilnius. The NGO Praeities Pedos (Footprints of the Past) researched the problem of trafficking of women and forced prostitution and produced several publications on the subject.

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## LUXEMBOURG

Luxembourg is a constitutional monarchy with a democratic, parliamentary form of government. The role of the Grand Duke is mainly ceremonial and administrative. The Prime Minister is the leader of the dominant party in the popularly elected Parliament. The Council of State, whose members are appointed by the Grand Duke, serves as an advisory body to the Parliament. The judiciary is independent.

Civilian authorities maintained effective control of the only security forces, the Grand Ducal Police.

The country had a market economy with active industrial and service sectors. The population was approximately 439,500. The standard of living and the level of social benefits were high.

The Government generally respected the human rights of its citizens, and the law and judiciary provided effective means of dealing with individual instances of abuse. Domestic violence was a problem. Women were trafficked for sexual exploitation. Luxembourg was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

Prison conditions generally met international standards. Men and women were held separately in prisons. Juveniles and adults imprisoned for minor crimes at times were held together (but in separate cells). Pretrial detainees were not held separately from convicted criminals.

A report commissioned by the Government cited poor management, rampant drug use, and an insufficient number of trained personnel at the penitentiary in Schressig to cope with the inmates' medical and psychological problems. There were two suicides reported during the year at the prison. In September "senior" prisoners wrote an open letter complaining about bad treatment from the surveillance personnel, the prison administration, and the poor conditions.

The Government permits prison visits by independent human rights observers, although according to prison officials and Amnesty International, no such visits were requested during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

Judicial warrants are required by law for arrests except in cases of hot pursuit. Within 24 hours of arrest, the police must lodge charges and bring suspects before a judge. Suspects are given immediate access to an attorney, at government expense for indigents. The presiding judge may order release on bail.

The Constitution prohibits forced exile, and the Government did not employ it in practice.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judiciary is headed by the Supreme Court, whose members are appointed by the Grand Duke. One of the country's three Justices of the Peace has jurisdiction over minor criminal, civil, and commercial cases, and one of two District Courts heard more serious cases. The Youth and Guardianship Court ruled on matters concerning the protection of young persons. An administrative court system reviewed citizen challenges to legislation.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants are presumed innocent. They have the right to public trials and are free to cross-examine witnesses and to present evidence. Either the defendant or the prosecutor may appeal a ruling; an appeal results in a completely new judicial procedure, with the possibility that a sentence may be increased or decreased.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and of the press, including academic freedom.

A total of six daily and three weekly newspapers were published. While independent, all but one had an editorial line slanted toward a major political party. One domestic radio and television station, partially owned by the State, broadcast in the country. There were three other independent radio stations and one independent television station.

Internet access was widely available and unrestricted.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for the freedom of assembly and association, and the Government generally respected these rights in practice. The Government required and routinely issued permits for public meetings and demonstrations.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

There is no state religion, but the State provided financial support to some churches. Specifically it paid the salaries of Roman Catholic, some Protestant, Orthodox, and Jewish clergy, and several local governments maintained sectarian religious facilities. The Government has not acted on longstanding Anglican and Islamic requests for government funding. (According to the Government, the Anglican Church submitted a "complete request" in 1998; the Islamic request was an inquiry and was not considered a formal request.)

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees and provided first asylum.

In March 2001, the Government invited certain persons residing in the country without legal status to legalize their situations. Of the 2,886 applications received, the Government granted legal status to 1,839 persons, and refused legal status to 972 persons. The remaining 75 cases were still pending at year's end. In July the Government pledged to expel several thousand refugees from Montenegro who re-

portedly did not qualify for asylum status, which it began doing in August, once it had received the refugees' papers from their home country.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. National parliamentary elections are held at least every five years.

There were eight women in the 60-member legislature, and four women in the 14-member Cabinet.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The law prohibits racial, sexual, or social discrimination, and the Government enforced these provisions.

*Women.*—Domestic violence was a problem. In 2001 shelters provided refuge to 403 women and 401 children, compared with 362 and 413, respectively, in 2000. The law does not specifically prohibit domestic violence. The law does allow for an abuser to be forced to leave the family home, thereby giving the victim a place to stay. In addition, the Government provided financial assistance to domestic violence victims. Information offices set up to respond to women in distress reported that they received 4,358 telephone calls in 2001, an increase from 2000 levels when 3,724 telephone calls were received. The Government funded organizations that provided shelter, counseling, and hot lines. Women were trafficked for sexual exploitation (see Section 6.f.).

Women enjoyed the same property rights as men under the law. In the absence of a prenuptial agreement, property is divided equally upon the dissolution of a marriage. The law mandates equal pay for equal work, and the Ministry for the Promotion of Women had a mandate to encourage a climate of equal treatment and opportunity; however, according to government reports, women were paid 20 to 30 percent less than men for comparable work. The Government cited the interruption in the careers of women caused by childbirth and their maternal roles as one reason for the disparity. There were no work-related discrimination lawsuits. Women constituted 33 percent of the work force.

*Children.*—The Government was strongly committed to children's rights and welfare; it amply funds a system of public education and health care. The law mandates school attendance from the ages of 4 through 15, and school attendance is universal through that age. Schooling was free through the secondary level, and the Government provided some financial assistance for postsecondary education.

There was no societal pattern of abuse of children. A physicians' organization estimated that approximately 200 cases of child abuse that required treatment in hospitals each year resulted in legal proceedings. The Government's hot line for young persons in distress received 557 calls during the year.

A 1999 law increased penalties for adults who traffic in children, facilitate child prostitution, or exploit children through pornography. The law also extends the country's criminal jurisdiction over citizens and residents who engage in such activities abroad. No such activities were reported during the year.

*Persons with Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, and the provision of other state services. The Government assisted persons with disabilities obtain employment and professional education. Businesses and enterprises with at least 25 employees by law must fill a quota for hiring workers with disabilities and must pay them prevailing wages. The quotas were fixed according to the total number of employees; employers who did not fulfill them were subject to sizable monthly fines. The Government provided subsidies and tax breaks for employers who hired persons with disabilities. There were no known complaints of noncompliance with the disability laws. However, despite strong legal protections, the Government acknowledged that laws establishing quotas for businesses that employ over 25 persons were not applied or enforced con-

sistently, and there was a particular problem in the case of persons with mental disabilities.

The law does not directly mandate accessibility for persons with disabilities, but the Government paid subsidies to builders to construct “disabled-friendly” structures. Despite government incentives, only a small proportion of buildings and public transportation vehicles were modified to accommodate persons with disabilities.

*Section 6. Worker Rights*

*a. The Right of Association.*—All workers had the constitutional right to associate freely and choose their representatives, and they exercised this right in practice. Of the working population, 57 percent belonged to a trade union. Membership was not mandatory. Unions operated free of governmental interference. The two largest labor federations were linked to, but organized independently of, major political parties.

The law provides for the adjudication of employment-related complaints and authorizes labor tribunals to deal with them. A tribunal may fine an employer found guilty of antiunion discrimination, but it may not require the employer to reinstate a worker fired for union activities.

Unions maintained unrestricted contact with international bodies.

*b. The Right to Organize and Bargain Collectively.*—The law provides for and protects collective bargaining, which was conducted in periodic negotiations between centralized organizations of unions and employers. Enterprises having 15 or more employees must have worker representatives to conduct collective bargaining. Enterprises with over 150 employees must form joint works councils composed of equal numbers of management and employee representatives. In enterprises with more than 1,000 employees, one-third of the membership of the supervisory boards of directors must be employee representatives.

The Constitution provides for the right to strike, except for government workers who provide essential services. Legal strikes may occur only after a lengthy conciliation procedure between the parties. The Government’s National Conciliation Office must certify that conciliation efforts have ended for a strike to be legal. No strikes, legal or illegal, occurred during the year. The law prohibits discrimination against strike leaders, and a labor tribunal deals with complaints.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Government prohibits forced and bonded labor, including by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits the employment of children under the age of 16. Apprentices who are 16 years old must attend school in addition to their job training. Workers under the age of 18 have additional legal protection, including limits on overtime and the number of hours that can be worked continuously. The Ministries of Labor and Education effectively monitored the enforcement of child labor laws.

*e. Acceptable Conditions of Work.*—The law provides for minimum wage rates that vary according to the worker’s age and number of dependents. The minimum wage for a single worker over the age of 18 was \$8.65 (8.26 euros) per hour for unskilled workers, and \$10.39 (9.92 euros) per hour for skilled workers. The minimum wage was not sufficient to provide a decent standard of living for a worker and family; however, most employees earned more than the minimum wage.

The law mandates a maximum workweek of 40 hours. Premium pay was required for overtime or unusual hours. Employment on Sunday was permitted in continuous-process industries (steel, glass, and chemicals) and for certain maintenance and security personnel; other industries requested permission for Sunday work, which the Government granted on a case-by-case basis. Work on Sunday, allowed for some retail employees, must be entirely voluntary and compensated at double the normal wage, or be given compensatory time off on another day, equal to the number of hours worked on Sunday. The law requires rest breaks for shift workers and limits all workers to a maximum of 10 hours per day including overtime. All workers received at least five weeks of paid vacation yearly, in addition to paid holidays.

The law mandates a safe working environment. An inspection system provided severe penalties for infractions. The Labor Inspectorate of the Ministry of Labor and the Accident Insurance Agency of the Social Security Ministry carried out effective inspections. No laws or regulations specifically provided workers with the right to remove themselves from dangerous work situations without jeopardy to their continued employment; however, every worker has the right to ask the Labor Inspectorate

to make a determination regarding workplace safety, and the inspectorate usually did so expeditiously.

Foreign workers were protected equally by law.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in women for sexual exploitation reportedly was a problem.

The Penal Code provides for 5 years' imprisonment for trafficking; however, no one had been arrested or prosecuted on trafficking charges by year's end. In February 2001, the Chamber of Deputies debated the Government's policy that granted limited entry visas and special work permits to nearly 1,000 women a year, mainly from Eastern Europe, to work as performers in cabarets. In order to receive the visas, the women must sign a contract in their own language regarding their rights, and they were given an emergency telephone number to call if needed. However, no reforms were passed by year's end.

Luxembourg was a destination country for trafficked women. Most women trafficked into the country came from Russia, Ukraine, Hungary, and Romania and worked in cabarets.

According to the Ministry of the Promotion of Women, there were no government prevention campaigns, and no government services for victims. Women traveling to the country on an "artiste" visa were given an emergency number to call if needed. One NGO dealt with the problem but the Government did not provide funding to foreign or domestic NGO's for services to victims. However parliamentary commissions were discussing ways to address these problems.

In October the Ministry for the Advancement of Women, in cooperation with the German NGO Solwodi (Solidarity with Women in Distress), French (Mouvement du Nid), and Luxembourg (Fondation Maison de la Porte Ouverte), held a seminar on trafficking awareness. Their aim was to establish a transborder network for the protection of the victims of women and children trafficking.

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## MACEDONIA, FORMER YUGOSLAV REPUBLIC OF

Macedonia, which became independent in 1991 following the breakup of Yugoslavia, is a parliamentary democracy with multiethnic party representation and a popularly elected president. In parliamentary elections held in September, opposition parties, including an ethnic Albanian party primarily formed by former insurgents, won a majority of seats. The elections were free, fair, and peaceful; the Organization for Security and Cooperation in Europe (OSCE) led a large international monitoring effort. In November the Social Democratic Union of Macedonia (SDSM), Liberal Democratic Party of Macedonia (LDP), and Democratic Union for Integration (DUI) formed an ethnically mixed government led by Prime Minister Branko Crvenkovski. President Boris Trajkovski, the candidate from the Internal Macedonian Revolutionary Organization-Democratic Party for Macedonian National Unity (VMRO-DPMNE), was elected in 1999 in elections characterized by irregularities. During the year, the Government and Parliament continued implementation of the Framework Agreement (FWA) that brought the 2001 insurgency to an end, and the process of recovery continued. The FWA provided for enhanced civil rights for minorities and devolution of governmental power to local governments. The Constitution provides for an independent judiciary; however, at times the judiciary was inefficient and subject to political influence.

From February to July of 2001, Macedonia experienced an insurgency conducted by Kosovar and indigenous ethnic Albanians. Although the insurgents purported to fight for greater civil rights for ethnic Albanians, some observers also attributed to the insurgents criminal motives or intention to form a new, "Greater Albanian" state. NATO successfully facilitated a ceasefire in July 2001, and in August 2001, domestic political parties signed the Framework Agreement with international facilitation by the U.S. and the European Union (EU). By year's end, the Parliament had completed nearly all FWA-mandated legislative actions (including amendment of the Constitution), which provided for enhanced minority civil rights and devolution of power to local governments. Before coming to power in late October, the SDSM/LDP and DUI agreed to a common governmental platform centered on implementation of the FWA and FWA-mandated laws.

The Ministry of Interior, which oversaw the uniformed police, the non-uniformed police, the border police, the police reservists, and the internal intelligence service, was under the control of a civilian minister; a parliamentary commission oversaw operations. The Ministry of Defense shared with the border police responsibility for border security. During the year, multi-ethnic police completed their return, with the assistance of the OSCE and NATO, to rural areas from which they had been

expelled during the 2001 conflict. Members of the police committed serious human rights abuses.

The country, with a population of approximately 2 million, has experienced sustained economic problems since independence. GDP shrank by 4.1 percent in 2001 to \$3.7 billion, or \$1,830 per capita. GDP in the third quarter of the year was 1 percent higher than in the same quarter last year; expected GDP for the year was 0.3 percent. The external debt at the end of December was \$1.52 billion, with a debt-to-GDP ratio of 41.7 percent. Annualized inflation at year's end was 1.8 percent, down from 5.5 percent in 2001. Officials of the outgoing, VMRO-DPMNE-led government were accused of profiting illicitly from the privatization of state-owned enterprises. Unemployment remained high at 31.9 percent. A low standard of living and a high unemployment rate prompted continued social unrest.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. The Government that assumed power on October 31 demonstrated a commitment to improving the country's human rights observance through concrete actions. Under the outgoing government, there was at least one instance of an unlawful killing by police, and there were numerous instances of torture and beatings of detainees by police. In most human rights abuse cases, the Government took insufficient steps, or no steps at all, to investigate and discipline responsible policemen. The judiciary did not effectively investigate or prosecute state agents for alleged human rights abuses. Arbitrary arrest and detention continued to be a problem. Police continued to compel citizens to appear for questioning, in spite of a 1997 law that requires police to obtain first a court order. Implementation of an Amnesty Law for former combatants not accused of war crimes continued at year's end. While most judicial authorities cooperated, some obstructed implementation of the law. Police intimidated and physically assaulted members of the media. The Government placed some limits on religious freedom by restricting the establishment of places of worship.

Violence and discrimination against women (particularly in the ethnic Albanian community) remained problems. Societal discrimination against minorities, including Roma, ethnic Albanians, ethnic Turks, and ethnic Serbs, remained a problem. Trafficking in women and girls for prostitution was a problem. Adoption of FWA-mandated legislation laid the legal groundwork for improving civil and minority civil rights. Macedonia was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second Ministerial Meeting in Seoul, Republic of Korea, as a participant.

In the course of Macedonia's internal conflict in 2001, the police, ethnic Macedonian paramilitaries associated with the police, and the National Liberation Army (NLA) committed numerous, serious abuses. The Amnesty Law provided amnesty from prosecution to former NLA combatants and government draft evaders, but did not afford protection to war criminals. The International Criminal Tribunal for the Former Yugoslavia (ICTY) in October asserted primacy in five war crimes cases.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—The police continued to occasionally commit unlawful killings, and Chief Public Prosecutor Dzhikov and former Minister of Interior Boskovski played key roles in ensuring that these crimes remained in impunity. At year's end, Boskovski remained under investigation by the ICTY for his alleged role in unlawful killings of ethnic Albanian civilians at Ljuboten in August 2001.

On March 2, at Rostanski Lozija, police shot and killed seven illegal immigrants who were attempting to transit the country on their way to Greece. Police then planted weapons and NLA uniforms next to the bodies. Former Minister of Interior Boskovski, changing his account of the incident several times during the day, claimed that the seven men had ambushed four policemen, and that in returning fire, the police killed all of their assailants. Some were shot as many as 56 times. Boskovski denounced the seven (six Pakistanis and one Indian) as international terrorists, and alleged that they had intended to attack Western embassies as well as government targets. A Ministry of Interior investigation exonerated the policemen involved of wrongdoing, and the Chief Public Prosecutor failed to adequately investigate or prosecute the incident. The new government began an investigation into the case, but there were no concrete developments by year's end.

On October 18, Macedonian police in Tetovo shot and killed one ethnic Albanian youth and injured another when they failed to stop at a police checkpoint.

In December 2001, members of the "Lions" police paramilitary unit shot an ethnic Albanian farmer, Sabit Alili, in the leg while he was working in his field at Ratae.

The “Lions” then purposely tied a tourniquet on his leg too loosely; Alili subsequently died from blood loss. The “Lions” detained and tortured Alili’s son, Nexhat Alili (*see* Section 1.c.). The Ministry of Interior, following its initial announcement that the “Lions” had repelled a major “terrorist attack” at Ratae, concluded that the shooting was accidental and exonerated those involved. The Chief Public Prosecutor failed to adequately investigate or prosecute the incidents.

On April 26, the Macedonian Border Brigade shot and killed one ethnic Albanian and injured two others after the ethnic Albanians drove a truck through an illegal crossing. The Ministry of Defense reported that it was investigating the case, but it was not resolved by year’s end.

On July 15 at Vinica, 20 members of the “Tigers” special police unit beat Alberto Stojcev to death and severely injured three others during an altercation in a bar. Authorities detained 14 “Tigers” and began an investigation. In retaliation six “Tigers” attempted to assault journalist Mare Stoilova at Stojcev’s funeral. Two of the attackers were detained for 30 days, but were not sentenced by year’s end. The Vinica Court was not forthcoming in providing information or confirmation of charges being filed. At year’s end, there was no resolution to the case.

On August 30, a “Lion” shot and killed an ethnic Albanian man on the Tetovo-Gostivar highway entrance during an anti-kidnapping operation. The case remained unsolved at year’s end. On October 19, unidentified persons killed one ethnic Macedonian youth and wounded two others in what police and OSCE believed was a revenge shooting related to the previous night’s incidents. Police conducted an investigation into both incidents, but they remained unresolved by year’s end.

In April the ICTY monitored the exhumation of cadavers at Ljuboten. The activity was in conjunction with its assertion of primacy in the case of alleged extrajudicial killings of ethnic Albanian civilians by police at Ljuboten in August 2001. Former Minister of Interior Boskovski was widely suspected of ordering the killings.

There were no reported violations by the Macedonian Army; however, some abuses occurred in areas patrolled by both police and military forces. The civil conflict in 2001 resulted in a number of ethnic Macedonian casualties, including approximately 75 security officers, and an unknown number of ethnic Albanian casualties. The Macedonian police, paramilitaries, and ethnic Albanian extremist groups committed extrajudicial killings.

On August 26, unknown assailants shot and killed two ethnic Macedonian police officers, Daniel Jankovski and Aleksandar Nikolic, near Gostivar. Among the suspects detained by police was Selam Selami, who was severely beaten and sustained permanent injuries (*see* Section 1.c.). Former Minister of Interior Boskovski—without evidence—blamed DUI president Ali Ahmeti for the killings.

On September 12, Fadil Elmazi, an ethnic Albanian policeman, was shot and killed during an attack on the temporary police station at Bogovinje. The escaped assailants were widely suspected of having been members of an armed ethnic Albanian extremist group.

The Ottawa Convention obliged the Government to destroy its landmines by February 2003. A total of 4,000 antipersonnel mines were to be kept for expert training needs of army members. In the presence of international monitors, the Macedonian Army destroyed 22,820 PMR-2A antipersonnel mines from the total of 42,871 that the country inherited from the former Yugoslav army at Krivolak Military Base. Since October 2001, 3.5 million square kilometers were cleared of mines; 18 mines and 650 parts of unexploded devices were discovered and destroyed. By year’s end, the demining operation cleared an additional 36 villages and an area of 1.54 million square meters of mines. An International Committee of the Red Cross (ICRC) program to educate children on the risk of unexploded devices, begun in August 2001, continued. However, demining and unexploded ordnance (UXO) disposal efforts were not completed by year’s end. On May 8, an Italian NATO TFF officer was killed and a German officer injured when their vehicle struck a mine while conducting demining work at Tetovo.

*b. Disappearance.*—There were no reports of politically motivated disappearances. On July 8, the International Commission on Kidnapped and Other Missing Persons (created by the EU) issued its report on the fate of 20 persons—13 ethnic Macedonians, 6 ethnic Albanians, and 1 Bulgarian citizen—who went missing during the course of the 2001 conflict. The report attributed the Commission’s inability to determine the whereabouts of any of the 20 persons or their remains to intransigence among police, former NLA combatants, and the cellular telephone provider “Mobimak.” The Commission criticized the Ministry of Interior for a “lack of serious investigations” into the fate of the missing persons. It also said of the Ministry of Interior, “It is rather worrisome that (the Commission) has encountered little which resembles ordinary police work normally emanating in comprehensive police reports—the lack of serious investigation raises questions of a more general nature.”



Former NLA combatants and leaders attributed the disappearance of the ethnic Macedonians to a “rogue NLA unit,” but refused to disclose more information, according to the Commission. The report concluded that at least 8 of the 13 missing ethnic Macedonians were abducted by the NLA, and that the other ethnic Macedonians were last seen in areas where it was possible or likely that they encountered NLA units. At least three of the six missing ethnic Albanians were known to have been in the vicinity of police when they disappeared. The car of one was found outside the Bitola police station. In the cases of the other three ethnic Albanians and the Bulgarian, the Commission stated that it had no information. Former Minister of Interior Boskovski publicly and harshly criticized the report and suggested that Commission President Ambassador Lars Wahlund be expelled from Macedonia.

DNA testing indicated that remains from the mass grave at Neprosteno belonged to at least four persons. At year’s end, the International Committee on Missing Persons was making arrangements with the Government and family members to assist in resolving the cases. ICTY, which has primacy, planned to begin an investigation of Neprosteno in early 2003.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, police at times used excessive force during the apprehension of criminal suspects and sometimes tortured and abused prisoners.

On February 25, police reportedly beat Plasnica Mayor Ismail Jaoski, a Macedonian Muslim, after stopping him along the road between Prilep and Gradsko. When Jaoski reported the incident to Prilep police, the same police officers allegedly beat him at the police station. Reportedly, the former station commander stopped the incident and released Jaoski. The State Public Prosecutor in Prilep failed to bring charges against the police officer, citing insufficient evidence. Since the State Public Prosecutor was unresponsive, Jaoski hired a lawyer and brought charges against the individual policeman who beat him. On March 14, “Lion” Spase Zlatanov shot and permanently crippled a 16-year-old male, allegedly for refusing the offer of a drink. Zlatanov was convicted of attempted murder and sentenced to 8 years in prison.

On April 26, six to eight police severely beat an OSCE observer after attending a party at a bar with a reputation of being frequented by hardline VMRO-DPMNE supporters. It was alleged that the presence of some guests (including ethnic Albanian interpreters assigned to TFF) at the party might have attracted hostile attention. After having the incident repeatedly brought to his attention, the Chief Public Prosecutor requested the victim to report to the basic Public Prosecutor’s office to file more information on the event. The case was not resolved by year’s end.

In April police detained Vulnet Kazimi, Tetovo Police Inspector for Illicit Drugs and Smuggling. Kazimi alleged that his police colleagues abducted, beat, and tortured him, and accused him of conspiring with the PDP political party to attack a DPA-owned Tetovo restaurant, Dora. Kazimi claimed he was forced to sign a confession. During the 2-week detention, police allegedly did not inform Kazimi’s family of his whereabouts, and denied him food, water, and medical treatment. In November Kazimi was found guilty and sentenced to 1 year in prison.

On June 13, police detained brothers Bojan and Dusko Arangelovi of Kocani. At the police station, the brothers were separated. Dusko, a member of the then-opposition party SDSM, allegedly was tortured while bound to a radiator.

In June allegedly intoxicated police reservists shot and injured an 11-year-old girl on Skopje streets. The Ministry of Interior was not known to have taken any action by year’s end.

In late August, Gostivar police arrested three ethnic Albanians on suspicion of involvement in the shooting death of two policemen. One of those arrested, a previously disabled individual named Selam Selami, was beaten severely and sustained permanent injuries to the head, and remained in a coma until the end of October. ICRC and OSCE repeatedly and unsuccessfully tried to gain access to Selami. The Gostivar court declined to bring charges against Selami due to lack of evidence, but a Skopje court later charged Selami with criminal association. As of late October, Selami’s pretrial detention had been extended twice. He remained in pretrial detention and allegedly was denied adequate medical attention. In early December, he was released on bail pending trial. By year’s end, no trial date had been set.

On November 28, Macedonian Customs Administration Acting Director General Vancho Lazarov was beaten severely and hospitalized. Prior to the attack, Lazarov had been threatened on several occasions, allegedly to deter his implementation of an anti-corruption program with the Customs Administration. An investigation was underway at year’s end.

In May during a “Lions” live-fire training exercise, former Minister of Interior Boskovski injured four persons. The distance to the targets at which he was firing

a 30 millimeter grenade launcher was too short; as a result, shrapnel blowback hit and injured four persons. Although charges were pressed against the former Minister of Interior, the investigation was stalled at year's end because the Gostivar court did not pay the Institute of Forensics and Criminology in full for forensic work conducted during the investigation. Responsible police range officers were not adequately disciplined.

According to the Helsinki Committee, on April 3, six to eight "Lions" detained and allegedly tortured two Macedonian Muslims, Cano Canoski and Vebija Saloski, who were gathering wood in a forest near Oktisi. Police contended the men did not have identification documents and claimed that they only tried to restrain them. Canoski and Saloski reportedly escaped after about an hour and tried to report the incident in both Oktisi and Struga police stations. Upon being prompted by the Helsinki Committee, the Ministry of the Interior reported that some of the involved policemen had been temporarily relieved of duty.

Between August 29 and September 1, some "Lions" allegedly beat at least seven ethnic Albanians during an operation to secure the Gostivar-Tetovo highway. The operation was in response to the kidnaping of five ethnic Macedonians (*see* Section 1.b.).

In December 2001, the "Lions" detained Nexhat Alili, without explanation, and released him 2 days later. Nexhat Alili claimed that, while in detention, he was tortured and injected with an unknown substance. Neither former Minister of Interior Boskovski or the Chief Public Prosecutor conducted an investigation or indicted any of the perpetrators.

There also were reports of police beating journalists (*see* Section 2.a.).

There were credible reports of occasional police violence against Roma, including beatings during arrest and while in detention (*see* Section 5).

According to the Center for Interethnic Tolerance and Refugees, police were involved in trafficking in persons (*see* Section 6.f.).

On January 23, five unknown, masked individuals beat Pavle Todorovski, the ethnic Macedonian deputy chairman of a newly formed local interethnic council, in his house in the majority ethnic Albanian town of Tearce, near Tetovo. Whether the attackers were ethnic Albanians or ethnic Macedonians opposed to Todorovski's efforts at local reconciliation is unclear. However, according to an Amnesty International (AI) report on the incident, the assailants called Todorovski a "Macedonian traitor."

On October 31, an explosion took place near the entrance of the Parliament building. Police saw, but were unable to apprehend, the attacker. No one was injured, but approximately 10 vehicles were damaged. Many interpreted the attack as a warning to the DUT's Ali Ahmeti not to attend the session; he did not attend. Both the Macedonian National Front (MNF) and the Albanian National Army (ANA) released communiques asserting responsibility for the attack.

Prison conditions generally met international standards, and prisons met basic diet, hygiene, and medical care requirements. Men and women were held separately. While juveniles also were supposed to be held separately, limited facilities at times resulted in older juveniles being confined with adults. Pretrial detainees were held separately from convicted criminals. The Government permitted visits to convicted prisoners by independent human rights observers such as the ICRC and the Human Rights Ombudsman. However, the law prohibits visits to pretrial detainees by any person other than the accused person's lawyer, and this provision commonly was enforced.

As a result of the Government's ratification of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the European Committee for the Prevention of Torture (CPT) was authorized to visit all places of detention on a regular and ad hoc basis. In July the committee's delegation visited Bit Pazar Police Station (Skopje), Mirkovci Police Station (Skopje area), and the Tetovo Police Station.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution specifically prohibits unlawful arrest; however, arbitrary arrest and detention were serious problems. Although the law requires warrants for an arrest, this provision frequently was ignored, and it was common for a warrant not to be issued until some time after an arrest or for a judge to deny that he had signed the warrant. The Constitution states that a detainee must be arraigned in court within 24 hours of arrest. The accused is entitled to contact a lawyer at the time of arrest and to have a lawyer present during police and court proceedings. However, according to human rights observers and criminal defense attorneys, police at times violated the 24-hour time period within which a suspect must be arraigned, and denied detainees immediate access to an attorney.

There were several credible reports that police used falsified warrants (*see* Section 3).

The maximum length of pretrial detention is 180 days. Pretrial detention exceeding 180 days was a problem, and detainees frequently were held on weak evidence. The ICRC repeatedly tried to gain access to pretrial detainees during the year, succeeding in some cases but not in others; it has not made any attempts since the new government was formed. The investigative judge decides about the legality of detention. If the judge determines that an arrested person should be further detained, the judge must immediately inform the Public Prosecutor. If the Prosecutor does not file a request for a criminal investigation within 24 hours, the investigative judge must release the arrested person.

On July 8, ethnic Macedonian family members of 12 persons who disappeared during the 2001 conflict blocked the Skopje-Tetovo highway at Zelino to protest the lack of progress in determining the fate of their loved ones. The Ministry of Interior used the occasion to infiltrate armed "Lions" into the group in an attempt to provoke armed conflict with ethnic Albanians in the area. Although armed former NLA combatants surrounded the "Lions" and family members, they eventually allowed them to leave without further incident.

On August 29, unidentified ethnic Albanian perpetrators abducted five ethnic Macedonians along the Tetovo-Gostivar highway. The kidnapers demanded the release of four alleged ANA members, safe passage, and a 3-hour head start on police. The demands were not met, and the victims were freed shortly thereafter without incident. On September 9, the Ministry of Interior publicly stated that it had requested that the Public Prosecutor file criminal charges against perpetrators whom it did not identify.

In November the International Commission on Missing Persons opened a Skopje office to further efforts to determine the fate of the 20 persons who went missing during the 2001 conflict (*see* Section 1.b.). Despite an investigation, the whereabouts of the 20 missing persons remained unknown at year's end.

On March 7, Parliament passed an Amnesty Law benefiting persons accused of fighting with or actively supporting the NLA up until the date of the NLA's disbandment in September 2001. Many persons benefited from the law, including some whose "crimes of preparation" were committed as early as 1996. Atrocities committed by NLA combatants, which were covered by the Amnesty Law, include killings and expulsions of Macedonians in villages north of Tetovo. The Amnesty Law explicitly excluded persons accused of war crimes, but senior ethnic Albanian political leaders sometimes cited the law in insisting that all former combatants, whether or not they were accused of war crimes, be released. On a few occasions, police falsely accused former combatants of war crimes in order to justify prolonging their detention.

In November 2001, while securing an alleged mass gravesite at Neprošteno, police arrested seven men on charges of possession of illegal weapons. Five of the men were released, but two, Shkodran Idrizi and Fadilj Ferati, remained in pretrial detention until their release in early December. The Skopje Second Court maintained that the two were suspects in the August 2001 Mavrovo Road Workers torture and sexual abuse case. The ICTY Prosecutor asserted primacy in the Mavrovo Case and four other alleged war crimes cases on May 14. On June 26, she stated that she would not indict Idrizi and Ferati in the Mavrovo Case, and ordered the state to free them. In October an ICTY trial chamber upheld the prosecutor's assertion of primacy. However, Chief Public Prosecutor Stavre Djikov took no action to free Idrizi and Ferati. Djikov was dismissed on December 4, and Idrizi and Ferati were released soon afterwards. Residents of the men's hometown and other sympathetic ethnic Albanians protested their innocence on several occasions. No members of the ethnic Albanian community were known to have cooperated with authorities to identify the perpetrators of the torture case.

There were no reports of "informative talks" during the year. Informative talks, as previously envisioned by the Law on Internal Affairs and carried out in practice, no longer were allowed. Legislation provides that the Interior Ministry (police) can invite a person for an interview, but there is no obligation for that person to give any statement to the police. The police have no powers to bring in a person coercively for an interview. The Constitution also provides that a person is entitled to an attorney during the police procedures. However, according to AI, there were still incidents of police ill-treating and torturing detainees.

There were credible reports that the police arbitrarily arrested and detained Roma. According to the European Roma Rights Center (ERRC), on June 11, four police officers beat Celebi Semov and Nedzat Kamberi on the outskirts of Stip as they were returning from gathering firewood in the mountains. Semov reported that he and Kamberi were pulled from their cars by the police, pushed to the ground and

handcuffed. Semov testified that the officer who had pulled him from the car punched him in the head, then grabbed him by the hair, lifted him from the ground, and kicked him in the head. Semov reported that he, Kamberi, his minor son, and one other man reportedly were taken to the police station in Stip. At the police station, Semov reported that the police took their personal data and issued them papers for confiscating their vehicles. ERRC filed a criminal complaint with the Stip Public Prosecutor's Office. As of September, the investigation was ongoing and the Stip Public Prosecutor informed ERRC that they had identified two possible suspects, but that they had testified that a friend had injured Semov.

Under the new SDSM-led government, the police continued a pattern of selective enforcement of various laws and regulations against individuals and businesses linked with the VMRO-DPMNE opposition.

The Constitution prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice, although the court system at times was inefficient and subject to political manipulation. The Chief Public Prosecutor and other elements of the judiciary sometimes acted to ensure the impunity of state agents who committed human rights abuses. The court system was three-tiered and was composed of municipal courts, district courts, and a Supreme Court. A Constitutional Court deals with matters of constitutional interpretation. The judiciary was generally weak and was influenced by political pressure and corruption, in part due to low salaries; however, there were no reports of widespread abuse or systemic corruption.

Trials are presided over by judges appointed by the Republican Judicial Council (an independent agency) and confirmed by Parliament. Two community-member consulting jurors assist each judge, although the judge makes the final decision. The Constitution provides for a public attorney to protect the constitutional and legal rights of citizens when violated by bodies of state administration and other agencies with public mandates: the Office of the People's Ombudsman was created and became functional in 1997 (see Section 4).

The Framework Agreement states that the judiciary should better reflect the ethnic composition of the population and states that one-third of the judges on the Constitutional Court, the Ombudsman, and three members of the Judicial Council will be chosen by the Parliament, including by a majority of the ethnic minority Members of Parliament to ensure minority representation. During the year, the ethnic diversity of judges increased. There was no change in the membership of the Constitutional Court, but two of its nine members were ethnic Albanians. Two of the 4 new judges on the 25-judge Supreme Court were ethnic Albanians. One of the 6 new judges on the appellate court was ethnic Albanian, and 1 of the 17 new judges on the Basic Court was ethnic Albanian.

The Constitution provides for a fair public trial, and an independent judiciary generally enforced this right. The law also provides for the presumption of innocence until proven guilty by a court, the right to a lawyer in pretrial and trial proceedings, and the right to an appeal. The judiciary generally enforced these rights. Court hearings and the rendering of verdicts were open to the public except in some cases, such as those involving minors and those in which the personal safety of the defendant was of concern. Trials may not be televised, pursuant to the Criminal Procedure Code, unless authorized by the court under special circumstances.

Prior to the March 7 parliamentary passage of the Amnesty Law, President Trajkovski had pardoned 64 persons in 2001 who had been accused of fighting with or actively supporting the NLA. At least 22 of the remaining 24 who had not yet been pardoned as of December 2001 were amnestied and released during the year. Izair Samiu received amnesty for acts related to the 2001 conflict, but remained in detention for a post-conflict criminal conviction until April, when he was released on bail. There were no further legal procedures related to his case at year's end.

Following the passage of the Amnesty Law, the judiciary halted hundreds of criminal proceedings against former NLA combatants and active supporters. However, the judiciary's application of the law sometimes was erratic. Courts usually released arrested, former NLA combatants after determining that the Amnesty Law was applicable to them. However, the Skopje Second Court and others fabricated "war crimes" charges in order to prolong the detention of persons who should have benefited immediately from the Amnesty Law. In addition, the Skopje Second Court failed to fully implement the Amnesty Law. Very few former combatants were proactive in hiring attorneys and approaching courts to have the cases against them dropped, preferring instead to wait until a court took up review of their cases. Former NLA leader Ali Ahmeti, who had criminal charges dating back to the Yugoslav period, was not fully amnestied. However, upon certification as a Member of Parliament (M.P.), he, like other members of Parliament, received immunity from

prosecution for the duration of his parliamentary term. In late November, the courts announced that they had revoked the arrest warrants for Ahmeti and several other persons wanted in relation to crimes covered by the amnesty during the conflict. By year's end, approximately 80 warrants still existed and several former combatants were not released.

On October 25, a trial chamber of the ICTY upheld a May assertion of primacy by the ICTY prosecutor in five alleged war crimes cases. The judiciary signaled its willingness to comply with the instruction to suspend any domestic proceedings dealing with the five cases, but rejected the ICTY prosecutor's request that it also yield primacy over any future war crimes cases to the ICTY.

Early in the year, OSCE's Rule of Law unit limited its activities to ad hoc support of the police redeployment plan and monitoring the return of refugees, internally displaced persons (IDPs), and trafficking in human beings. OSCE also facilitated police and community liaison offices in a number of communities to which the police returned. During the year, the Rule of Law unit shifted focus to institution building (such as Ombudsman support and NGO building), anti-trafficking (such as supporting the judicial and prosecutorial system to improve the prosecution of cases), and judicial reform (such as minority representation, criminal legislative reform, and judicial transparency).

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, the Government did not always respect these prohibitions in practice.

No further progress was made on wiretapping investigations stemming from previous years' cases, including one involving Ministry of Interior employees in early 2001.

The law on eminent domain stipulates that landowners forfeiting land shall be fairly compensated. However, in April the Electric Power Company of Macedonia (ESM) and the Ministry of Finance (Property Rights Directorate) expropriated property in several villages along the Treska river. Owners of the expropriated land were offered non-market prices of \$1 to \$2 (60 to 120 denars) per square meter.

Significant progress was made on housing reconstruction. The U.N. High Commissioner for Refugees (UNHCR) and international partners led efforts to rehabilitate more than 5,600 homes that suffered minor damage. The European Agency for Reconstruction continued to rebuild the more badly damaged homes and completed an additional 550 houses at year's end.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, there were reports that the Government intimidated media that were critical of its policies and programs. The media were not truly independent. Virtually all media outlets were aligned with a political interest, and news and information generally were reported from a political perspective.

Political opposition groups and the Association of Macedonian Journalists criticized government intimidation tactics against media organizations that carried reports critical of the Government. Financial backers and supporters of media organizations complained that they were threatened with reprisals for their affiliation with media outlets critical of the Government. For example, several months prior to the September elections, the Government threatened to revoke the privatization of the Ferpsed company, which owned the daily Vest because it supported the opposition SDSM.

Nine major daily newspapers were published in Skopje, as well as numerous weekly and monthly publications. There was nationwide distribution of dailies and weeklies. The top three national dailies were Dnevnik, Utrinski Vesnik, and Vest. There was one bilingual (Macedonian/Albanian) national daily, Global. Some towns and municipalities had local newspapers. The Government provided a yearly financial subsidy to the print media. There were charges by the press that subsidies were allocated along party lines, with progovernment or government-sponsored publications receiving the highest subsidy regardless of circulation. The two Albanian-language national newspapers, Fakti and Flaka, did receive government subsidies, as did the Turkish-language newspaper Birlik. Two government-sponsored publications, Vecer and Nova Makedonija, consistently criticized NATO and the international community through biased and inaccurate reporting.

The leading newspaper and largest publishing house is Nova Makedonija, which published two national dailies in Macedonian (Nova Makedonija and Vecer), one national daily in Albanian (Flaka), and one national daily in Turkish (Birlik). Nova Makedonija sold 70 percent of its shares to a Slovenian-registered company in August. There were allegations that the Slovenian company was a front for VMRO-

DPMNE. Prior to the sale, Nova Makedonija and Vecer provided favorable coverage of government activities. News and information about the opposition was consistently negative in these publications. When the new government was installed, the share sale to the Slovenian-registered company was investigated, Nikola Tasev, General Manager of Nova Makedonija, was arrested and charged for abuse of power. He was released on bail on December 31. Four other suspects were not placed in custody, but their passports were seized. After the new government took power, a change in the editorial policy of both Nova Makedonija and Vecer was apparent. The frequency of their attacks on the SDSM and DUI, as well as on the international community, diminished dramatically.

Distributors of foreign newspapers and magazines had to obtain permits from the Ministry of Interior. There were no known reports of such requests being denied during the year. Foreign newspapers, including those from neighboring countries, were available throughout the country.

Macedonian Radio and Television (MRTV) was the sole public broadcaster in the country, with distribution reaching over 90 percent of the population. By the end of August, Macedonian Television had two channels: MTV, which broadcasts programs in Macedonian only, and MTV2, which aired programs in Macedonian and offered limited programming in Albanian, Turkish, and Serbian. Macedonian Television was divided along ethnic and political lines and failed to provide comprehensive and unbiased news and information. MTV and MTV2 were perceived as ethnic television stations, rather than as channels of the national public broadcaster. In September MTV3 was launched in accordance with the Framework Agreement. Programs on MTV3 were broadcast primarily in Albanian, and to a limited extent in Turkish, Vlach, Romani, and Serbian. MTV broadcast in Macedonian and favored the Government point of view. There were an estimated 150 local radio and television stations registered in the country. The Broadcasting Council of Macedonia, with government concurrence, issued licenses to radio and television broadcasters. The Council was influenced by the Government.

A1 Television was the primary private television broadcaster in Macedonia, followed by SITEL Television. Both were based in Skopje and had nationwide distribution. There were several private Macedonian language television stations in Skopje including Skynet TV, Telma and Channel 5. There were two private Albanian language television stations in Skopje, TV Era and TV Toska, as well as at least one station that broadcast in the Romani language, TV-BTR. TV EDO was a Bosnian language station.

Copyright laws were regularly infringed.

The Government did not censor the media. However, during the year, former Minister of Interior Boskovski sued Start journalist Marjan Gjurovski for slander over a report entitled "They would cause a new war just to stay in power." The new government did not restrict media (including ethnic Albanian media), and gave clear indications that it did not intend to do so.

The Association of Macedonian Journalists characterized journalism as a high risk profession. There have been several alleged incidents of police beating journalists, and the Association of Macedonian Journalists reported that there had been approximately 40 cases of physical attacks against or intimidation of journalists since 1999. On September 15 (Election Day), a group of allegedly VMRO-DPMNE-backed persons seized a camera from a cameraman and beat him in front of a polling station in the Ohrid-area village of Kosel. Shortly before the elections, four "Lions" beat and hospitalized Radio Tumba announcer Zoran Bozhinovski. He had been critical of Customs director Dragan Daravelski. "Lions" member Goran Trajkovski was found guilty and sentenced to 1 year in prison. Following Bozhinovski's hospitalization, approximately 150 journalists staged a protest in front of Parliament and the Ministry of Interior chanting the slogan "Here we are, beat us!"

In September unknown gunmen attacked the printing facility of a news magazine, Global, in Mala Recica. Shortly afterward, unidentified perpetrators destroyed the vehicle of Global's co-owner and Start owner Ljupco Palevski. On July 16, an A1 reporter, Mare Stoilova, was attacked while reporting on the funeral of Alberto Stojcev, the victim of a fight between the "Tigers" special police unit and local youths (see Section 1.a.). Two of the alleged perpetrators were detained for 30 days, but were not sentenced. The Vinica Court was not forthcoming in providing information or confirmation of charges being filed.

The Government did not restrict academic freedom. The FWA called for enhanced access to higher education in their own language for ethnic Albanians, and the private Southeast European University in Tetovo provided some Albanian language instruction, although its principal language was English (see Section 5). Some ethnic Albanians continued to demand that the Government accredit the inadequate and illegal Tetovo University.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the freedom of assembly and association, and the Government generally respected these rights in practice.

Advance notification to authorities of large public meetings was optional. Religious gatherings, if they occur outside of specific religious facilities, must be approved in advance by the Ministry of Interior, and may only be convened by registered religious groups (see Section 2.c.).

Political parties and organizations are required to register with a court. More than 70 political parties were registered, including parties of Albanians, Turks, Serbs, and Roma. Former Minister of Interior Boskovski attempted to intimidate the political opposition. However, he did not prohibit any parties from registering.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, the law places some limits on religious practice by restricting the establishment of places of worship and parochial schools. The Constitution (as modified in 2001 as agreed in the FWA) specifically mentions several religious denominations and faiths, including the Macedonian Orthodox Church, the Methodist church, Islam, and Judaism. None of these religious communities had official status or privileges. However, during the year a 76-meter cross was placed on Mount Vodno overlooking the city, dedicated by the Orthodox church, and supported with public funds.

The Government requires that religious groups be registered. In practice religious groups needed to register to obtain permits to build churches and to request visas for foreigners and other permits from the Government.

The Law on Religious Communities and Religious Groups places some restrictions on the establishment of places of worship. Provision is made for holding services in other places, not included in the law, provided that a permit is obtained at least 15 days in advance. No permit or permission is required to perform religious rites in a private home. The law also states that religious activities “shall not violate the public peace and order, and shall not disrespect the religious feelings and other freedoms and rights” of persons who are not members of that particular religion. The Government did not actively enforce most of these provisions of the law but acted upon complaints when they were received. Several registered Protestant groups have been unable to obtain building permits for new church facilities due to bureaucratic complications that affected all new construction. Churches and mosques often were built without the appropriate building permits. The Government has not taken any actions against religious buildings that lack proper construction permits.

The Law on Religious Communities and Religious Groups also requires that foreigners carrying out religious work and religious rites be registered with the Government’s Commission on Relations with the Religious Communities.

A 1995 law specifies that primary school children must be taught in the Macedonian language, and may not be taught by foreigners, even if the children themselves are foreigners and do not speak Macedonian. Further, foreigners are not permitted to operate educational institutions, manage classrooms, or give grades to non-citizens. In September authorities moved to shut down the Timothy Academy, an evangelical Christian academy operated by foreigners for foreign children. At year’s end, the new government granted work visas to the school’s employees and was working to legalize the status of the school.

Some progress was made in restitution of previously state-owned religious property. Many churches and mosques had extensive grounds or other properties that were expropriated by the Socialist government of Yugoslavia. Virtually all churches and mosques have been returned to the appropriate religious community, but that was not the case for many of the other properties. Often the claims were complicated by the fact that the seized properties have changed hands many times or have been developed. On August 28, the Ministry of Finance and the Jewish community reached a settlement on the restitution of Jewish communal property. The Ministry of Finance agreed to return to the Jewish Community three buildings in Bitola, one piece of real estate in Skopje, and bonds valued at approximately \$2.76 million (165 million denars).

There were no reports of destruction of places of worship during the year. However, many places were not fully intact as a result of the 2001 conflict. In December two churches in the villages of Setole and Otunje, that had already been looted in 2001, were vandalized. On August 15, a Sunni Muslim group illegally established an ongoing, armed presence in a Bektashi religious facility, the Arabati Baba Tekke in Tetovo, home to a small, active Bektashi Islamic community, and asserted a claim to ownership of the facility and a hotel and two restaurants on the property’s grounds. The occupying group may have received the tacit support of the governing VMRO-DPMNE and DPA; the owner of the restaurants and hotel was reputed to be an SDSM supporter. At year’s end, the ongoing ownership dispute between the

Bektashi religious sect and the Islamic community over the Bektashi religious facility remained unresolved. Although armed interlopers had left by year's end under international community pressure, fundamentalist Islamic leaders still held services on the Tekke grounds five times per day.

There were ethnic Macedonian Muslim and Bosnian Muslim minorities in the country. Some ethnic Macedonian Muslims contended that the state sometimes confused them with ethnic Albanians and ethnic Turks because of Muslim surnames and mixed marriages and, in some instances, assigning their children to Albanian language classes.

No further progress has been made in investigating 2001 attacks on Muslim places of worship, including the June 2001 attack on the Bitola mosque and the August 2001 burning of the Prilep mosque.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice. Return of police and the presence of OSCE monitors and NATO TFF soldiers facilitated citizens' ability to move within the former conflict areas. Parliamentary passage of the Amnesty Law made it possible for former NLA combatants to leave former conflict areas without fear of long-term imprisonment, and therefore reduced former combatants' resistance to allowing police returns. In addition, UNHCR provided a strengthened field presence and bus services for returnees and IDPs in the conflict-affected areas to facilitate the passage of checkpoints. Most areas that were closed to the public due to military activities or sensitivities during 2001 have since been reopened. By year's end, the Ministry of Defense had removed the great majority of security checkpoints. According to NATO, of 130 military checkpoints deployed in January in the former crisis area, only 25 existed at year's end. Police in former crisis areas gradually resumed policing duties. Nearly all villages in the former crisis region had created village police liaison commissions involved in encouraging citizens to accept police authority. Nonetheless, there were occasional reports of the army or police detaining people arbitrarily at roadblocks during the year.

At the height of the country's internal conflict, the UNHCR estimated that approximately 170,000 persons, approximately eight percent of the population, were displaced from their homes. During the year, a majority of these IDPs and refugees returned to their homes. However, many persons did not return because their houses were badly damaged or entirely destroyed. The UNHCR and foreign governments led efforts to rehabilitate homes that suffered minor damage. The European Agency for Reconstruction continued to rebuild badly damaged homes. As of October, approximately 5,600 homes, of a total of more than 7,000 destroyed or damaged homes, had been rehabilitated or rebuilt. Other persons did not return to their homes in ethnically mixed locales because they felt uncomfortable, and in some cases, unsafe. At year's end, the UNHCR and the Macedonian Red Cross (MRC) estimated that the number of IDPs had decreased to approximately 9,442 persons totaling 2,115 families. According to the UNHCR, approximately 3,000 refugees had not returned from Kosovo.

Persons holding a government photo identification card—or children with a birth certificate traveling with parents with photo identification—were able to enter the country. For adults with no photo identification, there was a verification process facilitated by the UNHCR with the Ministry of Interior. The UNHCR noted that this practice was at its height when ethnic Albanian refugees returned to Macedonia from Kosovo.

With the adoption of the Constitution in November 1991, any Yugoslav citizen who had legal residence in Macedonia could acquire citizenship by simple application. However, unresolved citizenship status of long-term habitual residents remained an ongoing problem. Many former Yugoslav citizens were unable to acquire Macedonian citizenship. Ten years after the provisions of the Citizenship Act of 1992, they remained without effective citizenship, often without valid identity documents. As a result, they lacked most civil, political, economic, and social rights, including the right to work, as well as the right to social welfare assistance, social protection services, unemployment registration, and access to health insurance. The state regarded them as aliens, either legal or illegal. Further, children born in the country to parents with unresolved citizenship status inherited the problem. Although these children were permitted to attend school, UNICEF and NGOs reported that these children were not graded or given certificates of completion.

Since 1999 UNHCR and the Council of Europe have helped to prepare and have pushed for passage of amendments to a bill on citizenship which would lower the residency requirement for aliens to 10 years, and make other changes in accordance



with international and European standards. This was scheduled to be amended during the year, but was delayed. Approximately 2,000 persons apply for citizenship each year.

In February the Government ratified the European Convention on Nationality, thus providing the groundwork for preventing future cases of statelessness. The 1992 Law on Citizenship does not provide any privileges to refugees or stateless persons; however, the pending legislation recognizes refugees and stateless persons as eligible to apply for citizenship after 8 registered years of residency, provided they meet the other necessary requirements.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. However, the Government has not yet passed an asylum law. A draft law on asylum that was compatible with the Geneva Convention and international standards was prepared in collaboration with the UNHCR and was awaiting submission to the Parliament. Refugee status determination was governed by the 1992 Law on Movement and Residence of Aliens. The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees, and made a notable effort to accommodate more than 300,000 Kosovar refugees in 1999. The total number of remaining refugees from Kosovo, almost all of whom are Roma, was 2,724 by year's end. These refugees benefited from a limited temporary humanitarian protection status that did not provide for self-reliance or local integration rights. There were 1,325 refugees sheltered with host families and 1,399 refugees sheltered in two collective centers located in Shuto Orizari and Katlanovo, near Skopje. The Government provided first asylum.

There were no reports of persons being returned to a country where they feared persecution during the year.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic free and fair elections held on the basis of universal suffrage. The unicameral Parliament governs the country. The Prime Minister, as head of government, is selected by the party or coalition that produces a majority in the Parliament. The Prime Minister and the other ministers may not be Members of Parliament. The President, who is head of state, Chairman of the Security Council, and commander-in-chief of the armed forces, nominates a mandator, who often subsequently becomes the Prime Minister, to constitute the Government. The winning coalition's nomination for Prime Minister must be approved by Parliament.

On August 13, 2001, domestic political parties signed the FWA with international facilitation by the U.S. and the EU. Officials estimated that approximately 100 laws would be affected by the FWA to some extent, 80 of which are specific to decentralization and local self-governance. By year's end, the Parliament had started implementing FWA-mandated legislative actions (including amendment of the Constitution), which provided for enhanced minority civil rights and devolution of power to local governments. The platform and laws deal with issues such as Albanian language usage in Parliament, local government, and higher education; equitable access to media; reform of police and inclusion of more minorities in the police and other state institutions; and the return of police, refugees, and IDPs to the former conflict areas. Government officials estimated that the process will be completed before the next local elections in 2004.

Opposition parties won a decisive victory in the September 15 national parliamentary elections, which were free, fair, and peaceful, with a turnout of 73 percent of the population. The technical conduct of the elections, under the leadership of State Election Commission President Mirjana Lazarova-Trajkovska, and with international assistance, met international standards. The OSCE led an international monitoring effort that involved almost 1,000 observers. The mostly ethnic Macedonian "For Macedonia Together" coalition (led by the SDSM and LDP) won 60 of 120 parliamentary seats, defeating the governing VMRO-DPMNE party and its pre-election coalition partner, the Liberal Party, which together obtained 33 seats. The Macedonian Socialist Party won one seat. Among ethnic Albanian political parties, the DUI, led by former NLA commander Ali Ahmeti, won 16 seats. The ethnic Albanian DPA won seven, the PDP two, and the NDP one.

Of the few, isolated electoral irregularities, the most serious occurred in Lesok, where "Lions" entered a polling place brandishing weapons, beat the local electoral board president, and stole the ballot boxes. Elections were rerun in Lesok 2 weeks later. The rerun was peaceful and did not change the outcome of the elections.

On October 31, Parliament voted in a new government composed of the SDSM, LDP, and DUI. SDSM President and former Prime Minister Branko Crvenkovski was confirmed as Prime Minister; the SDSM also heads the Ministries of Defense, Foreign Affairs, Interior, Local government, Culture, Economy, and Environment. The LDP heads the Ministries of Finance, Labor, and Social Welfare, and Agriculture, and has one Minister Without Portfolio. The DUI heads the Ministries of Justice, Transport and Communication, Education, and Health. One of three Deputy Prime Minister positions was allocated to each of the three parties.

Prior to the September 15 national elections, the ruling VMRO-DPMNE-led government tried to influence the outcome through intimidation of opposition supporters and journalists. During the campaign, there were incidents of intimidation of political candidates and supporters. A local SDSM party leader had a molotov cocktail thrown through his office window. VMRO city bosses threatened to fire municipal employees who voted for the rival SDSM. Local police were used to harass opposition supporters. Prior to the elections, Former Minister of the Interior Boskovski attempted to manipulate the voters list by registering 3,200 ethnic Macedonians who live in Albania (and had recently been issued passports by Boskovski) as "residents" of the headquarters of the Ministry of Interior. Following the conclusion of the elections, VMRO-DPMNE tried to cast doubt on their validity. Former Minister of Interior Boskovski and approximately 10 senior police officers attempted to intimidate the State Election Commission (SEC) President on the night of September 18 in order to prevent her from announcing the election results within the legally mandated 72 hours. Boskovski continued to publicly make claims of forgery and fraud, which were unsubstantiated by international election observers. He also sent police—with a falsified warrant—to raid the ballot printing plant in Prilep on the evening of September 17. Boskovski alleged that hundreds of thousands of additional ballots had been clandestinely printed and fraudulently used. However, his party, the VMRO-DPMNE, had been among those that had previously agreed to destroy the ballots prior to the elections due to a printing error.

On September 9, members of the "Lions" paramilitary unit disrupted an opposition campaign rally in Prilep with gunfire. No one was injured. Prior to the rally, some of the "Lions" and other VMRO-DPMNE supporters tried to block opposition leaders' entrance into Prilep by blocking access roads.

A national census, specifically called for in the Framework Agreement, was carried out in November with EU assistance and oversight. The census enumeration, which met international standards, was accepted by all significant local groups. However, an ethnic breakdown and final results were still pending at year's end. It was decided that broad acceptance of documentation to indicate residence would be accepted as valid identification; sufficient numbers of minority enumerators were hired; and several languages were used on census forms. In accordance with international standards, Macedonian citizens abroad longer than one year were not counted.

The first round of balloting in the presidential election was held in October 1999; there were six candidates on the ballot, representing every major political party, including both ethnic-Albanian parties. International observers reported that the conduct of the first round was satisfactory, and the two candidates who received the most votes advanced to the second round. The ruling VMRO-DPMNE candidate, Boris Trajkovski, gained the majority of the votes cast in the second round in November 1999, but the opposition SDSM candidate claimed fraud and appealed the results. International observers agreed that irregularities occurred in some areas of the country during the second round, and the Supreme Court ruled that the second round should be rerun at 230 predominantly ethnic Albanian polling places. International observers again reported numerous incidents of ballot stuffing and other problems during the December 2001 rerun elections. Claiming that the Government was incapable of conducting a fair vote in the contested areas, the SDSM did not press for another repeat of the voting. President Trajkovski was sworn into office in December 1999.

There were 16 women in the 120-seat Parliament elected September 15, representing an increase from the 9 female members of the previous Parliament. Of the 16, 15 were ethnic Macedonians and 1 was an ethnic Albanian (the first ever). In Muslim communities, particularly among more traditional ethnic Albanians, many women were disenfranchised due to the practice of family/proxy voting through which male family members voted on their behalf (see Section 5). Of the new government installed October 31, 2 of 17 ministers were women.

A number of political parties represented the interests of minorities, including ethnic Albanians, ethnic Turks, ethnic Serbs, and Roma. Four ethnic Albanian parties and a Roma party had members in Parliament; the ruling government coalition included one of the three major ethnic Albanian parties, as well as the Roma party,

a Bosniak party, a Serb party, and a Turk party. The Parliament included 26 ethnic-Albanian members, 1 Macedonian Muslim, 1 Roma, 2 Turks, and 2 Bosniaks.

Some ethnic Albanians and Roma reported that discrimination against them in citizenship decisions effectively disenfranchised them (*see* Section 2.d.).

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of international and domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Reporting by local NGOs on human rights abuses committed during the 2001 conflict was limited and at times one-sided. However, instances of accurate and fair reporting on the conflict increased during the year. Government officials were not always responsive to the views of human rights groups.

There were more than 4,000 registered NGOs, including the MRC, EURO Balkan, FORUM, Transparency International, MOST, Macedonian Helsinki Committee, and many local NGOs devoted to specific purposes, including Roma rights, human trafficking, and voters' rights.

OSCE and EU monitoring missions continued to assist with implementation of the Framework Agreement and work on restoring confidence between ethnic Macedonians and Albanians. NATO's Task Force Fox (TFF) provided security to international confidence building and police monitors. TFF ended its 15-month mission in the country on December 15. Under TFF's guardianship, 93 percent of displaced persons returned to their homes, and police returned to 100 percent of the conflict areas from which they had been expelled. TFF also provided security for the September 15 elections and subsequent government transition. At year's end, TFF had been replaced by a new and smaller NATO operation, "Allied Harmony," but had not yet been replaced by an EU force.

The OSCE led international community efforts to engage the Government on human rights issues. Both the 2001 insurgency and the 1999 Kosovo crisis led many international NGOs to establish new offices in the country; many of these organizations have a strong interest in human rights issues.

On October 25, a trial chamber of the ICTY upheld a May assertion of primacy by the ICTY prosecutor in five alleged war crimes cases. The judiciary signaled its willingness to comply with the instruction to suspend any domestic proceedings dealing with the five cases, but rejected the ICTY prosecutor's request that it also yield primacy over any future war crimes cases to the ICTY. Prior to the trial chamber decision, the judiciary cooperated with ICTY in allowing it to monitor its investigations at Ljuboten and Neprsteno of alleged war crimes. In late November, Skopje's Second Court turned primacy over to the ICTY in four of five potential cases related to the 2001 insurgency. In November the Tetovo court turned primacy in the other case over to the ICTY. Despite an instruction from the ICTY prosecutor to release them, Shkodran Idrizi and Fadilj Ferati, detained as suspects in the Mavrovo Road Workers torture and sexual abuse case, remained in custody until December, when they were released by Skopje's Second Court (*see* Section 1.d.).

The Office of the Ombudsman, established in 1997, processed approximately 2,000 complaints during the year, doubling the caseload from 2001. It received and responded to a disproportionate number of requests from ethnic Macedonians, as compared with those from minorities. In 2000 for the first time, the Ombudsman's office presented the Parliament with a list of its recommendations that had not been accepted or implemented by state bodies. The Parliament responded by passing a resolution ordering the state administration to implement these recommendations; however, little was done to enforce this resolution. The FWA calls upon the Government to substantially strengthen the powers of the Ombudsman. The Ombudsman is to be granted access to all official documents, the power to suspend execution of an administrative act if he determines that the act may be prejudicial to an individual's fundamental rights, and the right to challenge the constitutionality of laws. In March former Canadian Ombudsman Aleck Trawick provided technical expertise to the Ombudsman's Office. In June a comprehensive draft of the Ombudsman Law was proposed; however, implementation of these provisions had not begun by year's end.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution provides for equal rights for all citizens regardless of their sex, race, color of skin, national or social origin, political beliefs, property, or social status. The FWA states that "The principle of nondiscrimination and equal treatment of all under the law will be respected completely. This principle will be applied in particular with respect to employment in public administration and public enterprises, and access to public financing for business development." However, societal

discrimination against ethnic minorities persisted, and the protection of women's rights remained a problem.

*Women.*—Domestic and other violence against women was a persistent and common problem. Legal recourse was available to rape victims, including victims of marital rape. However, cultural norms discouraged the reporting of such violence, and criminal charges on the grounds of domestic violence were very rare. Public concern about violence against women was not evident in the media, although some women's groups were working to raise awareness of the issue. NGOs operated shelters for victims of spousal abuse. A hot line remained open but had limited hours. The Government offered some limited support for victims of domestic violence, but relied heavily on international donor support to maintain a hot line and shelter.

According to some surveys, one out of every fourth woman in the country was a victim of domestic violence, either physical or psychological. The criminal codes did not contain articles that relate to family violence, nor did they actively hold familial perpetrators responsible for abuse. Victims of family violence were often reluctant to bring charges against perpetrators because of the shame this would inflict on the family.

Trafficking in women and girls for prostitution and pornography was a problem (see Section 6.f.).

Sexual harassment of women in the workplace was a problem. The Constitution extends the same legal rights to women as to men; however, society in both the Muslim and Christian communities was patriarchal and the advancement of women into nontraditional roles was limited. Women remained underrepresented in the higher levels of the Government and private sectors, although some professional women were prominent, and a law enacted in 2001 stipulated that women comprise a minimum of 30 percent of each political party's list of candidates for the September 15 parliamentary elections. As a result, the new Parliament had the highest number of women M.P.s in the country's history, including the first ethnic Albanian woman to gain a seat. Women from some parts of the ethnic Albanian community did not have equal opportunities for employment and education, primarily due to traditional and religious constraints on their full participation in society and schools. In some ethnic Albanian communities, some women were disenfranchised due to the practice of family/proxy voting through which men vote on behalf of women family members (see Section 3).

Maternity benefits included 9 months' paid leave, and benefits were fully respected in state organizations in practice. Women also retain the right to return to their jobs for 2 years after giving birth. However, some private firms and organizations have placed restrictions on maternity benefits.

Women's advocacy groups included the Humanitarian Association for the Emancipation, Solidarity, and Equality of Women; the Union of Associations of Macedonian Women; and the League of Albanian Women.

*Children.*—The Government was committed to the rights and welfare of children; however, it was limited significantly by resource constraints. President Trajkovski participated in the U.N. Special Session on Children in New York from May 8 to 10. The Office of the Ombudsman contained a special unit for children, partially funded by UNICEF. Education was mandatory through the eighth grade, or to the age of 15 or 16. However, some children did not enter the education system at all. The Ministry of Education quoted 95 percent enrollment, but no other official data was available on children's school attendance, or the number of children who did not have access to education. Primary and secondary education is free, although students must provide their own books and other materials. Public transportation was subsidized for students. Almost 90 percent of the children that have finished primary school continued on to secondary school. At both the primary and secondary levels, girls in some ethnic-Albanian communities remained underrepresented in schools, and only approximately half of ethnic minority students go to high school. This was due in part to lack of available classes in minority languages at the secondary level, and in part to many rural, ethnic Albanian families' conviction that girls should be withdrawn from school at 14 years of age. According to Romani community leaders, up to 10 percent of Romani children never enroll in school, and of those who do, 50 percent drop out by the fifth grade, and only 35 to 40 percent finish the eighth grade. The Ministry of Education encouraged ethnic-minority students, particularly girls, to enroll in secondary schools. Medical care for children was adequate but was hampered by the generally difficult economic circumstances of the country and by the weak national medical system.

In September approximately 200 ethnic Albanian students boycotted school for several weeks to protest perceived inequities in school facilities for ethnic minorities versus ethnic Macedonians.

Since October approximately 200 ethnic Macedonian students boycotted classes at two public schools in the former crisis region, those at Tearce and Semsevo, because former NLA combatants placed a memorial to a fallen fighter in front of the ethnically mixed schools. Despite continued international community pressure to remove the memorials, they remained with the complicity of local ethnic Albanian leaders. The Semsevo school also was illegally renamed for an ethnic Albanian teacher. In December there was an agreed compromise between the Government and the local community to rename the school after the village. However, at year's end, the bust of the teacher, Jumni Jonuzi, remained in the schoolyard. On December 16, the ethnic Macedonian students of six Tetovar villages began temporarily attending classes in the Siricino Regional school.

In June 2001, several high school students at Negotino high school were beaten in an incident involving the school's principal. The school board had attempted to remove the principal from her position based on Article 93 of the law on secondary education; however, the Education and Science Minister did not formally dismiss her. In response, students and teachers within the high school organized a strike. The six teachers who participated in the strike were dismissed from their positions and replaced, but students continued their protest. The principal's brother and associates assaulted the protesting students. The local chapter of the Helsinki Committee for Human Rights found that this situation violated Article 3 and Article 29 in the Convention of the Rights of the Child. The Helsinki Committee cited the students as victims of the politicized atmosphere in the school and improper administration of the school. In addition, the Education and Science Minister failed to support the school board and discipline the school principal. Prosecutors filed charges against the students' attackers. The case had not been resolved at year's end.

In 1999 the Ombudsman's Office for Children was established and empowered to investigate complaints about violations of children's rights. New legislation addressing shortfalls in the juvenile justice system and reforming the existing law to meet international standards was put forward for government review in December 2001, but was pending at year's end. Additional planned reforms to the Law on Pensions and Health Protection, aimed at addressing child labor, also remained pending at year's end.

There was no societal pattern of abuse against children, although the social service's instruments for collecting and analyzing data in this field remained underdeveloped.

Trafficking in girls for prostitution and pornography remained a growing problem (see Section 6.f.).

*Persons with Disabilities.*—The law prohibits discrimination on the basis of disability; however, in practice this provision was not enforced. Social programs to meet the needs of persons with disabilities existed to the extent that government resources allowed. No laws or regulations mandate accessibility to buildings for persons with disabilities. There was societal discrimination against persons with disabilities.

*National/Racial/Ethnic Minorities.*—The population of approximately 2.04 million was composed primarily of ethnic Macedonians, with a large ethnic Albanian minority, and with much smaller numbers of Turks, Roma, Serbs, Vlachs and others. According to the last census in 1994, ethnic Albanians comprised approximately 23 percent of the population, but ethnic Albanians claimed that they comprised close to one-third of the population. Due to the high number of displaced persons and refugees and a lack of preparation, ethnic Macedonian and ethnic Albanian leaders agreed to postpone a new national census—originally scheduled for January—until November. Although the overall ethnic breakdown was still pending at year's end, the census enumeration was accepted by all local ethnic groups, was timely, was completed without violence, and met international standards (see Section 3).

Inter-ethnic fights and beatings remained commonplace in the country's public schools, and there was an escalation of such violence during the year. In September and October, several ethnic Albanian students were abducted and tortured in Skopje. An October students' protest in Skopje of the killing of an ethnic Macedonian student in Tetovo turned violent. The students beat at least four ethnic Albanians, and vandalized several automobiles. Six students were arrested and the case was pending at year's end. In October a group of ethnic Albanians in Tetovo shot three young male ethnic Macedonians, killing one. Police were still investigating the incident at year's end. This was possibly in retaliation for the police killing of an ethnic Albanian the previous day (see Section 1.a.).

During the year, police received 51 reports of vandalized homes in the ethnic Macedonian villages of Jedoarce, Otunje, and Setole. The ethnic Albanian perpetrators

had not been apprehended by year's end. Also during the year, nine houses in the ethnic Macedonian mountain village of Brezno were reportedly vandalized.

All citizens are equal under the law, and the Constitution provides for enhanced protection of the ethnic, cultural, linguistic, and religious identity of minorities, including state support for education in minority languages through secondary school. The FWA reaffirms these rights and mandates several explicit rights related to use of minority languages, including access for ethnic Albanians to state-funded higher education in their language. However, ethnic tensions and prejudices remained problems and some governmental institutions, particularly the police, discriminated on the basis of ethnicity. Implementation of the Framework Agreement mandated legal changes was slow, and ethnic Albanians and Roma, particularly, continued to complain of widespread discrimination.

Underrepresentation of ethnic Albanians in the military and police was a major grievance in the ethnic Albanian community, but during the year authorities actively began to address the problem with the assistance of the international community. The police force remained overwhelmingly ethnic Macedonian, but progress was made in assigning ethnically mixed patrols to predominantly ethnic Albanian areas. Ethnic Albanians constituted approximately 3.8 percent of the national police force, while ethnic Macedonians constituted 91.9 percent. The Government for several years had set a recruiting quota of 22 percent for enrolling minority students at the police secondary school, but attrition detracted from the anticipated progress. To raise the percentage of ethnic-minority police officers, the FWA called on the international community to train 1,000 new ethnic-minority police officers by July 2003, and for the Macedonian police to incorporate these new recruits into ethnically diverse units. In September 2001, training of these new police officers by international community trainers began, with later training throughout the year conducted by the OSCE. By year's end, 533 new "non-majority" officers had received ICITAP or OSCE basic training. Of that number, there were 437 ethnic Albanians, 6 Bosnians, 1 Croatian, 4 Macedonian Muslims, 30 Romas, 10 Serbs, 40 Turks, and 5 Vlachs. Ninety-nine ethnic Macedonian officers graduated from the international training as well, for a total of 632. Approximately 16 percent of these graduates were female. However, former Minister of Interior Boskovski refused to pay new mostly ethnic Albanian graduates after they entered the police. Shortly after entering office in October, the new Minister of Interior authorized payment to the new recruits.

The military continued efforts to recruit and retain minority officers and cadets. The military was composed mostly of short-service conscripts, drawn from all ethnic groups, although ethnic Albanians tended to evade obligatory military service at a higher rate than did ethnic Macedonians. The proportion of ethnic minorities in the enlisted ranks was estimated to be approximately 15 percent, but the proportion was significantly lower in the professional officer corps. Minorities constituted approximately 10 percent of the total of officers, noncommissioned officers, and professional soldiers; approximately 15 percent of the cadets at the military academy were from ethnic minorities. Ethnic minorities constituted approximately 12 percent of Ministry of Defense civilian employees. The Ministry of Defense stated its intention of raising the percentage of ethnic Albanians to 22 percent during 2003; however, lower than expected applications and higher than normal attrition rates among minority community recruits have hampered these efforts.

The constitutional amendments mandated by the FWA provide that Albanian is to be recognized as a second, official language in areas in which it is spoken by more than 20 percent of the population. The FWA stipulated that the Albanian language would be used officially in Parliament for the first time in October by M.P.s newly elected in September, with interpretation in the Macedonian language provided for ethnic Macedonians and others. The November census was conducted in Albanian and other minority languages. Progress in implementing other FWA mandated use of minority languages was slow. In such areas where ethnic Albanians comprise more than 20 percent of the population, the FWA called for citizens to be able to communicate with local offices of the central government in Albanian and receive responses in the same language. In addition, Albanian-speaking citizens are supposed to be able to receive personal documents in Albanian, and those accused of crimes have the right to translation at state expense of all relevant judicial proceedings and documents. A law on bilingual identification cards was passed, but none had been produced by year's end. The Ministry of Interior was still drafting the law on other travel documents at year's end. The FWA stipulates that, "the local authorities will decide democratically on the use of other minority languages in public bodies." Roma leaders continued to push for the right to use Romani language in official settings, although the FWA does not provide for use of minority languages of communities comprising less than 20 percent of the population.

Ethnic Macedonians held approximately 85 percent of civil service posts; ethnic Albanians held approximately 10 percent; and other minorities held approximately 5 percent. Ethnic minorities complained that they were disproportionately assigned to lower-ranking positions. Only late in the year were greater numbers of professional positions within the civil service opened up to ethnic Albanians as required by the FWA, which stipulates hiring within the civil service based on an ethnic group's percentage of the population.

The Constitution provides for primary and secondary education in the languages of the ethnic minorities, and this provision was reaffirmed in the FWA. Primary education was available in Macedonian, Albanian, Turkish, and Serbian. Albanian-language education remained a crucial issue for the ethnic-Albanian community; it was seen as vital for preserving Albanian heritage and culture. Almost all ethnic Albanian children received 8 years of education in Albanian-language schools. The number of ethnic minority students who received secondary education in their native languages continued to increase. Ethnic Albanians complained that distribution of public educational resources was not proportional to ethnic groups' representation within the general population.

At the university level, ethnic minorities remained underrepresented, although there was progress in increasing the number of minority students. There were eased admission requirements for minorities at the universities in Skopje and Bitola for up to 23 percent of available places, although the quota has not always been filled. Most university education was conducted in the Macedonian language; until 2001 there was Albanian-language university education only for students at Skopje University's teacher training faculty. The FWA required the state to provide publicly funded higher education to ethnic Albanians in their language. In 2001 the private Southeast Europe University was created with OSCE assistance. Classes were conducted in Albanian, English, and Macedonian. Despite complaints about the private university's relatively high prices, enrollment continued to increase.

Ethnic Turks, who make up approximately four percent of the population, also complained of governmental, societal, and cultural discrimination. Their main concerns centered on the lack of Turkish-language education and media. One continuing dispute has been over the desire of parents who consider themselves Turkish to educate their children in Turkish despite the fact that they do not speak Turkish at home.

There were credible reports of occasional police violence and harassment against Roma. Four police officers beat two ethnic Roma on the outskirts of Stip (*see* Section 1.c.). Roma rights organizations accused the police of reinforcing patterns of discrimination by consistently siding with ethnic Macedonian citizens in disputes involving Roma.

There was some Romani-language broadcasting. There were incidents of societal violence against Roma during the year. Roma had the highest rate of unemployment, the lowest personal and family incomes, were the least educated, and had the highest birth and mortality rates of any ethnic group in the country. The Government provided very little in the way of social services to Roma. According to the 1994 census, Roma comprised 2 percent of the population, but Romani leaders claimed that the actual number of Roma was much higher. Optional Romani-language education has been offered at several primary schools since 1996, but there has been limited demand and no pressure for a more extensive curriculum.

In 1999 approximately 6,000 Roma fled Kosovo and took up residence in the country in response to both the Kosovo conflict and the hostility of ethnic Albanian Kosovars, who widely considered the Roma to have supported the Serbs and to have committed theft and other crimes against ethnic Albanians during the crisis. Approximately 2,700 of these Romani refugees remained in the country at year's end. The presence of these Romani refugees was not welcome among Macedonia's ethnic Albanians, who largely shared the view of the ethnic Albanian Kosovars concerning Roma. Ethnic Macedonians also expressed irritation at the new arrivals, many of whom settled in Skopje, and some of whom frequented busy traffic intersections to beg, wash car windows, or sell small items. Roma tended to occupy the lowest economic position of society, and the new arrivals have added to the number of Roma in the ranks of the very poor.

The FWA allows ethnic-minority groups to display their national emblems, next to the emblem of the Republic of Macedonia, on local public buildings in municipalities in which they are a local majority.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right to form trade unions. Independent trade unions have been allowed to organize since 1992, when an Association of Independent and Autonomous Unions was formed, although there

was still a national trade union. The Confederation of Trade Unions of Macedonia (SSM) was the successor organization to the former Socialist labor confederation; it was the Government's main negotiating partner on labor issues, along with the Chamber of the Economy. The Confederation reportedly was independent of the Government and committed to the interests of the workers it represents. More than 50 percent of the legal workforce are unionized, and unions were particularly strong in the garment industry. Trade unions were widespread. The SSM encompassed approximately 14 separate unions organized according to the industry sectors. It has become an interest-based autonomous labor organization. Membership was voluntary and activities were financed entirely by membership fees. Fee-paying members comprised almost 75 percent of all the employed labor force. In recent years, there have been several newly formed unions, including journalists, policemen, and farmers.

The law prohibits antiunion discrimination; however, it existed in practice. Workers at times were fired for participating in union activities, and because of the slow pace of the court system, it at times took 2 to 3 years to legally regain employment.

Unions may affiliate freely with international labor unions and many did so.

*b. The Right to Organize and Bargain Collectively.*—The Constitution implicitly recognizes employees' right to bargain collectively; however, implementing legislation in this area had not been passed at year's end, and the concept of collective bargaining remained in its infancy. Collective bargaining took place, but in the country's weak economic environment employees had very little practical leverage. Collective agreements were negotiated among the unions and the Ministry of Labor and Social Welfare.

The Constitution provides the right to strike. In March the new president of the SSM was elected and unions organized several strikes. In May employees staged a weeklong strike against the public administration to demand minimum wage; the Government agreed to set the minimum monthly salary for State Administration employees at \$84.33 (5,060 denars). During the year, there were frequent work stoppages at many companies. The reasons for the strikes included demands for overdue pay; demands for unpaid contributions for health and retirement; objections to government changes in management personnel at some state-owned entities; and objection to various decisions related to privatization. With a few exceptions (including Nova Makedonija employees blocking roads, the Makedonija Tabak strike turning violent, student strikes that turned violent, and large strikes with 8,000 participants), strikes were small, non-violent, and confined to company grounds.

Members of the police and military are prohibited from striking, but on at least one occasion during the year, police threatened to strike as a bargaining tool with the outgoing government over salary increases, and military pilots also conducted a walk-out to protest government non-payment of salaries.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced and bonded labor, including by children; however, there were reports that child labor was used in the "gray economy" and in illegal small businesses (see Section 6.d.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution sets the minimum age for employment at 15 years, and 17 for work considered hazardous. According to the Law on the Family, a minor (under age 18) under guardianship who is at least 15 does not need the guardian's approval to work and is free to use his/her own salary. Working minors were placed under special protection of the law, which declares that minors may not be employed in work that is detrimental to their health and morality. The Law on Employment also establishes special protection for minors, women, and workers with disabilities. There were no studies or official data on the employment of children under 15, but reported violations of child labor laws increased during the year, and child labor was used in the "gray economy" (including begging on the streets and selling cigarettes and other small items at open markets, in the streets, and in bars or restaurants, sometimes at night) and in illegal small businesses. Such violations received only token punishment, if any, and thus children remained vulnerable to exploitation. Children legally may not work nights or more than 40 hours per week. The Ministry of Labor and Social Welfare was responsible for enforcing laws regulating the employment of children.

In January the Government ratified ILO Convention 182 on the worst forms of child labor. In April 2001, Macedonia signed four conventions of the Council of Europe to protect children. These four conventions had not yet been ratified by Parliament at year's end.

Efforts to eliminate child labor abuse have been largely ineffective, with reported violations of child labor laws increasing over the years. While the necessary legal



infrastructure was in place, there has been little practical implementation of the policy and laws and not much was done to raise public awareness on child labor abuse. The NGO sector was active in organizing workshops on children's rights. There were some programs and projects intended to prevent children from engaging in child labor, such as the Project for Children on the Streets, which organized shelters for abandoned children, and the Ministry of Interior's opening of the Transition Center for women and children involved in prostitution.

*e. Acceptable Conditions of Work.*—By the end of September, the average monthly wage was approximately \$186 (11,160 denars). The minimum wage is set differently across sectors; the average monthly net wage in September exceeded the value of the consumers' average monthly supply of food for a family of four by 14 percent. Therefore, the average wage did not provide a decent standard of living for workers and their families. However, many persons took on supplemental work, often in the "gray market." The Government Statistics Office estimated that 22.3 percent of the population lived below the poverty line.

The country has an official 40-hour workweek with a minimum 24-hour rest period and generous vacation and sick leave benefits. According to labor regulations, an employee is entitled to 18 to 26 days of paid vacation, not including weekends. However, high unemployment and the fragile condition of the economy led many employees to accept work conditions that did not comply with the law. Small retail businesses in particular often required employees to work far beyond the legal limits.

The Constitution provides for safe working conditions, temporary disability compensation, and leave benefits. Although there are laws and regulations on worker safety, they were not enforced strictly. The Ministry of Labor and Social Welfare was responsible for enforcing regulations pertaining to working conditions. Under the law, if workers have safety concerns, employers are obliged to address dangerous situations. Should an employer fail to do so, employees are entitled to leave the dangerous situation without losing their jobs. Employers did not always respect this right in practice.

*f. Trafficking in Persons.*—A new antitrafficking law that went into effect on January 25 criminalizes trafficking in persons and actions associated with trafficking in persons; however, trafficking of women and girls for the purposes of prostitution and pornography remained a problem. According to the Center for Interethnic Tolerance and Refugees, in some isolated instances police were complicit in the trafficking of persons.

Trafficking in persons for the purpose of illegal immigration is not specifically prohibited by the new law but is covered by other immigration regulations. Under the new trafficking law, traffickers are penalized with a minimum of 4 years' imprisonment for most trafficking crimes. A minimum of 6 months' sentence is mandated for the destruction of identification papers of a trafficked person. The same minimum sentence is also mandated for convicts who wittingly used or enabled another person to use sexual services from a trafficked person. Greater penalties were mandated for those who trafficked children.

During the year, charges were brought in at least three cases under the new law. On February 12, police arrested an additional 3 traffickers in the Kumanovo area. The raids led to the rescue of six women. On May 20, the first conviction of four men accused of trafficking in women and children took place. In mid-November, the Kumanovo Court sentenced another trafficker to three years in prison for trafficking women. On December 5, the Ministry of Interior filed criminal trafficking charges against a trafficker from Gostivar and another from Bulgaria. On December 27, Macedonian law enforcement officials conducted raids at bars in Skopje, Ohrid, and Velesta (a town near Struga associated with trafficking), where there was a reasonable suspicion that trafficked women were being held. Preliminary reports indicated that 46 foreign females were detained or arrested and some deported.

In December the Interior Ministry signed a statement of commitment to legalize the status of trafficked persons that promoted a shift from an exclusive arrest-oriented approach to a victim-centered approach. The Government devoted resources to anti-trafficking programs, including an interministerial working group devoted to legal reform, a special police unit dedicated to antitrafficking efforts, and the maintenance of a shelter for victims. The Interior Ministry's Department of Organized Crime had the lead on anti-trafficking efforts and devoted two persons to the issue full-time. The Government routinely cooperated with neighboring governments and international organizations in trafficking cases.

The Ministry of Interior estimated that there were between 500 and 2,000 victims of trafficking in Macedonia at any given time, and that between 8,000 and 18,000 women and girls were trafficked to or through the country per year. Although re-

portedly the country was a transit country and a destination country for trafficked persons, officials have acknowledged that a small number of citizens have been victimized. Some noted that the country had become a destination and cited the influx of personnel and money with foreign/military forces as a major factor. Traffickers recruited or abducted women from other countries, especially Moldova, Romania, and Ukraine, and to a lesser extent, Kosovo and Croatia, to work as prostitutes in several Macedonian towns and to be trafficked through the country on their way to Albania and Kosovo, and then to Italy and other West European countries. Victims were recruited through promises of gainful employment abroad. Many victims were not aware that they were being trafficked. Trafficked women and girls were frequently forced to work in brothels and nightclubs. They were often subjected to violence, including rape, assault, and intimidation.

According to the Center for Interethnic Tolerance and Refugees, police in isolated cases were complicit in trafficking crimes. Instances of corruption and involvement of police in trafficking in persons occurred on the local level. In accordance with the new law, victims rescued from their traffickers by police were no longer immediately deported, but granted an extended stay in the country. Victims were encouraged to provide information about their traffickers for criminal prosecution, and there is a provision for the protection of witnesses. Foreign women arrested for prostitution were usually fined and deported. Police insensitivity was a problem, but sensitivity training for police was slowly changing attitudes. In November the Stability Pact Task Force on Trafficking in Human Beings developed a training curriculum to raise police sensitivity. The Government did not provide funding to NGOs to support victims' services. Most services were provided by the International Organization for Migration (IOM). The Government cooperated with IOM to provide shelter and medical and psychological assistance to trafficked women. Public awareness of the problem was low but was increasing by year's end. As a result of IOM's work, and other international assistance, there was growing engagement of civil society and a referral system and hotline were established.

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## MALTA

Malta is a constitutional republic and a parliamentary democracy. The chief of state (President) appoints as the head of government (Prime Minister) the leader of the party that gains a plurality of seats in the quinquennial elections for the unicameral legislature. The judiciary is independent.

The appointed commissioner who commands the police was under the effective supervision of the Government and may be either a civilian or career member of the force.

The economy was a mixture of state-owned and private industry, with tourism and light manufacturing the largest sectors. It provided residents with a moderate to high standard of living. The country had a population of 393,447 in 2001.

The Government generally respected the human rights of its citizens, and the law and the judiciary provide effective means of dealing with individual instances of abuse. Violence against women remained a problem, and societal discrimination against women persisted; however, the Government took steps to address both issues. Malta was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that government officials employed them.

Prison conditions generally met international standards. Male prisoners were held separately from female prisoners, juvenile offenders were held separately from adult criminals, and pretrial detainees were held separately from convicted prisoners.

The Government permits visits by independent human rights observers; however, there were no reported prison visits during the year. In May 2001, the European Committee for the Prevention of Torture visited the country's main detention facilities. The Committee released a positive report in August.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution and the law prohibit arbitrary arrest and detention, and the Government generally observed these prohibitions. The police may arrest a person for questioning on the basis of reasonable suspicion but within 48 hours must either release the suspect or file charges. Arrested persons have no right to legal counsel during this 48-hour period. Persons incarcerated pending trial were granted access to counsel. Bail normally was granted. Detention cells, which recently were extensively refurbished and upgraded, were in use at police headquarters.

The Constitution prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

In August the Chief Justice and a second judge resigned their judicial position due to bribery allegations made against them involving a prison sentence appeal. As of year's end, criminal corruption charges were outstanding against both officials, and trials were scheduled for 2003.

The President, on the advice of the Prime Minister, appoints the Chief Justice and 16 judges. Judges serve until the age of 65, and magistrates serve until the age of 60. The highest court, the Constitutional Court, interprets the Constitution and has original jurisdiction in cases involving human rights violations and allegations relating to electoral corruption charges. The two courts of appeal hear appeals from the civil Court, court of magistrates, special tribunals, and the criminal court, respectively.

The criminal court, composed of a judge and nine jurors, hears criminal cases. The civil court first hall hears civil and commercial cases that exceed the magistrates' jurisdiction; the civil court's second hall offers voluntary jurisdiction in civil matters. The court of magistrates has jurisdiction for civil claims of less than \$2,360 (2,179 euros) and for lesser criminal offenses. The juvenile court hears cases involving persons under 16 years of age.

The Constitution provides for the right to a fair public trial before an impartial court, and an independent judiciary enforces this right. Defendants had the right to counsel of their choice or, if they could not pay the cost, to court-appointed counsel at public expense. Defendants enjoyed a presumption of innocence, may confront witnesses, present evidence, and had the right of appeal.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice; violations were subject to effective legal sanctions. Police officers with the rank of inspector and above were allowed to issue search warrants based on reasonable grounds for suspicion of wrongdoing. Under the law, special powers such as telephone tapping are available to the security services only under specific written authorization of the Minister for Home Affairs or the Prime Minister; such actions were permitted only in cases related to national security, including combating organized crime. A special commission and security committee examined these authorizations; the Prime Minister, the Leader of the Opposition, and the Ministers for Home and Foreign Affairs sat on this committee and oversaw the service's work.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, the law bans foreign participation in local politics during the period leading up to elections, although this provision rarely was used. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press, including academic freedom.

Diverse views were expressed in four daily newspapers, and 10 weekly newspapers, including 6 Sunday editions. A total of 6 television stations, a commercial cable network, and 19 radio stations functioned freely. Internet access was available and unrestricted.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Constitution establishes Roman Catholicism as the State religion. The Government and the Catholic Church participated in a foundation that finances Catholic schools. While religious instruction in Catholicism was available in all state

schools, the Constitution established the right not to receive this instruction if the student (or guardian, in the case of a minor) objects.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice. In 2001 the Government rescinded a court order prohibiting the departure from the country of anyone who was the subject of a formal complaint that alleged non-fulfillment of a legal obligation, such as the nonpayment of a debt or nonsupport of an estranged spouse.

The Refugee Act of 2000 provides for the granting of refugee or asylum status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR). The law provides for refugee status, access to free social services and education,

residence permits, and travel documents. Work permits for refugees were issued on a case-by-case basis. A 2001 law expanded due process and the protection available to refugees applying for asylum and established a refugee commission and an appeals board to review asylum applications.

The Government provides for first asylum.

During the year, the refugee commission received 194 applications for refugee status. It approved 9 of these and refused 176. Seven remained pending, and two were withdrawn at year's end. Of the 176 refused cases there were 60 persons, including 22 children, who were offered temporary humanitarian protection because of difficulties in returning to their homeland.

There were no reports of the forced return of any persons to a country where they feared persecution.

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

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

There were 6 women in the 65-seat House of; one held ministerial rank in the 14-member Cabinet. There were four women in the Magistrates' Court. The Government has taken steps to include more women in the civil service and other government positions, and 8 to 10 percent of senior government officials were female; 11 women were serving as chairpersons on appointed government boards at year's end. In July the Government appointed its first woman Ambassador; she serves as diplomatic envoy to Spain.

### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

### *Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution and law prohibit discrimination based on race, place of origin, political opinion, color, creed, or sex. Alleged victims of job discrimination were allowed to apply directly for redress to the Employment Commission of the first hall of the Civil Court in the appropriate jurisdiction.

*Women.*—Domestic violence against women was a problem. Between January and July, the Police Domestic Violence Unit received 113 reports of domestic violence, compared with 185 reports in 2001. A special police unit and several voluntary organizations provided support to victims of domestic violence. There was a hotline to assist victims of abuse through counseling and referrals to legal assistance shelters. The Government provided support to victims of domestic violence through the Department of Welfare for the Family and its Social Welfare Agency known as Appogg. Early in the year, the Government contributed to the setting up of a shelter for women and children who might have become homeless for various reasons. The Government also maintained an emergency fund and subsidizes shelters. The Government also provided financial support to a shelter operated by the Catholic Church. In 1998 the Government set up a committee to review existing family legislation and propose amendments dealing with domestic violence; however, no new legislation had been enacted by year's end.

Rape and violent indecent assault carry sentences of up to 10 years' imprisonment. The law treats spousal rape in the same manner as other rape. Divorce is not legal.

Prostitution is a serious offense under the law, and stiff penalties are reserved for organizers. Although exact figures were not available, there were some prosecutions during the year.

The Constitution provides that all citizens have access, on a nondiscriminatory basis, to housing, employment, and education; however, while women constitute a growing portion of the work force, they were underrepresented in management. Cultural and traditional employment patterns often directed women either into traditional "women's jobs" (such as teachers or nurses) or into jobs in family-owned businesses or select professions (academia or medicine). As a result, women generally earned less than their male counterparts.

Women's issues were handled by the Department for Women in Society and the National Commission for the Advancement of Women under the Minister of Social Policy. The Commission's program for 2001 focused on broader integration of women into society. It advised the Government on the implementation of policies in favor of equality of the sexes. The Department for Women in Society was responsible for the implementation of initiatives and guidelines set by the Commission.

Women enjoyed equality in matters of family law and the Government promoted equal rights for all persons regardless of sex. The Government took steps to provide gender-neutral legislation, and redress in the courts for sexual discrimination was available.

*Children.*—The Government was committed strongly to children's rights and welfare. It provided free, compulsory, and universal education through age 16. The Government provided universal free health care to all citizens.

The Government addressed concerns for children's rights and welfare within family law.

There was no societal pattern of abuse of children, and the number of reported cases of child abuse decreased from the previous year. As of the end of June, 468 cases of child abuse had been reported. A "helpline" telephone number existed for reports of suspected cases of child abuse.

*Persons with Disabilities.*—The law provides for rights for persons with disabilities. The 2000 Persons with Disabilities Act built on provisions in the public employment and accessibility laws and requires the private sector to apply equal employment guarantees already in place in the public sector. For example, private development project plans must include access for persons with disabilities. Efforts continued during the year to provide children with disabilities with access to mainstream schools as opposed to segregated schools. The Employment Training Corporation was responsible for registering unemployed persons with disabilities to ensure compliance with the law, which requires that every company employing more than 20 persons hire at least 2 percent of its workforce from the Register for Unemployed Disabled Persons.

*National/Racial/Ethnic Minorities.*—In 2000 there were approximately 2,000 Muslims living in the country. Owners of some bars and discos periodically discouraged or prohibited darker-skinned persons, especially of African or Arab origin from entering their establishments.

In May the Government amended the Criminal Code, making racial hatred a crime. In November a court convicted the editor of an independent newspaper and a former columnist of racial hatred, following the publication of an article earlier in the year.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides workers with the right to associate freely, and workers exercised this right in practice. There were 38 registered trade unions, representing about 63 percent of the work force. Although all unions were independent of political parties, the largest, the General Workers' Union generally was regarded as having close informal ties with the Labour Party.

Under the law, the responsible minister may refer labor disputes either to the Industrial Tribunal (a government-appointed body consisting of representatives of government, employers, and employee groups) or to binding arbitration. The International Labor Organization (ILO) Committee of Experts for many years has criticized a provision of the law that permits compulsory arbitration to be held at the request of only one of the parties, in contravention of ILO Convention 87.

Under the law, an employer may not take action against any employee for participation or membership in a trade union. Complaints were allowed to be pursued through a court of law, through the Industrial Tribunal, or through the Tribunal

for the Investigation of Injustices (presided over by a judge of the Superior Court); however, most disputes were resolved directly between the parties. Workers fired solely for union activities must be reinstated. There were no reports of such firings during the year.

There is no prohibition on unions affiliating internationally, and many unions have such affiliations.

*b. The Right to Organize and Bargain Collectively.*—Workers are free, in law and practice, to organize and bargain collectively. In September 2001, the Government established the Malta Council for Economic and Social Development as an advisory body between the Government, unions, and employers. It may also consult other organizations to advise on issues related to the economic and social development.

Workers had the right to strike. Only noncivilian personnel of the armed forces and police were prohibited from striking. In principle a striking union was allowed to ignore an unfavorable decision of the Industrial Tribunal by continuing to strike on other grounds.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law prohibits the employment of children younger than age 16. The Department of Labor enforced the law effectively, but allowed summer employment of underage youth in businesses operated by their families; some underage children were employed as domestics, restaurant kitchen help, or vendors.

*e. Acceptable Conditions of Work.*—The weekly minimum wage was \$111.70 (103 euros) for persons under age 17; \$114.58 (106 euros) for 17-year-olds; and \$121.47 (112 euros) for persons aged 18 and over. In addition, an annual mandatory bonus of \$520 (480 euros) was paid. This minimum wage structure provided a decent standard of living for a worker and family with the addition of government subsidies for housing, health care, and free education. Wage Councils, composed of representatives of government, business, and unions, regulated work hours; for most sectors the standard was 40 hours per week, but in some trades it was 43 or 45 hours per week.

Government regulations provide for a daily rest period, which was normally 1 hour, and 1 day of rest per week. The law mandates an annual paid vacation of 4 workweeks plus 4 workdays. The Department of Labor generally enforced these requirements.

Enforcement of the Occupational Health and Safety Authority Act was uneven, and industrial accidents remained frequent. Workers were allowed to remove themselves from unsafe working conditions without jeopardy to their continued employment.

*f. Trafficking in Persons.*—In May the Government amended the criminal code, prohibiting trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country.

The White Slave Traffic Ordinance and the Criminal Code prohibit procurement for prostitution, pornography, sexual offenses, defilement of minors, illegal detainment, unlawful carnal knowledge, and indecent assault. Traffickers may be prosecuted under the criminal code or under the Immigration Act for unlawful entry or unregulated status. In 2001 the penalty was increased for illegal transportation of persons.

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## MOLDOVA

The Constitution of Moldova, adopted in 1994, provides for a multiparty representative government with power divided among a president, cabinet, parliament, and judiciary. Parliament amended the 1994 Constitution in July 2000 transforming the country into a parliamentary republic and changing the presidential election from a popular to a parliamentary vote. In December 2000, after several tries, Parliament was unable to elect a president, and President Petru Luchinschi dismissed the Parliament. In February 2001, parliamentary elections were held, which resulted in a new communist-majority Parliament and government. International observers considered the parliamentary elections to be generally free and fair; however, authorities in the separatist Transnistria region interfered with the ability of residents there to vote. In April 2001, Parliament elected Communist Party leader Vladimir Voronin as President. The Constitution provides for an independent judi-

ary; however, observers reported that judges remained subject to outside influence and corruption.

In 1991 separatist elements, assisted by Russian military forces in the area, declared a "Dniester Republic" in Transnistria between the Dniester River and Ukraine. The Moldovan government does not control Transnistria. Unless otherwise stated, all references herein are to the rest of the country.

The Ministry of Internal Affairs has responsibility for the police. The Information and Security Service (ISS) controls the other security organs, except for the Border Guards, which are a separate agency. The Constitution assigns to Parliament the authority to investigate the activities of the Ministry of Internal Affairs and the ISS and to ensure that they comply with existing legislation. The ISS has the right to investigate crimes but not to arrest individuals. There were reports that the security forces committed some human rights abuses.

The country has a population of approximately 4.35 million, of whom approximately 750,000 live in Transnistria. The Government was engaged in a program of privatization; agriculture, the most important economic activity, largely has been privatized. The majority of manufacturing sector enterprises were owned privately, but small equity positions (even 5 to 10 percent) gave the Government disproportionate influence in the affairs of these enterprises. Most small shops and virtually all service sector businesses were owned privately. The "shadow economy" reportedly accounted for 30 to 70 percent of the economy. According to government statistics, approximately 82 percent of the population lived below the officially designated "subsistence minimum."

The Government generally respected the human rights of its citizens; however, there were problems in some areas, and the human rights record of the Transnistria authorities was poor. Citizens generally have the right to change their government, although this right was restricted severely in Transnistria. The Government allegedly engaged in extralegal maneuvering to remove the popularly elected governor of the autonomous region of Gagauzia. There were some reports that authorities tortured and beat persons, particularly persons in police custody and Roma. Prison conditions remained harsh, with attempts to improve them hampered by lack of funding. The judicial system, while underfunded and subject to outside influences and corruption, continued to demonstrate independence from the Government and Parliament. It is believed widely that security forces monitored political figures, used unauthorized wiretaps, and at times conducted illegal searches. There were some restrictions on freedom of the press, including defamation and calumny laws that encouraged self-censorship. There were legal limits on freedom of association. Religious practice generally was unrestricted; however, a few religious groups encountered difficulties in obtaining official registration. On several occasions, individuals who claimed asylum were detained in the transit zone at the airport without access to legal counsel or to the U.N. High Commission for Refugees (UNHCR). Violence and societal discrimination against women and Roma persisted. There were some limits on workers' rights. Trafficking in women and girls continued to be a very serious problem that began receiving greater attention from the Government. Moldova was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

The Transnistrian authorities reportedly continued to use torture and orchestrated a serious physical attack against an NGO leader on at least one occasion. Arbitrary arrest and detention remained a problem. Prison conditions in Transnistria remained harsh, and three ethnic Moldovan members of the Ilascu group remained in prison despite charges by international groups that their trials were biased and unfair. Human rights groups were not permitted to visit prisoners in Transnistria. The Transnistrian authorities harassed independent media, restricted freedom of association and of religion, and discriminated against Moldovan/Romanian-speakers.

#### RESPECT FOR HUMAN RIGHTS

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

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

There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents in the country or its separatist region.

*b. Disappearance.*—There were two reports of politically motivated disappearances.

Member of Parliament and Deputy President of the opposition Popular Christian Democratic Party (PPCD) Vlad Cubreacov disappeared on March 21 and reappeared in good health on May 25. The disappearance has not been explained, but Cubreacov was actively involved in organizing PPCD-led anti-Communist protests,

has worked as counselor for the Bessarabian Metropolitan Church, and has been a loud and critical voice in the country's delegation to the Council of Europe's Parliamentary Assembly.

On August 2, Deputy Director of the Department of Informational Technologies Petru Dimitrov was kidnaped and remained missing at year's end. Law enforcement officials stated that witnesses saw two men kidnaping Dimitrov.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture and other cruel, inhuman, or degrading treatment or punishment; however, there were allegations that police arrest and interrogation methods were cruel and degrading and unconfirmed reports by inmates that prison guards beat them.

On March 7, officers of a special detachment of the Ministry of Interior Affairs allegedly beat and detained Gagauz official, Ivan Burgudji (*see* Section 1.d.).

The European Roma Rights Center reported that law enforcement officials regularly subjected Roma to torture or other cruel, inhuman, or degrading treatment or punishment (*see* Section 5).

The Chisinau municipal Prosecutor's Office began investigating the case of violent clashes in Chisinau between police and students in 2001, but it has never released the results and the case was suspended during the year.

The Helsinki Committee reported that local authorities used torture in Transnistrian Prison Number Two during a military training exercise there in August 2001. According to the Helsinki Committee, approximately 50 convicts sustained injuries during these "lessons in behavior." Transnistrian authorities and part of the Transnistrian press denied that soldiers tortured the prisoners.

There were unsubstantiated reports by local nongovernmental organizations (NGOs) of involvement by government officials in the trafficking of women and girls (*see* Section 6.f.).

Conditions in most prisons in both Transnistria and the rest of the country remained harsh with serious overcrowding. Cell sizes did not meet local legal requirements or international standards. Conditions were especially harsh in prisons used to hold persons awaiting trial or sentencing. As of September 1, 3,020 individuals were awaiting trial (*see* Section 1.d.). These prisons suffered from overcrowding, bad ventilation, and a lack of recreational and rehabilitation facilities. Conditions for those serving sentences were only marginally better. The incidence of malnutrition and disease, especially tuberculosis, was high in all prison facilities. The medical section of the Department of Penitentiaries released figures at year's end showing that 1,035 inmates had active tuberculosis and 191 had HIV/AIDS. The mayor of the Transnistrian-controlled city of Benderi insisted that the central Ministry of Justice abandon a hospital-prison for tuberculosis-infected inmates in his city. Benderi authorities intermittently cut off utilities to the prison, blocking them permanently in late September. Attempts to improve prison conditions continued to be frustrated by a lack of financing. Abuse of prisoners by other prisoners or by jailers themselves, ostensibly for disciplinary reasons, was reduced by the dismissal or retirement of some of the worst offending guards; however, the practice likely continued at diminished levels.

Female prisoners were held separately from male prisoners. According to UNICEF, the country had only one small facility, similar to a detention camp, for juveniles convicted of crimes, and one women's prison had a small section for juvenile girls. There is no juvenile justice system (*see* Section 1.e.). Children accused of crimes usually were tried by the criminal courts and, if sentenced, sent to adult prisons where they were held in separate cells. Pretrial detainees were held separately from convicted prisoners, although according to one report, there were cases in which convicted prisoners remained in pretrial detention facilities after conviction due to over-crowding in prisons.

In general both government and independent human rights observers were permitted to visit prisons. The Moldovan Center for Human Rights made regular prison visits during the year. The Government has cooperated with the International Committee of the Red Cross (ICRC) in the past, permitting visits to prisoners from the 1992 conflict; however, an ICRC request for permission to visit the Ilascu Group, imprisoned in Transnistria, was denied.

*d. Arbitrary Arrest, Detention, or Exile.*—The Soviet Code on Penal Procedure, which prohibits arbitrary arrest and detention, has remained in force with some amendments since before independence, and authorities generally respected its provisions. On April 18, Parliament adopted a new Penal Code, which was scheduled to come into effect on January 1, 2003. Experts from the Organization for Security and Cooperation in Europe (OSCE) and the American Bar Association/Central and Eastern European Law Initiative assisted a parliamentary commission in drafting



the new code. Judges issued arrest warrants based on cases presented by prosecutors.

Under the Constitution and the Penal Procedure Code, detainees must be informed immediately of the reason for their arrest and must be made aware of the charges against them as quickly as possible. As a result of a constitutional change that took effect in August 2001, a suspect may be detained without charge for 72 hours, an increase from 24 hours. Under the Constitution, the accused has the right to a hearing before a court regarding the legality of his arrest.

A suspect normally is allowed family visits and has the right to a defense attorney throughout the entire process (*see* Section 1.e.). The attorney must be present when the charges are brought. Many lawyers pointed out that access to a lawyer generally was granted only after a person had been detained for 24 hours, and often the accused were presented with the charges against them without the presence of a lawyer.

If charged, a suspect may be released on personal recognizance pending trial. No system of bail exists, but in some cases, to arrange release, a friend or relative was allowed to give a written pledge that the accused will appear for trial. Suspects accused of violent or serious crimes generally were not released before trial.

On March 7, Gagauz official and well-known Gagauz nationalist, Ivan Burgudji, was beaten and arrested in his local government office by what is believed to have been a special detachment of the Ministry of Internal Affairs. A week earlier he and two other local officials were charged with disrupting a February 24 referendum organized in the region by pro-Communist local leaders to attain a popular vote of no confidence in then-Governor of Gagauzia, Dmitry Croitor. However, the official charges for his arrest were "abuse of power" and "malicious hooliganism." Burgudji was held until April 17, when he was released on bail. The case against him was still ongoing at year's end. Because the February 24 referendum was not organized in accordance with national legislation, critics charged that political reasons led to the charges and Burgudji's detention.

Local and international NGOs reported arbitrary detention and arrests of Roma without cause or warrants, often without access to a lawyer (*see* Section 5).

The Constitution and the Penal Procedure Code permit pretrial detention for an initial period of 30 days, which a court may extend to 12 months. Parliament may also approve the extension of pretrial detention to 12 months on an individual basis. Detentions of several months were fairly frequent, and in some rare cases pretrial detention was extended for several years. At year's end, according to figures provided by the Ministry of Justice, 3,020 persons of a total prison population of 10,837 were held in confinement awaiting trial. The total prison population of minors was 251. On several occasions, individuals who claimed asylum were detained in the transit zone at the airport without access to legal counsel or to the UNHCR (*see* Section 2.d.).

At times during the year, the Transnistrian authorities used a 1994 decree to impose a "state of emergency" in the region that allowed law enforcement officials to detain suspects for up to 30 days, reportedly without access to an attorney. Such arbitrary detention procedures usually were applied to persons suspected of being critical of the regime and sometimes lasted up to several months. According to a credible report by Amnesty International (AI), many such persons were held in pretrial detention in Transnistria during the year. The decree was formally lifted in October 2001; however, the authorities in Transnistria continued to exercise arbitrary detention as common practice. The most recent example of this was the 2-week August detention of Nicolae Speian, director of the Grigoriopol-based school using the Latin script for instruction of Romanian/Moldovan (*see* Section 2.a.). Speian was charged with hooliganism for insulting the Chairman of the Grigoriopol district and received an administrative punishment of 15 days of detention.

The law prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, many observers believed that arrears in salary payments made it difficult for judges to remain independent of official pressure and free from corruption. On July 25, Parliament passed a salary increase for all judges and prosecutors that went into effect on November 1.

The Constitutional Court showed strong signs of independence during the year. The Court issued a number of rulings balancing out several controversial initiatives of the Communist authorities that both the opposition and the Parliamentary Assembly of the Council of Europe (PACE) criticized. These included two decisions resulting in the annulment of the most controversial parts of a retrogressive Soviet-style territorial-administrative change: A March 14 decision struck down key parts of the public administration law, including the provision that mayors no longer be popularly elected; and a February 19 decision led to the cancellation of early local

elections. The Court also struck down provisions regarding an increased use of the Russian language, which helped relieve the tense situation between authorities and the opposition during months of protests (*see* Section 2.b.). The Court's decisions generally were regarded as fair and objective; however, critics charged that the Government's reappointment decisions were based on judges' political loyalty. Critics frequently charged that other courts were corrupt or politically influenced, but these charges remained hard to prove.

The judiciary consists of lower courts, five appellate courts (tribunals), a Higher Court of Appeals, and a Supreme Court. The Supreme Court supervises and reviews the activities of the lower courts and serves as a final court of appeal. A separate Constitutional Court has authority exclusively in cases regarding the constitutionality of draft and final legislation, decrees, and other government acts.

The Constitution provides that the President, acting on the nomination of the Superior Court of Magistrates, appoints judges for an initial period of 5 years. This provision for tenure was designed to increase judicial independence. Beginning in 2000, judges being considered for reappointment have been required to take a specialized training course at the Judicial Training Center, after which they were subject to tests evaluated by the Superior Council of Judges. The results were considered when making reappointment decisions. This process was designed to increase the professionalism of the judges.

The Prosecutor General's office is an autonomous office within the judiciary branch that answers to Parliament. Since 1997 prosecutors have had the right to open and close investigations without bringing the matter before a court, which gave them considerable influence over the judicial process. The Prosecutor General's office is responsible for criminal prosecution, the presentation of formal charges before a court, and the overall protection of the rule of law and civil freedoms.

There is no juvenile justice system (*see* Section 1.c.). Children accused of crimes usually were tried by the criminal courts.

By law defendants in criminal cases are presumed innocent; however, in practice prosecutors' recommendations still carried considerable weight and limited the defendant's actual presumption of innocence. Trials generally were open to the public. Defendants have the right to a lawyer and the right to attend proceedings, confront witnesses, and present evidence. If the defendant cannot afford an attorney, the Government requires the local bar association to provide one. Because the Government was unable to pay ongoing legal fees, defendants often did not have adequate legal representation. Prosecutors occasionally used bureaucratic maneuvers to restrict lawyers' access to clients. Defense attorneys were able to review the evidence against their clients when preparing cases. The accused has a right to appeal to a higher court. The Constitution provides for the right of the accused to have an interpreter both at the trial and in reviewing the documents of the case. If the majority of the participants agree, trials may take place in Russian or another acceptable language instead of Moldovan/Romanian.

Due to a lack of funding for adequate facilities and personnel, there was a large backlog of cases at the tribunal and Higher Appeals Court levels. According to the Justice Ministry, only approximately 75 percent of all court rulings were carried out due to the economic crisis, a lack of judicial and prosecutorial resources, and the absence from the country of many working-age individuals against whom judgments were levied.

There continued to be credible reports that local prosecutors and judges extorted bribes for reducing charges or sentences. There was no progress in the case of the 2001 request by the Prosecutor General to dismiss a judge so that he would lose immunity and could be prosecuted; the judge had freed an alleged leader of an organized crime group specializing in targeted killings and kidnappings, reportedly for a large bribe.

The country has a military justice system, whose courts have generally the same reputation as civilian courts. A military prison, used only for disciplinary cases for members of the armed forces, is housed at Marculesti air force base.

In Transnistria three ethnic Moldovan members of the Ilascu Group remained in prison following the May 2001 release of their leader. The European Court of Human Rights (ECHR) has not yet ruled on a case that the wives of the Ilascu Group filed in 1999 against Moldova and Russia and did not withdraw after the leader's release last year. Ilascu, who subsequently became a Romanian parliamentarian, and international organizations continued to urge the Transnistrian authorities to release the remaining members of the Ilascu Group or retry them in a proper court under international monitoring, despite a decrease in public attention following Ilascu's release. Transnistrian authorities denied the ICRC's repeated requests during the year for permission to see these prisoners (*see* Section 1.c.).

There were no reports of political prisoners other than those in Transnistria.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, the Government did not respect these prohibitions in practice.

No judicial review exists for search warrants, which prosecutors issue. It was believed widely that the security agencies conducted illegal searches without proper authorization. Courts did not exclude evidence that was obtained illegally. The Constitution specifies that searches must be carried out “in accordance with the law” but does not specify the consequences if the law is not respected. The Constitution also forbids searches at night, except in the case of flagrant crime, and this prohibition generally was respected. By law the prosecutor’s office must authorize wiretaps and may do so only if a criminal investigation is underway; however, in practice the prosecutor’s office lacked the ability to control the security organizations and the police or to prevent them from using wiretaps illegally. It was believed widely that security agencies continued to monitor residences and telephones electronically.

Since September 2001, police reportedly informed persons of Middle Eastern origin that they were being monitored carefully. As of September, police again reportedly enhanced their surveillance of foreign Muslim students.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution and the law provide for freedom of speech and of the press; however, there were some restrictions on these rights. The Government generally did not limit freedom of speech; however, it used provisions of the electoral law and a calumny law against some critics, and journalists practiced some self-censorship. Nevertheless there was an active independent media.

The print media expressed a wide variety of political views and commentary. National and city governments subsidized a number of newspapers. Political parties and professional organizations, including trade unions, also published newspapers. Most newspapers had a circulation of fewer than 5,000 copies. There were several independent radio stations, including one religious station, with some stations rebroadcasting programs from Romania and Russia. Three independent television stations operated in the Chisinau area and one in the city of Balti. The Chisinau licensed stations mostly rebroadcast programs from other stations, along with local news shows and some of their own programs. The Government owned and operated several radio stations and a television station that covered most of the country. Some local governments, including Gagauzia, operated television and radio stations; however, during the year central authorities sought to limit Gagauz media independence.

The number of media outlets that were not owned and operated publicly by the State or a political party grew. However, most of these independent media remained in the service of and secured large subsidies from political movements, commercial or ethnic interests, or, until last year, foreign governments. In July 2001, Parliament amended the Press Law to prohibit funding or support of Moldovan publications by foreign governments. Observers presumed that the amendment was aimed at Romanian government support for opposition groups; however, the new prohibition also may apply to publications funded as part of international aid programs and potentially could hinder human rights groups, foreign donors, sponsors of democratization projects, and other nonpolitical organizations. At year’s end, no cases had been opened against any publications for receiving financial support directly from foreign donors. Romanian-supported publications circumvented the law by receiving funds from “foundations” created for this purpose, while the Government has not attempted to prosecute publications receiving direct funds from other states.

The state-run Audio-Visual Council (AVC) requires cable television companies to carry state television shows. In February 2001, Catalan-TV, an independent station that was in arrears for nonpayment of its station license fees, ceased operations after the AVC withdrew its license, ostensibly because of the arrears. However, observers noted that despite repeated warnings, Catalan had continued broadcasting materials during the parliamentary elections that were in violation of the electoral law, which limits broadcasting time to each party.

A 1995 law requires that a minimum of 65 percent of broadcasting be in the state (Moldovan/Romanian) language. In August 2000, the AVC issued citations to several radio and television channels and threatened to revoke their licenses for their failure to respect this requirement. This action led to renewed controversy over the status of the Russian and Moldovan/Romanian languages (see Section 5). In 2000 following protests from both domestic and foreign groups, Parliament approved an interpretation of the law that 65 percent of locally produced content, rather than 65 percent of total airtime, had to be in the state language. In 2001 Parliament also

eliminated the legal requirement that all advertisements be accompanied by a translation in the state language and allowed advertisers to use any language.

Although the Constitution restricts press freedoms and some speech by forbidding "disputing or defaming the State and the people," these restrictions lack implementing legislation and were not invoked. However, a calumny law prohibits defaming high-level public officials. In the past, criticism of public figures resulted in a number of lawsuits. As a consequence, journalists practiced self-censorship to avoid lawsuits. The Supreme Court in 1999 overturned an article in the Civil Code that allowed public figures to sue for defamation without distinguishing between their public and private persons. Under this ruling, parties filing lawsuits must prove that the information was false and defamatory and published recklessly or with intentional malice. Since then, plaintiffs generally have lost in cases in which suits have been filed against journalists and media organs. Under the calumny law, the Prosecutor General investigated and prosecuted the former head of the Department to Combat Corruption and Organized Crime, General Nicolae Alexei, who had become a parliamentary deputy and a member of the opposition Christian Democratic Party. Many observers believed that this affiliation was the real reason for his being charged. The Supreme Court of Justice did not rule on Alexei's case by year's end.

The Constitution prohibits censorship, and the Government officially did not censor books, films, or any other media; however, members of Parliament and other government officials often contacted a media outlet with complaints about their reporting, which usually resulted in the criticism being toned down. On February 26, an estimated 4,000 demonstrators, including many employees of state television, protested what they termed censorship by the national public broadcasting company "Teleradio-Moldova." They protested the station's failure to cover antigovernment demonstrations in downtown Chisinau and its exclusion of opposition viewpoints from broadcasts. A special commission was formed on March 7 to address these charges. In an effort to comply with a Council of Europe recommendation for the creation of an independent public broadcasting system, on July 26, Parliament adopted a new law on the national public broadcasting company "Teleradio-Moldova." The law nominally transformed the state broadcasting company into an independent public television and radio broadcaster; however, articles 12 through 19, which outline the administrative structure of the company, suggest that the Government maintains significant control. Critics and PACE urged authorities to revise the law based on input from associations representing the media and the political opposition and the recommendations on the Council of Europe.

Print and broadcast journalists reportedly practiced self-censorship regularly due to government and public figures' use of the electoral and calumny laws to sue for defamation and complaints from authorities of news coverage.

In November 2001, the Government charged an independent publication, *Kommersant Moldovy*, with being a danger to state security for its alleged support for the separatist Transnistria regime and closed it on the grounds that it was having financial troubles. The paper re-opened under the name *Kommersant Plus* only a few days later and maintained a pro-Transnistrian political view.

The Government did not restrict foreign publications. However, some foreign publications were not widely circulated due to high costs. Russian newspapers were available, and some published special Moldovan weekly supplements. The country received television and radio broadcasts from Romania, France, and Russia. A small number of cable subscribers received a variety of other foreign television programs, including news programs. Few residents had satellite television. Parliament has prohibited the use of locally based foreign media outlets for political campaigning.

In 2000 legislation was passed giving the public access to information from government organizations; however, few individuals knew of this right and government organizations largely did not comply with the law, claiming a lack of resources.

The Government did not limit Internet access. Private Internet accounts were prohibitively expensive; however, Internet cafes were plentiful in major cities.

Of the two major newspapers in Transnistria, one was controlled by the separatist authorities, and the other by the Tiraspol city government. There was one independent weekly newspaper in Benderi and another in the northern Transnistrian city of Ribnitsa. At times the independent newspapers criticized the Transnistrian regime, for which the separatist authorities harassed them. Other print media in Transnistria did not have a large circulation and appeared only on a weekly or monthly basis; some of them also criticized local authorities. Most Moldovan newspapers did not circulate widely in Transnistria, although they were available in Tiraspol.

The Government did not restrict academic freedom; however, during the year Transnistrian authorities increasingly pressured schools in the region teaching Moldovan/Romanian in Latin script (rather than Cyrillic script used in Soviet

Moldova) and using the curriculum of the central Ministry of Education (*see* Section 1.d.). Authorities sanctioned a public school in Grigoriopol for clandestinely teaching in Latin script after petitions by a joint parent-teacher group to the local authorities proved unsuccessful. In September the Grigoriopol school was shut down, after which children took day trips to another city. In December the parents of these children were threatened with dismissal from their jobs in enterprises and institutions run by the Transnistrian authorities. Regional authorities repeatedly proposed evacuating schools No. 12 in Ribnitsa and No. 20 in Tiraspol and moving the students to locations outside the city center.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected this right in practice. Mayors' offices issue permits for demonstrations and may consult the national government if a demonstration is likely to be extremely large; permits were issued routinely and without bias.

From January 9 to April 29, the opposition PPCD organized unauthorized protests against certain policies of the Communist authorities, such as measures to make Russian a second official language, extension of the teaching of Russian language in schools, and changing the history curriculum in schools from the current "History of the Romanians" course to a "History of Moldova" course. Protesters, who called for the resignation of the Communist party leadership, numbered at various times between several hundred and an estimated 30,000 supporters, though the opposition-controlled press greatly inflated the numbers. Smaller demonstrations took place in several towns across the country. During the last 4 weeks of demonstrations, protesters stayed around-the-clock in tents in front of the Parliament and the Presidential office buildings, blocking traffic on the central street. The PPCD asserted that the police impeded supporters from outside Chisinau from entering the city, but the demonstrations took place without interference from the police, and there were no reports of violent clashes.

On April 24, tensions between the authorities and the PPCD decreased, and the protests ended after the Council of Europe adopted a resolution recommending that the PPCD cease its protests and that authorities introduce a moratorium on pushing new legislation on language and history issues, suspend criminal proceedings against PPCD M.P.s, and broaden opposition rights. Using the ambiguity of certain provisions in the Law on the Status of Deputies that pertained to parliamentarians' right to meet with their voters, the PPCD contended that these protests were "meetings with voters," which did not require municipal government permission. In July Parliament adopted a series of amendments to several laws, requiring M.P.s to request authorization from city governments for "meetings with voters." Subsequently, the PPCD requested a permit for a meeting with voters on August 31, a national holiday in the country. The mayor's office in Chisinau rejected the request in connection with the holiday events but issued a permit for September 1, when the event took place without incident.

In 2001 authorities began an investigation of violence that occurred during the April 2000 student demonstration, but they suspended the case during the year and never released the results.

The Transnistrian authorities usually did not permit free assemblies, and on those occasions when they did issue permits, they often harassed organizers and participants. Unregistered religious groups were not allowed to hold public assemblies, such as revival meetings (*see* Section 2.c.). Regional authorities at times organized mass rallies in their own support and called them "spontaneous rallies by the people."

The Constitution provides for freedom of association and states that citizens are free to form parties and other social and political organizations; however, the controversial Article 41 of the Constitution states that organizations that are "engaged in fighting against political pluralism," the "principles of the rule of law," or "the sovereignty and independence or territorial integrity" of the country are unconstitutional. Small parties that favor unification with neighboring Romania have charged that this provision is intended to impede their political activities; however, no group has been prevented from forming as a result of this provision. Private organizations, including political parties, were required to register, but applications were approved routinely. There were 27 parties at year's end.

The law on parties and other social-political organizations provides that the Ministry of Justice can suspend for a period of up to 1 year a party that violated the Constitution or the law after a written warning about the violations with a deadline for cessation of the unlawful activity. During electoral campaigns, only the Supreme Court of Justice can suspend a party's activity. After a January 17 warning, the Ministry of Justice suspended on January 22 the PPCD's right to operate in connection with the organization of the unauthorized protests. The Council of Europe, the

European Union, and various countries expressed concern regarding the suspension of the PPCD. Tensions escalated with a February 5 parliamentary decision to hold early local elections on April 7, later recognized by the Constitutional Court as unconstitutional (*see* Section 3). On February 8, the Ministry of Justice cancelled the suspension order with reference to the official start of the electoral campaign and the recommendations received from European bodies. Although early local elections did not take place, the Ministry of Justice allowed the PPCD to operate and did not return to the suspension issue.

Transnistrian authorities restricted freedom of association by intimidation and prosecution for alleged offenses or on invented charges. The Transnistrian “Supreme Court” ruled in March and May, respectively, that the cases against the two political parties—For Power to the People, For Social Justice, and People’s Rule—would have to be re-investigated and sent them down to the Tiraspol City Court. In November 2001, a Transnistrian court closed the Komsomol youth organization, which re-registered under a different name. The case against People’s Rule had reached the Supreme Court again, although no hearings had been held at year’s end. The case against For Power to the People, For Social Justice was still under review at the City Court at year’s end.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, the law includes restrictions that inhibited the activities of some religious groups. There is no state religion; however, the Moldovan Orthodox Church receives some special treatment from the Government. For example, the Metropolitan of Chisinau and All Moldova has a diplomatic passport. Other high-ranking Orthodox Church officials also reportedly have diplomatic passports.

The law requires that religious groups register with the Government. Unregistered religious organizations are not permitted to buy land or obtain construction permits for churches or seminaries. On July 12, Parliament adopted a package of amendments to the Law on Religion, simplifying the terms and procedures for recognizing religious organizations. The change was largely motivated by demands from the Council of Europe that the Government recognize the Bessarabian Orthodox Church. The amendments provide that in order to organize and function, religious organizations have to present to the state body for religions a declaration of creation, by-laws, and an explanation of their basic beliefs. Within 30 working days the state body then enters the organization into the Register of Religions. The amendments do not expressly provide that the state body is obliged to enter an organization into the Register, but the phrasing of the provisions suggests that registration is automatic. Under the new rules, at the request of the state body for religions, a court may annul the recognition of an organization if its activities are political or harm the “independence, sovereignty, integrity, security, or public order” of the country.

After years of denying it recognition, on July 30 the Government recognized the Bessarabian Orthodox Church (Metropolitan Church of Bessarabia) in accordance with the new, simplified procedure provided by the Law on Religion and the recommendation of the Council of Europe. However, the Government continued to deny registration to the Church of the True Orthodox of Moldova, a branch of the Russian Overseas Orthodox Church. After an appellate court decision in favor of the church in 2001, the Government appealed to the Supreme Court of Justice, which ruled on May 29 that the Government must register the True Orthodox Church. The Church of Jesus Christ of Latter-day Saints (Mormons) and the Spiritual Organization of Muslims in Moldova continued to face bureaucratic difficulties in the registration process.

The Law on Religion permits proselytizing, but explicitly forbids “abusive proselytizing,” which is defined as “an attempt to influence someone’s religious faith through violence or abuse of authority.” The Government has not taken legal action against individuals or organizations for proselytizing.

Since 2000 “moral and spiritual” instruction is mandatory for primary school students and optional for secondary and university students. The Ministry of Education had planned for the instruction to begin in September 2000; however, difficulties arose in establishing the nature of this religious instruction that, combined with the chronic financial problems of the country’s schools, delayed indefinitely the implementation of the decree on a national level.

The law provides for restitution to politically repressed or exiled persons whose property was confiscated during the successive Nazi and Soviet regimes. This regulation has been extended in effect to religious communities; however, the Moldovan Orthodox Church has been favored over other religious groups in this area. The Church had little difficulty in recovering nearly all of its property. In cases where property was destroyed, the Government offered alternative compensation. However,

property disputes between the Moldovan and Bessarabian Churches have not been resolved. Despite being able to register and operate as a legal religion, representatives of the Bessarabian Orthodox Church claimed that their property rights were still being violated. The Jewish community had mixed results in recovering its property. An appeal by the Molocans to Parliament remained pending at year's end.

The case continued throughout the year of three youths who were charged with vandalism for bombs thrown into a synagogue in Transnistria in 2001, which caused minor damage, but no verdict was reached by year's end. Perpetrators desecrated dozens of graves in Chisinau's main Jewish cemetery in April, destroying many of the gravestones. Police concluded that the perpetrators were three minors, who by law could not be charged. The Jewish community asked the city to place full-time armed guards at the cemetery, but guard presence was reportedly sporadic.

The independent press occasionally wrote very negative articles about religions other than the Orthodox Church. The Muslim organization also asserted that it was discriminated against because some members were Afghan and Chechen refugees.

In recent years, Transnistrian authorities have denied registration to Baptists, Jehovah's Witnesses, Methodists, and the Church of the Living God. Unregistered religious groups were not allowed to hold public assemblies, such as revival meetings. The law in Transnistria prohibits renting houses, premises of enterprises, or "cultural houses" for prayer meetings. Evangelical religious groups meeting in private homes have been told that they did not have the correct permits to use their residences as churches.

In late 2001, Jehovah's Witnesses organization initiated a court action against a Transnistrian official for allegedly abusing his office by blocking a property purchase. The case was settled on June 26, but on June 29 the Prosecutor General filed a case against Jehovah's Witnesses, claiming that the organization had submitted invalid documents for its activities. The first hearing took place October 28, with no further developments by year's end. Transnistrian state officials have reportedly accused Jehovah's Witnesses of a lack of patriotism and of spreading Western influence. Baptists in Transnistria complained during the year that Grigoriopol officials and the Fiscal Inspectorate illegally sealed off a church-operated building, imposed fines, attempted to take rented land from the church, and prevented the building of a house of prayer. In the past, they and other non-Orthodox groups in Transnistria complained that they generally were not allowed to rent property and often were harassed during religious services.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution and law provide for these rights, and the Government generally respected them in practice; however, authorities sometimes restricted travel to and from the separatist Transnistrian region.

The Government did not restrict travel within the country, and there were no closed areas except the military depot at Colbasna controlled by the Transnistrian separatist authorities. Travel between Transnistria and the rest of the country was not prevented. There were regularly scheduled buses and trains to and from Transnistria. The separatist authorities often stopped and searched incoming and outgoing vehicles. In September 2001, the new administration announced that it would remove fixed and mobile "fiscal posts" to control smuggling of untaxed goods from Transnistria and began to make plans to set up joint customs posts with Ukraine on its border with Transnistria; however, implementation proved difficult and had not been completed by year's end. In 2001 the Government also issued new customs seals and stamps and, unlike its predecessors, did not give them to the Transnistrian authorities. Officials asserted that this was to prevent contraband from flowing through Transnistria. Transnistrian leaders charged that authorities in Chisinau had put an "economic blockade" around its territory to pressure it politically. Transnistrian authorities increasingly impeded OSCE travel to the region (*see* Section 4), despite several official protests from the OSCE Head of Mission noting that failure to give free access to OSCE mission members violated the 1993 agreement between Transnistria and the OSCE.

Transnistrian authorities interfered with and at times blocked farmers from the village of Dorotcaia from traveling to right-bank Moldova to sell their produce. Dorotcaia is located in left-bank Moldova but is controlled by the Republic of Moldova according to the terms of the 1992 cease-fire. The problem remained unresolved because Transnistrian authorities refused to remove their customs posts installed around Dorotcaia.

Citizens generally were able to depart from and return to the country freely; however, there were some restrictions on emigration. Close relatives who are dependent on a potential emigrant for material support must give their concurrence. The Gov-

ernment also may deny permission to emigrate if the applicant had access to state secrets; however, such cases were very rare, and none were reported during the year. It generally was accepted that a large number of citizens were working in foreign countries without having legal status in those countries. Figures on emigration from a variety of official sources were inconsistent and largely anecdotal; government estimates claimed that between 600,000 and 800,000 citizens were working outside the country, the vast majority of them illegally. The majority worked in Russia, Romania, Ukraine, and Bulgaria.

The Constitution provides for the granting of asylum and refugee status. On January 31, the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol entered into force. On July 25, Parliament adopted the Law on Refugee Status, which brought the country's legislation into compliance with the 1951 U.N. Convention/1967 Protocol and allows for the implementation of Constitutional rights to apply for asylum. This law will serve as the basis for future asylum decisions. Previously, all persons approaching the UNHCR for refugee status also applied to the President for political asylum but invariably received the response that the application could not be processed due to the absence of any refugee or asylum law. The Government cooperated in some respects with the UNHCR and other humanitarian organizations in assisting refugees. While individuals who were already in the country generally had access without restrictions to the UNHCR and were processed for refugee status under its mandate, those arriving at the airport as a rule were denied entry and held incommunicado until they could be returned to their place of embarkation. On several occasions, individuals who claimed asylum were detained in the transit zone at the airport without access to legal counsel or to the UNHCR. According to a UNHCR representative, the authorities frequently failed to inform the UNHCR of the arrival of refugees or disregarded UNHCR guidance and advice.

The Government provides for first asylum but did not grant it to anyone who applied during the year. According to the UNHCR, 670 cases (920 persons) had been registered with the UNHCR in the country from the creation of the office in 1997 through September 1. Of these, 121 cases (255 persons) were recognized as refugees by the Government, 122 cases (133 persons) were rejected in the first instance, and 50 cases (54 persons) were rejected on appeal. Out of the total of recognized refugees, 13 cases (23 persons) were resettled to third countries, and 14 cases (16 persons) were voluntarily repatriated to their country of origin with the assistance of UNHCR. As of September, 148 recognized refugees, representing 55 cases, were in the country. In addition, 67 cases (88 persons) were pending in either the first or appeal level. Many originated in Chechnya, Iraq, Sudan, Afghanistan, Nigeria, and other African countries. Individuals assisted by smugglers and Chechens were more successful in gaining admission.

There were no official reports during the year of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens the right to change the Government peacefully, and citizens exercised this right in practice in most of the country through periodic, free, and fair elections held on the basis of universal suffrage; however, this right was restricted in Transnistria. Citizens voted in multiparty presidential elections in 1996 and parliamentary elections in 1996, 1998, and 2001. International observers considered these elections to be free and fair, but Transnistrian authorities interfered with their residents' ability to vote in these elections. In addition, Transnistrian "presidential" elections in 2001 and 1996, as well as Supreme Soviet elections in 2000, were not observed by international monitors and were not considered free and fair.

The Constitution adopted in 1994 provided for the division of power among a popularly elected president, a cabinet, a parliament, and a judiciary. In July 2000, Parliament voted to amend the 1994 Constitution to transform the country into a parliamentary republic and change the presidential election from a popular vote to a parliamentary vote. In formal terms, the amended Constitution changes only the method of election of the President. Under its provisions, the President, as Head of State, appoints the Prime Minister, who names the Cabinet. The Prime Minister, who functions as the head of government, and the Cabinet are then approved by the Parliament. The President may dismiss a cabinet minister at the request of the Prime Minister. According to this legislation, a three-fifths vote in Parliament is required to elect a presidential candidate, and the vote must be held by secret ballot. If after multiple votes Parliament proves unable to elect a candidate, the sitting President may dissolve Parliament.



A total of 27 parties met the requirement of a 1998 law requiring 5,000 members and were registered officially.

Parties registered for less than 2 years were allowed to participate in the February 2001 elections. Of these only three held power in Parliament: The Communist Party with 71 seats, the Social Democratic Alliance (SDA—formerly the Braghis Alliance) with 16 seats, and the right-wing PPCD with 11 seats. Three independents have broken off from the SDA since April 2001 and remained in Parliament.

The Government selectively enforced regulations, including inspections and tax auditing, for individuals and businesses that belong to or support opposition parties.

Parliamentary elections held in February 2001, called free and fair by the OSCE Office of Democratic Institutions and Human Rights, resulted in a clear victory for the Communist Party, which won 50 percent of the popular vote. The centrist Braghis Alliance won 13.4 percent, and the rightwing PPCD won 8.3 percent. Because many small left-of-center and right-of-center parties failed to win the minimum number of votes required for parliamentary representation, their seats were redistributed among the three leading parties. As a result, the Communist party gained 71 seats out of 101, sufficient to elect the President, pass laws, overturn presidential vetoes, and change the Constitution. In March-April 2001, Communist Deputy Eugenia Ostapciuc became Speaker of Parliament; Parliament elected Communist Party leader Vladimir Voronin as President; and Voronin appointed businessman Vasile Tarlev as Prime Minister. Tarlev appointed a government composed of Communists and “technocrats.”

On February 5, amendments entered into force that revised the Administrative Territorial Organization Law and the Law on Local Public Administration by increasing the number of districts and providing for early local elections. The legislation also changed the method of selecting mayors from a popular vote to appointment by local councils; Parliament also decided to hold early local elections on April 7. However, the Constitutional Court ruled on February 19 that this decision was unconstitutional because the Constitution does not allow for the interruption of local officials’ terms, which are set to run through May 2003. On March 14, the Constitutional Court further struck down key parts of the local administration law, including the provision that mayors no longer be popularly elected. The territorial organization law remained in force, but in light of the February 19 Constitutional Court decision, it cannot go into effect until May 2003 when local authorities’ mandates expire. The Parliament also passed a law giving prefects, the local representatives of the central government, control over county budgets. President Voronin supported the law; however, he refused to sign the provision that would apply the law to the city of Chisinau.

A Christian Turkic minority, the Gagauz, enjoys local autonomy in the southern part of the country. The Gagauz elected a new governor and 35 deputies to their Popular Assembly in free and fair elections in September 1999; however, during the year central authorities pressured him to resign, and there were irregularities in the gubernatorial elections in October to replace him. The Gagauz complained frequently that the central government did not abide by the terms of the agreement giving Gagauzia autonomous status and that it enacted laws that directly contradicted both local and national legislation establishing Gagauz autonomy. When central government commission members submitted a new status law governing the autonomy in December 2001 without first discussing it with the Gagauz members of the commission, the latter left the commission and complained to the OSCE Mission and the Congress of Local and Regional Authorities of Europe (CLRAE).

In January pro-Communist members of the Gagauz People’s Assembly failed to gain a two-thirds majority in an attempted vote of “no confidence” in popularly elected Gagauz Governor Dmitry Croitor. On February 24, anti-Croitor members of the commission organized a popular referendum to unseat Croitor, against the Gagauz legal code. Croitor and his supporters opposed the referendum, which attracted less than the required 50 percent of registered voters, and in March Gagauz official Ivan Burgudji was arrested and charged with interfering with the referendum (*see* Section 1.d.). Croitor challenged the legal validity of the referendum in court, but the Supreme Court did not rule in his favor in a June 5 trial that some observers saw as politically motivated. Under increased pressure from pro-Communist elements, Croitor eventually resigned on July 6, and new gubernatorial elections were called for October 6. In violation of local legislation, pro-Communist leaders in the local legislature took control of key executive seats in the regional capital after Croitor’s departure. Many Gagauz observers posited that Croitor’s forced departure was orchestrated from Chisinau in violation of both local and national legislation. In a second round of elections held on October 20, the Communist-backed candidate, Gheorghe Tabunshchik, was elected governor with 51 percent of the vote, after the first round of elections proved invalid with less than the required 50 per-

cent of registered voters participating. The OSCE noted some irregularities in these elections, including the illegal exclusion 36 hours before polls opened of a candidate who had won third place in the first round.

After separatists declared a “Dniester Republic” in 1991, fighting flared briefly in Transnistria in 1992 but ended after Russian forces intervened. A truce has held since, although agreements to normalize relations have not been honored. International mediators encouraged the two sides to reach a settlement that preserves the country’s sovereignty and independence while granting a measure of autonomy to the region. The country remained divided, with mostly Slavic separatists controlling the Transnistrian region along the eastern border with Ukraine. Upon his election, President Voronin promised that the resolution of this problem would be one of his priorities. He conducted an active campaign to win international support for a settlement and held monthly negotiations with Transnistrian leaders until September 2001 when talks were suspended due to conflict that was blamed on the country’s introduction of new customs stamps and seals (*see* Section 2.d.). After a long lapse in talks, negotiations gained momentum from a plan to resolve the conflict by creating a federal state proposed by mediators at a meeting of Transnistria, Moldova, Ukraine, Russia and the OSCE in Kiev on July 3. Heated debate ensued almost immediately all over the country, with the Communist-led administration supporting the proposal, pro-Romanian elements generally opposing it, and the Transnistrian authorities blocking negotiations.

Citizens’ right to change their government was restricted severely in Transnistria. Elections for “president” of the unrecognized state took place in December 2001, and the incumbent, Igor Smirnov, was declared the winner. In the period prior to the elections, authorities shut down a political party and a youth group, closed a leftist party newspaper, and seized a press run. The authorities refused to register the candidacy of a potential political candidate and dismissed another from his job as mayor of Benderi prior to the election. The regime reportedly threatened workers with job loss and students with expulsion from their universities if they did not vote for Smirnov. Internationally recognized election monitors refused to observe the 2001 “presidential” election to avoid validating Transnistria’s claim of statehood. Local observers reported that the actual voting was unfair, with considerable ballot box stuffing. Officials in the northern region of Kamenka reported that 103.6 percent of their voters cast ballots for Smirnov.

There were no restrictions in law or practice on the participation of women in political life. Women held 13 of 101 parliamentary seats. Speaker of Parliament Eugenia Ostapcuic occupied the highest political position in the country attained by a woman.

Russian, Ukrainian, Bulgarian, Gagauz, and Romani minorities were represented in Parliament, with deputies elected from nationwide party lists rather than local districts. Debate took place in either the Moldovan/Romanian or Russian language, with translation provided.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights, except in the Transnistrian region. The local Helsinki Watch organization maintained contacts with international human rights organizations, as did the Helsinki Citizens Assembly. AI maintained a satellite office in Chisinau and was active in the country, although the authorities in Tiraspol impeded its activities in the Transnistrian region. Both Helsinki Watch and AI produced yearly human rights reports on the country.

Citizens may appeal to the ECHR in Strasbourg if they believe their rights have been violated or that national laws are not in accordance with the European Convention on Human Rights. During the year, citizens of the country filed 292 complaints with the ECHR. The majority of the cases concerned the lack of social protection and salary and pension arrears accumulated by the Government. In December 2001, the ECHR ruled against the Government in the case filed by the Bessarabian Orthodox Church (*see* Section 2.c.). The ECHR also heard the case of the Ilascu Group (*see* Section 1.e.) against the Governments of Moldova and Russia, but had not issued a ruling by year’s end. Many citizens were unaware of their legal rights under the Convention, although the Bessarabian Orthodox Church case considerably increased the level of awareness about the ECHR in the country.

The Government supported the work of the OSCE, which has had a mission in the country since 1993 to assist in efforts to resolve the separatist conflict. The OSCE participates in the Joint Control Commission—which includes Moldovan, Russian, Ukrainian, and Transnistrian members—that reviews violations of the

cease-fire agreement. Under a 1993 agreement with the Transnistrian authorities, the OSCE Mission generally enjoyed access to the security zone along the river dividing the separatist-controlled territory from the rest of the country; however, beginning in late 2001, the Transnistrian authorities increasingly impeded OSCE travel to the region. The separatist authorities routinely refused Mission members access to the Russian ordnance storage facility in Colbasna.

Under the law there are three parliamentary advocates (Ombudsmen), and an independent center for human rights, the Moldovan Human Rights Center. Parliament appointed the three advocates, with equal rights and responsibilities, in February 1998 for 5-year terms. Parliamentary advocates may be removed from office only by a two-thirds vote of Parliament, a provision that gives them substantial independence. On September 26, Parliament voted to remove from office one of the three advocates, charging that he had missed work without authorization for more than 1 month. The opposition PPCD claimed that he was removed due to his participation in the PPCD-organized anti-Communist protests (see Section 2.d.). Parliamentary advocates are empowered to examine claims of human rights violations, advise Parliament on human rights problems, submit legislation to the Constitutional Court for a review of constitutionality, and oversee the operation of the Moldovan Human Rights Center. Center personnel provide training for lawyers and journalists, visit jails, make recommendations on legislation, and conduct seminars and training programs for police, penitentiary personnel, judges, prosecutors, public administration officials, and law students. The majority of complaints received by the center involved private property violations, labor rights, access to justice, personal security, right to life, and personal dignity. During the first 9 months of the year, the Human Rights Center received 1,214 written petitions, signed by 3,339 persons. An additional 3,107 persons submitted complaints orally, either at the Center's offices, or during visits throughout the country by Center staff.

Since the December 2001 "presidential" elections, the regime in Transnistria reportedly has attempted to gain more control over NGOs in the region by having security officials "invite" NGO leaders to their offices to discuss their registration and by pressuring landlords not to renew office space leases for some NGOs. During the September 2 Transnistrian "independence day" celebrations, a prominent pro-Western NGO leader was attacked and stabbed in the chest by persons suspected of being under orders from the Transnistrian security police. Reportedly, the attackers were captured by private citizens minutes after the event but were released by the police, who classified the incident as a misdemeanor, despite the attending doctor's view that the crime was an attempted murder.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution states that persons are equal before the law regardless of race, sex, disability, or social origin; however, discrimination against women and some ethnic minorities, particularly Roma, persisted. There are remedies for violations, such as orders for redress of grievances, but these were not enforced in all cases.

*Women.*—Spousal violence occurred; although the Government did not keep official data on incidences of domestic violence, human rights advocates asserted that it was widespread. The Criminal Code does not specifically address crimes of domestic assault, and there is no law on spousal rape; however, women abused by their husbands have the right to press charges under its general assault laws. Husbands convicted of such abuse may receive prison sentences (typically up to 6 months). In practice the Government rarely prosecuted domestic assault crimes. The Ministry of Internal Affairs reported 549 cases of spousal abuse cases during the first 8 months of the year, including 88 resulting in serious bodily injury and 114 resulting in either murder or attempted murder. The Ministry of Internal Affairs recorded 154 cases of rape in the first 9 months of the year, an 11 percent increase from the same period in 2000. Women's groups believed that the numbers of rapes and incidents of spousal abuse were underreported.

Former President Lucinschi's wife and the mayor of Chisinau initiated a project in October 1999 to open a women's shelter in Chisinau; although construction was almost completed, the shelter had not been opened by year's end. The Government supported educational efforts, usually undertaken with foreign assistance, to increase public awareness of domestic violence and to train public officials and law enforcement officials in how to address this issue. In September 2001, the International Organization for Migration (IOM) opened a women's shelter in Chisinau, mainly for victims of trafficking. Private organizations operated services that provided support to abused spouses, including a hot line for battered women.

Trafficking in women was a serious problem (see Section 6.f).

The law provides that women and men enjoy equal rights, and under the law and in practice women received pay equal to that of men for equal work; however, they

did not hold high-paying jobs in the same proportion as men. The Government provided extended paid maternity leave. There were significant numbers of female managers in the public sector and in banking. The Minister of Finance and the president of the country's largest bank were women. Women made up approximately 50 percent of the workforce.

*Children.*—There is extensive legislation designed to protect children, and the Government provided supplementary payments for families with many children. According to the Constitution, the Government provides free, compulsory, and universal education for 9 to 10 years, which may be followed either by technical school or other further study; the requirement can vary at the discretion of the Minister of Education. However, many inadequately funded schools, particularly in rural areas, charged parents for school supplies. While not technically illegal, such charges contradicted the educational platform of the Government and resulted in many children being kept at home by their parents. Government statistics stated that 2,753 school-age children were not in school; however, press reports indicated that the number was higher, especially in rural areas. On September 1, both the central government and local authorities provided assistance in amounts ranging from \$7.40 (100 Moldovan lei) to \$22.20 (300 Moldovan lei) per child to children from vulnerable families to buy school supplies. Roma faced discrimination and segregation at all educational levels (see Section 5). The health system devotes a large portion of its limited resources to childcare, but childcare professionals considered the amount to be inadequate.

Various laws contain provisions against neglect of children. There were no statistics on child abuse within families, but it was believed to be widespread. Although there is legislation forbidding it, corporal punishment in schools was common. Observers alleged that women begging on the streets of Chisinau often sedated their babies in order to spend long hours begging without having to take time out to attend to their babies' needs.

Trafficking in girls for prostitution between 15 and 18 years of age remained a very serious problem (see Section 6.f.).

The situation of children in the country's orphanages was generally very poor. Official statistics from 2001 indicated that there were approximately 13,500 institutionalized children. An additional 5,000 children lived in adoptive homes, 4,500 more lived in foster homes or with legal guardians, and an unknown but large number lived with one or more grandparents. Not all of the institutionalized children were orphans; the number of children entrusted to the State by needy parents, or those leaving the country in search of work, reportedly was growing. NGOs estimated that up to 30,000 children were in institutions, including foster homes. Among the major problems in children's institutions were inadequate food, "warehousing" of children, lack of heat in the winter, and disease. Most of these problems were caused by lack of funding.

*Persons with Disabilities.*—The law prohibits discrimination against persons with disabilities; however, there are no laws providing for access to buildings, and there were few government resources devoted to training persons with disabilities. The Government provided tax advantages to charitable groups that assisted persons with disabilities.

*National/Racial/Ethnic Minorities.*—According to the 1989 census, approximately 65 percent of the population are members of the titular nationality. Ukrainians (14 percent) and Russians (13 percent) are the two largest minorities. A Christian Turkic minority, the Gagauz, that represents approximately 3.5 percent of the population lives primarily in the southern regions of the country and speaks Russian and Gagauz, a Turkic language. Official statistics put the Romaani population at 11,600 (less than 0.5 percent), although estimates from the OSCE and Romani NGOs ranged from 20,000 to 200,000 (up to 4.5 percent). The Government announced in 2000 that it would allocate money from the budget to conduct a national census in 2001; however, no action was taken by year's end.

Roma reportedly suffered violence, harassment, and discrimination. The European Roma Rights Center reported that officials in the country discriminated against Roma with regard to equal treatment, adequate housing, education, and access to public services. Local and international NGOs reported that Roma were victims of police beatings in custody, arbitrary arrest and detention, unlawful confiscation of personal property, and harassment by law enforcement officials and were subjected to societal violence and harassment.

On May 8, an 18-year old Rom was detained in Comrat without a warrant by three police officers, who beat him in custody and made ethnic slurs, according to the European Roma Rights Center.

Police and judicial officers rarely investigated or prosecuted violence and human rights abuses against Roma. However, on February 13, three police officers were charged with excessive use of force for the alleged beating with a revolver of two Romani teenagers in October 2001. Only one officer was found guilty and was sentenced on March 26 to 2 years' imprisonment, which was suspended, despite the crime carrying a 5 to 15 year prison sentence.

The Moldovan Helsinki Committee reported that in December 2001 two police officers in Chisinau beat a Romani couple, planted narcotics on the husband, and detained him for several months, during which time police repeatedly beat him and denied him medical attention. His trial began in early May and continued through July, during which time he remained in custody.

Roma were the poorest of the ethnic groups and often lived in segregated communities in unsanitary conditions lacking basic infrastructure. These conditions often led to segregated education with even fewer resources than in the rest of the country's schools. Many Romani children did not attend school, very few received a secondary or higher education, and there was no Romani-language education, unlike for other ethnic minorities.

Minority rights and the language question are closely related, particularly in the perceptions of the Russian-speaking minority and the Moldovan/Romanian-speaking majority. Moldovan/Romanian was declared at independence to be the state language; however, Russian has tended to serve as a language for interethnic communication, continuing Soviet practice. After coming to power in February 2001, the new Communist majority in Parliament amended several laws to strengthen the use of Russian without making it an official language. In December 2001, the Communist faction in Parliament submitted to the Constitutional Court a bill making Russian the second official language but dropped it in January after it provoked protests (*see* Section 2.b.). On March 4, the Constitutional Court rejected the proposal, describing it as insufficiently specific. By law a citizen has the right to choose the language of interaction with government officials or commercial entities. Accordingly, officials are required to know both Russian and Moldovan/Romanian "to the degree necessary to fulfill their professional obligations." Many Russian speakers, including well-educated professionals, do not speak Moldovan/Romanian well or at all, while most educated Moldovan speakers know both languages. Representatives of Russian speakers argued for a delay in the implementation of legislation to permit more time to learn the language. Russian speakers were not discriminated against in practice, and the law has not been used to deny them work as state officials.

The Constitution provides parents with the right to choose the language of instruction for their children. In December 2001, the President implemented a decree that the Minister of Education issued in August 2001 making Russian a compulsory subject starting in the second grade (previously it was compulsory from the fifth grade). The Popular Christian Democratic Party organized protests against this decree and other policies of the Government (*see* Section 2.d), which led the Minister of Education to cancel the decree.

The Government's Department for Interethnic Relations organized two roundtables on the European Charter on Languages and Minorities in March and September, a conference on national policy and interethnic relations in the second half of the year, a symposium on Gagauz culture in September (with the participation of the Turkish Embassy), and a conference on Russian culture in December.

In the separatist Transnistrian region, discrimination against Moldovan/Romanian speakers continued. State schools were required to use the Cyrillic alphabet when teaching Moldovan/Romanian. (Until 1989, Soviet authorities recognized only the "Moldovan" language in the republic and required the use of Cyrillic script; they considered Romanian, in Latin script, to be a distinct language used only in Romania.) However, many teachers, parents, and students objected to this requirement, believing that it disadvantaged pupils who wished to pursue higher education opportunities in the rest of the country or in Romania. Although the 1989 language law requires use of the Latin script, Transnistrian authorities refused to abide by the law.

As a result of an agreement between the Government and the separatist authorities, eight schools in the separatist region used the Latin alphabet, and the salaries of teachers and textbooks were supplied by the central Ministry of Education. These schools were considered private schools by the local authorities and were required to pay rent for their facilities and meet local curriculum requirements, building codes, and safety standards. The central government had no budgetary provisions to pay the high rents of such facilities, and as a result, classes were sometimes held in local homes or run in shifts in the few available buildings. Pressure from the Transnistrian authorities on these schools increased (*see* section 2.a.). The Ministry

of Education and the Romanian government supplied books to the Latin-script school in Tiraspol, and the UNHCR provided furniture and vehicles. The school continued to run three to four shifts per day to accommodate the number of students who desired this form of education.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and various laws provide for the right of any employee to found or join a union that defends workers' interests, and workers exercised these rights in practice. There were two unions—the Trade Union Confederation of Moldova (TUCM) and “Solidaritate” (Solidarity). The TUCM had approximately 80 percent of all union members, with the rest in “Solidaritate.”

The law prohibits discrimination against workers for union membership or activities, and there were no reports of actions taken against union members for engaging in union activities. The 2000 Trade Union Law provides that union leaders may not be fired from their jobs while in leadership positions without the consent of their superior union, and there were no reports of such firings during the year.

Unions may affiliate and maintain contacts with international organizations. The TUCM has been a member of the International Labor Organization (ILO) since 1992 (as a successor to the General Federation of Trade Unions or GFTU) and has also been affiliated with the International Confederation of Free Unions in Brussels since December 1997.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining and the right to organize unions, and the Government generally respected these rights in practice. Wages were set through a tripartite negotiation process involving government, management, and unions. The three parties met and negotiated national minimum wages for all categories of workers. Each branch union representing a particular industry negotiated with management and the Government ministries responsible for that industry. They may, and often did, set wages higher than the minimum set on the national level, especially if the industry in question is more profitable than average. At the enterprise level, union and management representatives negotiated directly on wages. They may set wages higher than negotiators on the industry level in this case as well. Labor disputes typically were settled in the workplace by a workplace arbitration committee. If an arbitration committee failed to settle the dispute, it was taken to the Courts of First Appeals. Court decisions involving the restitution of salary or a position were not implemented in all cases.

Neither government workers nor those in essential services such as health care and energy have the right to strike. In practice, other unions may strike if two-thirds of their members vote in a secret ballot to do so. No general or country-wide strikes took place during the year, although local strikes by teachers and doctors occurred in Edinet and Chisinau. In March a major 1-day strike by teachers, doctors, and cultural workers was organized in Chisinau by the Trade Union Confederation.

There were no export processing zones (EPZs), although legislation passed on July 27, 2001 provides for converting former free enterprise zones into EPZs. According to the legislation, the conversion period is expected to take 10 years and is slated to finish in 2011. The total number of such zones is six: Chisinau, Taraclia, Tvardita, Otaci, Vulcanesti, and Ungheni. The latter opened only at the end of the year.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The new Criminal Code, passed during the year and due to enter into force in 2003, increases the level of child labor protection, containing provisions specifically regarding the worst forms of child labor. During the year, a commission began drafting a new Labor Code for submission to Parliament. According to a Deputy Labor Minister, both new codes represent an attempt to bring domestic legislation up to the level of the county's international commitments.

The minimum age for unrestricted employment was 18 years. Employment of those between the ages of 16 and 18 was permitted under special conditions, including shorter workdays, no night shifts, and longer vacations. Children often were sent to work in the fields or to find other work, and those living in rural areas often assisted in the agricultural sector. The Ministry of Labor and Social Protection has primary responsibility for enforcing these restrictions but did not do so actively. The Ministry of Health also has a role.

On February 14, Parliament ratified International Labor Organization Convention (ILO) 182 on the worst forms of child labor, which is scheduled to enter into force in the country on June 14, 2003. Article 183 of the new Criminal Code provides a punishment of 10 to 15 years imprisonment for trafficking in children and for involving children in the worst forms of child labor, as defined in ILO Convention No. 182. The article enumerates practices, such as commercial or non-commercial sexual exploitation, forced or compulsory labor, slavery or practices similar to slavery, use in armed conflict, and use in criminal activity. In cases of aggravating circumstances, the punishment can amount to a life-term imprisonment.

*e. Acceptable Conditions of Work.*—The legal minimum monthly wage was \$7.40 (100 Moldovan lei) for those employed by the state and \$11.10 (150 Moldovan lei) for those employed by private firms. Neither minimum wage provided a decent standard of living for a worker and family. A minimum of \$1.30 (18 Moldovan lei) continued to be used as a basis for calculating pensions, scholarships, and fines. According to preliminary data from the Department of Statistics, the average monthly salary during the year was \$51 (691.9 Moldovan lei). The average in the private sector was \$58.30 (791.2 Moldovan lei), and in the public sector \$41 (555.8 Moldovan lei). Due to severe budgetary constraints, the Government and private sectors often did not meet payrolls for employees.

The Constitution sets the maximum workweek at 40 hours, with extra compensation for overtime, and the Labor Code provides for at least 1 day off per week.

The Government is required to set and check safety standards in the workplace. Unions must strike and ask a court to impose a fine if safety standards are not met. Workers have the right to refuse to work, and they may continue to draw their salaries if working conditions represent a serious threat to their health. In practice the depressed economy has led enterprises to economize on safety equipment and show little concern for worker safety problems. Workers often did not know their rights in this area. According to the Labor Inspection's preliminary data, there were 54 labor accidents in the first 9 months of the year, affecting 60 persons, 24 of them resulting in death.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in women and girls was a very serious problem. Although no official statistics were available, the country was a major country of origin for women and girls who were trafficked abroad for prostitution. There have been unconfirmed reports by local NGOs of involvement by government officials; however, no official charges have been made.

The law prohibits trafficking and provides for severe penalties, starting with 10 to 15 years in prison and confiscation of property. The penalty is 15 to 25 years in prison and confiscation of property for repeated or serious offenses, such as trafficking: Of groups, minors, or pregnant women; through kidnaping, trickery or abuse of power; with violence; of body parts; or by a criminal organization. As of September 1, according to the Ministry of Internal Affairs, 412 files related to trafficking had been opened during the year, although only 30 were related directly to Article 113 passed in 2001 on trafficking in human beings. Of the latter, 20 were under investigation and 4 had been sent to court. By year's end, there were three convictions for trafficking in persons in the country, one of which was appealed.

Critics charged that the Government did not do enough to prosecute traffickers. According to IOM, trafficking crimes were difficult to prosecute in the country. Because the crime technically took place in another country, a perpetrator could be tried only if a victim testified against him or her. Victims in the country generally refused to testify because the traffickers threatened them or their families if they did so. This was particularly true in rural areas in closer, tight-knit societies where the fear and chances of being identified as well as stigmatized was much greater. The first two individuals were convicted and sentenced under the 2001 anti-trafficking article late in the year, both for trafficking for purposes of begging. According to an official of the Prosecutor General's office, until the new criminal code with its improved anti-trafficking language goes into effect, prosecutors found it easier to obtain convictions of traffickers under the article on procurement for prostitution. There were approximately 25 final sentences delivered under this article during the year. The law provides for a witness protection program, and police have placed guards outside of witnesses' homes.

Women and girls were trafficked to various locations, including Turkey, Cyprus, Greece, Italy, Hungary, Bulgaria, Slovakia, Bosnia, Macedonia, and the former Republic of Yugoslavia for prostitution. There also were reports that women were trafficked to Lebanon, Syria, Israel, Saudi Arabia, the United Arab Emirates, Portugal, France, Thailand, the United Kingdom, Spain, and Australia. Women and girls reportedly were trafficked to Italy and Greece through Romania, Serbia-Montenegro,

and Albania. The IOM reported that the country was the main origin in Europe for the trafficking of women and children for prostitution in the Balkans, Western Europe, and the Middle East and that more than 50 percent of the women working in prostitution in Kosovo were from the country. The Government of Turkey annually deported approximately 2,500 Moldovan women for prostitution. A prominent women's rights activist and Member of Parliament stated that more than 10,000 women from the country were working as prostitutes in other countries. However, the basis for this number was unclear, and some NGOs reported that it was very conservative.

According to the NGO Partners for Community, the target population for traffickers was young women, often minors, in rural areas. Women and girls typically accepted job offers in other countries, ostensibly as dancers, models, nannies, or housekeepers. In many areas, friends or acquaintances approached young women and offered them help to get good jobs abroad. This "friend of a friend" approach most often was used in the countryside. Save the Children and the Association of Women in Law reported that many of the traffickers were women who targeted young girls in their own localities. Once they arrived at their destinations, traffickers took their passports, required them to "repay" sizeable sums, and forced them into sexual bondage. Traffickers commonly recruited women from rural villages, transported them to larger cities, and then trafficked them abroad.

Another pattern of trafficking involved orphans who must leave orphanages when they graduate, usually at 16 or 17 years of age, and have no source of funds for living expenses or continuing education. Allegedly, some orphanage directors sold information on when orphan girls are to be turned out of their institutions to traffickers, who approached them as they left. This pattern has become so well known that one foreign adoption service registered as an NGO and organized a "foster-an-orphan" program to help curb the practice. Individuals from abroad send money to support individual orphaned girls from age 16 or 17 until they reach the age of 18 and can work legally (*see* Section 6.d.). However, this sponsorship program is small compared with the number of orphan girls who become victims of traffickers each year.

The salaries of border guards and migration officials were low and frequently not paid regularly, making them vulnerable to bribery. The large profits of the trafficking industry financed the corruption of officials. According to a report by Save the Children, the Government did not want to stop any form of overseas employment that contributed to the economy with much-needed remittance money. The Moldovan Center for Strategic Study and Reforms charged that there was corruption at all levels.

The Government took some steps to prevent the trafficking of women and assist victims, although it only slowly began to address the problem and mostly in the area of legislation and prosecution. A government antitrafficking working group met in November 2001 and developed a national plan of action to combat trafficking and a timetable to accomplish its goals. The National Working Group met again in April and created three sub-groups, including: Prevention and Awareness Raising; Legislative Framework and its Enforcement; and Assistance and Social Rehabilitation of Victims of Trafficking. A special law enforcement unit within the Ministry of Internal Affairs also continued to operate. The Government provided specialized training to trafficking investigators through the Ministry of Internal Affairs and the Ministry of Labor, funded by the OSCE and the Council of Europe. The country also participated in a Southeast European Cooperative Initiative Human Trafficking Task Force. The Government cooperated with Belarus, Ukraine, and Russia in investigating trafficking cases, as well as with Interpol in cases in Yugoslavia. There were no government-operated assistance programs for victims.

Several NGOs made efforts, with foreign assistance, to combat the problem through information campaigns, repatriation assistance, temporary housing and medical care for victims, and job training. The NGO Save the Children worked with trafficking victims, particularly repatriated girls. Local NGOs operated public school programs to educate young women about the dangers of prostitution, and in April 2001, the NGO Association of Women Lawyers established the Center for Prevention of Trafficking in Women with the support of a foreign government. It produced antitrafficking educational material, provided counseling to victims, and maintained a hot line for those in need of advice. In July 2001, the Center opened its first regional center, including a county hot line, in the town of Ungheni. In September 2001, the local branch of the NGO La Strada established another hot line. In 2000 the IOM established an office in Chisinau, and during the year, the organization began to receive funds from a foreign source which it used for informational programs and training for journalists about the dangers of trafficking. In September 2001, the IOM, with foreign government support, opened a women's shelter and



launched a campaign to educate young women about the dangers of trafficking. This campaign included the use of large billboards, informational spots on television and radio, and pamphlets. The shelter provided temporary emergency housing for victims, job training, and medical care (almost 100 percent of returned victims have contracted a sexually transmitted disease). In September the IOM received a large grant from the European Commission to focus on victim repatriation and reintegration, as well as efforts at prosecution of traffickers. The organization also received additional funds for its shelter, which was the only one in Chisinau.

## MONACO

Monaco is a constitutional monarchy in which the sovereign Prince plays a leading role in governing the country. The Prince appoints the four-member government, headed by a Minister of State chosen by the Prince from a list of candidates proposed by France. The other three members are the Counselor for the Interior (who is usually French), the Counselor for Public Works and Social Affairs, and the Counselor for Finance and the Economy. Each is responsible to the Prince. Legislative power is shared between the Prince and the popularly elected 24-member National Council. There also are three consultative bodies whose members are appointed by the Prince: The 7-member Crown Council; the 12-member Council of State; and the 30-member Economic Council, which includes representatives of employers and trade unions. The judiciary is independent.

In addition to the national police force, the "Carabiniers du Prince" carried out security functions. Government officials effectively controlled both forces.

The population was approximately 32,000, and the principal economic activities were services and banking, light manufacturing, and tourism. The economy provided residents with a high standard of living.

The Government generally respected the human rights of its citizens, and the law and the judiciary provided effective means of dealing with individual instances of abuse. Authority to change the Government and initiate laws rests with the Prince. The Penal Code prohibits public denunciations of the ruling family. The Constitution distinguishes between those rights that are provided for all residents and those that apply only to the approximately 7,000 residents who hold Monegasque nationality. Some remnants of legal discrimination against women persisted, particularly with regard to the transmission of citizenship. Monaco was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life by the Government or its agents.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that officials employed them.

Prison conditions generally met international standards. Women were held separately from men, and juveniles were held separately from adults. The Government permits visits by human rights observers; however, there were no such visits during the year. After prisoners receive definitive sentences, they are transferred to a French prison to serve out their prison term.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. Arrest warrants are required, except when a suspect is arrested while committing an offense. The police must bring detainees before a judge within 24 hours to be informed of the charges against them and of their rights under the law. Most detainees are released without bail, but the investigating magistrate may order detention on grounds that the suspect either might flee or interfere with the investigation of the case. The magistrate may extend the initial 2-month detention for additional 2-month periods indefinitely. The magistrate may permit family members to see detainees.

The Penal Code prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—Under the Constitution, the Prince delegates his judicial powers to the judiciary. The law provides for a fair, public trial, and the independent judiciary generally respected these provisions in practice. The defend-

ant has the right to be present and the right to counsel, at public expense if necessary. As under French law, a three-judge tribunal considers the evidence collected by the investigating magistrate and hears the arguments made by the prosecuting and defense attorneys. The defendant enjoys a presumption of innocence and the right of appeal.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights; however, the Penal Code prohibits public denunciations of the ruling family, a provision that the media generally respected in practice.

Several periodicals were published. There were no domestically published daily newspapers. Foreign newspapers and magazines circulated freely, including French journals that specifically covered news in the Principality. Foreign radio and television were received without restriction. Stations that broadcast from the Principality operated in accordance with French and Italian regulations. There were no restrictions on access to the Internet.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

Outdoor meetings require police authorization, but there were no reports that police withheld authorization for political or arbitrary reasons. Formal associations must be registered and authorized by the Government, and there were no reports the Government withheld registration for political or arbitrary reasons.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice. Roman Catholicism is the state religion.

No missionaries operated in the principality and proselytizing was strongly discouraged; however, there is no law against proselytizing by religious organizations formally registered by the Ministry of State.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice. Residents moved freely within the country and across its open borders with France. Nationals enjoyed the rights of emigration and repatriation; however, they can be deprived of their nationality for specified acts, including naturalization in a foreign country. Only the Prince can grant or restore nationality, but he is obliged by the Constitution to consult the Crown Council on each case before deciding.

In light of its bilateral arrangements with France, the Government does not grant political asylum or refugee status unless the request also meets French criteria for such cases. The number of such cases was very small.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the Office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees.

There were no reports of the forced return of persons to a country where they feared persecution.

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

Authority to change the Government and to initiate laws rests with the Prince. The 1962 Constitution cannot be suspended, but it can be revised by common agreement between the Prince and the elected National Council. The Prince played an active role in government. He names the Minister of State (in effect, the Prime Minister) from a list of names proposed by the French government. He also names the three Counselors of government (of whom the one responsible for the interior is usually a French national). Together the four constitute the Government. Each is responsible to the Prince.

Only the Prince may initiate legislation, but the 24-member National Council may propose legislation to the Government. All legislation and the adoption of the budget

require the Council's assent. Elections for National Council members, which are held every 5 years, are based on universal adult suffrage and secret balloting.

The Constitution provides for three consultative bodies. The seven-member Crown Council, composed exclusively of Monegasque nationals, must be consulted by the Prince on certain questions of national importance. He may choose to consult it on other matters as well. The President and three members of the Crown Council are chosen directly by the Prince for 3-year terms. The three other members are proposed by the National Council, also for 3-year terms; the Prince then ratifies their selection.

The 12-member Council of State, which is not restricted to Monegasque citizens, advises the Prince on proposed legislation and regulations. The Council of State is presided over by the Director of Judicial Services, usually a French citizen. The Director and other members are nominated by the Minister of State; their nominations are ratified by the Prince.

Women were active in public service. The Mayor of Monaco, one member of the Crown Council, five members of the National Council, and four members of the Economic Council were women.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

While the Government imposed no restrictions on the establishment or operation of local groups devoted to monitoring human rights, no such groups were formed. Foreign groups did not seek to investigate human rights conditions in the country.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution provides that all nationals are equal before the law. It differentiates between rights that are accorded to nationals (including preference in employment, free education, and assistance to the ill or unemployed) and those accorded to all residents, such as freedom of inviolability of the home.

*Women.*—Reported instances of violence against women were rare. Marital violence is prohibited strictly, and any wife who is a victim may bring criminal charges against her husband.

Women were represented fairly well in the professions; however, they were represented less well in business. Women received equal pay for equal work, and there were no reports of sexual harassment.

The law governing transmission of citizenship provides for equality of treatment between men and women who are nationals by birth; however, women who acquire Monegasque citizenship by naturalization could not transmit it to their children, whereas naturalized male citizens could.

*Children.*—The Government was committed fully to the protection of children's rights and welfare and has well-funded public education and health care programs. The Government provided compulsory, free, and universal education for children up to the age of 16.

There was no societal pattern of abuse of children.

*Persons with Disabilities.*—There was no governmental or societal discrimination against person with disabilities. The Government mandated that public buildings provide access for persons with disabilities, and this goal largely has been accomplished.

*Section 6. Worker Rights*

*a. The Right of Association.*—Workers were free to form unions, but fewer than 10 percent of workers were unionized, and relatively few workers, unionized or non-unionized, resided in the Principality. Unions were independent of both the Government and political parties.

Antiunion discrimination is prohibited. Union representatives can be fired only with the agreement of a commission that includes two members from the employers' association and two from the labor movement. Allegations that an employee was fired for union activity may be brought before the Labor Court, which can order redress, such as the payment of damages with interest.

The Monegasque Confederation of Unions was not affiliated with any larger labor organization but was free to join international bodies.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the free exercise of union activity, and workers exercised this right in practice. Agreements on working conditions were negotiated between organizations representing employers in a given sector of the economy and the respective union. Collective bargaining is protected by law; however, it was used rarely.

The Constitution provides for the right to strike in conformity with relevant legislation; however, government workers may not strike. There were no strikes during the year.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor including by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The minimum age for employment is 16 years; those employing children under that age can be punished under criminal law. Special restrictions apply to the hiring, work times, and other conditions of workers 16 to 18 years old.

*e. Acceptable Conditions of Work.*—The legal minimum wage for full-time work is the French minimum wage, which at year's end was \$7.10 (6.83 euros), plus 5 percent. The 5 percent adjustment was intended to compensate for the travel costs of the three-quarters of the workforce who commuted daily from France. The minimum wage provided a decent standard of living for a worker and family. Most workers received more than the minimum. The legal workweek was 39 hours. The Government allows companies to reduce the workweek to 35 hours if they so choose. Health and safety standards are fixed by law and government decree. These standards were enforced by health and safety committees in the workplace and by the Government Labor Inspector. Workers have the right to remove themselves from dangerous work situations.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

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## THE NETHERLANDS

The Netherlands is a constitutional monarchy with a parliamentary legislative system. The Prime Minister and a Cabinet representing the governing political parties (traditionally a coalition of at least two major parties) exercise executive authority. The bicameral Parliament is elected through free and fair elections. The judiciary is independent.

Regional police forces were primarily responsible for maintaining internal security. The police, the Royal Constabulary, and investigative organizations concerned with internal and external security generally were under effective civilian authority.

The market-based economy was export oriented and featured a mixture of industry, services, and agriculture. The country had a total population of approximately 16.2 million. Living standards and the level of social benefits were high. Unemployment was approximately 3 percent, with an additional 10 percent of the workforce on full or partial disability. Long-term unemployment, particularly among ethnic minorities, remained a problem.

The Government generally respected the human rights of its citizens, and the law and judiciary provided effective means of dealing with individual instances of abuse. Violence and discrimination against women existed, as did child abuse. Discrimination and some violence against minorities continued to be a concern. Trafficking in women and girls for prostitution was a problem. The Government took steps to deal with all of these problems. The Netherlands was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

Aruba and the Netherlands Antilles are two autonomous regions of the kingdom; they also feature parliamentary systems and full constitutional protection of human rights. In practice respect for human rights in these islands generally was the same as in the Netherlands; however, the islands' prison conditions remained substandard.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

In May police arrested an animal rights activist for the killing of Populist politician Pim Fortuyn, who was shot shortly before the May elections (*see* Section 2.c.)

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that government officials employed them.

There were sporadic incidents of rightwing and racist violence against religious and ethnic minorities (see Sections 2.c. and 5).

Prison conditions in the country generally met international standards. Male and female prisoners were held separately. In addition, juvenile prisoners were held separately from adults and pretrial detainees were held separately from convicted criminals. The Government permitted visits by independent human rights monitors, but no such visits were known to have taken place during the year.

In 2001 the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) urged the Governments of the Netherlands Antilles and Aruba to improve conditions at Curacao's Koraal Specht (now Bon Futuro) prison and in cell blocks at the police stations on the islands of St. Maarten, Bonaire, and Aruba. The CPT's criticism focused on overcrowding, violence, extremely poor sanitary conditions, poor food, and insufficient ventilation. The Committee also criticized widespread corruption and the mistreatment of prisoners by guards at Koraal Specht. In response to CPT criticism the Justice Minister set up the Kibbelaar Committee early in 2001. In September 2001, it found that prison guards on Curacao and St. Maarten routinely smuggled drugs and firearms into the prison and allowed breakouts and sexual assaults to occur. The Justice Minister subsequently suspended 175 of the 202 guards, and put the regular police in charge of guarding the prisons.

The Government repeatedly has provided financial assistance to the Government of the Netherlands Antilles for the construction of a new juvenile wing, a maximum-security facility, and other improvements at Bon Futuro. The Government also sent experts on prison organization and the training of guards. In 2001, the Government of the Netherlands Antilles renovated the entire prison complex and changed the prison's name from Koraal Specht to Bon Futuro. Construction of a new wing relieved overcrowding. At the request of the Antillean government and with funds from the Dutch government, a private foreign company supplied expert personnel who reorganized prison management and trained mid-level staff for a period of a year. During the year, the St. Maarten police cells were repainted and received new fixtures; however, reports continued of unsanitary conditions and lack of bedding.

The Governments of the Netherlands Antilles and Aruba allowed access by independent human rights observers to prisons; however, no such visits occurred during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions in practice.

Criminal investigations were conducted by police officers, who acted under the authority of the public prosecutor. A prosecutor or senior police officer must order arrests. Police officers could question suspects for a maximum of 12 hours and could detain a suspect for up to 6 days upon an order of the public prosecutor. If the prosecutor believed an investigation was necessary, he was required to request a preliminary judicial inquiry from the investigative judge, who then assumed responsibility over the investigation. Defense attorneys had the right to be present during any questioning.

The law prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judicial system is based on the Napoleonic Code. A pyramidal system of cantonal, district, and appellate courts handled both criminal and civil cases. The Supreme Court acted as the highest appellate court and ensured the uniform interpretation of the law.

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. In 2001 both the judiciary and the public prosecutor introduced procedures whereby complaints could be filed for perceived impolite or rude treatment by either a judge or prosecutor. The law instructs that defendants be fully informed at every stage of criminal proceedings. In criminal trials, the law provides for a presumption of innocence and the right to public trial, to counsel (virtually free for low-income persons), and to appeal.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice. Violations were subject to effective legal sanction.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

There were dozens of national and local newspapers and magazines, 3 public and 6 commercial television stations, and 5 public and 12 commercial radio stations. The media was independent. Access to the Internet was unrestricted.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Government provided subsidies to religious organizations that maintained educational facilities.

In past years, the courts and the Equal Opportunity Committee addressed repeatedly the issue of whether Muslim women and girls could wear headscarves. The prevailing decisions have held that the wearing of headscarves may be banned only on narrow grounds, such as a concern for safety or inconsistency with an official government uniform. Muslims comprised approximately 5 percent of the population.

The Center for Information and Documentation on Israel (CIDI) reported sporadic anti-Semitic incidents during the year. Most such instances involved physical and verbal intimidation of Jews perpetrated primarily by Arab youths. For example, in March, a boy wearing a yarmulke was beaten by Moroccan youth in front of the Portuguese-Israeli synagogue in Amsterdam. There were no serious attacks on synagogues or Jewish shops during the year.

In late 2001, there was a sharp increase in anti-Muslim incidents, including vandalism, arson, the defacing of mosques or Islamic institutions, harassment, and verbal abuse in public places, directed particularly at women wearing headscarves. During the year, there were few incidents of arson or defacing of mosques and Islamic institutions, but Muslims frequently were subjected to verbal or physical intimidation, as the overall public attitude towards Muslims became less tolerant.

Populist politician Pim Fortuyn, who was killed shortly before the May general elections, received broad support for his characterization of Islam as a backward culture that was intolerant toward women and homosexuals and that allowed practices from the Middle Ages. The consequent backlash against the Muslim community worsened with growing resentment of Moroccan youth gangs held responsible for a major rise in crime.

In other areas, antidiscrimination boards rebuked employers publicly for failing to allow non-Christians to take leave from work on their religious holidays and for objecting to Sikhs wearing turbans, to Muslim women wearing headscarves, or to the observance of food requirements on religious grounds.

The Discrimination in Internet Registration Center registered 691 complaints in 2001, including 197 complaints about anti-Semitic statements and 71 about anti-Islamic statements.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the office of the U.N. High Commissioner for Refugees, and other humanitarian organizations in assisting refugees. The Government did not provide first asylum; however, asylum seekers were permitted to apply for residence status, except those (approximately 40 percent) who obviously came from a so-called safe country of origin or stayed for some time in a safe third country. In 2000, the last year for which statistics were available, the Government turned down 83 percent of the asylum requests that were processed. However, up to 30 percent of those whose applications were denied nonetheless were permitted to stay in the country temporarily on humanitarian grounds or for so long as their country of origin was considered unsafe.

The Government's asylum policy was designed to protect genuine refugees while excluding economic migrants and illegal immigrants. In 2001 the Aliens Act entered into force with the aim of discouraging economic migrants at all stages of the asylum process through a stricter intake, the accelerated processing of asylum requests, limited appeal procedures, and the denial of social assistance to asylum seekers who

were rejected. These measures resulted in a sharp decrease in asylum seekers from approximately 43,000 in 2000 to approximately 33,000 in 2001 and fewer than 20,000 during the year.

The Justice Ministry estimated that half of all asylum seekers came to the country via alien smuggling organizations.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. These constitutional rights also apply to the Netherlands Antilles and Aruba.

Parliamentary elections were held in May. There were no restrictions in law or in practice that hindered the participation of women and minorities in government and politics. Approximately one-third of the 150 members of the second chamber of Parliament were female, as was 1 of 15 cabinet ministers. The Government pursued an active policy to promote the participation of women in politics and public administration. Although women were a minority, they also held positions in the Parliaments and Cabinets of the Netherlands Antilles and Aruba.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Several domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were very cooperative and responsive to their views.

The Government has a long tradition of hosting international legal tribunals and facilitated the trial, conducted under Scottish law, of two Libyans accused of the 1988 bombing of Pan American Flight 103. The Government also hosted the International Criminal Court, the International Criminal Tribunal for the Former Yugoslavia, and the headquarters of the International Criminal Tribunal for Rwanda.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination on the basis of any of these factors or political preference as well as sexual orientation. Under the Equal Treatment Act, complainants may sue alleged offenders under civil law.

*Women.*—Societal violence against women was a problem. A 2001 report by the Social Affairs Ministry showed that each year approximately 200,000 women in the country, particularly ethnic minorities, were victims of violence by their former or present spouses or partners. Each year approximately 50,000 women suffer from serious violence, defined as battering, physical and mental abuse, manslaughter, and sexual violence, and 60 to 80 die of domestic violence. Marital rape is a crime and carries the same penalty as nonmarital rape, a maximum of 8 years' imprisonment. Spousal abuse carries a one-third higher penalty than ordinary battery. Fewer than 10 percent of victims of domestic violence reported to the police; most cases were not reported out of fear, shame, or guilt. Each year approximately 800 men were prosecuted for battering their partners. The Government estimated the costs to society caused by violence against women at approximately \$148 million (150 million euros) per year.

The Government supported programs to reduce and prevent violence against women. There was a network of 48 government-subsidized shelters offering the services of social workers and psychologists to battered women. In addition, battered women who left their domestic partners became eligible for social benefits, which included an adequate basic living subsidy as well as an allowance for dependent children. In addition to helping victims of sexual abuse, the Government pursued an active prevention campaign through media commercials and awareness training of educators. Nongovernmental organizations (NGOs) also advised and assisted women who were victims of sexual assault.

Prostitution is legal if the person is over 17 years of age and engages in the work voluntarily; however, organizing the prostitution of another person is a crime even if done with the consent of the prostitute. It is illegal to force a person into prostitution (*see* Section 6.f.). All brothels required licenses issued by local governments with strict conditions to be observed by brothel owners. The Government believed that by decriminalizing prostitution, licensing brothel operators, and improving working conditions and health care for prostitutes, while at the same time prohibiting the employment of minors and illegal immigrants, prostitution would be less

susceptible to criminal organizations trafficking in women and children. The licensing system in principle also makes prostitution more transparent and easier for the police to monitor; however, trafficking in women for the purpose of prostitution remained a problem, despite government efforts to combat it (see Section 6.f.). Between 20,000 and 30,000 persons were employed in the sex trade, and an estimated half of all prostitutes originated in non-European Union (EU) countries and resided in the country illegally.

The law requires employers to take measures to protect workers from sexual harassment; however, research showed that approximately 245,000 women, or 6.6 percent of the female working population, were intimidated sexually in the work place each year. The Government funded an ongoing publicity campaign to increase awareness of the problem. As the largest employer, the Government has taken measures to counter harassment among civil servants, including in the police force.

Women increasingly entered the job market, but traditional cultural factors and an inadequate number of day care facilities tended to discourage women—especially women with young children—from working; one-third of women permanently stopped working after the birth of their first child. In 2001 approximately 65 percent of women between the ages of 15 and 65 held paying jobs and about 58 percent of these worked part time. The social welfare and national health systems provided considerable assistance to working women with families. Women were eligible for 16 weeks of maternity leave with full pay. The Parental Leave Law allows both parents to take unpaid full time leave for 3 months and to extend that leave for more than 6 months to care for children up to 8 years old. Persons working fewer than 20 hours per week also were entitled to parental leave.

Nevertheless women often were underemployed, had less chance of promotion and held lower level positions than men, primarily because of their part-time work status. According to the Ministry of Social Affairs and Employment, women working in the private sector on average earned 23 percent less than men, although when adjusted for level of experience and expertise required for the jobs, this differential was reduced to 7 percent.

The Government provided affirmative action programs for women. Collective labor agreements usually included one or more provisions to strengthen the position of women. The law mandates equal pay for equal work, prohibits dismissal because of marriage, pregnancy, or motherhood, and provides the basis for equality in other employment-related areas. A legislatively mandated Equal Treatment Commission actively pursued complaints of discrimination in these areas as well as allegations of pay discrimination.

*Children.*—The Government worked to ensure the well being of children through numerous well-funded health, education, and public information programs. Compulsory education ends at age 16, or after at least 12 years of education. Education was free for children between 4 and 16, although schools could ask for a voluntary contribution from parents. Vocational education was also free, except for the cost of books and materials. Approximately 10 percent of students left secondary school before attaining a certificate. Government-licensed Islamic schools were obliged to follow the same curriculum requirements as other schools.

According to the Child Abuse Reporting and Advisory Center, an estimated 40,000 to 80,000 children were victims of child abuse each year, although only approximately 20,000 formal reports of child abuse were registered. As a result of abuse, 40 to 50 children die each year. In June the Dutch Children's Rights Collective, which included organizations such as UNICEF Nederland, concluded in a report that the Government was violating the U.N. Convention on Children's Rights, particularly criticizing the long waiting list for assistance to abused children. There were approximately 7,000 abused children on the waiting list at year's end. The Council for the Protection of Children, which operated through the Ministry of Justice, enforced child support orders, investigated cases of child abuse, and recommended remedies ranging from counseling to withdrawal of parental rights. The Government also maintained a popular hot line for children and a network of pediatricians who track suspected cases of child abuse on a confidential basis.

The age of consent is 16. Sexual intercourse with minors under age 12 is a criminal offense. Amendments to the Public Morality Act, enacted in July, allow for the prosecution of sexual abusers of children between the ages of 12 and 16 without the earlier requirement that interested parties file a complaint. The law imposes penalties on prostitution activities involving minors; maximum penalties vary between 6 years' imprisonment for sex (in the context of prostitution) with minors under age 18, 8 years for sex with minors under 16 years of age, and 10 for sex with minors less than 12 years. Under the law, citizens and persons having a permanent residence in the country who abused minor children in foreign countries could be tried



and convicted even if the offense is not a crime in the country where it took place. Trafficking in girls for the purpose of prostitution was a problem (see Section 6.f.).

The maximum penalty for the distribution of child pornography is 4 years' imprisonment and 6 years' in the event of financial gain. The law allows for provisional arrest, house searches, and criminal financial investigations. The possession of child pornography was punishable by law, but exemptions were made for scientific or educational use. However, these exemptions caused some problems; for example, in the past owners claimed that child pornographic collections were of historical value. In July the Public Morality Act raised the age at which minors were allowed to perform in pornographic films from 16 to 18, which corresponded to the age requirement in the International Labor Organization (ILO) Convention against the (sexual) exploitation of children, as well as to the national minimum age for working in the prostitution sector. The Act also criminalizes the electronic manipulation of images of children for sexual purposes.

The Government continued its campaign against child pornography on the Internet.

*Persons with Disabilities.*—There was no discrimination against persons with disabilities in employment, education, or in the provision of other state services; however, according to the Dutch Council for Chronic Patients and the Handicapped, public buildings and public transport were often not easily accessible. Approximately 10 percent of the work force was on full or partial disability. The Equal Treatment Act of Handicapped People and the Chronically Ill, adopted in September, requires the equal treatment of persons with disabilities and those who suffer from chronic diseases. It was scheduled to take effect in January 2003. The law bans discrimination of persons with disabilities in employment, education, and public transport.

*National/Racial/Ethnic Minorities.*—The traditionally homogeneous nature of society has changed in recent decades due to the influx of immigrants and asylum seekers. Of a total population of 16.2 million, approximately 3 million were of foreign origin, including 1.6 million who belong to an ethnic minority group, principally Turkish, Moroccan, Surinamese and Antillean. Government policies that were broad in scope and intent promoted the integration of racial and ethnic minorities, and in general citizens supported integration and were averse to discrimination and unequal treatment; however, integration remained a problem, and immigrant groups faced some discrimination. Various NGOs, some of which were funded by the Government, monitored violations.

Members of immigrant groups face some discrimination in housing and employment. The Government has worked for several years with employers' groups and unions to reduce minority unemployment levels to the national average. These actions have significantly reduced the rate of unemployment among ethnic minorities from 16 percent in 1998 to 9 percent in 2001; however, the minority unemployment rate was 3 times that of the ethnically Dutch workforce. The Act on the Stimulation of Labor Participation by Ethnic Minorities is intended to increase job opportunities for ethnic minorities; it requires employers with a work force of over 35 persons to register their non-Dutch employees, and employers were to strive for a composition of their work force that reflects the regional working population. The Labor Inspectorate oversees implementation of the law.

In 2000 several ministries, government job centers, and the Dutch Small Business Association pledged to find jobs for some 20,000 persons from ethnic minorities before May 2001. Since then, the program twice was extended; and an estimated 62,000 new jobs have been created.

The Government pursued an active campaign to increase public awareness of racism and discrimination. Civil and criminal courts, as well as the Equal Opportunities Committee, the National Ombudsman, the Commercial Code Council, the Council, addressed complaints about racism and discrimination for Journalism, the European Court of Justice, and the European Human Rights Court. The majority of criminal cases concerned racist defamation. Civil lawsuits often concern discrimination in the supply of services, such as supplemental conditions for non-ethnic Dutch to obtain a mobile phone or to gain access to clubs. The Equal Opportunities Committee primarily addresses incidents of discrimination on the labor market, including discrimination on the work floor, unequal pay, termination of labor contracts and preferential treatment of non-ethnic employees.

In 2001 the Council of Chiefs of Police has adopted a series of measures to improve police awareness of incidents of discrimination. These measures included the appointment of a contact person for discrimination in each of the 25 regional police forces, the establishment of a National Bureau of Discrimination Cases (which acts as a clearing house and database for police forces nation-wide) and the establish-

ment of a national registration system of cases of racism and discrimination to provide a comprehensive database of such cases.

The Prosecutor's Office also has established a National Expertise Center on Discrimination that collects information, maintains a database on cases, and provides courses to prosecutors handling cases of discrimination.

The Government-sponsored National Association of Anti-Discrimination Bureaus, established in 1999 to combat racial discrimination maintains information collected by local antidiscrimination bureaus. It registered approximately 3,900 complaints in 2001, the last year for which figures were available.

With the proliferation of Internet web sites, the dissemination of racial and discriminatory material also has increased. The privately run Discrimination on the Internet Registration Center received 691 complaints in 2001, compared with 550 in 2000. Of these, 370 complaints qualified as discrimination in the sense of the law. Most complaints concerned racist statements (507); 197 were of an anti-Semitic, and 71 of an anti-Islamic nature. For 360 cases, the center requested that the statements be removed from Internet, which was done in 312 cases. In 12 cases, the Internet provider issued a warning to the customer at the Center's request. In 9 cases, the Internet provider blocked the customer accounts. In 2001 11 cases were passed on to the prosecutor's office; a few of these cases eventually resulted in convictions. Over 70 percent of such statements were removed voluntarily at the center's request. There have been only two convictions in the past few years for offenses committed that involved the Internet.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers are entitled to form or join unions of their own choosing without prior government authorization, and workers exercised this right. Membership in labor unions is open to all workers including armed forces personnel, the police, and civil service employees. Unions were free of control by the Government and political parties. Union members could and did participate in political activities. Approximately 28 percent of the work force was unionized; however, union-negotiated collective bargaining agreements usually were extended to cover approximately three-quarters of the work force. The white-collar unions' membership was the fastest growing. There were three trade union federations. The largest was the FNV Trade Union Federation (FNV), with approximately 1.23 million members, followed by the Christian Trade Union Federation (CNV), with approximately 354,000 members, and the MHP Trade Union Federation for Staff and Managerial Personnel, with approximately 200,000 members. Unions were free of government and political party control.

Antiunion discrimination is prohibited, and there were no reports that it occurred. Union federations and employers' organizations were represented, along with independent experts, on the Social and Economic Council. The Council was the major advisory board for the Government on policies and legislation regarding national and international social and economic matters.

Unions were free to affiliate with national and international trade union federations. The three union federations were active internationally, without restriction.

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides for the right to organize and specific laws provide for the right to collective bargaining; workers exercised this right. Collective bargaining agreements were negotiated in the framework of the so-called Social Partnership developed between trade unions and private employers.

Representatives of the main union federations, employers' organizations, and the Government met each year to discuss labor issues, including wage levels and their relation to the state of the economy and to international competition. The discussions led to a central accord with social as well as economic goals for the coming year. Under this umbrella agreement, unions and employers in various sectors negotiated sectoral agreements, which the Government usually extended to all companies in the sector. Collective labor agreements usually had one or more provisions to strengthen the position of women (*see* Section 5).

All workers have the right to strike, except for most civil servants who have other institutionalized means of protection and redress. Industrial relations were very harmonious, and strikes were infrequent. In 2001 approximately 45 out of 1,000 labor days were lost, mostly over union demands for higher pay and a 36-hour workweek. By law retribution against striking workers is prohibited, and the Government generally respects this prohibition in practice.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, including by children; however, there were reports that such practices occurred (see Section 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The minimum age for employment is 16 years. Those in school at the age of 16 may not work more than 8 hours per week. The law prohibits persons under the age of 18 from working overtime, at night, or in areas dangerous to their physical or mental well being. The tripartite Labor Commission, which monitored hiring practices and conducts inspections, enforced these laws effectively.

Holiday work and after school jobs are subject to very strict rules set in the Work Time Act, the Child Labor Regulation (for children under age 16), and the Working Conditions Decree. The Social Ministry's Labor Inspection Office oversaw observance of the rules. Although child labor is banned, an increasing number of children worked for pay during holidays. The parents of such children were to be reported officially by labor inspectors, and the Public Prosecutor could prosecute the parents for violating the ban on child labor. In 2001 labor inspections showed that more than half of companies violated the regulations applying to holiday work, including by employing children under the age of 13. In February the Ministry of Social Affairs, in cooperation with the ILO and the International Association of Labor Inspection, organized an international child labor conference.

*e. Acceptable Conditions of Work.*—The minimum wage for adults is established by law and can be adjusted every 6 months to reflect changes in the cost-of-living index. Over the last few years, the statutory minimum wage has been pegged to the average wage in collective labor contracts. The gross minimum wage was approximately \$1,194 (1,206 euros) per month. For workers earning the minimum wage, employers paid \$2,400 per year (2,412 euros) in premiums for social security benefits, which included medical insurance. The legislated minimum wage and social benefits available to minimum wage earners provided an adequate standard of living for a worker and family. Only 3 percent of workers earned the minimum wage because collective bargaining agreements, which normally were extended across a sector, usually set a minimum wage well above the legislated minimum. The Government, unions, and employers have taken measures to increase the number of minimum wage jobs and decrease employers' social payments in order to lower the cost of hiring new workers and create more jobs, especially for the long-term unemployed.

A reduced minimum wage applies to young persons under the age of 23—one of the groups with the highest rate of unemployment—and was intended to provide incentives for their employment. This wage ranged from 34.5 percent of the adult minimum wage for workers 16 years of age to 85 percent for those 22 years of age.

Although the law sets a 40-hour workweek, the average workweek for those with full-time jobs was 37.5 hours. Anyone working more than 4.5 hours per day was entitled to a 30-minute break. This workweek was the result of agreements reached in collective bargaining on shorter workweeks, often in conjunction with more flexible working hours. The law prohibits employers from treating part-time workers differently from those in full-time jobs.

Working conditions, including comprehensive occupational safety and health standards set by law and regulations, were monitored actively and enforced effectively by the tripartite Labor Commission. The Ministry of Labor and Social Affairs also monitored standards through its Labor Inspectorate. Workers could remove themselves from dangerous work conditions without jeopardizing their continued employment.

*f. Trafficking in Persons.*—The law specifically criminalizes alien smuggling and trafficking in persons; however, trafficking was a problem.

The maximum sentence for trafficking in persons is 6 years' imprisonment. In cases involving minors, severe physical violence, or organized trafficking, the maximum sentence is 10 years. The maximum sentence for alien smuggling is 8 years. The 2000 Prostitution Law, which prohibits the illegal employment of prostitutes in the country, allowed the Government to intensify its fight against criminal organizations trafficking in women and children (see Section 5).

The Government actively investigated and prosecuted traffickers. In 2001 authorities prosecuted 86 trafficking cases of which 75 resulted in convictions.

The Government actively combated trafficking in persons. The Ministries of Justice, Internal Affairs, Foreign Affairs, Welfare and Health, and Social Affairs were involved, and a number of local police forces established special units to deal with trafficking. Since 2000 the National Rapporteur on Trafficking in Persons, an independent, publicly funded agency, has reported annually to the Government on the nature, extent, and mechanisms of trafficking, as well as on the effects of national

policies. Its first report in May included a number of recommendations to the Government: An expansion of the national definition of trafficking in persons to include social-economic exploitation in sectors other than prostitution; a more active fight against (organized) traffickers; and more attention to victims. The Government also cooperated closely with other government on trafficking, and EUROPOL, established in The Hague, provided analytical support and administrative expertise to EU member-state law enforcement agencies on trafficking matters. The Justice Ministry also cofinanced the La Strada program, aimed at preventing trafficking in women in Central and East European countries.

Women and girls were trafficked into the country from countries around the world, including Nigeria, Thailand, the Philippines, China, and countries in South America and Central and Eastern Europe. The country was also a transit country. Although there were no reliable statistics, NGOs and the police estimated the number of women and girls trafficked for the purpose of prostitution ranged from 1,000 to 3,600 women each year. The National Criminal Investigation and Information Service (NRI) believed that one out of five of the approximately 17,500 prostitutes working in the country was a trafficking victim.

Internal trafficking was a problem. According to a report published by the NRI in March, approximately 25 percent of girls forced to work as prostitutes were citizens, mostly of Moroccan, Surinamese, or Netherlands Antillean origin. They were mostly drug-dependent, and were easily recruited in schools and discos by youthful procurers, commonly known as loverboys. These loverboys were primarily young Moroccans or Turks living in the country who enticed young girls into prostitution. The girls are later sold to other traffickers, who exploited them in other parts of the country. Local governments have initiated a school campaign to warn girls of the danger of loverboys.

The Immigration and Naturalization Service (IND) reported the disappearance of youthful asylum seekers (AMA's), particularly Nigerian and Chinese girls, from refugee centers who were later found in the illegal prostitution business. The Government has taken measures to combat this problem through better registration of asylum seekers and by placing young female asylum seekers in special shelters.

African women, in particular those from Nigeria, made up a sizeable portion of foreign women working illegally as prostitutes. According to the authorities, the most widely used method for trafficking African women was the fraudulent use of special asylum procedures for minors, who were virtually ensured entry. Most women trafficked from Africa claimed to be under the age of 18, although not all were. Once at the asylum center, they remained for a few days and then disappeared, only to turn up later as prostitutes in the country or elsewhere in Europe. Most of these women were under extreme pressure to work as prostitutes.

A 2000 study of prostitutes from Central and Eastern Europe indicated that five out of six women liberated from trafficking organizations in the country knew that they were to be employed in the sex industry when they accepted the offer of their recruiters. However, upon their arrival, they often were treated as slaves, physically abused, intimidated, threatened, and physically confined by their captors.

Under the law, illegal residents, who may have been victims of trafficking, may not be deported before investigations were completed. Victims were allowed 3 months to consider pressing charges, and victims who did so were allowed to stay in the country until the judicial process was completed. During this period, victims received legal, financial, and psychological assistance. In special circumstances, residence permits were granted on humanitarian grounds. After completion of the judicial process, illegal prostitutes returning to their native countries were eligible for temporary financial assistance.

The Government subsidized NGOs working with trafficking victims, including the Dutch Foundation Against Trafficking in Women, which was an independent organization offering social support, legal advice, medical aid, shelters, and counseling to victims of trafficking.

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## NORWAY

Norway is a parliamentary democracy and constitutional monarchy with King Harald V as the Head of State. It is governed by a prime minister, cabinet, and a 165-seat Parliament (Storting) that is elected every 4 years through free and fair elections; it cannot be dissolved. The judiciary is independent.

The national police have primary responsibility for internal security; however, in times of crisis, such as internal disorder or natural catastrophe, the police may call on the armed forces for assistance. In such circumstances, the armed forces are

under police authority. The civilian authorities maintained effective control of the security forces.

The country, which is an advanced industrial state with a mixed economy combining private and public ownership that provides a high standard of living for residents, had a population of approximately 4.5 million. The key industries were oil and gas, metals, engineering, shipbuilding, fishing, and manufacturing (including fish processing equipment). The leading exports were oil and gas, manufactured goods, fish, and metals. The economy was characterized by low unemployment and labor shortages in many sectors.

The Government generally respected the rights of its citizens, and the law and the judiciary provided effective means of dealing with individual instances of abuse. Violence against women and abuse of children existed. There were reports of trafficking in persons. Norway was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

In January three persons were sentenced to prison for the 2001 killing of a boy of African parentage. (*see* Section 5).

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices, and there were no reports that government officials employed them.

Prison conditions generally met international standards. Men and women were held separately. Juveniles were not held separately from adults; however, it was extremely rare for juveniles to be held in prison. Juveniles generally were cared for by social welfare authorities. Pretrial detainees were held separately from convicted prisoners.

The Government permits visits by independent human rights observers, although there were no such visits during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The law authorizes the Government to use forced exile, and this practice is used in rare cases.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The court system consists of the Supreme Court, the Supreme Court Appellate Court, superior courts, county courts for criminal cases, magistrate courts for civil cases, and claims courts. Special courts include the Impeachment Court (composed of parliamentarians), the labor court, trusteeship courts, fishery courts, and land ownership severance courts.

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Courts provide counsel to the indigent.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution and the law prohibit such actions, and the Government generally respected these prohibitions in practice; violations were subject to effective legal sanction.

##### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press, including academic freedom.

There were 177 newspapers, 5 national television stations, and 6 national radio stations in the country. In addition, there were numerous regional and local newspapers and television and radio stations. Two television channels and five radio channels were state-owned. Access to the Internet was widely available and unrestricted.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The state church is the Evangelical Lutheran Church of Norway, which is supported financially by the State and to which 87 percent of the population nominally belong. The Constitution requires that the King and one-half of the Cabinet belong to this church. Public debate on the relationship between church and state increased during the year. Other denominations operated freely.

A religious community is required to register with the Government only if it desires state support, which is provided to all registered denominations on a proportional basis in accordance with membership.

A 1995 law introduced the subject “Religious Knowledge and Education in Ethics” into the school system. The course covers world religions and philosophy and promotes tolerance and respect for all religious beliefs; however, based on the country’s history and the importance of Christianity to society, the course devotes the most time to Christianity. All children must attend this mandatory course, and there are no exceptions for children of other faiths; students may be exempted from participating in or performing specific religious acts such as church services or prayer, but they may not forgo instruction in the subject as a whole. Organizations for atheists as well as Muslim communities have contested the legality of forced religious teaching. In 2001 Parliament concluded that steps should be taken to make it easier for parents to request that their children be exempted from parts of the class and directed the Ministry of Education to draft a standard form for this purpose, which was sent to all schools. Schools were instructed to implement the use of the form. In 2001 the Supreme Court unanimously rejected the Norwegian Humanist Association case claiming that the teaching of this class was a breach of freedom of religion and a parent’s right to make choices for their children. On September 17, the Norwegian Humanist Association brought the case before the European Court of Human Rights where it remained pending at year’s end.

The Workers’ Protection and Working Environment Act permits prospective employers to ask applicants for employment in private or religious schools and day care centers whether they will respect and teach Christian beliefs and principles.

Muslims encountered some difficulties in obtaining local permission to build mosques in areas where they were concentrated.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The law provides for the granting of refugee and asylee status in accordance with the the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government grants first asylum. In 2001 the Government granted protective residency (which entails the granting of permanent residence permits) to 5,906 persons. The total included: Political asylum for 292 persons; temporary collective residency permits for 40 Iraqi Kurds; and asylum as U.N. quota refugees for 1,269 persons. Immigration authorities rejected 8,976 applications for protective residency. In addition, 12,095 persons received residency status through a family reunification program.

In 2001 the number of persons seeking asylum increased by 36 percent to 14,782 persons. In late 2001, the Government allocated additional resources to the Immigration Directorate, which initiated reforms to speed up application processes for the increasing numbers of asylum seekers and to meet new demands as a growing number of applications were considered to be unjustified.

In 1999 the Government granted temporary collective protection and 1-year residence permits to 8,000 Kosovar Albanians,

1,500 of whom returned voluntarily to Kosovo in 2000. Of those who had returned to Kosovo, 1,200 returned to Norway as refugees later in 2000. Kosovar Albanians remaining in the country were required to apply for asylum, and most did so. By the beginning of the year, the Immigration Directorate had processed most of these Kosovar Albanian asylum applications: 135 were granted asylum; 904 were granted residency on humanitarian grounds; and 4,500 were rejected.

There were no reports of the forced return of persons to a country where they feared persecution.

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

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

Women were increasingly well represented at all levels of government. No restrictions in law or practice hindered women's participation in government and politics. There were 57 women in the 165-seat Parliament, women headed 8 of the 19 government ministries, chaired 5 of 15 standing committees in Parliament, and headed 2 of the 6 main political parties.

In addition to participating freely in the national political process, the Norwegian Sami (formerly known as Lapps) elect their own constituent assembly, the Sameting. Under the law establishing the 39-seat body, the Sameting is a consultative group, which meets regularly to deal with "all matters, which in [its] opinion are of special importance to the Sami people." In practice the Sameting has been most interested in protecting the group's language and cultural rights and in influencing decisions on resources and lands where Sami are a majority (*see* Section 5). A report on the activity of the Sami Assembly is submitted to Parliament annually, and every 4 years a report on the main principles of Norwegian Sami policy is presented in Parliament. In 2001 the Council of State appointed a new Sami Rights Committee. During the year, the Government established a Center for the Rights of Indigenous People as a follow-up to the Government's Plan of Action for Human Rights. The Center sought to increase knowledge and understanding of the rights of indigenous people and the rights of the Sami by collecting and disseminating information identifying research needs. The Government transferred funds for a number of Sami cultural institutions to the Sami Assembly to make it directly responsible for the Sami cultural heritage.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were very cooperative and responsive to their views.

The Ministry of Foreign Affairs oversees the human rights portfolio. In 2000 the Parliament issued a white paper on human rights that stressed the importance of incorporating human rights into law and society in general. Based on the principle that each cabinet minister is responsible for promoting human rights in his or her field, the Government established a separate committee of state secretaries responsible for ensuring that human rights issues receive political emphasis and attention.

There is a parliamentary ombudsman for public administration who is also responsible for promoting human rights through his work on individual cases.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination based on race, sex, disability, language, or social status, and the Government generally enforced this prohibition in practice; however, violence and sexual harassment against women remained problems.

*Women.*—Violence against women, including domestic violence, was a problem. In 2001 there were 653 rapes reported, with 41 convictions. The police believed that increases in reported rapes and domestic abuse were due largely to greater willingness among women to report these crimes. The police investigated and prosecuted such crimes with vigor and also have instituted special programs to prevent rape and domestic violence and to counsel victims. Following up on its 2000 plan of action to prevent domestic violence against women, the Government established a Forum on Violence Against Women to assess how public services deal with women who have been subjected to violence and abuse. Public and private organizations ran several shelters that gave battered women an alternative to returning to a violent domestic situation. Each of the country's 19 counties had a number of such shelters. In 2001 the country's shelters registered 42,200 overnight stays.

There were reports of trafficking in women for prostitution (*see* Section 6.f.).

The Gender Equality Ombudsman—charged with enforcing the Gender Equality Act—processed complaints of sexual discrimination. In 2001 there were 337 complaints and 525 telephone inquiries to the Ombudsman; women filed approximately 50 percent of the complaints, men filed 33 percent, organizations filed 14 percent, and the ombudsman's office directly filed 5 percent.

An amendment to the Working Environment Act provides that "employees shall not be subjected to harassment or other unseemly behavior." Employers that violate

these provisions, including the harassment clause, are subject to fines or prison sentences of up to 2 years, depending on the seriousness of the offense.

The law protects the rights of women. According to the law, "women and men engaged in the same activity shall have equal wages for work of equal value"; however, according to the equal rights ombudsman's office, which monitors enforcement of the law, women generally received 10 to 15 percent less pay and benefits than men for work of "equal value."

In July Parliament amended the Gender Equality Act to improve the position of women in society. The Act applies to all sectors of society, with the exception of the internal affairs of religious communities.

*Children.*—The Government is committed strongly to children's rights and welfare; it amply funds systems of education and medical care. The Government provides free education for children through the postsecondary level. Education is compulsory for 10 years, or through the ninth grade; most children stay in school at least until the age of 18. There was no difference in the treatment of girls and boys in education or health care services. An independent Children's Ombudsman Office, within the Ministry of Children and Families, is responsible for the protection of children under the law.

Abuse of children was a problem. In 2001 a total of 697 sexual assaults by non-family members and 120 assaults by family members were reported. In 2001 welfare services assisted 33,312 abused or neglected children, 6,215 of whom were taken from their homes and placed in government institutions or in respite homes.

*Persons with Disabilities.*—There was no discrimination against persons with disabilities in employment, education, or in the provision of other state services. The law mandates access to public buildings for persons with disabilities, and the Government generally enforced these provisions in practice.

*Indigenous Persons.*—The Government has taken steps to protect the cultural rights of the indigenous Sami by providing Sami language instruction at schools in their areas, radio and television programs broadcast or subtitled in Sami, and subsidies for newspapers and books oriented toward the Sami (*see* Section 3). A Deputy Minister in the Ministry of Local government and Regional Affairs deals specifically with Sami issues. The royal family supported the Sami through their interest in Sami culture and by visiting Sami areas.

*National/Racial/Ethnic Minorities.*—In 2001 a 15-year-old boy with an African father was killed in Oslo. Police believed the killing was racially motivated. Authorities charged three young persons with aiding and abetting voluntary manslaughter for their role in the killing; all three were linked to a neo-Nazi organization. In January the 3 defendants were convicted of the killings and sentenced to terms of 16, 15, and 3 years of prison. The court commented that the murder was clearly racially motivated. The two defendants with the longest sentences appealed, but in December a superior court lengthened the sentences to 18 and 17 years, respectively; an appeal to the Supreme Court was pending at year's end.

In December the Supreme Court acquitted a neo-Nazi charged with racist remarks made at a demonstration in 2000. The decision reversed a lower court ruling that the remarks violated the country's anti-racism law.

In July the Government presented a new Plan of Action to Combat Racism and Discrimination that includes specific goals in target areas, such as the police and judicial system, and proposes legislation to prohibit discrimination in the labor and housing markets.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers with the right to associate freely. With membership totaling approximately 60 percent of the workforce, unions played an important role in political and economic life, and the Government consults them on important economic and social problems. Although the largest trade union federation was associated with the Labor Party, all unions and labor federations were free of party and government control.

The law prohibits antiunion discrimination. The Labor Court deals with complaints of antiunion discrimination; however, there were no such complaints during the year.

Unions are free to form federations and to affiliate internationally; unions maintained strong ties with such international bodies as the International Confederation of Free Trade Unions.

*b. The Right to Organize and Bargain Collectively.*—All workers, including government employees and military personnel, had and exercised the right to organize and bargain collectively. Collective bargaining was widespread, and most wage earners were covered by negotiated settlements, either directly or through understandings



that extend the contract terms to workers outside the main labor federation and the employers' bargaining group.

Workers had the right to strike; however, the Government had the right, with the approval of the Parliament, to invoke compulsory arbitration under certain circumstances. In 1997 the Supreme Court ruled that regulations on compulsory arbitration do not violate international commitments. The case was appealed to the European Court of Human Rights, which dismissed the application in June.

During the year, there was one significant strike—by hotel and restaurant workers. The strike, which lasted 33 days, concluded after personal mediation by union leaders.

There are no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children, and there were no reports such practices occurred. The Directorate of Labor Inspections (DLI) is responsible for compliance with the law.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Children 13 to 18 years of age may be employed part-time in light work that will not affect adversely their health, development, or schooling. Minimum age rules were observed in practice and enforced by the DLI.

*e. Acceptable Conditions of Work.*—There is no legislated or specified minimum wage, but wages normally fall within a national scale negotiated by labor, employers, and the Government at the local and company level. Wages increased this year approximately 5 to 6 percent. The average income, not including extensive social benefits, provides a decent standard of living for a worker and family.

Normal working hours are mandated by law and limited to 37 and a half hours per week. The law also provides for 25 working days of paid leave per year (31 days for those over age 60). A 28-hour rest period is mandated legally on weekends and holidays.

The law provides for safe and physically acceptable working conditions for all employed persons. Specific standards are set by the DLI in consultation with non-governmental experts. According to the law, environment committees composed of management, workers, and health personnel must be established in all enterprises with 50 or more workers, and safety delegates must be elected in all organizations. Workers have the right to remove themselves from situations that endanger their health. The DLI effectively monitored compliance with labor legislation and standards.

*f. Trafficking in Persons.*—No law specifically criminalizes trafficking in persons, although existing legislation may be used to prosecute trafficking cases. There were no prosecutions for such offenses during the year.

Recognizing that trafficking is a growing problem in the country, the Government increased focus on the issue throughout the year and hosted a conference on trafficking in October. During the year, the Ministry of Justice and the Police Directorate established a national project to combat organized crime, specifically targeting trafficking. The Ministry of Children and Family Affairs coordinates an inter-ministerial working group that is responsible for implementing trafficking resolutions and recommendations from the U.N. and the European Council. During the country's 2002 chairmanship of the Nordic Council of Ministers, the Council began a campaign against trafficking in women in the Nordic and Baltic States. As a result, the Government presented mandatory ethical guidelines for government employees that prohibit the purchase and acceptance of sexual services.

The country was a destination for women trafficked for the purpose of prostitution, particularly from Russia and the Baltic States. There were also occasional reports of children from Russia being trafficked into the country to work in petty theft rings.

Victims of trafficking in the country had the same legal rights as other foreigners to apply for residency, asylum, welfare, social aid, and emergency health care. The Ministry of Children and Family Affairs is responsible for assisting possible victims of trafficking; however, most asylum requests by victims were denied. The Government increased awareness of trafficking by raising the issue in a number of speeches and fora. NGOs conducted outreach programs to provide trafficking victims with information on their legal rights and available health and other services.

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## POLAND

Poland is a multiparty parliamentary democracy in which executive power is shared by the Prime Minister, the Council of Ministers, and, to a lesser extent, the President. Alexander Kwasniewski was reelected President in free and fair elections

held in October 2000. The Parliament is bicameral (Senate and Sejm). Free and fair parliamentary elections held in September 2001 resulted in a change in government. The social democratic (post-Communist) Democratic Left Alliance (SLD) formed a majority coalition government with the Union of Labor (UP) and the Polish Peasant Party (PSL). The judiciary is independent; however, it was inefficient.

Internal security forces consist of local police, a national office of investigation, and city guards, who are uniformed, unarmed officers. The armed forces were subject to effective civilian control. Since 1996 the civilian Minister of Defense has had clear command and control authority over the military chief of the general staff as well as oversight of military intelligence. Civilian control was reinforced further by a restructuring of the Ministry of Defense and general staff undertaken as part of the country's entry into NATO in 2000. Security forces committed a few abuses.

The transition economy has a vibrant private sector (including small- and medium-sized industries formerly state owned), which accounted for over two-thirds of gross domestic product. Unreformed heavy industries and agriculture (which employed more than 25 percent of the labor force) lagged other sectors in productivity and growth. The country's population was approximately 39 million.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were reports that police mistreated persons in refugee camps. Prison conditions remained generally poor. A cumbersome legal process, poor administration, and an inadequate budget hampered the court system, and court decisions frequently were not implemented. Lengthy pretrial detention occurred occasionally. The Government restricted the right to privacy. There were a few restrictions in law and in practice on freedom of speech and of the press. Violence against women continued to be a problem. Women continued to experience serious discrimination in the labor market and were subject to various legal inequities. Child prostitution was a problem. There were incidents of desecration of graves in both Jewish and Catholic cemeteries, and anti-Semitic sentiments persisted. There were reports of some societal discrimination and violence against ethnic minorities. Some employers violated worker rights, particularly in the growing private sector, and antiunion discrimination persisted. Trafficking in women and children was a problem. Reform of the country's political and economic structure led to an invitation in December to join the European Union (EU) in May 2004. Poland was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

In 1999 a police officer convicted and sentenced for the 1998 beating death of 13-year-old Przemek Czaja in the city of Slupsk appealed a judicial decision that increased his sentence to 8 years. The officer's appeal was denied in 2001, and he is now serving his sentence. A civil case in which Czaja's family is demanding \$12,500 (50,000 PLN) from the Pomeranian police remained pending at year's end.

A police officer convicted of the 1997 shooting deaths of two unarmed civilians and the wounding of another in Brodno, a suburb of Warsaw, was sentenced in 1999 to 7 years in prison but remained free pending his appeal. In February the Supreme Court upheld the verdict; however, on April 6, President Kwasniewski pardoned the policeman at the request of the Prime Minister and the Minister of the Interior.

Several trials—begun in 1999 and 2000—related to extrajudicial killings during the Communist period continued. In October 2001, a Katowice court found the riot police accused of killing miners during martial law under the Communist regime not guilty. The retrial of former Communist Interior Minister Czeslaw Kiszczak for his role in the pacification of the Wujek mine in 1981 remained pending. On December 9, a Warsaw district court acquitted General Wladyslaw Ciaston, one of the two former Communist Security Services generals accused of having directed the 1984 torture and killing of Father Jerzy Popieluszko.

On October 16, 2001, the Warsaw District Court convened a new trial against former Communist leader Jaruzelski and five other defendants who allegedly ordered police to shoot workers during the 1970 riots in Gdansk. Witnesses were interviewed in November, and the case remained pending at year's end.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, there were reports that police mistreated persons in refugee camps (*see* Section 2.d.).

In August three of the seven riot policemen who were on trial for their participation in the 1997 beating of soccer fans in Gdynia accepted their sentences. They were fined, sentenced to 2 years of probation, and prohibited from working as law enforcement officers for 2 years. The trial for the remaining four defendants remained pending at year's end.

Prison conditions remained generally poor. According to reports by nongovernmental organizations (NGOs), overcrowding, damp cells, and a lack of medical treatment were the chief problems. The prison system urgently needed additional funding, and the Government acted to address the problem by increasing the prison system's budget by 15 percent. The funds were used to renovate more than 30 prison facilities and build additional cells for a total of 336 prisoners in 5 facilities. A new prison for 600 prisoners was under construction in Piotrkow Trybunalski, and new divisions were opened for violent and dangerous prisoners in 6 existing prisons. However, the Ombudsman for Human Rights continued to complain about the safety of prisoners, noting that inmates were often the victims of violent attacks by other prisoners. Civil litigation against the prison administration in the 1996 case of an 18-year-old mentally retarded boy who was beaten and sodomized by fellow inmates was appealed to the Supreme Court in April and remained pending at year's end. Reportedly the ratio of prisoners to rehabilitation officers was very poor. Women were held in 21 detention facilities, but only 5 were strictly for women; in the remaining 16 detention facilities, men and women were held separately. Juveniles under the age of 24 were held separately from adults, and pretrial detainees were held separately from convicted prisoners.

The Government permitted visits by independent human rights organizations. During the year, the Human Rights Ombudsmen monitored 20 detention facilities, and the Helsinki Foundation visited 10 facilities; some of the visits were announced, and some were unannounced prior to the visit.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. Courts rather than prosecutors issue arrest warrants. The law allows a 48-hour detention period before authorities are required to bring a defendant before a court and an additional 24 hours for the court to decide whether to issue a pretrial detention order. During this period, access to a lawyer normally is limited. Once a prosecutor presents the legal basis for a formal investigation, the law provides for access to counsel. Bail was available, and most detainees were released on bail pending trial.

Detainees may be held in pretrial detention for up to 3 months and may challenge the legality of an arrest through appeal to the district court. A court may extend this pretrial confinement period every 3 months for up to 18 months until the trial date. The total time of temporary arrest until the first sentence rendered by the court of lower instance may not be more than 2 years. However, under certain circumstances, the 2-year period may be extended further by the Supreme Court.

The Constitution prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for the right to a fair trial, and an independent judiciary and the Government generally enforced this right; however, the judiciary remained inefficient and lacked resources and public confidence.

There is a four-tiered court and prosecutorial structure. The courts consist of regional, provincial, and appellate divisions, as well as a Supreme Court. These tiers are subdivided further into five parts: Military, civil, criminal, labor, and family. Regional courts are courts of first instance, while appellate courts are charged solely with appeals. Provincial courts have a dual responsibility, handling appeals from regional courts while enjoying original jurisdiction for the most serious types of offenses. Appellate courts handle appeals tried at the provincial level, and the Supreme Court only handles appeals about questions of law. The prosecutorial system mirrors the court structure with national, provincial, appellate, and regional offices. Criminal cases are tried in regional and provincial courts by a panel consisting of a professional judge and two lay assessors. The seriousness of the offense determines which is the court of first instance.

Judges are nominated by the national judicial council and appointed by the President. They are appointed for life, guaranteed complete immunity from prosecution, and can be reassigned but not dismissed, except by a court decision. The Constitutional Tribunal rules on the constitutionality of legislation. Constitutional Tribunal decisions are final and binding.

The Government continued to restructure the court system in order to streamline and accelerate the legal process; however, the court system remained cumbersome, poorly administered, inadequately staffed, and underfunded. There were numerous inefficiencies—most notably, many districts had more criminal judges than prosecutors. These factors contributed to a lack of public confidence. Many effective judges and prosecutors left public service for the more lucrative private sector. Court decisions frequently were not implemented. Bailiffs normally ensured the execution of civil verdicts such as damage payments and evictions; however, according to some observers, they were underpaid, subject to intimidation and bribery, and had a mixed record of implementing court decisions. Civil and administrative rulings against public institutions such as hospitals often could not be enforced due to a lack of funds. At the beginning of the year, there were 2 million cases pending from years prior to 2001. Simple civil cases can take as long as 2 to 3 years before resolution, and the pretrial waiting time in criminal cases can be several months. The backlog and the costs of legal action appeared to deter many citizens from using the justice system, particularly in civil matters such as divorce. The long wait for routine court decisions in commercial matters was an incentive for bribery and corruption.

The law requires that disciplinary procedures be taken against those judges accused of violating judicial independence by issuing unjust verdicts between 1944 and 1989 at the request of the Communist authorities. The deadline to file cases was December 31. Such cases may be initiated by the Minister of Justice, the presidents of the appellate or regional courts, the National Judiciary Council, or by individuals who felt wronged by court verdicts. According to the National Judiciary Council, a total of 19 cases were filed against judges, all prior to 2002.

All defendants are presumed innocent until proven guilty. At the end of a trial, the court renders its decision orally and then has 7 days to prepare a written decision. A defendant has the right to appeal within 14 days of the written decision. Appeals may be made on the basis of new evidence or procedural irregularities.

Once formal charges are filed, the defendant is allowed to study the charges and consult with an attorney, who is provided at public expense if necessary. Once the defendant is prepared, a trial date is set. Defendants are required to be present during the trial and may present evidence and confront witnesses in their own defense. However, prosecutors have the authority to grant witnesses anonymity at trial if they express fear of retribution from the defendant. This law, designed to help combat organized crime, impairs defendants' right to confront their accusers. Trials are usually public; however, the courts reserve the right to close a trial to the public in some circumstances, such as divorce cases, trials in which state secrets may be disclosed, or cases whose content might offend "public morality" (*see* Section 1.f.). The courts rarely invoked this prerogative. A two-level appeal process is available in most civil and criminal matters.

The law allows a defendant and a representative, in addition to the prosecutor, to be present for a provincial appellate court's examination of a verdict.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, the Government did not always respect these prohibitions in practice. The Constitution provides for the general right to privacy; however, there is no legislation that provides for this right.

The law forbids arbitrary forced entry into homes, and search warrants issued by a prosecutor are required to enter private residences. In emergency cases, when a prosecutor is not immediately available, police may enter a residence with the approval of the local police commander. In the most urgent cases, in which there is no time to consult with the police commander, police may enter a private residence after showing their official identification. There were no reports that police abused search warrant procedures.

A 1998 law prohibits the collection of information about a person's ethnic origin, religious convictions, health condition, political views, or membership in religious, political, or trade union organizations. The law allows for certain exceptions, specifically, the gathering of information without a person's permission by courts, hospitals, or organizations if the information pertains to their members. All exceptions are subject to some restrictions. Despite being illegal, a few restrictive practices such as a requirement to fill out "creed" or "nationality" items in some questionnaires continued. For example, some nongovernmental entities persisted in asking for such information; although violators are subject to prosecution, there were no known cases during the year.

The Government maintained, without judicial review or oversight, a large number of wiretaps. The law permits police and intelligence services to monitor private correspondence and to use wiretaps and electronic monitoring devices in cases involv-

ing serious crimes, narcotics, money laundering, or illegal firearm sales. Under the Criminal Code, the Minister of Justice and the Minister of Interior, both political appointees, must authorize these investigative methods. In emergency cases, the police may initiate an investigation that utilizes wiretaps or the opening of private correspondence at the same time that they seek permission from the ministers. There were no credible estimates on the number of such wiretapping devices installed at the request of the police.

Parliamentarians and human rights groups expressed concern about the lack of control over wiretap surveillance. There was no independent judicial review of surveillance activities, nor was there any control over how the information derived from investigations was used. A growing number of agencies had access to wiretap information, and the Police Code allows electronic surveillance to be used for the prevention of crime as well as for investigative purposes. As is the case under the Criminal Code, police must obtain permission from the Ministers of Justice and Interior before initiating wiretap procedures.

The law on "lustration" or vetting, designed to expose government officials who collaborated with the Communist-era secret police, bans from office for 10 years those persons caught lying about their past. The law requires officials to provide sworn affidavits concerning their possible cooperation with the secret police; the public interest spokesman (lustration prosecutor) then verifies the affidavits and brings suspected cases of misrepresentation before the lustration court, a special three-judge panel whose decisions may be appealed. In February legislation was enacted exempting persons who cooperated with intelligence and counterintelligence agencies from lustration. In June the Constitutional Tribunal found this legislation to be unconstitutional for reasons relating to parliamentary procedure rather than substance. In October a new law was enacted—this time in accordance with the Tribunal's procedural ruling—containing the same provisions as the earlier legislation. In 2000 several high-profile cases came before the court, including that of a Deputy Defense Minister who was judged to have lied in his affidavit; in November the Supreme Court returned the case to the appellate court, and the appellate court upheld its earlier ruling. Many of these cases were closed to the public because they involved classified documents (*see* Section 1.e.). Critics continued to voice concern that the procedure of vetting politicians may be unfair, in view of the likelihood that secret police records were subject to loss or tampering. In 2000 Parliament agreed on a chairman for the Institute of National Remembrance, a body mandated by the lustration law to organize all Communist-era secret police files and give citizens access to their files.

Men are not permitted to marry without parental permission until the age of 21, whereas women may marry at the age of 18 (*see* Section 5).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights; however, there are a few restrictions in law and practice. The Criminal Code states that an individual who "publicly insults or humiliates a constitutional institution of the Republic of Poland" is subject to a fine or imprisonment of up to 2 years, while an individual who insults a public functionary is subject to a fine or imprisonment of up to 1 year.

The daily newspaper *Zycie's* appeal of a Warsaw district court ruling that ordered it to apologize to President Aleksander Kwasniewski for publishing untrue information remained pending at year's end; however, in December *Zycie* went bankrupt and ceased publication, leaving unclear the effect on its legal appeal. Individual citizens and businesses may also use the Criminal Code provision to protect their good name." The 1999 case of Andrzej Lepper, who was accused of insulting Prime Minister Jerzy Buzek and state officials, was dismissed in January. There was no progress during the year in the investigation into the case of Mikolaj Siwicki for attempting to publish a hate-mongering book that allegedly could damage the nation's interests, and further action appeared unlikely.

The Criminal Code stipulates that offending religious sentiment through public speech is punishable by a fine or a 3-year prison term.

The law allows for the prosecution of citizens who publish or otherwise betray state secrets. Human rights groups have criticized this law, arguing that it restricts freedom of speech.

The Criminal Code regulates the protection of journalistic sources. The code grants news sources protection, except in cases involving national security, murder, and terrorist acts. Pursuant to the law, statutory provisions are applied retroactively if their terms are beneficial to the accused. Journalists who refused to di-

vulge sources prior to the new code's enactment also can avoid sanctions by invoking "journalistic privilege."

There is no restriction on the establishment of private newspapers or distribution of journals, and there were numerous private newspapers and magazines representing a wide variety of viewpoints.

The National Radio and Television Broadcasting Council (KRRiTV) has broad powers in monitoring and regulating programming on radio and television, allocating broadcasting frequencies and licenses, and apportioning subscription revenues to public media. To encourage the KRRiTV's apolitical character, the nine KRRiTV members are obliged legally to suspend any membership in political parties or public associations. However, they were chosen for their political allegiances and nominated by the Sejm, the Senate, and the President following political bargaining, thus raising questions about the independence of broadcasting oversight from political influence.

The Government owns the most widely viewed television channel and 17 regional stations. Center-right politicians, watchdog institutions, and commentators accused public television of being influenced by politicians from the ruling SLD and PSL parties. Members of these parties have majority seats in supervisory and management boards in public television and radio.

Although public television remains a major source of news and information, private broadcast television, satellite, and private cable services (domestic and foreign) are available across most of the country. Private television broadcasters operate on frequencies selected by the Ministry of Communications and auctioned by the KRRiTV. Polish Television (TVP) and its two channels remained the most widely viewed television in the country (with joint market shares of over 50 percent), but it has faced strong competition from the two private networks, TVN and Polsat. The new broadcasting company, Catholic TV, which presented a conservative point of view, had a viewership below 1 percent. Cable television and various satellite services, as well as global frequencies, carried the main public and private television channels, as well as local and regional stations and a variety of foreign offerings to viewers throughout the country.

The Government owned 5 national radio networks. Private radio flourished on the local, regional, and national levels alongside public radio. During the year, the KRRiTV renewed virtually all radio licenses. The three most popular nationwide radio stations were public Polish Radio Channel 1 and the private commercial stations Radio ZET and RMF FM. Companies with shares in nationwide dailies expanded networks with local radio stations. In a cost cutting move, small local radio stations set up several networks for facilitating advertising and programming matters.

The Broadcasting Law stipulates that programs should not promote activities that are illegal or against state policy, morality, or the common good. The law, whose constitutionality has been confirmed by the Constitutional Tribunal, requires that all broadcasts "respect the religious feelings of the audiences and in particular respect the Christian system of values." This provision has never been used as a means of censorship, although in theory it could be so used.

The Broadcasting Law on radio and television also requires public television to provide direct media access to the main state institutions, including the presidency, "to make presentations or explanations of public policy." The President and the Prime Minister complained occasionally of the other's abuse of the access privilege. Both public and private radio and television stations provided coverage of all ranges of political opinion.

Books expressing a wide range of political and social viewpoints were widely available, as were periodicals and other publications from abroad.

The Internet was available widely and was not regulated or restricted.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the Government generally respected these rights in practice.

Permits are not necessary for public meetings but are required for public demonstrations; demonstration organizers must obtain these permits from local authorities if the demonstration might block a public road. For large demonstrations, organizers also are required to inform the local police of the time and place of their activities and their planned route. Every gathering must have a chairperson who is required to open the demonstration, preside over it, and close it. Permits for public gatherings were issued on a routine basis. In March a regional court in Slubice sentenced rightist politician Andzej Lepper to 1 year of prison (suspended) and 4 years of probation for organizing an illegal blockade of the Polish-German border crossing in Swiecko in 1999.

Private associations need government approval to organize and must register with their district court. The procedure essentially requires the organization to sign a declaration that commits it to abide by the law; however, in practice the procedure is complicated and may be subject to the discretion of the judge in charge.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

There are 15 religious groups in the country whose relationship with the State is governed by specific legislation and 141 other religious communities. The legislation outlines the internal structure of the religious groups, their activities, and procedures for property restitution.

Although the Constitution provides for the separation of church and state, crucifixes hang in both the upper and lower houses of Parliament, as well as in many government offices. State-run radio broadcasts Catholic mass on Sundays, and the Catholic Church is authorized to relicense radio and television stations to operate on frequencies assigned to the Church, the only body outside the National Radio and Television Council allowed to do so.

Religious communities may register with the Government; however, they are not required to do so and may function freely without registration. Registration requires that the group submit the names of 100 members as well as information regarding the group itself. This information on membership must be confirmed by a notary public, although the registration itself often appears to be a formality. There were no new churches registered during the year. All churches and recognized religious groups share the same privileges, such as duty-free importation of office equipment and reduced taxes.

In April the Government closed a department it had established in 2001 within the Ministry of Interior to monitor the activities of “new religious groups and cults.”

Public concern persisted regarding the growth of groups perceived to be “sects” and the influence of nonmainstream religious groups.

The Criminal Code stipulates that offending religious sentiment through public speech is punishable by a fine or a 3-year prison term (*see* Section 2.a.).

Progress continued in implementing the laws that permit local religious communities to submit claims for property owned prior to World War II that subsequently was nationalized. The laws governing restitution of communal property allow for the return of churches and synagogues, cemeteries, and community headquarters, as well as buildings that were used for other religious, educational, or charitable activities.

Although the Constitution gives parents the right to bring up their children in accordance with their own religious and philosophical beliefs, religious education classes continued to be taught in the public schools at public expense. While children are supposed to have the choice between religious instruction and ethics, the Ombudsman’s office states that in most schools, ethics courses were not offered due to financial constraints. Catholic Church representatives were employed to teach religious classes in the schools. Such classes constituted the vast majority of all religious education classes offered, since the population of the country was approximately 95 percent Catholic. However, parents can request religious classes in any of the religions legally registered, including the Protestant, Orthodox, and Jewish religions. Such non-Catholic religious instruction existed in practice, although it was not common; the Ministry of Education pays the instructors. Priests and other instructors received salaries from the state budget for teaching religion in public schools, and Catholic Church representatives were included on a commission that determines whether books qualify for school use.

Relations between the various religious communities were generally amicable; however, sporadic incidents of harassment and violence against Jews and occasional desecration of Jewish, and more often, Catholic cemeteries continued, mostly generated by skinheads and other marginal elements of society.

On September 1, 70 tombstones in Czeladz were knocked down or desecrated with anti-Semitic and Nazi slogans; a police investigation remained pending at year’s end. Between September 8 and 10, 70 tombstones were knocked down in a Jewish cemetery in Wroclaw. Approximately 400 citizens volunteered in a subsequent campaign to make repairs.

While anti-Semitic feelings persisted among certain sectors of the population, surveys in the past several years showed a continuing decline in anti-Semitic sentiment, and avowedly anti-Semitic candidates have won few elections. However, some far-right Members of Parliament made anti-Semitic remarks in a parliamentary debate over the activities of the National Remembrance Institute (IPN).

In April during the 14th March of the Living from Auschwitz to Birkenau to honor victims of the Holocaust, several hundred citizens joined 1,500 marchers from Israel and other countries.

Legal proceedings against 2 persons who were arrested in connection with the attack on the Buddhist Center of Krakow in 2000 remained pending at year's end, and no action appeared likely.

In 2001, on Polish Independence Day, approximately 400 Polish ultra nationalists who chanted anti-Semitic and anti-EU slogans marched through the heavily industrialized city of Katowice. The march culminated in a rally at which demonstrators burned the Israeli and EU flags. Local authorities initiated an official investigation to determine whether identifiable demonstrators should be charged with violating laws that prohibit displays of Fascist symbols and public insults to persons on the basis of national, ethnic or racial identity. The investigation remained pending at year's end.

In 2001 President Kwasniewski presided over a ceremony commemorating the 1941 killing of several hundred Jews in the town of Jedwabne. The President acknowledged Polish participation and apologized in the name of the country and unveiled a new memorial that replaced a plaque stating that Germans alone were responsible. The National Memory Institute continued its investigation of the Jedwabne massacre.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Although the Constitution does not address freedom of movement, the Government generally respected these rights in practice. The Government does not restrict internal or foreign travel; under the law, citizens cannot be refused the right to return to the country; and there are no restrictions on emigration.

The law provides for the granting of refugee and asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. Persons recognized as refugees under the Convention are granted permission to remain in the country permanently. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government received 5,158 petitions for refugee status (compared with 4,506 in 2001), and 258 of the petitions were approved.

The 1997 Aliens Act, as amended in 2001, gave all prospective refugees access to a procedure for adjudicating refugee status and established an independent board to which prospective refugees can appeal negative status decisions by the Ministry of Internal Affairs. The amended Act created the Bureau of Repatriation and Aliens (BRA), which began operating in 2001. This office controls the various refugee centers and agencies and has some political control over the border guards. The Border Guard Academy includes significant training on the handling of potential refugees.

The amended Aliens Act created an expedited system of refugee processing; however, the Government's implementation of the amendments has been slow and continued at year's end. Under the Act, aliens should receive an answer to their petition within 2 days. If denied they may appeal to the BRA's refugee board, which is required to respond within 5 days. If their claims are found to be "manifestly unfounded," they are denied and no further appeal is available to them. However, refugee rights groups reported that processing time continued to range from 4 months to 2 years. The Aliens Act calls for a decision granting or denying asylum to be rendered within 6 months from the date of the initiation of the procedure; however, in practice decisions can take up to 2 years from the time of the application. Refugee rights groups complained about applicants living in legal limbo, unable to work legally, while awaiting decisions on their cases.

The law does not recognize the concept of first asylum or any other form of temporary protection. However, the Aliens Act as amended during the year includes the category of humanitarian assistance as a reason for resettling aliens. Previously the Government only had categories for asylum seekers and for refugees. The new category was created for those who do not qualify as refugees but who cannot be returned to their countries of origin; however, the law's practical implications were untested.

In 2000 the UNHCR expressed concern over the fate of unaccompanied children seeking asylum in the country. It urged that procedures and practices concerning the appointment and maintenance of supervisors and guardians for unaccompanied minors be improved. During the year, the situation improved for unaccompanied minors. In November there were 19 unaccompanied minors, all of whom were housed at the Debak Refugee Center, where there is a small library, play area, and some educational facilities. The minors were able to attend local schools while awaiting a decision on their asylum application. The continued influx of Chechen refugees during the year kept the refugee centers crowded, and ethnic and cultural conflicts occasionally occurred as a result.



Many of the problems that the Government faces in dealing with aliens present in the country centered around funding. The Government received significant EU support for upgrading its refugee processing system, which includes money for such things as fingerprinting equipment and running the refugee centers. However, the Government had very little money to send aliens who had been denied status back to their country of origin. Most denied applicants simply received a letter informing them that their petition has been denied and that they should leave the country. The Government did not have funds to help assimilate those persons who receive permission to reside permanently in the country. Refugees may receive the same subsidies given to citizens living below the poverty line, but no additional money was available to them. The approved petitioners received funds from various NGOs, which covered only basic living needs, and no services such as language training, medical care, or other social benefits.

The country was a destination for refugees, rather than simply a transit point. The UNHCR reported that significantly fewer persons were abandoning their refugee applications and that fewer persons were leaving the country after receiving status.

There were no reports of the forced return of persons to a country where they feared persecution; however, the UNHCR reported isolated incidents of border guards turning away potential refugees. In particular there were reports that Chechen and Afghan asylum applicants encountered difficulties with admission to the country when arriving from Ukraine and Belarus to submit asylum applications in Poland. However, in October 2001, the BRA stated that they no longer would use the internal flight alternative as a reason to deny Chechen asylum applications. The BRA estimated that approximately 4.5 to 5 percent of all asylum seekers received refugee status, while 10 to 15 percent of all Chechen asylum applicants were granted refugee status.

There were reports of the harassment of refugee camp inhabitants by local persons, and there were some reports of mistreatment by police. Several Chechen and Afghan asylum seekers alleged harassment ranging from verbal abuse to forcible removal from one location (usually refugee camps or shelters) to another. There were no formal investigations during the year. Some complaints related to the transfer of asylum seekers from the cities to the countryside. Government officials stated that any relocation was to improve conditions, not harassment.

The UNHCR and the Helsinki Foundation have been working with government officials, police, and hospital personnel to sensitize them to the plight of refugees and train them in better ways of handling refugees.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. All citizens 18 years of age and older have the right to vote and to cast secret ballots, and voting is voluntary. Multiple candidates from various political parties participated in the elections and had access to the media.

The country is a multiparty democracy. Executive power is divided between the President and a government chosen by the Sejm, or lower house of Parliament. There is also an upper house (the Senate). The Constitution provides for parliamentary elections at least once every 4 years. The President, elected for 5 years, has the right, in certain very limited cases and after seeking the opinion of the Speakers of the Sejm and the Senate, to shorten the Sejm's term of office. Whenever the Sejm's term of office is shortened, the Senate's term automatically is shortened as well. Parliament may impeach the President.

There were no restrictions on the participation of women in politics or government. There were 93 women among 460 members of the Sejm and 22 women among the 100 members of the Senate. There was one woman in the 16-member Cabinet (Minister of Education).

There were two members of the German minority party in the Parliament (see Section 5). The electoral law exempts ethnic minority parties from the requirement to win 5 percent of the vote nationwide to qualify for seats in individual districts.

### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

The Helsinki Foundation, a major NGO, conducted human rights investigations without government interference. Members of the foundation reported that the Government displayed a generally positive and helpful attitude towards human rights investigations.

The Office of the Commissioner for Civil Rights Protection (the Ombudsman) is the Government's watchdog for human rights. The Ombudsman's office was an effective, independent body with broad authority to investigate alleged violations of civil rights and liberties. The Ombudsman registered each reported case and filed grievances, where appropriate, with the relevant government office. The Ombudsman has no legislative authority, no powers of enforcement, and is sworn to act apolitically. The Government cooperated with the Ombudsman.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution states that "no one shall be discriminated against in political, social, or economic life for any reason whatsoever," and the Government attempted to ensure that these provisions are observed; however, violence and societal discrimination against women and ethnic minorities persisted.

*Women.*—Violence against women continued to be a problem. While no comprehensive surveys document the problem adequately, the Women's Rights Center estimated that 23 percent of women have been victims of domestic violence, and the NGO La Strada reported that 18 percent of married women admitted to being victims of physical abuse by their husbands. Police statistics indicated that approximately 67,000 women were victims of domestic violence in 2001. Women's organizations asserted that the number of women suffering from domestic abuse is probably much higher because battered women usually refused to admit abuse even to themselves. Violence against women remained hidden, particularly in small towns and villages. Government and police statistics do not differentiate between male and female victims of violence. Physical abuse is illegal and spousal rape is treated in the same manner as other types of rape. Police intervened in cases of domestic violence. The police, in cooperation with the State Agency for Solving Alcoholic Problems, continued to maintain the "blue card," a record-keeping system designed to document incidents of spousal abuse. Law enforcement personnel continued to use the Blue Card Program, although with limited effect due to inadequate funding. Sentences for abuse of family members range from 3 months to 5 years, or from 2 to 10 years if the victim attempts suicide as a result of the abuse. Most convictions (83 percent) resulted in suspended sentences. A police spokesman stated that there were 24,200 cases of family abuse reported in 2001, of which 213 involved particularly severe abuse. According to NGOs, the courts often treated domestic violence as a minor crime, pronounced lenient verdicts, or dismissed cases.

In 2001 there were 2,339 rape cases reported. However, NGOs reported that women often were unwilling to report the crime and estimated that the actual number of rapes was 10 times higher than that reported.

According to the Women's Rights Center Report, there was significant progress in raising public awareness of the problem of violence against women. NGOs indicated that this was one factor in the Government's increasingly receptive position on women's issues. Other reasons included legislation required for Poland's accession to the EU and the creation of the vice-ministerial position of Plenipotentiary for the Equal Rights of Women and Men. In addition, NGOs operated 15 centers to assist victims, provide preventive treatment as well as resocialization counseling to perpetrators, and train personnel working with victims of domestic violence. The Office of Victims' Rights Spokesman at the Ministry of Internal Affairs and Administration has responsibility to ensure that victims of violence are treated with respect by law enforcement and the judicial system. The office provides legal and psychological assistance for victims and their families.

The law has no provision for restraining orders to protect battered women against further abuse. For example, in divorce cases, courts frequently granted a divorce but did not issue a property settlement, forcing women to return to their abusive husbands. This problem was exacerbated by a lack of alternative housing in the country. Women's advocacy groups also complained about the small number of state-supported shelters for battered women.

Paying for sexual activity is illegal, as is pimping; however, selling sex is not illegal. Due to a crackdown on prostitutes who work along major thoroughfares and at truck stops, much of the prostitution industry moved to brothels, massage parlors, or agencies offering escort services. Since 1997 the total estimated numbers of prostitutes has declined by 45 percent; however, police believed that this apparent decline may have resulted from much greater numbers of women working in brothels, or so-called agencies, who were not captured by the statistics. Police estimated that there were 7,000 prostitutes in the country of whom 3,000 worked in one of the 700

agencies in operation and 3,400 worked in hotels, pubs, discos, and on the streets. The remaining 600 prostitutes worked on major thoroughfares and at truck stops.

Trafficking in women for the purpose of sexual exploitation was a problem (see Sections 6.c. and 6.f.).

While there are no laws specifically addressing sexual harassment, social awareness of the problem continued to increase, and there are mechanisms to deal with the problem. For example, the Criminal Code states that whoever takes advantage of a position of power in a relationship to gain sexual gratification may be sentenced to up to 3 years in prison. According to a Supreme Court advisory opinion, such a relationship can occur between employers and employees, between supervisors and subordinates, or between teachers and students; however, this provision can be invoked only when alleged sexual harassment occurs between a supervisor and an individual in a subordinate position. Abuse of power cannot be claimed when harassment occurs between persons of equal rank. In May a former director of a hospital emergency ward charged in 2000 of sexually harassing 6 nurses was sentenced to 16 months in prison (suspended) and 4 years probation.

The Constitution provides for equal rights regardless of gender and grants women equal rights with men in all areas of family, political, social, and economic life, including equal compensation for work of similar value. However, in practice women frequently were paid less for equivalent work, mainly held lower level positions, were discharged more quickly, and were less likely to be promoted than men. The 2001 government statistical bulletin indicated that men had a higher employment rate (52.5 percent) than women (39 percent) and that women had a higher unemployment rate. In August the unemployment rate was 17.4 percent, and 52.7 percent of those unemployed were women. Despite having a generally higher level of education, women earned on average 30 percent less than men. In January the labor code was amended to prohibit discrimination in hiring, with the burden of proof put on the employer to prove that discrimination was not used. Although women had access to a number of previously forbidden careers, they still were prohibited from working underground or in jobs that require heavy lifting. Apart from the Constitution, there is no other legal provision for equal rights for women.

Nevertheless women were employed in a wide variety of professions and occupations, and a number of women occupied high positions in government and in the private sector. Both men and women had the right to take time off to care for a sick child. The pension law requires mandatory earlier retirement for women at age 60 (age 65 for men), and as a result women got approximately 60 percent of the average pension that men received. However, in 2000 the Constitutional Tribunal ruled that the law setting retirement age at 60 for women and 65 for men was discriminatory, as it reduced women's chances for promotion and better pensions. Based on this ruling, women can appeal to the labor court if employers insist that they retire at 60.

The Ombudsman for Human Rights monitors the rights of women within the broader context of human rights. Observers noted that the broad scope of the office's mandate diluted its ability to function as an effective advocate of women's issues. There are several women's rights NGOs; among the most notable are the Polish Foundation for Women and Family Planning and the Women's Rights Center. These groups were active advocates of gender equality and advanced their goals through research, monitoring, and publishing. There are several church-sponsored women's advocacy organizations, but their cooperation with other women's NGOs was limited.

*Children.*—The Constitution extends some state protection to the family and children, and there is a Sejm-appointed Ombudsman for Children's Rights.

The Ombudsman—mandated to protect children from violence, cruelty, neglect, and other mistreatment—is the official point of contact for complaints about violations of human rights of children and submits requests to the appropriate law-enforcement or other authorities for action. The Ombudsman submits an annual report to the Sejm on the condition of children's rights and is empowered to suggest legislation to improve the human rights situation of children.

Education is universal and mandatory until age 18, and public schools are free. The Government sponsored some health programs targeted specifically at children, including a vaccination program and periodic checkups conducted in the schools; however, budget shortfalls prevented complete implementation of these programs. Although child abuse occurred, there was no societal pattern of such abuse. The law prohibits violence against children. A provision of the Criminal Code provides that those who physically or psychologically abuse a juvenile may receive a prison sentence of 3 months to 5 years. If the victim attempts suicide the sentence is increased, as it is if the perpetrator is found to have acted with extreme cruelty. However, abuse rarely was reported, and convictions for child abuse also were rare.

There were no procedures in schools to protect children from abuse by teachers, and the teachers' work code provides legal immunity from prosecution for the use of corporal punishment in classrooms.

The law prohibits child prostitution; however, child prostitution was a problem. The Penal Code states that anyone who, with the purpose of obtaining a material benefit, incites a minor to prostitution or facilitates such prostitution is subject to a sentence from 1 to 10 year's imprisonment.

Trafficking in children was a problem (*see* Section 6.f.).

Men and women reach majority at the age of 18 under the Civil Code; however, a woman can reach majority at the age of 16 if she has entered into marriage with the consent of her parents and the guardianship court. In addition, men are not permitted to marry without parental consent until the age of 21, whereas women may do so at the age of 18 (*see* Section 1.f.).

*Persons with Disabilities.*—There was no discrimination against persons with disabilities in employment, education, or in the provision of other state services. There were approximately 5.5 million persons with disabilities in the country by year's end. In 2001 the Central Bureau of Statistics reported that approximately 17 percent of persons with disabilities able to work were unemployed, roughly equivalent to the national unemployment rate. Advocacy groups claimed that the percentage was much higher. The law allows individuals from certain disability groups to take up gainful employment without the risk of losing their disability benefits. Approximately 46 percent of the persons with disabilities had no more than an elementary school education, compared with 32 percent of those without disabilities, and only 4 percent had a university education, compared with 9 percent of persons without disabilities.

The law creates a state fund for the rehabilitation of persons with disabilities that derives its assets from a tax on employers of over 50 persons (unless 6 percent of the employer's work force are persons with disabilities). In 2001 the fund had approximately \$375 million (1.5 billion PLN) at its disposal, but its management encountered difficulties, including frequent changes in leadership. During the year, the fund disbursed 55 percent of its budget to local governments, while the remaining funds were allocated to special, national programs administered by the fund. In addition, the law prohibits the fund's use to assist children under 16 years of age with disabilities.

There were reports of some societal discrimination against persons with disabilities.

The law mandates access to buildings for persons with disabilities; however, public buildings and transportation generally are not accessible to persons with disabilities. Implementation falls short of rights set forth in the legislation since the law provides only that buildings "should be accessible."

*National/Racial/Ethnic Minorities.*—The law provides for the educational rights of ethnic minorities, including the right to be taught in their own language. There were an estimated 50,000 Lithuanians in the country, and the issue of Lithuanian minority rights including language instruction, was addressed routinely during governmental talks. There were 10 Lithuanian-language textbooks in use during the year at different education levels. The Ministry of Education fully financed their publication and used Lithuanian minority representation in the development of the texts.

According to its leaders, the Romani community, numbering around 30,000, faced disproportionately high unemployment and was hit harder by economic changes and restructuring than were ethnic Poles. Societal discrimination against Roma, who have been considered a national minority since 1998, was commonplace, and some local officials discriminated against Roma in the provision of social services. Romani leaders complained of widespread discrimination in employment, housing, banking, the justice system, the media, and education. The Government cooperated with local governments to develop and finance programs to assist the poorest Roma. Some local governments became more active in dealing with the problems of local Romani communities. In 2001 the Government began a pilot project to help the Romani community in the Province of Malopolska. The goals of the program are to increase the number of Roma completing high school, help fight unemployment, and improve health care and safety for Roma. Project funds—which increased fivefold during the year to \$650,000 (2.6 million PLN)—were spent for books, training liaison staff with the Romani community, and for improving the educational and residential infrastructure in Romani communities.

There were occasional incidents of skinheads clashing with Roma and racially motivated violence directed at Roma. In August 2001, a group of teenagers vandalized automobiles and other Romani vehicles at a resort camp where a Romani family

was vacationing; police arrested three suspects, and the case remained pending at year's end.

In March several thousand students, journalists, and politicians repeated their efforts of 2001 in removing vulgar and racist slogans—directed against various ethnic and racial minorities—from walls in the city of Lodz.

The small Ukrainian and Belarussian minorities occasionally experienced petty harassment and discrimination. Individuals of African, Asian, or Arab descent also reported isolated incidents of verbal, physical and other types of abuse. For example, in July two Polish men in Krakow shouted racial slurs at one foreigner of African descent and one African-American foreigner and assaulted them. The legal proceedings in the case were ongoing at year's end.

The German minority in Opole Province makes up one-third of the 1 million inhabitants of this area that was part of Germany prior to World War II, and 2 members of the German minority party are members of Parliament (*see* Section 3). Some members of the community continued to complain of inadequate use of German in the province's schools.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides that all workers, including civilian employees of the Armed Forces, police, and frontier guards have the right to establish and join trade unions of their own choosing, and workers exercised these rights. The law sets minimum size requirements for establishing a trade union: 10 persons may form a local union, and 30 may establish a national union. Unions, including interbranch national unions and national interbranch federations, must be registered with the courts. A court decision refusing registration may be appealed to an appeals court. The existing law does not give trade unions the freedom to exercise their right to organize all workers. For example, workers on individual contracts cannot form or join a trade union. In state-owned enterprises, such as the health sector, water, and forestry, there were cases in which workers had their normal employment contract terminated and replaced by an individual contract that took away rights they formerly enjoyed as permanent employees.

The number of officially registered national-level unions remained at approximately 360. No precise data existed on work force unionization, although according to press reports, 14 percent of the total workforce were members of trade unions.

As a rule, newly established small- and medium-sized firms were nonunion, while union activity in most cases carried over into privatized (former state-owned) enterprises. The Independent Self-governing Trade Union (NSZZ) Solidarity had a verified regular membership of nearly 1 million. Solidarity continued successful efforts to open local chapters in supermarkets, particularly in Wroclaw, Poznan, and Warsaw. Small spin-offs from mainstream Solidarity include the rival factions Solidarity '80 (250,000 members), August '80, and the Christian Trade Union Solidarity (Popieluszko). There were no reliable estimates of membership in the latter two unions.

The other principal national unions are those affiliated with the All-Poland Trade Union Alliance (OPZZ), the formerly Communist-aligned confederation established in 1984 as the sole legal alternative to the then-outlawed NSZZ Solidarity, and its teachers' affiliate, the Polish Union of Teachers (ZNP). The OPZZ reported that its membership was approximately 1.3 million of whom 870,000 were employed. However, this figure was unverified, and independent surveys suggested that its regular dues-paying membership was considerably less than Solidarity's. A survey found that Solidarity represented approximately 7.6 percent of all Polish workers, while the OPZZ represented only 3.6 percent (one estimate put OPZZ membership at approximately 700,000 to 800,000 workers). A 1999 State Labor Inspectorate study reported that of approximately 27,000 local union organizations, Solidarity had 13,000 organizations, the OPZZ had 11,000 organizations, and Solidarity '80 had 320 organizations. Numerous smaller unions also existed.

During the year, trade unions took a lower profile in politics. In the September 2001 elections, significantly fewer union leaders were elected to Parliament than in the 1997 parliamentary elections. Under the 1997 Constitution, trade unions themselves may no longer conduct political campaigns, although their members may run as political party candidates.

The law prohibits antiunion discrimination; however, labor leaders reported that employers discriminated against workers who attempted to organize or join unions, particularly in the growing private sector. The law also did not prevent employer harassment of union members for labor activity; there were unconfirmed reports that some employers sanctioned employees who tried to set up unions. The ICF TU alleged that the sanctions provided in the law against acts of antiunion discrimination were not sufficiently dissuasive.

Unions have the right by law to join labor federations and confederations and to affiliate with international labor organizations. Independent labor leaders reported that these rights were observed in practice. Solidarity is a full member of the International Confederation of Free Trade Unions (ICFTU), the World Confederation of Labor, and the European Trade Union Confederation.

*b. The Right to Organize and Bargain Collectively.*—The law provides for and protects enterprise-level collective bargaining over wages and working conditions. The Tripartite Commission (unions, employers, and the Government), chaired by Labor Minister Jerzy Hausner, is the main forum that determines national-level wage and benefit increases in such politically sensitive areas as the so-called budget sector (health, education, and public employees), while rendering opinions on pension indexation, energy pricing, and other important aspects of social policy. The Commission served as an important forum in which the social partners aired differences, discussed grievances, and often negotiated agreements before problems erupted into social conflict.

The law on collective bargaining does not require union membership figures to be verified or based on dues-paying members for unions to be considered “representative” negotiating partners for management and government. Solidarity protested some unions’ (largely OPZZ affiliates) participation in negotiations with the Government on the grounds that their membership figures remained unproved.

Many disputes arose because of the weakness of the employer side of the union/employer/Government triangle. Key state sector employers (largely in heavy industry and the budget sector) remained unable to negotiate independently with organized labor without the extensive involvement of government ministries to which they are subordinate, although the Government repeatedly stated that it did not intend to be drawn into labor disputes. This weakness complicated and politicized the Government’s labor relations system.

The law provides for parties to take disputes first to labor courts, then to the prosecutor general, and, in the last resort, to the Supreme Court. In a typical year, Solidarity takes several thousand cases to labor courts, several hundred to the Prosecutor General, and dozens to the Supreme Court for resolution. In an overwhelming majority of these cases, the courts ordered employers to correct practices or reinstate dismissed workers, or ordered unions to reimburse employers for activity found to be illegal. However, penalties are minimal and are not an effective deterrent.

Unions have the right to strike except in “essential services—uniformed services, state administration, and local government—where they only have the right to protest; however, labor leaders complained that the 1991 Act on Collective Dispute Resolution prescribes an overly lengthy process before a strike may be called. Employers considered the law too lenient, since a vote of only one-quarter of the workforce can call a strike. As a result, a majority of strikes were technically “illegal” because one or both of the sides did not follow each step exactly as required by law. Labor courts acted slowly on deciding the legality of strikes, while sanctions against unions for calling illegal strikes, or against employers for provoking them, were minimal. Arbitration is not obligatory and depends on the agreement of disputing parties. Unions alleged that laws prohibiting retribution against strikers are not enforced consistently and that fines imposed as punishment were so minimal that they were ineffective sanctions to illegal activity. Workers who strike in accordance with the law retain their right to social insurance but not to pay. However, if a court rules a strike illegal, workers may lose social benefits, and organizers are liable for damages and may face civil charges and fines. The social partners (unions, employers, and the Government) continued to work out ambiguities in dispute resolution mechanisms provided for in the Labor Code.

There were 23 strikes during the year. In February workers went on strike at the Gdynia Shipyard over proposed layoffs and the management cutting out sausage from soup previously provided for yard workers. In May there was a strike at the Szczecin Shipyard; workers occupied the yard and demanded back pay. Later protests led to the announcement of a government revival package for the yard, but workers at the yard remained restless. In June workers began occupying the Ozarow Cable Factory near Warsaw to protest plans by a new owner to close the plant. On the night of November 25–26, hundreds of riot police and private security guards removed protestors by force to allow the factory owner to remove equipment. Several days of street clashes ensued, and calm was restored only after the owner stopped removing equipment. Protesters claimed that the police used excessive force and that the private security guards attacked the picketers while on public property. In December the Labor Minister suggested that a special economic zone be set up in the Ozarow area to attract investors and create jobs. He also proposed extending small loans to former factory workers.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children, and there were no reports such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law contains strict legal prescriptions about the conditions under which children may work. The Labor Code forbids the employment of persons under the age of 15. Those between the ages of 15 and 18 may be employed only if they have completed primary school and if the proposed employment constitutes vocational training and is not harmful to their health. The age requirement rises to 18 years if a particular job might pose a health danger.

The State Labor Inspectorate (PIP) reported that increasing numbers of minors work, and that many employers violate labor rules in employing them (by underpaying workers, paying them late). Inspectors found violations on stud farms, in restaurants, and, in some instances, in small private sector businesses and factories. Sanctions for the illegal employment of children range from warning letters to orders to cease the work of underage employees. These orders can be enforced through the police to demand the transfer of underage employees or shut down all or part of the offending workplace, or, working through the Ministry of Labor, to impose fines ranging from \$5 to \$125 (20 to 500 PLN) per offense. Cases may also be referred to an administrative tribunal, which can levy fines of up to \$1,250 (5,000 PLN). Jail sentences may be imposed if the infractions are serious enough; such cases generally involve serious injury or death. In 2001 the PIP conducted 1,325 investigations involving some 12,000 possible underage employees. Fines were levied in 417 of these cases, amounting to approximately \$33,000 (133,000 PLN).

On May 15, the Government signed the International Labor Organization Convention 182 on the Worst Forms of Child Labor.

*e. Acceptable Conditions of Work.*—The Ministry of Labor, the unions, and employers' organizations negotiate a revised national minimum wage every 3 months. The national minimum monthly wage remained unchanged at approximately \$190 (760 PLN); it does not provide a decent standard of living for a worker and family. A large percentage of construction workers and seasonal agricultural laborers from the former Soviet Union earned less than the minimum wage. The large size of the informal economy and the small number of state labor inspectors made enforcement of the minimum wage very difficult. With unemployment high, workers often agreed to inferior working conditions and lower pay to find or keep their jobs.

The standard legal workweek is 42 hours, which allows 6- or 7-hour days, including at least one 24-hour rest period. The law requires overtime payment for hours in excess of the standard workweek.

The Labor Code defines minimum conditions for the protection of workers' health and safety. Provisions are strict and extensive; however, enforcement is a major problem because the PIP is unable to monitor the state sector sufficiently, or the private sector, where a growing percentage of accidents take place. In the 85,275 work-related accidents reported during 2001, 548 individuals were killed and 1,155 seriously injured. During the first 6 months of the year, 232 workers were killed and 460 were seriously injured. The Government's Central Statistical Office reported that while most accidents were in the public sector, most serious accidents occurred in the private sector, where proportionally more deaths also occurred. Solidarity contended that the problem lies not in the law, which establishes safe standards, but in enforcement, because employer sanctions for illegal behavior are minimal. Standards for exposure to chemicals, dust, and noise were exceeded routinely. In addition, there was a lack of clarity concerning which government or legislative body had responsibility for enforcing the law. The PIP may shut down workplaces in which it finds unsafe conditions. In 2001—the last year for which figures were available—there were nine shutdowns in workplaces. Workers may remove themselves from dangerous working conditions without losing their jobs, but there were reports that fears of such loss prompted some to stay on the job.

The National Unemployment Office estimated that as many as 100,000 to 150,000 foreigners were working illegally in the country. Other estimates ranged from 250,000 to 1.5 million persons, the majority working in jobs and for wages that were deemed unacceptable to citizens. Most of the illegal residents came from the countries of the former Soviet Union, Sri Lanka, and Afghanistan, although an increasingly larger number were coming from Southeast Asia, particularly Vietnam. The country's relatively high wages compared to those prevailing in the source countries and its status as an EU candidate country mainly were responsible for this phenomenon.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however, the country was a source, transit point, and destination for trafficked persons, primarily

women and girls and to a lesser extent boys. Since statistics on prostitution did not distinguish victims of trafficking from those willfully engaged in prostitution, escort services, pornography, and other aspects of the sex trade, the scope of the trafficking problem was difficult to define. The international NGO La Strada estimated that 60 percent of foreign women who worked as prostitutes in the country were victims of trafficking.

Several provisions in the Criminal Code specifically address the problem of trafficking. The law prohibits trafficking in human beings and pimping and imposes sentences of up to 10 years on those convicted. It also bans recruiting or luring persons into prostitution; penalties for this offense are also up to 10 years. The most severe sentences are reserved for individuals trafficking in children and those luring women into prostitution abroad.

The scope of trafficking in the country was likely to be much larger than the numbers reflected in prosecutions and arrests for specific violations of the criminal code. In 2001 the Government prosecuted 34 cases of trafficking involving 42 victims and 345 cases of luring persons into prostitution.

Polish women and children were trafficked to western European countries such as Germany, Italy, and the Czech Republic for sexual exploitation (*see* Section 5).

Women and girls were trafficked to and through Poland from countries such as Ukraine, Bulgaria, Romania, Belarus, and Russia. Ukraine was the largest single source of foreign women trafficked in Poland. Women from Bulgaria tended to be from the Turkish and Romani minorities. Of the estimated 7,000 prostitutes in the country, 2,100 (30 percent) were estimated to be of foreign origin. Women and girls who were trafficked into Poland were recruited from areas with low socioeconomic conditions, sometimes quite openly. Those women and girls from the lowest socioeconomic status were most vulnerable to trafficking and subjected to the worst conditions. For example, Roma and ethnically Turkish Bulgarians tended to be employed as prostitutes on highways. They may spend a few months in Poland before they are trafficked further west. In contrast women from other countries of Eastern Europe also were trafficked into agencies run as brothels. Educated Polish and Russian women were more likely than others to be employed voluntarily by escort services.

Victims were trafficked through such means as fake employment offers, arranged marriages, fraud, and coercive measures. Some may believe that they were accepting employment as waitresses, maids, or nannies abroad. While they were en route to what they believed to be their destinations, their passports and identity papers were taken from them. Stripped of their personal identity, the women and girls were kept under the control of the traffickers through fear and intimidation. They were required to serve a minimum number of clients each day to earn their keep. They were threatened with violence, and those who resisted were raped or beaten. If they tried to flee, their legs may be broken. There are also reports of victims being killed by their traffickers.

In the last few years, trafficking has become increasingly organized and has been associated with a rampant growth in document fraud. As many as 90 percent of the women and girls trafficked in the country had false travel documents, and the trafficking of a single woman usually involved a network of criminals. One criminal will recruit the woman; a second will provide false travel documents and traffic her across the border; and a third will supervise her work with clients, functioning as a pimp. In one example offered by police, a Bulgarian woman was detained several different times by police, each time with a new identity and passport. La Strada and police also reported large-scale auctions of women held in Warsaw and other cities. Prices paid for women and girls who were trafficked reportedly started at \$1,500 (6,000 PLN). Victims usually were trafficked by nationals from the same source country; for example, Bulgarian women were trafficked by Bulgarians and Ukrainians by Ukrainians. Foreign traffickers systematically paid a percentage of their receipts to Polish traffickers operating out of the same region.

Children were victims of trafficking, although it was difficult to estimate to what extent (*see* Section 5). Legal authorities dealt with child traffickers more severely, in part because laws on statutory rape were easier to prosecute. As a result, the activity has been driven completely underground. Child prostitution is a crime, while prostitution of adults is neither banned nor regulated by law, making it more difficult for the police to pursue. The authorities did not always recognize trafficking in children since minors can be trafficked on false documents identifying them as adults. Of the 589 cases in 2001 initiated by prosecutors, 43 involved victims who were minors. In 2001 at a hotel outside of Warsaw, police raided an auction where women and children were being sold to a human trafficking ring for use in brothels and pornography production.



Since the border guards and police may regard trafficking victims as criminals who have violated passport laws, victims were afraid to turn to officials for help. Victims have no legal status, and there were no public resources available to assist them. Victims usually were deported as soon as possible to avoid any expenses connected with keeping them in detention. Victims were not informed about their legal status or rights. Many were unaware and were not told that under Polish law prostitution is not a crime. When detained by the police, they may be deported to the border where they were met by traffickers who quickly provided them with new travel documents and returned them to the country. There was no provision to allow victims to remain in the country long enough to pursue legal action against their traffickers.

Numerous NGOs were involved in anti-trafficking initiatives and victim services. Often these NGOs and educational institutions worked closely with local authorities to identify victims of trafficking and to develop training programs for local government providers. La Strada—the only NGO dealing exclusively with trafficking—cooperated with shelters such as Caritas and other Catholic organizations. These organizations provided a range of services, including victims' assistance hot lines, safe accommodation, therapy and psychological support. In addition, they assisted by providing victims with contacts who can help with legal problems and reintegration into society.

La Strada also provided training on prevention and victim support to professionals such as police, boarder guards, prosecutors, judges, social workers, teachers, and journalists. Its "Guardian Angel" program, developed in conjunction with the Helsinki Foundation, was aimed at training social workers to help victims with legal issues, so they could be advocates for the victims before the courts, police, and prosecutors. La Strada conducted various types of training, including awareness training for police, training of Helsinki Foundation personnel on trafficking issues and trafficking seminars to university students. In November La Strada worked with the Government to coordinate an inter-ministerial roundtable to develop a national plan to combat trafficking in persons.

## PORTUGAL

The Portuguese Republic is a constitutional democracy with a President, a Prime Minister, and a Parliament freely elected by secret ballot in multiparty elections. The judiciary was independent.

Internal security is primarily the responsibility of the Ministries of Justice and Internal Administration. The Republican National Guard (GNR) has jurisdiction outside cities, and the Public Security Police (PSP) has jurisdiction in cities. The Aliens and Borders Service (SEF) has jurisdiction on immigration and border issues. The civilian authorities maintain effective control of the security forces; however, members of the security forces committed human rights abuses. The Inspectorate General of Internal Administration (IGAI), under the Ministry of Internal Administration, handles disciplinary proceedings against members of the GNR, PSP and SEF involved in violent incidents. IGAI handled 74 cases during the year.

The country has a market-based economy with a population of approximately 10.2 million. The service sector was the leading source of employment, while employment in agriculture and industry continued to be static or declined. Manufacturing provided approximately 30 percent of total economic output. The principal exports were textiles, machinery, cork, paper products, and vehicles.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Police killed five persons, all Portuguese citizens, during the year. Credible reports continued that security personnel occasionally beat and otherwise abused detainees and prisoners. Prison conditions remained poor. Lengthy delays in holding trials led to hunger strikes by some pretrial detainees. Violence against women was a problem, and the Government took steps to address it. Discrimination and violence against minorities and immigrants also were problems. The Government took active steps to address the problem of child labor. Trafficking in foreign laborers and women also was a problem. Portugal was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings; however, police shot and killed five persons during the year.

During an October operation, GNR agents shot and killed Paulo da Silva in Loures. IGAI and criminal proceedings began, and were pending at year's end.

In October Lisbon PSP officers shot and killed Osvaldo Vaz while attempting to serve an arrest warrant. The Public Prosecutor in Loures began a criminal investigation and IGAI began a disciplinary investigation, both ongoing at year's end.

In August a PSP officer from the city of Porto shot and killed 27-year-old Nuno Lucas. The suspect allegedly was trying to flee arrest in a van when he was shot. The PSP claimed that the shooting was accidental; however, Lucas' accomplice alleged that it was intentional. The Justice Ministry's Department of Investigation and Penal Action (DIAP) in Porto and IGAI opened investigations into the case. At year's end, the IGAI process was in the final disciplinary phase and the DIAP investigation was ongoing.

In June a PSP police officer shot and killed Antonio Tavares Pereira during an argument between local residents and PSP officers in Setubal. The police reportedly also shot and injured two youths during the incident. The Government began an investigation into the police shooting. At year's end, both IGAI and the Public Prosecutor were deliberating on the case.

In March PSP officers in Lisbon shot Cesario Marques who resisted arrest. Marques later died in the hospital. The IGAI concluded its investigation and decided the PSP officers acted legitimately in self-defense.

According to the Directorate General of Prison Services (DGSP), in August Marco Filipe Marques dos Santos, a 27-year-old convicted murderer, committed suicide by hanging himself with a bed sheet in a Lisbon prison. However, his parents alleged that prison guards beat him to death, and were awaiting an autopsy report at year's end.

Investigations into the July 2001 killing by a GNR officer of Artur Mendes Pereira in the Algarve region were closed. The IGAI took disciplinary action against the GNR agent, but criminal proceedings did not lead to a conviction.

In September an appeals court in Porto ruled that there was insufficient evidence to determine whether the internal abdominal bleeding that caused the 2000 death of Roma, Alvaro Rosa Cardosa, resulted from a fight before the arrest or the alleged mistreatment by two PSP officers afterwards. The case was dismissed.

The IGAI completed its investigation into the January 2000 death of Paulo Silva, who died of internal bleeding which may have been caused by PSP mistreatment during an arrest in Porto, but at year's end, was waiting for the conclusion of the criminal proceedings before taking disciplinary action.

An appeal by three PSP officers, who were convicted in 1998 on criminal charges related to the death in custody in 1996 of Carlos Araujo, failed. The officer responsible was disciplined by IGAI and sentenced by a criminal court.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there were infrequent but credible reports that police and prison guards beat and otherwise abused detainees, particularly non-Europeans.

In September the DIAP in Lisbon and IGAI began investigations into the alleged aggression of three PSP officers against Aizhong Lin and his wife Qiaolian Zhou, a Chinese merchant couple. According to Lin, he and his pregnant wife were taken to the Mouraria police station in August after he refused to sign a notification of a fine. At the station, he alleged that police officers beat and kicked him while he was handcuffed. Forty witnesses, who viewed the incident through a broken glass door in the police station, signed a testimonial corroborating Lin's story. The police alleged that it was Lin who initiated the aggression toward the officers. Investigations were ongoing at year's end.

In August PSP officers in Faro allegedly beat Artur da Conceicao in Faro. Criminal and IGAI proceedings began, and were ongoing at year's end.

During a July incident in front of a Lisbon nightclub, a PSP officer struck Pedro Miranda with a baton, resulting in loss of sight in one eye. Criminal and IGAI proceedings were ongoing at year's end.

According to Amnesty International, and documented by television news footage, a celebration of Brazil's June victory in the 2002 World Cup in the vicinity of the O Eletrico bar on the Costa da Caparica involved clashes between PSP riot police and fans, many of whom were either of Brazilian nationality or descent. Six Brazilians and at least one police officer were injured in the incident. The Government investigated the incident, and IGAI concluded that the PSP officers acted appropriately given the danger of the situation, and that they used force only as a last resort.

The criminal trial in a military tribunal in Coimbra of GNR agents implicated in the mistreatment of detainees in 1999 concluded. They were found not guilty and were not subject to any disciplinary action.

The Government investigates reports of police mistreatment. According to its 2001 activity report, the IGAI opened investigations into 307 complaints against agents of the Ministry of Internal Administration, and determined that 36 cases were of particular importance and relevance. Of these 36, three were related to allegations involving the deaths of citizens. An independent ombudsman is chosen by the Parliament and the IGAI to investigate complaints of mistreatment by the police; however, nongovernmental organizations (NGOs) have been critical of the slow pace of police investigations in general and internal investigations by the police in particular. A 1999 law provides detailed guidelines covering all aspects of arrest and custody. According to an NGO, the law has led to some improvements but has not completely eliminated abuses. During the year, police officers receive extensive professional training and the Government regulates their actions through mechanisms established by law.

Credible information from independent reports and NGOs indicated that prison conditions remained poor. The Director General of the DGSP resigned in November. In an April report to the Justice Ministry, he complained of a lack of finances and prison guards, the degradation and lack of facilities and equipment, and dangers (including from organized crime) to both prisoners and prison guards. The Justice Ministry subsequently added 345 guards and promised 255 more.

The DGSP Director General's April report also mentioned worsening health conditions including infectious diseases, mental health, oral health, and drug abuse. According to his report, 25 percent of prisoners had viral hepatitis and about 11 percent were HIV-positive. Prison overcrowding remained a serious problem, with a reported rate of overcrowding of 21.8 percent (out of a population of 13,963 prisoners) in October. Some NGOs and the media also strongly denounced prison health conditions, citing even higher infectious disease rates and poor medical treatment for prisoners.

There were continued reports regarding the mistreatment of prisoners by prison guards. According to a press report, the Justice Ministry received approximately 200 complaints from prisoners in 2001, 20 of which concerned prisoner mistreatment by prison guards. According to government officials, violence among inmates was a more common problem.

Men and women were housed separately. While there is a youth prison in Leiria, juveniles were at times held with adults. Pretrial detainees were held with convicted criminals.

The ombudsman investigated complaints of mistreatment by the police and prison authorities. The IGAI also conducted internal investigations in cases of alleged mistreatment in prisons.

The Government permitted visits by independent human rights observers, such as the Council of Europe's Committee for the prevention of Torture.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

Under the law, an investigating judge determines whether an arrested person should be detained, released on bail, or released outright. A person may not be held for more than 48 hours without appearing before an investigating judge. Investigative detention is limited to a maximum of 6 months for each suspected crime. If a formal charge is not filed within that period, the detainee must be released. In cases of serious crimes such as murder or armed robbery, or of more than one suspect, investigative detention may last for up to 2 years and may be extended by a judge to 3 years in extraordinary circumstances. A suspect in investigative detention must be brought to trial within 18 months of being charged formally. If a suspect is not in detention, there is no specified period for going to trial. A detainee has access to lawyers, and the State assumes the cost if necessary.

During the year, prisoners went on hunger strikes to protest, among other things, prolonged periods of preventive detention. The average number of prisoners returned to custody by court order ("remand") is high. Statistics showed that 4,029 individuals (28.7 percent) of the prison population were in preventive detention. Preventive detainees remained in prison under this status for an average of 26 months. Judges argued that preventive detention was justified by the high incidence (40 percent) of repeat offenders. The Government began implementing the use of an electronic monitoring device as an alternative to preventive detention. There were 50 preventive detainees participating in the program at year's end. One difficulty in expanding the program was that detainees must have a fixed residence with a telephone connection and electricity. Many preventive detainees were drug addicts who lacked these requirements.

In February the European Court of Human Rights (ECHR) ruled in the *Magalhaes Pereira v. Portugal* case that the Government violated Article 5–4 of the Convention. Joaquim Magalhaes Pereira challenged his continued confinement in a psychiatric hospital on the basis that it was unlawful, that the Government took too long to determine the lawfulness of the continued confinement, and that the Government failed to provide him legal assistance in challenging his confinement. The Court determined that the Government unlawfully confined Pereira and failed to provide him adequate legal representation. The Court awarded Pereira \$5,300 (6,000 euros) for non-pecuniary damages and \$2,845 (3,221 euros) for legal costs.

The law prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The court system, laid out in the Constitution, consists of a Constitutional Court, a Supreme Court of Justice, and judicial courts of first and second instance. There is also a Supreme Court of Administration, which handles administrative and tax disputes, and which is supported by lower administrative courts. An audit court is in the Ministry of Finance.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforces this right. All trials are public except those that may offend the dignity of the victim, such as in cases of sexual abuse of children. The accused is presumed innocent. In trials for serious crimes, a panel of three judges presides. For lesser crimes, a single judge presides. At the request of the accused, a jury may be used in trials for major crimes; in practice, requests for jury trials are extremely rare.

Critics pointed to a large backlog of pending trials resulting from the inefficient functioning of the courts. A 2001 law aims to reduce the case backlog by increasing the number of judges. The bill also has provisions to reduce the time it takes a lawyer to become a judge. Another 2001 law provides that witnesses may testify in cases heard in distant jurisdictions via teleconference. The Ministry of Justice also has implemented a plan to speed up the serving of subpoenas. Many factors contributed to the backlog, including the underutilization of technology (case folders were still sewn closed by a large number of “needlewomen”), the confusing and drawn out method of serving subpoenas, and the reluctance of the justice system to accept change.

In January and March, the ECHR ordered the Ministry of Justice to pay a fine to three plaintiffs in three separate civil cases. These cases involved violations of Article 6–1 of the Convention. The first case concerned compensation for a breach of contract claim that lasted 14 years and 2 months. The second case was not resolved after 11 years and 1 month. In six other civil cases brought before the ECHR, the Court concluded that the resolution of the cases lasted beyond a reasonable amount of time, and awarded non-pecuniary damages. Many similar examples of judicial delay and backlog were reported in the press.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and of the press, including academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for the freedoms of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Roman Catholic Church is the dominant religion. Although the overwhelming majority of citizens are Roman Catholic, other religions, including Islam, Judaism, and Eastern Orthodox, practiced freely.

A 2001 Religious Freedom Act created a legislative framework for religions established in the country for at least 30 years, or recognized internationally for at least 60 years. The Act provides qualifying religions with benefits previously reserved for the Catholic Church: full tax-exempt status, legal recognition for marriage and other rites, chaplain visits to prisons and hospitals, and respect for traditional holidays.

The Act specifies that rules must be established within 60 days after passage; however, the Government had not created rules enabling this legislation by year's end.

The Church of Scientology, although recognized as a religious association since 1986, did not benefit from the Religious Freedom Act, since it had not been established in the country for 30 years or recognized internationally for 60 years, as required under the law. The Church's leaders claimed that they suffered no discrimination or opposition in the country. However, they were concerned that exclusion from the benefits accorded under the Act might have a negative impact on their ability to practice their faith.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution and laws provide for these rights, and the Government generally respected them in practice. The law provides for the granting of refugee and asylum status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. Persons who qualify as refugees were entitled to residence permits. The Government rarely ruled that an asylum seeker had a "valid" claim and did not grant first asylum during the year. Immigration authorities attempted to distinguish among political, humanitarian, and temporary refugees, but the Government continued to maintain that the majority of asylum seekers were economic refugees using the country as a gateway to the other EU countries.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections on the basis of universal suffrage. The country is a multiparty parliamentary democracy.

There were 49 women in the 230-member Parliament. The second ranking member of the cabinet, the Minister of State and Finance, was a woman, as was the Justice Minister. Five women held state-secretary positions, which are one rank below cabinet ministers. Some political parties had adopted internal quotas for women.

Race was rarely an issue in politics; persons of minority origin had achieved political prominence.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative to their views; however, most groups complained of slow investigations or remedial actions.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution forbids discrimination based on ancestry, sex, language, origin, political or ideological convictions, education, economic situation, or social condition; however, some discrimination against women and ethnic minorities persisted.

*Women.*—Domestic and other violence against women reportedly was a common but partially hidden problem for which few sought legal recourse. In 2001 the Portuguese Association for Victim Support (APAV), a non-profit charitable organization that provides confidential and free services to crime victims nationwide, received 7,593 calls on its toll-free hotline in which 8,429 acts of domestic violence were reported. Ninety-five percent of the victims in these cases were women. Of the reported acts, 1,176 were committed against mentally handicapped victims, 88 percent of them women. Although cases of domestic violence occurred throughout the country, more than half of the cases came from the large urban centers of Lisbon and Porto. The Commission for Equality and Women's Rights runs 14 safe houses for domestic violence in the country (4 new ones were opened during the year) and also has a 24-hours-a-day, 7 days-a-week phone service. This phone service received 2,264 calls in 2000 and 2,032 in 2001 (2,009 female and 27 male victims).

The law provides for criminal penalties in cases of violence by a spouse, and the judicial system prosecutes suspects accused of abusing women; however, traditional societal attitudes still discouraged many battered women from recourse to the judicial system. A 2000 law defines domestic violence as a public crime, which obliges

the police to follow through on reports of domestic violence. The change gave police and the courts more leverage to prosecute such cases and removed from the victim some of the burden of bringing charges. The Penal Code grants any interested party the ability to file charges in domestic violence cases. Portugal ratified the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1990, and the Optional Protocol entered into force in July.

Parliament continued to address the problem of domestic violence through legislative initiatives. Under the law, perpetrators of domestic violence may be barred from contact with their victims, and in extreme cases, the police may order the immediate expulsion of a perpetrator from the victim's dwelling. The law also calls for the development of new programs to teach anger management to perpetrators and to assist victims with the professional development necessary to live independent lives. The law establishes a national support network and a system of compensation for victims of domestic violence. Another law provided for the expansion of the system of shelters for victims. The Government also strengthened educational campaigns for the public and specialized training for the police.

Prostitution was commonplace and neither prostitutes nor clients are punishable in the country. Under Portuguese law—which is based on the 1982 Penal Code and the International Convention for the Suppression of the Traffic in Persons and the Exploitation of Prostitution—only pimping, brothels, and the registration of prostitutes are illegal. Trafficking in women for the purpose of prostitution continued to be a problem (*see* Section 6.f.). Prostitution was linked closely to other types of organized crime, especially international narcotics trafficking. The Nest, an NGO, operated economic and social recovery programs for prostitutes.

Sexual harassment, a problem that continued to gain public attention, is covered in the Penal Code and defined as a sex crime if perpetrated by a superior in the workplace. The penalties are 2 to 3 years' imprisonment. As in the case of domestic violence, socially ingrained attitudes discouraged many women from taking advantage of the legal protection available. The Commission on Equality in the Workplace and in Employment, made up of representatives of the Government, employers' organizations, and labor unions, is empowered to examine, but not adjudicate, complaints of sexual harassment; however, it received few such complaints.

The Civil Code provides for full legal equality for women. Women increasingly were represented in business, science, academia, and the professions. A gap nevertheless remained between male and female salaries: according to the latest figures available (1998), women earned an average of 77 percent of men's earnings. Women made up a slight majority of university graduates. The Commission on Equality in the Workplace and in Employment reviewed numerous complaints of discrimination by employers against pregnant workers and new mothers, who were protected by law. The law provides for 120 days of maternity leave with full pay and benefits. After return to work, a new mother (or father) may take time off every day to nurse or feed an infant. If pregnant or nursing women or new fathers are fired, they may take their complaint to the Government Equality Commission (CITE), which addresses equal opportunity complaints. If CITE finds that the employee's legal rights were violated, the employer must reinstate the worker and pay double back pay and benefits for the time at work missed due to the wrongful firing.

*Children.*—The Government was strongly committed to children's rights and welfare; it amply funded systems of public education and medical care. The Government provides 9 years of compulsory, free, and universal education for children through the age of 15, most of whom attend school. The Institute of Solidarity and Social Security, located within the Ministry of Labor and Solidarity, oversees implementation of the Government's programs for children. The Institute initiated a program to coordinate assistance for children of immigrant families and a program to support early childhood, which included the provision of better childcare facilities. The Government provides preschool education for children from 4 years upon entry into primary school. Each year the number of students enrolled in preschool has increased. The Institute also improved the quantity and quality of temporary shelters for children aged 3 months to 3 years.

The Ministries of Labor and Solidarity, Justice, and Health sponsored a program in the maternity wards of hospitals to register newborns and enroll them in the social security and health programs. The Government provides free or low cost health care for all children up to the age of 15.

There was no societal pattern of abuse of children. APAV and the telephone hotline "SOS Crianca" reported 272 cases of domestic violence against children in 2001, 47 of which were against infants under the age of four. The law defines pedophilia to include consumers of child pornography as well as producers. Following guidelines approved by the EU, the Government has amended its legal code concerning pedophilia. Courts may request jurisdiction of cases involving Portuguese resident

nationals who commit pedophilia abroad, regardless of the victim's nationality or whether the act committed is considered a crime in that country. At the end of the year, the Government made arrests and began a thorough investigation of a high-profile pedophilia operation that had been active since the 1960s at a boarding school in Lisbon named "Casa Pia."

The country served as a transit point for children trafficked from Africa to other Western European countries (*see* Section 6.f.).

The Government ratified the UN Convention on the Rights of the Child in 1990 and signed the Optional Protocols on the involvement of children in armed conflict and on the sale of children, child prostitution, and child pornography in 2000. The National Commission for the Protection of Children and Youth at Risk, a governmental organization, is charged with implementing the principles of the convention. The Commission operated under the aegis of the High Commissioner for the Promotion of Equality and of the Family and includes representatives from the Ministries of Justice, Health, Education, and Labor, as well as from leading NGOs. It organized public awareness programs and promoted legislation that protects children's rights. Along with the Institute for Social Development, the Commission distributed to students copies of the articles included in the Convention of the Rights of Children. The two organizations also produced two books geared toward educating children about their rights. The quasi-independent Institute for the Support of Children organized a network of 48 NGOs dedicated to helping at-risk youth. It served as an information clearinghouse for NGOs working on children's issues, provided telephone and in-person counseling, intervention, and prevention services in cases of child abuse and neglect, and operated services assisting street children. The University of Minho's Institute for the Study of Children is a research center dedicated solely to the study of children's issues.

*Persons with Disabilities.*—There was no discrimination against persons with disabilities in employment, education, or the provision of other state services. The law mandates access to public buildings for such persons, and the Government enforced these provisions in practice; however, no such legislation covers private businesses or other facilities.

*National/Racial/Ethnic Minorities.*—The principal minority groups were immigrants, legal and illegal, from Portugal's former African colonies, Brazil and Eastern Europe. During the year, the number of immigrants from Eastern Europe and Brazil increased greatly, while immigration from Africa decreased. News articles had reported that Eastern Europeans were more easily assimilated than Africans, who still faced some discrimination. The country also had a resident Roma population of approximately 50,000 persons, who had been the subject of some discrimination and violence.

The law permits victims and antiracism associations to participate in race-related criminal trials by lodging criminal complaints, retaining their own lawyers, and calling witnesses. In 1999 antiracism laws reiterated antidiscrimination sections of the Constitution and the Penal Code. The laws prohibit and penalize racial discrimination in housing, business, and health services. The laws also provided for the creation of a Commission for Equality and Against Racial Discrimination to work alongside the High Commissioner for Immigration and Ethnic Minorities. At year's end, the Commission still had not made significant improvements.

The growing number of undocumented workers who entered the country illegally was a problem; however, the Government took steps to address the problem. The law provides a framework for undocumented aliens to obtain legal status and access to social and health benefits. The country legalized 130,000 foreigners in 2001, bringing the total number of legal immigrants authorized to work to about 350,000 (an increase from 2 to 3.5 percent of the population). The largest numbers came from Cape Verde, Brazil, Ukraine, Moldova, Romania, and Russia.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right to establish unions by profession or industry. Workers in both the private and public sectors had the right to associate and to establish committees in the workplace to defend their interests, and they exercised these rights freely.

Two principal labor federations existed: the Workers' General Union (UGT) and the General Confederation of Portuguese Workers (CGTP). No restrictions limited the formation of additional labor federations. Unions functioned without hindrance by the Government and were associated closely with political parties. Trade union associations had the right to participate in the preparation of labor legislation.

There were no restrictions on the ability of unions to join federations or of federations to affiliate with international labor bodies.

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides for collective bargaining, and it was practiced extensively in the public and private sectors. Collective bargaining disputes usually were resolved through negotiation. When collective bargaining fails, the Government may appoint a mediator at the request of either management or labor.

Strikes are permitted by the Constitution for any reason, including political causes; they were common and generally were resolved through direct negotiations. However, should a long strike occur in an essential sector such as health, energy, or transportation, the Government may order the strikers back to work for a specific period. The Government rarely has invoked this power, in part because most strikes last only 1 to 3 days. The law requires a “minimum level of service” to be provided during strikes in essential sectors, but this requirement was applied infrequently. When it was applied, minimum levels of service were established by agreement between the Government and the striking unions. Unions have complained, including to the International Labor Organization (ILO), that the minimum levels have been set too high.

In response to the Government’s proposal to revamp the country’s rigid labor code, unions organized a public sector strike in November and then a general strike in December. Both strikes affected important public services; however, the police did not interfere and no incidents of violence were reported.

Police officers and members of the armed forces may not legally strike. However, in June 2001, police went on strike and demonstrated before Parliament as part of their demand to form a union. Parliament passed a law in December 2001 granting police the right to form unions but upholding the prohibition of strikes by police.

The law prohibits antiunion discrimination, and the authorities generally enforced this prohibition in practice. The General Directorate of Labor promptly examined complaints.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced and bonded labor, including by children; however, there were reports that such practices occurred (see Section 6.d.). There were several media reports of businesses and organizations illegally using mentally handicapped individuals for strenuous manual labor.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The minimum working age is 16 years. There were instances of child labor, but the overall incidence was small and was concentrated geographically and sectorally. The greatest problems were reported in Braga, Porto, and Faro and tended to occur in the clothing, footwear, construction, and hotel industries.

In October 2001, the Government undertook a new comprehensive study of the child labor problem. The Government estimated that 46,717 children on the Portuguese mainland engaged in some form of economic activity, of whom 40,001 were unpaid family workers and 6,716 worked for third parties. These results represented a shift from 1998, where a greater percentage of those involved in economic activity worked for third parties. Of those children engaged in an economic activity, 86.2 percent were attending school, compared with approximately 78 percent in 1998. The survey confirmed that most children engaged in economic activity come from the northern (57.7 percent) and central (26 percent) regions of the country. The agricultural sector employed the most children, followed by commerce, manufacturing, hotel and catering, and construction. When asked why they were engaged in economic activities, 54.5 percent of the children replied, “because they wanted to,” compared to 26.8 percent in 1998. The number of respondents citing “household economic problems” and “no one else wants to do it” declined. The majority of children worked 1 to 3 hours per day, and children tended to work either one to two days per week or 6 to 7 days per week. A great majority (87 percent) said that their work was easy, and 89 percent said that they enjoyed their work.

Government agencies had noted a continued gradual shift from child labor in industries to child labor in the home. Children increasingly worked in family businesses, particularly in rural farm work. The extensive national network designed to combat child labor began to shift some of its resources toward these family-run businesses.

The Government’s fight against exploitative child labor included policies designed to address some of the root causes. A government commission, the Plan for the Elimination of Exploitation of Child Labor (PEETI), has developed, in conjunction with several NGOs, an integrated program of education and training in which local teams of social workers and educators intervene in situations involving dropouts and working children. These teams develop programs of scholastic and vocational study tailored to the individual child and his community. There were 34 programs



established in the country serving approximately 600 youth. Most of the programs were concentrated in the northern region of the country, where 73 percent of the youth were served. While youth from Lisbon and surrounding areas only accounted for 13.5 percent of program participants, they accounted for the highest percentage of youth subject to the worst forms of child labor. PEETI gave "scholarships" to help offset the loss of income to the family. Up to 800 teenagers participated in this work-study program on a rotating basis during the year. PEETI also sponsored summer camps for at-risk youth to attend when school is not in session. The National Council Against the Exploitation of Child Labor (CNETI), a multiagency government body, coordinated efforts to eliminate child labor.

The Government's guaranteed minimum income program provided some families an alternative to sending their children to work. Since its inception, more than 691,897 persons have participated in this program. As of April 2001, 390,428 were still receiving this benefit. The Government noted that this program had helped 16,492 children return to school.

In June 2000, the country ratified the ILO 182 Convention on the Worst Forms of Child Labor.

*e. Acceptable Conditions of Work.*—Minimum-wage legislation covers full-time workers as well as rural workers and domestic employees ages 18 and over. The monthly minimum wage during the year was approximately \$348 (348 euros). Along with widespread rent controls, basic food and utility subsidies, and phased implementation of an assured minimum income, the minimum wage afforded a decent standard of living for a worker and family. Most workers received higher wages.

Employees generally received 14 months' pay for 11 months' work: the extra 3 months' pay were for a Christmas bonus, a vacation subsidy, and 22 days of annual leave. The maximum legal workday was 10 hours, and the maximum workweek was 40 hours. There was a maximum of 2 hours of paid overtime per day and 200 hours of overtime per year, with a minimum of 12 hours between workdays. The Ministry of Employment and Social Security monitored compliance through its regional inspectors.

Employers legally were responsible for accidents at work and were required by law to carry accident insurance. An existing body of legislation regulates safety and health, but labor unions continued to argue for stiffer laws. The General Directorate of Hygiene and Labor Security develops safety standards in harmony with EU standards, and the General Labor Inspectorate is responsible for their enforcement. However, the Inspectorate lacked sufficient funds and inspectors to combat the problem of work accidents effectively. Workers injured on the job rarely initiated lawsuits. A relatively large proportion of accidents occurred in the construction industry. Poor environmental controls in textile production also caused considerable concern. While the ability of workers to remove themselves from situations where these hazards existed was limited, it was difficult to fire workers for any reason and severance payments were high.

In January 2001, the Government passed a law requiring all contractors on a work site to accept responsibility for verifying a worker's legality. Previously, difficulties arose in identifying who the true employer of a laborer was on a construction site. This new law makes every employer subject to penalties if the Government finds illegal immigrants laboring on a work site.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in illegal workers and, to a lesser extent, in women and children for prostitution remained a problem.

Under the Penal Code, trafficking in persons is punishable by 2 to 8 years' imprisonment. In January 2001, Parliament passed legislation that established prison sentences of 1 to 4 years for facilitating the illegal entry of persons; for those employing an illegal immigrant, the sentence is 2 to 5 years. The revisions also criminalize the trafficking of children under 16 years old for the purpose of sexual exploitation and the simple exhibition or distribution of pornographic materials. The criminal investigation of these cases is difficult, given the sophisticated methods used by the traffickers, the cultural and language barriers between the immigrants and the Portuguese, and the desire of these immigrants to earn a living. Nevertheless, the Government has taken an active role in investigating those involved in the trafficking of persons. Portugal's border control agency (SEF) initiated 285 investigations in 2001, up from 73 in 1996. From 1998 to 2001, SEF investigations resulted in 53 convictions of individuals charged with crimes related to illegal immigration. Of those convicted in 2001, 9 were Portuguese, 5 were Brazilian, 4 were Moldovan, 3 were Ukrainian, and 3 were Romanian.

The SEF's arrest of Angolan-born Portuguese citizen Pedro Damba in December 2000 at the Faro airport on his way to London uncovered an extensive network that

trafficked Angolan and Portuguese children to the United Kingdom, often using Portugal as a transit country. Damba was sentenced to six years in prison for falsification of documents, but international investigations into Damba's activities showed that from November 1997 to December 2000, he traveled from Portugal to London 44 times accompanied by at least 112 Angolans, many of them minors. The SEF also reportedly found that some of the trafficked children were Portuguese residents or citizens. The SEF, PJ, Scotland Yard, and other international officials were continuing their investigations into Damba's activities and into the final destination of the trafficked persons at year's end.

Some Portuguese women were trafficked to Spain for sexual exploitation; the majority of these women tended to be from poorer areas and were often drug users. Some women from Brazil, Lusophone Africa, and Nigeria also were trafficked into Portugal. The majority of trafficked persons originated in the former Soviet Union, specifically Moldova, Ukraine, Russia, and Belarus. Mafia organizations, primarily of Moldovan and Ukrainian origin, were present in the country and operated largely in the transportation and extortion of Eastern European manual laborers.

Trafficked workers from Eastern Europe arrive in an organized manner. Traffickers sell "package tours" to illegal immigrants, providing them with a passport, Schengen visa, and bus transportation to Portugal. More than 80 percent of illegal immigrants enter Portugal as "tourists," having obtained visas from either the Dutch or German embassies in the former Soviet Union, primarily Kiev or Chisinau. Along the route to Portugal, passengers must pay "tolls" to the traffickers. Typically upon arrival at the Spanish border, "bandits" working on behalf of the trafficking rings steal money from the trafficked persons and often steal or confiscate their passports. The victims often arrive in Portugal with neither money nor documents, making them easy targets for organized crime members. The SEF has cracked down on these "tourist" buses bringing illegal laborers to Portugal; however, the traffickers also use small vans to evade detection.

Once at their destinations, the victims live in overcrowded, substandard "hostels." The traffickers offer them loans at very high interest rates and, for a fee, find them jobs at construction sites or other industries, e.g., textile mills, woodworking or metal shops, and marble fabrication. Generally the traffickers' local group leader at the hostel sets up the work and provides transportation. The traffickers coerce the workers into paying large portions of their salaries to them. A refusal to pay leads to severe beatings and allegedly even murder.

Traffickers generally were linked to organized crime rings. Of the 130 Eastern Europeans under detention at the end of 2001, 50 were considered to be very dangerous, given their links to organized crime. Most were sentenced for crimes relating to extortion, rape, kidnaping, and murder. To prevent these criminals from escaping or creating internal unrest in the prison population, the DGSP has created special security sections within the prisons to house them.

To break the control traffickers hold over their clients, the Government instituted a regularization process in January 2001. The process allowed illegal workers to obtain legal work permits, valid for one year at a time. After 5 years, temporary work permits may be converted into residence permits. As of May, 180,060 illegal immigrants had obtained temporary work permits. The Government granted permits to approximately 65,000 Ukrainians, 12,600 Moldovans, 11,000 Romanians, and 7,000 Russians. To qualify for a temporary work permit, applicants must be able to demonstrate that they were physically present in Portugal prior to November 2001 and hold a valid work contract. Applicants failing to meet these requirements must apply for a temporary work permit at a Portuguese diplomatic mission abroad.

The country did not have any trafficking-specific assistance programs or statistics, but APAV, many immigrant groups, and international NGOs provided assistance to victims and raised public awareness of trafficking issues. The Government helped victims through a witness-protection program.

## ROMANIA

Romania is a constitutional democracy with a multiparty, bicameral parliamentary system. Prime Minister Adrian Nastase is the Head of government and President Ion Iliescu is the Head of State. Nastase's Social Democratic Party (PSD) and Iliescu won elections in November and December 2000 that were judged to be generally free and fair. Under the law the judiciary is to be independent of other government branches; however, in practice the executive branch exercises influence over the judiciary.

The National Police were primarily responsible for law enforcement, the gendarmerie for preserving public order, and the Border Police for maintaining border se-

curity. The Ministry of the Interior supervises these organizations. Protection against external threats was the primary responsibility of the military. An internal intelligence service assesses threats to national security but had no law enforcement powers. All security and intelligence organizations operated under the authority of civilian leadership. Some police officers committed serious human rights abuses.

The country was a middle-income, developing country in transition from a centrally planned economy to a market economy. Its population was approximately 21.7 million. The private sector accounted for 67.1 percent of gross domestic product (GDP) and employed 62.8 percent of the work force, primarily in agriculture, commerce, and services. During 2001 121 firms were privatized, and an additional 118 were privatized in the first half of the year. Approximately 1,200 firms were left in the State Privatization Fund's portfolio, including several of the country's largest firms. GDP grew 5.3 percent in 2001 and officially estimated GDP growth during the year was 4.5 percent. Inflation decreased from 40.7 percent in 2000 to 30.3 percent in 2001 and was estimated at 20 percent for the year. Official statistics significantly understated economic activity because of the size of the informal economy.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Police use of excessive force resulted in three deaths. Police officers continued to beat detainees and reportedly harassed and used excessive force against Roma. The Government investigated some police officers suspected of abuse and suspended them from duty or indicted those accused of criminal activities in military courts. However, investigations of police abuses generally were lengthy and inconclusive and rarely resulted in prosecution or punishment. The Parliament enacted legislation that transferred jurisdiction over prosecution of police abuses to the civilian court system; however, the rest of the security forces, including the Border Police and the gendarmerie, remained part of the military court system. While some progress was made in reforming the police, cases of inhuman and degrading treatment continued to be reported. Prison conditions remained harsh and overcrowding remained a serious problem; however, conditions slightly improved. At times authorities violated the prohibition against arbitrary arrest and detention. The executive branch continued to influence the judiciary, and widespread corruption remained a problem.

The Government at times restricted freedom of speech and of the press. Religious groups not officially recognized by the Government complained that they received discriminatory treatment from the authorities. Societal harassment of religious minorities, violence and discrimination against women, and restitution of property confiscated during the Communist regime remained problems. There were large numbers of impoverished homeless children in large cities. Discrimination and instances of societal violence against Roma continued. Child labor abuses continued. There were reports of government interference in trade union activity. Trafficking in women and girls for the purpose of prostitution was a problem which the Government took steps to address. Romania was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings; however, police at times used excessive force that led to the deaths of citizens.

On March 21, Mihai Iorga died in Bucharest due to the beatings he sustained from trustees and police officers in prison. These beatings took place on March 12 and March 16, and included beating him on the head with a hammer, inducing a coma. He was taken to the hospital twice but received no treatment. Police stated that Iorga's death was due to an "alcoholic coma," but a March 25 autopsy established that Iorga had been beaten to death.

During the year, two officers were demoted and charged with criminal acts in the July 2001 beating death of a detainee in Cugir, allegedly from beating by the officers attempting to obtain a confession. The case remained pending at year's end. The Supreme Court acquitted a police officer indicted in 1999 for illegal use of a weapon in the 1996 killing of a Rom from Cemani, Mircea Muresul Mosor, who was shot in the back while in police custody. A court ruled that the police officer was justified in his use of lethal force against Radu Marian, an unarmed Rom killed during a police raid on a group of cigarette smugglers.

In June the nongovernmental organization (NGO), Romani CRISS, reported that 18-year-old Nelu Balasoiu, a Rom, was found dead in Jilava prison near Bucharest. Balasoiu's family maintained that he was healthy before he entered prison and al-

leged that his death resulted from his detention. Romani CRISS was continuing the investigation into Balasoiu's death at year's end.

A military tribunal launched a penal investigation regarding the abusive conduct of two police officers in the beating death in July 2001 of Dumitru Grigoras while in custody in Bacau County. One of the officers was suspended from his job and arrested in October 2001. The other remained under investigation at year's end.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there were credible reports that police beat detainees and used excessive force. Human rights organizations cited numerous reports of torture and mistreatment by police.

On June 19, Chief of Police Florin Sandu acknowledged the existence of instances in which police officers committed abuses. Sandu stated that in 2001, 5,000 police officers had been sanctioned in violation of labor rules, and 434 of those cases were pursued in court. Of the 434 cases, 173 were found to be "abuse of force" cases.

A new Police Organization Law, which entered into force on May 9, allows the use of firearms against those fleeing police arrest or detention. In the view of many observers, this violated the widely accepted principle that deadly force may be used only against individuals who represent an imminent threat of death, or of grievous injury to others.

Romani NGOs claimed that police used excessive force against Roma and also subjected Roma to brutal treatment and harassment. On February 5, gendarmes beat a 14-year-old Romani child, Calin Sterica, in a Galati schoolyard. The gendarmes were called in because of a disturbance; despite not being involved, Sterica was beaten with fists and clubs. His mother, who had come to see what was going on, was fined \$120 (4 million lei) for "disturbance of the public order." According to the Romanian Helsinki Committee (APADOR-CH), the Roma County Bureau discouraged the mother from filing a complaint.

On March 12, police beat Severius Tanase in Sacele, in Brasov County, just outside of the police station. Tanase was then taken into the station, where he allegedly was beaten again. Tanase was then urged to sign a report admitting he committed a petty offense. An investigation into this case was initiated, but no further action was taken by year's end.

In the Silaghi beating case from April 2001, in which police beat a 15-year-old girl, officials indicated their intention to take disciplinary action by year's end against the police officer involved in the beating. The Mugurel Soare case brought about an investigation, and the case went to the Military court system, where the police officer was found to have been justified in his use of force against Soare. The courts exonerated police in a case involving police harassment of a gay individual, Adrian Georgescu. A final appeal to the European Court for Human Rights was underway at year's end.

In December 2001, plainclothes police officers shot Fanica Dumitrache while he was trying to steal gas from a car. The two police officers told him not to run, or they would shoot. Dumitrache, who claimed he did not know the two were police officers, began to run. One of the officers, Iulian Cristea, shot Dumitrache. The police officers then took Dumitrache to the hospital.

Judicial cases involving military personnel and the police were tried in military courts for most of the year (*see* Section 1.e.). At times some military prosecutors blocked proper investigation of alleged police abuses, or courts passed extremely light sentences. Under the Police Officer's Status Law, which entered into force on June 24, police officers will be investigated for crimes by civilian prosecutors. Military prosecutors will continue to try cases that involve "state security," and the gendarmerie and Border Police continue to fall under military jurisdiction.

Prison conditions were harsh; however, efforts to improve the prison system led to some gradual and positive changes. There are a total of 44 penal units (an increase from 43 in 2001), 35 prisons (an increase from 34 in 2001), 5 prison hospitals, and 3 juvenile detention facilities. Overcrowding remained a serious problem. As of August 2001, 50,549 persons, including 1,050 minors, were in detention, while the legal capacity of the system is 33,246. The law provides alternative sentences, such as community service, for minor offenses, and is aimed at reducing the prison population. It has been moderately successful. Men and women, adults and juveniles, and pretrial detainees and convicted criminals were held separately in the prison system.

Human rights organizations reported that the abuse of prisoners by other prisoners and prison authorities continued to be a problem. Prisons continued to use the "cell boss" system, in which some prisoners were designated to be in semiofficial charge of other prisoners in places where there were 10 or more prisoners in the

same room. There were attempts to ameliorate this system by giving the inmates the right to select these "cell bosses" by vote, which improved the situation slightly. Prison authorities introduced some vocational training programs to assist inmates' future integration into society, which also led to some improvement.

The Government permitted prison visits by human rights observers; however, authorities imposed more restrictive conditions for prison visits. The new conditions, which are based on internal regulations that the Ministry does not release to the public, require that the visit be requested by a prisoner and be announced 3 to 4 days in advance. The authorities gave access to the prisons to 809 representatives of 274 newspapers and local or national TV stations during the first six months of the year. Prison units and minors' detention centers were visited by 2,495 persons, including 251 foreign citizens, representing 239 NGOs during the same period. Some NGOs, such as the International Committee of the Red Cross (ICRC), obtained approval to meet weekly, monthly, or bimonthly with prisoners without the presence of third parties.

Visits to several penitentiaries by human rights organizations highlighted the problem of overcrowding. For example, Ploiesti penitentiary held 1,150 detainees in a space designed for 760. According to APADOR-CH, overcrowding has become less of a problem in other institutions. In a May 23 visit to Bistrita penitentiary, APADOR-CH found that there were 948 beds for 1,033 detainees, an improvement over previous years. In a similar visit on March 14 to Giurgiu Penitentiary, built in 1994, APADOR-CH found the number of detainees only slightly exceeded the capacity of 1,000.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, at times the authorities did not respect this right in practice. The law forbids the detention of anyone for more than 24 hours without an arrest warrant from a prosecutor, who may order detention for up to 30 days, and authorities generally respected this provision in practice. Detention can be extended past the 30-day limit only by a court ruling; however, courts and prosecutors often extended pretrial detention, to several years in some cases. Pretrial detention counts towards sentence time if a detainee is convicted. One out of every three individuals in the prison system in 1995 was a pretrial detainee, compared with one in five in 2000. The law requires the authorities to inform those arrested of the charges against them and of their right to an attorney at all stages of the legal process. Police must notify defendants of this right in a language they understand before obtaining a statement; however, police often did not inform citizens of their rights. In addition, the prosecutor's office may delay action on a request for a lawyer for up to 5 days from the date of arrest. Detainees have the right to apply for bail, but in practice bail rarely was granted. Detainees may also ask for a hearing before a judge. Such a request must be granted within 24 hours.

Police often took advantage of a Police Organization Law provision, which states that persons endangering the public, other persons, or social order and whose identity cannot be established, may be taken to a police station. Police used this provision of the law to detain persons for up to 24 hours at police stations. The new Police Organization Law appears to extend this provision. In April the Supreme Court ruled that such detention was not arbitrary. Roma were disproportionately affected by this detention provision and often were viewed suspiciously by police. They often lacked appropriate identity documents, which made it easier for police to apply this article.

Under the law, minors detained by police and placed under guard in a center for the protection of minors are considered by judicial authorities to be in detention or under arrest if they are older than 16, or, if between the ages of 14 and 16, if they have committed a crime consciously. However, since the Penal Code does not apply to minors in these centers until their cases are referred to a prosecutor, police were permitted to question them without restriction and could hold those suspected of criminal offenses for up to 30 days in such centers. Local and international human rights groups called on the Government to change this law, which appears to be in conflict with the Constitution.

According to APADOR-CH, the Interior Ministry issued new instructions on detention in 1999 that provide for the confidentiality of discussions between detainees and their lawyers; this law was respected in practice.

The Government detained asylum seekers indefinitely in some cases (*see* Section 2.d.).

The law prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—Under the law, the judicial branch is independent of other government branches; however, it remained subject to influence by the executive branch. Members of the Senior Council of Magistrates (CSM), which controls

the selection, promotion, transfer, and sanctioning of judges, are appointed by Parliament from a list provided by the courts and prosecutorial offices represented on the council. However, the Justice Minister chairs the CSM as a nonvoting member, provides much of the staff work for the CSM, and controls its agenda. The Justice Minister also supervises by law the prosecutors who make up a significant portion of the CSM. The judicial system was widely regarded as weak, inefficient, and suffering from systemic corruption, although the Ministry of Justice continued to investigate and bring prosecutions against corrupt judges and officers. In June Parliament enacted a September 2001 emergency ordinance establishing a National Anti-Corruption Prosecutor's Office. This body is authorized to investigate charges of corruption by high officials and instances of corruption that have generated more than \$100,000 (3.3 billion lei) in damage or seriously disturbed the activity of public authorities.

The law establishes a four-tier legal system, including appellate courts. Defendants have final recourse to the Supreme Court or, for constitutional matters, to the Constitutional Court. The judicial system establishes a prosecutor's office associated with each court.

Judicial cases involving military personnel and the police are tried in military courts. Local and international human rights groups have criticized this system, claiming that the military prosecutor's investigations were unnecessarily lengthy and often purposefully inconclusive (*see* Section 1.c.). As a result of the Police Organization Law, which took effect in May, civilian courts and prosecutors began to try cases involving the National Police but not other law enforcement bodies.

The law provides for the right to a fair trial; however, the judiciary suffered from systemic corruption. Defendants are presumed innocent. The Penal Code requires that an attorney be appointed for a defendant who cannot afford legal representation or is otherwise unable to select counsel. In practice the local bar association provided attorneys to the indigent and was compensated by the Ministry of Justice. Either a plaintiff or a defendant may appeal. The law provides that confessions extracted as a result of police brutality may be withdrawn by the accused when brought before the court; the practice of extracting confessions through beating occurred occasionally (*see* Section 1.c.). Due to a lack of plea bargaining, the judicial system tended to be inefficient and slow. An average case took four and a half years to complete.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such actions; however, there were some restrictions. The Constitution provides for protection against the search of a residence without a warrant; however, this protection is subordinate to “national security or public order.” The law defines national security very broadly and lists as threats not only crimes such as terrorism, treason, espionage, assassination, and armed insurrection but also totalitarian, racist, and anti-Semitic actions or attempts to change the existing national borders. Security officials have the authority to enter residences without authorization from a prosecutor if they deem a threat to national security to be “imminent”; however, such actions were rare.

The Constitution states that the privacy of legal means of communication is inviolable; thus, the Romanian Internal Intelligence Service (SRI) is prohibited legally from engaging in political acts (for example, wiretapping on behalf of the Government for political reasons). However, the law allows the security services to monitor communications on national security grounds after obtaining authorization. The law requires the SRI to obtain a warrant from the “public prosecutor specially appointed by the General Public Prosecutor” in order to carry out intelligence activities involving “threats to national security.” It may engage legally in a wide variety of operations such as surveillance; requesting official documents or information; or consulting with technical experts, to determine if a situation meets the legal definition of a threat to national security or to prevent a crime.

The law permits citizens access to secret police files kept by the Communist government. Under the law, any individual who held Romanian citizenship after 1945 is entitled to have access to his file; a council approved by Parliament reviews the files and releases the information unless it was a state secret or could threaten national security. The files remain in the custody of the intelligence services. This law has been criticized for exempting files of current employees of the intelligence services from review and for restricting the definition of an informer to an individual who received actual payment for services.

In March 2001, Parliament passed legislation requiring individual citizens to report foreign guests to the police if the guest remained in the country for more than 2 weeks; this legislation was criticized by human rights groups as infringing on privacy rights. Some minority groups, including ethnic Hungarians and Germans, also

expressed concern over the law, since they often have family visitors for extended periods of time.

Twenty Roma living in tents in the Vacaresti Lake area of Bucharest were given notice to leave by May 15. When they failed to do so, city hall representatives pulled down their tents, citing the lack of sanitary living conditions as the reason for eviction. Observers disputed the legal basis for this act and alleged it was prompted by anti-Roma prejudice.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of expression and of the press, and the Government generally respected these rights in practice; however, the prohibitions against “defamation of the country” and “offense to authority” limited these rights.

Independent media continued to grow in an increasingly competitive market. Several hundred daily and weekly newspapers were published. Foreign news publications may be imported and distributed freely, but high costs, compared to domestic publications, limited their circulation.

Several private television stations broadcast nationwide, with the largest reaching approximately 45 percent of the rural and 85 percent of the urban market. There were 117 private television stations and 260 private radio stations. Approximately 3.4 million households were wired for cable, giving significant portions of the population access to both private and foreign broadcasts. State Television (RTV), Radio Romania, and the Europa FM radio network remained the only national broadcasters capable of reaching the bulk of the rural population at year’s end. Independent stations continued to enlarge their coverage throughout the country by over-the-air, cable, and satellite transmissions.

Press and television coverage generally reflected the political viewpoints of owners, which covered most of the political spectrum. State-owned television and radio coverage tended to be biased in favor of the Government. In December 2001, on a party line vote, the ruling party forced out the governing board of the state owned radio network, which had been appointed by a previous government. The new radio leadership reflected the ruling party’s views in its coverage. Media accuracy was not high but has been improving gradually.

The Penal Code has been criticized by human rights organizations and journalists for including jail terms for those convicted of libel or calumny. In May the Chamber of Deputies replaced the prison term for insult with a fine. However, the Government retained a prison term (2 to 24 months) for libel. The sentence was increased to 3 to 36 months for libel directed at government officials. The move was widely criticized by press and human rights organizations. Although President Iliescu stated that insult and calumny must be penalized in some form, in October he returned the ordinance to Parliament, asking that the prison penalty for calumny be dropped. The issue was still pending at year’s end.

Article 168 of the Penal Code provides criminal penalties for spreading false information aimed at attacking the country’s national security. Using this article, in January the Government briefly detained two individuals suspected of publicizing information over the Internet about alleged corruption involving the Prime Minister. The Government also instituted proceedings against opposition ultra-nationalist politician Corneliu Vadim Tudor under article 168 after he asserted, shortly after September 11, 2001, that the Government had trained Hamas terrorists in the mid-1990s. The Government, responding that they had trained Palestinian Authority security officers, stripped Tudor of his Parliamentary immunity and continued to prosecute him during the year on the grounds that he had disseminated false information which endangered state security or the country’s international relations.

NGOs defending freedom of the press and the media reported that journalists of the local Ziarul de Vrancea newspaper were victims of various types of pressure and harassment allegedly orchestrated by the President of the Vrancea County Council, a member of the ruling PSD party. Financial regulators repeatedly harassed journalists who were critical of the local government, demolished the newspaper’s kiosks, and evicted them from their offices, even though the rent had been paid in advance.

Local officials, including the Vrancea Prefect, also filed numerous court cases against Ziarul de Vrancea journalists.

Access to the Internet was not restricted.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected that right in practice. The law on public assembly provides for the right of citizens to assemble peacefully while unarmed but states that meetings must not interfere with other economic or

social activities and may not be held near locations such as hospitals, airports, or military installations. Organizers of demonstrations must inform local authorities and police before the event. Authorities may forbid a public gathering by notifying the organizers in writing within 48 hours of receipt of the request. The law prohibits the organization of, or participation in, a counter demonstration held at the same time as a scheduled public gathering. A law passed in March forbids fascist, communist, racist, or xenophobic symbols (statues of war criminals are not permitted on public land), ideologies, or organizations. Unauthorized demonstrations or other violations were punished by imprisonment and fines.

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Political parties gain legal status if they have at least 10,000 members.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, there were some restrictions, and several minority religious groups continued to claim credibly that low-level government officials and Romanian Orthodox clergy impeded their efforts at proselytizing and interfered with other religious activities.

The press reported several instances when adherents of minority religions were prevented from practicing their faith, and local law enforcement authorities did not protect them. The Romanian Orthodox Church predominates; approximately 86 percent of the population nominally adheres to it.

The Government officially recognizes 15 religions; only the clergy of these 15 recognized religions are eligible to receive state financial support. Recognized religions have the right to establish schools, receive funds to build churches, pay clergy salaries with state funds, subsidize clergy's housing expenses, broadcast religious programming on radio and television, apply for broadcasting licenses for denominational frequencies, and enjoy tax-exempt status.

The number of adherents each religion had in the 1992 census determines the proportion of the budget that each recognized religion receives. Representatives of minority religious groups disputed the 1992 census results, claiming that census takers in some cases argued with citizens over their religious affiliation or assigned an affiliation even without inquiring about religious affiliation. A new census was conducted in March, but its final results will not be published until 2003. Religious and ethnic groups complained that census takers undercounted their numbers or misidentified their members as being in the ethnic Romanian Orthodox majority during the census.

The Government requires religious groups to register, and government registration and recognition requirements posed obstacles to minority religions. Representatives of religious groups that sought recognition after 1990 alleged that the registration process was arbitrary and unduly influenced by the Romanian Orthodox Church. They also complained that they did not receive clear instructions concerning the requirements, and that often the State Secretary on Religions did not respect the time frame in which they had to make a decision on their application. During the year, the Government failed to comply with a Supreme Court order to give Jehovah's Witnesses status as a religion. The Government has not granted any religious group status as a religion since 1990.

The Government registered religious groups that it did not recognize either as religious and charitable foundations or as non-profit cultural associations. A May 2000 law simplified this registration process and removed the minimum number of members required to set up religious associations and foundations.

The law does not prohibit or punish assembly for peaceful religious activities; however, several minority religious groups complained that on various occasions local authorities and Orthodox priests prevented religious activities from taking place, even when their organizers had been issued permits. The Evangelical Alliance reported difficulties in obtaining approval to use public halls for religious activities following negative press campaigns that described neo-Protestant religions as "sects." Orthodox priests incited the local population against activities sponsored by the Adventist Church in Probata-Iasi County, where the situation stabilized only when the local authorities intervened.

New regulations regarding building permits for "places of worship," issued by the Government in May 2001, no longer differentiated between recognized and unrecognized religions in terms of what they are allowed to build as places of worship. Prior to this, unrecognized religions received building permits for "halls of prayer" only and not for "places of worship." Although most minority religious groups declared that they had received permits to build places of worship without any difficulty, some of them made credible complaints that these regulations generated delays in the process.



Although protected by law, several minority religious groups, which include both recognized and unrecognized religions, made credible complaints that low-level government officials and Romanian Orthodox clergy impeded their efforts to proselytize, interfered in religious activities, and otherwise discriminated against them during the year. In some instances, local police and administrative authorities tacitly supported societal campaigns against proselytizing that at times were violent. While there is no law against proselytizing, in some localities proselytizing was perceived as being directed at adherents of established churches, and conflicts occurred.

Recognized religions also have the right to teach religion in public schools; however, a number of religious groups, including the Baptists, reported that they had been unable to have classes offered in their faiths in public schools because of the influence of the Orthodox Clergy. In at least one instance, a child who was a member of Jehovah's Witnesses was threatened with not graduating unless she attended the Orthodox religious classes.

Previously, a small number of religious and communal properties confiscated under the Communist regime were restituted by government decrees in lieu of a restitution law. In June Parliament passed a law restituting large numbers of religious properties confiscated by the Communist regime. In many cases religious minorities did not succeed in regaining actual possession of the properties despite the restitution by these decrees. Many properties returned by decree house state offices, schools, hospitals, or cultural institutions that would require relocation, and lawsuits and protests by current possessors delayed restitution of the property to the rightful owners.

The Greek Catholic, or Uniate, Church made only limited progress in recovering its properties taken by the Romanian Orthodox Church after its forced merger in 1948. The return of places of worship was specifically excluded from the provisions of the June law. This exclusion primarily affects the Greek Catholics; churches of other faiths generally were not seized by the Communists. Of the approximately 2,600 properties to which the Greek Catholic Church has claim, only a handful have been returned. The Greek Catholic Church had very few places of worship. Many followers still were compelled to hold services in public places or parks (289 such cases, according to Greek Catholic reports). In order to avoid restitution, the Orthodox Church demolished many Greek Catholic churches under various pretexts, including that the buildings were structurally unsafe. In February the Orthodox Patriarch, in a letter to the Minister of Justice, described court rulings in favor of the Greek Catholic Church as "illegal" and "abusive" and stated that decisions on such cases should be made only by the joint Orthodox-Greek Catholic committee. The Minister of Justice distributed the letter to all Courts of Appeal.

On the night of March 15, a group of Orthodox followers, led by an Orthodox priest, occupied a recently restituted Greek-Catholic church in Ocna Mures, Alba County. Greek Catholic witnesses say that armed police forces did nothing and even assisted with the occupation. The church was returned to the Greek Catholic church by court ruling at the end of the year.

Restitution of the existing churches was a critical factor to both sides, because local residents were likely to attend their local church whether it was Greek Catholic or Orthodox; thus the number of believers and share of the state budget allocation for religions is at stake. The historical Hungarian churches, including the Hungarian Roman Catholic and the Hungarian Protestant Reformed, Evangelical, and Unitarian churches, have received only a small number of their properties back from the Government. Out of 1,791 buildings claimed by the Hungarian churches, 113 were restituted by government decrees; however, the churches involved were permitted to take actual possession of fewer than 20. Following discussions between the ruling PSD and the Democratic Union of Hungarians (UDMR) at the beginning of May, small steps were made toward speeding up the actual restitution of 13 buildings (9 of them belonging to the Hungarian churches) returned by previous decrees. The Jewish community has received 42 buildings by government decree but has obtained actual possession of less than half of them.

In June 2001, members of the "New Right" (Noua Dreapta) organization (a small, extreme-right group with nationalistic, xenophobic views) beat four Mormon missionaries who were riding on a streetcar in Bucharest. No measures were taken against the group.

Many representatives of minority religions credibly complained that private and governmental organizations operating hospitals, children's homes, and shelters for the elderly often permitted only Orthodox priests to grant religious assistance in them. Charitable activities carried out by other churches in children's homes and shelters often have been interpreted as proselytizing. According to the Seventh-Day Adventist Church, Orthodox priests have not allowed Adventist ministers to conduct

burial rituals in localities, primarily in rural areas, where the number of Adventist members was small.

Members of Jehovah's Witnesses complain that the number of cases in which their ministers have been abused verbally and physically by persons incited by Orthodox priests (who often took an active part in these actions) increased. Such cases were reported in Sutesti and Dragasani (Valcea County) and Budesti (Bistrita Nasaud County).

The far-right press continued to publish anti-Semitic articles. The Legionnaires (Iron Guard), an extreme nationalist, anti-Semitic, pro-Nazi group, continued to republish inflammatory books from the interwar period. Extremist publicists made repeated attempts to deny that Holocaust activities occurred in Romania or in Romanian administered territory. At the end of June, the local police confiscated 2,000 copies of an anti-Semitic book published in Arad by a foreign-based Iron Guard member. Religious services to commemorate legionnaire leaders continued to be held in Orthodox churches. During the year, Jewish cemeteries were desecrated in four localities. Two synagogues were desecrated during the same period; the perpetrators were not identified. No progress was made on investigations into the desecration of Jewish synagogues and cemeteries in 2001, 2000, and 1999.

Most mainstream politicians publicly criticized anti-Semitism, racism, and xenophobia as well as attempts to deny the Holocaust and to rehabilitate World War II dictator Marshal Ion Antonescu. In March a course in the history of the Holocaust was included among subjects to be studied at the National War College (directly subordinated to the Ministry of Defense). During the same month, the Government issued two emergency ordinances against fascist, racist, and xenophobic organizations; against the cult of war criminals (which refers to attempts to rehabilitate Antonescu, who was executed in 1946 as a war criminal); and for the protection of Jewish cemeteries and synagogues. In accordance with the first ordinance, six statues of Marshal Antonescu (in Piatra Neamt, Slobozia, Letcani, Jilava, Calarasi, and Sarneas) were taken down. A Marshal Ion Antonescu square in Piatra Neamt was renamed at the end of April.

According to the Baha'i Faith, a group of youths disrupted a show and an exhibit sponsored by their association in Herestrau Park in Bucharest in July 2000. The youths called the Baha'is a "sect," used a Nazi greeting, shouted "long live the Orthodox Church," and destroyed all the exhibit materials. The police cooperated with the Baha'is in investigating the incident, but it had not been resolved by year's end, and there was no sign that the investigation was continuing.

For a more detailed discussion see the *2002 International Religious freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

In July the mayor's office in Bucharest worked with the "Roma Party of Sector 6" (a district of the city) to convince Roma illegally living on public land in Sector 6 to return to their original homes. When the Roma Party and the mayor's office failed to convince the Roma to leave the public land and return to their homes voluntarily within 72 hours, the Roma were removed by force and returned to their localities of origin.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government provides first asylum. According to the National Refugee Office, between January and June, 532 individuals submitted applications for asylum, and 41 were approved. There were no voluntary repatriations. The law establishes a refugee office in the Interior Ministry to receive, process, and house asylum seekers. The Interior Ministry and the Labor Ministry funded programs to assist asylum seekers and refugees. Financial support provided by the Government (reimbursable loans for a period of 6 to 9 months) was minimal; it usually was not enough to cover basic needs. The Government provided temporary accommodation in a few locations; however, the facility in Bucharest operated well below its capacity. Programs for integrating refugees into society developed slowly. An increasing number of transiting illegal migrants regarded the country as a springboard to other countries.

There were no reports during the year of the forced return of persons to a country where they feared persecution. The UNHCR expressed some concern over cases in which the Government reversed an initial acceptance of an asylum claim on undefined "national security" grounds.

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

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

In November and December 2000, in elections that were judged to be generally free and fair, the center-left PSD won a near majority in the legislature and the PSD candidate, Ion Iliescu, won the presidency. The PSD governed as a minority government, with support from the Democratic Union of Hungarians in Romania (UDMR). The extremist, xenophobic Greater Romania Party (PRM) won the next largest share of parliamentary and presidential votes. Allegations of widespread voting fraud from the losing PRM candidate, Corneliu Vadim Tudor, were not judged to be credible.

No legal restrictions hindered the participation of women in government or politics but societal attitudes were a significant impediment. The Parliament was composed of 10.3 percent women, with 12 Senators and 38 Deputies. Women ministers constituted 20 percent of the cabinet, holding five ministerial posts. Women in general voted in the same proportion as men. None of the 41 county prefects, an appointed position to represent the central government at the county level, were women.

The Constitution and electoral legislation grant each recognized ethnic minority one representative in the Chamber of Deputies, provided that the minority's political organization obtains at least 5 percent of the average number of valid votes needed to elect a deputy outright. Organizations representing 18 minority groups elected deputies under this provision in 2000. Ethnic Hungarians, represented by the UDMR, obtained parliamentary representation through the normal electoral process. Roma were underrepresented in Parliament; low Roma voter turnout and internal divisions worked against the consolidation of votes for one candidate, organization, or party. There were two Romani parliamentarians; the former Romani minority representative joined the PSD and sat in the legislature, and the Constitution and electoral legislation provide for one seat for Roma. During the year, the PSD signed protocols of cooperation with Hungarian, German, and Roma minority parties.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Domestic human rights monitoring groups included APADOR-CH, the independent Romanian Society for Human Rights (SIRDO), the League for the Defense of Human Rights (LADO), the Romanian Institute for Human Rights, and several issue-specific groups, such as the Young Generation of Roma and the Center for Crisis Intervention and Study, also a Romani NGO. Other groups, such as political parties and trade unions, continued to maintain sections to monitor the observance of human rights. These groups, as well as international human rights organizations, functioned freely without government interference.

Government officials were generally cooperative and responsive to NGOs, although some offices were slow to respond to inquiries. Local human rights monitoring agencies found it difficult to obtain statistics concerning police abuses. The Ministry of the Interior, which is responsible for investigating such abuses, responded unevenly to inquiries from monitors. Often victims were reluctant to come forward, and the Government did not promote transparency in this regard.

In February 2000, the Ministry of the Interior tightened conditions for prison visits by human rights organizations (see Section 1.c.).

An Ombudsman's Office worked to protect citizens against abuses by public officers. In 2001 the office received 6,887 complaints; of these only 1,671 were accepted as falling under the Ombudsman's jurisdiction. By May 31, 2,509 complaints had been addressed to the Ombudsman's office, only 457 of them were in its jurisdiction. More than half of them—1,828—related to social, economic, and cultural rights. The office registered these complaints and was obliged by law to provide an initial response within a year of the date that they were recorded. The Ombudsman was moderately effective; however, the lack of executive powers limited the Ombudsman's authority. The office dealt not only with human rights but with all facets of citizens' interaction with the Government. The Ombudsman's role still was not fully clear to the public. Many complaints were rejected because they related to problems with the judiciary and not the administration.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution forbids discrimination based on race, nationality, ethnic origin, language, sex, opinion and political allegiance, wealth, or social background. However, in practice the Government did not enforce these provisions effectively, and women, Roma, and other minorities were subject to various forms of discrimination.

In January Parliament ratified a September 2000 emergency ordinance that outlaws discrimination based on a number of factors and introduces the ability to sue on the grounds of discrimination. However, the major tool—the National Council on Combating Discrimination—was not established until July 31. At the end of April, a large number of NGOs active in combating discrimination protested the Government's non-transparent manner of nominating the members of the Council's board and its failure to consult human rights NGOs on this issue.

According to UNOPA, the principle of confidentiality and the right to work were sometimes disregarded. For example, employees were hired and fired in certain situations according to their HIV status, although this violated the country's labor rights legislation.

*Women.*—Violence against women, including rape, continued to be a serious problem. Both human and women's rights groups credibly reported that domestic violence was common, and a 1999 report by the U.N. Children's Fund (UNICEF) emphasized that violence against women in the workplace was common. According to a U.N. population survey conducted in the fall, 45 percent of Romanian women have been verbally abused, 30 percent physically abused, and 7 percent sexually abused. A complicated criminal process discouraged domestic violence victims from pressing charges against perpetrators. Police often were reluctant to intervene in instances of domestic violence. There was no specific legislation dealing with spousal abuse or spousal rape. The prosecution of rape was difficult because it required both a medical certificate and a witness, and a rapist could avoid punishment if he married the victim. The successful prosecution of spousal rape was almost impossible. A law passed in January mandated the same penalties for rape and sexual abuse irrespective of the victim's gender.

There were reports of trafficking of women (*see* Section 6.f.).

The Constitution grants women and men equal rights; however, in practice the Government did not enforce these provisions, nor did the authorities focus attention or resources on women's issues. On May 8, the Government passed Law 202, Equality for both Women and Men, prohibiting any act of gender discrimination, including sexual harassment.

Few resources were available for women who experienced economic discrimination. Despite existing laws and educational equality, women had a higher rate of unemployment than men, occupied few influential positions in the private sector, and earned lower wages. A department in the Ministry of Labor and Social Protection advanced women's concerns and family policies. This department organized programs for women, proposed new laws, monitored legislation for sexual bias, targeted resources to train women for skilled professions, and addressed the problems of single mothers, especially in rural areas. There is an Ombudsman within the department for child, woman, and family protection to resolve complaints of discrimination.

*Children.*—The Government administers health care and public education programs for children, despite scarce domestic resources which limited the availability of these services. International agencies and NGOs supplemented government programs in these areas.

Education was free and compulsory through the eighth grade. After the eighth grade, schools charged fees for schoolbooks, which discouraged attendance for lower income children, particularly Roma children. During the 2001–2002 school year, 3,951,572 children (approximately 96 percent of primary school-age children) attended school, including kindergarten. Boys and girls generally received the same treatment in schools. The Ministry of Education reported that the dropout rate in the 2000–2001 school year, calculated by the National Institute for Statistics, was approximately 0.6 percent. This figure represented a significant decrease in the dropout rate since 1997–98, when 20 percent of children under 15 left school.

Living conditions in all child care institutions seriously deteriorated in 1999 and have not improved substantially since that time. Inspectors who visited institutions and identified humanitarian needs at the request of the European Union Commission reported that while conditions were not equal in all institutions, the general situation was unacceptable in terms of basic infrastructure as well as hygiene, medical care, nutrition, and general assistance. According to official statistics, there were approximately 60,000 children in state institutions.

Repeated treatment interruptions for AIDS patients, mostly children, were reported by the National Union of Organization of the Persons Affected by HIV/AIDS (UNOPA). The unnecessary discontinuity of treatment was more harmful than non-treatment and increased the potential of drug resistance development.

Large numbers of impoverished and apparently homeless, but not necessarily orphaned, children were seen on the streets of the larger cities. A 1998–1999 study by UNICEF and Save the Children estimated that there were 2,500 children living on the streets of the capital in the summer when the number generally peaks, but the Government did not have statistics defining the scope of the problem nationwide. A significant percentage had left large institutions with no skills and employment and no ability to earn a living or obtain housing. There was no systematic provision of labor market information, skills training, or job placement services for these young persons, and there was a high probability that they would gravitate to the streets, engaging in prostitution or trafficking. Although the Government took some initiatives, including the creation of emergency receiving facilities to address these problems, there has been no systematic effort to prevent new children from joining the street population or to integrate children living on the streets. In November 2001 the Social Assistance Law took effect; it targets more assistance to children in poverty.

Legal provisions to protect children from abuse and neglect were inadequate. While there are criminal penalties, there was no consistent policy and procedure for reporting child abuse and neglect and no system to provide treatment to families who abuse their children. The National Authority for Child Protection and Adoption monitored abuse cases. As of the end of the year, a task force coordinated by the National Authority for Child Protection and Adoption was developing standards, training, policies, and procedures for child abuse and neglect.

There was no perceptible societal pattern of abuse against children; however, a survey by a local polling firm conducted in 2001 found that 41 percent of women and 59 percent of men reported that they had experienced physical or verbal abuse as children.

NGOs working with children remained particularly concerned about the number of minors detained in jail and prison (*see* Section 1.c.). These NGOs continued to seek alternative solutions to sending juveniles to prison, such as parole. Because time served while awaiting trial counts as part of the prison sentence but does not count towards the time to be served in a juvenile detention center, some minors actually requested prison sentences.

Trafficking in girls for the purpose of prostitution was a problem (*see* Section 6.f.).

*Persons with Disabilities.*—Difficult economic conditions and serious budgetary constraints contributed to very difficult living conditions for those with physical or mental disabilities. Outside of large institutions, social services for persons with disabilities were almost nonexistent. Many persons with disabilities could not make use of government-provided transportation discounts because public transport did not have facilitated access. The law does not mandate accessibility for persons with disabilities to buildings and public transportation. According to official statistics, there were 3,500 children with disabilities living in state institutions; conditions in these institutions ranged from adequate to harsh.

*National/Racial/Ethnic Minorities.*—After the 2000 election, the Government reorganized the Department for the Protection of Minorities into an Office for Inter-ethnic Relations and a National Office for Roma and placed them under the Ministry of Public Information. These offices are responsible for monitoring the specific problems of persons belonging to ethnic minorities, to maintain contacts with minority groups, to submit proposals for draft legislation and administrative measures, to maintain permanent links with local authorities, and to investigate complaints.

The largest and most vocal minority community consisted of ethnic Hungarians, who officially numbered more than 1.4 million according to preliminary results from the 2002 census. Their UDMR party was in de facto political alliance with the ruling minority PSD government during the year after signing a new protocol of cooperation with the PSD in January. Although the local public administration act of 2001 requires bilingual signs in areas where a national minority represents more than 20 percent of the population, such signs have never been installed in Cluj because of the mayor's continual opposition. During the year, he used the preliminary results of the population census as grounds for his refusal to install the signs.

A government decree permits students in state-funded primary and secondary schools to be taught in their own language, with the exception of secondary school courses on the history and geography of the country. In the Moldavia region, some in the Roman Catholic Csango community who speak an archaic form of Hungarian complained that there was no schooling available in their language. The Csango

community, estimated by some to number several tens of thousands, was fractured, with a majority of Csangos considering themselves ethnic Romanian and a minority ethnic Hungarian.

According to the preliminary results of the March census, the Romani population numbered approximately 535,000; however, some observers, including the European Commission, estimated that the Roma population was between 1.1 and 1.5 million. Romani groups complained that police brutality—including beatings, prejudice, and racial harassment at the local level—was routine (*see* Section 1.c.). Under a government program, Roma living illegally in Bucharest on public lands were forced to relocate to their counties of origin (*see* Section 1.f.). According to the Government, only 27 percent of Roma had steady jobs, and only half of those jobs were considered skilled. Illiteracy among Roma older than 45 years of age was approximately 30 percent.

On June 13, a Protocol between the ruling PSD party and the Roma party was signed between Prime Minister Nastase and Roma party leader Nicolae Paun. The Protocol calls for the continued monitoring of the Roma situation, the promotion of higher education among the Roma, and programs aimed at educating the public about racism and discrimination. The National Council on Combating Discrimination was established on July 31. During the year, all necessary structures were established to implement the National Strategy for the Improvement of the Situation of the Roma (adopted in April 2001), except for those at the local level and in the National Council on Combating Discrimination. Under this National Strategy, 399 Roma experts and councilors were appointed in ministries, prefect's offices, and in some mayor's offices. Ministerial committees for Roma, subordinated to a joint committee to monitor the implementation of the strategy, and joint working groups (made up of Roma experts in the prefect's office, NGOs, and elected representatives of the Roma communities) at the local level have been set up. Training programs for Roma councilors, experts, and medical-social mediators have been developed by the Government in cooperation with Roma NGOs. The National Office for Roma established a database to store information regarding the living conditions and needs of the Roma community. Given the large amount of work, the office was understaffed. In addition, funding for the implementation of the strategy continued to be a problem, since the state budget did not include any amounts for this purpose.

The Roma population continued to be subject to societal discrimination. Roma often were denied access to shops, restaurants, and other places. A complaint filed by the NGO, Romani CRISS, in February 2001 against the owner of a bar in Pitesti, where two Roma had been denied access, was rejected on procedural grounds.

A partnership protocol, signed by the Minister of Health and the representative for Roma in the Parliament in April 2001, sets forth cooperative measures between the Health Ministry and the Roma Party in order to ensure that Roma have access to health care. This protocol helped resolve most complaints of discrimination against Roma in the health system and sponsored several vaccination campaigns for Roma children. Romani CRISS started a training program (with private funding) in cooperation with the Ministry of Health for Roma medical-social mediators.

On June 7, the Project on Ethnic Relations (sponsored by several Roma rights NGOs) held a conference on how Roma are portrayed in the media. A report done by Romani CRISS, presented at the conference, stated that the print media usually was most discriminatory and found that 54 percent of articles about Roma were negative. The study was done on 12 national newspapers and found that the several of these articles still referred to Roma as "gypsies," a term Romani CRISS regarded as pejorative.

In May the Bucharest city hall fined the daily Romania Libera and its publishing company for having published a discriminatory job announcement, which said, "no Roma accepted."

Four persons who were arrested, tried, and convicted in a 1993 incident in Hadareni, in which three Roma died in a house burning, were released in 2000 after serving their sentences. The victims appealed to the European Court of Justice, arguing that the sentences of 2 to 6 years were too light. The case was pending before the European Court at year's end. According to Human Rights Watch, the European Roma Rights Center (ERRC) lodged applications against the country with the European Court of Human Rights regarding cases of violence against Roma and destruction of Romani property in Casinul Nou (1990) and Plaiesii de Sus (1991). These cases had been rejected in Romanian courts in part because the statute of limitations had expired before the ERRC could initiate final appeals. Police in both cases failed to conduct onsite investigations. These cases were pending with the European Court of Human Rights at year's end.

*Section 6. Worker Rights*

*a. The Right of Association.*—All workers except certain public employees have the legal right to associate freely and to form and join labor unions without previous authorization; however, there were reports that the Government restricted this right. Ministry of Defense, Ministry of Interior, and intelligence personnel are not allowed to unionize. The majority of workers were members of approximately 18 nationwide trade union confederations and smaller independent trade unions. Trade unions may acquire property, support their members' exercise of their profession, establish mutual insurance funds, print publications, set up cultural, teaching, and research bodies, establish commercial enterprises and banks, and borrow money. Workers may not be forced to join or withdraw from unions, and union officials who resign from elected positions and return to the regular work force are protected against employer retaliation.

The right to form trade unions was generally respected in practice. However, some employers created enterprise-friendly "yellow unions" in order to avoid the pressures of independent trade unions. Antiunion employers—usually foreign companies—made employment conditional upon the worker agreeing not to create or join a union. The unions reported that the Government interfered in trade union activities, collective bargaining, and strikes, and alleged that the requirements to register a union were excessive.

Past studies indicated that labor legislation adopted in 1991 fell short of International Labor Organization (ILO) standards in several areas, including the free election of union representatives, binding arbitration, the financial liability of strike organizers, the restriction of eligibility for trade unions, and the restriction of eligibility for trade union membership and offices to "employees."

The law stipulates that labor unions should be free from government or political party control, a provision that the Government generally respected in practice. Unions were free to engage in political activity and did so.

Antiunion discrimination is prohibited by law, and the Government generally respected this prohibition in practice.

Labor unions may form or join federations and affiliate with international bodies. The National Confederation of Trade Unions-Fratia and the National Union Bloc are affiliated with the International Confederation of Free Trade Unions and the European Trade Union Confederation. The Confederation of Democratic Trade Unions of Romania and Cartel Alfa are affiliated with the World Labor Confederation. Representatives of foreign and international organizations freely visited and advised domestic trade unionists.

*b. The Right to Organize and Bargain Collectively.*—Workers have the legal right to bargain collectively, but collective bargaining efforts were complicated by continued state control of most industrial enterprises and the absence of independent management representatives. Although the law supports collective bargaining as an institution, the contracts that result were not always enforceable in a consistent manner. Basic wage scales for employees of state-owned enterprises are established through collective bargaining with the Government. Public employees may bargain for everything except salaries, which were set by the Government. Unions claimed that downsizing decisions resulting from agreements with international financial institutions violated labor agreements.

The collective labor dispute law defines the conciliation, mediation, and arbitration procedures under which strikes can be conducted. The law established tripartite arbitration panels, and the list of arbitrators must be approved by the economic and social council where trade unions and employers associations each have one-third of the membership; however, mediation capability has not developed fully. Local panels were poorly trained, and unions continued to take their cases directly to the Government for dispute resolution.

Amendments to the labor law in 1999 broadened the scope of the right to strike, although lengthy and cumbersome procedures continued to make the holding of legal strikes difficult. Strikes may be held only if all means of possible conciliation have failed. The employer must be given 48 hours warning. Strikes can only be held to defend the economic interest of the workers and may not be used for political reasons. The labor code permits companies to claim damages from strike initiators if the strike is deemed illegal by a court. Union members complained that unions must submit their grievances to government-sponsored conciliation before initiating a strike and that the courts had a propensity to declare illegal the majority of strikes on which they had been asked to rule. Judges, prosecutors, and related Ministry of Justice staff are forbidden to strike, along with Ministry of Defense, Ministry of Interior, and intelligence service employees. In contrast to the previous year, there were fewer strikes over the privatization of enterprises. As in the past, strikes were

motivated by fear of future job losses. The Government worked with the trade unions, considering their concerns when devising the privatization strategy or contract. Labor unrest continued at the Resita steel plant, with no foreseeable outcome at year's end.

Labor legislation was applied uniformly throughout the country, including in the 6 free trade zones and the 31 disadvantaged zones. There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, including by children. The Ministry of Labor and Social Protection is responsible for enforcing the prohibition against forced labor. The prevalence of child labor, including begging, selling trinkets on the streets, or washing car windshields, remained widespread in the Roma community; these children may be up to 18 years of age.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The minimum age for employment is 16 years, but children as young as the age of 15 may work with the consent of their parents or guardians, although only “according to their physical development, aptitude, and knowledge.” Minors are prohibited from working in dangerous or hazardous conditions. Violations of the child labor laws are punishable by imprisonment for periods of 2 months to 3 years; however, despite the prevalence of child labor, there was no evidence of anyone being charged or convicted under this law. Working children under the age of 16 have the right to continue their education, and the law obliges employers to assist in this regard. The Ministry of Labor and Social Protection has the authority to impose fines and close sections of factories to ensure compliance with the law. There were no reports of anyone being charged or convicted under this law.

A department in the Office of the Prime Minister is responsible for child protection. Local organizations were established in the counties and the city of Bucharest to enforce child welfare legislation. The roles and responsibilities of the several agencies that enforce child labor laws remained ill defined, and these laws often were not enforced.

There were no accurate statistics on illegally employed children; however, there was recognition of the problem.

*e. Acceptable Conditions of Work.*—Most wage rates were established through collective bargaining at the enterprise level; however, they were based on minimum wages for specific economic sectors and categories of workers that the Government set after negotiations with industry representatives and the labor confederations. Minimum wage rates generally were observed and enforced. During the year, the minimum monthly wage was raised from approximately \$48 (1.4 million lei) to approximately \$53 (1,750,000 lei); the minimum monthly wage did not provide a decent standard of living for a worker and family. Prices for utilities continued to rise; however, basic food and pharmaceutical products still were subject to price ceilings. Housing was no longer subsidized.

The Labor Code provides for a standard workweek of 40 hours or 5 days, with overtime to be paid for weekend or holiday work or work in excess of 40 hours. It also includes a requirement for a 24-hour rest period in the workweek, although most workers receive 2 days off per week. Paid holidays range from 18 to 24 days annually, depending on the employee's length of service. The law requires employers to pay additional benefits and allowances to workers engaged in particularly dangerous or difficult occupations.

During the year, discussions including unions and employers to revise the Labor Code continued. New legislation was under debate in Parliament at year's end.

Some labor organizations lobbied for healthier, safer, working conditions on behalf of their members. However, neither the Government nor industry, which is still mostly state owned, had the resources necessary to improve significantly health and safety conditions in the workplace. The Ministry of Labor and Social Protection has established safety standards for most industries and is responsible for enforcing them; however, it lacked sufficient trained personnel for inspection and enforcement, and employers often ignored its recommendations. In 1999 a department was established with European Union (EU) assistance, within the Ministry to conduct comprehensive safety inspections. Although they have the right to refuse dangerous work assignments, workers seldom invoked it in practice.

After an explosion killed 10 workers in the port of Constanta in June 2001, workers at the shipyard protested against the lack of safety equipment and violations of safety procedures by management. A government delegation led by Privatization Minister Musatescu mediated talks between workers and management. The situation remained unresolved at year's end.



*f. Trafficking in Persons.*—A law passed in November 2001 prohibits trafficking; however, the Government had not issued regulations for implementation by the end of the year. Trafficking in women and children continued to be an underreported but serious problem.

The law defines trafficking as the use of coercion to recruit, transport, harbor, or receive humans for exploitation. Coercion includes fraud or misrepresentation. Exploitation includes slavery, forced labor, prostitution, performance in pornographic films, organ theft, or other conditions that violate human rights. For minors under the age of 18, it is not necessary to prove coercion.

A law enacted in November 2001 provides for sentences for traffickers of 3 to 12 years' imprisonment, including for trafficking in minors between 15 and 18 years of age. Sentences are increased to 5 to 15 years for trafficking in minors under age 15, if there are two or more victims, or if a victim suffers serious bodily harm or health problems. The sentence for trafficking that leads to the death or suicide of the victim is 5 to 25 years. There are increased penalties of 3 years if the trafficker is a member of an organized crime group and 2 years in the case of minors if the trafficker uses coercion. Consent of a trafficked person does not exempt the trafficker from liability.

The Government in 2001 assigned two generals as National coordinators of efforts against trafficking through a Human Trafficking Task Force. It assigned a number of personnel to investigate trafficking and began to expand interagency and local resources assigned to human trafficking. During the year, police identified 41 human trafficking networks. A total of 420 individuals were under investigation for suspected human trafficking, and as of December 1, the police had arrested 164 suspects. For example, on July 23, police cracked down on a Chinese-run trafficking ring in Iasi after a female victim filed a claim with police in Bucharest, using the SECI Regional Anti-Crime Center. The authorities also sought to increase regional cooperation against trafficking. In May seven Romanian victims testified in court in Skopje, Macedonia, against Macedonian traffickers who were subsequently convicted. Overall, 625 cases of prostitution and pimping were investigated (an increase of 84.4 percent over 2001) and 100 individuals were arrested. There were also 507 cases of illegal migration (an increase of 106 percent over 2001), and 446 individuals investigated (an increase of 53.7 percent over 2001).

In November 2001, one full-time prosecutor was assigned to assist the task force. A number of prosecutors also began to work trafficking cases at the regional level in 2001. A handful of prosecutions occurred for pimping offenses; prosecutions based on indictments under the new trafficking law began during the year.

In the course of its efforts, the Government recognized that corruption in the police force—particularly in local forces—may have contributed to the problem. As a result of both training and personnel changes within the police, police began to acknowledge that Romania was a country of origin for trafficked victims, and they became more aware of the problem. Police developed a system for investigating suspected trafficking cases that came up during border crossing checks. Victims were first questioned by Border Police in an effort to identify traffickers. Subsequently, they were questioned by officers from the Police's Organized Crime Directorate assigned to investigate human trafficking.

The country was both a country of origin and a transit country for trafficked women and girls. The full extent of the problem remained unclear, since neither the Government nor NGOs maintained statistics on this problem; however, there was evidence that the problem was growing. The International Organization for Migration (IOM) reported that from December 1999 to November 2002, 615 victims had been directly assisted, while fewer than 10 victims were assisted in 1999. The IOM office in the country estimated that as many as 20,000 women are trafficked from the country each year. Women reportedly were trafficked for prostitution to Yugoslavia (including Kosovo), Macedonia, Turkey, Albania, Bosnia and Herzegovina, Greece, Cyprus, Italy, France, Germany, Hungary, the Netherlands, Poland, the United Arab Emirates, Japan, and Cambodia. Women were trafficked through Macedonia and Bulgaria to reach Greece and other countries. The country also remained a frequently used country of transit for persons, especially women, being trafficked from Moldova, Ukraine, and other parts of the former Soviet Union. Iasi and Timisoara remained major transit centers. Trafficking patterns within the country generally went from its border with Moldova to the countries bordering Serbia, and there was anecdotal evidence of some internal victims of trafficking as well. There also was anecdotal evidence that the country was a minor destination country. Trafficking victims were primarily women and girls trafficked for prostitution; however, there were also reports that men were trafficked to Greece for agricultural labor.

Often women were recruited to work abroad by friends or relatives, or by newspaper advertisements. Often a friend or relative would make the initial offer, usu-

ally telling the victim that she would obtain a job such as a baby sitter or waitress. According to the IOM, most women were unaware that they would be forced into prostitution. A minority of trafficked women were sold into prostitution by their parents or husbands or were kidnaped by trafficking rings. Ministry of Interior officials reported that trafficking rings appeared to be operated primarily by Romanians; several domestic prostitution rings were active.

No separate government or IOM statistics were available for children trafficked to other countries. The NGO Sanse Egale Pentru Femei (Equal Opportunities for Women) reported that cases of trafficking in children that it dealt with rose from 8 in 1997 to 43 in 1999. In 1998 the NGO Save the Children dealt with 101 cases of children, mostly Roma, who were taken to Germany and Italy and forced to work as beggars or petty thieves; there were reports in July that trafficking rings gathered 200 Roma and sent them to France to work as beggars. The trafficking of humans to serve as beggars in Western Europe and the United States was a problem. On July 22, the national media reported that 19 Romanians were stopped at the Sinnicolau Mare customs point (on the Serbian-Hungarian border) by Border Police. The group, which included eight children with a variety of physical disabilities, were going to Italy to beg. The ringleader, Radu Samir, was fined approximately \$1,800 (60 million lei). In June a citizen was arrested in Cluj for trafficking elderly residents to the United States to beg. Border Police reported that such instances were becoming more frequent.

The country has an extensive system of orphanages with approximately 60,000 dependents, and many orphanages were complicit in letting girls escape into prostitution. Children and young persons forced out of orphanages between the ages of 16 and 18 often had no identity documents, very little education, and few, if any job skills. NGOs believed that many girls from these orphanages fell victim to trafficking networks. A study by the IOM's office in the country found that in 2000 38 percent of girls between 15 and 18 years of age in orphanages were ready to "emigrate to a foreign job," putting them at risk of being trafficked. The same study found that 38 percent of single women and girls aged 15 to 25 and 20 percent of women and girls who lived with their parents were ready to emigrate to a foreign job.

In the past, victims returned to Romania were prosecuted for the crime of leaving the country illegally, which had reduced their willingness to return to the country or to cooperate with law enforcement authorities. Law 678 requires the Ministry of the Interior to provide protection for victims of trafficking, and undercover operations and electronic surveillance are authorized against traffickers. This law also eliminates criminal penalties for prostitution if the victim turns in traffickers, or cooperates in investigations against traffickers. However, trafficking victims who cooperated with authorities continued to be sentenced for crimes such as illegal emigration.

The Government provided little aid to repatriated victims. In October 2001, IOM opened a short-term shelter for victims in Bucharest in cooperation with the Government and an NGO, the Estuar Foundation. The Ministry of Interior provided law enforcement personnel to investigate trafficking. The Border Police, who report to the Ministry of Interior, processed repatriated victims when they returned from abroad. The Ministry of Foreign Affairs provided documentation for victim repatriation. The Border Police, in order to combat the problem of trafficking, also received training from abroad. In a June training seminar in Madrid, organized by the EU, Border Police officers learned how to coordinate law enforcement work better on the borders and work more efficiently with international law enforcement; they also received sensitivity training in dealing with human trafficking.

A small number of local NGOs dealt with trafficking issues. There were two shelters for victims of sexual abuse, and besides the Bucharest center, there was another shelter for trafficking victims in Pitesti. A small number of other shelters operated in Transylvania. Some NGOs stated that fear of reprisal from organized crime groups deterred them from taking aggressive action against traffickers. NGOs had some success in providing training for and working with local police forces on trafficking. Nevertheless, awareness of human trafficking was low, and while victims were not treated as criminals, they were regarded as social outcasts. During the year awareness was raised by numerous media stories on the problem, and by antitrafficking advertisements on government-sponsored television. The IOM, with some additional support from foreign governments, continued its campaign to increase awareness of the problem with the public, but they had no formal projects and had limited funding.

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**RUSSIA**

The 1993 Constitution established a governmental structure with a strong head of state (President), a government headed by a prime minister, and a bicameral legislature (Federal Assembly) consisting of a lower house (State Duma) and an upper house (Federation Council). The Duma has a strong pro-presidential center that puts majority support within reach for almost all presidential priorities. Both the President and the Duma were selected in competitive elections, with a broad range of individual candidates, political parties, and movements contesting offices. President Vladimir Putin was elected in March 2000, and Prime Minister Mikhail Kasyanov took office in May 2000. Both the presidential elections and the December 1999 Duma elections were judged by international observers to be generally free and fair, although in both cases pre-election manipulation of the media was a problem. The Constitution provides for an independent judiciary. Although seriously impaired by a shortage of resources and by corruption and still subject to undue influence from other branches of government, the judiciary showed increasing independence and was undergoing reforms.

The Ministry of Internal Affairs (MVD), the Federal Security Service (FSB), the Procuracy, and the Federal Tax Police were responsible for law enforcement at all levels of government. The FSB has broad law enforcement functions, including fighting crime and corruption, in addition to its core responsibilities of security, counter-intelligence, and counterterrorism. The FSB operated with only limited oversight by the Procuracy and the courts. The primary mission of the armed forces was national defense, although they have been employed in local internal conflicts, and they were available to control civil disturbances. Internal security threats in parts of the Russian Federation increasingly have been dealt with by militarized elements of the security services. Members of the security forces, particularly within the internal affairs apparatus, continued to commit numerous and serious human rights abuses.

The country has a total population of approximately 143 million. The economy continued to grow, although at lower rates than in 2001. Annual gross domestic product (GDP) growth was 4.5 percent, compared with 5 percent in 2001. GDP was \$252 billion for the first 9 months of the year. Industrial production grew by 3.7 percent; real income increased by 8.8 percent. Approximately 27 percent of the population, however, continued to live below the official monthly subsistence level of \$60. Official unemployment was 7.1 percent, down from 9 percent at the end of 2001. Corruption continued to be a negative factor in the development of the economy and commercial relations.

Although the Government generally respected the human rights of its citizens in some areas, its record was poor in other areas. Significant reforms occurred in law enforcement and judicial procedures; however, a variety of direct and indirect government actions further weakened the autonomy of the electronic media, the primary source of information for most individuals, and the Government's record remained poor in Chechnya, where federal security forces demonstrated little respect for basic human rights. There were credible reports of serious violations, including numerous reports of extrajudicial killings, by both the Government and Chechen separatists in the Chechen conflict. Hazing in the armed forces resulted in a number of deaths. There were reports of government involvement in politically motivated disappearances in Chechnya. There were credible reports that law enforcement personnel continued to torture, beat, and otherwise abuse detainees and suspects. Arbitrary arrest and detention, while significantly reduced by a new Code of Criminal Procedure, remained problems, as did police corruption. The Government prosecuted some perpetrators of abuses, but many officials were not held accountable for their actions.

Lengthy pretrial detention was a serious problem; however, the introduction of the new Code of Criminal Procedure led to significant reductions in time spent in detention for new detainees. Prison conditions continued to be extremely harsh and frequently life threatening. Laws on military courts, military service, and the rights of service members often contradicted the Constitution, federal laws, and presidential decrees, raising arbitrary judgments of unit commanders over the rule of law. The Government made substantial progress during the year with implementation of constitutional provisions for due process and fair and timely trial; however, the judiciary continued to lack resources, suffered from corruption, and remained subject to influence from other branches of the Government, and judges were inadequately protected by the Government from threats by organized criminal defendants. A series of alleged espionage cases continued during the year and raised concerns regarding the lack of due process and the influence of FSB in court cases. Authorities continued to infringe on citizens' privacy rights.

Despite the continued wide diversity of views expressed in the press, government pressure continued to weaken the independence and freedom of some media, particularly major national television networks and regional media outlets. The Government at times restricted freedom of assembly at the local level. The Government did not always respect the constitutional provision for equality of religions, and in some instances the authorities imposed restrictions on some religious groups. Societal discrimination, harassment, and violence against members of some religious minorities remained problems. Despite constitutional protections for citizens' freedom of movement, local governments restricted this right, in particular by denying local residency permits to new settlers from other areas of the country. Government institutions intended to protect human rights were relatively weak, but remained active and public. The Government placed restrictions on the activities of both nongovernmental organizations (NGOs) and international organizations in Chechnya.

Violence against women and children remained problems, as did discrimination against women. Persons with disabilities continued to face problems from both societal attitudes and lack of governmental support. Ethnic minorities, including Roma and persons from the Caucasus and Central Asia, faced widespread governmental and societal discrimination, and at times violence. There were increasing limits on worker rights, and there were reports of instances of forced labor and child labor. Trafficking in persons, particularly women and young girls, was a serious problem. Russia was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

A new Criminal Procedures Code that took effect beginning in July for the first time permitted the application of existing Constitutional provisions that individuals could be arrested, taken into custody, or detained, only upon a judicial decision. After the introduction of the new Code the number of criminal cases opened by the Procuracy declined by 25 percent; the number of suspects placed in pretrial detention declined by 30 percent; and the courts rejected 15 percent of requests for arrest warrants. Judges released some suspects held in excess of allotted time when the Government failed properly to justify its request for extension, and the Supreme Court overturned some lower court decisions to grant pretrial detention considered inadequately justified. Early indications were that the changes were having an effect on the behavior of police, prosecutors, and the judicial system. Human rights advocates reported that the strict new limits on time held in police custody without access to family or lawyers, and the stricter standards for opening cases, have discouraged abuse of suspects by police as well.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no confirmed reports of political killings by the Government or its agents; however, there continued to be credible reports that the federal armed forces engaged in extrajudicial killings in Chechnya. There also were credible reports that the armed forces used indiscriminate force at various times in the Chechen conflict in areas with significant civilian populations, resulting in numerous deaths (*see* Section 1.g.).

Hazing in the armed forces resulted in the deaths of servicemen (*see* Section 1.c.). On June 26, a court acquitted all defendants charged with the 1994 murder of journalist Dimitriy Kholodov (*see* Section 2.a.).

Government "mopping-up" operations in the Chechen town of Tsotsin-Yurt in January, March, and July allegedly resulted in the deaths of many civilians (*see* Section 1.g.). No one had been charged with these killings by year's end. According to Human Rights Watch, no one has been held accountable for the extrajudicial killings of 130 civilians in Alkhan-Yurt, Staropromyslovskiy, and Novyye Aldi in similar operations in 1999 and 2000.

The press and media NGOs reported that a number of journalists were killed by unknown parties, presumably because of the journalists' work (*see* Section 2.a.).

Attacks on ethnic and racial minorities and asylum seekers resulted in some deaths (*see* Section 5).

There were a number of killings of government officials throughout the country, some of which may have been politically motivated, either in connection with the ongoing strife in Chechnya, or with local politics. Among the political figures killed were: Duma Deputy Vladimir Golovlev in August; Smolensk Oblast First Deputy Governor Vladimir Prokhorov in August; Akhmen Zavgayev, Head of Nadterechnyy District Administration (and brother of Doku Zavgayev, former Head of the Chechen Administration) in Chechnya in September; Leonid Volkov, Head of the

Loknyanskiy District of Pskov Oblast in August; and Magadan Governor Valentin Tsvetkov in October.

On September 19, Mikhail Nikiforov, First Deputy Chief of the MVD's Criminal Militia, said that law enforcement officers had identified suspects in the 1997 killing of St. Petersburg Vice Governor Mikhail Manevich. Nikiforov stated that the two suspects in the Manevich case were no longer alive but provided no further details. There were no reports that the case was being investigated further.

On November 21, the FSB announced that six unidentified suspects had been arrested and charged with the 1998 killing of Galina Starovoytova, a prominent Duma deputy.

There have been no developments in the December 5, 2000 killing of the Mayor of Murom, Petr Kaurov. There also were no developments in the 2000 killing of Svetlana Semenova, a political party activist in the Union of Right Forces. It was not clear whether these killings were politically motivated. In 2001 police released Semenova's husband, who had been the main suspect in the case.

In early November, police arrested four persons in connection with the 1999 killing of St. Petersburg legislative assembly Deputy Viktor Novoselov but failed to capture the alleged criminal group leader. St. Petersburg city court hearings continued in this case.

Chechen rebels killed numerous civilians and increased their killings of officials and militia associated with the Russian-appointed Chechen administration, including many civilians (*see* Section 1.g.). Chechen terrorists killed two of the hostages they took in a Moscow theater in October (*see* Section 1.g.). Chechen fighters killed a number of federal soldiers whom they took prisoner (*see* Section 1.g.). Religious and secular figures also were kidnaped and killed in Chechnya during the year (*see* Sections 1.b., 1.c., and 5).

Authorities attributed bombing incidents in Dagestan and several cities in southern areas of the country to Chechen rebels.

Government forces and Chechen fighters have used landmines extensively in Chechnya and Dagestan since August 1999 (*see* Section 1.g.); there were many civilian landmine casualties in Chechnya during the year.

*b. Disappearance.*—There were reports of government involvement in politically motivated disappearances in Chechnya; however, there were fewer reports of kidnappings than in previous years. The NGO Memorial claimed that federal military forces detained thousands of persons from Chechnya. Some of these persons disappeared, but most were released, often after their relatives paid a bribe. Memorial estimated that the number of individuals unaccounted for was somewhere between several hundred and a thousand. Former Presidential Representative for Human Rights in Chechnya Vladimir Kalamanov acknowledged that at least several hundred persons were missing in Chechnya.

The August kidnaping by unknown persons of the head of the Doctors without Borders Mission in the neighboring province of Dagestan remained unsolved at year's end. This event and overall security problems led the U.N. and many NGOs to suspend their activities in Chechnya temporarily.

A September report from the office of Abdul-Khakim Sultygov, the President's Special Representative for Human Rights in Chechnya, stated that since it began operations in February 2000 the office had received complaints of 959 disappearances. According to the office, 401 persons were located, 18 of whom were dead. Authorities were carrying out criminal investigations in 234 of the cases and searches for missing persons in 324 cases. Attacks on ethnic and racial minorities and asylum seekers resulted in some deaths (*see* Section 5).

There were no developments in the ongoing criminal investigation into the 2000 disappearance of former speaker of the Chechen Parliament and former field commander, Ruslan Alikhadzhiyev, who allegedly was detained in Shali by federal forces.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture, violence, and other brutal or humiliating treatment or punishment; however, there were credible reports that law enforcement personnel frequently used torture to coerce confessions from suspects and that the Government often did not hold officials accountable for such actions.

Prisoners' rights groups, as well as other human rights groups, documented numerous cases in which law enforcement and correctional officials tortured and beat detainees and suspects. Human rights groups described the practice of torture as widespread. In 2000 Human Rights Ombudsman Oleg Mironov estimated that 50 percent of the prisoners with whom he spoke claimed to have been tortured. Numerous press reports indicated that the police frequently beat persons with little or no provocation or used excessive force to subdue detainees. Reports by refugees, NGOs,

and the press suggested a pattern of police beatings, arrests, and extortion directed at persons with dark skin, or who appeared to be from the Caucasus, Central Asia, or Africa (*see* Section 5). Press reports and human rights groups indicated that police in some parts of the country also used beatings and torture as part of investigative procedures as well. Police continued to harass defense lawyers, including through beatings and arrests, and continued to intimidate witnesses (*see* Section 1.e.). Some human rights observers and members of the legal profession suggested that the introduction on July 1 of a new Code of Criminal Procedures that limits the duration of detention without access to counsel or family members and contains provisions that render statements given in the absence of a defense attorney unusable in court, would reduce the incentive for the authorities to abuse prisoners. However, authoritative reports concerning changes in actual practice were not available by year's end. Abuse of prisoners by other prisoners continued to be a problem.

Torture by police officers usually occurred within the first few hours or days of arrest and usually took one of four forms: Beatings with fists, batons, or other objects; asphyxiation using gas masks or bags (sometimes filled with mace); electric shocks; or suspension of body parts (e.g., suspending a victim from the wrists, which are tied together behind the back). Allegations of torture were difficult to substantiate because of lack of access by medical professionals and because the techniques used often left few or no permanent physical traces. There were credible reports that government forces and Chechen fighters in Chechnya tortured detainees (*see* Section 1.g.).

There were reports that police beat Roma during the year (*see* section 5).

Government agencies such as the Ministry of Internal Affairs have begun to educate officers about safeguarding human rights during law enforcement activities through training provided by foreign governments; however, security forces remained largely unreformed. Torture is not defined in the law or the Criminal Code; it is mentioned only in the Constitution. As a result, it was difficult to charge perpetrators. The only accusation that could be brought against the police is that they exceeded their authority or committed a simple assault.

Various abuses against military servicemen, including, but not limited to, the practice of "dedovshchina" (the violent, sometimes fatal hazing of new junior recruits for the armed services, MVD, and border guards), continued during the year. Press reports cited serving and former armed forces personnel, the Military Procurator's Office, and NGOs monitoring conditions in the armed forces, who indicated that this mistreatment often included the use of beatings or threats of increased hazing to extort money or material goods. Press reports also indicated that this type of mistreatment resulted in permanent injuries and deaths among servicemen. Soldiers often did not report hazing to either unit officers or military procurators due to fear of reprisals, since officers in some cases reportedly tolerated or even encouraged such hazing as a means of controlling their units. There also were reports that officers used beatings to discipline soldiers whom they found to be "inattentive to their duties." The practice of hazing reportedly was a serious problem in Chechnya, particularly where contract soldiers and conscripts served together.

Both the Union of Soldiers' Mothers Committee (USMC) and the Main Military Procurator's Office (MPPO) received numerous reports about "nonstatutory relations," in which officers or sergeants physically assaulted or humiliated their subordinates. This tendency commonly has been attributed to stressful conditions—for example, degrading and substandard living conditions—that persisted throughout the armed forces—and to the widespread placement of inexperienced reserve officers, on active duty for 2 years, as leaders of primary troop units. The USMC estimated that approximately 3,000 noncombat deaths occurred annually; these included: Shootouts, suicides, and training and traffic accidents.

Despite the acknowledged seriousness of the problem, the leadership of the armed forces made only superficial efforts to implement substantive reforms in training, education, and administration programs within units to combat abuse. The limited scale of their efforts was due at least in part to lack of funding and to the leadership's preoccupation with urgent reorganization problems and the fighting in Chechnya. The MMPO continued to cooperate with the USMC to investigate allegations of abuse. Nonetheless, the USMC believed that most hazing incidents and assaults were not reported due to a fear of reprisals, the indifference of commanders, and deliberate efforts to cover up such activity.

There were reports that the corruption of government officials facilitated trafficking in persons (*see* Section 6.f.).

Criminal groups in the Northern Caucasus, some of which may have links to elements of the rebel forces, frequently resorted to kidnaping. The main motivation behind such cases apparently was ransom, although some cases had political or religious overtones. Many of the hostages were being held in Chechnya or Dagestan.

During the year, members of ethnic or racial minorities were victims of beatings, extortion, and harassment by "skinheads" and members of other racist and extremist groups.

Prison conditions remained extremely harsh and frequently life threatening. The Ministry of Justice administered the penitentiary system centrally from Moscow. The Ministries of Justice, Health, Defense, and Education all maintained penal facilities. There were five basic forms of custody in the criminal justice system: Police detention centers, pretrial detention facilities known as Special Isolation Facilities (SIZOs), correctional labor colonies (ITKs), prisons designated for those who violate ITK rules, and educational labor colonies (VTKs) for juveniles. Responsibility for operating the country's penal facilities fell under the Ministry of Justice's Main Directorate for Execution of Sentences (GUIN).

The Government did not release statistics on the number of detainees and prisoners who were killed or died or on the number of law enforcement and prison personnel disciplined. The Moscow Center for Prison Reform (PCPR) estimated that in earlier years, 10,000 to 11,000 prisoners died annually in penitentiary facilities, 2,500 of them in SIZOs. During the year, these numbers were estimated to be somewhat lower. Most died as a result of poor sanitary conditions or lack of medical care (the leading cause of death was heart disease). The press often reported on individuals mistreated, injured, or killed in various SIZOs; some of the reported cases indicated habitual abuse by the same officers.

Violence among inmates, including beatings and rape, was common. There were elaborate inmate-enforced caste systems in which informers, homosexuals, rapists, prison rape victims, child molesters, and others were considered to be "untouchable" and were treated very harshly, with little or no protection provided by the prison authorities.

Penal institutions frequently remained overcrowded; however, mass amnesties offered immediate relief. Longer-term and more systemic measures to reduce the size of the prison population were also taken. These included the use of alternative sentencing in some regions and revisions of both the Criminal Code and the Code of Criminal Procedure which eliminate incarceration as a penalty for a large number of less serious offenses. Many penal facilities remained in urgent need of renovation and upgrading. By law authorities must provide inmates with adequate space, food, and medical attention; with the dramatic decrease in prison populations these standards increasingly were being met.

The implementation of the new Code of Criminal Procedure reduced both the numbers of persons being held and the length of time they may be held in detention, reducing the size of the SIZO population by 30 percent by year's end, and virtually eliminating the problem of overcrowding in those institutions. As of September 25, prisoners in SIZOs had an average of 38 square feet per person, up from 16 square feet the previous year, representing a significant advance toward the norm of 44 square feet specified by law.

Inmates in the prison system often suffered from inadequate medical care. According to the GUIN, as of September 1, there were approximately 86,000 tuberculosis-infected persons and 21,576 HIV-infected persons in SIZOs and correction colonies combined. Public health measures, funded by international aid and by the doubling of government resources for the prison system's medical budget, have effected a limited reversal of the spread of tuberculosis but have not contained the spread of HIV. Detention facilities had tuberculosis infection rates far higher than in the population at large. The Saratov Oblast administration, concerned with the tuberculosis crisis in its facilities, fully funded the tuberculosis-related medicinal needs of prisoners, according to the PCPR. The PCPR also reported that conditions in penal facilities varied among the regions. Some regions offered assistance in the form of food, clothing, and medicine. NGOs and religious groups offered other support.

Conditions in police station detention centers varied considerably but generally were harsh, although average periods of stay in such facilities decreased. In most cases, detainees lacked bedding, places to sleep, running water, toilets, showers, and adequate nutrition. Suspects awaiting the completion of a criminal investigation, trial, sentencing, or appeal, were confined in SIZOs, as occasionally were convicts when the State lacked transportation to take them elsewhere. Conditions in SIZOs remained extremely harsh and posed a serious threat to life and health. Health, nutrition, and sanitation standards in SIZOs remained low due to a lack of funding. Head lice, scabies, and various skin diseases were prevalent. Prisoners and detainees typically relied on families to provide them with extra food. Under such conditions, prisoners slept in shifts. In most pretrial detention centers and prisons, there was no ventilation system. Poor ventilation was thought to contribute to cardiac problems and lowered resistance to disease. Because of substandard pretrial detention conditions, defendants sometimes claimed that they had confessed simply to be

moved to comparatively less harsh prison conditions. Defendants' retractions of confessions made under these conditions generally were ignored, as were those who attempted to retract confessions they claimed they were coerced to make (*see* Section 1.e.), although the NGO Human Rights Institute asserts that the problem of coerced confessions became less serious after mid-year as a result of the inadmissibility of confessions not made in the presence of counsel.

An individual detained before January 1 could spend up to 3 years awaiting trial in a SIZO; however, the new Criminal Procedure Code gives the courts, rather than the Procuracy, the authority to review detention, and the Supreme Court instructed all judges to enforce statutory limits on pretrial detention strictly (*see* Section 1.d.). The new Code limits detention in police stations to 24 hours before the case is referred to the procurator and to 24 hours for the procurator to open or reject the criminal case. At that point, the procurator must decide whether to seek pretrial detention from the court. Pretrial detention is limited in most cases to 6 months. The investigators have 2 months to refer the case file to the court and request more time for detention. Only in a small number of serious crimes and complex investigations can the Procuracy request an extension of detention for 6 more months, and only with the personal approval of the Procurator General himself can they apply to the court for an extension to a maximum of 18 months. During the first 6 months in which the new procedures were in place, no such extensions were requested, and most cases went to trial in the allotted 6 months. By year's end, it was possible to evaluate only the enforcement of some of these limitations. These have generally been respected; however there were still some judges and regions which did not appear to fully enforce this provision.

ITKs held the bulk of the nation's convicts. There were 749 ITKs. Guards reportedly disciplined prisoners severely in order to break down resistance. At times guards humiliated, beat, and starved prisoners. According to the PCPR, conditions in the ITKs were better than those in the SIZOs, because the ITKs had fresh air. In the timber correctional colonies, where hardened criminals served their time, beatings, torture, and rape by guards reportedly were common. In September 2001, procurators in Perm announced that they had brought charges of mistreating inmates against Special Forces Commander Sergey Bromberg, head of the strict regime prison colony at Chepets. Along with seven masked members of his unit, Bromberg was suspected of beating inmates at the prison colony. The Procurator subsequently announced that he had completed his investigation; however, there were no reports by year's end that a prosecution was being pursued. The country's "prisons"—distinct from the ITKs—were penitentiary institutions for those who repeatedly violated the rules in effect in the ITKs.

VTKs were facilities for prisoners from 14 to 20 years of age. Male and female prisoners were held separately. In September 2001, GUIN reported that there were 64 educational colonies, 3 of which were for girls. Conditions in the VTKs were significantly better than in the ITKs, but juveniles in the VTKs and juvenile SIZO cells reportedly also suffered from beatings, torture, and rape. The PCPR reported that such facilities had a poor psychological atmosphere and lacked educational and vocational training opportunities. Many of the juveniles were from orphanages, had no outside support, and were unaware of their rights. There also were two prisons for children in Moscow. Boys were held with adults in small, crowded, and smoky cells. Schooling in the prisons for children was sporadic at best, with students of different ages studying together when a teacher could be found.

In April 2001, President Putin described the problem of disease in the prison system as a potential "Chernobyl." He stated that the Government was not in a position to ensure standard conditions of detention in penitentiary institutions and that the system's problems had become a national concern. According to the PCPR, in order to forestall a crisis the system was obliged either to fund massive new construction and reconstruction of facilities—which was unrealistic under the country's economic conditions—or to reduce the prison population. Subsequently the Government launched a coordinated effort to reform criminal procedure, resulting in a reduction of the prison population. More offenses were moved from the Criminal Code to the Administrative Code, eliminating incarceration as an option in most cases. More crimes were shifted to Justices of the Peace, which had more flexible sentencing structures and could take advantage of a variety of alternative punishments. In some regions, alternative penalties such as house arrest and community service joined incarceration as acceptable penalties. For example, in Murmansk the local office of the Ministry of Justice actively pursued alternative punishments, and many convicted offenders were given sentences not involving incarceration. A similar program was under way in Nizhniy Novgorod, where it resulted in reductions in the number of persons in SIZO detention and the time they spent there. The standards of proof for convictions rose, and the shifting of more responsibilities to independent



arbiters such as the courts decreased the number of cases opened. These factors combined have begun to reduce the prison population.

The Government permitted the International Committee of the Red Cross (ICRC) to work throughout the country, and the ICRC was active especially in the northern Caucasus. The ICRC carried out regular prison visits and provided advice to authorities on how to improve prison conditions. The Government allowed the ICRC access to some facilities in the northern Caucasus where Chechen detainees were held; however, the pretrial detention centers and filtration camps for suspected Chechen fighters were not always accessible to human rights monitors (*see* Section 1.g.).

*d. Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention remained problems; however, there was progress toward effective judicial oversight over arrests and detentions. The new Code of Criminal Procedure gave authorities the means to implement the constitutional requirement that individuals could be arrested, taken into custody, or detained beyond 48 hours only upon a judicial decision. In many cases courts aggressively asserted their new rights, freeing prisoners in Chechnya, rejecting 15 percent of the requests for arrest warrants, and rejecting 30 percent of the requests for detention in some areas. Judges freed suspects whose confessions were taken without lawyers present or who were held in excess of detention limits. The Supreme Court overturned a number of cases in which lower court judges granted permission to detain individuals on what the Supreme Court considered to be inadequate grounds. The Courts issued strict instructions to judges to enforce the time limits set on various stages of detention; however, insufficient time had elapsed by year's end to permit evaluation of compliance with these instructions.

A new Criminal Procedure Code, passed by the Duma in December 2001, became effective on July 1, with some provisions to be implemented in 2003. The new Code stipulates that if the police have probable cause to believe that a suspect has committed a crime, or that the suspect is an imminent threat to others, they may detain him for not more than 24 hours. During that time, they must notify the procurator, who then has 24 hours to confirm the charge or release the suspect. The Code also requires that the Procuracy obtain a judicial order for arrest, search, or seizure. It provides that relatives are to be notified of a suspect's arrest within 12 hours and that suspects have access to prompt counsel prior to the first questioning. Pretrial detention for crimes carrying a sentence of less than 3 years is prohibited unless the defendant poses a demonstrable flight risk; detention during trial is limited to 6 months, except where particularly grave crimes are involved. The new Criminal Procedure Code specifies that within 2 months of a suspect's arrest police should complete their investigation and transfer the file to the procurator for arraignment. A procurator may request the court to extend the period of criminal investigation to 6 months in "complex" cases with the authorization of a judge. With the personal approval of the Procurator General, that period may be extended up to 18 months. Juveniles may be detained only in cases of grave crimes. The new Criminal Procedure Code includes a formal procedure for pleading guilty and includes incentives such as shorter sentences as well as shorter trials. The new Criminal Procedure Code became effective on July 1, but the Duma had specified that these provisions regarding detention were to be delayed until January 1, 2004. The Constitutional Court ruled in May that it was unconstitutional to delay the implementation of judicial oversight after the new Code was slated to become effective. In response the Duma amended the new Code in June so that these provisions took effect on July 1.

However, before July 1, the court system continued to be governed by the amended Soviet Criminal Procedure Code, under which suspects often were subjected to uneven and arbitrary treatment. Procurators were able to issue orders of detention without judicial approval and police detained suspects for up to 48 hours without a warrant. The PCPR reported terms of pretrial detention under the previous Code extending up to 3 years, with the average ranging from 7 to 10 months. However, in some extreme cases, the PCPR reported total pretrial and during trial detention periods of up to 5 years due to financial constraints and poor investigative and court work. Some suspects spent 18 months in detention under harsh conditions in a SIZO while the criminal investigation was conducted (*see* Section 1.c.). Indefinite extensions of the investigation period without explanation to the detainee were common, and many suspects did not exercise their rights to request judicial review of their detention due to fear of angering the investigating officer. There was no formal procedure for a suspect to plead guilty during the investigative period, although if a suspect informed the investigator that he was guilty, the period of the investigation usually was shorter than if he maintained his innocence. There also were many credible reports that persons were detained far in excess of the period permitted for

administrative offenses, in some cases so that police officials could extort money from friends or relatives of detainees. The practice of detaining individuals arbitrarily for varying periods of time, both within and in excess of permissible periods, was common, and often resolved only with bribes. After July 1, many of the motivations for these acts were reduced, but abuses still remained.

Families often were denied access to suspects in police detention; however, stricter oversight generally produced better compliance with the law. A March 2001 amendment to the Criminal Procedure Code allowed defendants immediate access to counsel when they have been arrested and referred for a psychiatric examination; this amendment took effect in January. Citizens' ignorance of their new rights was a problem. The Government embarked on a public education program to inform citizens of their rights and responsibilities under the system introduced by the new Code of Criminal Procedures, such as the right to a lawyer and the obligation to serve on juries when called.

Even after July 1, there were credible reports that police continued abuses. There were credible reports from throughout the country that police detained persons without observing mandated procedures and failed to issue receipts for confiscated property. There were credible reports that security forces regularly continued to single out persons from the Caucasus for document checks, detention, and the extortion of bribes. According to NGOs, federal forces commonly detained groups of Chechen men at checkpoints along the borders and during "mopping-up" operations following military hostilities and severely beat and tortured them.

Some regional and local authorities took advantage of the system's procedural weaknesses to arrest persons on false pretexts for expressing views critical of the Government. Human rights advocates in some regions have been charged with libel, contempt of court, or interference in judicial procedures in cases with distinct political overtones. Journalists, among others, have been charged with other offenses and held either in excess of normal periods of detention or for offenses that do not require detention at all (*see* Sections 2.a. and 4).

Authorities abrogated due process in several "espionage" cases involving Russians who worked with foreigners who allegedly had obtained information that the security services considered sensitive (*see* Section 1.e.). Although investigations in many of these cases had continued for a number of years, charges were filed in nearly all of them in the last days before the new code took effect, in order that prosecutors could avoid certain procedural protections accorded defendants.

The Constitution prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and there were increasing signs of judicial independence; however, the judiciary did not act as an effective counterweight to other branches of the Government. Judges remained subject to some influence from the executive, military, and security forces, particularly in high profile or politically sensitive cases. The judiciary continued to lack sufficient resources and was subject to corruption.

The judiciary is divided into three branches. The courts of general jurisdiction, including military courts, are subordinated to the Supreme Court. These courts hear civil and criminal cases and include district courts, which serve every urban and rural district, regional courts, and the Supreme Court. Decisions of the lower trial courts can be appealed only to the immediately superior court unless a constitutional issue is involved. The arbitration (commercial) court system under the High Court of Arbitration constitutes a second branch of the judicial system. Arbitration courts hear cases involving business disputes between legal entities and between legal entities and the state. The Constitutional Court (as well as constitutional courts in a number of administrative entities of the Russian Federation) constitute the third branch.

Judges were approved by the President after being nominated by the qualifying collegia, which were assemblies of judges. These collegia also had the authority to remove judges for misbehavior and to approve procurators' requests to prosecute judges.

Justices of the Peace, introduced beginning in 1998, dealt with criminal cases involving maximum sentences of less than 2 years and some civil cases. There were more than 4,500 Justices of the Peace throughout the country by year's end. These judges handled a variety of civil cases as well as criminal cases. In those areas where the system of Justices of the Peace had been implemented completely, there was a significant decrease in backlogs and delays in trial proceedings, both among those cases referred to the Justices of the Peace and in the courts of general jurisdiction, because dockets were freed to accept more serious cases more rapidly. Justices of the Peace were in various stages of development according to region, but were functioning nationwide, producing significant reductions in case backlogs and freeing the courts of general jurisdiction for more serious cases. In some regions,

Justices of the Peace assumed approximately one-half of federal judges' civil cases and up to 15 percent of their criminal matters, which eased overcrowding in pretrial detention facilities (*see* Sections 1.c. and 1.d.).

Low salaries and a lack of prestige continued to make it difficult to attract talented new judges and contributed to the vulnerability of existing judges to bribery and corruption; however, judicial salaries were increased by 60 percent during the year. Working conditions for judges remained poor and lacking in physical security, and support personnel continued to be underpaid. Judges remained subject to intimidation and bribery from officials and others and were inadequately protected from intimidation or threats from powerful criminal defendants.

The new Criminal Procedure Code provides for the strengthening of the role of the judiciary in relation to the Procuracy by requiring judicial approval of arrest warrants, searches, seizures, and detention. Moreover, the new Law on the Status of Judges, approved in December 2001, was intended to eliminate subjectivity in the selection of judges; to facilitate access to the judicial profession by minimizing corruption in the appointment process; and to improve the accountability of judges by subjecting them to disciplinary and administrative liability and by introducing age limits. In addition, judicial training was mandated and strengthened during the year. The new Criminal Procedure Code also broadened the jurisdiction of Justices of the Peace to include all crimes with maximum sentences of less than 3 years.

The Constitution provides for the right to a fair trial; however, this right was restricted in practice. With the introduction of new criminal procedures, abuses of this right declined; however, it was too early at year's end to provide an authoritative reassessment of the situation. Many defendants did not attempt to exercise their right to counsel, believing that such efforts would be pointless. NGOs reported that investigators found ways to deny suspects access to counsel, such as by restricting visiting hours. Suspects often were unable or unwilling to exercise their right to counsel during pretrial questioning (*see* Section 1.d.). Many defendants recanted testimony given during pretrial questioning, stating that they were denied access to a lawyer, that they were coerced into making false confessions or statements, or that they had confessed in order to escape poor conditions in pretrial detention facilities (*see* Section 1.c.). In the past, human rights monitors have documented cases in which convictions were obtained on the basis of testimony that the defendant recanted in court, even in the absence of other proof of guilt; however, the new Criminal Procedure Code specifically excluded such confessions from evidence.

The Criminal Code provides for the court to appoint a lawyer free of charge if a suspect cannot afford one. It specifies that an advocates' collegium president must appoint a lawyer within 24 hours after receiving such a request; however, this did not always happen in practice. Lawyers tried to avoid accepting these cases since the Government did not always pay them. Judges often called upon the Society for the Guardianship of Penitentiary Institutions to provide legal assistance for suspects facing charges and trial without representation. This society operated primarily in Moscow, although it used its connections throughout the country to appeal to legal professionals to represent the indigent. However, the high cost of competent legal representation meant that lower-income defendants often lacked legal representation.

The new Criminal Procedures Code mandates that all regions have adversarial jury trials for the most serious offenses in place by January 1, 2003; since 1994 9 of the country's 89 regions have made use of adversarial jury trials. In December, citing administrative and logistical considerations, the Duma passed a law that required 69 regions to adopt the new system by the January 2003 deadline but left 11 to adopt the system at a later time. According to observers, a majority of defense attorneys, defendants, and the public favored jury trials and an adversarial approach to criminal justice.

The Independent Council of Legal Expertise has reported that defense lawyers increasingly were the targets of police harassment, including beatings and arrests. Professional associations at both the local and federal levels reported abuses throughout the country, charging that police tried to intimidate defense attorneys and cover up their own criminal activities.

Authorities abrogated due process in several "espionage" cases involving foreigners who worked with Russians and allegedly obtained information that the security services considered sensitive. The proceedings in these cases took place behind closed doors, and the defendants and their attorneys encountered difficulties in learning the details of the charges. Observers believed that the FSB was seeking to discourage Russians and foreigners from investigating problems that the security services considered sensitive, and were concerned by the apparently undue influence of the security services.

In September the Krasnoyarsk Kray court ruled that the prosecutor's office had committed "violations of law" in the case of Valentin Danilov, a Krasnoyarsk physicist, charged with espionage and fraud for allegedly selling sensitive information to China. The court returned the case to the prosecutor's office and released Danilov from prison.

At year's end, the Supreme Court had not completed its review of the criminal case against Vladimir Shchurov, Director of the Sonar Laboratory of the Pacific Oceanographic Institute, who was the subject of a criminal case brought by regional FSB authorities in 2000. NGOs familiar with the case reported that Shchurov's lawyer was denied access to many of the details of the charge and that the judge presiding over the case had unlawfully refused to enter into evidence documents that the defense attorney believed demonstrated Shchurov's innocence.

At year's end, Grigoriy Pasko, a military journalist and active-duty officer in the Pacific Fleet, was being held in a prison near Vladivostok after having been sentenced in December 2001 to 4 years' imprisonment for espionage. Both prosecution and defense appealed the verdict to the military collegium of the Supreme Court in Moscow. At year's end, Igor Sutyagin, a disarmament researcher with the U.S. and Canada Institute who had been detained in 1999 on suspicion of espionage, remained in detention. Sutyagin was accused of passing classified information about the country's nuclear weapons to a London-based firm, but the Kaluga regional court ruled in December 2001 that the evidence presented by the procurator did not support the charges brought against him and returned the case to the procurator for further investigation.

Platon Obukhov, a diplomat charged with espionage, was determined to be mentally ill and at year's end was undergoing treatment in a psychiatric hospital near Moscow. Yuriy Savenko, head of the Independent Psychiatric Association of Russia, and other human rights activists criticized the Obukhov's 2001 trial, charging that the psychiatric evaluation supervised by the Ministry of Health was influenced by political considerations and by pressure from the FSB.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, or Correspondence.*—The Constitution states that officials may enter a private residence only in cases prescribed by federal law or on the basis of a judicial decision. It permits the Government to monitor correspondence, telephone conversations, and other means of communication only with judicial permission. The Constitution prohibits the collection, storage, utilization, and dissemination of information about a person's private life without his consent; the 1999 Law on Operational Search Activity partially implemented these provisions, and the new Criminal Procedure Code implemented others; however, problems remained. Authorities continued to infringe citizens' privacy rights. There were reports of electronic surveillance by government officials and others. Law enforcement officials in Moscow reportedly entered residences and other premises without warrants. There were no reports of government action against authorities who violated these safeguards.

Internet service providers were required to install, at their own expense, a device that routes all Internet traffic to an FSB terminal. Those providers that did not comply with the requirements faced either loss of their licenses or denial of their license renewal. While the framers of the System for Operational Investigative Measures (SORM-2) claimed that the regulation did not violate the Constitution or the Civil Code because it required a court order, there appeared to be no mechanism to prevent unauthorized FSB access to Internet traffic or private information without a warrant. In 2000 Communications Minister Leonid Reyman issued an order stating that the FSB was no longer required to provide telecommunications and Internet companies documentation on targets of interest prior to accessing information. Human rights activists suggested that this order only formalized existing practices, established since SORM was introduced, of monitoring communications without providing any information or legal justification to those being monitored. Despite the 2000 Supreme Court ruling upholding the requirements that the FSB conduct monitoring only by court order, the oversight and enforcement of these provisions were inadequate in practice.

In 2000 President Putin signed the "Doctrine of Information Security of the Russian Federation." This Doctrine is not, operational document, and there was no legal basis to "implement" it. While the Doctrine offers general language on protecting citizens' constitutional rights and civil liberties, it also includes specific provisions that justify greater state intervention. For example, according to the Doctrine, law enforcement authorities should have wide discretion in carrying out SORM surveillance of telephone, cellular, and wireless communications.

There continued to be allegations that officers in the special services, including authorities at the highest levels of the MVD and the FSB, used their services' power

to gather compromising materials on political and public figures as political insurance and to remove rivals. Similarly, persons in these agencies, both active and retired, were accused of working with commercial or criminal organizations for the same purpose. There were credible reports that regional branches of the FSB continued to exert pressure on citizens employed by foreign firms and organizations, often with the goal of coercing them into becoming informants.

Government forces in Chechnya looted valuables and foodstuffs from houses in regions that they controlled (*see* Section 1.g.).

*g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts.*—In August 1999, the Government began a second war against Chechen rebels. The indiscriminate use of force by government troops in the Chechen conflict has resulted in widespread civilian casualties and the displacement of hundreds of thousands of persons, the majority of whom sought refuge in the neighboring republic of Ingushetiya. Attempts by government forces to regain control over Chechnya were accompanied by the indiscriminate use of air power and artillery. There were numerous reports of attacks by government forces on civilian targets, including the bombing of schools and residential areas. In 2000 Russian forces began a large-scale offensive military campaign in Chechnya; that offensive campaign largely ended following federal occupation of most of Chechnya by the late spring of 2000, although federal forces continued to engage in an intensive anti-insurgency campaign against Chechen guerillas. In January 2001, President Putin announced that the active military phase of the struggle against separatism in Chechnya had been completed successfully and that an antiterrorist operation under the direction of the FSB would begin immediately. The antiterrorist operation was marked by several large-scale clashes and several rebel attacks on population centers during the summer of 2001. During the year, government forces carried out a number of “cleansing” operations that involved extensive abuses of civilians.

The security situation prevented most foreign observers from travelling to the region, and the Government enforced strict controls on both foreign and domestic media access (*see* Section 2.a.). Federal authorities—both military and civilian—have limited journalists’ access to war zones since the beginning of the war in October 1999. Most domestic journalists and editors appeared to exercise self-censorship and avoid subjects embarrassing to the Government in regard to the conflict (*see* Section 2.a.). These restrictions made independent observation of conditions and verification of reports very difficult. Nevertheless there were numerous credible reports of human rights abuses and atrocities committed by federal forces during the year. A wide range of reports indicated that federal military operations resulted in numerous civilian casualties and the massive destruction of property and infrastructure, despite claims by federal authorities that government forces utilized precision targeting when combating rebels. The number of civilians killed as a result of federal military operations could not be established; estimates of the totals since 1999 vary from hundreds to thousands. The number of civilians injured by federal forces also could not be verified.

Since August 1999, government forces and Chechen fighters have used landmines extensively in Chechnya and Dagestan. Reports from hospitals operating in the region indicated that many patients were landmine or ordnance victims and that such weaponry was the primary cause of death. Government officials reported that in Chechnya there were 5,695 landmine casualties during the year, including 125 deaths. The casualties included 938 children. By comparison there were 2,140 landmine casualties in 2001.

Government operations to “cleanse” an area following a rebel attack on a military block post or a military personnel vehicle continued periodically throughout the year. On January 3, during a mopping-up operation in Tsotsin-Yurt, 80 people were severely beaten, and 3 dead bodies were found after federal troops left the village. On March 24–25, another “cleansing operation” took place in Tsotsin-Yurt; according to Memorial, all males (300 people) were brought to a “filtration camp”; 14 were detained without charges, others were later released or ransomed by their relatives. On March 27, the Commander-in-Chief of the United Military Forces in Chechnya issued an order (Order #80) which established rules on how to carry out passport checks and mopping-up operations. For example, license plates on military vehicles entering a village should be visible; military personnel should be accompanied by a representative of the Procuracy and local officials; when entering a house, military officers should identify themselves; and all people arrested during a mopping-up operation should be included in lists which are shared with local authorities. However, human rights activists reported that this order frequently was ignored by federal forces. For example, in mid-April federal forces entered the village of Alkhan-Kala and blocked it; Memorial reports that there were gross violations of the requirements established in Order #80.

Tsotsin-Yurt was subject to a mopping-up operation on July 25–29. After a clash between local militia and rebels, federal forces entered the village and arrested about 60 people; some males were then transferred to a building where they were reportedly tortured with electricity. Memorial reported serious beatings and acts of vandalism by the federal forces as well as ordinary robberies during this operation. At year's end, no one had been officially charged or prosecuted in connection with this operation.

From May 21 to June 11, the Mesker-Yurt village was blocked and cleared. For 20 days, no one could enter or leave the village. There were reportedly severe beatings, violence, and harassment by government troops. Sources from Mesker-Yurt reported that 20 corpses were returned to the relatives, many of them in fragments, because of a new practice of blowing up the bodies of those who were tortured. In addition, 20 more persons were missing, and no fragments of their bodies were found.

In addition to casualties attributable to indiscriminate use of force by the federal armed forces, individual federal servicemen or units committed many abuses. According to human rights observers, government forces responding to Chechen attacks at times engaged in indiscriminate reprisals against combatants and non-combatants alike. Such reports, not independently verified, included the killing of two men chosen at random after a mine incident between the villages of Chiri-Yurt and Novyye Atagi in January. A similar report described the shelling by government forces of the village of Tsotsin-Yurt following a mining incident. A man and a woman were killed as a result of the shelling.

Command and control among military and special police units often appeared to be weak, and a climate of lawlessness, corruption, and impunity flourished. For example, government troops executed at least 60 civilians in Aldi and Chernorechiye in 1999 and 38 civilians in Staropromyslovskiy in the period December 1999 to January 2000. According to human rights NGOs, government troops raped women in Chechnya in December 1999 in the village of Alkhan-Yurt and in other villages. There were no reports of accountability for any these actions by year's end.

During the year, there were no confirmed reports of additional discoveries of mass graves and "dumping grounds" for victims allegedly executed by government forces in Chechnya; however, there were no reports by year's end that the Government intended to investigate earlier cases. In February 2001, relatives of three Chechen men who had disappeared in December 2000 while in the custody of Russian soldiers discovered a large number of bodies, belonging to their relatives and others, near the federal military base at Khankala. Federal law enforcement officials stated that they had found another 48 bodies from the village. Federal officials denied responsibility.

According to Memorial, government sources varied in their estimates of the number of missing persons. Memorial noted that in 2000 the office of Special Presidential Representative for Human Rights in Chechnya, Kalamanov, recorded an increase in the number of reported cases of missing persons from approximately 900 in early 2000 to approximately 3,000 at the end of that year. At the end of 2001, the local department of the Ministry of the Interior in Chechnya had recorded approximately 700 missing persons (i.e., persons for whom the Ministry was searching). Also at the end of 2001, the Chechen administration's missing persons commission had recorded approximately 1,400 reports of missing persons. On the basis of these sources, Memorial concluded that between 1,000 and 2,000 persons were missing in Chechnya at the end of 2001. Memorial also compiled its own list of missing persons on the basis of verified reports, but it is not comprehensive; that list contained approximately 300 records at the end of 2001. Memorial reports that 654 people were reported missing in the first 9 months of the year.

Armed forces and police units reportedly routinely abused and tortured persons held at so-called filtration camps, where federal authorities claimed that fighters or those suspected of aiding the rebels were sorted out from civilians. Federal forces reportedly ransomed Chechen detainees (and at times, their corpses) to their families. Prices were said to range from several hundred to thousands of dollars. According to human rights NGOs, federal troops on numerous occasions looted valuables and foodstuffs in regions they controlled. Many internally displaced persons (IDPs) reported that they were forced to provide payments to, or were otherwise subjected to harassment and pressure by, guards at checkpoints. There were some reports that federal troops purposefully targeted some infrastructure essential to the survival of the civilian population, such as water facilities or hospitals. The indiscriminate use of force by federal troops resulted in a massive destruction of housing, as well as commercial and administrative structures. Gas and water supply facilities and other types of infrastructure also were damaged severely. Representatives of international organizations and NGOs who visited Chechnya also reported little evi-

dence of federal assistance for rebuilding war-torn areas. There also were widespread reports of the killing or abuse of captured fighters by federal troops, as well as by the Chechen fighters, and a policy of “no surrender” appeared to prevail in many units on both sides. Federal forces reportedly beat, raped, tortured, and killed numerous detainees.

The Government investigated, tried, and convicted some members of the military for crimes against civilians in Chechnya; however, there were few such convictions. It was reported that of the 1,700 cases filed against servicemen by military procurators, 345 had been stopped for various reasons, including amnesties, and 360 had been handed over to the courts. Human rights observers alleged that the Government addressed only a fraction of the crimes federal forces committed against civilians in Chechnya.

On December 31, after a trial widely regarded as a test case, a court acquitted Colonel Yuriy Budanov, charged with abducting and murdering an 18-year-old ethnic Chechen girl in 2000, on grounds of temporary insanity. The acquittal came after a lengthy judicial process in the course of which Budanov had undergone three psychological examinations by government-appointed experts. The Government’s Commissioner for human rights, Oleg Mironov, called the verdict “alarming.”

Individuals seeking accountability for abuses in Chechnya became the targets of government forces. According to Human Rights Watch (HRW), government troops in June detained Chechen Said-Magomed Imakayev, who had filed a case with the European Court for Human Rights (ECHR) regarding the disappearance during detention by Russian forces of his son in 2000. HRW and Memorial reported that Malika Umazheva—a Chechen who until September served as the head of administration for Alkhan-Kala—was killed in November by government forces, in retribution for her outspokenness about abuses by Russian forces in her village. HRW also reported attacks by soldiers and Ingush policemen on activists of the Russia-Chechnya Friendship Society (a human rights monitoring and advocacy group), and that an activist with the same group, Luiza Betergeryeva, had been killed by Russian forces at a checkpoint in December 2001.

On July 18, during a planned city-center “clean-up” in Groznyy, federal forces broke down the door of the Groznyy Human Rights “Memorial” reception room and entered the offices. Nobody was there at the time, although an employee arrived a short time later. The intruders then left without identifying themselves.

International organizations estimated that the number of IDPs and refugees who left Chechnya as a result of the conflict reached a high of approximately 280,000 in the spring of 2000 (see Section 2.d.). At various times during the conflict, authorities restricted the movement of persons fleeing Chechnya. The most recent estimates put the number of IDPs in Chechnya at 140,000 with an additional 110,000 in Ingushetiya. During the year, the authorities closed three refugee camps, and IDPs returned involuntarily to Groznyy. International organizations and IDPs suggested that the authorities applied severe pressure on IDPs to return to Chechnya, an objective denied by President Putin.

In response to international criticism of the human rights situation in Chechnya, several federal government bodies were established to examine alleged domestic human rights violations. In July President Putin appointed Abdul-Khakim Sultygov as Special Presidential Representative for Human Rights in Chechnya (replacing Vladimir Kalamonov). Sultygov’s office had branches in Moscow and in a number of locations in the northern Caucasus to take complaints about alleged human rights violations. In April 2000, Pavel Krasheninnikov, Chairman of the State Duma Committee on Legislation, was elected head of a newly created Independent Commission on Human Rights in the northern Caucasus. In September 2000, the Commission opened nine offices in Chechnya and three in Ingushetiya. Sultygov’s office and Krasheninnikov’s commission heard several thousand complaints from citizens, ranging from destruction or theft of property to rape and murder; however, neither organization was empowered to investigate or prosecute alleged offenses and had to refer complaints to the military or civil procurators. Almost all complainants alleged violations of military discipline and other common crimes. In December the Government appointed a commission to review complaints about treatment of Chechen IDPs in Ingushetiya, but its findings were not released by year’s end. For the third year, the Federal government did not comply with a 2001 U.N. Commission on Human Rights resolution calling for a broad-based independent commission of inquiry to investigate alleged human rights violations and breaches of international humanitarian law. The Government refused to renew the mandate of the Chechnya mission of the Organization for Security and Cooperation in Europe (OSCE), charged with “promoting respect for human rights and fundamental freedoms” in the territory, which expired on December 31 (see Section 4).

Chechen fighters also committed serious human rights abuses. According to unconfirmed reports, rebels killed civilians who would not assist them, used civilians as human shields, forced civilians to build fortifications, and prevented refugees from fleeing Chechnya. In several cases, elderly Russian civilians were killed for no apparent reason other than their ethnicity. As with the many reported violations by federal troops, there were difficulties in verifying or investigating them.

On October 23, approximately 41 members of Chechen terrorist groups took more than 750 persons hostage in a Moscow theater. They threatened to kill the hostages and themselves unless the Government withdrew its troops from Chechnya. Chechen field commander Shamil Basayev subsequently took responsibility for the operation. The effort to rescue the hostages resulted in 168 persons killed, including 127 hostages (in addition to 2 whom the hostage-takers had killed) and the 41 terrorists, who were shot by the rescuers. Most fatalities among the hostages were caused by toxic gas introduced by government security forces in order to subdue the hostage takers. Medical and other observers claimed that many of the deaths might have been avoided if the authorities had provided doctors with information that would have permitted them to administer appropriate antidotes in a timely manner. The authorities cited security reasons for their refusal.

Chechen fighters planted landmines that killed or injured federal forces and often provoked federal counterattacks on civilian areas. In other incidents, rebels took up positions in populated areas and fired on federal forces, thereby exposing the civilians to federal counterattacks. When villagers protested, they sometimes were beaten or fired upon by the rebels.

On May 19, Chechen rebels killed S. Simbarigov, allegedly because of his cooperation with federal forces. They placed his head near the building of the local administration of the village of Mesker-Yurt, and his skinned body was found later in the village outskirts. This episode provoked additional special operations by federal forces in Mesker-Yurt, which lasted until June 11.

Chechen fighters also reportedly abused, tortured, and killed captured soldiers from federal forces. Rebels continued a concerted campaign, begun in 2001, to kill civilian officials of the Government-supported Chechen administration. In a December 27 suicide attack on the Governmental headquarters in Groznyy they killed over 80 persons, many of them civilians, and wounded many more.

According to Chechen sources, rebel factions also used violence to eliminate their economic rivals in illegal activities or to settle personal accounts.

Individual rebel field commanders reportedly were responsible for funding their units, and some allegedly resorted to drug smuggling and kidnaping to raise funds. As a result, it often was difficult, if not impossible, to make a distinction between rebel units and criminal gangs. Some rebels allegedly received financial and other forms of assistance from foreign supporters of international terrorism. In October 2001, presidential spokesman Sergey Yastrzhembskiy claimed that there were approximately 200 non-Chechen fighters in Chechnya.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, government pressure on the media persisted, resulting in numerous infringements of these rights. Faced with continuing financial difficulties as well as increased pressure from the Government and large, private companies with links to the Government, many media organizations saw their autonomy weaken during the year. The public continued to have access to a broad spectrum of viewpoints, particularly in the print media. However, by a variety of means the Government continued to exert influence over national television and radio, the most widespread sources of information for the public.

Following the October hostage crisis, the two houses of parliament passed a broadly worded amendment that would have prohibited the media from disseminating information that “hindered an antiterrorist operation” or that was “opposition propaganda against an operation or an attempt to justify such opposition.” Following widespread criticism from the media and international media defense organizations, President Putin vetoed the amendment on November 25, returning the issue to the Duma for further consideration.

At times the authorities exerted pressure in a number of ways on journalists, particularly those who reported on corruption or criticized officials. They selectively denied journalists access to information, including, for example, statistics theoretically available to the public and filming opportunities. On many occasions, particularly in regions outside Moscow and St. Petersburg, they demanded the right to approve and then censored certain stories prior to publication and prohibited the tape recording of public trials and hearings. They systematically withheld financial support from government media operations that exercised independent editorial judgment



and attempted to influence the appointment of senior editors at regional and local newspapers and broadcast media organizations. On occasion they removed reporters from their jobs, brought libel suits against journalists, and intimidated and harassed journalists.

Although NTV continued to exercise editorial independence, a state-affiliated bank bought a 49 percent share of the company's stock in October from the majority stockholder, the state-controlled energy firm, Gazprom. Some media analysts interpreted the complex restructuring of Gazprom's media assets as a continued effort by the Government to retain influence over the station in the campaigning for the 2003 Duma and 2004 presidential elections. TV-6 managers teamed up with a media company co-chaired by former Prime Minister Yevgeniy Primakov and the head of the Russian Union of Entrepreneurs to form a new television company, TV Spektrum (TVS). Observers attributed the station's low audience ratings to a general decline in the demand for political news and the difficulties experienced by Kiselev's team in developing new program content. Nevertheless, numerous national and regional media reflected a variety of opinions.

The Government owned approximately 150 of the 550 television stations in the country and indirectly influenced private media companies through partial state ownership of the gas monopoly Gazprom and the oil company Lukoil, which in turn own large shares of media companies. Of the three national television stations, the State-owned Russian Television and Radio (RTR) and a majority of Russian Public Television (ORT); it also maintained ownership or control of the major radio stations Radio Mayak and Radio Rossii and news agencies ITAR-TASS and RIA-Novosti. The Government owned a 38 percent controlling stake of Gazprom, which in turn had a controlling ownership stake in the prominent, privately owned national television station, Nezavisimoye Televideniye (NTV). Since Gazprom's takeover of NTV in April 2001, the Government has been in a position to influence NTV's editorial stance, but at year's end, the station continued to assert its editorial independence.

The Government owned nearly one-fifth of the 12,000 registered newspapers and periodicals in the country and attempted to influence the reporting of independent publications. The financial dependence of most major media organizations on the Government or on one or more of several major financial-industrial groups continued to undermine editorial independence and journalistic integrity in both the print and broadcast media. The concentration of ownership of major media organizations, including media outlets owned by the federal, regional and local governments, remained largely intact and posed a continued threat to editorial independence. Government structures, banking interests, and the state-controlled energy giants United Energy Systems (UES) and Gazprom continued to dominate the Moscow media market and extend their influence into the regions. Continuing financial difficulties of most news organizations exacerbated this problem during the year, thereby increasing their dependence on financial sponsors and, in some cases, the federal and regional governments. As a result of this dependence, the media's autonomy and its ability to act as a watchdog remained weak.

In other important matters as well, private media organizations and journalists across the country remained dependent on the Government during the year. As in 2001, the GDF reported that some 90 percent of print media organizations relied on State-controlled organizations for paper, printing, or distribution, while many television stations were forced to rely on the state (in particular, regional committees for the management of state property) for access to the airwaves and office space. The GDF also reported that officials continued to manipulate a variety of other "instruments of leverage" (including the price of printing at state-controlled publishing houses) in an effort to apply pressure on private media rivals. The GDF noted that this practice continued to be more common outside the Moscow area. Private print and broadcast media, like other enterprises, were vulnerable to arbitrary changes in the policy and practice of tax collection. Although media routinely continued to receive tax breaks on high-cost items such as paper, the GDF and other media NGOs documented numerous instances of government use of taxation mechanisms to pressure media across the country. The Government also occasionally sought to limit reporting on tax matters.

In 2000 the FSB office for the Volgograd region tried to impose a "cooperation agreement" on a number of local newspapers, including Volgogradskaya Pravda, Inter, Gorodskiy Vestnik, and Delovoye Povlozhye, which reportedly were pressured into signing the agreement. The document obliged the newspapers to clear with the FSB prior to publication all of their reports concerning the FSB and to print official FSB releases without comment. The locally based Center for Protection of Media Rights published the agreement, which attracted media attention across the country and subsequently was opposed by human rights advocates. No known attempts to enforce the agreement had been reported by year's end.

Journalists continued to depend on local authorities for accreditation for major news events. There were widespread reports that authorities showed favoritism toward reporters associated or aligned with the federal or local administration, and denied access to journalists representing independent media organizations.

In July Gleb Pavlovskiy, head of the Effective Policy Foundation, sold his web site to the Russian State TV and Radio Company (VGTRK), a large conglomerate that includes all the Government-owned media assets. The media community had previously considered the web site to be a de facto Kremlin media outlet.

Government agencies continued to bring lawsuits and other legal actions against journalists and journalistic organizations during the year, the majority of them in response to unfavorable coverage of government policy or operations. The GDF estimated that several hundred such cases had been brought in 2001. Judges rarely found in favor of the journalists; in the majority of cases, the Government succeeded in either intimidating or punishing them. In July the Central District Court of Sochi ordered the newspaper Sochi and correspondent Sergey Zolovkin to pay \$3,175 and \$1,587 (105,000 and 50,000 rubles), to the Krasnodar region administration for alleged defamation of 26 judges from the Krasnodar region. The judge who made the ruling was also one of the plaintiffs in the case. An article by Zolovkin printed in September 2000 reported on the lack of transparency of the court system, while not naming any particular person. Zolovkin left the country for security reasons in March after surviving an assassination attempt and was living abroad at the time of the ruling. With some exceptions, judges appeared unwilling to challenge powerful federal and local officials. These proceedings often resulted in stiff fines and occasionally in jail terms. Zolovkin was a reporter for Novaya Gazeta, a Moscow bi-weekly newspaper specializing in investigative reporting, which for several years has been the target of libel suits filed because of reporting on corruption among elected officials and accounts of the Government's military campaign in Chechnya.

In February a Moscow municipal judge handed down two rulings against the newspaper. In the first ruling, a judge ordered the newspaper to pay Krasnodar region judge Aleksandr Chernov \$964,000 (30 million rubles) for a January story alleging that Chernov was living beyond the means of his monthly salary of \$300 (9,000 rubles). In a separate ruling later that month the judge ordered the newspaper to pay Mezhprombank \$482,000 (15 million rubles) for a story alleging the bank's involvement in money laundering. The excessive amounts of the awards (the largest libel award in the country up to that time was \$3,400 (110,501 rubles) drew the attention of media advocacy groups, which sent letters to the Minister of Justice and the President, protesting the excessive damage awards, as well as physical threats to the newspaper's journalists. In April the newspaper settled with Chernov and agreed to admit to errors in reporting in exchange for having the suit dropped. In June Mezhprombank announced that it would not collect its damage award, because it did not want to bankrupt the newspaper. Commentators claimed the bank was more interested in avoiding court scrutiny of financial documents that implicated the bank in money laundering.

Media analysts point to Novaya Gazeta's settlement with Chernov and its refusal to print a paid announcement for an event called "A Two Day World Hunger Strike in Defense of Chechnya" as proof that lawsuits against journalists served to reinforce the already significant tendency toward self-censorship.

There were no discernible repercussions on the press from the Security Council's June 2000 Information Security Doctrine, which outlines "threats to Russian national security" in the fields of "mass media, means of mass communication, and information technology" (see Section 1.f.); however, many observers continued to view it as an indication that the Kremlin considered the media to be subject to the administration and control of the Government, and government efforts to limit critical coverage of its attempt to subdue what it regarded as a security threat posed by the rebellion in Chechnya were widely seen as a major impetus for its pressure on the media.

In Moscow in April, police arrested journalists from Ekho TV, Nezavisimaya Gazeta, and Reuters along with protesters who staged an unauthorized rally outside the Kremlin protesting the import of nuclear waste. Police exposed film and confiscated camera and recording equipment. Stavropol Kray journalists reported that they were not accredited to report on the President's visit to the flooded area in July, saying only a select group of Moscow journalists was accredited. Some journalists in Nizhniy Novgorod reported that neither the Volga Federal District Presidential Representative nor high-ranking staff would meet with reporters. They said the envoy's press center would instead offer information via e-mail or from the official web site.

In Sverdlovsk Oblast, Valentin Zhivulin, the editor-in-chief of the independent opposition newspaper testified that he was told in April to leave town or he would "be

in serious trouble.” Zhivulin was threatened immediately after his newspaper reported that only two roads in the city of Irbit had been repaired in 2001, one of which connected the town hall to the mayor’s mansion. In July the city court of Naryan-Mar abruptly closed a criminal case against Olga Cheburina, the editor of “Krasniy Tundrovik,” for abuse of office and exceeding official responsibilities. Cheburina’s case drew national attention after a presidential press conference in June, when one of the newspaper’s reporters asked the President his opinion of the corruption investigation of Nenets governor Viktor Butov. Cheburina was fired a week later by the newspaper’s founders, who included representatives of the regional administration, the regional legislature, and the municipal administration. The newspaper board said that her firing was not connected to the question posed by the reporter.

The Government exerted its influence most directly on state-owned media. As in 2001, the senior staff of RTR—the station with the most extensive coverage area—reported that managers offered “guidance” to program announcers and selected reporters, indicating which politicians should be supported and which should be criticized; criticism of presidential policies was discouraged strongly and even prohibited. Correspondents claimed they occasionally were asked to obtain senior management approval for reports on sensitive political matters prior to broadcasting; occasionally “negative” language was edited out. At times, high-level presidential administration officials reportedly complained to RTR executives about reporting they viewed as critical of the President.

The consequences of the 2001 struggle between Media-Most (owned by Vladimir Gusinskiy) and Gazprom over control of NTV and other Media-Most properties continued to be felt. In January 2001, Media-Most financial chief Anton Titov was arrested on charges of fraud and placed in pretrial detention, where he remained in October. In September Gazprom dropped its lawsuit against Media-Most, Vladimir Gusinskiy, and Anton Titov, saying that the dispute had been settled. Gazprom also asked the court to release the Media-Most assets that the court had frozen after Gazprom filed its suit against Media Most in 2000. The court, however, refused to take into consideration the Gazprom-Media-Most settlement and did not release the Media-Most assets. On December 24, the Cheremushkinskiy inter-municipal court of Moscow convicted Titov of misappropriating loans extended by Gazprom to Media-Most in 1998–1999, sentenced him to 3 years in a labor camp, then amnestied him. Titov was acquitted of charges of money laundering and using forged documents to mislead the creditor. Titov was first arrested in January 2001, and spent the past 2 years in pretrial detention until his amnesty and acquittal.

In September 2001, a provision of the joint stock companies law that allows a minority shareholder to force the liquidation of companies showing a negative balance for more than 2 years was invoked against TV-6, the privately owned television station that had hired a number of NTV journalists who quit NTV to protest Gazprom’s takeover in April 2001. Minority shareholder Lukoil-Garant, a pension fund that owned 15 percent of TV-6, won a claim in the Moscow Arbitration Court to liquidate TV-6’s parent company, which was 75 percent owned by the oligarch, Kremlin critic, and exiled businessman, Boris Berezovskiy. Media freedom experts generally considered the ruling to be a government-supported effort to remove TV-6 from the control of Berezovskiy, accused of financial crimes in an unrelated case, and from the control of former NTV managers, including general director Yevgeniy Kiselev.

The Moscow Arbitration Court ruling was upheld by the High Arbitration Court in January. Later in January, before the “liquidation” procedure was formally completed, the Media Ministry took TV-6 off the air and scheduled an auction date for its broadcasting frequency on March 27. In February Kiselev resigned as head of TV-6 and established a new television company, “Sixth Channel,” with financial support from a group of leading businessmen, which also owned shares in the company. In order to increase its chances of winning the frequency, the Sixth Channel teamed up with Media-Sotsium, a media company co-chaired by former Prime Minister Yevgeniy Primakov, head of the Russian Union of Entrepreneurs, Arkadiy Volskiy, and entrepreneur Oleg Kiselev. The Sixth Channel and Media Sotsium established TV-Spektrum (TVS), a new media company in which Media Sotsium holds the broadcasting license and Sixth Channel provides programs and retains its editorial independence. In March Media-Sotsium won the broadcasting license, and in June TV-S started to broadcast on the former TV-6 frequency. Despite the widespread notion that Primakov and Volskiy were Kremlin-appointed “internal censors,” Kiselev and other TVS managers and journalists reported that there were no serious attempts by Primakov or Volskiy to interfere in the Sixth Channel’s editorial policies. Observers attributed the station’s low audience ratings to a general decline in the demand for political news and the difficulties experienced by Kiselev’s team in developing new program content.

In July Gazprom's media branch, Gazprom-Media, announced that it had purchased the last of Vladimir Gusinskiy's stock in the media companies that formerly were part of his Media-Most holding company, which included a 30 percent stake in NTV and 14.5 percent of independent radio station Ekho Moskv. In September, 11 months after Gazprom announced intentions to sell its media assets, Gazprom established a new holding company to manage the 23 media companies it took over from Media-Most in April 2001. The new holding company replaced Gazprom-Media and was jointly owned by Gazprom and the state-affiliated Eurofinance Bank. Gazprom retained a 51-percent stake in the new company and its subsidiaries, while Eurofinance received a 49-percent share in exchange for repaying the media subsidiaries' \$600 million (1.8 billion rubles) debt to Gazprom. The future of Gazprom's media assets, particularly NTV, has remained a matter of public concern since Gazprom took them over. Some media analysts believed the complex financial transaction between two government-owned instruments was a means to assert control over an influential media outlet, particularly before the 2003 Duma and 2004 Presidential elections.

In October, in a move that some media advocacy groups associated with radio broadcasts to Chechnya, President Putin revoked a 1991 presidential decree that authorized Radio Free Europe/Radio Liberty (RFE/RL) to open a permanent bureau in Moscow and instructed the Ministry of Foreign Affairs to accredit the bureau. According to press reports, President Putin attributed the decision to revoke the 1991 decree to a desire to put all foreign bureaus on the same legal footing and to the belief that the 1994 law on mass media has made Yeltsin's 1991 decree obsolete. A statement issued by the Presidential Administration said that RFE/RL's editorial policies, "despite the end of the Cold War," had in recent years become "biased," especially those of its Chechen and Ukrainian services, but also indicated that revocation of the 1991 decree was unrelated to RFE/RL editorial policies.

At times local government officials actively restricted freedom of the press, particularly during election periods. GDF reported numerous violations of journalists' rights during elections. For example, reporters from the newspapers *Nezavisimaya Gazeta* and *Komsomolskaya Pravda* were denied access to a polling station in Voronezh during city council elections; armed police in Volgograd prevented New Wave Radio and Alternative Broadcasting News correspondents from observing vote counting during mayoral elections. The Moscow City Electoral Commission prevented correspondents from *Novyye Izvestiya* newspaper and Russian Public Television (ORT) from attending a meeting where the registration of mayoral candidates would be discussed, on the grounds that ORT would draw "a distorted picture of the Commission's performance."

Journalists who published critical information about local governments and influential businesses, as well as investigative journalists writing about crime and other sensitive issues, continued to be subjected to death threats, threats of beatings, and other physical violence by unknown assailants. Assailants also frequently attacked journalists physically, although in most cases no direct link was established between the assault and the authorities who reportedly had taken offense at the reporting in question. A number of independent media NGOs characterized beatings by unknown assailants of journalists as "routine," noting that those who pursued investigative stories on corruption and organized crime found themselves at greatest risk.

During the year, a number of individuals whose occupations were related to the media were killed or reported missing, and scores were attacked, drawing protests from international media defense organizations. The International Press Institute voted unanimously in May to keep the country on its watch list of countries that "retain the essential elements of democracy, but which have entered a repressive phase," or countries with the means to halt attacks on media. The NGO *Glasnost* reported 25 killings of journalists during the year; however, other observers noted that not all of the killings had been linked to the victims' occupations. In the following cases, colleagues and police considered the victims' professions to be the motive for the crimes against them: On March 11, Natalya Skryl, a journalist for the Taganrog-based newspaper *Nashe Vremya*, was killed by a blow to the head. Sergey Kalinovskiy, editor-in-chief of the newspaper *Moskovskiy Komsomolets-Smolensk*, disappeared on December 14, 2001; his body was found on April 1. Valeriy Ivanov, editor-in-chief of *Tolyattinskoye Obozreniye*, was shot dead on April 29 in Tolyatti. On May 19, Aleksandr Plotnikov, founder of the newspaper *Gostinyi Dvor*, was found murdered in Tyumen Oblast. Nikolay Vasilyev, a local Chuvash reporter, was robbed and beaten to death on August 18 in Cheboksary. Igor Salikov, head of information security for *Moskovskiy Komsomolets-Penza*, was shot to death on September 21 in Penza. Also in Penza, the editor of *Lyubimiy Gorod* newspaper was beaten unconscious on August 11. The next day, Yuriy Frolov, deputy director of Propaganda Publishing, was abducted and had not been located by year's end. On

August 14, Viktor Shamayev, crime reporter for *Penzenskaya Pravda* and editor of the newspaper *Dlya Sluzhbenovo Polzovaniya*, was abducted in Arbekov, tied up and beaten and told to give up journalism and leave town. He was subsequently released and was reported to have remained in Arbekov. In February Ilyas Magomedov, head of an independent Groznyy Television channel, disappeared after leaving his home in Beloreche on February 21.

The northern Caucasus region continued to be one of the most dangerous regions for journalists. Kidnapping and assaults remained serious threats. On September 26, British free-lance television journalist Gervaise Roderick John Scott was killed during fighting in Ingushetia between Chechen fighters and government forces. Federal authorities—both military and civilian—limited journalists' access to war zones and confiscated reports and equipment. On August 16, government soldiers confiscated accreditation documents and equipment belonging to ORT and TV Tsentr journalists as they were interviewing Chechens fleeing their village. The Government required reporters to obtain special accreditation besides the usual Foreign Ministry accreditation for entry to the region. Foreign journalists have also publicly complained that military officials in the northern Caucasus region made it excessively difficult for them to obtain local press accreditation.

The courts did not respond by year's end to an appeal of a Supreme Court ruling upholding some of the charges against Olga Kitova, a correspondent for *Belgorodskaya Pravda* and a member of the Belgorod regional parliament. Authorities harassed Kitova because of her reporting on regional government officials. She was arrested in March and May of 2001 and suffered a heart attack while being held in pretrial detention. After a series of trials and motions, she received a 2½-year suspended sentence on libel charges, and her lawyers filed an appeal with the Supreme Court. In July the Supreme Court reduced her extended jail time by 5 months and dropped some of the charges.

There were no leads in the cases of two journalists killed in 2001. Vladimir Kirsanov, a local newspaper editor from Kurgan, was reported missing in May 2001 after his bloodstained documents were found on the bank of the Tobol River in Kurgan. Eduard Markevich, editor of *Novyye Reft*, was shot and killed in September 2001. The cases of journalists killed in 2000 remained unsolved, including: Radio Free Europe/Radio Liberty correspondent Iskander Khatloni, who had been investigating alleged human rights abuses by the federal military in Chechnya; the July 2000 killing of Igor Domnikov, a journalist with *Novaya Gazeta*; and the July 2000 killing of Sergey Novikov, president of the independent radio station Vesna.

On June 26, a court acquitted six defendants, including a former intelligence chief of the airborne infantry, Colonel Pavel Popovskikh, three other officers, and two civilians, on charges of the 1994 murder of Dimitriy Kholodov, military affairs correspondent for the news daily *Moskovskiy Komsomolets*. The court cited lack of evidence against the defendants and also acquitted them of malfeasance and misappropriation of ammunition and explosives.

The well-known *Novaya Gazeta* reporter Anna Politkovskaya, who gained international recognition and received death threats because of her reporting on Chechnya, was forced into hiding in 2001. In October her lawyer reported that she was provided with federal guards after receiving death threats from Sergey Lapin, a member of the OMON (special forces unit of the Ministry of Interior), because of her article concerning the disappearance of Zelikhman Murdalov, a man arrested by OMON forces in Chechnya in January 2001. A criminal case against Lapin remained open at year's end.

In May and June 2001, a poll conducted among adults throughout the country by the Institute for Comparative Social Research reported that 7 percent of adults had access to the Internet and that Moscow and St. Petersburg had the highest number of users. Access appears to have been unrestricted, but the Government required Internet service providers to provide dedicated lines to the security establishment so that police could track private email communications and monitor activity on the Internet. The system of operative and investigate procedures (SORM-2) continued during the year to limit the electronic privacy of both citizens and foreigners (see Section 1.f.).

The Government did not restrict academic freedom; however, during the year human rights activists questioned whether the Sutyagin case and others discouraged academic freedom and contact with foreigners on issues that might be deemed sensitive (see Section 1.e.).

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly, and the Government generally respected freedom of assembly; however, at times local governments restricted this right. Organizations were required to obtain permits in order to hold public meetings and the application process had to be initiated between 5 and 10 days before the scheduled event. Religious

gatherings and assemblies do not require permits. While the Ministry of Justice readily granted permits to demonstrate to both opponents and supporters of the Government, some groups were either denied permission to assemble, or had their permission withdrawn by local officials after Ministry of Justice officials had issued them. For example, in May 2001 authorities in Podolsk denied a permit to the Anti-Militarist Radical Association and the Radical Party to hold a demonstration against the war in Chechnya in front of the Podolsk military commissariat ("voyenkomat"), claiming that most of the event's potential participants were not residents of Podolsk but of Klimovsk, another town in the same region. In June 2001, Presnya district authorities in Moscow denied organizers a permit to hold a demonstration in front of the International Trade Center, claiming that the location was too close to potentially explosive and flammable installations; officials denied the permit without giving the organizers the required 3 days' notice. The demonstrators intended to protest the decision to hold the 2008 Olympics in Beijing, citing China's human rights record. In August police disrupted a planned peace march from Groznyy to Moscow by invoking their legal authority to conduct document checks; several persons were detained for lacking registration permits (*see* Section 2.d.).

The Constitution provides for freedom of association, and the Government generally respected this right in practice. Public organizations must register their by-laws and the names of their leaders with the Ministry of Justice.

Government efforts to increase cooperation with NGOs, including President Putin's civic forum held with many of them in 2001 and in December, enhanced their standing in society, but some NGOs feared that they represented an effort by the Government to enhance its influence over them. Although the 1-year anniversary of the Civic Forum was celebrated November 22–24 in Samara, NGOs generally expressed disappointment at the lack of tangible results of the initiative.

By law political parties must have 10,000 members in order to be registered and function legally, with no less than 100 members in a majority of the country's 89 regions (*see* Section 3).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion; however, in some cases the authorities continued to impose restrictions on some groups and there were increasing indications that the security services may be treating the leadership of some minority religious groups, particularly Roman Catholics, as security threats.

The Constitution also provides for the equality of all religions before the law and the separation of church and state; however, in practice the Government did not always respect the provision for equality of religions. Many religious minority groups and NGOs complained of what they believed was a confluence between the Russian Orthodox Church and the state. Public statements by some government officials and anecdotal evidence from religious minority groups suggested that the Russian Orthodox Church increasingly enjoyed a status that approaches official. In its preamble, which some authorities denied had the force of law, the 1997 Law on Freedom of Conscience recognized the "special contribution of Orthodoxy" to the country's spirituality and culture. The Church has entered into a number of agreements with government ministries that have raised the question of favoritism. For example, the Russian Orthodox Church appears to have had greater success reclaiming prerevolutionary property than other groups. Also, many religious workers believe that the Russian Orthodox Church played a role in the cancellation of visas held by foreign religious workers.

The 1997 law regulating religious practice limits the rights, activities, and status of religious "groups" existing in the country for less than 15 years and requires that religious groups exist for 15 years before they can qualify for "organization" status, which conveys juridical status. All religious organizations were required to register or reregister by the end of 2000 or face liquidation (deprivation of juridical status). Groups that were unregistered previously, including groups new to the country, were severely hindered in their ability to practice their faith. The Ministry of the Press reported that as of January 1, 20,441 organizations were registered. Religious minority denominations and NGOs reported that a number of groups were liquidated despite repeated attempts to reregister; some of these cases were being challenged in court. At year's end, a number of government working groups were reported to be preparing possible changes and amendments to the 1997 law. However, no new changes were made to the law by year's end.

Treatment of religious organizations, particularly minority denominations, varied widely in the regions, depending on the attitude of local offices of the Ministry of Justice. In some areas such as Moscow, Khabarovsk, and Chelyabinsk, local authorities prevented minority religious denominations from reregistering as local religious organizations, as required by law, subjecting them to campaigns of legal harass-

ment. For example, Jehovah's Witnesses continued to contest the rejection by the Moscow department of the Ministry of Justice of its repeated applications to reregister under the 1997 law; however, at year's end, the courts continued to uphold those denials. In addition, the procurator for Moscow's northern administrative circuit continued his efforts to ban Jehovah's Witnesses. Despite earlier efforts to defend themselves against a ban in Moscow's Golovinskiy Intermunicipal Court, a new trial on this issue began in that same court on October 30 and was ongoing at year's end. Pending the outcome of a court-ordered study to determine the potential negative effects of Jehovah's Witnesses literature on society and a random survey to further evaluate these effects and assess the public's attitudes towards the religion, Jehovah's Witnesses in Moscow were not allowed to reregister. As a result, they continued to experience problems in leasing space. Outside of Moscow, Jehovah's Witnesses have been denied registration in Chuvashiya and Tver but successfully registered in Novgorod.

Many religious groups continued to contest administrative actions against them in the courts. While such cases are often successful in court, administrative authorities are at times unwilling to enforce court decisions. The Constitutional Court ruled as unconstitutional the 2001 liquidation of the Moscow chapter of the Salvation Army by a local court. While the Salvation Army has not yet been cleared to reregister, the group continued to operate at year's end. Efforts to liquidate the Moscow branch of the Church of Scientology were defeated in the courts. At year's end, the Church continued to be engaged in legal battles in other localities.

The Moscow Department of Justice (DOJ), a branch of the Ministry of Justice, filed a liquidation suit in 2001 against the Moscow branch of the Church of Scientology, but the Church won both the suit and ensuing DOJ appeal in July. While the Moscow Church had not been cleared to reregister by October, the group continued to operate. The Scientologists filed a suit with the ECHR against the liquidation order. The St. Petersburg branch of the Church of Scientology filed an application to register in February, but was refused twice. In Khabarovsk the local Department of Justice filed for the liquidation of the Dianetics Center. The Church of Scientology lost on appeal and the case was under consideration by the federal Supreme Court. In a related case, the director of the Dianetics Center was convicted on criminal charges of the illegal practice of medicine and education. She lost on appeal and was given a suspended sentence of 6 years. Local media attention included references to "totalitarian sects" in their coverage. The case was also under consideration by the Supreme Court.

The Church of Jesus Christ of Latter-day Saints (Mormons) administered 38 locally registered organizations; however local officials rejected registration attempts in Ryazan, Kazan, Shakhty, and Chelyabinsk. A suit was filed with a local court in Chelyabinsk, questioning the repeated refusals of the authorities to register the Church. The case was pending at year's end. The Church's organizations experienced initial problems registering in Khabarovsk and Nakhodka but were ultimately successful.

The Vanino Baptist Church in Khabarovsk continued to experience difficulties in registering and operating in its own building, despite winning its rights in a court case in August. Dan Pollard continued to be denied a visa despite a court order removing his name from a list of individuals to be denied visas.

A Muslim community spokesman confirmed that as of October, 3,186 Muslim groups were registered, up from 3,048 in 2001. Rival Muslim groups continued to accuse each other of "Wahhabism" (see Section 5). This pejorative label may have had a detrimental effect on reregistration in certain regions and has made local ethnic Russians more wary of Muslim religious organizations.

Reports continued that some local and municipal governments prevented religious groups, including congregations of Jehovah's Witnesses, Protestants, Catholics, Mormons, and Hare Krishna from using venues suitable for large gatherings and from acquiring property for religious uses. In August Catholics in Yaroslavl were barred from building a new church on a previously approved plot of land. Jehovah's Witnesses reported difficulties obtaining permission to build. In Volgograd the Church of Jesus Christ of Latter-day Saints successfully filed suit against an order preventing them from registering as owners of their newly constructed hall.

Property disputes continued to be among the most frequent complaints cited by religious groups. In accordance with a presidential decree, some synagogues, churches, and mosques have been returned to communities to be used for religious services. According to the Government, requests for restitution may be considered by the official entities responsible for the properties in question. In the context of the Duma's adoption of a new law allowing for private land ownership, Russian Orthodox officials and politicians raised the issue of restitution of church lands taken

after the 1917 Bolshevik revolution. Other religious groups also expressed interest. No action was taken by year's end.

Some minority groups expressed concern over the release in November by the Minister of Education of an optional course entitled "Orthodox Culture" for introduction into the public school curriculum. The course would be a part of the general curriculum beginning in primary school. Courses on religion were already offered in a number of regions, but critics expressed concern that school administrators throughout the country would see the release of this document as central government encouragement of such courses. Following complaints, including some from minority religious leaders, the Ministry emphasized that enrollment in the course would be voluntary.

The Government continued to deny foreign religious workers visas to return to the country. In the case of Roman Catholics, these efforts were accompanied by deportations. Five leading Roman Catholic officials were either deported, barred entry, or denied visa renewals during the year: Stefano Caprio, an Italian priest based in Vladimir; Jerzy Mazur, a bishop of Polish-Belorussian descent based in Irkutsk; Stanislav Krajniak, a Slovakian priest based in Yaroslavl; Edward Mackiewicz, a Polish priest based in Rostov-on-Don; and Jaroslaw Wisniewski, a Polish priest (and Russian permanent resident) based in Sakhalin. According to officials of the Ministry of Foreign Affairs, the priests were expelled on security grounds. In September a court in Krasnodar ordered the deportation of Swedish Evangelical missionary Leo Martensson. Two Mormon missionaries were ordered deported from Khabarovsk in September, but they successfully challenged the order.

The Government also continued to deny other foreign missionaries visas to return to the country, reportedly as a result of earlier conflicts with authorities.

In 2001 the Supreme Court rejected the Belgorod local procurator's challenge to a local law restricting missionary activity. The law also restricted the missionaries' use of local venues for religious meetings. Foreigners visiting the region are forbidden to engage in missionary activity or to preach unless the conduct of missionary activity had been stated in their visas. The Office of the Human Rights Ombudsman reported its disagreement with the law and attempted to convince the Belgorod court to reverse the decision, but there were no further changes to the law by year's end.

Representative offices of foreign religious organizations are required to register with state authorities. They are barred from conducting liturgical services and other religious activity unless they have acquired the status of a group or organization. Although the law officially requires all foreign religious organizations to register, in practice foreign religious representatives' offices (those not registered under law) have opened without registering or have been accredited to a registered religious organization. However, those offices are not permitted to conduct religious activities and do not have the status of a religious "organization."

Reports of official harassment and punishment for religious belief or activity continued. Most difficulties appeared to originate with local officials; however, some religious minority denominations believed that these officials continued to be influenced by a 1999 manual sent by the Procurator General to regional branches of the Procuracy encouraging challenges to their registration. Some groups also accused the FSB and other Federal agencies of continuing harassment of certain "nontraditional" denominations, in particular Pentecostals, Scientologists, Jehovah's Witnesses, Mormons, and the Unification Church. For some, notably Catholics, the level of harassment increased. Churches were targeted for ostensible criminal investigations, landlords pressured to renege on contracts, and in some cases, the security services may have influenced the Ministry of Justice in registration applications. Such groups continued to face discrimination in their ability to rent premises and conduct group activities. For example, the Moscow Protestant Chaplaincy's long tenure at a local community center was inexplicably interrupted in July, and at year's end, the group had not yet managed to secure a new space.

Contradictions between federal and local law in some regions and varying interpretations of the law gave some regional officials pretexts to restrict the activities of religious minorities. Discriminatory practices at the local level were attributable to the relatively greater susceptibility of local governments to lobbying by majority religions, as well as to discriminatory attitudes that were widely held in society. For example, articles heavily biased against religions considered "nontraditional" appeared regularly in both local and national press. There were reports of harassment of members of religious minority groups. Several religious communities were forced to defend themselves in court from charges by local authorities that they were engaging in harmful activities; however, at times local courts demonstrated their independence by dismissing frivolous cases or ruling in favor of the religious organiza-



tions. In other cases, authorities sometimes were slow to carry out, or refused to carry out, such rulings and in many cases appealed the rulings.

The Pentecostal Church in Azbest complained about harassment by local officials that included an organized roundtable to discuss the negative effects of the religion. In addition, the local church was vandalized. A spokesman for the Pentecostal Church reported numerous complaints of official harassment throughout the country. Officials in Khabarovsk were quoted in the media as referring to Pentecostals, the Church of Jesus Christ of Latter-day Saints, and others as "totalitarian sects."

During the year, the Government was more active in preventing or reversing discriminatory actions taken at the local level, by more actively disseminating information to the regions and, when necessary, reprimanding the officials at fault. President Putin also has sought stricter and more consistent application of federal laws in the many regions of the country. Working through the Procuracy, the Ministry of Justice, the Presidential Administration, and the courts, the Government has persuaded the regions to bring their laws into conformance with federal laws and with the Constitution. Pressure at the federal level reportedly led local officials to rescind an order to dissolve a Muslim mosque in Vologda. The Presidential Academy of State Service also has worked with religious freedom advocates such as the Slavic Center for Law and Justice to train regional and municipal officials in the proper implementation of the law.

While religious matters were not a source of societal hostility for most citizens, relations between different religious organizations frequently were tense, particularly at the leadership level, and members of individual minority religions continued to encounter prejudice and societal discrimination, and in some cases violence. Authorities usually investigated incidents of vandalism and violence, but arrests of suspects were extremely infrequent and convictions were rare.

Muslims, Catholics, Jews, and members of other minority religions continued to encounter prejudice and societal discrimination. In September unknown assailants shot at the windows of the Catholic church in Rostov.

Hostilities toward "nontraditional" religious groups reportedly sparked occasional harassment and even physical attacks. In July a Mormon in Gatchina, in Leningrad Oblast, was threatened with arrest for illegal picketing (he was displaying a signboard on a city street). In October 2001, police arrested five suspects believed to have been involved in tossing a Molotov cocktail into the Moscow headquarters of the Church of Scientology in 2001; the church had received bomb threats by telephone prior to the incident. In February one of the five defendants was found guilty and sentenced to 2 years in jail.

By various estimates, Muslims form the largest religious minority, but they continued to face societal discrimination and antagonism in some areas. Discriminatory attitudes have become stronger since a group of Chechen rebels took 750 hostages in a Moscow theater in November (*see* Section 1.g.). The authorities, the media, and the public have been quick to label Muslims or Muslim organizations "Wahhabists," a term that has become synonymous with "extremists."

Although Jewish leaders have stated publicly that the State-sponsored anti-Semitism of the Soviet era no longer exists, Jews continued to face prejudice, social discrimination, and some acts of violence. Anti-Semitic leaflets, graffiti, and articles continued to appear in some regions. For example, in July swastikas were drawn on the fence around the St. Petersburg synagogue. Anti-Semitic themes continued to figure in some local publications around the country, unchallenged by local authorities. During the year, unknown persons vandalized synagogues, Jewish cemeteries, and memorials.

There were also numerous cases of anti-Semitic signs rigged with explosive devices calling for "Death to Kikes" and other slogans. The devices detonated when unknowing citizens attempted to remove the signs, resulting in severe wounds or death. In May President Putin publicly recognized Tatyana Sapunova, the victim of one widely publicized incident. In April boxes with anti-Semitic signs but no explosives were found in Moscow outside a maternity ward and at the airport in Krasnoyarsk.

Vandals desecrated tombstones in cemeteries dominated by religious and ethnic minorities in numerous cases. They included: An Armenian cemetery in Krasnodar in April, Muslim tombs in a Volgograd cemetery in July, a cemetery in the Moscow region for war prisoners in June, several cemeteries in Irkutsk in July, 400 tombs in Moscow in September, and several acts of vandalism in Kaliningrad. These attacks usually were accompanied by swastikas and other ultra-nationalist symbols. In December Human Rights Ombudsman Mironov called for increased tolerance in a multi-ethnic and multi-religious Russia after an incident in Kostroma where a group of young men scrawled anti-Semitic graffiti on a synagogue and broke several windows.

During the year, there were many instances of politically or religiously motivated violence against religious workers in the northern Caucasus.

The Office of Human Rights Ombudsman Oleg Mironov includes a department dedicated to religious freedom issues. This department received 40 complaints from individuals and groups about infringements of religious freedom. Of these, 10 were resolved in favor of the plaintiffs with the help of the Ombudsman's office. Mironov continued to criticize the 1997 Law on Freedom of Conscience and to recommend changes to bring it into conformity with international standards and with the Constitution.

Although the Constitution mandates the availability of alternative military service to those who refuse to bear arms for religious or other reasons of conscience, in practice no such alternative exists. The Slavic Law Center handled several cases of persons who refused to perform military duty based on their religious convictions.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, the Government placed restrictions on freedom of movement within the country, migration, and foreign travel.

The Government has imposed registration requirements on domestic travel. All adults are issued internal passports, which they must carry while traveling and must register with local authorities for visits of more than 3 days (in Moscow for visits more than 24 hours); however, travelers not staying in hotels usually ignored this requirement. These internal passports also are required for obtaining many governmental services. There have been several disputes between the central authorities and regional governments regarding the internal passports.

The Constitution provides citizens with the right to choose their place of residence freely; however, some regional governments continued to restrict this right through residential registration rules that closely resemble the Soviet-era "propiska" (pass) regulations. Although authorities justified the rules as a notification device rather than a control system, their application produced many of the same restrictive results as the propiska system. Citizens must register to live and work in a specific area within 7 days of moving there. Citizens changing residence within the country, as well as persons with a legal claim to citizenship who decide to move to the country from other former Soviet republics, often faced great difficulties or simply were not permitted to register in some cities. Corruption in the registration process in local police precincts remained a problem. Police demanded bribes when processing registration applications and during spot checks for registration documentation. UNHCR and refugee rights NGOs cited Stavropol, Krasnodar, Moscow, and St. Petersburg as being the cities least open to migrants (although some NGOs dispute including St. Petersburg on this list). The fees for permanent and temporary registration remained low. The Government and city governments of Moscow and other large cities defended registration as necessary in order to control crime, keep crowded urban areas from attracting even more inhabitants, and earn revenue. The City of Moscow was forced to defend its registration requirement in court. Despite nearly 3 years of litigation, the registration requirement remained in effect, and the practice—which police reportedly used mainly as a means to extort money—continued at year's end.

While federal law provides for education for all children in the country, regional authorities frequently denied access to schools to the children of unregistered persons, asylum seekers, and migrants because they lacked residential registration (see Section 5).

According to NGOs, the city of Moscow and some others frequently violated the rights of nonresidents and ethnic minorities, as well as the rights of those legitimately seeking asylum. Moscow police, particularly special duty OMON units, conducted frequent document checks, particularly of persons who were dark-skinned or appeared to be from the Caucasus. There were many credible reports that police imposed fines on unregistered persons in excess of legal requirements and did not provide proper receipts or documentation of the fine. According to HRW and church ministries tracking interethnic violence, it was not unusual for darker-skinned persons to be stopped at random and for officers to demand bribes from those without residence permits.

According to the Moscow Helsinki Group's 2001 human rights report, during 1989–90, approximately 90,000 Meskhetian Turks, an ethnic group many of whose members had been deported from the Soviet Republic of Georgia during World War II, were forced by ethnic conflicts to leave the Soviet Republic of Uzbekistan where they had settled. At the end of the year, an estimated 60,000 Meskhetian Turks remained in the Russian Federation. Of these, more than 13,000 had settled in

Krasnodar Kray, and approximately 700 had settled in the Kabardino-Balkariya Republic. Authorities in Krasnodar Kray and the Karbardino-Balkariya Republic continued to deny the Meskhetian Turks the right to register, which deprived them of all rights of citizenship, despite provisions of the Constitution that entitled them to citizenship. Meskhetian Turks living in Krasnodar, like other ethnic minorities, were subject to special registration restrictions; for example, they were required to register as “guests” every 45 days. The administration of Krasnodar Governor Tkachev appeared to be attempting to use economic measures to force the Meskhetians to leave the territory. According to Memorial, in the winter of 2001–02 the authorities prohibited them from leasing land and cancelled existing leases for the 2002 crop season. Other measures imposed on them included a prohibition on employment or commercial activity in local markets.

The Constitution provides all citizens with the right to emigrate. The Government imposed nominal emigration taxes, fees, and duties. On average it took 3 months to process a passport application, although it can take much longer if documentation is needed from elsewhere in the former Soviet Union.

A Soviet requirement that citizens receive a stamp permitting “permanent residence abroad” (PMZh) in order to emigrate—essentially a propiska for those living outside the country—was formally abolished in 1996; however, implementation of the law (which had been scheduled to go into effect early in 1997) remained incomplete. According to the International Organization for Migration (IOM), border guards continued to require a PMZh-like stamp of all emigrants, and OVIR continued to issue it.

If a citizen has had access to classified material, police and FSB clearances were necessary in order to receive an external passport. Persons denied travel documents on secrecy grounds could appeal the decision to an Interagency Commission on Secrecy chaired by the First Deputy Foreign Minister. The Commission may not rule on whether the material should or should not be classified, but it may rule on the legality of travel restrictions imposed and on whether or not the traveler actually had access to materials requiring a travel restriction. During the year, the Commission granted travel permission to approximately 78 percent of applicants. The 1996 law states that access to classified material may occur only with the consent of the citizen, established in the form of a written contract, which states that the signatory understands that he has been given access to state secrets and that his ability to travel abroad may be restricted. The law envisions a maximum period of delay under normal circumstances of 5 years, and it grants the interagency Commission on Secrecy the right to add an additional 5-year term to the period of delay if the Commission finds that a person had access to particularly sensitive materials. This latter provision raised serious concerns among human rights advocates who monitor government restrictions on foreign travel; however, there were no reports that the provision was applied during the year.

Other grounds for denial of the right to travel abroad were: Military conscription, assignment to civilian alternative service, being under criminal investigation, serving a sentence for a crime, evasion of a court-ordered obligation, or providing false information on a passport application.

Emigrants who resettled permanently abroad generally have been able to visit or repatriate without hindrance; however, visiting emigrants who departed without first obtaining a PMZh stamp have been stopped at the border and prevented from departing the country again (although they may enter without difficulty), since they could present neither a nonimmigrant visa to another country nor evidence of permission to reside abroad legally.

International organizations estimated that the number of IDPs and refugees who left Chechnya as a result of the conflict reached a high of approximately 280,000 in the spring of 2000. At year’s end, an estimated 110,000 IDPs from Chechnya were residing in Ingushetiya, many of them in camps, and 140,000 IDPs in various parts of Chechnya. There were reports of approximately 4,500 Chechen IDPs in Dagestan, 2,500 in North Ossetiya, and 4,000 in Georgia. Approximately 20,000 Chechen IDPs reportedly went to other regions of the country. In addition to ethnic Chechen IDPs, almost the entire population of ethnic Russians, ethnic Armenians, and Jews left Chechnya as a result of both the conflict that began in 1999 and the war of 1994–96.

Government officials stated publicly that they would not pressure or compel IDPs to return to Chechnya; however, at the same time, federal and local authorities consistently stated their determination to repatriate all IDPs back to Chechnya as soon as possible. Representatives of the Chechen administration visited camps in Ingushetiya to encourage IDPs to return to Chechnya, usually to temporary IDP facilities; many who did so quickly returned to Ingushetiya because of a lack of facilities and a lack of security in the temporary facilities for IDPs in Chechnya. Toward

the end of the year, the authorities employed various degrees of pressure to force the IDPs to return. Authorities announced that the IDP camps, which housed 20,000 IDPs, would be closed by the end of December; one of the camps, at Aki-Yurt, was closed in early December, ostensibly for health reasons, and two at Znamenskoye in Chechnya were closed in July. However, following domestic and international protests, President Putin reiterated the assurance that no one would be repatriated involuntarily and that he would review the policy. At times the border between Chechnya and Ingushetiya was closed because of military operations. Federal border guards and police officers on the border between Chechnya and neighboring regions—and at checkpoints within the country—required travelers to pay bribes. Some Chechens also had trouble traveling because their documents were lost, stolen, or confiscated by government authorities (*see* Section 1.g.). Officials stopped registering IDPs in Ingushetiya in spring 2001, depriving new arrivals of the possibility of regularizing their status in the republic. Local authorities also frequently removed IDPs from the registration lists if they were not physically present when the authorities visited their tents. There were frequent interruptions in gas and electricity to IDP camps in Ingushetiya, events that often were viewed by IDPs as pressure to return to Chechnya.

On June 21, a federal law on the legal status of foreign citizens was adopted by the State Duma. Critics of the law pointed out that the 3-month deadline facing non-citizens for obtaining Russian visas or a long-term residence was very short, that the law does not include an exhaustive list of documents required for official registration, and that the law leaves many matters to the MVD's discretion. The law also requires that a foreigner prove, even after receiving the permit, that he or she is able to provide for himself and his family at a certain level. Under this law, an AIDS-infected foreign worker should be fired from his job immediately. An AIDS-infected person is prohibited from receiving permanent residence status. According to human rights observers, this law, and a new citizenship law, could further increase the difficulties facing groups such as Meskhetian Turks in Krasnodar and other regions who have been denied citizenship documentation in contradiction to Russian citizenship law.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 protocol; however, the Government applied the law in a restrictive manner during the year. The Government rarely granted asylum. It cooperated to a limited extent with the UNHCR and the IOM; both organizations assisted the Government in trying to develop a more humane migration management system, including more effective and fair refugee status determination procedures. As of October 2001, UNHCR had registered approximately 40,000 asylum seekers who originated from outside the territories of the former Soviet Union since 1992. The UNHCR estimated that only 11,000 of these were active cases, i.e., persons still seeking asylum or receiving UNHCR assistance. The remainder either integrated into society, left the country, had been resettled, or repatriated. The Government acted more expeditiously and with greater leniency in cases involving applicants who had been citizens of the former Soviet Union. There continued to be widespread ignorance of refugee law both on the part of officials and would-be petitioners.

A number of workers and students from Africa and Asia who came to work or study in accordance with treaties between their countries and the former Soviet Union remained in the country. The Government did not deport them but continued to encourage their return home. The number of persons from these countries has increased in the last few years due to the new arrival of persons seeking refugee status. According to the UNHCR, it had granted refugee status to more than 800 Africans and 5,200 Afghans since 1992.

A group of approximately 1,400 to 2,000 Armenian refugees evacuated from Azerbaijan in the wake of late 1980s ethnic violence remained housed in "temporary quarters," usually in Moscow hotels or workers' dormitories. They were unable to return to Azerbaijan, and conditions in Armenia made emigration to that country practically impossible; they also lacked residency permits for Moscow. Representatives of the community have stated that they were not interested in Russian citizenship, which would entitle them to the benefits accorded to forced migrants, because they did not believe such a step would improve their material situation. They also rejected offers of relocation to other regions, alleging that the alternative housing that they were offered frequently was not suitable or available. Their situation remained precarious because the formerly state-owned hotels in which many reside were being privatized; a number of eviction orders were served in such cases during the year. Despite official promises, their status and permanent housing had yet to be resolved by year's end.

The UNHCR continued to be concerned about the situation of asylum seekers and refugees at Moscow's Sheremetyevo-2 airport. The authorities systematically deported improperly documented passengers, including persons who demonstrated a well-founded fear of persecution in their countries of origin. If a passenger requested asylum, Aeroflot provided telephone numbers for the UNHCR, but these numbers were not posted publicly anywhere in the transit zone. Despite repeated UNHCR recommendations, there were no signs in the transit area to advise asylum seekers about the refugee status determination process at the airport. Undocumented travelers were not allowed to leave the transit zone and often were returned to the carrier on which they entered the country. Legally bound to provide food and emergency medical care for undocumented travelers, the airlines returned them to their point of departure as quickly as possible; airlines were fined if an undocumented passenger was admitted to the country but not if the passenger was returned to the country of origin. The treatment of asylum seekers in the transit zone reportedly was harsh. The UNHCR has received reports of physical and verbal abuse of transit passengers by police officers and Aeroflot employees. Authorities rarely released passengers from the transit zone unless there was a medical emergency.

There were 114 Points of Immigration Control (PICs) at border crossings and international airports, which were staffed by former members of the former Ministry of Federation Affairs, Nationalities, and Migration Policy who were subsequently employed by the Ministry of the Interior. Most of the cases referred to them dealt with labor migrants both entering and leaving the country. A few were asylum seekers. According to the UNHCR, the PICs have never accepted anyone as an asylum seeker. Those who were interviewed (and refused) by the PIC at Sheremetyevo-2 generally were referred to the UNHCR, which received numerous such cases during the year. The UNHCR examined each case and sought resettlement on an emergency basis for those that it accepted.

The Constitution does not permit the extradition to other states of persons who would be persecuted there for political beliefs or for actions (or inactions) that are not considered a crime in the Russian Federation; however, in the past there were instances in which opposition figures were deported to countries of the former Soviet Union to face charges that were political in nature. Under the 1993 Commonwealth of Independent States Convention on Legal Assistance in Civil, Family, and Criminal Affairs, persons with outstanding warrants from other former Soviet states may be detained for periods of up to 1 month while the Procurator General investigates the nature of outstanding charges against the detainee. This system was reinforced informally but effectively by collegial links among senior law enforcement and security officials in the various republics of the former Soviet Union. Human rights groups continued to allege that this network was employed to detain without actual legal grounds opposition figures from the other former Soviet republics.

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

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

The Constitution establishes four branches of government: The Presidency; the Federal Assembly made up of two houses (the State Duma and Federation Council); the Government and Council of Ministers headed by the Prime Minister; and the Judiciary. The Constitution gives predominance to the Presidency, and the President utilized his many powers to set national priorities and establish individual policies.

After President Yeltsin's December 1999 resignation, Vladimir Putin assumed the post of acting President. In a March 2000 election, Putin was elected President. While some among the opposition and the media claimed widespread election fraud, most international observers concluded that the election generally was free and fair and the results valid. There were credible reports of election fraud in some locations, particularly in the Republic of Dagestan and a few other regions with a long history of falsifying votes, but there was no evidence that such abuses were systematic or that they affected the choice of the new President. Many observers pointed to problems with biased media coverage of the presidential election campaign.

The Duma was elected in December 1999. International observers judged those elections to be largely free and fair, and 69 percent of eligible voters participated. A grouping of strong, propresidential centrist party factions puts majority support within reach for almost all presidential priorities. Nonetheless the Duma remained an independent institution representing powerful interests and individuals.

In 2000 the Federal Assembly passed legislation according to which regional executives and heads of regional legislatures would appoint members of the Federa-

tion Council instead of serving in that body themselves. By the beginning of the year, this new system was fully in effect; regional executives and heads of regional legislatures no longer served on the Federation Council.

Competitive elections for various regional and local offices were held throughout the year. Most observers viewed these elections as generally free and fair, although there were problems in some regions involving unequal access to the media, non-compliance with financial disclosure requirements, and use of "administrative resources" (such as government staff and official media) by incumbents to support their candidacies. Challengers were able to defeat incumbents in some of the races for regional executive positions, and losing candidates generally accepted the legitimacy of the voting results. There were reports that incumbent governors in some regions pressured local press organizations to support their candidacies or deny support to their challengers (*see* Section 2.a.).

In a number of regions, there were apparent incidents of candidates being pressured by central or regional officials to withdraw from elections, disqualification of candidates through apparently prejudiced application of elections laws, and other forms of electoral manipulation. In presidential elections in the Republic of Ingushetiya in April, for example, an individual filed a complaint alleging that a popular local candidate had violated election laws. When it appeared that local courts were about to rule in the candidate's favor, armed federal authorities stormed the courtroom and impounded all evidence. Later that day, a federal court in the Southern District center of Rostov immediately declared the candidate guilty, eliminating him from the race. The man eventually elected President of Ingushetiya had previously worked for the office of the Presidential Representative in the Southern Federal District.

The July "Law on Basic Guarantees of Electoral Rights and Citizen Participation in Referendums" and the July 2001 "Law on Political Parties" significantly enlarged the role played by political parties in the electoral system by simplifying candidate nomination by parties at all levels of government and by requiring that half of the seats in regional legislatures be determined by party-list voting, as in the State Duma. These laws, in conjunction with the December "Law on Elections of State Duma Deputies," expanded campaign spending limits and public financing of political parties, shortened the official campaign period, limited the conditions under which candidates may be removed from the ballot, and imposed restrictions on media coverage. An additional effect of the laws was the expansion of the Central Elections Commission's authority over subordinate regional elections commissions. In September the President signed into law an amendment to the "Law on Referenda" that prohibits national referenda in the year prior to federal elections.

Political parties historically have been organizationally weak. The July 2001 law on political parties requires parties to have 10,000 members in order to be registered and function legally, with no fewer than 100 members in a majority of the country's 89 regions (*see* Section 2.b.). The law grants political parties a partial monopoly on running candidates for legislative office, creates serious hurdles for the registration of new political parties, and gives the executive branch and Procuracy broad powers to regulate, investigate, and close down parties.

In the December 1999 elections, 32 female deputies were elected to the 450-member Duma, a decrease from the 46 female deputies elected to the Duma in 1995. A woman, Lyubov Sliska, served as the First Deputy Chairman of the Duma. One woman, Valentina Matviyenko, served as a Deputy Prime Minister.

Legal provisions have allowed national minorities to take an active part in political life (*see* Section 5); however, ethnic Russians dominated the political system, particularly at the federal level, and national minorities generally were underrepresented in many areas of public life.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

Many domestic and international human rights groups generally operated without hindrance in the country, and most investigated and publicly commented on human rights problems, generally without government interference or restrictions; however, some local officials harassed human rights monitors (*see* Section 1.d.), and the Government refused to renew an agreement with the OSCE Assistance Group that would have permitted it to continue its human rights monitoring in Chechnya. Several NGOs reported increased difficulties in their relations with local authorities. These ranged from visa and registration problems to delays in permission to enter Chechnya to denial of permission to enter IDP camps in order to provide assistance. The Government's attitude towards human rights NGOs varied; the level of cooperation tended to depend on the perceived threat to national security or level of opposition that an NGO might pose. For example, NGOs monitoring prison conditions en-

joyed an excellent relationship with government authorities, while those monitoring Chechnya had a more tense relationship. Officials, such as human rights ombudsman Oleg Mironov, regularly interacted and cooperated with NGOs.

Several NGOs were headquartered in Moscow and had branches throughout the country. Some of the more prominent human rights organizations were the Public Center for Prison Reform, the Society for the Guardianship of Penitentiary Institutions, the Glasnost Public and Defense Funds, Memorial, the Moscow Research Center for Human Rights, the Union of Soldiers' Mothers' Committees (USMC), the Mothers' Rights Foundation, and the Moscow Helsinki Group. Several of these groups were recognized and consulted by government and legislative officials for their expertise in certain fields, and such groups participated (with varying degrees of success) in the process of drafting legislation and decrees. The prominent human rights organization Memorial worked with the offices of the Presidential Human Rights Envoy for Chechnya, and the Government provided security for Memorial's trips to the regions. In July the Moscow Helsinki Group announced the release of its fourth annual survey of human rights conditions in the country. The extensive and detailed report covered human rights problems in all 89 of the country's principal administrative divisions.

There were a variety of regionally based human rights groups. Socioeconomic rights groups were the most numerous; they monitored issues such as unpaid wages and benefits. There were fewer civil-political rights groups, but they included "generalist" organizations that covered the range of human rights issues and "specialist" organizations that covered only one issue. There were also public legal centers that provided legal advice to the general public (*see* Section 1.e.). These centers usually were run on a part-time basis by lawyers who, while they could not afford to offer trial counsel or actual legal work, offered advice at no cost on legal rights and recourse under the law. Resources for human rights work were scarce; most groups relied on foreign support in the form of grants to maintain operations.

Regional human rights groups generally received little, if any, international support or attention. Although at times they reported that local authorities obstructed their work, criticism of the Government and regional authorities usually was permitted without hindrance. Criticism of a specific political leader in the region (usually the governor or a senior law enforcement official) reportedly was less tolerated. Local human rights groups had far fewer opportunities than their Moscow counterparts to interact with legislators to develop legislation; some were excluded from the process entirely by local authorities.

During the year, many domestic and international NGOs continued their work in Chechnya despite the threats posed by the ongoing military conflict. Within Chechnya some international NGOs maintained small branch offices staffed by local employees; however, all international NGOs had their bases outside of Chechnya (*see* Sections 1.b. and 1.g.).

The August kidnaping by unknown persons of the head of the Doctors without Borders Mission in the Province of Dagestan, adjacent to Chechnya, remained unsolved at year's end. This event and overall security problems led many NGOs to limit their activities in the north Caucasus region.

In October 2001, the Council of Europe (COE) announced that it had reached an agreement with the Government to extend the mandate of its human rights monitors in Chechnya until the end of the year. Since June 2000, three COE monitors have maintained a presence in the office of the Government's human rights representative in Chechnya, Abdul-Khakim Sultygov. Many human rights activists charged that the COE and the OSCE were ineffective in improving the human rights climate in Chechnya. On December 31, the mandate of the OSCE's Chechnya mission expired and the Government refused to renew it. The mandate of the OSCE mission included "promoting respect for human rights and fundamental freedoms" in the territory. It had frequently criticized the actions of military forces. Foreign Minister Ivanov said the OSCE mission had failed to understand Chechen realities. Other officials stated that the country wished to continue cooperation with the OSCE but that corrections were required in its operations in Chechnya.

The Government's human rights institutions continued to lack independence, but some of them did make efforts to promote human rights. The Office of the Russian Federation Human Rights Ombudsman, headed by Oleg Mironov, commented on a broad range of human rights issues. Mironov's office had more than 150 employees and had several specialized sections responsible for investigating complaints of human rights abuses, including a section on religious freedom and a section on human rights education. During the year, the office published various reports on human rights problems. Mironov's role remained mainly consultative and investigatory, without powers of enforcement. By year's end, there were regional human rights ombudsmen with responsibilities similar to Mironov's in twenty of the re-

gions. Human rights committees and ombudsmen existed in other regions as well; however, the effectiveness of the regional ombudsmen and committees varied significantly from region to region. The President's Human Rights Commission, headed by Ella Pamfilova and including a number of human rights activists, remained largely inactive during the year; however, following a meeting with the President where activist members successfully appealed to Putin, a December fact-finding mission of the Commission to the Caucasus region succeeded in limiting involuntary returns of IDPs to Grozny.

Citizens may file appeals to the ECHR about alleged human rights violations that occurred after May 1998, when the European Convention on Human Rights entered into force. Complainants were not required to exhaust all appeals in domestic courts before they could turn to the ECHR but must have exhausted "effective and ordinary" appeals, which usually include two appeals (first and cassation) in courts of ordinary jurisdiction and three (first, appeal, and cassation) in the commercial court system. By October 2001, the ECHR had received more than 7,000 complaints from Russia, including dozens from Chechnya. Many applications were rejected at the first stage of proceedings as being clearly incompatible with the formal requirements of the European Convention. Some cases were put on the Court's calendar for fuller consideration. In May the ECHR found for Anatoliy Burdov in the case of *Burdov v. Russia*, awarding the applicant about \$3,000 (90,000 rubles) in a case relating to his work during the Chernobyl cleanup in 1986–87.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution prohibits discrimination based on race, sex, language, social status, or other circumstances; however, both official and societal discrimination persisted.

*Women.*—Domestic violence remained a major problem, and victims rarely had recourse to protection from the authorities. Police were reluctant and sometimes unwilling to intervene in what they regarded as purely domestic disputes. Many women were deterred from reporting such crimes, not only because of social and family pressure but also because the tight housing market made it difficult either to find housing outside the family dwelling or to expel an abusive spouse, even after a final divorce action. Much of society, including some leaders in the human rights community, did not acknowledge domestic violence as a problem or did not believe that it was an area for concern outside of the family. No reliable statistics existed to permit evaluation of the true extent of the problem nationwide, and individual jurisdictions varied in their statistical methodology. There was a general lack of understanding of these problems in the legal community, and there was no legal definition of domestic violence. Some forms of battering are addressed in the Criminal Code but are defined too narrowly to apply to most cases. There also was no national political will to consider these problems seriously. Several NGOs expressed serious concern about guidance provided to the new justices of peace—to whom most such cases are expected to be referred—which instructs the justices to reconcile the battered and the batterer and return the victim to the home as soon as possible.

In November 2001, an MVD official estimated that on average there were more than 250,000 violent crimes against women annually; however, government officials and NGOs agreed that such crimes usually were not reported. From January through mid-November 2001, police recorded more than 7,000 crimes of rape (in 2000, 7,900 rape cases were registered for the entire year), and 6,300 other sexually related crimes. The Government provided no support services to victims of rape or other sexual violence; however, victims could act as full legal parties to criminal cases brought against alleged assailants and could seek legal compensation as part of the verdict without seeking a separate civil action. Hospitals, crisis centers, and members of the medical profession provided assistance to women who were assaulted; however, to avoid spending long periods of time in court, some doctors were reluctant to ascertain the details of a sexual assault or collect physical evidence.

Prostitution is not a crime, although a 2001 revision of the Administrative Code made prostitution and pimping administrative violations subject to fines (*see* Section 6.f.). Such violations carry financial penalties in the form of fines calculated in multiples of weekly minimum wages. Prostitution carries a penalty of 5 times the minimum wage, or roughly \$100 (3,000 rubles).

Trafficking of women for sexual exploitation or forced labor was a serious problem (*see* Section 6.f.).

Despite serious difficulties, many groups continued to address violence against women. NGOs, alone or in cooperation with local governments, operated more than 55 women's crisis centers throughout the country, and their numbers continued to grow. In addition, the crisis centers have formed an association in order to coordi-



nate their efforts better. Several NGOs provided training on combating trafficking to police, procurators, justices of the peace, and others in government.

Women reported sexual harassment in the workplace, and anecdotal information suggests that many potential employers seek female employees who are receptive to sexual relations. The Constitution states that men and women have equal rights and opportunities to pursue those rights. The new Labor Code retains from the previous Code prohibitions against discrimination, stating that every person has the right to equal pay for equal work; however, the phrase, "without complexes," is used occasionally in job advertisements (see Section 6.b.). Some firms asked applicants for employment to complete a form including the abbreviation "VBO," a Russian-language abbreviation for "possibility of close relations," to which the applicant is expected to reply "yes" or "no." There was no law that prohibits sexual harassment, and women have no recourse when sexually harassed.

Job advertisements often specified sex and age groups and sometimes physical appearance as well. Credible evidence suggested that women encounter considerable discrimination in employment. NGOs continued to accuse the Government of condoning discrimination against women, contending that the Government seldom enforced employment laws concerning women. Employers preferred to hire men, thereby saving on maternity and childcare costs and avoiding the perceived unreliability that accompanies the hiring of women with small children. Employers also tried to avoid the entitlement to a 3-year maternity leave for childcare, which can be used in full or in parts by the mother, father, relative, or trustee providing the actual childcare. During this time, the employer must retain an employee's place of work and continue to fund applicable social benefits. Moscow human resources managers privately admitted that discrimination against women in hiring was common. There also was a trend toward firing women rather than men when employees are laid off. Women were subject to age-based discrimination. While no official statistics were available, government officials estimated that of the 7.5 percent of the workforce unemployed in late August, at least 70 percent were women.

Women continued to report cases in which they were paid less for the same work that male colleagues perform. According to a 2001 report by the International Labor Organization (ILO), women accounted for about 47 percent of the working-age population but on average earned only two-thirds of the salaries of their male counterparts. Professions dominated by women were much more poorly paid than those dominated by men. Women also tended to work in industries where market reforms remained weak and wages low, such as the textile and defense sectors, while men increasingly took jobs in the fast-growing, more profitable, financial and credit sectors where wages were substantially higher.

*Children.*—The Constitution assigns the Government some responsibility for safeguarding the rights of children, and the State endeavored to provide, within its limited means, for the welfare of children. A Family Code regulates children's rights and marriage and divorce issues. The educational system includes both private and public institutions. Children have the right to free education until grade 11 (or approximately 17 years of age), and school was compulsory until the 9th grade. Boys and girls were treated equally in the school system. While federal law provides for education for all children in the country, regional authorities frequently denied school access to the children of unregistered persons, asylum seekers, and migrants because they lacked residential registration (see Section 2.d.).

Under the law, health care for children is free; however, the quality varied, and individuals incurred significant out of pocket expenses. According to a UNICEF survey, children of IDPs from the Chechen conflict suffered disproportionately from chronic anemia and had a low rate of vaccinations due to the collapse of local health and education systems as a result of the conflict.

No reliable statistics existed on the extent of child abuse; however, anecdotal evidence indicated that child abuse was a problem.

The status of many children has deteriorated since the collapse of communism because of falling living standards, an increase in the number of broken homes, and domestic violence. An estimated 50,000 children run away from home each year. The main reasons for this reportedly were family violence, financial problems, or social problems such as drug or alcohol abuse by one or both of the parents. In Moscow approximately 6,000 children per year were brought to the Center of Temporary Isolation of Minor Delinquents (COVINA). These children stayed in COVINA for no more than 30 days. During this period, the child's case was investigated and his or her guardian was located; however, in 90 to 95 percent of these cases, the police simply returned the children to their families or to the institution from which the children ran away. Many officials considered domestic problems private affairs and preferred not to interfere.

Trafficking in children was a problem (see Section 6.f.).

Figures for homeless children were unreliable. The Russian Children's Fund estimated in 2001 that there were some 2.5 million homeless children, although other estimates reached as high as 4 million; scientific studies used differing methodologies to count street children. In 2000 the ILO International Program on the Elimination of Child Labor (ILO/IPEC) estimated that there were 10,000 to 16,000 working street children in St. Petersburg, although only 1,000 to 2,000 were believed to be homeless. Most still had social ties to their family, school, or orphanage and only lived on the street part-time. Similar studies in Moscow in 2001 indicated that 30,000 to 50,000 working street children lived in the capital. Studies in the two rural districts of Vsevolozhsk and Priyozersk in the Leningrad Oblast were less conclusive, but suggested that the problem of working street children also existed outside the country's industrial centers. In addition, there were approximately 3,000 young persons aged 18 to 24 in Leningrad Oblast, most of them discharged from state institutions and given state housing, who had difficulty maintaining a residence and adapting to noninstitutional life in general. Homeless children often engaged in criminal activities, received no education, and were vulnerable to drug and alcohol abuse. Some young girls on the street turned to or were forced into prostitution in order to survive (see Section 6.f.).

In the St. Petersburg region, local government and police ran various programs for homeless children and cooperated with local NGOs; however, resources were few and overall coordination remained poor. Local and international NGOs provided a variety of services for the homeless. Many Moscow charitable organizations have established productive relations with the city government to address the needs of children with disabilities, as well as other vulnerable groups. Perspektiva worked with children and medical personnel in an orphanage for children with disabilities in Pavlovsk. Bereg ran a shelter and offered training programs to children and social workers. Citizens' Watch conducted seminars on legal and social aspects of the problem.

Attention continued to focus on the status of orphans and those children with disabilities who have been removed from mainstream society and isolated in state institutions. Recent statistics on the number of orphans, institutionalized children, and adoptions during the year were not available. A complex and cumbersome system was developed to manage the institutionalization of some children until adulthood; three different ministries (Education, Health, and Labor and Social Development) assumed responsibility for different age groups and categories of orphans. Observers concluded that rather than focus on the needs of the children, the system revolved around the institutions. The welfare of the children was lost within the bureaucracy, and little clear recourse existed in instances of abuse by the system. Human rights groups alleged that children in state institutions were provided for poorly (often because funds are lacking) and in some cases were abused physically by staff. Life after institutionalization also posed serious problems, as children often lacked the necessary social, educational, and vocational skills to function in society. While there were no comprehensive studies of the effects of the orphanage system, its costs, and the extent of its problems, several groups compiled some important information.

Although comprehensive statistics were not available, the prospects for children and orphans who had physical or mental disabilities remained extremely bleak. The most likely future for severely disabled children was a lifetime in state institutions. The label of "imbecile" or idiot, which was assigned by a commission that assesses children with developmental problems at the age of 3 and which signified "uneducable," almost always was irrevocable, and even the label of "debil"—lightly retarded—follows a person throughout his or her life on official documents, creating barriers to employment and housing after graduation from state institutions. A study conducted by the Rights of the Child program of the Moscow Research Center for Human Rights found that on graduation at the age of 18 from a state institution for the lightly retarded, 30 percent of orphans became vagrants, 10 percent became involved in crime, and 10 percent committed suicide. The existing system provided little oversight and no formal recourse for orphans who have been misdiagnosed as mentally ill or retarded or who are abused or neglected while in state institutions. Facilities to which such children were remanded frequently used unprescribed narcotics to keep children under control.

The Rights of the Child Program has called for the establishment of an ombudsman for the rights of children with the power to enter and inspect children's facilities at any time of day or night without advance notification, and the Ministry of Labor and Social Development continued to work with UNICEF on a pilot program to establish regional children's rights ombudsmen. In 2001 the Moscow city Duma created the position of ombudsman for children's rights. According to the Ministry and the Rights of the Child NGO, there were ombudsmen in the cities of

Yekaterinburg and St. Petersburg, and in the regions of Arzamas Volkskiy, Novgorod, Chechnya, Ivanovo, Kaluga, and Volgograd. Ombudsmen may only write a letter requesting an inquiry by law enforcement authorities, assist those whose rights have been violated to understand their legal rights, and make suggestions to legislators (local, regional, and federal) on ways to improve legislation.

Conditions for children in prisons and pretrial detention were problems (*see* Sections 1.c. and 1.d.).

Reportedly troops in Chechnya placed Chechen boys ages 13 and older in filtration camps where some reportedly were beaten and raped by guards, soldiers, or other inmates. The women's action group "White Kerchief" (Belyy platok) reported that some federal forces engaged in the kidnapping of children in Chechnya for ransom.

According to a December report by the U.N. special representative for children and armed conflict, Chechen rebels used children to plant landmines and explosives.

*Persons with Disabilities.*—The Constitution does not address directly the issue of discrimination against persons with disabilities. Although laws exist that prohibit discrimination, the Government did not enforce them. The meager resources that the Government devoted to assisting persons with disabilities were provided to veterans of World War II and other conflicts.

The law requires that firms with more than 30 employees either reserve 3 percent of their positions for persons with disabilities or contribute to a government fund to create job opportunities for them. The law also removed language defining an "invalid" as a person unable to work; however, the Government has not implemented this law. Some persons with disabilities found work within factories run by the All-Russian Society for persons with disabilities; however, the majority were unable to find employment. Local authorities, private employers, and tradition continued to discourage persons with disabilities from working, and they were usually forced to subsist on social benefits.

Special institutions existed for children with various disabilities but did not serve their needs adequately due to a lack of finances. Being a child with disabilities remained a serious social stigma, an attitude that profoundly influenced how institutionalized children were treated. Many children with physical or mental disabilities, even those with only minor birth defects, were considered uneducable. Parents wishing to enroll a child in ordinary secondary schools in Moscow were obliged to produce a medical certificate affirming that the child was in perfect health. Families with children with disabilities received extremely low state subsidies that have not changed to reflect inflation since the Soviet era.

The Government did not mandate special access to buildings for persons with disabilities, and access to buildings was a problem. The NGO Society for the Defense of Invalids continued to work to broaden public awareness and understanding of problems concerning persons with disabilities by conducting workshops, roundtables with public officials, and training programs for persons with disabilities.

*Indigenous Persons.*—The law provides for the support of indigenous ethnic communities, permits the creation of self-governing bodies, and permits them to seek compensation if economic development threatens their lands. In some areas, local communities have organized to study and make recommendations regarding the preservation of the culture of indigenous people. People such as the Buryats in Siberia and the people of the North (including the Enver, Tatarli, Chukchi, and others) continued to work actively to preserve and defend their cultures as well as the economic resources of their regions. Most affirmed that they received the same treatment as ethnic Russians, although some groups believed that they were not represented or were underrepresented in regional governments. The principal problems of indigenous people remained the distribution of necessary supplies and services, particularly in the winter months for those who live in the far north, and disputed claims to profits from exploitation of natural resources.

Some groups in the far eastern part of the country criticized the Government for not developing an overall concept for the development of indigenous people. Responsibility for government policy toward indigenous people has been transferred between government agencies several times in earlier years. After the President abolished the Ministry of Federation Affairs, Nationalities, and Migration Policy in October 2001, he appointed a new minister without portfolio to coordinate nationalities policy.

*National/Racial/Ethnic Minorities.*—The Constitution prohibits discrimination on the basis of nationality; however, Roma and persons from the Caucasus and Central Asia faced widespread governmental and societal discrimination, which often was reflected in official attitudes and actions. The Constitution also makes provision for the use of national languages in the various sub-divisions alongside the official Russian language and states that each citizen shall have the right to define his or her

own national identity and that no citizen shall be required to state officially his or her nationality.

New federal and local measures to combat crime were disproportionately applied against persons appearing to be from the Caucasus and Central Asia. Police reportedly beat, harassed, and demanded bribes from persons with dark skin, or who appeared to be from the Caucasus, Central Asia, or Africa. Law enforcement authorities also targeted such persons for deportation from urban centers. Authorities in Moscow subjected dark skinned persons to far more frequent document checks than others and frequently detained them or fined them amounts in excess of permissible penalties. Police often failed to record infractions by minorities or issue a written record to the alleged perpetrators. In the autumn of 2001, more than 100 Roma were expelled forcibly from the Krasnodar region to Voronezh. Chechen IDPs and the Civic Assistance Committee for Migrants reported that Chechens continued to face great difficulty in finding lodging in Moscow and frequently were forced to pay at least twice the usual rent for an apartment. Although Mayor Luzhkov ruled out a crackdown on the Chechen population in the city following mass hostage seizures at a Moscow theater human rights monitors reported in November that hundreds of ethnic Chechens were detained in sweeps across Moscow and that acts of discrimination against them increased (*see* Section 1.g.).

The multiethnic population was made up of more than 100 national groups. Many of the 89 subdivisions or "subjects" of the federation were formed on the basis of the subdivisions' predominant ethnic group. For example, the Republic of Chuvashiya is the homeland of the Chuvash people, who make up 68 percent of the Republic's population. During the year, the President and other prominent officials issued numerous declarations regarding the multiethnic nature of the country and calling for tolerance. Nonetheless, there were numerous racially motivated attacks on members of minorities, particularly Asians and Africans. Attacks generally appeared to be random, and were carried out by private individuals or small groups inspired by racial hatred. Some of the attackers were known to local law enforcement authorities for their racial intolerance or criminal records. For example, during the year, members of ethnic or racial minorities were the victims of beatings, extortion, and harassment by "skinheads" and members of other racist and extremist groups. Police made few arrests, although many such cases were reported by human rights organizations. Many victims, particularly migrants and asylum seekers who lacked residence documents recognized by the police, chose not to report such attacks or to report indifference on the part of police.

Several incidents against resident Indian businesspeople and African students, as well as other crimes against foreigners, including diplomats, suggested that this remained a serious problem in St. Petersburg. In August Aleksandr Gudz, head of the International Affairs Department of the St. Petersburg police, stated that crimes against foreigners in that city had fallen by 10 percent compared with 2001. Gudz asserted that violence by skinheads was not a problem in St. Petersburg as a result of successful police monitoring of such groups.

On September 13, however, approximately 20 skinheads used sticks and knives to kill a vendor from Azerbaijan as he sat by his watermelon stand in St. Petersburg. The attack was apparently unprovoked. Although police did not catch any suspects at the scene, they conducted a roundup of known skinheads in the area, which led to the detention of two people allegedly involved in the incident. Police also reportedly found evidence that the incident had been planned, and claimed to have found a video recording of the attack. At year's end, the investigation was continuing. On September 30, a group of young men attempted to attack two Azerbaijani traders in St. Petersburg, but the men locked themselves inside their kiosk. The young men then attacked and injured an ethnic Russian private security guard. The militia initiated a criminal investigation. In November 2001, Moscow police arrested a 16-year-old suspect and charged him with the August killing of Massa Mayoni, a 16-year-old asylum seeker from Angola. The charges were later reduced from murder to hooliganism.

Five men were convicted on November 20 for their part in the violent incident in a marketplace near the Tsaritsyno metro station in Moscow in October 2001. An estimated 100 to 300 youths from Moscow's southern neighborhoods kicked and beat dozens of persons with metal bars during the incident; almost all of the victims belonged to ethnic groups from the Caucasus and Central Asia. At least three persons died as a result of the attack: A 17-year-old ethnic Tajik, a 17-year-old ethnic Azeri, and a 37-year-old Indian national.

The Ministry of Justice reported that in 2000, 17 crimes were investigated under laws barring acts of incitement to national, racial and religious hatred. Of these, eight were taken to court, but a Duma Deputy later asserted that there was only one conviction. The statistical department of the Supreme Court reported that as

of July 1 the Procuracy had brought five such cases to court, but none of the accused was convicted. On the other hand, the Procuracy General reported that 37 cases had been opened as of November 2001.

Human rights observers reported that the authorities have been particularly hostile toward certain minority groups in the Province of Krasnodar Kray. The Kray has been home to large numbers of ethnic minorities for decades but has experienced considerable immigration and domestic migration in recent years (see Section 2.d.). According to Memorial, Krasnodar Governor Aleksandr Tkachev in a March speech promised a group of regional and municipal officials that he would create “unbearable conditions” for “illegal migrants” (see Section 2.d.), and there were unconfirmed reports that the Krasnodar government provided funding to paramilitary Cossack groups, some of which were said to be brutally repressive toward such groups.

In its local legislation, the Republic of Bashkortostan names Bashkiri and Russian as its two official languages and excludes Tatar despite the fact that Tatars constituted 30 percent of the population and outnumber the Bashkirs. An appeal by the legislature of the neighboring Republic of Tatarstan to make Tatar an official language was rejected.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides workers with the right to form and join trade unions; however, in practice government policy and the dominant position of the Federation of Independent Trade Unions of Russia (FNPR) limited the exercise of this right. Approximately 56 percent of the work force (an estimated 72 million workers) was unionized, and approximately 3 to 4 percent of union members belonged to independent free trade unions. Union membership overall has fallen in recent years as a result of economic restructuring, including the closing of some enterprises and a resistance by some domestic and foreign companies to trade union activities.

The FNPR claimed that approximately 80 percent of all workers belonged to the FNPR, although approximately 50 percent appeared to be a more accurate estimate. The FNPR largely dominated the union movement and provided a practical constraint on the right to freedom of association. The FNPR inherited the bulk of the property of its Soviet predecessors, including office and recreational property. The majority of its income came from sources other than dues, such as rental income, sale of real estate, and fees for member services. Its unions frequently included management as part of the bargaining unit or elected management as delegates to its congresses. The FNPR and other trade union federations acted independently on the national political level, but in some cases FNPR unions were affiliated closely with local political structures. Political parties often cooperated with unions, for example, in calling for a national day of protest.

In January 2001, a new Tax Code became effective, which included a single social tax and essentially ended trade union control over the distribution of social benefits at the federal level; however, as the owner of many service facilities and the largest group of unions, the FNPR continued to play a significant role at the municipal and regional level in setting priorities for the distribution of social benefits, such as child subsidies and vacations, based on union affiliation and politics. Such practices discouraged the formation of new unions. Trade unions maintained that the consolidation of social security assets in the federal budget and the additional layer of bureaucracy in the distribution of social benefits have led to reduced benefits for workers and the public in general.

The number of court decisions supporting the right of association and ruling in favor of employees increased during the year, although the enforcement of these court decisions remained a problem in many cases. Employees tended to win their cases in court but only if they were prepared to appeal, normally a time-consuming and lengthy process. Many remained reluctant to do so. Most workers did not understand or have faith in the legal structure and feared possible retaliation. Lengthy delays were common: A court decision on compensation for wage differentials in the 1998 Ust-Ilimsk air traffic controllers union case, remained pending at year’s end. Prospects for resolving the case appeared unlikely as the company was liquidated during the summer. In early 2001, a Moscow municipal court ordered the All-Russian Television and Radio Company (VGTRK) to reinstate and pay lost wages to an employee and a member of the independent trade union “Efir” after the court determined that the employee had been laid off illegally. Upon his reinstatement, however, the employee was not allowed to resume his normal duties and continued to lose wages. In August 2001, the employee again filed a suit against his employer, but the court dismissed the case, claiming that it had not been filed correctly. The

employee has appealed the court's dismissal and a final decision on the case is still pending.

There is a history of company management and FNPR local unions working together to discourage the establishment of new unions. Many of these cases remain unresolved. In the fall of 2000, an independent trade union at the Revda Children's Music School initiated collective bargaining negotiations with management, which refused to conclude an agreement. In October 2001, the union filed suit against management, calling on them to resume negotiations. During the hearing at the Revda municipal court in December 2001, one of management's witnesses was the Chairman of the rival FNPR-affiliated union operating at the school. The Chairman had participated in the collective bargaining negotiations on the side of management. The court ruled in favor of management and dismissed the case. An appeal by the union was pending at year's end.

In July a new Law on the State Registration of Legal Entities became effective. Registration procedures for NGOs under the new law require that local departments of the Ministry of Justice check all articles of charter documents for compliance with existing laws. These documents are then submitted to the appropriate level of the Ministry of Taxation, which enters the organization into the state registry; however, registration procedures for trade unions are governed also by the Law on Trade Unions, which specifies that registration requires a simple "notification" and submission of documents. It remained unclear how these two laws would be implemented.

In the past, local departments of the Ministry of Justice throughout the country ignored the procedures set out by the Law on Trade Unions and refused to register new unions without changes in charter documents or confirmation of attendance at founding conferences. Such practices prevented the registration of new unions or the re-registration of existing ones. Although founding documents were filed with the Sverdlovsk local Ministry of Justice in 1999, the Berezovskiy Association of Free Trade Unions had yet to be registered. Local Ministry of Justice officials demanded additional documents, including protocols from union meetings and lists of meeting participants, which are not required by law.

Other unions experienced similar problems. During a January hearing concerning a suit filed by the VGTRK against the independent trade union "Efir" (separate from the case mentioned previously), the prosecutor demanded that the union annul five articles in its Charter that allegedly contradicted federal law. The union requested that the case be dismissed on the grounds that the Constitution prohibits interference with union activities, as does the Law on Trade Unions and ILO Convention No. 87, and that the suit was filed illegally. The union subsequently appealed the case to the Moscow municipal Supreme Court, which dismissed the suit against the union during the summer.

The new Labor Code (*see* Section 6.b.) includes references to the Russian word "pervichnaya" (local, or grass root), regarding organizations or trade unions that can represent workers' rights at the enterprise level. According to labor experts, "pervichnaya" is a term that refers to the lowest part or grass roots level of a structure. Such organizations are structurally dependent on a higher union body. By restricting the authority to represent workers at the enterprise level to entities that are structurally dependent on higher union bodies, the new Labor Code restricts the ability of workers to determine their own union structures. These labor experts view this as a clear violation of freedom of association principles (ILO Convention No. 87).

The new Labor Code and Trade Union Law specifically prohibit antiunion discrimination; however, antiunion discrimination remained a problem. Union leaders have been followed by the security services, detained for questioning by police, and subjected to heavy fines, losses of bonuses, and demotions. In late 2001, a bus conductor and chairman of an independent local union of transportation workers in Yekaterinburg was fired after management at her transportation depot accused her of selling tickets twice and taking the proceeds. In May a municipal court found her not guilty and demanded management reinstate and compensate her for wages lost and punitive damages. In January a Voronezh municipal court ruled that an employee of the Block Construction Factory had been laid off illegally in January 2000. In this case, the court also ruled that the employee be reinstated and compensated for wages lost and punitive damages; however, membership in the union that the employee had been building at the factory when she was laid off dropped to almost nothing in her absence.

Unions may freely form federations and affiliate with international bodies. There were several national and regional free trade union structures including the Russian Confederation of Labor (KTR) and the All-Russian Confederation of Labor (VKT).

In November 2000, the International Confederation of Free Trade Unions (ICFTU) accepted as members the KTR, the VKT, and the FNPR.

*b. The Right to Organize and Bargain Collectively.*—The new Labor Code, which went into effect on February 1, gave employers more flexibility in dealing with labor relations. It retained the right of collective bargaining, although this right had not always been protected in the past. Under the new Code, collective bargaining agreements remained mandatory if they were requested by either the employer or employees. Both sides were obligated to enter into such negotiations within 7 days of receiving a request, and the law set a time limit of 3 months for concluding such agreements. Any unresolved issues were to be included in a protocol of disagreement, which could be used for initiating a collective labor dispute.

Despite these requirements, employers continued to ignore trade union requests to negotiate collective bargaining agreements. Early in the year, an independent trade union at School No. 26 in Petropavlovsk-Kamchatskiy called a conference of the worker's collective to elect delegates to a collective bargaining negotiating team. The school's director reportedly interrupted the proceedings and instructed the employees to go home. At year's end, the employer had not agreed to collective bargaining negotiations.

The Government's role in setting and enforcing labor standards was diminished under the new Labor Code, and trade unions were expected to play a balancing role in representing workers' interests. However, observers criticized what they consider to be weaknesses in the proposed regime, including the absence of clear enforcement mechanisms to ensure that an employer engages in good faith collective bargaining and other obligations, and provisions that favor the designation of a majority union as the exclusive bargaining agent. For example, if more than one trade union is represented at an enterprise, the new Code calls for the formation of a joint body based on proportional representation to select a single representative body for workers during the collective bargaining negotiations. If the unions fail to agree on such a body within 5 days, the trade union representing the majority of workers at the enterprise is given the right to represent all workers during these negotiations. While minority unions retain their seats at the negotiating table with the right to join the negotiations up until the actual signing of an agreement, labor experts say the above measures could encourage larger trade unions to obstruct the formation of a negotiating team to ensure their designation as exclusive bargaining agents.

Labor experts also were concerned about a number of other provisions of the Code and suggested that the approach to implementation of the new Code would be crucial. The stipulation that there may be only one collective agreement per enterprise, covering all employees, could limit the ability of professional or "craft" unions (the majority of new unions in the country) to represent their members' interests. The Code also appears to restrict the possibility of concluding a nation-wide agreement at an occupational or professional level (in view of the broad definition of industry in the country) that would address concerns limited to a single profession or occupation. There also was a risk that existing unions would be dominated by employers under the new labor relations scheme, particularly in industries with oligopolistic structures.

Collective bargaining agreements had been registered officially by an estimated 16 to 18 percent of enterprises; however, the FNPR claimed that approximately 80 percent of its enterprises had concluded such agreements. This apparent discrepancy appeared in part due to agreements that were concluded but not registered with the Ministry of Labor. Under the new Labor Code, collective bargaining and wage agreements must be registered within 7 days of signature by all parties to the agreement; however, there are no sanctions in the event that a collective agreement is not registered. The new Code states that collective agreements become effective upon signature, regardless of whether they are registered or not. As in the previous Code, there was some ambiguity concerning the employer's legal identity, which has made collective agreements ineffective in the past. This lack of clear identification under the law has made tripartite wage agreements (with labor, management, and government participation) nonbinding at the municipal, regional, national, and industrial levels and has brought their legal validity into question. Even after an agreement was signed, employers often claimed that the "employer representative" was not authorized to represent the factory involved.

The Moscow Labor Arbitration Court handled the increasing number of labor violations and disputes registered each year. Ministry of Labor officials estimated that there were just over 2 million labor violations in 2001. The court is a pilot project and is expected to lead to a system of similar arbitration courts in various regions. However, a shortage of resources has limited the creation of additional courts.

The law provides for the right to strike; however, this right remained difficult to exercise. Most strikes were considered technically illegal, because the procedures for

disputes were exceedingly complex and required the coordination of information from both sides, even before courts became involved, and civil courts could review strikes to establish their legality. The new Labor Code includes further limits on workers' and trade unions' ability to conduct strikes. Approval by a majority of participants to a conference composed of at least two-thirds of all workers at an enterprise, including management, is needed, whereas previous legislation only required a quorum of workers.

The law specifies that a minimum level of essential services must be provided if a strike could affect the safety or health of citizens. Under this definition, most public sector employees cannot strike. After a trade union declares a strike, the trade union, management, and local executive authority have 5 days to agree on the required level of essential services. If no agreement is reached—which is often the case—the local executive authority simply decrees the minimal services, and often sets them at approximately the same level as the average workload. The civil court has the right to order the confiscation of union property to settle damages and losses to an employer if a strike is found to be illegal and not discontinued before the decision goes into effect. As a result, an increasing number of strikes were organized by strike committees rather than by unions. There were no prolonged strikes during the year. Overall strike activity remained relatively low, with only 80 strikes officially registered during the year. Court rulings have established the principle that nonpayment of wages—still by far the predominant grievance—is an individual dispute and cannot be addressed collectively by unions. As a result, a collective action based on nonpayment of wages was not recognized as a strike. Individuals were thus not protected by the labor law's provisions against being fired while on strike.

The law bans strikes in the railway and air traffic sector, at nuclear power stations, and by members of the military, militia, government agencies, and disaster assistance organizations. As a result, workers in these professions sometimes resorted to other forms of protest such as rallies, days of action, or hunger strikes. In early May, management at the Zleznodorozhnyi railway depot in the Moscow Oblast filed suit over the legality of a strike by a railway workers' union, arguing that the action endangered the general population and the decision to conduct a strike was not approved by a general meeting of all employees at the depot. While the court did rule the strike illegal, the court also reprimanded depot management for causing the strike by refusing to participate in the resolution of the collective labor dispute that provoked the strike. On December 25, the Transportation Ministry reached an agreement on increased wages with the Air Traffic Controllers' Union of Russia (FPAD) and the Union of Aviation Radio and Navigation Workers (PAR-RIS) that succeeded in ending a hunger strike, which had begun on December 22. The strike affected air traffic at some 304 airports in Russia.

Reprisals for strikes were common, although strictly prohibited by law. In 2001 a union of elevator maintenance employees in Tyumen conducted strikes in January and April and succeeded in gaining delayed wage payments and higher salaries from management at the elevator. However, immediately after the second strike, management reorganized operations at the elevator and demanded that all of the 250 members of the union sign new 1-year contracts in order to retain their positions. Union leadership succeeded in convincing only 38 members that such actions were not standard procedures during a reorganization. The remaining union members terminated their full-time status and also lost all the wage guarantees gained during the strike. Union membership at the elevator dropped to only 70 members.

The 1999 killing of Gennadiy Borisov, a leader of the Vnukovo Airlines Technical and Ground Personnel Union, remained unresolved. There were no reports to indicate that the authorities were actively pursuing an investigation.

Company management has sought to break up unions that conducted strikes by means of the reorganization of enterprise operations. For example, labor disputes between a local independent union of dock workers (RPD) and management at the Kaliningrad Port date back to October 1997. Following an unsuccessful strike, management restructured the port, creating a second legal entity and transferring all cargo movement to it. Workers who agreed to leave, or did not join, the union were transferred to the new unit, which provided improved conditions, and most of the remaining union members were subsequently fired. Legal maneuvers have continued on both sides, with the management refusing Court rulings in favor of the union, which has filed a case with the ILO.

In December the Government refused to permit the longtime director of the Solidarity Center, an NGO that provides technical assistance and training to workers and promotes cooperation among labor, management and government, to reenter the country. The director was a foreigner who had been resident in Russia for more than 10 years. The refusal apparently was related to her activities in support of labor actions.



There were no export processing zones. Worker rights in the special economic zones and free trade zones were covered fully by the new Labor Code and were the same as in other parts of the country.

*c. Prohibition of Forced or Bonded Labor.*—The new Labor Code prohibits forced or bonded labor, including late or incomplete wage payments (see section 6.e.); however, there were instances of the use of forced or bonded labor (see Section 6.f.). There continued to be credible reports that significant numbers of foreign workers from other countries of the former Soviet Union were forced to work without pay because their passports were held by firms that brought them into the country. There were reports that approximately 4,000 North Koreans were brought into the country to work in the construction and timber industries in the Far East, with salaries remitted directly to their government. Amnesty International charged that a 1995 Russian-North Korean bilateral agreement allows for the exchange of free labor for debt repayment, although the Government claimed that a 1999 intergovernmental agreement gave North Korean citizens working in the country the same legal protections as citizens.

Military officers reportedly sent soldiers under their charge to work on farms to gather food for their units or perform work for private citizens or organizations. The USMC reported that the practice by officers and sergeants of “selling” soldiers to other officers with a military need for personnel or to perform such private activities as building private dachas constituted forced labor. Such abuses were often linked to units in the Northern Caucasus military district. The largest single group of such complaints the USMC received between January and September 2001 concerned the Ministry of Internal Affairs.

The Labor Code prohibits forced or bonded labor by children; however, there were reports that such practices occurred (see Sections 6.d. and 6.f.). Parents who begged in underpasses and railway stations of larger cities often had their children approach passersby. ILO reports on working street children in St. Petersburg, Moscow, and Leningrad Oblast indicated that some of these children give their parents the proceeds from their begging.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The new Labor Code retains prohibitions against the regular employment of children under the age of 16 and also regulates the working conditions of children under the age of 18, including banning dangerous, nighttime, and overtime work; however, the Ministries of Labor and the Interior, which are responsible for child labor matters, did not enforce these laws effectively. Children could, under certain specific conditions and with the approval of a parent or guardian, work at the ages of 14 and 15. Such programs must not pose any threat to the health or welfare of children. The Federal Labor Inspectorate, under the auspices of the Ministry of Labor, was responsible for routinely checking enterprises and organizations for violations of labor and occupational health standards for minors. In 2001 the Labor Inspectorate reported approximately 12,000 cases of child labor violations. There was no reliable information on the number of cases in which an employer or organization was prosecuted for violating laws on child labor. Local police authorities were responsible for conducting inspections of organizations or businesses suspected of violating child labor laws; however, in practice investigations only occurred in response to complaints.

Accepted social prohibitions against the employment of children and the availability of adult workers at low wages generally prevented widespread abuse of child labor. Nonetheless, the transition from a planned to a market economy has been accompanied by drastic economic, political, and social changes, including an increase in the number of children working and living on the streets. This was largely due to a deterioration in the social service infrastructure, including access to education and health care (see Section 5). In some cases, economic hardship has undermined traditions and social customs and eroded the protection families traditionally provided to children. Children often were used by their parents to lend credence to their poverty when begging. Homeless children particularly were at risk for exploitation in prostitution or criminal activities (see Section 6.f.). There were no effective sanctions against persons using the labor of children in prostitution and pornography.

On December 25, the Duma ratified ILO Convention 182 on the worst forms of child labor.

*e. Acceptable Conditions of Work.*—The new Labor Code states that the monthly minimum wage, which was approximately \$14 (450 rubles), should not be less than the monthly official subsistence level of \$60 (1,893 rubles), which is not sufficient to provide a decent standard of living for a worker and family. Average wages decreased to \$141 (4,426 rubles) per month during the year compared with \$143 (4,657

rubles) per month during 2001. Separate legislation is still needed to determine the timeframe for raising the monthly minimum wage to the monthly subsistence level. Approximately 27 percent of the population had incomes below the official subsistence minimum; however, most workers received several times the monthly minimum wage, and the monthly minimum wage was essentially an accounting reference for calculating university stipends, pensions, civil service wages, and social benefits; it was not a number used for real salaries. Enterprises often used this number to avoid taxation by reporting the number of employees paid at the monthly minimum wage instead of reporting actual salaries. Studies have shown that over 30 percent of private sector employees earned more than their registered wage and that 10 percent of this group actually earned at least 6 times the official wage level. In addition, much of the population continued to reside in low-rent or subsidized housing and received various social services from enterprises or municipalities.

The new Labor Code retains a standard workweek of 40 hours, with at least one 24-hour rest period, and requires premium pay for overtime work or work on holidays; however, workers have complained of being required to work in excess of the standard workweek (10- to 12-hour days are common), of abrogated negotiated labor agreements, and of forced transfers.

Although the incidence of nonpayment of wages declined, it continued to be the most widespread abuse of labor legislation, especially for workers in education, research, and medicine. Under the new Labor Code, employers must pay penalties for late or partial payment and are required to pay two-thirds of a worker's salary if the worker remains idle by some fault of the employer. Proving that an employer is at fault, however, was difficult. While the overall problem of nonpayment of wages continued to diminish, total wage arrears at year's end totaled \$960 million (30.6 billion rubles). Although some enterprises still forced their employees to take wages in barter, the practice continued to decrease.

An increasing number of workers who were owed back wages sought relief through the court system, but the process was lengthy. Courts often were willing to rule in favor of employees, but the collection of back wages remained difficult. Courts often insisted that cases be filed individually, in contradiction to the Law on Trade Unions, thereby undercutting union attempts to include the entire membership in one case. This insistence also made the process lengthier and more difficult for the affected workers and exposed them to possible retaliation (*see* Section 6.b.). The practice of removing the names of workers who won judgments for back wages, but did not yet receive the wages, from the list of those permitted to buy food on credit from the company store continued.

A lack of labor mobility continued to be a problem. For various reasons, many workers were not able to move to other areas of the country in search of work. Many were constrained economically because their savings were destroyed by past inflation and the nonpayment of wages. Freedom to move in search of new employment was limited further by the system of residency permits which, although unconstitutional, was still in use in cities such as Moscow and St. Petersburg (*see* Section 1.d.). Other workers effectively were tied to enterprises that could only give them credits at the company cafeteria and grocery and the hope of future salary payments. The knowledge that workers cannot easily move across regions and find employment has made managers in some one-factory towns reluctant to lay off workers. Because of the inability of local employment agencies to provide benefits or to absorb laid-off employees from some factory towns, local governors and mayors often overturned the enterprises' decisions to lay off workers who were not really working. Other factors, such as the availability of subsidized housing and cultural ties to locations, also inhibited the movement of workers.

The law establishes minimum conditions for workplace safety and worker health; however, the Federal Labor Inspectorate within the Ministry of Labor lacked the financial and human resources to enforce these standards effectively. Workers wore little protective equipment in factories, enterprises stored hazardous materials in open areas, and smoking was permitted near containers of flammable substances. Funds remained limited for safety and health in the workplace.

The new Labor Code provides workers with the right to remove themselves from hazardous or life-threatening work situations without jeopardy to their continued employment; however, labor inspectorate resources to enforce this right remained limited. In addition, workers were entitled to such compensations as shorter hours, increased vacations, extra pay, and pension benefits for working under such conditions; however, the pressure for survival often displaced concern for safety, and the risk of industrial accidents or death for workers remained high, although reliable statistics on accident and death rates at the workplace were not available. Miners were known to remove the supports from mineshafts and sell them for scrap metal, while doctors and nurses sold health and safety equipment at hospitals to patients'

families in order to supplement salaries that often remained below the minimum subsistence level.

In late 2001, a train engineer at the Zheleznodorozhniy railway depot in the Moscow Oblast was disciplined and denied a bonus for refusing to climb on top of a train car to inspect its condition. Routine roof checks at the depot were generally performed by staff who were equipped with special safety gear to protect them from live electrical wires and possible falls from the 15-foot-high cars; however, management required train engineers to perform this task when on the road, since internal railroad safety regulations did not list such tasks as dangerous. On the other hand, inter-industrial safety regulations included this task among dangerous occupations. The train engineer subsequently filed a suit against management; however management refused to appear, and the case was settled out of court.

Foreign workers residing and working legally in the country were entitled to the same rights and protections provided to citizens under the law. Foreign workers residing and working illegally in the country may be subject to deportation but may seek recourse through the court system. There were credible reports that several thousand Ukrainians and Belarusians were living and working illegally in Moscow and other larger cities for significantly lower wages than Russian workers and under generally poor conditions. The Labor Code prohibits forced or compulsory labor; however there were reports that foreign workers were brought into the country to perform such work (see section 6.c.).

*f. Trafficking in Persons.*—The law does not specifically prohibit trafficking in persons, and although other provisions of the law may be used to prosecute traffickers, trafficking in women and children was a problem. There were no reliable estimates of its scope, but observers believed that trafficking was widespread. There were reports that the corruption of government officials facilitated trafficking.

Although no specific legislation addresses trafficking, several articles of the Criminal Code may be used to prosecute trafficking effected by force. For example, the law provides for a punishment of up to 5 years' imprisonment for the unlawful violation of the country's borders by a "group of persons in prior arrangement or by an organized group either using violence or the threat of violence." The law prohibits forcing a person into sexual activity, drawing a person into prostitution by force or threat of force, and organizing and maintaining a house of prostitution. The law punishes those who use forged documents to smuggle persons across a border; crossing the country's borders without required documentation is punishable by a fine or imprisonment of up to 2 years; however, under the law, it was extremely difficult to prosecute a trafficker who persuades an adult victim to leave the country with him voluntarily, even for purposes of prostitution. It is much easier to prosecute a trafficker of minors, although the age of consent is 14. Prostitution is not a crime, although a 2001 revision of the Administrative Code made prostitution and pimping administrative violations (see Section 5). Fraud was the most frequent basis for prosecuting traffickers; however, the Government rarely investigated or prosecuted cases of trafficking of adults. Using fraud laws, Republic of Kareliya authorities attempted to prosecute individuals who trafficked young women to the United States. Republic authorities were unable to establish that the company concerned knew that the women would be defrauded once they were in the United States. The authorities consider that most of the illegal activity such as forced labor, sexual abuse, and deprivation of wages, takes place outside the country's borders and therefore is not within their jurisdiction.

Law enforcement bodies took the trafficking of children more seriously. In 2001, with the help of foreign law enforcement agencies, authorities were able to break up three major domestic child pornography rings during the year, which the police believed victimized hundreds of children.

The Russian Federation was a country of origin for trafficking in persons, particularly in the trafficking of women. Women reportedly were trafficked to European Union countries, the Middle East, Asia, and the United States. For example, reportedly 15,000 women and children were trafficked into "sex slavery" in China. Some believed that fraud statutes could be used as a basis for the prosecution of those who arrange for the contracting and transportation of the victims but also that an international cooperative law enforcement investigation would be required to establish such a link, an effort beyond the capacity of many local law enforcement organs. Efforts to prosecute such cases in Kareliya ended in acquittals. The country also served as a transit and destination country for women trafficked from the Caucasus and Central Asia to Western Europe. There were reports that women from Tajikistan, Ukraine, and other countries of the former Soviet Union were trafficked to Russia. There also were reported cases of Korean women trafficked to the country. NGOs alleged that organized crime increasingly was involved in trafficking in women and children, but reliable data were not available.

According to U.N. statistics, 63 percent of the registered unemployed were women, and many women were single parents facing a sharp decrease in social services since the end of the Soviet welfare state. These factors rendered increasing numbers of women from all educational backgrounds vulnerable to traffickers. Advertisements offering high-paying jobs abroad to young and attractive women were extremely common. MVD officers reported that most traffickers were criminal groups recruiting under the guise of employment agencies. Many traffickers placed ads in newspapers or public places for overseas employment; some employed women to pose as returned workers to recruit victims; some placed Internet or other ads for mail order brides; some were recruited by partners or friends. Women responded to such advertisements, usually paying their traffickers a fee for the service, for visa assistance, for their tickets, and often for other expenses. Upon arrival they are deprived of their travel and identification documents, and often all other personal effects, and forced to work in prostitution and other industries. Victims also were threatened with violence and told they were in violation of local law in order to frighten them away from local law enforcement agencies. They were isolated linguistically and removed from their social and family support systems, rendering them totally dependent upon their traffickers.

According to credible media reports, some employers forced workers from countries of the former Soviet Union—such as Uzbekistan—to work without pay. Employers or the individuals who brought the workers into the country withheld the workers' passports or other documentation and threatened them with exposure to law enforcement or immigration authorities if they demanded payment. At times the recruiter demanded part or all of the worker's wages to avoid deportation.

There were reports that children were kidnapped or purchased from parents, relatives, or orphanages for sexual abuse, child pornography, and the harvesting of body parts. When police investigated such cases, they sometimes found that these children were adopted legally by families abroad; however, there were confirmed cases of children trafficked for sexual exploitation. National law enforcement authorities believed that there was a brisk business in body parts, but international law enforcement and other organizations found no evidence to support this claim. Trafficking also was alleged to occur within the country's borders in the form of transport of young women from the provinces to the major cities to work as strippers and prostitutes. The more remote and impoverished the region the more vulnerable persons were to enticement. Many believed that these young women became involved voluntarily in prostitution; however, police confirmed that there was an element of coercion involved in prostitution that involved organized criminal groups. Men also reportedly were trafficked for their physical labor.

There were reports that individual government officials took bribes from individuals and organized trafficking rings to assist in issuing documents and facilitating visa fraud. Law enforcement sources agreed that often some form of document fraud was committed in the process of obtaining external passports and visas, but they were uncertain to what extent this involved official corruption rather than individual or organized criminal forgery and fraud. There were reports of prosecutions of officials involved in such corruption. The penalty for violating border laws with fraudulent documents was up to 3 years. The penalty for taking bribes was 3 to 7 years. Those who were charged with more than one crime received heavier sentences.

Government officials at the highest level, and most law enforcement agencies, acknowledged that a trafficking problem exists. Law enforcement bodies took no specific measures to prevent the export of women for the purpose of sexual exploitation. The belief that women were aware of the risks involved but choose to go anyway was pervasive. Criminal prosecution generally followed cooperation with international law enforcement structures. The MVD believed that the problem of trafficking in persons was primarily the responsibility of the Ministry of Foreign Affairs and consular services abroad. In October 2001, President Putin transferred responsibility for migration and immigration issues, including trafficking, to the MVD. Interior Minister Gryzlov oversaw a commission to develop programs for addressing problems including trafficking. The MVD, the FSB, and the Procuracy sought to cooperate with foreign governments on ways to combat trafficking, and law enforcement agencies participated in foreign-funded training programs; however, these agencies were not optimistic about reversing the trend through law enforcement alone. They all stated that better legislation was necessary before any law enforcement response was possible.

NGOs claimed that Russian consular officials abroad refused to help trafficked women. The MFA confirmed that it had no policy on assistance to victims of trafficking and was working to create appropriate guidance. Victims rarely filed complaints against the agencies that recruited them once they returned to the country,

reporting that fear of reprisals often exceeded their hope of police assistance. Law enforcement authorities acknowledged that they rarely opened a case following such complaints because often no domestic law was broken, and law enforcement authorities are evaluated according to the number of cases they close.

There were no government initiatives to bring trafficking victims back to the country. Unless deported by the host country, women had to pay their own way home or turn to international NGOs for assistance. Women reported that without their documentation, which was often withheld by traffickers, they received no assistance from Russian consulates abroad. The Government did not provide direct assistance to trafficking victims. Victims of trafficking could turn to a crisis center or other NGOs that render assistance to female victims of sexual and other kinds of abuse (*see* Section 5). Many of the more than 55 crisis centers and anti-trafficking NGOs throughout the country provided information on trafficking and some provided assistance. NGOs that were members of the "Angel Coalition" claimed to have rescued a few women and have assisted several trafficking victims to reintegrate upon return to the country. These NGOs received varying degrees of support from regional and local governments. Some were invited to brief local officials and law enforcement personnel, and some provided training to local crisis centers and hospital staff. The Duma Committee on Legislation also sought the input of NGOs in its project to develop anti-trafficking legislation. Some foreign-funded crisis centers, such as the Anna Crisis Center in Moscow and the Women's Center in the Republic of Kareliya, provided psychological consultations for trafficking victims. In September a new center, partially funded by the Lutheran Church, opened in St. Petersburg to provide help to victims of trafficking. NGOs continued their activities in the areas of public education and victim support. For example, during the year, with the assistance of Winrock International, 28 NGOs in 12 cities of the Far East and Siberia provided economic empowerment training to 900 women in an effort to prevent trafficking.

## SAN MARINO

San Marino is a democratic, multiparty republic. The popularly elected Parliament (the Great and General Council—GGC) selects two of its members to serve as the Captains Regent (co-Heads of State). Captains Regent preside over meetings of the GGC and of the Cabinet (Congress of State), which has 10 other members (Secretaries of State) also selected by the GGC. The Secretary of State for Foreign Affairs has some of the prerogatives of a prime minister. The judiciary is independent.

Elected officials effectively controlled the centralized police organization (the Civil Police), which was responsible for internal security and civil defense; the Gendarmerie, a military group that was responsible for internal security and public order; and the Guardie di Rocca, a military group that was responsible for external defense and occasionally assisted the Gendarmerie in criminal investigations.

The country had a total population of approximately 25,000. The principal economic activities were tourism, farming, light manufacturing, and banking. In addition to revenue from taxes and customs, the Government also derived revenue from the sale of coins and postage stamps to collectors throughout the world and from an annual budget subsidy provided by the Italian government under the terms of the Basic Treaty with Italy.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse. Some remnants of legal and societal discrimination against women remained, particularly with regard to the transmission of citizenship. San Marino was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that government officials employed them.

Prison conditions generally met international standards. Male prisoners were held separately from female prisoners, as were juveniles from adults and pretrial detainees from convicted prisoners. The Government permitted visits by independent human rights monitors.

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The law prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected this provision in practice.

The judicial system requires that the country's lower court judges be noncitizens, with the aim of assuring impartiality; most lower court judges are Italian. A local conciliation judge handles cases of minor importance. Other cases are handled by the non-Sammarinese judges who serve under contract to the Government. The final court of review is the Council of Twelve, a group of judges chosen for 6-year terms (four of whom are replaced every 2 years) from among the members of the GGC.

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice. Violations were subject to effective legal sanction.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press, including academic freedom.

Access to the Internet was unrestricted.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The law does not provide for the granting of refugee or asylee status in accordance with the 1951 U.N. Convention or its 1967 protocol. Asylum or refugee status is granted by an act of the Congress of State; however, the Government did not formally offer asylum to refugees. The Government has permitted a few individuals to reside and work in the country, and the Government cooperated with the Office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The issue of the provision of first asylum did not arise during the year.

There were no reports of the forced return of persons to a country where they feared persecution.

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

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

There were no legal impediments to the participation of women in politics. In the past, women have served on the Council, including as Secretary of State for Internal Affairs and as Captain Regent; however, no women served in such positions during the year. Women held positions in the mainstream party organizations.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were no domestic human rights organizations, although the Government did not impede their formation. The Government had declared itself open to investigations of alleged abuses by international NGOs, but there have been no known requests.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The law prohibits discrimination based on race, disability, language, or social status. The law also prohibits some forms of discrimination based on sex; however, vestiges of legal as well as societal discrimination against women remained.

*Women.*—The law provides for the protection of women from violence, and occurrences of such violence, including spousal abuse, were rare.

Several laws provide specifically for the equality of women in the workplace and elsewhere. In practice there was no discrimination in pay or working conditions. All careers were open to women, including careers in the military and police as well as the highest public offices.

The citizenship law provides that both men and women may transmit citizenship either through birth or naturalization. The children of male citizens only need to state their intent to retain citizenship whereas the children of female citizens must state their “desire” to retain citizenship; it is not clear if this will affect the transmission of citizenship in practice.

According to Foreign Ministry sources, several hundred children of citizen women who are married to noncitizen men and reside in the country opted to become citizens during the year. Reportedly most children of citizens residing abroad did not take this opportunity during the year.

*Children.*—The Government was committed to children’s rights and welfare; it amply funded systems of public education and medical care. Education was free until grade 13 (usually age 18), and compulsory until age 16. Most students continued in school until age 18. No differences were apparent in the treatment of girls and boys in education or health care, nor was there any societal pattern of abuse directed against children.

*Persons with Disabilities.*—There was no discrimination against persons with disabilities in employment, education, or in the provision of other state services.

A 1992 law established guidelines for easier access to public buildings, but it never has been implemented fully.

*Section 6. Worker Rights*

*a. The Right of Association.*—By law all workers (except the armed forces but including the police) are free to form and join unions, and workers exercised this right in practice. The law sets the conditions for the establishment of labor unions. Union members constituted approximately half of the country’s work force (which numbered approximately 10,300 citizens plus 4,000 resident Italians). Trade unions formally were independent of the Government and the political parties; however, trade unions had close informal ties with the political parties, which exercised strong influence over them.

Unions may freely form or join federations and affiliate with international bodies.

*b. The Right to Organize and Bargain Collectively.*—The law gives collective bargaining agreements the force of law and prohibits antiunion discrimination by employers, and workers exercised these rights. Effective mechanisms existed to resolve complaints. Negotiations were conducted freely, often in the presence of government officials (usually from the Labor and Industry Departments) by invitation from both the unions and the employers’ association. Complaints generally were resolved amicably by a “conciliatory committee” composed of labor union and business association representatives and government officials.

Workers in all nonmilitary occupations have the right to strike. In May following over a decade without strikes or with brief sector-wide and company strikes, a 1-day general strike was called to support the labor unions’ request for the approval of new contracts in the public administration and industrial sector.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The minimum working age and compulsory education age ceiling is 16 years. The Ministry of Labor and Cooperation permits no exceptions. The law does not limit children between the ages of 16 and 18 from any type of legal work activity.

*e. Acceptable Conditions of Work.*—The legal minimum wage during the year was approximately \$1,200 (1,229 euros) per month, which afforded a decent standard of living for a worker and family. Wages generally were higher than the minimum.

The law sets the workweek at 36 hours in public administration and 37½ hours in industry and private business, with 24 consecutive hours of rest per week mandated for workers in either category.

The law stipulates safety and health standards, and the judicial system monitors these standards. Most workplaces implemented the standards effectively, but there were some exceptions, notably in the construction industry, where not all workers, particularly foreign workers hired for a specific contract, consistently abided by safety regulations such as work hour limitations. The Government monitored closely the implementation of safety regulations in the construction industry, but improvement has been slow.

Two laws treat foreign workers differently from citizens of the country: The first prohibits indefinite employment status for foreign workers with nonresident status; and the second requires non-Italian foreign workers to obtain an Italian residence permit before they can apply for employment. In practice these provisions limited the application of unemployment benefits to foreigners because such benefits were granted for a period of 12 months.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

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## SLOVAK REPUBLIC

The Slovak Republic became an independent state in 1993, following the dissolution of Czechoslovakia. The Constitution provides for a multiparty parliamentary democracy, with power shared between a popularly elected President and the 150-member Parliament. Rudolph Schuster was elected for a five-year term in the first direct presidential elections in May 1999. In the fall, a reform-oriented government, led by Prime Minister Mikulas Dzurinda, was reelected after parliamentary elections. Both elections were declared free and fair by the Organization for Security and Cooperation in Europe (OSCE). The Constitution provides for an independent judiciary, and several amendments to strengthen the status of the courts were implemented during the year; however, corruption and inefficiency within the judiciary were serious problems.

The national police had sole responsibility for internal and border security. With the exception of the Slovak Information Service (SIS), which reported directly to the Prime Minister, all security forces were under the Ministry of the Interior. A parliamentary commission composed of legislators from ruling and opposition parties oversaw the SIS. Civilian authorities maintained effective control of the security forces. Some members of the police and SIS forces committed human rights abuses, although the performance of the security forces, particularly the police, continued to improve during the year. Some members of the police were investigated for committing past human rights abuses, particularly against the Roma minority.

The country's population was approximately 5.4 million. The economy was a mixture of heavy industry, with a long tradition in steel and iron production, manufacturing, processing of raw materials, and agricultural commodities. Industry and the banking sector have been largely privatized. In the first half of the year, the private sector generated approximately 88.2 percent of the GDP. Real annual economic growth was 3.9 percent during the same period, and inflation was at an all-time low in July, falling to 2 percent. The unemployment rate was approximately 18.5 percent nationwide, but it approached 30 percent in some regions, and was virtually 95 percent in most Roma settlements. The nominal average monthly wage was \$368. The country provided citizens with unemployment benefits of approximately 90 percent of the average wage.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Police officers allegedly on occasion beat and abused persons, particularly Roma. A few politicians used discriminatory language against minorities election campaigns during the year. Skinhead attacks on Roma and other minorities continued. The number of prosecutions of racially motivated crimes increased during the year, but some NGOs alleged that a number of hate crimes were not thoroughly investigated and the perpetrators were not punished. Ethnic minorities, particularly Roma, faced considerable societal discrimination. Domestic violence against women and children remained a problem. Trafficking in women also remained a problem, particularly among Roma. Reform of the country's political and economic structure led to an invitation in December to join the European Union (EU) in May 2004. The Slovak Republic was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting of in Seoul, Republic of Korea, as a participant.



## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

Seven police officers, who were charged with torture and inhuman and degrading treatment in the 2001 death of a Rom, Karol Sendrei, were dismissed from the police force. Investigation of the case was completed in September; however, the four defendants remaining in detention applied for release and their request was pending at year's end, further delaying the beginning of the trial. The investigation into the alleged involvement of the Mayor of Magnezitovce in this incident was reopened after a judgment from the Supreme Court, although on a lesser charge of bodily harm.

Newly appointed Interior Minister Vladimir Palko continued many reforms of the previous Interior Minister, particularly in the areas of abuse of power and anticorruption. However, further reform is needed at the municipal police level, where the majority of the abuse occurred.

The police officer who shot and killed a 21-year-old Rom during an interrogation in 1999 was found guilty of not securing his weapon and suspended for 1 year. The complaint filed by the European Roma Rights Center remained pending before the European Court of Human Rights (ECHR) at year's end.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, on occasion both national and municipal police allegedly beat suspects in custody, primarily Roma. Many reports of police misconduct pointed to local police forces. In 2001 the U.N. Committee Against Torture (CAT) expressed concern for inadequate police investigation concerning violence against Roma citizens and excessive force used by police officers.

Police reportedly used pressure and threats to discourage Roma from pressing charges of police brutality (*see* Section 1.e.). Credible sources stated that at times police contributed to the problem of violence against Roma by not thoroughly investigating attacks against them in a timely and thorough manner, or by coercing Roma not to submit potentially incriminating evidence (*see* Sections 1.e. and 5.).

Skinhead attacks against Roma and other minorities occurred during the year. There were reports that police were not actively and effectively investigating skinhead attacks. However, the new Police Center for Monitoring Extremist Activities organized several raids on suspected meeting places of extremist groups and cooperated on fact finding investigations with NGOs during the year. The police also created a methodology for investigating racially motivated crimes and produced information pamphlets and cards to identify neo-Nazi symbols and clothing.

In July Ivan Lexa was extradited from South Africa to face eleven criminal charges in the country. The prosecutor filed an appeal to the Supreme Court to also allow prosecution for the abduction case of the son of former president, Michal Kovac. However, the amnesty granted by Former Prime Minister Meciar was upheld by the court during the year; he remained in custody on other charges at year's end.

Prison conditions generally met international standards. Men and women were held separately, as were juveniles from adults, and pretrial detainees from convicted criminals.

The Government permitted visits by independent human rights observers. The Slovak Helsinki Committee was still attempting to obtain government approval to observe prison conditions at year's end.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

A person accused or suspected of a crime must be given a hearing within 48 hours (or a maximum of 72 hours in serious cases) and either be released or remanded by the court. During this time, the detainee has the right to an attorney. If remanded by a court, the accused is entitled to an additional hearing within 48 hours, at which time the judge either releases the accused or issues a substantive written order placing the accused in custody.

Investigative detention may last 18 to 40 days, with further pretrial detention permitted. The total length of pretrial detention may be extended every 6 months for up to 3 years. If the Supreme Court determines that the person constitutes a serious danger to society, the period of detention may be extended up to 5 years. However, there were a number of instances during the year when criminals were released from detention allegedly due to the influence of organized crime elements, personal connections, or bribery of judiciary officials. In September the Minister of Justice Carnogursky threatened to recall a district judge who missed a deadline re-

sulting in the release of seven suspected members of an organized crime syndicate charged with murder. In another incident, investigators threatened to charge three Supreme Court Justices with a complaint after they reversed the decision of a lower court, releasing Ivan Lexa, former head of the SIS, from pretrial custody after his extradition from South Africa to face eleven charges, including abuse of power and complicity in kidnaping. Lexa was taken back into custody in December, when he was charged with ordering the 1996 murder of Robert Remias (*see* Section 1.c.).

The law allows family visits and provides for a court paid attorney if one is needed. There was a bail system. Detainees have the right to see an attorney immediately and must be notified of this right; however, one NGO reported that in practice, not all detainees were notified of their rights.

Noncitizens may be held for up to 6 months for identification purposes, but most applied for asylum and were released. NGOs contracted by the UNHCR periodically monitored the detention facilities and offered legal counsel. While asylum applications were pending, detainees were transferred to a refugee reception center and were held for 30 days in quarantine. Applicants for asylum were then transferred to a refugee center. Noncitizen children in detention facilities and reception centers were not offered access to education, but access to physicians was provided.

The law allows monthly family visits upon request, and receipt by detainees of a package of up to 10 pounds every 2 weeks. Attorney visits were allowed as frequently as necessary, and consular visits were allowed upon request by a judge.

The Constitution prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for courts that are independent, impartial, and separate from the other branches of government; however, there were reports of problems with corruption and inefficiency in the judiciary. In the past, critics alleged that the independence of the judiciary was undermined by its dependence on the Ministry of Justice for logistical and administrative support. In March amendments to the Constitution formally recognized the relationship between the Ministry of Justice and the Judicial Council, an independent organization of lawyers and judges. This council provided recommendations to the Ministry on issues pertaining to budgets, schedules, appointments, and judicial evaluations; however, it was not convened until September, when funds were made available. Another amendment abolished the 4-year probationary period for judges and they are now appointed for life. The controversial Supreme Court President Stefan Harabin was reelected in December, despite allegations that he granted unbalanced year-end bonuses to influence votes. However, his formal appointment was delayed when his opponent took legal action, claiming that voting procedures violated his rights. Harabin allegedly broke an unwritten rule by casting a vote for himself. Many activists credibly alleged that some judges were corrupt. Public perception of corruption and inefficiency in the judiciary remained at a very high level. According to a recent World Bank report, 25 percent of households involved in court procedures admitted to paying a bribe to an official of the judiciary.

The court system consists of 55 district courts and 8 regional courts, with the Supreme Court as the highest court of appeals. There is a separate Constitutional Court with no ties to the Ministry of Justice that considers constitutional issues. In addition there is a separate military court system; its decisions may be appealed to the Supreme Court and the Constitutional Court. Under the Constitution, the President appoints Constitutional Court judges to 12-year terms based upon parliamentary nominations; the number of Justices recently increased to 13.

Under the law, persons charged with criminal offenses are entitled to fair and open public trials, although in practice observers stated that corruption among judges could infringe on a persons right to a fair trial. Individuals have the right to be informed of the charges against them and of their legal rights, to retain and consult with counsel sufficiently in advance to prepare a defense, and to confront witnesses. Defendants enjoy a presumption of innocence. Defendants also have the right to refuse to incriminate themselves, and they may appeal any judgment against them. According to existing legislation, suspects are also presumed innocent during the appeal process, and if that process lasts more than 3 years, the suspect must be released. Occasionally criminals were released from prison because they did not have a complete trial within the 3-year time limit. Lengthy pretrial detention remained a problem.

Human rights observers continued to charge that police investigators were reluctant to take the testimony of witnesses, particularly Roma, regarding skinhead attacks on Roma. They also contended that on occasion, police failed to investigate cases of skinhead violence when the skinheads did not admit to the crime (*see* Sections 1.c. and 5). Some NGOs reported that the police operated under severe constraints, including insufficient resources and a lack of modern equipment. In addition, only evidence collected by the investigator during the 48-hour detention period

can be considered in the decision whether or not to hold the suspect. However, human rights observers also reported that in practice, police used countercharges or threats of countercharges to pressure Roma victims of police brutality to drop their complaints. They also reported that in practice medical doctors and investigators cooperated with police by refusing to describe accurately the injuries involved, and that lawyers often were reluctant to represent Roma in such situations for fear that it would have a negative effect on their law practices.

Credible sources stated that it was increasingly difficult for indigent citizens and marginalized groups, such as minorities and persons with disabilities, to obtain non-criminal legal representation, making it more difficult for some who believed their rights were violated to take legal action. In 2001 the Ministry of Justice initiated a program in which free legal advice was offered in seven cities every Wednesday for 5 hours; however, a legal NGO claimed that a more systematic approach was necessary. The Slovak Bar Association cooperated with the Ministry of Justice on several projects and encouraged their members to provide free legal services. The bar association has the authority within their bylaws to ask lawyers to accept indigent cases under certain conditions. During the year, the Association received 200 such applications and was only able to identify 8 available lawyers. They were also unable to identify funding for programs that would have increased legal representation for indigent citizens.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law provides for these rights; however, at times the authorities infringed on these rights in practice. The Criminal Code requires police to obtain a search warrant in order to enter a home. The court may issue such a warrant only if there is a well-founded suspicion that important evidence or persons accused of criminal activity are present inside, with few exceptions. Police must present the warrant before conducting the search or within 24 hours afterwards. Some Roma activists alleged that occasionally local police have entered Roma homes without a search warrant. This was reportedly most common in the eastern part of the country.

The law regulates wiretapping and mail surveillance for the purposes of criminal investigation, which may be conducted by order of a judge or prosecutor only in cases of extraordinarily serious premeditated crimes or crimes involving international treaty obligations. Late in the year, the Chairman of the Alliance of New Citizens (ANO), Pavol Rusko, received information that his telephone communications were monitored. The Ministry began an investigation into his allegations. In previous years, other prominent politicians made similar allegations, for examples, SMK Chairman Bela Bugár and the founder and chair of the “Smer” Party, Robert Fico, made similar allegations. There were also reports that the SIS actively monitored members of the Church of Scientology (*see* Section 2.c.).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected this right in practice. The media generally was free and uncensored; however, in at least one case in 2001, the President used libel laws to suppress criticism of political or other leaders; some human rights activists criticized the section of the Penal Code that prohibits defamation of the state. In June Parliament passed an amendment nullifying two paragraphs of the Criminal Code on the defamation of public officials after a temporary suspension of those provisions by the Constitutional Court. However, Parliament and the Constitutional Court upheld paragraph 156, which classifies libel against public officials performing the duties of their office as a misdemeanor. Individuals reported that they were able to criticize the Government without fear of reprisal.

In November 2001, Parliament passed an amendment to the Penal Code criminalizing the “denial or belittling of the Holocaust.” The Penal Code stipulates that anyone who publicly demonstrates sympathy towards fascism or movements oppressing human rights and freedoms can be sentenced to jail for up to 3 years. During the year, NGOs and police successfully removed web sites that propagated racism from servers.

Independent newspapers and magazines regularly published a wide range of opinions and news articles that were distributed nationwide. There were nine national dailies, as well as a sports daily and several weeklies. According to statistics from the Ministry of Culture, funding provided for cultural activities and media in minority languages rose overall by approximately \$415,816 (16.3 million crowns). However, difficulties continued for a growing number of publications competing for funds.

Three boards appointed by a majority vote of Parliament supervised radio and television broadcasting. The national Radio and Television Council established broad-

casting policy for state-owned television and radio. The National Council for Radio and Television Broadcasting issued broadcast licenses and administered advertising laws and other regulations. The Radio and Television Council issued 24 radio and 82 television and cable television licenses during the year. There were no reported incidents of government interference in radio or television during the year.

During the year, the International Press Institute contacted President Schuster to express concern that the Supreme Court President's office threatened to file a libel action in a criminal court against a journalist reporting about corruption in the judiciary. The regional court in Zilina upheld a ruling against the daily *Novy Cas* to pay \$127,551 (5 million crowns) in damages to Mayor Jan Slota for an article printed in 1999. The newspaper had not paid the fine and was considering pursuing the case in the Supreme Court at year's end.

Although Parliament passed amendments nullifying paragraphs 102 and 103 of the Penal Code, the Prosecutor did not reclassify the case against Ales Kratky, a writer for the daily *Novy Cas*, for defamation of a public official as a misdemeanor. The Office of the President did not pursue further action and the case was closed.

In April the Slovak Syndicate of Journalists and the Association of Publishers of Print Media founded a Press Council to preserve ethical standards in journalism and examine pending complaints against media institutions. The Council consisted of representatives from a variety of professions and backgrounds. From its establishment in April until the end of the year, the Council received 16 complaints and made five decisions; however, there were complaints about the Council's ineffectiveness, since it was not given the authority to enforce its decisions.

There were complaints that the media failed to represent minorities. The NGO MEMO 98 continued to monitor the media's treatment of minorities during the year, and found that the majority of reporting about minorities was dominated by information on Roma and one-fifth of the reports were incorrect. It asserted that 32 reports violated Council of Europe recommendations on the treatment of ethnicity.

In January 2001, a new Freedom of Information Act went into effect that grants citizens access to virtually all unclassified information from national and local government offices. More than 1,000 requests were submitted to the Government last year, and several resulted in lawsuits. During the year, Parliament approved two laws giving access to documents on intelligence operations between 1939–89, and created the Institute for the Memory of the Nation. The Institute was empowered to open files to the public and contribute to investigations of crimes from the Communist and Fascist-era.

The Government did not censor books, films, or plays. The Government did not limit access to the Internet; Internet use was not widespread, but was more common in the urban areas.

The Government did not restrict academic freedom. The President formally appointed professors to universities based on the recommendations of the universities. As part of planned decentralization of education, regional schools were transferred from the Ministry of Education to local governments. A new and controversial university law was passed during the year, liberalizing funding possibilities for public schools. While the Faculty of Medicine at Comenius University began a program to encourage Roma applicants, the low percentages of minorities at the university level remained a problem. The use of bribery by some students to improve their chances for acceptance into some prestigious faculties reportedly resulted in unequal access to higher education for economically disadvantaged students.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. No official state religion exists; however, the Catholic Church, the dominant faith in terms of membership, received significant state subsidies.

In November 2001, the Government signed an international treaty with the Vatican, which provides the legal framework for relations between the Catholic Church, the Government, and the Vatican. In April the Government signed an agreement with an additional 11 registered churches and religious groups in an attempt to counterbalance the Vatican agreement with the Catholic Church and provide equal status to the remaining registered churches.

Registration of churches is not required, but under existing law, only registered churches and religious organizations had the explicit right to conduct public worship services and other activities. However, no religions were banned or discouraged by the authorities in practice. Government subsidies for clergy and office expenses were provided in a nondiscriminatory way to registered religions that sought it. However,

only 16 registered churches qualified for support, thus disadvantaging some smaller faiths.

The Government monitored, although it did not interfere with, religious “cults” and “sects.” The Ministry of Interior actively monitored the Church of Scientology and its members. Some Scientologists complained of harassment by the Slovak Information Service (SIS). Several stories appeared in the media that were critical of companies that have ties to Scientology.

Anti-Semitism persisted among some elements of the population. Despite protests by the Federation of Jewish Communities and National Party members—and although not supported politically by the current government—the official cultural organization Matica Slovenska continued its efforts to rehabilitate the historical reputation of Jozef Tiso, the leader of the Nazi-collaborationist wartime Slovak State.

In February Parliament passed an amendment that allows the compensation to Jewish Holocaust victims who lived in the country’s territory when it was occupied by Hungary. The Law 305 compensates the victims or direct heirs of Nazi persecution during World War II in the wartime Slovak State.

A group of skinhead musicians, “Judenmord,” (Murder of Jews) established a web site and participated in several concerts in the country as well as in the neighboring Czech Republic.

Incidents of desecration and vandalism of Jewish cemeteries by skinheads continued, to which authorities responded promptly and appropriately.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, there were some limits on these rights for Roma.

According to a legal rights NGO, although the law requires state administrators to register all citizens, some local police officers refused to give registration stamps to Roma citizens, which in turn prevented them from receiving social benefits and housing (see Section 5).

Roma continued to seek asylum in Western European countries, although to a lesser degree than in previous years. Belgium, where Slovakia once had the highest number of asylum seekers, reported only 635 claims from 18,805 during the year, compared to 1,000 claims from 25,000 in 2001. Many organizations claimed that most asylum seekers migrated to receive financial benefits motivated by the lack of available economic opportunities rather than concerns about human rights. In 2001 the Parliament passed legislation directing border police to check travel documents more closely. Although this proposal did not specifically mention Roma, human rights organizations criticized government attempts to interfere with the rights of Roma to travel freely.

The law includes provisions for granting of asylum and refugee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees.

The law provides for “tolerated residence”—first asylum—which allows refugees to remain in the country for a designated period of time if their life would be threatened by a forced return to their home country. During the year, 15 refugees were granted first asylum. The Government occasionally adopted specific resolutions in response to a crisis, allowing for the temporary acceptance of refugees who did not wish to enter the asylum process. During the year, the Government passed such a resolution for Afghan refugees.

According to National Migration Office statistics, by year’s end, 20 persons received asylum out of a total of 9,743 applications. During the year, 47 refugees completed the required 5-year residency period and were granted Slovak citizenship, bringing the total number of those granted citizenship since 1993 to 99. Out of 8,382 applications reviewed during the year, 8,053 cases were terminated because asylum seekers disappeared from refugee camps or left the country. NGOs claimed that the location of refugee camps close to the borders, and the lengthy asylum process were both contributing factors to the high number of cases terminated because of the disappearance of applicants.

During the year, Parliament passed a new Asylum Law that brought existing legislation closer to the European Human Rights Convention. The new law broadens the grounds for granting asylum and temporary protection and formalizes cooperation with NGOs. Most importantly, it outlines the administrative procedures for the appeal process. Additionally, the courts may examine individual appeal cases according to substance, rather than remaining limited to judgments solely on whether procedural requirements were followed. Several NGOs noted that border police par-

ticipated in sensitivity training at various times throughout the year, and that initial processing was improved as a result.

According to the Slovak Helsinki Committee, refugees faced serious difficulties integrating into society and were often victims of skinhead violence, as well as discrimination when seeking employment (*see* Section 5).

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully and citizens exercised this right through periodic, free, and fair elections held on the basis of universal suffrage. All citizens over the age of 18 were eligible to vote by secret ballot; however, there was no system of absentee voting for those outside of the country during elections. The Constitution reserves certain powers for the President as Chief of State (and directly elected by citizens), but executive power largely rests with the Prime Minister. Legislative power is vested in the National Council of the Slovak Republic (Parliament).

The head of government was Prime Minister Mikulas Dzurinda, who took office for a second term after free and fair elections in September. The country was a multiparty, multiethnic parliamentary democracy. The Government did not restrict the functioning of political opponents, including their right to publicize political opinions.

The most recent national elections, held in September, were declared free and fair by the OSCE. The media's reporting in general was unbiased, with the exception of Markiza, the most popular private station, co-owned by the Chairman of ANO, Pavol Rusko. According to independent NGO observers such as MEMO 98, the prime time reporting of Markiza was not balanced and favored ANO. Police guarded several districts in Poprad during the national elections after several racially motivated attacks were reported. Local Roma activists claimed that Roma were afraid to go to the polls.

There were 29 women parliamentarians in the 150-member Parliament; however, no women received a ministerial posting. Overall, participation of women in the decision-making process continued to be disproportionate. Out of 2,618 candidates in the parliamentary elections; only 604 were women (23.1 percent) and only 4.8 percent were directly elected. According to an NGO observing the elections for gender sensitivity, only one party in the Government devoted part of its platform to discrimination issues; others only linked women's rights to the family. In the previous year's regional elections, women fared slightly better, receiving 17.3 percent of the positions.

The large ethnic Hungarian minority, whose coalition gained 20 seats in Parliament in the September elections, was well represented in Parliament and the Government. Many large, mainstream political parties promised to place Roma candidates on their list; however, only five received positions on a total of three lists, and none were elected to Parliament. According to human rights lawyers, several politicians used discriminatory language about minorities in election campaigns during the year.

### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. The Government established a Council for the Nonprofit Sector as an advisory body. The law requires that foundations register and have substantial financial resources in order to operate. This eliminated some foundations, primarily inactive ones; however, no organization was denied registration or faced any other limitations on their operations. Some NGO leaders continued to allege that the Government was sometimes unresponsive to their requests.

A 2001 amendment to the income tax law allows individuals to donate one percent of their taxes to nonprofit groups. NGOs collected approximately \$2.2 million (more than 97 million crowns) from approximately 325,000 citizens, about a third of the maximum allowed by the amendment. In April Parliament extended the amendment to allow corporations to donate one percent of their corporate taxes, which was expected to help increase domestic funding for NGO activities. However, Parliament did not create a special government endowment for NGOs from privatization revenues.

Several human rights NGOs expressed extreme dissatisfaction with the work of the National Center for Human Rights and questioned the effectiveness of the Center's use of state funds. The Center sponsored conferences, released publications, and received \$100,000 (5 million crowns) annually from the state budget. In the past, the Center refused any government oversight, claiming it represented government interference and threatened the independence of the center. The Parliamentary Committee for Human Rights approved amendments to the law to empower the Supreme Audit Office to oversee accounts funded by the state budget.

On March 19, the National Council elected the first Human Rights Ombudsman, Pavol Kandrak, over the candidate supported by most of the NGO community. The office became operational in September and received over 1,800 complaints, as many as 30 per day. Most complaints were about pensions, health care, and other social issues. No information was available regarding the resolution of these complaints by year's end. According to the Office, no complaints were received on behalf of a minority group during the year. The Government cooperated with international human rights organizations and domestic monitors.

In May 2001, the U.N. Committee Against Torture criticized police for the use of excessive force and inadequate investigation of violence against Roma citizens (*see* Section 1.c.). In October the OSCE expressed concern over growing skinhead violence in the country.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The law prohibits discrimination and provides for the equality of all citizens; however, enforcement of the law was inconsistent, and some minority groups have reported that their members often received no government assistance with complaints about discrimination. The Roma minority, immigrants, and homosexuals were frequently victims of societal violence. In some cases, police were found to condone such attacks by their unwillingness to investigate them fully (*see* Sections 1.a. and 1.c.).

*Women.*—Violence, particularly sexual violence against women, remained a serious and underreported problem. One NGO's research showed that 38 to 40 percent of women were victims of domestic violence. A 2000 national poll indicated that as many as one in five women were subjected to some form of physical abuse in the home. Police estimated that two-thirds of female rape victims failed to report their cases. Police treated spousal abuse, other violence against women, and child abuse in the same way as other criminal offenses. Sections of the Criminal Code specifically address rape, sexual abuse, and trafficking in women (*see* Section 6.f.).

The law does not recognize or define the term domestic violence. In June new amendments to the Criminal Code relating to domestic violence were passed and were scheduled to be implemented by early 2003. The laws strengthen victims' rights by expanding the definition of possible perpetrators to include people other than spouses, defining better specific acts of violence that are prosecutable, and increasing sentences for perpetrators. The amendments also changed the Criminal Procedural Code, the Act on Minor Offenses, and the Civil Procedure Code. However, NGOs were still lobbying for an additional amendment that would physically remove and ban the offender from the victim's place of residence. The police can only hold a suspect for 24 hours; then they must wait 7 days for the court to decide whether to remove an accused attacker from the victim's home. According to one NGO, there were 39 places for women and children in the Government system, but only one safe house with the capacity to house 8 women. In addition, there were six crisis centers for women and children outside the Government framework, with three specifically for the victims of domestic violence.

An international NGO began a study examining allegations of coerced and forced sterilization of Roma women during the year. It had not been published by year's end.

Prostitution is legal; however, the Code prohibits activities related to prostitution such as renting apartments for prostitution, spreading sexually transmitted diseases, or trafficking in women for the purpose of prostitution. Trafficking in women was a problem (*see* Section 6.f.).

Women are equal under the law. They have the same rights as men to property, inheritance; however, discrimination against women remained a problem in practice. According to studies, women received approximately 85 percent of men's wages for the same work; however, "the same work" is not defined precisely. On average women earned 22 percent less than men. Women's issues were made part of the responsibilities of the Parliamentary Committee for Human Rights, Nationalities, and Women.

The Gender Center for Equal Treatment of Men and Women was an independent NGO that cooperated with the U.N. Development Program (UNDP) and the Govern-

ment. The Center dealt mainly with claims of unfair treatment of women in the workplace; however, it also focused on mobilization and job creation for women. The Government's Coordinating Committee for Women's Affairs, which included NGO representatives, has still done little to implement a national action plan meant to reduce violence against women, protect women's health, and reduce women's economic disadvantages.

*Children.*—The Government was committed to children's rights and welfare; it maintained a system of public education and health care. The Ministry of Labor oversaw implementation of the Government's programs for children. The Constitution, the Law on Education, and the Labor Code each addressed part of the issue of children's rights. There also was a system of financial assistance for families with children. Education was universal, free, and compulsory for 9 years, or until the age of 15; however, this requirement was not enforced strictly, particularly for the Roma minority. Parents may be prosecuted for not sending their children to school; officials claimed that enrollment was 100 percent. While most ethnic Slovak and Hungarian children attended school on a regular basis, a high percentage of Roma children failed to regularly attend school; the percentage increased with higher grade levels in school.

Child abuse remained a problem and was underreported. Experts from various state institutions dealing with child abuse claimed that there were significant discrepancies between official figures on violence against children and the actual situation. Among the most frequent crimes committed against children were nonpayment of child support, sexual abuse, and beatings. According to independent studies, 25 percent of all children were punished physically on a regular basis.

The Family Law was amended during the year, further defining the rights of children. Previously, NGOs remarked that the law protected aggressors rather than the victims. In article 68, the law specifies that children in state custody may be adopted if a parent does not show consistent interest in a child under institutional care for a minimum of 6 months.

The Commission on the Rights of the Child in the Ministry of Social Affairs provides information to children regarding their rights. UNICEF has operated a hot line for children for the past several years, receiving close to 13,500 calls per month. Most of the calls have been from girls outside of the capital, Bratislava; half of the callers have been between the ages of 11 to 14. There were several grant organizations that supported educational campaigns and projects for abused or disabled children.

Child prostitution is not addressed specifically in the Criminal Code, but is covered by more general provisions in the law. The Penal Code contains a provision outlawing child pornography.

Trafficking of girls for the purpose of prostitution was a problem (*see* Section 6.f.).

Activists claimed that children were increasingly born into poverty and that this phenomenon affected the Roma minority in particular. It has resulted in an increased number of Roma children being abandoned, either at the hospital, immediately after birth, or during infancy. These children became wards of the state and were sent to orphanages.

*Persons with Disabilities.*—The Constitution and implementing legislation provide for health protection and special working conditions for persons with mental and physical disabilities, including special protection in employment relations and special assistance in training. A 1994 decree provided incentives to employers to create a "sheltered" workplace (i.e., a certain percentage of jobs set aside for persons with disabilities). The law also prohibits discrimination against persons with physical disabilities in employment, education, and the provision of other state services; however, experts have reported that discrimination in the accessibility of premises and access to education, particularly higher education, remained a problem. During the year, the country joined a project called Leonardo da Vinci, which is an information network to support university education for persons with disabilities.

Although not required specifically by law, a government decree mandates accessibility for new public building construction. The decree provides for sanctions but lacks a mechanism to enforce them. A spokeswoman for an NGO dealing with persons with disabilities stated that due to pressure from a number of NGOs and the willingness of the Dzurinda government, accessibility has been improving, particularly regarding new construction and public buildings.

Several new government initiatives for persons with disabilities were implemented during the year. While there was a government-based Council for Citizens with Disabilities, the Government also formed a Coordinating Committee for People with Disabilities in May, which served as an advisory body to the Government for



persons with disabilities. Parliament passed significant legislation during the year improving social assistance for persons with severe disabilities.

*National/Racial/Ethnic Minorities.*—The Constitution provides minorities with the right to develop their own culture, receive information and education in their mother tongue, and participate in decision-making in matters affecting them, although there was no comprehensive law against discrimination; however, violence and discrimination against minorities, particularly Roma, continued. The Government continued to provide funding for cultural, educational, broadcasting, and publishing activities for the major ethnic minorities.

According to the Law on the Use of Minority Languages, in places where a minority constitutes at least 20 percent of the population, the minority language can be used in contacts with government officials. In July 2001, the Government ratified the European Charter for Regional or Minority Languages. NGO members reported that these two laws have conflicting language and that neither has been properly implemented.

The largest minority was the ethnic Hungarian minority, whose SMK political party again was an active member in the governing coalition. It was concentrated primarily in the southern part of the country, and its population, according to the most recent census in 2001, was 520,528. Tensions between the Hungarian Coalition and partner political parties fluctuated during the year, reflecting the ongoing discussions between the Slovak government and the Government in Hungary over the Status Law. Decentralization to provide more autonomy to regions in education, land ownership, and restitution of confiscated property continued to be an issue for the large Hungarian minority.

In 2001 the Slovak National Party (SNS), which employed strongly nationalist rhetoric, split into two parties because of internal disagreements, and neither party was able to cross the 5-percent threshold to enter Parliament.

Higher education opportunities in the Hungarian language were limited. Approximately 2 percent of ethnic Hungarians in the country attended university, compared to 4.8 percent of Slovaks. Ethnic Hungarians claimed many ethnic Hungarian students chose to attend university in Budapest because they wanted to study in Hungarian. A Hungarian university remained one of the highest priorities for the Slovak-Hungarian Party, and it has been included in the new government program.

Roma constituted the second largest ethnic minority, estimated by experts to number up to 500,000, although according to the most recent census in 2001, there were 90,000 Roma in the country. NGOs maintained that Roma continued to be reluctant to identify themselves because they feared discrimination.

Cases of police brutality continued to be reported. The former Minister of Interior made several attempts to remedy the problem, including the adoption of a new Police Code of Conduct in February. In Kosice two police officers were found not guilty of beating Roma while off duty. Eyewitness testimony of the events conflicted, and the case was expected to be pursued in a higher court. The Ministry of Interior made several attempts to remedy the problem, including the adoption of a new Police Code of Conduct in February.

Skinhead violence against Roma continued to be a serious problem. The NGO People Against Racism reported that although Police were increasingly responsive in their efforts to monitor and control the skinhead movement, the problem persisted. They also reported that the skinhead movement continued to grow and became more organized, and estimated that there were approximately 500 to 800 skinheads and 3,000 to 5,000 skinhead sympathizers. They also stated that skinheads had been targeting members of other ethnic and national groups as well as Roma.

In June three skinheads were prosecuted for causing serious bodily harm with racial motivation against 19 year-old Daniel Milan. The court handed down varying sentences from 4½ years to 4 months for a passive observer of the attack. In December the regional court of Bratislava sentenced a skinhead to 4 years in jail in connection with the murder of Ignac Mezei, a Rom murdered in April 2001.

During the year, the police recorded 109 racially motivated attacks, of which the police solved 76 cases. The majority of incidents took place in the district of Bratislava, and the highest number of prosecutions was in the district of Zilina. Only 27 cases were considered to be of an extremely violent nature, out of which 18 were prosecuted. The Roma were the most frequent targets of these attacks.

On February 28, 15 unknown men attacked residents in 3 family houses in the village of Ganovce, causing bodily harm to numerous Roma. Although, the Poprad Police initially denied the crime was racially motivated, on March 13, the primary investigator classified the case as racially motivated and raised the qualification of the act from bodily harm to grievous bodily harm. On April 26, the Poprad Police decided to close the case because it had failed to collect sufficient evidence to accuse

certain individuals. The case was subsequently reopened and was pending at year's end.

On February 12, the Kosice Police Chief refused to shake hands with a Romani journalist, Denis Havrlova, asking her to present a health certificate before agreeing. The police chief later resigned under pressure from the Ministry of Interior as a result of this incident.

Roma suffered disproportionately from high levels of poverty and unemployment. Credible reports by human rights monitors indicated that Roma continued to suffer from discrimination in employment, housing, schooling, health care, and the administration of state services. Discrimination was most severe in the eastern part of the country, where unemployment was higher and the Roma population was larger. Among Roma living in settlements in the east, the unemployment rate was estimated to be nearly 95 percent. In urban areas in the east, incidents of Roma being denied admission to certain hotels, restaurants, and swimming facilities were reported widely.

According to the Office for Protection of Legal Rights (KPO), Roma often were segregated in hospitals, particularly in maternity wards, and some said Roma received inferior care. The 2000 case regarding allegations that maternity wards were segregated was closed based on lack of evidence. According to press reports, physicians denied any segregation and claimed Roma women did not want to share rooms with non-Roma. Many NGOs alleged that segregation in schools continued and the newly established police commission tasked with improving relations with minorities also noted that segregation in schools existed. Roma children were disproportionately placed in special schools for the mentally retarded, in many cases due to their insufficient knowledge of the Slovak language. The Act on Public Service was amended in June to introduce assistant teachers for elementary and preschools. This step was intended to facilitate the integration of Roma children into the standard educational system.

In March the Government adopted a second Action Plan to prevent all forms of discrimination, racism, xenophobia, anti-Semitism, and other forms of intolerance. It included plans to train professional groups about tolerance, promote activities in schools, strengthen government bodies dealing with the fight against racism, and enhance cooperation between state institutions and NGOs in preventing discrimination and adopting anti-discrimination legislation.

The Government Plenipotentiary for Roma Communities appointed in 2001, Klara Orgovanova, and established an informal Advisory Board with a large number of representatives from the Roma community and civil society. A regional office was opened in October 2001 in Presov, in eastern Slovakia, where the majority of Roma resided. In April the Government approved Resolution 357, and outlined the priorities of the office.

The budget of the Office of the Plenipotentiary was approximately \$1,403,000 (55 million crowns). NGOs continued to allege that the Office lacked sufficient authority because the position was not established by law and as an adjunct of the Prime Minister's Office it lacks statutory authority to present material to the Government. After the parliamentary elections, members of the coalition government proposed altering the structure and the strategy of the office. The office received funding from the state budget, but its status was still undecided at year's end.

On March 19, the country's first Human Rights Ombudsman, opposition candidate Pavol Kandrak, was elected. By law the Ombudsman should assist in protecting the fundamental rights and freedoms in cases where public administration bodies have violated the legal system or rule of law. A budget of approximately \$600,000 (2.3 million crowns) was allocated to the office, which was expected to have a staff of 30.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right to form and join unions, except in the armed forces, and workers exercised this right. Approximately 45 percent of the work force were unionized. Unions were independent of the Government and political parties; however, they continued to lobby those entities in order to gain support for union positions on key labor issues. A new labor code was drafted over the course of several years, representing a joint effort between the Ministry of Social Affairs and the unions. The new code changed more than half of the previous statute.

The Law on Citizens' Associations prohibits discrimination by employers against union members and organizers. Complaints may be resolved either in collective negotiations or in court. If a court rules that an employer dismissed a worker for union activities or for any reason other than certain grounds for dismissal listed in the

Labor Code, the employer must reinstate the worker. There were no reports of abuses targeted against unions or workers.

Unions were free to form or join federations or confederations and to affiliate with and participate in international bodies, and they did so in practice.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining. A new controversial labor law took effect on April 1, affecting most labor statutes. Both the private sector and representatives of labor unions alleged certain provisions limited workers' rights and new amendments were being negotiated.

The Constitution provides for the right to strike; however, according to this law, a strike is legal and official only if it is for the purpose of collective bargaining, if it is announced in advance, and if a list of strike participants is provided. There were no instances of retribution against strikers or labor leaders. Relevant legislation on collective bargaining prohibits the dismissal of workers legally participating in strikes; however, if a strike is not considered official, strikers are not ensured protection. There were no national strikes during the year.

The law regulates free customs zones and customs warehouses. Firms operating in such zones must comply with the labor code; there have been no reports of special involvement by the trade unions to date. No special legislation governs labor relations in free trade zones.

*c. Prohibition of Forced or Bonded Labor.*—Both the Constitution and the Employment Act prohibit forced or bonded labor, including by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law sets the minimum employment age at 15 years. Problems with child labor were nearly nonexistent and existing legislation was effectively implemented and enforced.

All types of employment are prohibited for children under 15 years of age. Children under the age of 16 may not work more than 33 hours per week, be compensated on a piecework basis, work overtime or night shifts or work underground or in specified conditions deemed dangerous to their health or safety. The minimum age for hazardous work was 18. The law that relates to child labor applies to all sectors of employment; however, the more stringent regulations apply only to certain sectors. For example, the minimum age for mining was 21. The revised labor code requires that employment of children younger than 15 in artistic professions, including modeling and acting, also be approved by the National Labor Inspector's Office of the Ministry of Labor.

The country had adequate laws and regulations for the implementation and enforcement of measures to prohibit the worst forms of child labor. Civil fines were the legal remedy available to government agencies. A first offender can be fined up to \$11,494 (500,000 crowns), while a repeat offender can be required to pay up to \$22,989 (1 million crowns). The enforcement remedies have proven adequate to deter violation to date. The country has established formal institutional mechanisms to investigate and address complaints relating to allegations of child labor. Child labor complaints were received and investigated by district inspection units. When a complaint was registered, an inspector would visit the worksite and inspect the contract. If it is determined that a child labor law or regulation has been broken, the case is turned over to the national inspection unit of the Ministry of Labor. Furthermore, the Government requires employers to submit significant characteristics about their employees into a national database managed by the Ministry. This new requirement facilitated better monitoring of firms.

*e. Acceptable Conditions of Work.*—The minimum wage was \$142 (5,570 crowns) per month; even when combined with special allowances paid to families with children, the minimum wage did not provide a decent standard of living for a worker and family. The Ministry of Labor was responsible for enforcing the minimum wage; no violations were reported. The standard workweek mandated by law is 42.5 hours, although collective bargaining agreements achieved reductions in some cases (most often to 40 hours). For state enterprises, the law requires overtime pay up to a maximum of 8 hours per week, and 150 hours per year, and provides 5 weeks of paid vacation annually. Private enterprises can compensate their employees for more hours of overtime than stipulated by the law. There is no specifically mandated 24-hour rest period during the workweek. The trade unions, the Ministry of Labor, and local employment offices monitored observance of these laws, and authorities effectively enforced them.

The Labor Code establishes health and safety standards that the Office of Labor Safety generally enforced effectively. For hazardous employment, workers underwent medical screening under the supervision of a physician. They have the right

to refuse to work in situations that endanger their health and safety and may file complaints against employers in such situations. Employees working under conditions endangering their health and safety for a certain period of time are entitled to paid "relaxation" leave in addition to their standard leave.

The country is largely a transit point without a significant illegal underground labor market.

*f. Trafficking in Persons.*—The law specifically prohibits all forms of trafficking in persons; however, there were instances of trafficking in women and girls for prostitution.

The Law Against Trafficking in Persons was strengthened and implemented on September 1. According to the statute, an individual involved in the trafficking of persons can receive a sentence of 3 to 10 years. However, if the offender is a member of a crime syndicate, the sentence is from 12 to 15 years. According to official statistics from 2001, six people were prosecuted for the trafficking of women and six people were prosecuted for procurement (a person who makes a profit from the prostitution of a trafficked person). During the year, there were 17 reported cases of trafficking under Article 246, and the Ministry of Justice reported that 32 cases were prosecuted and convicted. According to government offices, many women who worked abroad did not want to testify, which made prosecutions of these cases difficult.

The changes in the Criminal Code further defined trafficking in human beings and took steps toward the implementation of the U.N. Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women in Children. The Government signed the protocol in November 2001, but had not ratified the treaty in Parliament by year's end.

The Government focused attention on trafficking during the year by creating a new Investigative Unit at the Ministry of Interior. The new trafficking unit was established in June to gather information and investigate agencies with suspicious activity. The office worked in close international cooperation with local NGOs and the International Office of Migration (IOM). The U.N. Office for Drug Control and Crime Prevention began a new technical cooperation project aimed at improving legal enforcement and strengthening international cooperation. Slovak police attorneys and investigators traveled to the Czech Republic, Austria, and Belgium on training tours. Police received training to identify and handle cases of victims of trafficking at the Police Academy.

The country is an origin, transit point, and destination for victims of trafficking. There were reports that women were trafficked to France, Germany, and the Czech Republic. Exact numbers of women and girls trafficked abroad for prostitution were unknown.

A report issued in 2001 by the Ministry of Interior stated that the country was a transit point for persons being trafficked from Ukraine and Russia mainly to Austria, the Czech Republic, and Germany for the purpose of prostitution. It reported that women from Russia and Ukraine were trafficked through the country on their way to countries such as Turkey, Greece, Italy, Germany, and Serbia, where they also were forced to work as prostitutes.

Although previously the Slovak Republic primarily was a country of origin, women from less prosperous Eastern European countries (including Russia, Belarus, Ukraine, Romania, and Bulgaria) found themselves trafficked through and to the Slovak Republic. Women, mostly Ukrainian and Russian, were lured to the country with the promise of work as domestic servants or waitresses. However, when they arrived, their documents allegedly were stolen and they were forced to work as prostitutes or in nightclubs and threatened with violence if they attempted to escape. Young women also were recruited through agencies (which offered false opportunities) or through personal contacts of owners or employees of hotels, casinos, entertainment or prostitution establishments.

During the year, police, with assistance from German police, arrested seven members of a trafficking gang from the southwestern part of the country. According to a press report, police suspected the involvement of a low-level government employee. Over the course of 8 years, the gang procured at least 60 young women, some claimed to be sold for \$255 (10,000 crowns) abroad. The traffickers lured some into prostitution by promising a good salary or debt forgiveness, and others were forced through violence. The women were sent to Germany, Poland, Switzerland, and France. The head of the gang was previously prosecuted for sex trafficking in France and had been banned from the EU for a period of 5 years. In total, the gang made an estimated profit of \$127,000 (5 million crowns).

The Act on Protection of Witnesses and the Act on Compensation of Damages allowed the Government to give more assistance to victims of trafficking. A special unit for the protection of witnesses was established within the Police Presidium and

an inter-ministerial committee granted the protection. Deportation of foreigners may be postponed if a person is in the witness protection program. According to the IOM, foreign victims of trafficking were usually sent to detention centers, where they remained for 30 days after which they were usually sent back to their country of origin. NGOs and the IOM reported that victims feared returning to their home countries because of the stigma attached to trafficking victims. There was very little legal, medical, or psychological assistance for victims of trafficking. According to NGO activists, government agencies such as customs and police officers treated victims poorly, since many law enforcement officials believed that victims were not forced, but rather chose their fate.

There were no national organizations in the country focused solely on the issue of trafficking. However, local organizations successfully repatriated victims of trafficking and carried out public awareness campaigns on a regional and municipal level.

There reportedly was not enough attention paid to the issue of trafficking in the media or in public education campaigns during the year. According to a 2000 IOM study, 50 percent of young women surveyed did not know the methods or tactics employed by traffickers.

## SLOVENIA

Slovenia is a parliamentary democracy and constitutional republic. Power is shared between a directly elected president, a prime minister, and a bicameral legislature. Free, fair, and open elections characterize the political system. In December Janez Drnovsek was elected President in a runoff election. The judiciary is independent.

The police were under the effective civilian control of the Ministry of the Interior, which was responsible for internal security. By law the armed forces did not exercise civil police functions. Members of the security forces occasionally committed human rights abuses.

The country has made steady progress toward developing a market economy. The population was approximately 2 million. The Government continued to own approximately 50 percent of the economy, particularly in the financial sector, utilities, and the port of Koper. Manufacturing accounted for most employment, with machinery and other manufactured products constituting the major exports. Unemployment was 6 percent according to International Labor Organization (ILO) standards, but registration for unemployment assistance was 11.7 percent. Inflation was 7.5 percent during the year, while real Gross Domestic Product grew at an estimated 3.2 percent rate.

The Government generally respected the human rights of its citizens, and the law and the judiciary provided effective means of dealing with individual instances of abuse. Police in several cases allegedly used excessive force against detainees. An ombudsman dealt with human rights problems, including citizenship cases. Credible sources alleged that media self-censorship existed as a result of indirect political and economic pressures. Violence against women was a problem. National minorities (including former Yugoslav residents without legal status) reported some governmental and societal discrimination. Trafficking in women through and to the country for sexual exploitation was a problem. Reform of the country's political and economic structure led to an invitation in December to join the European Union in May 2004. Slovenia was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, human rights observers alleged that police in several cases used excessive force against detainees. The Criminal Code does not separate out torture as a criminal act, but such crimes are prosecuted based on the nature of each incident (i.e., severe physical injury, extreme injury, or extortion of a statement).

There were no reported incidents of police abuse against Roma.

The claims of police beatings of Danko Brajdic, a Rom, all were dismissed as groundless, and the case was closed in 2001.

Prison conditions generally met international standards; however, jails were overcrowded. During the year, there were 1,710 individuals housed in prisons, of which 65 were adult females and 13 were juveniles. Male and female prisoners were held separately, juvenile offenders were held separately from adults, and convicted criminals were held separately from pretrial detainees.

The Government permitted prison visits by independent human rights observers and the media, and such visits took place during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The authorities must advise detainees in writing within 24 hours, in their own language, of the reasons for the arrest. Until charges are brought, detention may last up to 6 months; once charges are brought, detention may be prolonged for a maximum of 2 years. Persons detained in excess of 2 years while awaiting trial or while their trial is ongoing must be released pending conclusion of their trial (see Section 1.e.). During the year, 1,221 persons were in pretrial detention. The problem of lengthy pretrial detention was not widespread and defendants generally were released on bail, except in the most serious criminal cases. The law also provides safeguards against self-incrimination.

The Constitution prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. The judiciary generally provided citizens with a fair and efficient judicial process.

The judicial system consists of district courts, regional courts, courts of appeals, an administrative court, and the Supreme Court. A nine-member Constitutional Court rules on the constitutionality of legislation, treaties, and international agreements and is the highest level of appeal for administrative procedures. Judges, elected by the National Assembly (Parliament) upon the nomination of the Judicial Council, are constitutionally independent and serve indefinitely, subject to an age limit. The Judicial Council is composed of six sitting judges elected by their peers and five presidential nominees elected by the Parliament.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Constitutional provisions include equality before the law, presumption of innocence, due process, open court proceedings, the right of appeal, and a prohibition against double jeopardy. Defendants by law have the right to counsel, and the State provides counsel for the indigent. These rights were generally respected in practice, although the judicial system was overburdened and as a result, the judicial process frequently was protracted. In some instances, criminal cases reportedly have taken from 2 to 5 years to conclude the trial (see Section 1.d.). For example, a nongovernmental organization (NGO) criticized the Government for prosecuting two police officers 6 years after their alleged mistreatment of a German citizen.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the protection of privacy, “personal data rights,” and the inviolability of the home, mail, and other means of communication, and the Government generally respected these rights and protections in practice. Violations were subject to effective legal sanction.

#### *Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, there were reports that indirect political and economic pressures continued to influence the media, resulting in occasional self-censorship. There were credible reports that advertisers pressured media outlets to present various issues in certain ways, which resulted in little separation of marketing and editorial decision-making.

The press was active and independent; however, major media did not represent a broad range of political or ethnic interests. Four major independent daily and several weekly newspapers were published. The major print media were supported through private investment and advertising, although cultural publications and book publishing received government subsidies. Numerous foreign broadcasts were available via satellite and cable. All major towns had radio stations and cable television. Numerous business and academic publications were available. A newspaper was published for the ethnic Italian minority who lived on the Adriatic Coast. Bosnian refugees and the Albanian community had newsletters in their own languages. Foreign newspapers, magazines, and journals were widely available.

Six national television channels were available. Three were part of the Government-subsidized RTV Slovenia network, and three were independent, private stations. There were approximately 35 small, local television stations, and the RTV Maribor studio began regional programming in September, which included new programming in Hungarian. There was also an Italian-language television channel. Radio programming was available in Slovene, Italian, Hungarian, English, and German.

The election law requires the media to offer free space and broadcasting time to political parties at election time. Television networks routinely provided public figures and opinion makers from across the political spectrum access to a broad range of programming and advertising opportunities.

In August the ongoing investigation into the February 2001 beating of investigative journalist Miro Petek was transferred from jurisdiction in the town of Slovenj Gradec, where the attack took place, to Maribor. The State Prosecutor indicated that the Slovenj Gradec prosecution office had worked in a "fair and competent" manner but chose to withdraw from the case due to pressure from "the public, media, and personal contacts." While some hoped the case could be handed over to a team of prosecutors for special cases, due to the publicity surrounding it, the required legal basis for doing so—proof that the attack was masterminded and committed by an organized criminal cartel—could not be established. The attack also was under separate investigation by a special Parliamentary commission.

Access to the Internet was unrestricted.

The Constitution provides for autonomy and freedom for universities and other institutions of higher education, and the Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. These rights can be restricted only by an act of Parliament in circumstances involving national security, public safety, or protection against infectious diseases.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

There were no formal requirements for recognition as a religion by the Government. Religious communities must register with the Government's Office for Religious Communities if they wish to be registered as legal entities, and registration entitles such groups to value-added tax rebates on a quarterly basis. All groups in the country reported equal access to registration and tax rebate status.

After World War II, much church property owned by the Roman Catholic Church—church buildings and support buildings, residences, businesses, and forests—was confiscated and nationalized by the Socialist Federal Republic of Yugoslavia. After Slovenian independence in 1991, Parliament enacted a law calling for denationalization (restitution or compensation) within a fixed period. By September 79 percent of the 37,988 denationalization claims had been resolved completely. During the year, the Government reallocated existing resources, including judges, to reduce the backlog.

The appropriate role for religious instruction in schools continued to be an issue of debate. The Constitution states that parents were entitled to give their children "a moral and religious upbringing." Only those schools supported by religious bodies teach religion.

On October 14, two plain clothes police officers arrested Amela Djogic, the wife of Mufti Osman Djogic, for failing to produce proper identification documents when requested to do so. She was released with a fine and an official warning once her husband brought her passport to the police station. The Djogics accused authorities of having singled her out for such treatment because she was wearing a headscarf. After investigating the issue, a special police commission concluded on November 5 that the officers acted improperly. New guidelines for police identification procedures were implemented and all officers immediately were informed of new conduct regulations.

The unresolved issue of a site for construction of a Ljubljana mosque and cultural complex gained increased media attention at the end of the year, with both supportive editorials and negative stereotyping appearing in the national media.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice. Limitations on these rights may be made only by

statute and only where necessary in criminal cases, to control infectious disease, or in wartime.

The Constitution provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government has provided asylum (or temporary protection) to refugees on a very limited basis; the country had granted refugee status to only 8 persons since 1990. The issue of the provision of first asylum did not arise during the year.

There were no reports of the forced return of persons to a country where they feared prosecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The Constitution provides for elections at least every 4 years. The President proposes a candidate to the legislature for confirmation as Prime Minister, after consultations with the leaders of the political parties in the Parliament.

In the November elections, none of the nine presidential candidates won a simple majority. In the December runoff election, Janez Drnovsek was elected.

There were no restrictions on the participation of women or minorities in politics. There were 12 women in the 90-seat Parliament and 3 women in the 40-seat National Council. A total of 3 of 16 cabinet ministers were female. Barbara Brezigar, the primary challenger among the presidential candidates, was well supported throughout the country, and received 44 percent of the popular vote.

The Constitution provides autochthonous minorities some special rights and protections. Only the Italian and Hungarian minorities are considered to be autochthonous, a legal term that applies to populations that historically have occupied a defined territory and is similar in concept to the term indigenous. These minorities were entitled to have at least one representative in the Parliament, regardless of their population; other minority groups not defined as autochthonous, such as Roma, did not enjoy this provision. However, in May Parliament enacted amendments to the Law on Local Elections that provide Romani communities located in 14 municipalities a directly elected representative on their respective local councils.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international independent human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views.

An independent Ombudsman elected by a two-thirds Parliamentary majority to a 6-year term deals with human rights problems, including economic rights and property restitution. The incumbent is regarded as fair but lacks the power to enforce his findings. The Ombudsman criticized the Government for the slow pace of legal and administrative proceedings in criminal and civil cases, as well as in denationalization proceedings.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution provides for equality before the law regardless of race, sex, disability, language, or social status. The Constitution provides special rights for the autochthonous Italian and Hungarian ethnic communities, and for the small Roma community; these provisions were respected in practice.

*Women.*—Violence against women occurred and was underreported; however, awareness of spousal abuse and violence against women increased. SOS Phone, an NGO that provided anonymous emergency counseling and services to domestic violence victims, received thousands of calls throughout the year. The State partially funded three shelters for battered women. The shelters operated at capacity (approximately 40 beds combined) and turned away numerous women. In cases of reported spousal abuse or violence, the police actively intervened and prosecuted offenders. Although the law allows police to fine or arrest either male or female aggressors in cases of domestic violence, reports indicated that in practice only men were fined and arrested.

Trafficking in women for the purpose of sexual exploitation was a problem (see Section 6.f.).



Sexual harassment is not explicitly prohibited by law; however, it can be prosecuted under sections of the Criminal Code that prohibit sexual abuse. Sexual harassment and violence remained serious problems.

State policy provides for equal rights for women and there was no official discrimination against women or minorities in housing, jobs, or education. Under the Constitution, marriage is based on the equality of both spouses, and the Constitution stipulates that the State shall protect the family, motherhood, and fatherhood.

In rural areas, women, even those employed outside the home, bore a disproportionate share of household work and family care, because of a generally conservative social tradition. However, women frequently were active in business and in government executive departments. Although both sexes had the same average period of unemployment, women frequently held lower paying jobs. On average women's earnings were 85 percent of those of men.

*Children.*—The Government provided compulsory, free, and universal primary school education for children through grade 9 (ages 14 and 15). Ministry of Education statistics showed an attendance rate of nearly 100 percent of school-aged children. The Government provided universal health care for all citizens, including children. The Constitution stipulates that children “enjoy human rights and fundamental freedoms consistent with their age and level of maturity.”

Special protection for children from exploitation and mistreatment is provided by statute. Social workers visited schools regularly to monitor any incidents of mistreatment or abuse of children.

There was no societal pattern of abuse of children; however, in 2001 187 cases of child abuse were reported, 80 were prosecuted, and 55 cases resulted in convictions. There were 239 acts of sexual attack on a minor committed during the year.

*Persons with Disabilities.*—The law prohibits discrimination against persons with disabilities, and in practice the Government generally did not discriminate against disabled persons in employment, education, or the provision of other state services.

The law mandates access to buildings for persons with disabilities, and the Government generally enforced these provisions in practice. Modifications of public and private structures to ease access by persons with disabilities continued, although at a slow pace.

*National/Racial/Ethnic Minorities.*—According to the 1991 census, the population was 1.9 million: 88 percent were ethnic Slovenes, and minorities made up approximately 12 percent of the population. Most minorities were nationals of the former Yugoslavia. There were approximately 50,000 Croats, 48,000 Serbs, 27,000 Muslims, 8,500 Hungarians, and 3,000 Italians. The Constitution provides special rights and protections to Italians and Hungarians, including the right to use their own national symbols, enjoy bilingual education, and benefit from other privileges (*see* Section 3). Ethnic Serbs, Croats, Bosnians, Kosovar Albanians, and Roma from Kosovo and Albania were considered new minorities, were not protected by special provisions of the Constitution, and faced some governmental and societal discrimination.

The Ministry of Interior (MOI) approved 2,808 applications for citizenship, refused 573, and left 4,670 (58 percent) outstanding at year's end.

For many years, approximately 2,300 persons granted “temporary refugee” status after fleeing the 1992–95 conflict in Bosnia were unable to normalize their status under existing legal requirements but were entitled only to limited educational, medical, employment, and social welfare benefits. In July Parliament resolved this problem by amending the Law on Temporary Refuge, creating a 6-month window in which these persons may apply for permanent residency using an abbreviated procedure and providing integration assistance over a defined transition period.

The Roma were best characterized as a set of groups rather than as one community. Some families have lived in the country for hundreds of years, while others were recent migrants. Roma reported discrimination in employment, which in turn complicated their housing situation. The Government continued to work with the Roma community on implementation of the special legislation on Romani status called for in Article 65 of the Constitution (*see* Section 3). The Government has attempted to involve more Roma children in formal education at the earliest stages, both through enrichment programs and through inclusion in public kindergartens. Roma suffered disproportionately from poverty and unemployment.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution stipulates that trade unions, their operation, and their membership shall be free. All workers, except police and military personnel, were eligible to form and join labor organizations.

There were three main labor federations, the Association of Free Slovene Trade Unions (AFSTU), Pergram, and the Union of Slovene Rail Workers, with constituent

branches throughout the country. A fourth, much smaller, regional labor union operated on the Adriatic coast. Unions formally and in practice were independent of the Government and political parties, although individual union members held positions in the legislature. There were more than 100 active trade unions in the country. The largest union, AFSTU, had approximately 370,000 members, nearly 38 percent of the total workforce of 979,000. Pergram had roughly 25,000 members and the Rail Workers Union had approximately 8,000 members.

The law prohibits antiunion discrimination and there were no reports that it occurred.

There were no restrictions on unions joining or forming federations and affiliating with international union organizations.

*b. The Right to Organize and Bargain Collectively.*—The Government exercised a dominant role in setting the minimum wage and conditions of work; however, in the private sector, wages and working conditions were agreed upon in an annual general collective agreement between the labor unions and the Chamber of Economy. Collective bargaining remained limited.

The Economic and Social Council, comprised of government officials, managers, and union representatives, negotiated public sector wages, collective bargaining rules, and major regulatory changes. Of the 40 members of the upper chamber of Parliament—the National Council—four represented employers, four represented employees, and four represented farmers, small business persons, and independent professional persons. If a labor dispute remains unresolved, it initially is heard by district-level administrative courts and may be appealed to the Supreme or Constitutional Court, depending on the nature of the complaint.

The Constitution provides for the right to strike. The law restricts strikes by some public sector employees, primarily the police and members of the military services. Other public sector professionals, such as judges, doctors, and educators, continued to be active in labor issues. Both physicians and air traffic controllers, who were public employees, conducted strikes during the year.

Export processing zones (EPZs) existed in Koper, Maribor, and Nova Gorica. Worker rights in the EPZs were the same as in the rest of the country.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The minimum age for employment was 16, although during the harvest season or for other farm chores, younger children did engage in labor. In general urban employers generally respected the age limits.

In May the ILO Convention 182 on the Worst Forms of Child Labor entered into force. The Government had ratified it in March 2001.

*e. Acceptable Conditions of Work.*—The gross monthly minimum wage was approximately \$437 (101,611 tolar), which provides a decent standard of living for a worker and family. Parliament adopted a new Labor Law on April 25, to reduce the work week from 42 to 40 hours and increase the minimum annual leave from 18 to 20 days. It also requires all job vacancies to be announced publicly for at least 8 days, and provides guidelines to ensure fair hiring processes, among other procedural developments. The law is scheduled to take effect in January 2003.

Special commissions controlled by the Ministries of Health and Labor set and enforced standards for occupational health and safety. Workers had the right to remove themselves from dangerous work situations without jeopardy to their continued employment.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons; however, trafficking of women through and to the country was a problem. The law on “enslavement” prescribes criminal prosecution for a person who “brings another person into slavery or a similar condition, or keeps another person in such a condition, or buys, sells or delivers another person to a third party,” or brokers such a deal.

Government officials generally were not involved in trafficking, although there was anecdotal evidence that some government officials tolerated trafficking at the local level.

In 2000 the Government apprehended a suspected organized-crime boss whose alleged crimes included trafficking in persons; his trial was ongoing at year’s end. Victims were not encouraged to file complaints, and very few cases were reported to the police. The Government did not provide protection for victims and witnesses. In 2001 the Government established a National Coordinator for Trafficking in Persons and an interagency working group that based its activities on the National Strategy to combat trafficking.

The country was primarily a transit point for trafficking in persons, although it was also a destination country. Most victims were women trafficked into sexual ex-

ploitation from Ukraine, the Czech Republic, Slovakia, Moldova, Russia, Romania, and Bulgaria. They were trafficked into the country and also onward to Italy, Belgium, and the Netherlands. Slovenia was also a country of origin, but the number of women trafficked out of the country was not known and was believed to be very low.

Many women trafficked into the country were promised work as waitresses or artists in nightclubs. It was common for nightclub owners to import illegally foreign nationals into the country and arrange work permits for them as auxiliary workers and dancers. Often the promised work did not provide enough money, so the women were encouraged to turn to prostitution. Women who were victims of trafficking reportedly were subjected to violence. Organized crime was responsible for some of the trafficking. In general victims trafficked into the country were not treated as criminals; however, they usually were deported either immediately upon apprehension or following their testimony in court.

Sentences for enslavement convictions range from 1 to 10 years' imprisonment. Persons also can be prosecuted for rape, pimping, procurement of sexual acts, inducement into prostitution, sexual assault, and other related offenses. The penalty ranges from 3 months' to 5 years' imprisonment or, in cases involving minors or forced prostitution, 1 to 10 years' imprisonment. Regional police directorates had departments that investigated trafficking and organized crime.

Although the Government did not provide protection services, NGOs operated safe houses and counseling services for female victims of violence. These generally were full, and NGOs reported that a trafficking victim would not be given shelter unless she was in immediate danger. Victims of trafficking who did not have proper identity documents were given shelter at a refugee center until they could be returned to their native country. The domestic NGO Kljuc continued to work to increase public awareness of the trafficking problem, to draft a specific law against trafficking, to assist trafficked women returning home, and to improve networking among other NGOs in the region.

In an effort to prevent trafficking, the Ministry of Interior produced pamphlets and other informational materials for awareness-raising programs to sensitize potential target populations to the dangers of and approaches used by traffickers. The Ministry also worked with NGOs to assist the small number of Slovene victims with reintegration.

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## SPAIN

Spain is a democracy with a constitutional monarch. The Parliament consists of two chambers, the Congress of Deputies and the Senate. In March 2000, Jose Maria Aznar of the Popular Party was reelected Prime Minister, with the title President of the Government. The next national elections must be held by March 2004. The judiciary is independent.

Internal security responsibilities were divided among the National Police, which were responsible for security in urban areas; the Civil Guard, which policed rural areas and controlled borders and highways; and police forces under the authority of the autonomous communities of Catalonia and the Basque Country. While the security forces generally were under the effective control of civilian authorities, some members of the security forces committed human rights abuses.

The market-based economy, with primary reliance on private enterprise, provided the population of over 41 million with a high standard of living. The economy grew during the third quarter at a 1.7 percent annual rate. The annual inflation rate was 4 percent at year's end. Unemployment increased to 11.4 percent during the year, ending its downward trend.

The Government generally respected the human rights of its citizens, although there were a few problems in some areas; the law and judiciary provide effective means of dealing with cases of individual abuse. There were reports that at times security forces abused detainees and mistreated foreigners and illegal immigrants. According to Amnesty International (AI), government investigations of such abuses often were lengthy and punishments were light. Lengthy pretrial detention and delays in trials were sometimes problems. Violence against women was a problem, which the Government took steps to address. Women also faced some discrimination in the workplace. Societal discrimination against Roma and immigrants remained a problem, as did occasional violence against immigrants. Trafficking in women and teenage girls for the purpose of prostitution was a problem. Spain was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

The terrorist group ETA (Basque Fatherland and Liberty) continued its campaign of shootings and bombings, killing four persons during the year. ETA sympathizers also continued a campaign of street violence and vandalism in the Basque region intended to intimidate politicians, academics, and journalists. Judicial proceedings against members of ETA continued, and Spanish and French police arrested dozens of suspected ETA members and collaborators.

RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

The ETA, whose declared goal is to establish an independent Basque state, continued its terrorist campaign of bombings and shootings, killing four persons during the year. ETA publicly claimed responsibility for its attacks. On March 21, ETA shot and killed a Socialist councilman in the Basque town of Orío. On July 4, an ETA car bomb killed a civilian and a 6-year old girl in Santa Pola. On September 4, a bomb hidden in a banner supporting ETA's political wing, Batasuna, killed a Civil Guard member who was trying to take down the banner.

The Government continued to pursue legal actions against ETA members. The courts convicted and sentenced at least eight ETA members during the year. In July the National High Court sentenced Jose Maria Novoa, Igor Martinez de Osaba, and Alicia Saez de la Cuesta to 29 years each in prison for the murder of a Civil Guard officer in 1998. Idoia Lopez Riano was sentenced to 87 years' imprisonment for her participation in an attack that killed three persons in 1986; she later was sentenced to 53 years in prison for her participation in the murder of a National Policeman in 1985. In August the court sentenced Santiago Arrospide to 36 years and Jose Maria Dorronsor to 26 years in prison for the attack on a National Police patrol in 1987. Former ETA leader Francisco Mugica and explosives expert Jose Maria Arregui were sentenced to 743 years in prison each as accomplices in the attack on a military bus in Zaragoza in 1987 in which 2 people were killed and 28 were injured.

By year's end, police had arrested 123 ETA members and had dismantled 16 ETA commands. Authorities in France, the Netherlands, Uruguay, Switzerland, and Venezuela have arrested, and in some cases extradited to Spain, ETA members.

Several organizations were dedicated to the concerns of victims of terrorism, among them the Association of Victims of Terrorism (AVT). The AVT served 2,000 families, providing legal and psychological counseling. The Government supported its work. Under a 1999 law, the Government has compensated directly victims of terrorism and their families, including victims of the Antiterrorist Liberation Groups (government-sponsored death squads known by their acronym, GAL) in the 1980s.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, suspects charged with terrorism at times asserted that they were abused during detention, and at times other detainees. AI continued to criticize the Government for reports of brutality by security forces, particularly directed at foreigners and illegal immigrants. Human Rights Watch and AI also reported that police abused undocumented Moroccan minors (*see* Section 5). In April AI issued a report titled, "Spain, Identity Crisis, Torture from Security Forces," which included examples of torture and mistreatment by police based on racial problems.

According to AI, in January police beat U.S. citizen Rodney Mack, a musician with a Barcelona orchestra. AI reports indicated Mack mistakenly was arrested for car theft and officers only identified themselves as police after they had mistreated him. Mack and the police had complaints pending against each other at year's end.

The formal complaint of torture filed with the National High Court by Iratxe Sorzabal Diaz, an ETA suspect expelled from France, against Civil Guards remained pending at year's end.

The Government investigated allegations of torture; however, in a November report on impunity and mistreatment done for the U.N. Committee Against Torture, AI criticized the judicial process for law enforcement officials accused of torture or mistreatment.

In addition to killings, ETA bombings and attempted bombings caused numerous injuries and property damage. Several of these attempts were directed at the tourist industry, including two June car bombings in Malaga, one in Zaragoza, and another in Santander. In August ETA bombed a restaurant in Valencia. In addition to at-

tacks in tourist zones, ETA set off a car bomb in Bilbao in January, and in February a young socialist councilman lost a leg in Sestao when a bomb placed in his car exploded. Also in February, a councilman and his escort were injured in an ETA attack. During April and May, ETA set off three car bombs in Getxo. In September two ETA members died when their backpacks carrying explosives accidentally blew up. In October ETA attacked with grenades the headquarters of the Civil Guard in Urdax. As of December, the police had arrested 194 persons in connection with street violence by ETA sympathizers.

There were reports that police abused persons during political demonstrations (*see* Section 2.b.).

Prison conditions generally met international standards. However, prison unions criticized the overcrowding of prisons, which, they stated, caused an increase in the number of violent incidents. In a report compiled by the Coordinator of Solidarity with Imprisoned Persons, an umbrella prison rights nongovernmental organization (NGO), prisoners claimed they were tortured and mistreated because of their race.

In the prison system, women were held separately from men; juveniles were held separately from adults; and pretrial detainees were held separately from convicted criminals.

The Government permits prison visits by independent human rights monitors, but no such visits occurred during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. A suspect may not be held for more than 72 hours without a hearing except in cases involving terrorism, in which case the law permits holding a suspect an additional 2 days—or a total of 5 days—without a hearing. A judge may authorize incommunicado detention for terrorism suspects. AI and other NGOs have criticized this provision.

At times pretrial detention was lengthy. By law suspects may not be confined for more than 2 years before being brought to trial, unless a further delay is authorized by a judge, who may extend pretrial custody to 4 years. In practice pretrial custody usually was less than a year. By year's end, approximately 23 percent of the prison population was in pretrial detention (11,975 out of 52,049 inmates), although that number included convicted prisoners whose cases were on appeal.

The law on aliens permits the detention of a person for up to 40 days prior to deportation but specifies that it must not take place in a prison-like setting (*see* Section 2.d.).

The Constitution prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judicial structure consists of local, provincial, regional, and national courts with the Supreme Court at its apex. The Constitutional Court has the authority to return a case to the court in which it was adjudicated if it can be determined that constitutional rights were violated during the course of the proceedings. The National High Court handles crimes such as terrorism and drug trafficking. The European Court of Human Rights is the final arbiter in cases concerning human rights.

The Constitution provides for the right to a fair public trial, and an independent judiciary generally enforced this right. There was a nine-person jury system. Defendants have the right to be represented by an attorney (at state expense for the indigent). Defendants were released on bail unless the court believed that they may flee or be a threat to public safety. Following a conviction, defendants may appeal to the next higher court.

The law calls for an expeditious judicial hearing following arrest; however, the judicial process often was lengthy (*see* Section 1.d.). In cases of petty crime, suspects released on bail sometimes waited up to 5 years for trial. There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice. Under the Criminal Code, the authorities must obtain court approval before searching private property, wiretapping, or interfering with private correspondence. However, the antiterrorist law gives discretionary authority to the Minister of the Interior to act prior to obtaining court approval in “cases of emergency.”

The parents or legal guardians of a person with mental disabilities may petition a judge for sterilization of that person (*see* Section 5).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. Opposition viewpoints, both from political parties and nonpartisan organizations, were reflected freely and widely in the media.

The country had an active and independent media, with numerous newspapers, television, and radio stations at the local, regional and national level. Access to the Internet was unrestricted.

ETA and its sympathizers continued their violent campaign of intimidation against political, press, and academic professionals and organizations in the Basque country (see Sections 1.a. and 1.c.). These attacks included package bombs sent in January to the vice president of the media group Correo, Enrique Ibarra; to the director of radio network RNE; and to Marisa Guerrero of radio network Antenna 3. Security forces deactivated all bombs. According to a study done by the University of the Basque Country, 10 percent of the radio and TV journalists who work in the Basque Country have received threats by ETA. Various organizations including the World Association of Newspapers, the World Editors Forum, the International Press Institute, and Reporters Without Borders have criticized the ETA for its assaults on civil liberties and have denounced the conditions of “threat and fear” under which journalists work in the Basque Country.

The Government did not restrict academic freedom. ETA and elements of radical Basque nationalism continued to intimidate and pressure unsympathetic academics to leave the region.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

The Constitution declares the country to be a secular state, and various laws provide that no religion should have the character of a state religion; however, Catholicism was the dominant religion and enjoyed the closest official relationship with the Government. Among the various benefits enjoyed by the Catholic Church was financing through the tax system. Judaism, Islam, and many Protestant denominations had official status through bilateral agreements but enjoyed fewer privileges. Other recognized religions, such as Jehovah’s Witnesses and the Church of Jesus Christ of Latter-Day Saints (Mormons), were covered by constitutional protections but had no special agreements with the Government.

The law establishes a legal regime and certain privileges for religious organizations to benefit from this regime, religious organizations must be entered in the Register of Religious Entities maintained by the General Directorate of Religious Affairs in the Ministry of Justice. To register with the Ministry of Justice, religious groups must submit documentation supporting their claim to be religions. If a group’s application is rejected, it may appeal the decision to the courts. Religions not recognized officially, such as the Church of Scientology, were treated as cultural associations.

Leaders of the Protestant, Muslim, and Jewish communities reported that they continued to press the Government for comparable privileges to those enjoyed by the Catholic Church. Protestant and Muslim leaders would like their communities to receive government support through an income tax allocation or other designation.

The growth of the country’s immigrant population at times led to social friction, which in isolated instances had a religious component. In May arsonists burned an evangelical church in the town of Arganda del Rey, in the Madrid Autonomous Community. The church, whose congregation was predominantly Romanian, previously had been vandalized with anti-immigrant graffiti. Police arrested four youths, who according to the local mayor were associated with an ultra-right group. The arrival of large Muslim religious groups in the Catalonia region presented social problems particularly when it came to building mosques in the region. For example, in Premia de Mar, a small town north of Barcelona which became the center of confrontations between immigrants and local citizens, 5,500 Catalans gathered to protest against the construction of a mosque. An agreement was eventually signed to build the mosque in a less centrally located site. Other examples of towns where citizens refused to permit the construction of mosques are the towns of Lleida, Vendrell, Cervera and Badalona. The NGO SOS Racism commented that these events indicated a growing fear of Islam in Catalonia.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution and law provide for these rights, and the Government generally respected them in practice.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations, including the Spanish Committee for Assistance to Refugees (CEAR), in assisting refugees and asylum-seekers. Under the law, asylum requests are adjudicated in a two-stage process, with the Office of Asylum and Refugees (OAR) making an initial decision on the admissibility of the application for processing. The Interministerial Committee for Asylum and Refuge (CIAR) examines the applications accepted for processing. The CIAR included representatives from the Ministries of Interior, Justice, Labor, Foreign Affairs, and a non-voting member of the UNHCR. The Minister of the Interior must approve the decision of the CIAR in each case. According to provisional statistics as of June, of the 3,748 applications for asylum during the year, the Government granted 135 persons asylum status and admitted 45 others for humanitarian or other reasons. The largest number of applicants came from Colombia, Nigeria, Algeria, Sierra Leone, and Cuba. The law provides for first asylum, but the issue of first asylum did not arise during the year. The UNHCR advised authorities throughout the asylum process. Applicants for asylum had the right to have their applications sent immediately to the local office of the UNHCR. The authorities were not bound by the judgment of the UNHCR in individual cases, but they often reevaluated decisions with which the UNHCR did not agree. Appeals of rejection at either stage may be made to the National High Court, and appeals of the National High Court's decisions may be made to the Supreme Court.

Asylum requests may be made from outside, as well as within the country. Anyone can request asylum from a Spanish diplomatic or consular representative outside the country. Illegal immigrants were permitted to apply for asylum. Those who lacked visas or permission to enter the country may apply at the border or port of entry; the applicant in such cases may be detained until a decision is made regarding the admissibility for processing of the application. In cases where persons apply inside the country, a decision must be reached within 2 months, but in cases where persons apply at a port of entry, this period is reduced to 72 hours. The period for filing an appeal in such cases is 24 hours.

In February the Constitutional Court ruled that the Government's practice of detaining asylum applicants at border posts pending processing of their requests did not violate the Constitution.

The Ombudsman also expressed his concern over the high percentage of applications not admitted for processing (approximately 93.5 percent during the year). However, many persons with falsified documents were rejected early in the process. Many such applicants came from politically stable but economically impoverished countries.

Applicants had the right by law to free legal assistance, regardless of where they are when they apply for asylum. This assistance was available from the first step in the process through any appeals of unfavorable decisions. The applicant also had the right to the assistance of translators and interpreters, and the OAR admitted documents in any language without requiring an official translation.

There was no distinction between asylum status and refugee status. Regulatory changes in 2001 redefined the basis for admission on humanitarian grounds for certain applicants who do not meet the requirements of the 1951 Convention. Those granted admission for humanitarian reasons must renew their status annually. The law allows the applicant a 15-day grace period in which to leave the country if refugee status or asylum is denied. Within that time frame, the applicant may appeal the decision, and the court of appeal has the authority to prevent the initiation of expulsion procedures, which normally begins after 15 days.

During the year, the Government finished the regularization process initiated in 2001. Of the 352,346 applications presented, 238,872 were approved, 87,808 were denied, and the rest were put on hold for lack of information from the applicant. During the year, the Government approved a quota of 30,000 foreign workers (20,000 of them were to be seasonal workers). Country selection will be based first on the requirements of potential Spanish employers, and secondly, upon the countries with whom the Government has employment cooperation agreements (Ecuador, Dominican Republic, Colombia, Poland, and Romania).

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Spain is a multiparty democracy with open elections in which all citizens 18 years of age and over have the right to vote by secret ballot. At all levels of government, elections are held at least every 4 years. In March 2000, Jose Maria Aznar of the Popular Party was reelected Prime Minister, with the title President of the Government. The next national elections must be held by March 2004.

Governmental power was shared between the central government and 17 regional "autonomous communities." Local nationalist parties gave political expression to regional linguistic and cultural identities.

Women participated actively in government and politics. Of 15 Cabinet Ministers, three were women. The Speaker of the Chamber of Deputies was a woman. The number of female Members of Parliament increased after the 2000 elections; of the 350 members of the lower house, 109 were women. Of 259 Senators, 66 were women. One of the country's two EU Commissioners was a woman. At year's end, 20 of the 64 Spanish members of the European Parliament were women.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. Human rights NGOs included the Human Rights Association of Spain in Madrid and the Human Rights Institute of Catalonia in Barcelona.

The Constitution provides for an ombudsman, called the "People's Defender," whose duties include actively investigating complaints of human rights abuses by the authorities. The ombudsman operated independently from any party or government ministry, must be elected every 5 years by a three-fifths majority of the Congress of Deputies, and was immune from prosecution. He had complete access to government institutions and to all documents other than those classified for national security reasons, and may refer cases to the courts on his own authority. The ombudsman had a staff of approximately 150 persons and received approximately 21,192 complaints during the year. The majority of the complaints pertained to health and social services, integration and shelter services for immigrants, moving of imprisoned persons from one penitentiary to another, and lack of adequate facilities in such penitentiaries. Government agencies were responsive to the ombudsman's recommendations. Several of the autonomous communities had their own ombudsman, and there were ombudsmen dedicated to the rights of specific groups, such as women, children, and persons with disabilities.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution provides for equal rights for all citizens, and discrimination on the basis of sex, race, ethnicity, nationality, disability or ideology is illegal; however, social discrimination against Roma and immigrants continued to be problems. The Government continued to take steps to reduce violence against women.

*Women.*—Violence against women, particularly domestic violence, remained a problem. According to the Government, 52 women and 19 men were killed as a result of domestic violence during the year, compared with at least 42 women and 3 men in 2001. During the year, women filed 7,295 criminal complaints and 22,904 misdemeanor complaints against their husbands or male partners. In 2001 women filed 5,983 such criminal complaints and 18,175 such misdemeanor complaints.

The law prohibits rape and spousal abuse. Police received 1,219 reports of rape in 2001. In May 2001, the Government initiated its second Plan Against Domestic Violence, with a budget of \$72 million over 4 years. The four principal areas outlined in the plan were preventive education; judicial regulations and practices to protect victims and increase the penalty for abusers; the extension of social services for abused women to all parts of the country; and increased coordination among the agencies and organizations involved in preventing domestic violence. There were 54 Civil Guard units that assisted battered women and 43 similar units in the National Police. There were 53 offices that provided legal assistance to victims of domestic violence and approximately 225 shelters for battered women. A 24-hour free national hotline that advised women where to find local assistance or shelter operated during the year.

Trafficking in women and children for the purpose of prostitution was a problem (see Section 6.f.).



The law prohibits sexual harassment in the workplace; however, there were complaints of sexual harassment. Although prohibited by law, discrimination in the workplace and in hiring practices persisted.

Discriminatory wage differentials continued to exist. A 2001 report by the General Workers' Union showed that women's salaries were 28 percent less than those of their male counterparts. In addition, the Minister of Social Affairs reported that, while as of September 30, women constituted 37.55 percent of the work force, they held only 18.09 percent of senior management positions in the third quarter of the year. The female unemployment rate was 17.3 percent by year's end, up from 15.5 percent in 2001; this was more than twice the 8.5 percent rate for men. Women outnumbered men in the legal, journalism, and health care professions but still played minor roles in many other fields.

Employers were exempted from paying social security benefits to temporary workers who substituted for workers on leave for maternity, child adoption, or similar circumstances. A ministerial order to increase women's presence in sectors in which they are underrepresented provided a 2-year reprieve from paying social security taxes to employers who hired women in these sectors. The 2002 National Employment Action Plan gave priority to battered women who searched for employment.

*Children.*—The Government was strongly committed to children's rights and welfare; it amply funded a system of public education and health care. Education was compulsory until age 16 and free until age 18. Many Romani children did not attend school on a regular basis and some complained of harassment in schools.

The Constitution obligates both the State and parents to protect children. The Ministries of Health and Social Affairs were responsible for the welfare of children and have created numerous programs to aid needy children. Numerous NGOs promoted children's rights and welfare, often through government-funded projects. Several of the Autonomous Communities had an office of the Defender of Children, an independent, nonpartisan agency charged with defending children's rights. Under the Penal Code, children under the age of 18 are not considered responsible for their actions and cannot be sent to prison.

There appears to be no societal pattern of abuse of children. The 1995 Law of the Child gave legal rights of testimony to minors in child abuse cases; it also obliged all citizens to act on cases of suspected child abuse.

Trafficking in teenage girls for prostitution was a problem (*see* Section 6.f.).

Law enforcement and social service agencies reported an increasing number of undocumented immigrant children living on the streets. These children cannot legally work; as a result, many survived through petty crime. AI reported in a report released during the year that police abused undocumented Moroccan minors, especially in the Spanish North African enclaves of Ceuta and Melilla, and that some undocumented minors were returned to Morocco without sufficient concern for their welfare.

*Persons with Disabilities.*—The Constitution calls for the State to provide for the adequate treatment and care of persons with disabilities, ensuring that they are not deprived of the basic rights that apply to all citizens. The law aims to ensure fair access to public employment, prevent discrimination, and facilitate access to public facilities and transportation. The national law serves as a guide for regional laws; however, levels of assistance and accessibility differed from region to region and have not improved in many areas. Nevertheless there were no reports of discrimination against persons with disabilities in employment, education, or the provision of other state services.

The law continued to permit parents or legal representatives of a person with mental disabilities to petition a judge to obtain permission for the sterilization of that person. In 1994 the Constitutional Court held that sterilization of persons with mental disabilities did not constitute a violation of the Constitution. In practice many courts in the past have authorized such surgery.

The Government subsidized companies that employed persons with disabilities. The Government mandated that all businesses that employed more than 50 persons either hire persons with disabilities for at least two percent of their workforce, or subcontract a portion of their work to special centers that employed persons with disabilities. According to an NGO that advocates on behalf of persons with disabilities, not all companies complied with this regulation, primarily because they did not know the law. New regulatory legislation for companies that want to have access to public contracts will make companies aware of their obligations under the law.

*National/Racial/Ethnic Minorities.*—Public opinion surveys indicated the continued presence of racism and xenophobia, which resulted in discrimination and, at times, violence against minorities. A June report by the NGO SOS Racism indicated

that electoral use of immigration issues has favored the proliferation of extreme right and neo-Nazi groups. In 2001 there were occasional reports of attacks against immigrants, some of which were attributed to quasi-organized right-wing youth groups.

Roma continued to face marginalization and discrimination in access to employment, housing, and education. The Romani community, whose size was estimated by NGOs at several hundred thousand, suffered from substantially higher rates of poverty and illiteracy than the population as a whole. Roma also had higher rates of unemployment and underemployment. According to the national NGO Secretariado General Gitano, approximately 46 percent of Roma adults were unemployed. Roma occupied the majority of the country's sub-standard housing units. Several NGOs dedicated to improving the condition of Roma received federal, regional, and local government funding.

According to a 2000 study of primary education by the Gypsy General Secretariat Association (ASGG), an NGO, Roma children lagged significantly behind the general population in several areas, including integration into school routines and social interaction with other children, and lacked family support for education. Roma truancy and dropout rates remained significantly above average. However, the study showed improvements over the results of a similar study done in 1994, especially in early school access (94 percent entered school at age 6) and academic achievement (44 percent finished secondary level).

A language or dialect other than Castilian Spanish is used in six of the 17 autonomous communities. The Constitution stipulates that citizens have "the duty to know" Castilian, which is the "official language of the state"; however, it also provides that other languages also may be official under regional statutes and that the "different language variations of Spain are a cultural heritage which shall . . . be protected." Laws in the Autonomous Communities of the Basque Country, Galicia, and Valencia require the community governments to promote their respective regional languages in schools and at official functions.

The Law of the Catalan Language, approved by the Catalan regional legislature (Generalitat) in 1998, stipulates the use of Catalan as the official language in local government and administrative offices, regional courts, publicly owned corporations, and private companies subsidized by the Catalan regional government. Spanish-speaking citizens had the right to be addressed in Spanish by public officials. The legislation also established minimum quotas for Catalan-language radio and television programming. Some controversy continued over the implementing legislation and related regulatory measures.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and laws ensure that all workers, except those in the military services, judges, magistrates, and prosecutors, are entitled to form or join unions of their own choosing, and workers exercised this right in practice. Approximately 18 percent of the workforce was unionized. Under the Constitution, trade unions are free to choose their representatives, determine their policies, and represent their members' interests. Unions were not restricted or harassed by the Government and were independent of political parties. The two main labor federations were the Workers' Committees (Comisiones Obreras) and the General Union of Workers (Union General de Trabajadores).

The law prohibits discrimination by employers against trade union members and organizers. Discrimination cases have priority in the labor courts. The law gives unions a role in controlling temporary work contracts to prevent the abuse of such contracts and of termination actions. Unions nonetheless contended that employers practiced discrimination in many cases by refusing to renew the temporary contracts of workers engaging in union organizing. Approximately 30.7 percent of all employees were under temporary contracts at year's end.

Unions are free to form or join federations and affiliate with international bodies and did so without hindrance.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right to organize and bargain collectively, including for all workers in the public sector except military personnel, and unions exercised this right in practice. Public sector collective bargaining in 1990 was broadened to include salaries and employment levels, but the Government retained the right to set these if negotiations failed. Collective bargaining agreements were widespread in both the public and private sectors; in the latter they covered 82.79 percent of workers, even though only approximately 18 percent of workers were union members.

The Constitution provides for the right to strike. A strike in non-essential services was legal if its sponsors give 5 days' notice. Any striking union must respect minimum service requirements negotiated with the respective employer. The Constitu-

tional Court has interpreted the right to strike to include general strikes called to protest government policy. According to the National Business Association, as of September 30, there had been 358 strikes, with approximately 2.4 million participants and 3 million lost workdays. The law prohibits retaliation against strikers.

National unions (UGT and CCOO) called for a general strike on June 20 to protest against the labor law reform proposed by the Government. Estimates of the level of participation in it varied from 17 percent of the work force, according to the Government, to 80 percent of the work force, according to the unions.

Labor regulations and practices in free trade zones and export processing zones were the same as in the rest of the country. Union membership in these zones reportedly was higher than the average throughout the country.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children; however, there were reports that such practices occurred (see Section 6.f.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The statutory minimum age for the employment of children is 16 years old. The law also prohibits the employment of persons under the age of 18 at night, for overtime work, or in sectors considered hazardous. The Ministry of Labor and Social Affairs primarily was responsible for enforcement, and the minimum age was enforced effectively in major industries and in the service sector. It was more difficult to enforce the law on small farms and in family-owned businesses, where some child labor persisted. Legislation prohibiting child labor was enforced effectively in the special economic zones.

*e. Acceptable Conditions of Work.*—Each year the Government revises its minimum wage for workers over age 18, in line with the consumer price index. In December the Government raised the minimum wage for 2003 by two percent, to \$482 (451.2 euros) monthly or \$16 (15.04 euros) daily. The national minimum wage provided a decent standard of living for a worker and family. The Ministry of Labor effectively enforced the minimum wage. The law sets a 40-hour workweek with an unbroken rest period of 36 hours after each 40 hours worked. Workers enjoyed 12 paid holidays a year and 1 month's paid vacation.

The National Institute of Safety and Health in the Ministry of Labor and Social Security had technical responsibility for developing labor standards, but the Inspectorate of Labor had responsibility for enforcing the legislation through judicial action when infractions are found. Unions have criticized the Government for devoting insufficient resources to inspection and enforcement. Workers have firm legal protection for filing complaints about hazardous conditions, but easily replaced temporary workers may be reluctant to use this protection for fear of losing their jobs.

Unions and immigrant rights NGOs reported that illegal immigrants often worked for sub-standard pay and in sub-standard conditions, mainly in agriculture. The Inspectorate of Labor reported 7,501 cases of labor rights violations related to immigrants during 2001, and 5,545 such violations in the first 9 months of the year. Illegal aliens did not have the right to join unions or to strike.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in women and teenage girls remained a problem. There were few reports of trafficking in younger minors.

The law defines trafficking as a criminal offense. The penalty for trafficking is 2 to 4 years' imprisonment and a fine, or 6 to 12 years if the crime is committed by a public official. The exploitation of prostitutes through coercion or fraud and the exploitation of workers in general also were illegal, although prostitution itself is legal. Trafficking in workers was punishable by 2 to 5 years' imprisonment and a fine. During the year, law enforcement agencies arrested more than 1,844 individuals involved in some aspect of trafficking in persons or migrant smuggling.

The Government specifically targets trafficking as part of its broader plan to control immigration; for example, the police actively pursued and prosecuted organized crime groups who used false identity documentation for immigrant smuggling of all kinds, including trafficking. Within the Interior Ministry, the National Police Corps had primary responsibility for all matters pertaining to immigration, including trafficking. Regional authorities also participated in fighting organized criminal activity, including trafficking. In addition, the Interior Ministry chaired an interagency committee on all immigration issues, including trafficking. The Ministries of Foreign Affairs, Health, Education, Treasury, and Labor also were members of the committee. The main police school gave courses on trafficking issues, such as the recognition of fake documents and the best ways to identify traffickers.

Women were trafficked primarily from Latin America (Colombia, Dominican Republic, Brazil), East European countries, sub-Saharan Africa (Nigeria, Guinea, Sierra Leone), and, to a lesser extent, North Africa. Asians, including Chinese, were

trafficked to a much lesser degree, and more often for work other than prostitution. Trafficking involved almost exclusively the importation of women for prostitution, although there were reports of occasional cases in which victims were employed in other work, including agriculture and sweatshops. Trafficked women were usually 18 to 30 years of age, but sometimes were girls as young as age 16.

Traffickers used coercion, including confiscation of documents, violence, and threats against family members to keep victims working in prostitution. As a group, women from Eastern Europe reportedly were subject to more severe violence and threats by traffickers. Some victims from sub-Saharan Africa reportedly were sold to traffickers by members of their own families. Traffickers lured some victims from other regions with false promises of employment in service industries and agriculture and then forced them into prostitution upon their arrival in the country.

The law allows for trafficked persons to remain in the country if they agree to testify against the perpetrators. After legal proceedings conclude, the individual is given the option of remaining in the country or returning to the country of origin. Victims were encouraged to help police investigate trafficking cases and to testify against traffickers. The Government worked with and funded NGOs that provided assistance to trafficking victims. In addition, regional and local governments provided assistance either directly or through NGOs.

Project Hope, a program backed by the Catholic NGO Las Adoratrices and government agencies, specifically was designed to assist trafficking victims. The project operated shelters in Madrid and provided assistance with medical and legal services and acted as liaison with law enforcement for victims who chose to testify against traffickers. Project Hope received many of its referrals directly from police.

## SWEDEN

Sweden is a constitutional monarchy and a multiparty parliamentary democracy. The King is Head of State. The Cabinet, headed by the Prime Minister, exercises executive authority. The judiciary is independent.

The Government maintains effective control of the police, all security organizations, and the armed forces. The police provide internal security and the military provide external security.

The country has an advanced industrial economy, mainly market based, with a total population of approximately 8.92 million. Citizens enjoy a high standard of living, with extensive social welfare services.

The Government generally respected the human rights of its citizens, and the law and judiciary provided effective means of dealing with individual instances of abuse. There were no reports of the use of excessive force by police. The Government has longstanding programs to deal with violence against women and abuse of children. Trafficking in women and children was a problem, but it received high priority by the Government. Sweden was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

The Chief Prosecutor's investigation into the 2000 death of Peter Andersson, who died after his arrest in Orebro, was reopened in March 2001 and remained pending at year's end.

A commission of inquiry appointed in 2000 to look into past deaths in custody issued a report critical of the police, prosecutors, and the coroners handling investigations into such deaths. The report also criticized inadequate cooperation between the authorities involved and accused two policemen of dereliction of duty. The commission also proposed reforms aimed at strengthening the safeguards for those detained. Nongovernmental organizations (NGOs) remained interested in such cases.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices, and there were no reports that police employed them. In the past, police officers found guilty of abuse typically were suspended, resigned, or otherwise were disciplined.

The prosecutor closed a preliminary investigation without bringing charges against any officer involved in the 2001 police shooting and wounding of three pro-

testers at demonstrations in the city of Gothenburg. In 2001 the Government appointed a committee headed by former Primer Minister Ingvar Carlsson to investigate police actions in Gothenburg, and prosecutors in Stockholm opened an investigation of complaints against four policemen for misconduct. A trial began in September, and the court exonerated the officers in December (*see* Section 2.b.). The police officer in charge of the actions in Gothenburg was charged with breach of duty and unlawful deprivation of freedom, and that case remained pending at year's end.

Prison conditions generally met international standards. Men and women prisoners were held separately. Juveniles were held separately from adults and convicted criminals and pretrial detainees were held separately.

The Government permits visits by independent human rights observers, although there were no such visits during the year.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. The law requires warrants for arrests. The police must file charges within 6 hours against persons detained for disturbing the public order or considered dangerous and within 12 hours against those detained on other grounds. The police may hold a person for questioning for 6 hours, although the period may be extended to 12 hours if necessary for the investigation. If the person is a suspect, the police must decide whether to arrest or release the person. If the suspect is arrested, the prosecutor has 24 hours (or 3 days in exceptional circumstances) to request that the suspect be detained. If arrested, the suspect must be arraigned within 48 hours. The court then sets a date to initiate prosecution, usually within 2 weeks. The prosecutor may extend the time limit for initiating prosecution with judicial review every 2 weeks, which most often occurs in drug-related investigations. Detainees routinely were released pending trial unless they were considered dangerous. Bail does not exist.

The Constitution prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

The judicial system is composed of three levels of judicial examination: District courts; a court of appeals; and a Supreme Court. All criminal and civil cases are heard first in district court regardless of the severity of the alleged crime. For some areas there are specialized courts, such as Labor, Water, Real Estate, and Market courts. These courts usually are the second and last instance for trial after the district court.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public. Defendants have the right to appeal and are presumed innocent until proven guilty.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice. The law limits home searches to investigations of major crimes punishable by at least 2 years' imprisonment. In general the police must obtain court approval for a wiretap and a prosecutor's permission for a search; however, a senior police official may approve a search if time is a critical factor or the case involves a threat to life. The national police and the Prosecutor General's Office submit a report to Parliament each year detailing all of the electronic monitoring done during the previous year.

As a result of the forced sterilization of thousands of persons between 1934–76 (which left the majority of those sterilized with mental or physical disabilities), the Government decided to pay damages of approximately \$24,700 (219,905 SEK) to each victim. By year's end, approximately 2,100 persons had applied for compensation, and approximately 1,600 had received payment. The possibility to apply for damages expired at year's end.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, rightwing groups were not permitted to display signs and banners with provocative symbols at their rallies (*see* Section 5).

Most newspapers and periodicals were privately owned. The Government subsidized daily newspapers, regardless of political affiliation. There were 169 daily newspapers and 455 weeklies. Broadcasters operated under a state concession. A variety of commercial television channels (one ground-based and several via satellite or cable) and several commercial radio stations operated.

A quasi-governmental body excised extremely graphic violence from films, television programs, and videos.

Criticism of child pornography was widespread, and the debate on the legality of ownership of pornographic material continued. The law prohibits the possession and handling of child pornography. It also is illegal to publish or distribute such material. The Queen remained a strong and popular advocate of children's rights and an active opponent of child pornography.

Internet access was available widely and was unrestricted.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the freedoms of peaceful assembly and association, and the Government generally respected these rights in practice; however, there were some violent clashes between police and protesters during the year. Police require a permit for public demonstrations, but the authorities routinely granted such permits, with rare exceptions to prevent clashes between antagonistic groups or due to insufficient police resources to patrol an event adequately.

In 2001 clashes between police and demonstrators at the EU summit in Gothenburg, police officers shot and injured three demonstrators and also raided a school suspected of housing activists. In December the court exonerated the four police officers charged with criminal misconduct stemming from the Gothenburg riots (see Section 1.c.).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Government did not hamper the practice or teaching of any faith.

The country maintained a state (Lutheran) church for several hundred years, supported by a general "church tax," although the Government routinely granted requests from taxpayers for exemptions. There was still an optional church tax, but all churches now receive some state financial support.

Citizens are tolerant of diverse religions practiced in the country; however, there were some cases of anti-Semitic vandalism reported during the year. The Government continued to take proactive steps to combat anti-Semitism by increasing awareness of Nazi crimes and the Holocaust. For example, the Government declared January 27, the anniversary of Auschwitz's liberation, as a national day of remembrance.

An investigation into the September 2001 firebombing of a Muslim school in the Stockholm suburbs was closed; no one was charged with the crime.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice.

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government provides first asylum. The number of asylum seekers rose notably: During the year, 33,016 persons sought asylum, compared with 23,571 in 2001. Applicants included 5,842 persons from the Federal Republic of Yugoslavia and 5,446 persons from Iraq. The Government approved 7,941 applications in 2001. Applications can remain under consideration for long periods of time with applicants in uncertain status. The appeals process in the courts may extend cases for several years, although there were few such cases.

NGOs continued to complain that the country lacked a transparent process for making decisions in asylum cases. They maintained that the asylum procedures lacked rules to guide the conduct of authorities and to ensure legal protection for asylum seekers. The procedures accorded great discretion to individuals in decision-making positions. According to NGOs, the decision makers used arbitrary, unspecified, and inconsistent criteria. NGOs also criticized the unclear burden of proof and the lack of a process for appeal to an independent court.

The U.N. Committee Against Torture, which criticized Sweden in 2000 and 2001 for decisions by the Migration Board, received one case against the country during the year—from the spouse of an Egyptian asylum seeker forcibly returned to Egypt in December 2001 after his asylum claim had been rejected.

The Government expeditiously returned asylum seekers from EU countries or from countries with which there were reciprocal return agreements. In most cases, persons who were returned expeditiously had passed through or had asylum determinations pending in other EU countries. In many cases, asylum seekers were de-

ported within 72 hours of arrival, and NGOs were critical of their lack of access to legal counsel. To remedy this situation, the Government continued to experiment with pilot programs at selected border crossings to provide expeditious legal assistance.

According to the Migration Board, the cases of the 400 Albanian Kosovars whose applications for permanent residence were pending at the end of 2001 were being reviewed on an individual rather than group basis, and some cases remained pending at year's end.

In 2001 the country joined the Schengen Group, which led to an increase in the number of asylum seekers. To provide for the processing of the growing number of asylum applications, the Government increased the budget of the Migration Board by \$49 million (436 million SEK) in 2001 and an additional \$6 million (53 million SEK) during the year.

A 2001 citizen act permits the possibility of a citizen having dual nationality and makes it easier for stateless children who were born in, or entered the country to acquire citizenship.

Swedish human rights organizations, particularly Amnesty International, strongly criticized the December 2001 forcible return to Egypt of two Egyptian asylum-seekers whose asylum claims had been rejected.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Elections to the 349-member unicameral Parliament are held every 4 years; the last such elections were held in September.

Women participated actively in the political process and government. Women constituted 45 percent of the Parliament and 55 percent of the Cabinet. The governing Social Democratic Party largely kept its pledge to place women in half of all political appointments at all levels. The Parliament included representatives of the principal religious, ethnic, and immigrant groups.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restrictions, investigating and publishing their findings. Government officials were very cooperative and responsive to their views. Several private organizations actively monitored issues such as the effect of social legislation, anti-immigrant or racist activities, and the condition of the indigenous Sami population. Government agencies were in close contact with a variety of local and international groups working in the country and abroad to improve human rights observance.

The official government ombudsmen may publicize abuses of state authority and initiate actions to rectify such abuses.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution provides for equal rights for all citizens.

*Women.*—Violence against women remained a problem. A report of the National Council for Crime Prevention indicated an increased tendency towards violence against women where the perpetrator was an acquaintance. During the year, 21,420 cases of assault against women (excluding rape) were reported, compared with 20,481 in 2001. Most involved spousal abuse. In most of the assaults, the perpetrator was an acquaintance of the victim. An average of 30 murders of women and girls are reported each year, half of them by men closely related to the victim. The number of reported rapes of persons over age 14 was 1,791, compared with 2,078 in 2001. The law does not differentiate between spousal and non-spousal rape.

The law provides complainants with protection from contact with their abusers, if so desired. In some cases, the authorities helped women obtain new identities and homes. The Government provided electronic alarms or bodyguards for women in extreme danger of assault. Both national and local governments helped fund volunteer groups that provided shelter and other assistance to abused women, and both private and public organizations ran shelters. There was a hot line for victims of crime, and police were trained to deal with violence against women. The authorities strove to apprehend and prosecute abusers. Typically the sentence for abuse is a prison

term—14 months on average—or psychiatric treatment. However, women complained about short sentences and the early release of offenders.

Trafficking in women for purposes of sexual exploitation was a problem (*see* Section 6.f.). The purchase or attempted purchase of sexual services is illegal.

The law prohibits sexual harassment and specifies clearly employers' responsibilities to prevent and, if applicable, to investigate sexual harassment in the workplace and to formulate and post a specific policy and guidelines for the workplace. Employers who do not investigate and intervene against harassment at work may be obliged to pay damages to the victim. As with other forms of discrimination, women and men may take complaints to the courts or to their unions. To combat gender discrimination in the long term, the Equal Opportunities Act requires all employers, both in the public and private sector, actively to promote equal opportunities for women and men in the workplace.

The law requires employers to treat men and women alike in hiring, promotion, and pay, including equal pay for comparable work. Some sectors of the labor market showed significant gender disparities, many with a strong preponderance of either men or women. According to 2001 statistics, women's salaries were approximately 80 percent of men's salaries. Adjusting for age, education, and occupational differences between men and women, women's salaries averaged 90 percent of men's salaries. The equal opportunity Ombudsman, a public official, investigates complaints of gender discrimination in the labor market (*see* Section 4). Women and men also may pursue complaints through the courts. A third option, and by far the most common, involves settling allegations with the employee's labor union as mediator. In 2001 approximately 170 gender discrimination cases were registered with the equal opportunity Ombudsman; 142 of the cases were closed—26 were settled, 26 were withdrawn, 58 could not be proved, 14 were tried by the Labor Court, and 18 were closed for other reasons, usually because of the statute of limitations. During the year, 129 cases were registered: Women filed approximately 90 percent, and 50 percent concerned salary issues.

All employers with more than 10 employees must prepare an annual equality plan, including a survey of pay differences between male and female employees. The equal opportunity Ombudsman reviews these plans. The law requires from every employer a survey made with a union representative analyzing wage differences. If gender is found to be the cause for a difference in salary, pay must be equalized within 3 years.

In 2000 the Government began to pay damages to the thousands of women who were forcibly sterilized between 1934 and 1976 (*see* Section 1.f.).

*Children.*—The Government is committed strongly to children's rights and welfare; it amply funds systems of public education and medical care. An official children's Ombudsman monitors the Government's programs. The Government provides compulsory, free, and universal primary school education for children 9 to 16 years of age. It also provides free medical and dental care for all children up to the age of 16 (19 for dental care). Parents received approximately \$1,000 (9,000 SEK) per year for each child under 16 years of age.

Although the physical abuse of children appeared relatively uncommon, public and authorities remained concerned by data indicating an increase in cases of abuse over the past several years. During the year, there were 7,235 reported cases of abuse of children under the age of 15. In addition to 374 reported cases of rape, there were 2,700 reported cases of sexual abuse of children, compared with 2,480 reported cases of child sexual abuse and 327 reported cases of rape in 2001.

The law prohibits parents or other caretakers from abusing children mentally or physically in any way. Parents, teachers, and other adults are subject to prosecution if they physically punish a child, including slapping or spanking. Children have the right to report such abuses to the police. The usual sentence for such an offense is a fine combined with counseling and monitoring by social workers. However, if the situation warrants, authorities may remove children from their homes and place them in foster care. Foster parents virtually never received permission to adopt long-term foster children, even in cases where the biological parents were seen as unfit or seek no contact with the child. Critics charged that this policy placed the rights of biological parents over the needs of children for security in permanent family situations.

The Government allocated funds to private organizations concerned with children's rights. An NGO, Children's Rights in Society, offered counseling to troubled youngsters. The Government continued to be active internationally in efforts to prevent child abuse.

*Persons with Disabilities.*—The law prohibits discrimination by employers against persons with disabilities in hiring decisions and prohibits universities from discrimi-



nating against students with disabilities in making admission decisions. No other specific laws prohibit discrimination against persons with disabilities, although considerable efforts were made to ensure that persons with disabilities enjoy equal opportunities. There is an Ombudsman for Disability Issues. The Government provides for freedom of access and social support as basic rights for citizens with disabilities. In January the Government directed a parliamentary committee to take a broader perspective on the legislation on discrimination, particularly on how to improve legal protection against discrimination for persons with disabilities, and the committee is to present its report in 2004. Regulations for new buildings require full accessibility, but there is no such requirement for existing public buildings, with the exception of public authorities who are obliged to make their facilities accessible. Many buildings and some public transportation remained inaccessible. Deaf children have the right to education in sign language. The parents of children with disabilities and workers with disabilities under the age of 65 receive financial assistance every 7 years to buy a car adapted to the person's disability.

*Indigenous Persons.*—The country counts at least 17,000 Sami (formerly known as Lapps) in its population (Sami organizations place that number at 25,000 to 30,000). Since 1993 the Sametinget (Sami Parliament) has acted as an advisory body to the Government. Sami issues fall under the Ministry of Agriculture. The Government allocated funding to the Sametinget for the establishment of a national information center for Sami issues to be completed by 2004.

In 2000 the Government officially recognized the Sami as a national minority. However, the Sami continued a struggle for recognition as an indigenous people; historically, the Government has resisted granting the Sami such rights. For example, Sami children had no right to education in their native language until a 1977 law obliged the Government to grant Sami at least equal treatment. As a result of such education, northern Sami dialects have enjoyed a renaissance; however, Sami dialects in the southern portions of traditional Sami lands may have too few native speakers to survive as living languages.

In 1994 the Government removed from the Sami the right to control hunting and fishing activities on Sami village lands, permitting instead completely unlimited hunting and fishing activity on all government property. Following an initiative from Sami representatives and landowners, in June the Government allocated approximately \$205,000 (1,818,000 SEK) to a joint project between the National Federation of Forest Owners and the National Union of the Swedish Sami to increase dialogue and networking.

Some Sami stated that they faced discrimination in housing and employment on an individual basis, particularly in the southern mountain regions.

*National/Racial/Ethnic Minorities.*—Approximately 11 percent of Sweden's population is foreign born, with the largest groups from Finland, Iran, and the former Yugoslavia. In 2001 (the latest year for which statistics were available) there were 2,670 reports of xenophobic crimes of which 975 were related to neo-Nazism.

Most estimates placed the number of active neo-Nazis—or white supremacists—at fewer than 3,000, and there appeared to be little popular support for their activities or sentiments. The Government investigated and prosecuted race-related crimes, although in many clashes between Swedish and immigrant youth gangs, authorities judged both sides to be at fault. Neo-Nazi groups operated legally, but serious debate in the press continued about outlawing such groups. Court decisions have held that it is illegal to wear xenophobic symbols or racist paraphernalia. Rightwing groups were not permitted to display signs and banners with provocative symbols at their rallies. A march in Salem on December 7—the second anniversary of the murder of a skinhead in a Stockholm suburb—attracted approximately 1,200 rightwing extremists, the largest neo-Nazi march in the country since World War II. Earlier on the same day, in the same neighborhood anti-racist activists carried out a counterdemonstration.

The public continued to urge a tougher stance against neo-Nazi groups. During the year, several demonstrations against violence and racism were organized throughout the country. The Government supported volunteer groups that opposed racism and xenophobia and allocated funding for projects supporting those who have left neo-Nazi and other racist organizations.

The Ombudsman for ethnic discrimination reported 305 complaints of ethnic discrimination in the labor market during the year, compared with 274 such complaints in 2001.

The law recognizes the Sami people, Swedish Finns, Tornedal-Finns, Roma, and Jews as national minorities. The Government supported and protected minority languages.

The Prime Minister announced establishment of an independent center to fight racism and intolerance.

*Section 6. Worker Rights*

*a. The Right of Association.*—The law entitles workers to form and join unions of their choice, and workers exercise this right. The work force consisted of approximately 4.4 million persons, of which approximately 85 percent were unionized. Career military personnel, police officers, and civilian government officials, as well as private sector workers in both manufacturing and service industries, were organized. Most business owners belonged to counterpart employer organizations. Unions and employer organizations operated independently of the Government and political parties (although the largest federation of unions has always been linked with the largest political party, the Social Democrats).

The law protects union officials and members from dismissal or reprisals for official union activities.

Unions have the right to affiliate with international bodies. Most unions are affiliated with the International Confederation of Free Trade Unions and the European Trade Union Confederation among others.

*b. The Right to Organize and Bargain Collectively.*—The law provides for collective bargaining, and workers exercised this right. Cooperation between management and labor tends to be excellent and nonconfrontational. Labor and management, each represented by a national organization by sector (for example, retailers and engineering industries), negotiate framework agreements every 2 to 3 years. More detailed company-level agreements put such framework agreements into effect at the local level. Framework agreements are signed every year between the parties on the labor market to regulate the wage increase. Most agreements with labor unions provide for a degree of individualized pay, including merit bonuses.

The law provides both workers and employers with effective mechanisms for resolving complaints. The vast majority of complaints were resolved informally. In some instances, unions demanded collective agreements regardless of the views and union status of employees. A government agency, the National Mediation office, mediated labor disputes to promote an efficient wage formation process.

The law provides for the right to strike, as well as for employers to organize and to conduct lockouts. Within limits protecting the public's immediate health and security, public employees also enjoy the right to strike. The Government generally respected these laws in practice. During the year, there were 4 legal and 6 illegal strikes reported, involving approximately 700 employees and 630 workdays.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The law permits full-time employment at age 16 under the supervision of local authorities. Employees under age 18 may work only during the daytime and under supervision. Children as young as 13 years may work part-time or in "light" work with parental permission. Union representatives, police, and public prosecutors effectively enforced these restrictions.

*e. Acceptable Conditions of Work.*—There is no national minimum wage law. Wages are set by collective bargaining contracts every year, which nonunion establishments usually observe as well. Even the lowest paid workers were able to maintain a decent standard of living for themselves and their families through substantial benefits (such as housing or daycare support) provided by social welfare entitlement programs.

The legal standard workweek is 40 hours or less. Both the law and collective bargaining agreements regulate overtime and rest periods. For workers not covered by a labor agreement, the law stipulates a limit for overtime at 200 hours per year, although exceptions may be granted for key employees with union approval; some collective bargaining agreements put the limit at 150 hours. The law requires a rest period after 5 hours of work but does not stipulate a minimum duration; in practice it was usually 30 minutes. The law also requires a minimum period of 36 hours of rest, preferably on weekends, during a period of 7 days. The law also provides all employees with a minimum of 5 weeks of paid annual leave; labor contracts often provide more, particularly for higher ranking private sector employees and older public service workers. Amendments to the labor law in 2001 permitted employers with fewer than 10 workers to exempt 2 persons from last-in, first-out rules when discharging employees.

Occupational health and safety rules are set by a government-appointed board, the Work Environment Authority, and monitored by trained union stewards, safety

ombudsmen, and, occasionally government inspectors. These standards were very high, making workplaces both safe and healthy in general. Safety ombudsmen have the authority to stop unsafe activity immediately and to call in an inspector. An individual also has the right to halt work in dangerous situations in order to consult a supervisor or safety representative without endangering continued employment.

Unions played an important role in preventing discrimination in the labor market. A special court dealing only with labor related issues hears complaints filed by unions against companies regarding acts of discrimination on the basis of race or gender.

The same minimum terms of employment apply to foreign and Swedish workers.

*f. Trafficking in Persons.*—In July a law prohibiting the trafficking of persons for sexual purposes entered into force; it provides for sentences of 2 to 10 years in prison for persons convicted of trafficking. The attempt to traffic and the conspiracy to traffic were also criminalized. Trafficking was a problem.

The purchase or attempt at purchasing sexual services is illegal. Law enforcement primarily uses laws against pandering and an offense called “placing in distress,” which can be used in cases where traffickers lure women from other countries under false pretenses. Traffickers sentenced for pandering can face up to 6 years in prison, but most sentences were for 2 to 3 years. During the first 8 months of the year, the state prosecuted three cases of trafficking for sexual purposes, compared with five such cases in all of 2001.

Women were trafficked to the country for prostitution and sexual exploitation. According to the police, the country remained primarily a trafficking destination and only became a transit nation in 2001. Trafficked women, numbering 200 to 500 per year, came principally from Central Europe, the Baltic states, and Russia; those transiting came primarily from the Baltic region, and the principal destination countries were Spain, Germany, Denmark, and Norway. There have been occasional cases of trafficked women from Colombia and Cuba.

The women typically were recruited in their own countries to work as cleaners, babysitters, or similar employment. Once in Sweden, victims were isolated and intimidated by traffickers, and worked as prostitutes in hotels, restaurants, massage parlors, or private apartments. Some reportedly were “purchased” from other traffickers and brought into Sweden. There were reports that traffickers locked women up and confiscated their passports. National Criminal Investigation Department reports indicated that younger women, many of them minors, were subjected to trafficking.

Trafficked women in general did not receive temporary residence permits; in some cases they were deported immediately. Victims of trafficking rarely were detained; however, at times they were held for a short period prior to deportation by the police or in a camp run by the Migration Board. The Government allocated funds to NGOs for providing shelter to victims and rehabilitation.

The Government provided funding to NGOs and international organizations that combat trafficking worldwide. For example, the Government provided funds to the Foundation of Women’s Forums to combat trafficking in women in the Nordic and Baltic nations by creating interactive networks that link NGOs and research institutions that deal with prevention and the rehabilitation of trafficked women.

## SWITZERLAND

Switzerland is a constitutional democracy with a federal structure. The bicameral Parliament elects the seven members of the “Federal Council” (Swiss cabinet), the highest executive body, whose presidency rotates annually. Because of the nation’s linguistic and religious diversity, the political system emphasizes local and national political consensus and grants considerable autonomy to the 26 individual cantons. Voters approved a new Constitution in 1999 that came into force in 2000. The judiciary is independent.

The armed forces are a civilian-controlled militia based on universal military service for able-bodied males. There is virtually no standing army apart from training cadres and a few essential headquarters staff. Police duties are primarily a responsibility of the individual cantons, which have their own police forces that are under effective civilian control. The National Police Authority has a coordinating role and relies on the cantons for actual law enforcement. Police forces committed some human rights abuses.

Switzerland had a highly developed free enterprise, industrial, and service economy strongly dependent on international trade. The standard of living of the country’s 7.3 million residents was very high.

The Government generally respected the human rights of its citizens; although there were some problems, the law and judiciary provide effective means of dealing with individual instances of abuse. Cantonal police were involved in at least three deaths during the year. Police occasionally used excessive force, particularly against foreigners. Violence against women continued to be a problem, although the Government took steps to address it. Some laws continued to discriminate against women. There continued to be reports of discrimination against foreigners. Trafficking in women for prostitution increased. Switzerland was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of politically motivated killings committed by the Government or its agents.

During the year, Swiss police were involved in the accidental death of one elderly person. On April 18, Zurich police ran over Gotthilf Hunziker, 72-years-old, while maneuvering a car in a car park. The victim died three weeks later in a hospital. According to the Zurich City police, the investigation was still pending at year's end.

On October 4, a Zurich police officer shot and killed an armed thief who had just robbed a local post office. The police officer involved in the shooting stated that he had to shoot because the thief was pointing his weapon at him. Police investigators believe the victim, a 42-year-old Swiss, had already robbed the same post office a few weeks prior to this incident. The investigation was still pending at year's end.

On November 26, a Zurich court dropped its criminal charges against two policemen who were involved in the death of a 32-year-old Yugoslav car thief. Both policemen fired a shot at the car after the man tried to run them over. The court stated that both police officers had the right to use their weapon because their lives were put at great risk.

The U.N. Human Rights Committee cited instances of degrading treatment in a November 2001 report, and the excessive use of force during the expulsion of aliens, resulting in deaths on some occasions. In July 2001, Bern police were videotaped using excessive force to subdue Cemal Gomec, a Turkish immigrant with mental problems who was threatening persons who approached him in his apartment with a knife. He died in a hospital 4 days after being subdued. The Bern forensic institute found that his death from cardiac arrest was not the sole result of the beating by police officers but rather a combination of stress, chronic heart disease, and chemicals used during Gomec's apprehension, which included sedatives and tear gas. The investigation remained ongoing at year's end.

In August 2001, two police officers from Basel shot and killed Michael Hercouet just over the border in France. The unarmed Hercouet was trying to evade police arrest after stealing a car, and he allegedly attempted to run over the officers. No charges had been brought by year's end; the trial is expected to take place in France in 2003.

In November 2001, two Zurich policemen killed an unarmed man after a search for an alleged car thief. The investigation was pending at year's end.

During the year, a third policeman involved in the 1999 case of Khaled Abuzarifeh, another immigrant who died from suffocation while resisting deportation, died of a heart attack while awaiting a judgment in the case. Abuzarifeh's lawyers said they would sue the Bern canton for \$30,000 (50,000 Swiss francs).

In March 2000, Graubunden police killed Ewald K., a 22-year-old man who had fired 19 bullets at neighboring buildings using his military rifle. Although no one was killed, Ewald K. severely injured a policeman and killed his trained dog. Markus Reinhardt, head of the Graubunden police, was charged with murder after he ordered elite policemen to execute Ewald K. after hours of unsuccessful negotiations. The victim's family sought \$34,340 (50,000 Swiss francs) in damages; however, on February 28 of this year, the cantonal court ruled that the immediate threat to the population justified the execution order.

In January 2000, a Geneva policeman fired at two French men driving in a stolen car after they refused to stop. The driver died immediately, while the passenger was severely injured. The police officer said he suspected the two victims of a robbery against an elderly woman. Police investigations later revealed that they did not participate in the robbery but were involved in several petty thefts. On September 30, a Geneva appeal court stated that the policeman had no intention to kill but instead fired to stop the car. The policeman still faces a fine, which was not yet determined by a district court.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, police occasionally used excessive force, particularly against foreigners. In 1999 the Canton of Geneva stated there were 715 reported cases of the use of force by police, 33 of which resulted in formal complaints. In a November 2001 report, the U.N. Human Rights Committee cited concern and called for effective responses to reported instances of police brutality during arrests and detentions, especially of foreigners.

On March 15, Zurich police trapped Kurt von Allmen against a wall with their car believing he was a thief. The victim's legs were broken, and one had to be amputated. An investigation remained ongoing at year's end.

On April 21, four Zurich police officers allegedly used extreme violence when arresting Eldar S., a 20-year-old Bosnian, on his way to a shopping mall. According to the victim, three policemen hit his head with a stick without warning, pushed him to the floor, handcuffed him and beat him again. Police authorities have denied these allegations and allege that the victim refused to surrender; and that there were only two policemen involved in the case, both of whom were also injured during the arrest. Two policemen involved were transferred to another police unit during the year; the investigation remained pending at year's end. Eldar S. was treated in a clinic for a serious psychological disorder allegedly resulting from the incident.

On May 1, a police dog bit a 33-year-old man in the face while a Zurich police officer interrogated him. Another police officer allegedly beat him while he was handcuffed. An investigation remained ongoing at year's end.

On August 24, Zurich police shot an unarmed man while pursuing a burglar. The victim was severely injured in the stomach. After political parties expressed concern over the shooting, an investigation began into the incident.

On May 29, the Zurich city council voted to appoint an Ombudsman to tackle all Human Rights-related complaints. By year's end, 35 complaints were still pending, of which 20 were filed during the year. On July 11, the Zurich city council set up a special parliamentary commission to review the functioning of the Zurich police as well as certain cases of abuses of human rights.

On July 14, a Zurich court found a Zurich policemen guilty of excessive brutality and abuse of power against a woman he injured with a stick. The court fined him \$347 (500 Swiss francs) and ordered him to pay for the judicial expenses. The woman asked the court for \$8,870 (12,500 Swiss francs) in damages.

On February 1, Zurich police injured two young antiglobalization protestors by using anti-riot water cannons during the World Economic Forum in Davos. Doctors said the two plaintiffs suffered severe skin burns because the police mixed water with chloric acid. Under strict police regulations, water cannons cannot be used against persons directly but may only be used to keep protestors at bay. In some cases, police forces are allowed to mix water with no more than 1 percent tear gas. The two protestors alleged that the police action was disproportionate and sued the head of the Zurich cantonal police. The judgment was pending at year's end.

Prison conditions generally met international standards. Some nongovernmental organizations (NGOs) claimed that prisons were overcrowded, but the Government had taken measures to improve prison conditions and addressed overcrowding by expanding the number of detention facilities. In 2001 the cantonal government of Jura agreed to investigate its prison living conditions after the press reported that prison guards had abused several inmates. Prisoners alleged that, besides insults and mistreatment, prison guards had encouraged some prisoners to commit suicide. The Penal Code requires that male and female prisoners be held separately and that juveniles be held separately from adults. Pretrial detainees also were held separately from convicted criminals.

The Government permitted prison visits by independent human rights observers. In February 2001, a delegation from the Council of Europe's Committee for the Prevention of Torture (CPT) carried out a routine, periodic, 10-day visit that included visits to prisons in six cantons. The Committee stated that Swiss police generally treated inmates correctly during cross-examination and interrogation. The Committee also underlined the low amount of police mistreatment and stated that criticism was primarily a result of excessive use of force during arrest.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions; however, some NGOs alleged that the authorities arbitrarily detained asylum seekers (see Section 2.d.).

The cantons are responsible for handling most criminal matters, and procedures vary from canton to canton. In general a suspect may not be held longer than 48 hours without a warrant of arrest issued by an investigative magistrate; however, asylum seekers and foreigners without valid documents may be held for up to 96 hours without an arrest warrant. A suspect may be denied legal counsel at the time

of detention but has the right to choose and contact an attorney by the time an arrest warrant is issued. The State provides free legal assistance for indigents who may be jailed pending trial. Investigations generally are prompt; however, in some cases investigative detention may exceed the length of sentence. Release on personal recognizance or bail is granted unless the magistrate believes the person is dangerous or will not appear for trial. Any lengthy detention is subject to review by higher judicial authorities. During the year, approximately one-third of all prisoners were in pretrial detention, and the average length of such detention was 52 days.

The Constitution prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice.

All courts of first instance are local or cantonal courts. Citizens have the right to appeal, ultimately to the Supreme Court. Trials involving minor offenses are heard by a single judge, more serious or complex cases by a panel of judges, and the most serious cases (including murder) by a jury.

The 1967 revised Military Penal Code (MPC) requires that all war crimes or violations of the Geneva Convention be prosecuted and tried in Switzerland, regardless of where a crime was committed and whether the defendant was a member of an army or a civilian. Normal civilian rules of evidence and procedure apply in military trials. The MPC allows the appeal of any case. The highest level of appeal is to the Military Supreme Court. In most cases, the accused used defense attorneys assigned by the courts. Any licensed attorney may serve as a military defense counselor. Under military law, the Government pays for defense costs.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. Trials usually were expeditious. The Constitution provides for public trials, including the right to challenge and to present witnesses or evidence.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—Cantonal laws regulate police entry into private premises. These regulations differ widely from canton to canton, but all prohibit such practices without a warrant, and all government authorities generally respected these provisions in practice.

Instances of forced sterilization of women continued to be the subject of public debate during the year. A debate also was ongoing about the compensation of those forcibly sterilized in the aftermath of World War II. There is no comprehensive law against forced sterilization at the federal level because medical treatment is a cantonal matter. In 1981 the Swiss Academy for Medical Science decided that forced sterilization is not permissible if a person is incapable of understanding the consequences. The Academy strongly discourages the sterilization of mentally handicapped persons because of what the Academy called a changed social understanding of the sexuality of the mentally disabled.

In May 2001, the European Court of Human Rights (ECHR) ruled that the Government could not allow local tax authorities to force taxpayers to relinquish previously undisclosed bank account information. The ECHR ruled that the right for persons to refuse to testify against themselves applied in these cases.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected this right in practice; however, some municipalities restricted the public distribution of pamphlets, particularly by Scientologists (see Section 2.c.). An independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and of the press, including academic freedom. The authorities legally may restrict these freedoms for groups deemed to be a threat to the State, but no groups were restricted during the year. In addition, the Penal Code criminalizes racist or anti-Semitic expression, whether in public speech or in printed material. The investigation into the Kosovo-Albanian newspaper Bota Sot for an alleged violation of antiracism law remained ongoing at year's end.

The press operated independently and was free from government intervention. The Federal government subsidized the press indirectly by paying \$69 million (100 million Swiss francs) yearly to lower the postal rates for newspaper distribution. Under the proposed revised postal ordinance, regional and local publications may see their subsidies increase from \$17.3 million (25 million Swiss francs) to \$25.6 million (37 million Swiss francs).

The nationwide broadcast media were government-funded but had editorial autonomy. Private and foreign broadcast media operated freely.

On December 19, the Canton of Geneva dismissed public school teacher Hani Ramadan, a Muslim cleric, for his controversial remarks published in the French newspaper *Le Monde*. In the article, published in September, Ramadan defended death by stoning for adultery as set out in Islamic Sharia law. He also spoke out in favor of a religious ban on AIDS sufferers. Geneva has strict laws separating church and state, which restrict cantonal employees' ability to express personal views in an official setting. Geneva officials said their decision was based on the "anti-democratic" nature of his remarks. An investigation into the affair commissioned by the Geneva authorities found that his role as a religious representative was incompatible with his status as a teacher in a public school. The investigation conducted by the former cantonal prosecutor-general also found that, as a state employee, Ramadan had violated his obligation to refrain from airing controversial views. Ramadan, who was suspended from his job in October, said he would appeal the decision.

In July the Zurich police blocked the NGO Pro PLO Schweiz from distributing flyers calling for a total ban on Israeli products. The police said the flyer constituted a violation of the antiracism law because it contained insults to a foreign state. Pro PLO Schweiz said it would appeal the decision.

Internet access was available and unrestricted. The Federal Office for Police provided an Internet monitoring service on its World Wide Web page in an effort to combat child pornography on the Internet.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the freedoms of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

There is no official state church; however, all of the cantons financially support at least one of the three traditional denominations—Roman Catholic, Old Catholic, or Protestant—with funds collected through taxation. In all cantons, an individual may choose not to contribute to church taxes. However, in some cantons, private companies are unable to avoid payment of the church tax. A religious organization must register with the Government in order to receive tax-exempt status. There have been no reports of a religious group applying for the church taxation status that the traditional three denominations enjoy.

Groups of foreign origin are free to proselytize; however, foreign missionaries must obtain a religious worker visa to work in the country. Requirements include proof that the foreigner would not displace a citizen from doing the job, that the foreigner would be financially supported by the host organization, and that the country of origin of religious workers also grants visas to Swiss religious workers. Such permits were granted routinely and without any bias against any particular religion.

Due to increasing concern over certain groups, in 1997 the Government had asked an advisory commission to examine the Church of Scientology. The commission's 1998 report concluded that there was no basis for special monitoring of the Church, since it did not represent any direct or immediate threat to the security of the country. However, the report stated that the Church had characteristics of a totalitarian organization and had its own intelligence network. The commission also warned of the significant financial burden imposed on Church of Scientology members and recommended reexamining the issue at a later date. In December 2000, the Federal Department of Police published a follow-up report, which concluded that the activities of such groups, including Scientology, had not altered significantly since the first report and that their special monitoring therefore was not justified. The Government no longer specially monitored the Church of Scientology.

In December 2001, the Vaud cantonal court rejected a claim by the Church of Scientology that it had been constantly discriminated against by Lausanne authorities, which prevented them from renting a restaurant and launching an advertising campaign. The court said that the Church of Scientology could not be considered a real church because its services had no religious connection. As a result, the court said religious discrimination did not apply. The Lausanne Treaty interpreted the court ruling as affirming the primarily commercial nature of the Church of Scientology. The Church did not appeal the court decision.

In February 2001, the ECHR upheld the Canton of Geneva's legal prohibition of a Muslim primary school teacher from wearing a headscarf in the classroom. The Court ruled that the Geneva regulations do not violate the articles on religious freedom and nondiscrimination of the European Convention on Human Rights. The Court found that the legal provisions did not discriminate against the religious con-

victions of the complainant, but were meant to protect the rights of other subjects as well as the public order.

According to the 2001 Swiss National Security Report, as of December 2001, there had been 183 cases brought to court under the 1995 antiracism law, with 83 convictions. Of those, 43 persons were convicted for racist oral or written slurs, 19 for anti-Semitism, 17 for revisionism, and 4 for other reasons. Government officials, including former President Leuenberger, have spoken frequently and publicly against anti-Semitism.

On May 22, a Vevey district court sentenced three revisionists—Gaston-Armand Amaudruz, Philippe Georges Brennenstuhl and Rene-Louis Berclaz—to prison terms of 3 and, in Berclaz's case, 8 months for racial discrimination. All men were found guilty of writing and distributing two books that outlined their revisionist and anti-Semitic views to the general public. Only Brennenstuhl was present at the court ruling. He declined to answer the court's questions and built his case on the constitutional right to free speech.

On June 19, the Islamic Center of Geneva, filed criminal charges with the cantonal prosecutor's office against Italian journalist Oriana Fallaci, author of the book *Rage and Pride*. The plaintiffs alleged that some of the book's remarks on the Muslim community violated Switzerland's anti-racism legislation and asked for the book to be seized and taken off bookstore shelves. The plaintiffs also cited specific passages in the book that they believed falsely characterized and offended persons of Muslim faith.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights for citizens, and the Government generally respected them in practice. However, noncitizens convicted of crimes may receive sentences that include denial of reentry for a specific period following the completion of a prison sentence.

The law contains provisions for the granting of refugee and asylum status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, of which the country was a co-drafter. The Government cooperated with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government provides first asylum. The Federal Office for Refugees estimated the total number of asylum applicants and temporary residents living in the country during 2002, at 93,741, an increase of 0.4 percent from 93,363 in 2001. (This number included recognized refugees and persons granted temporary asylum, as well as persons who had a first asylum application pending, had appealed a rejection, or were awaiting repatriation.) Applications for asylum increased by 26.6 percent, from 20,633 in 2001 to 26,125 during the year. During November 2,279 people filed an asylum request, totaling 19,015 since the beginning of the year. The number of asylum requests in November was higher than during November 2001, when 2,060 asylum seekers filed a request. Refugees whose applications are rejected are allowed to stay temporarily if their home country is experiencing war or insurrection. The Government denied having forced persons to return to countries where they had a well-founded fear of persecution and insisted that each case be examined carefully; however, NGOs, including the well-known NGO Eyes Open, accused the Government of expelling rejected asylum seekers in some cases when conditions in their native countries remained unfavorable.

The 1999 asylum law provides for the collective admission of victims of violence and authorizes the Federal Council to grant them temporary protective status. It also simplifies and accelerates the process of applying for asylum. At the same time, the law is designed to curtail the misuse of asylum regulations and enable the more rapid repatriation of uncooperative refugees or those who enter the country without identity papers. The Government may refuse to process the application of an asylum seeker who is unable to credibly justify a lack of identity papers. In such a case, the applicant must submit an appeal to reactivate consideration of the application within 24 hours. NGOs contended that such a short time period did not constitute an effective remedy and therefore violated the European Convention on Human Rights.

In a national referendum on November 24, the Swiss electorate rejected, by a narrow margin of 50.1 percent of the vote, the nationalist Swiss People's Party's (SPP) popular initiative "Against Abuse of the Right to Asylum," which effectively would have closed the door to the overwhelming majority of asylum applicants seeking refuge in the country. The SPP proposal was defeated by a margin of 3,422 votes out of a total of 2.2 million ballots cast. Although the Swiss-French cantons and Ticino turned out against it, the initiative carried a majority of cantons, which reflected the deep-rooted popular unease with current immigration and asylum policies. Voter



turnout was just under 47 percent. The results were only provisional, and it was expected to take between 6 to 8 weeks for them to be confirmed. The Federal Chancellery had announced that a margin of error between 2,000 and 10,000 votes was not unusual for the provisional results released on election day; therefore the verdict may still be overturned.

The Government initially offered material and financial aid worth \$50.5 million (86 million Swiss francs) to Kosovar refugees leaving the country voluntarily. Some 33,000 Kosovars accepted this offer, which ended in May 2000. The Federal government granted a delay in departure in 1,962 cases that involved individual hardship (including families with children in school, members of ethnic minorities, the elderly, the sick, single mothers, and pregnant women).

The Government agreed to slow the flow of repatriations during the winter of 2000–01 after former U.N. Special Representative to Kosovo Bernard Kouchner claimed that some areas of Kosovo were then unsafe. Approximately 740 Kosovars nevertheless were repatriated during the year. In mid-August, the Federal Department for Refugees initiated voluntary repatriations for Macedonians.

Determining that the situation in the southern part of Sri Lanka was safe, the Federal Office of Refugees announced in August 2001 that it would proceed with the repatriation of 130,000 Sri Lankan refugees. Government representatives claimed that they carried out an ongoing review of the situation in Sri Lanka and that refugees would be repatriated to Colombo but mandated that no returns would take place in the eastern and northern parts of the country, where conflicts persisted. The refugee office also announced that women, minors, elderly, and persons with disabilities might qualify for temporary residence permits. The NGO Swiss Association for Refugees stated that it regretted the decision and feared some refugees would be sent back to areas in which war was ongoing. Lump sums of \$588 (1,000 Swiss francs) for adults and \$290 (500 Swiss francs) for minors were paid to facilitate the refugees' return to Sri Lanka, in addition to airfare.

In October federal authorities rejected the asylum applications of dozens of Roma from Romania who arrived in the country during the year. Roma asylum applications increased from 33 in 2001 to 968 in 2002. On October 9 and 10, the authorities deported 211 Roma to Romania.

In 2000 the umbrella organization of NGOs concerned with aiding refugees, Swiss Aid to Refugees, criticized the Federal government for some forced repatriations of Kosovo refugees that they termed excessively harsh and inhuman. Eyes Open criticized Zurich cantonal police practices in the compulsory repatriations of failed asylum seekers (*see* Section 1.c.). The group noted the excessive use of hand and leg restraints in the return of Congolese asylum seekers in August 2001.

On April 11, the Swiss Cantonal Conference of Police Directors presented a series of measures aimed at banning facial-gags as well as excessive use of force and techniques that limit breathing during forced repatriations. The move came after the death in 1999 of a 27-year-old Palestinian asylum seeker, Khaled Abuzarifa, who suffocated after being bound and gagged by his police escort at Zurich airport and caused much criticism from international human rights groups (*see* Section 1.a.). Of the 8,551 repatriations in 2001, 99 involved forced deportations.

Some human rights NGOs charged the authorities with abuses in connection with the implementation of a 1995 amendment to the Law on Foreigners. The amendment is aimed at asylum seekers or foreigners who live illegally in the country and who are suspected of disturbing the public order or avoiding repatriation. In particular these groups alleged instances of abuse by police, including arbitrary detention as well as denial of access to established asylum procedures at the country's two main airports. They also charged that police officers used the law to detain or harass asylum seekers who were not suspected of having disturbed public order. Under the law, police actions are subject to judicial oversight, and the Federal Court overturned many cases in which it believed that there was insufficient regard for the rights of asylum seekers and foreigners. While NGOs claimed that the situation with regard to arbitrary detention has improved, they contended that the denial of access to asylum procedures at the two airports remained a problem. NGOs also acknowledged that asylum seekers had better access to legal counseling at the airport, but not to legal representation. Without legal representation, would-be asylum seekers often were unable to appeal a rejection of their asylum request within the 24-hour time limit.

In September 2001, in what police claimed was a last attempt to avoid a scheduled repatriation to France a week later, a 30-year-old Algerian national allegedly hung himself in his cell in Chur. The Graubunden cantonal police denied any involvement in the death and said the man hung himself with a self-made rope of fabric. The refugee reportedly already had resisted two other attempts to deport him

at both Geneva and Zurich airports. An investigation found that prison authorities were not responsible for his death.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Initiative and referendum procedures provide unusually intense popular involvement in the legislative process. A new Constitution took effect in January 2000.

According to the Federal Office of Statistics, the proportion of women in cantonal government after the 1996 and 2000 elections decreased from 19.8 percent to 18.5 percent. There were 55 women in the 246-seat Parliament. Women held 2 of 7 seats in the Federal Council (Cabinet), approximately one-fourth of the seats in the cantonal government executive bodies, and one-fifth of the seats in the communal executive bodies. In 1999 the electorate overwhelmingly rejected a popular initiative to mandate equal gender representation in all federal institutions. Quotas existed at the Federal level and ensured that males or females were not underrepresented in extraparlimentary commissions; the minimum level of representation for women was 30 percent.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A large number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution and laws prohibit discrimination on the basis of race, sex, language, or social status, and the Government generally enforced these prohibitions effectively, although some laws tend to discriminate against women. The Constitution includes provisions for equal rights for persons with disabilities and for minorities.

*Women.*—Violence against women was a problem. According to a 1997 government-funded study on domestic violence, one-fifth of all women suffered at least once in their lifetimes from physical or sexual violence, and approximately 40 percent suffered from psychological or verbal abuse. A 1998 study estimated that over 100,000 cases of domestic violence occurred each year. The law prohibits domestic violence but does not differentiate between acts of violence committed against men and women.

Spousal rape is a crime. The difficulty in gathering information about the number of persons prosecuted, convicted, or otherwise punished for spousal abuse stems in part from the fact that legal cases are handled by each canton, and data often are not up-to-date. However, some cantonal or district police forces have specially trained units to deal with violence against women. A total of 387 men were prosecuted for 454 rape offenses involving 434 victims during 2001, an increase of 12.4 percent over 2000.

Victims of domestic violence may obtain help, counseling, and legal assistance from specialized government and NGO agencies or from nearly a dozen hot lines sponsored privately or by local, cantonal, and national authorities. A total of 845 women and 902 children took refuge in 16 women's shelters across the country during 2001. Those in charge of the shelters estimated that nearly as many women were denied access due to a lack of space and limited funding. The Federation of Women's Organizations and numerous other women's NGOs continued their activities to heighten public awareness of the problem of violence against women.

According to a recent study by the Swiss National Foundation, one out of five women in Switzerland are likely to suffer from domestic violence. Violent husbands can be jailed up to a maximum of 24 hours, but experts recognized clear rules were lacking. Parliament was debating the issue at year's end.

Prostitution is legal for Swiss citizens if the practitioners are registered with police and comply with taxation and other cantonal requirements; prostitution by foreigners is illegal. The Penal Code criminalizes sexual exploitation and trafficking in women; however, trafficking in women remained a problem (*see* Section 6.f.).

Sexual harassment in the workplace was a problem. The law includes provisions aimed at eliminating sexual harassment and facilitating access to legal remedies for those who claim discrimination or harassment in the workplace. Although the Constitution prohibits all types of discrimination, and the law provides for equal rights,

equal treatment, and equivalent wages for men and women, some laws continued to discriminate against women. A federal marriage law provides that in the event of a divorce, assets accumulated during the marriage will be divided equally; however, the Supreme Court ruled that the primary wage earner must be left with sufficient income to remain above the poverty level. Since the man was the primary wage earner in most marriages, when the income was too low to support both parties, it was usually the wife (and children) who was forced to survive on public assistance. Statistics from 1999 showed that nearly 70 percent of women who did not work outside the home while married fell below the poverty line immediately after a divorce. Although mandated by a constitutional amendment in 1945, no federal law on maternity insurance exists.

Immigrant women who marry Swiss husbands but live in Switzerland for less than 5 years risk deportation if they divorce their spouse. The 5-year residency requirement may be reduced to 3 years under exceptional circumstances. NGOs argued that this prevented women with marital problems from being able to seek help or leave their husbands without serious consequences.

Varying police practices in different cantons sometimes took into consideration such factors as the country of origin, education, and income levels of the immigrant women. Their registered purpose for being in the country was to stay with spouse until they received their own long-term residency permits.

The law includes a general prohibition on gender-based discrimination and incorporates the principle of equal wages for equal work; however, professional differences between men and women were evident. Women less often occupied jobs with significant responsibilities, and women's professional stature overall was lower than men's. A 2000 study found that discriminatory behavior by employers accounted for 60 percent of the overall wage gap between men and women. The study, which compared wages for women and men in the private sector from 1994 to 1996, found that wages were on average 21.5 percent lower for women than for men with identical jobs and levels of education. Individual cases of denial of equal pay for equal work were subject to the law. Women also were promoted less than men. In 1998 the latest year for which data was available, 25.3 percent of women between the ages of 15 and 61 were not in the work force, compared with 10 percent for men, and women held 82 percent of all part-time jobs. Only 38 percent of women held managerial positions compared with 56.9 percent of men.

The law prohibits women from working during the 8 weeks after the birth of a child. Further measures also protect pregnant and breast-feeding women. For example, pregnant women are not allowed to work night shifts during the 8 weeks prior to giving birth. The law does not provide for compensation; however, 72 percent of working women have negotiated maternity benefits with their employers. In July 2000, the Government submitted to Parliament a new draft in favor of aligning Swiss maternity leave to European Union standards. It called for 14 weeks of paid maternity leave and asked employers for full pay during the first 8 weeks in order to be consistent with the law prohibiting women from working in the first 8 weeks after birth. The Council of States, the upper house of Parliament, followed the lead of the Federal Council in December 2000 and required the Federal government to develop a new maternity benefits plan in line with the July 2000 proposal. Women in the Canton of Geneva were provided paid maternity leave. The law provided for 16 weeks of leave following a birth at 80 percent of salary for all women who had previously worked in the canton for a minimum of 3 months.

The Federal Office for Equality Between Women and Men and the Federal Commission on Women work to eliminate all forms of direct and indirect discrimination. In 1999 a federal level interdepartmental working group issued an action plan to improve the situation of women following the country's commitments at the 1995 U.N. Convention on the Elimination of all Forms of Discrimination Against Women. The plan includes measures that address poverty, decision-making, education, health, violence against women, the economy, human rights, the media, and the environment. For example, the plan calls for financial support for childcare facilities at colleges and universities to enable a larger number of women to obtain a higher education; continued education and support for specialists in the area of addiction prevention for women; and ongoing analysis and data collection on the issue of wage differences between men and women. To achieve its mission, the Federal Office for Equality Between Men and Women increased its allocated budget for the year to \$4.4 million (6.36 million Swiss francs), compared with \$3.83 million (5.54 million Swiss francs) in 2000; the office employed 14 persons. In November the Federal Council approved a progress report to Parliament on the implementation of the 1999 action plan by the federal authorities. The report concluded that most measures of the action plan had been implemented but that further action was necessary to make gender equality a guiding principle of all activities of the federal administra-

tion. The report noted that most progress had been made in the areas of higher education and the economy, where concrete projects to promote equal opportunities such as incentive programs and day-care centers had been implemented.

Many cantons and some large cities have equality services mandated to handle gender issues. More than half of the cantons have an office in charge of promoting equality, but funding and personnel levels remained uneven. The majority of the cantons had commissions that reported to the cantonal government.

*Children.*—The Government has no special programs for children, and there is no special governmental office for children's matters; however, the Government was strongly committed to children's rights and welfare. It amply funded a system of public education and need-based subsidies of health insurance. Education was free and compulsory for 9 years, from age 6 or 7 through age 16 or 17, depending on the canton. Some cantons offered a 10th school year. Almost all children attended school. The Government subsidized the health insurance premiums of low-income families.

There was no societal pattern of abuse of children, although it did occur. The federal and cantonal governments, as well as approximately 80 NGOs that defend children's rights, have devoted considerable attention in the last few years to child abuse, especially sexual abuse. For convicted child sexual abusers, the law provides for imprisonment of up to 15 years. On October 1, new regulations of the statute of limitations for all crimes went into effect. For cases of child abuse, the statute of limitations has been extended to 15 years. In cases of severe sexual abuse, the statute does not take effect before the victim turns 25. If a court of first instance hands down a sentence before the stipulated time, the statute of limitations is suspended indefinitely.

During the year, the Swiss police participated in large antipedophile operations involving several countries. Police authorities from all over the country investigated more than 800 premises, questioned as many individuals, and confiscated more than 1,000 personal computers and more than 16,000 data carriers.

To combat child pornography on the Internet, the Federal Office for Police provided an Internet monitoring service on its World Wide Web page. Individuals who find pornographic material involving children were asked to contact the Federal Office via e-mail. The production, possession, distribution, or showing of hard pornography are crimes punishable with fines or prison sentences. Any pornography involving children falls into this category. In March 1999, an NGO published the first compilation of cases of child pornography and prostitution in the country. The study cited 60 cases: Most of the victims were girls between 13 and 17 years of age.

With respect to the prosecution of child sexual abuse abroad, the law provides for prosecution in Switzerland only if the act is considered a crime in the country in which it took place. However, as part of the ongoing revision of the Penal Code, Parliament in December adopted a clause making such acts punishable regardless of where the crime took place. The bill is still subject to the constitutional referendum period and is expected to come into force before 2004.

In July the Government signed a mutual legal assistance treaty in criminal matters with the Philippines that allows Philippine victims of Swiss pedophiles to give anonymous tips to Swiss authorities. The MLAT provides for the voluntary exchange of information short of a legal assistance request as well as the questioning of witnesses and experts by videoconference.

Children of migrant seasonal workers are not permitted automatically to join their parents. Children of foreigners working as migrant laborers only are permitted to visit on tourist visas for a period of 3 months at a time. After 3 months, they must return to their home country for 1 month.

*Persons with Disabilities.*—The law prohibits discrimination directed at persons with disabilities in employment, education, and the provision of other state services. The total number of persons with disabilities was estimated to be 700,000 (10 percent of the population). Most cantons already had implemented some provisions for persons with disabilities, but there was no countrywide standard. Advocates for persons with disabilities have called for new measures to ensure greater protection for their rights. The Constitution provides for equal opportunities for persons with disabilities. However, only approximately 3 percent of public buildings were accessible for wheelchair use.

An initiative called Equal Rights for People with Disabilities was launched in 1999 that would change the law and grant all persons with disabilities access to all public facilities and services, to the extent that the costs were within government means. Claiming that the financial consequences of the proposed change in law would have a negative impact on the economy, the Federal Council submitted an alternative draft law in December 2000. In September and November, respectively,

the two houses of parliament rejected the bill. However, parliamentary debate of the Federal Council's alternative draft law continued at year's end. Neither the Government nor the Constitution mandates that buildings or transportation facilities be made accessible, and advocates for persons with disabilities have called for easier access to buildings and public transportation. Under the Federal Council's draft law, public services would have to be made accessible over a period of 20 years. Opponents of this proposal claimed that the transition period would be far too long and urged that private premises, such as multiple-level housing, should also be required to implement the changes. Under the proposal, the Government would finance part of the costs to make public transportation facilities accessible but only up to a maximum of \$180 million (300 million Swiss francs). By some estimates, implementation costs could reach \$19 to \$28 million (31 to 47 million Swiss francs) per year. In June Parliament approved the Government's financing plan.

*National/Racial/Ethnic Minorities.*—According to statistics gathered by an NGO, the Foundation Against Racism and Anti-Semitism, 76 reported incidents were directed against foreigners or minorities in the first 8 months of the year, compared with 82 during the same period in 2000. The total number of reported incidents in 2000 was 109. These figures include instances of verbal and written attacks, which are much more common than physical assaults. Investigations of such attacks generally are conducted effectively and lead, in most cases, to the arrest of the persons responsible. Persons convicted of racist crimes commonly are sentenced to between 3 days' and 3 years' imprisonment and a fine of up to \$27,000 (40,000 Swiss francs). In 2000 and 2001, approximately 40 persons were convicted of racial discrimination.

The Federal Service for the Combating of Racism of the Department of the Interior, established in 2001, started operation in January. It manages the Federal government's "Fund Projects against Racism and for Human Rights" that has a budget of \$10 million (15 million Swiss francs) for the 2001–2005 period. The amount of \$335,000 (500,000 Swiss francs) per year have been earmarked for the establishment of new local consultation centers where victims of racial or religious discrimination may seek assistance. Approximately 130 consultation centers or contact points existed in the country. In addition, the Federal Service for the Combating of Racism sponsored a variety of educational and awareness-building projects to combat racism, xenophobia, and anti-Semitism. Over \$680,000 (1 million Swiss francs) was spent to support youth projects.

Neo-Nazi, skinhead, and other extremist organizations attracted greater police and government attention during the year because of such groups' increasing organization at international levels, the violence such groups commit, and the youth of the group members. In June 2001, the Federal Council granted \$2.3 million (4 million Swiss francs) to the National Science Foundation to undertake research on rightwing extremist groups. The country's central European location makes it a convenient meeting place for groups from around the continent, and police frequently monitored large gatherings of neo-Nazis and skinheads, such as parties and concerts. During the year, the Federal Police estimated that the number of members involved in right-wing extremist groups was approximately 1,000, an increase from 900 in 2000.

The number of incidents involving "skin-heads" decreased slightly during the year, with approximately 100 reported attacks, demonstrations, and gatherings; however, these incidents involved more violence and were more frequently directed against individuals rather than property. In August 2000, a small gang of "skinheads" assaulted and injured two black men in the city of St. Gallen. The attack caused a large brawl involving more than 50 "skinheads" and 80 members of St. Gallen's black community. On March 21, the St. Gallen district sentenced the extremist gang leader and a gang member to prison sentences of 6 and 3 months respectively.

During the year, meetings of skinheads continued to occur. In April approximately 150 skinheads assembled at a rock concert in Nussbaumen. The group's members came from various Swiss cantons and also from Southern Germany. In August approximately 1,000 mostly Swiss and German right-wing extremists gathered for a weekend in Affoltern am Albis, on the outskirts of Zurich. Police monitored the event and checked participants but did not intervene.

According to the Director of the Federal Commission against Racism, many extremist groups strive to create political parties to have more political influence. One such party, the Party of Nationality-Oriented Swiss, was founded in canton Basel Country. Under the Constitution, such political parties have a legal right to voice their opinions as long as they are not linked to criminal activity.

The Government and private organizations have invested considerable resources to combat such groups and stem their growth.

In a highly publicized case, in January 2001, 19-year-old Marcel von Allmen from the Interlaken town of Unterseen was killed by neo-Nazis with whom he was associated. Von Allmen was active among neo-Nazis, but in the prior few months had attempted to separate himself from them. Four of his companions (all between 17 and 22 years of age) admitted to killing von Allmen and disposing of his corpse in Thun Lake. The Thun investigative magistrate was investigating the case at year's end. The three adult defendants, who had to undergo psychiatric evaluations, are scheduled to be tried by the Interlaken district court in 2003. The fourth defendant was tried as a juvenile; he is required to undergo a psychiatric and educational program at a minimum for 2 years, and at a maximum until his 26th birthday.

Federal penal law prohibits racial discrimination, and police have used this law to monitor and close such web sites. In February the Government mandated the Federal Office of Police to set up a new national coordination center to monitor Internet crime. The program is to include the monitoring of hacking, child pornography, economic crime and racism.

Swiss Roma groups who claimed that they were victims of racial prejudice received assistance during the year from the Department of the Interior. Roma complaints included their exclusion from more camping sites, which do not allow or which limit the number of Roma allowed on the site. The Department continued its \$90,000 (150,000 Swiss francs) annual endowment program to Future for Swiss Itinerants, a foundation that worked to improve living conditions of the Roma.

The foundation attempted to raise public awareness of the Roma and lobbied cantonal governments on their behalf to provide sufficient grounds for their camps. During the year, the Foundation organized an exhibit in the context of the national exhibition Expo.02 and in November organized a conference for representatives of federal and cantonal authorities on the issue of non-Swiss Roma passing through the country.

Cantons have discretion regarding the naturalization of foreigners. In March 2000, the voters of Emmen, a small township in the Canton of Lucern, voted on local foreign residents' applications for citizenship. The voters rejected 48 applicants, almost all from southeast Europe, while approving eight Italians' citizenship bids. The Federal Council determined that it should examine the process. The Emmen vote caused a national uproar and prompted several motions in Parliament. The critical reactions of other cantons and the response of the Federal Council in examining the Emmen vote prompted a debate regarding the extent to which the naturalization regulations of a particular township may be reviewed. In June Emmen held another vote on the applications of 13 foreigners for citizenship. All 13 were accepted, including 5 from the Balkans. However, in September a popular vote denied citizenship to 10 Turks living in Schwyz. The vote was the fourth rejection of citizenship applications for some applicants.

In April 2001, the Zurich district prosecutor's office opened an investigation of the Kosovo-Albanian newspaper Bota Sot for alleged violation of the antiracism law. The newspaper, which has an editorial office in Zurich, allegedly used racist and inflammatory language when referring to Serbs in Kosovo and Macedonians in Macedonia. The publisher of Bota Sot, Xhevdet Mazrekaj, denied the accusations.

Victims of racial discrimination may appeal a national court ruling to the ECHR. Cases first must be litigated in national courts, but they may be appealed to the United Nations. Citizens have the choice of appealing to either the U.N. committee or the ECHR but may not appeal a U.N. decision to the ECHR or vice versa. Both are mutually exclusive and cannot overrule the other's decisions.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—All workers, including foreigners, have the freedom to associate freely, to join unions of their choice, and to select their own representatives, and workers exercised these rights in practice. Approximately one-quarter of the work force was unionized. Unions are independent of the Government and political parties.

The law protects workers from acts of antiunion discrimination, and the Government generally respected this provision in practice.

Unions associate freely with international organizations.

*b. The Right to Organize and Bargain Collectively.*—The Constitution provides for the right to organize and bargain collectively, and unions exercised this right. Periodic negotiations between employer and worker organizations determine wages and settle other labor issues at the local, or infrequently, at the industry sector level.

Nonunion firms generally adopt the terms and conditions fixed in the unions' collective bargaining. However, the Swiss Federation of Trade Unions reported that employers were increasingly trying to avoid collective bargaining. Some employers left their Federation in order to avoid the collective agreement for their industry.

For example, only 37 of the 270 Swiss textile employers adhered to the collective agreement in 2000.

Labor appeal courts existed at both the cantonal and district levels.

On January 1, the 2000 Federal Act on Public Servants took effect and removed a long-standing prohibition on the right to strike by employees of the Federal government and state-owned bodies, such as the railways and the postal service. Under this Act, the Government may curtail or suspend the right to strike for certain categories of government employees only for reasons of national security, safeguarding national foreign policy interests, or providing the population with essential goods and services. The Federal Act on Public Servants only applies at the federal level. In some cantons and many communes public servants were still denied the right to strike.

The 2000 revised Constitution provides specific protection for the right to strike; however, effective and informal agreement between unions and employers have resulted in fewer than 10 strikes per year since 1975. In 2001 there were only 3 days of striking on record. Swiss law prohibits retribution against strikers or their leaders.

On November 4, several thousand construction workers participated in the largest strike in 55 years demanding a lower, voluntary retirement age.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution implicitly bans forced or bonded labor. Article 27 provides for economic freedom and explicitly guarantees the right to choose freely one's profession as well as unrestrained access to and unencumbered exercise of a gainful occupation. The Government prohibits forced or bonded labor by children which is explicitly forbidden under Article 30 of the 1964 Labor Act. There were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The minimum age for the full-time employment of children is 15 years, and children generally remained in school until this age. Children over 13 years of age may be employed in light duties for not more than 9 hours per week during the school year and 15 hours otherwise. The employment of youths between the ages of 15 and 20 was regulated strictly; they were not allowed to work at night, on Sundays, or in hazardous or dangerous conditions. The State Secretariat for Economic Affairs effectively enforced the law on working conditions. Government officials inspected companies that allegedly employ children illegally after receiving complaints. During the year, no employers were fined or received conditional sentences for violations of the law.

*e. Acceptable Conditions of Work.*—Government regulations cover maximum work hours, minimum length of holidays, sick leave and compulsory military service, contract termination, and other requirements. However, there was no national minimum wage, which resulted in low wage structures for unskilled and service industry workers. Employees in the retail sectors, in cooperation with other interests, have been successful in slowing reform of the restrictive federal and cantonal laws governing opening hours; however, these restrictions were easing at year's end.

The law sets a maximum 45-hour workweek for blue- and white-collar workers in industry, services, and retail trades, and a 50-hour workweek for all other workers. The law prescribes a rest period of 35 consecutive hours plus an additional half day per week. Annual overtime is limited by law to 170 hours for those working 45 hours per week and to 140 hours for those working 50 hours per week.

The Labor Act and the Federal Code of Obligations contain extensive regulations to protect worker health and safety. There were no reports of lapses in the enforcement of these regulations, but the degree to which enforcement is effective was unclear. A 1998 law was designed to increase flexibility in the workplace and remove restrictions on women working at night. Workers had the right to remove themselves from work situations that endanger health or safety without jeopardy to their continued employment.

The law generally protects legal and illegal foreign workers; however, the law was not always respected in practice. Illegal foreign workers were not covered by mandatory health insurance in case of illness or accident. Wage discrimination against foreign workers was not permitted. According to an NGO, 100,000 to 300,000 foreign workers were vulnerable to abuse of their rights during their participation in the underground economy for long periods. Late in the year, many of these workers demonstrated for legal status and more worker rights by occupying churches in major cities for several days in cooperation with religious and human rights groups.

In June 2001, the Minister of Justice criticized many cantons for tolerating the use of illegal aliens, who earned substandard wages without protection and proposed improved worker legislation.

*f. Trafficking in Persons.*—The Penal Code criminalizes sexual exploitation and trafficking in persons; however, trafficking in women for prostitution increased.

Trafficking in persons may result in prison sentence of up to 20 years; coercing a person into prostitution or restricting a prostitute's personal freedom can carry a sentence of up to 10 years in prison.

On April 29, the Federal Court decided that hiring young women, who come from abroad, to engage in prostitution in Switzerland by taking advantage of their difficult situation, generally constitutes human trafficking. In particular, the Federal Court ruled that a woman's consent to prostitute herself was invalid, if it was obtained in a situation of distress. (The charge of human trafficking only applies if the victims engage in prostitution against their will.) Under the new ruling, the charge still applies even if on the face of it the women were prostituting themselves voluntarily but their traffickers exploited a situation of distress or dependency.

On November 26, the Federal Court upheld a ruling of a Zurich cantonal court, which in January 2001 sentenced a Thai woman to 4½ years in prison and a \$7,200 fine (10,000 Swiss francs) after she was found guilty of human trafficking. Between 1993 and 1998, the woman assisted a total of 39 Thai women to enter prostitution in Switzerland. The victims were forced to work up to 17 hours a day and reimburse \$8,000 (12,000 Swiss francs) for the travel expenses. The Federal Court deemed irrelevant that the trafficked women had formally consented to engage in prostitution given their precarious economic situation in Thailand. The Federal Court dropped some lesser charges and sent the case back before the Zurich cantonal court for review.

The prosecution of illegal prostitution and trafficking of persons normally falls under the jurisdiction of cantonal police authorities. However, since 2001, more complex cases that involve several cantons or are linked to organized crime are under the authority of the federal agencies to investigate and prosecute.

The Federal Council in 2000 charged the Federal Department of Justice and Police with setting up an interdepartmental working group to assess the need for additional government action, namely new legal provisions, to combat human trafficking. In its final report released during the year, the working group conjectured that there were approximately 3,000 cases of human trafficking every year from Eastern Europe alone, but only about 30 cases (1 percent) were reported to the police, leading to fewer than 5 convictions per year. The main reason given for this discrepancy was the restrictive immigration policy which undermined the effectiveness of the Penal Code and the Victim's Assistance Law. Current immigration legislation, which criminalizes the victims of human trafficking (because they reside or work illegally in the country) and normally leads to their rapid deportation upon detection, serves as a disincentive for victims to turn against their traffickers. The report made several recommendations on how to combat human trafficking: Broaden the definition of human trafficking in the Penal Code to include exploitation of labor force and organ snatching; run awareness campaigns both in Switzerland and the countries of origin, grant (temporary) residency to victims of human trafficking, and improve local cooperation among the police, judicial authorities and victim assistance centers. The Federal Council tasked the departments concerned to assess these proposals and to make recommendations as to their implementation.

Since 1905 the Government has had an office to combat the trafficking of young women for the purpose of commercial sexual exploitation. The human trafficking office existed as part of the Federal Office of Police (BAP) until the latter's reorganization in 2000. Since then, two separate BAP divisions handle trafficking problems in the broader context of organized crime: the Federal Criminal Police handles international cooperation and investigations of organized crime, including human trafficking, and the Service for Analysis and Prevention (DAP) does strategic analyses of information.

In order to confront modern forms of trafficking in women, especially via the Internet, the Federal Police have increased the number of their agents since 1999. In October 2001, the Justice Ministry established within the Federal Department of Police a Central Coordination Office for Human Trade and Human Smuggling to better coordinate activities to fight illegal migration, which will start operations at the beginning of 2003. The investigation, enforcement, and prosecution of individual trafficking and related cases was the responsibility of the cantonal police authorities. The federal human trafficking office also supported the cantonal prosecution authorities with information concerning trafficking abroad. However, since 2001, more complex cases that involved several cantons or were linked to organized crime were under the authority of the federal agencies to investigate and prosecute.

The Government has institutionalized an exchange of information on trafficking in persons with NGOs. The Department of Foreign Affairs (DFA) helps fund programs intended to combat trafficking from Eastern Europe, having spent approxi-



mately \$193,416 (120,000 Swiss francs) on anti-human trafficking programs during the year. In addition, DFA's Development Cooperation Office (DEZA) funded half a dozen programs intended to combat human trafficking mainly from Eastern Europe and the former Soviet Union with approximately \$120,000 (300,000 Swiss francs). In March 1999, the Government introduced new visa requirements for applicants from four South American countries: Colombia, Cuba, Ecuador, and Bolivia. The Interior Ministry's Office for Equality between Women and Men initiated a program to train Swiss consular officials to educate visa applicants in their home countries on the risks of falling victim to human traffickers and methods used to lure women into vulnerable situations. The Government provided funding to the Stability Pact for South Eastern Europe's Anti-Trafficking Task Force and supported the OSCE's Office for Democratic Institutions and Human Rights Anti-Trafficking Project Fund.

The country was a destination and, to a lesser extent, a transit location. According to authorities, most persons trafficked in 2000 originated in Thailand, parts of Africa, or South America. An increasing number of trafficked women arrived from Eastern Europe, particularly Hungary, Russia, Ukraine, or other states of the former Soviet Union. Police figures indicated that approximately 14,000 prostitutes worked in the country both legally and illegally. More than half worked in Basel, Bern, Zurich, Lucerne, Geneva, and Ticino.

Since the late 1990s, a growing number of salons and clubs have appeared in which women registered as artists engaged in illegal prostitution. Authorities suspected that traffickers were bringing some of these "artists" into Switzerland. Police monitoring was difficult because the artist visas (also called the "L" residency permits) include an allowance for a short work period during which individuals may engage in some form of self-employed activity. Approximately 1,800 women normally stayed in Switzerland on "L" residency permits spread across about 400 cabarets. According to statistics from May 2001, prostitutes from the former Soviet Union accounted for 67 percent of all "L" residence permits. L Permits issued to Ukrainian women increased from 88 in 1995 to 407 in May 2001, an increase of 360 percent in 6 years. Permits to Romanian and Moldavian women increased by 650 percent and 800 percent, respectively, over the same period. According to the Chief of the Geneva vice squad, the police had no legal means of preventing cabaret dancers from prostituting themselves after work hours but tried to prevent physical abuses against prostitutes. Smaller prostitution networks also existed and often involved relatives of foreign families established in the country, or members of the same ethnic groups.

Traffickers often forced victims into prostitution and in many cases subjected them to physical and sexual violence, threatened them or their families, encouraged drug addiction, withheld their documents, and incarcerated them. Many victims were forced to work in salons or clubs to pay for the cost of their travel and forged documents and found themselves dependent on the traffickers. Generally the victims were unable to read, write, or speak the country's languages, and were afraid to seek help from the authorities.

Under the Swiss Victim's Assistance Law, trafficking victims may seek help from centers providing assistance to abuse victims. These centers/shelters typically provided counseling as well as material and legal aid but in some cases may also provide travel vouchers and emergency lodging. In penal proceedings, trafficking victims who are testifying enjoy special protection of their identity and may request the trial to take place behind closed doors and a confrontation with the defendant to be avoided. Women's shelters and NGOs that provided services to victims received federal and cantonal government funding. For example, the Zurich-based Women's Information Center (FIZ), which assisted women from Africa, Latin America and Eastern Europe, received roughly 40 percent of its \$250,000 budget (420,000 Swiss francs) from federal, cantonal and city governments.

In some regions, NGOs complained of working at odds with cantonal police authorities that tended to favor rapid deportation of possible trafficking victims and were inclined to treat the latter as criminals. NGOs particularly criticized the lack of a designated person of contact within cantonal police authorities. To address the problem, the Zurich-based Women's Information Center (FIZ) initiated working groups to improve cooperation between NGOs and cantonal justice and police authorities. In Zurich representatives of the police, the immigration office, the prosecutor's office, the Government's Equal Opportunity Office, and FIZ regularly convened to improve cooperation between the different parties to provide better assistance to victims of trafficking.

In 2000 FIZ submitted a petition to the Federal Council and both houses of Parliament calling for the establishment of a protection program for trafficking victims, which would end the automatic expulsion of women arrested for illegal prostitution and legalize their stay for the duration of investigations and trials. Most women

normally were expelled within 96 hours. The program also would provide shelter, protection from intimidation, counseling centers, and sensitivity training for police. The petition also called for a change in the legal definition of trafficking to include not only women forced into prostitution but also women whose migration to the country for marriage or domestic work forced them into a state of dependency. Approximately 7,500 individuals, organizations, and parliamentarians signed the petition.

In general persons responsible for trafficking may not be prosecuted unless the victims are willing to testify. However, few victims were willing to testify because they feared retaliation or were concerned that they would be forced to leave the country because they were illegal immigrants. Cantonal authorities may grant a temporary residency permit on a case-by-case basis to victims willing to assist in the investigations and to testify against their traffickers, but a legal framework providing this right has not yet been established. In cases of serious hardship, a federal ordinance allows cantonal police authorities to grant a residency permit to victims of sexual exploitation or forced labor, but NGOs contended that in reality this rarely happened.

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## TAJIKISTAN

Tajikistan is ruled by an authoritarian regime that has established some nominally democratic institutions, including a Constitution adopted in 1994. President Emomali Rahmonov and an inner circle of fellow natives of the Kulyab region continued to dominate the Government; however, Rahmonov's narrow base of support somewhat limited his control of the entire territory of the country. Rahmonov won reelection in a 1999 election that was seriously flawed and was neither free nor fair. Some opposition figures held seats in the Parliament and positions in the Government. Rahmonov's supporters overwhelmingly won the February 2000 parliamentary elections that were neither free nor fair but that did allow several opposition parties to participate. May 2001 parliamentary by-elections were flawed, as were by-elections held in three districts during the year. Although stability throughout the country has increased significantly since the 1992-97 civil war, the Government still faced the challenge of maintaining law and order, and regional divisions within the security forces themselves persisted. The Constitution provides for an independent judiciary; however, it was not independent in practice.

The Ministries of Interior, Security, and Defense share responsibility for internal security, although in practice the Government relied on a handful of commanders who used their forces for internal security. In a few regions local commanders exercised a degree of autonomy from the Government, although the Government's 2001 military operations against Rahmon Sanginov discouraged many former local opposition commanders from attempting to assert independence from government authority. The soldiers of some of these commanders were involved in crime and corruption. A Russian army motorized rifle division, part of a Commonwealth of Independent States (CIS) peacekeeping force established in 1993, remained in the country. Members of government security forces and government-aligned militias committed serious human rights abuses.

The economy is a state-controlled system in the process of a transition to a market-based system. The country has a population of approximately 6.4 million. Most of the work force was engaged in agriculture, which remained partly collectivized. Government revenue depended highly on state-controlled cotton production, and the small industrial sector was dominated by aluminum production. Small-scale privatization was more than 80 percent complete, but the level of medium to large scale privatization was much lower at approximately 16 percent. Many, but not all, wages and pensions were paid. Per capita gross national product was approximately \$180, and gross domestic product grew approximately 9 percent during the year. Official unemployment was estimated at 10 percent; however, "hidden" employment was approximately 40 percent. The continued influence of narcotics trafficking and other forms of corruption led to clear disparities of income between the vast majority of the population and a small number of former progovernment and opposition warlords, who controlled many of the legal and most of the criminal sectors of the economy.

The Government's human rights record remained poor; although there were improvements in some areas, serious problems remained. The citizens' right to change their government remained restricted. Unlike in past years, there were no reports that security forces committed extrajudicial killings; however, police and security forces committed unlawful killings for which they rarely were held accountable. The Government made progress in investigating political killings that occurred in pre-

vious years. There were deaths in custody. Explosions of landmines laid in years past killed some civilians. There were a number of disappearances and kidnappings. Security forces tortured, beat, and abused detainees and other persons. These forces also were responsible for threats, extortion, and abuse of civilians. The Government continued to use arbitrary arrest and detention and arrested persons for political reasons. Impunity remained a problem. Prison conditions remained harsh and life threatening. Lengthy pretrial detention remained a problem. The judiciary was subject to political and paramilitary pressure, and often there were long delays before trials. Law enforcement officers used torture to obtain confessions, which then were used in trial without qualification. The authorities infringed on citizens' right to privacy. The Government eased its restrictions on freedom of speech and loosened controls over electronic media but on occasion discouraged free expression. Journalists practiced self-censorship. The Government restricted freedom of assembly and association by exercising strict control over political organizations and by intimidating demonstrators. There were some restrictions on freedom of religion. The Government eased restrictions on freedom of movement by eliminating the exit visa requirement. Violence and discrimination against women were problems, as was discrimination against persons with disabilities and religious and ethnic minorities. Child labor was a problem. There were some instances of forced labor, including by children. Trafficking in women and children was a serious problem, although the Government took some steps to address the problem.

Narco-traffickers and organized crime groups that operate in a quasi-military style continued to threaten, extort, and abuse the civilian population.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings; however, there were reports of the arbitrary or unlawful killings committed by the Government and its agents, although it was difficult to estimate the total number of such killings or to attribute responsibility in many cases. According to security officials, members of the Government, including members of the police and security forces, committed some killings for reasons stemming from business or organized criminal activities. For example, in November the former chairman of the Shahrinaw District outside Dushanbe was convicted of ordering the murder of a business rival in late 2001 while he was still in office. He was sentenced to 20 years in prison. Government officials were rarely held accountable for such crimes; however, there were several trials of former government officials in connection with similar cases.

Several local officials, businessmen, and professional figures were killed during the year, for a variety of political, economic, and ethnic reasons. In September the brother of the director of a major collective farm in the Isfara District was murdered. The local Islamic Revival Party of Tajikistan (IRPT) office claimed that the murder was an attempt to destabilize the political situation in Isfara, and IRPT called for a thorough investigation; a police investigation continued at year's end.

Government officials claimed progress in investigating a number of political killings in recent years. The Government formed a special investigative unit and announced that a number of arrests had been made and charges filed by year's end; however, the Government indicated that some of those under investigation were being detained without formal charges. Some of these individuals were held incommunicado (*see* Section 1.d.). Local and international observers questioned the objectivity of the investigations. These included investigations of the killings of former Chairman of the Gharm District Sirojiddin Davlatov in 2000; former Deputy Prime Minister Moyonsho Nazarshoyev in 1998; and former Chairman of the Parliamentary Committee on Legislation and Human Rights Safarali Kenjayev in 1998.

In March seven men were convicted of the May 2001 murder of First Deputy Minister of the Interior Habib Sanginov and were sentenced to death; there were allegations of torture and judicial impropriety during the investigation and trial (*see* Sections 1.c. and 1.e.). Also in March, one man was convicted and sentenced to death in the May 2001 killing of Sobirjon Begijonov, Chairman of Jabborasulov District in Sughd Oblast. In November murder charges were filed against four other men in connection with this case; all five allegedly were part of a "criminal gang" of 35 persons that was charged in November with various murders dating back to 1994. In July one man was convicted and sentenced to death in the September 2001 killing of Minister of Culture Abdurahim Rahimov.

In June two brothers, Dovud and Sherali Nazriev, were executed after being convicted in May 2001 on charges of the 2000 attempted assassination of the Mayor of Dushanbe (who is also the Chairman of Parliament). The Deputy Minister of Se-

curity was also killed in the attack, although the brothers were not charged directly with his death. The execution, which was delayed pending an appeal, was eventually carried out despite a request for a further delay from the U.N. Human Rights Commission while it examined the case.

In September two men—one a former District-level government official—were arrested for the 1996 killing of Russian journalist Viktor Nikulin. The trial was ongoing at year's end (*see* Section 2.a.).

There were no developments in some political killings from past years including: The April 2001 abduction and killing of three Dushanbe policemen; the July 2001 killing of Karim Yuldoshev, the Presidential Advisor on International Affairs; the 2000 killing of the Chairman of the State Radio and Television Committee, Saif Rahimov (Rahimzoda); or the 2000 killing of Khovar State Information Agency correspondent Aleksandr Opatov.

There were reports of a number of deaths in custody; however, statistics were unavailable. It was unclear what proportion of these deaths resulted from mistreatment by police and prison authorities or from harsh prison conditions and lack of food and adequate medical treatment (*see* Section 1.c.).

Both the Government and the opposition used landmines during the civil war. Landmine explosions in some unmarked mine fields in the Karetegin Valley reportedly killed civilians during the year. Landmines were laid along the northern segment of the border with Uzbekistan, which included some populated areas and was not demarcated clearly in most places. The Government of Uzbekistan claimed that it laid the mines as part of a counterinsurgency campaign. The State Border Protection Committee reported that 58 persons were killed by landmine explosions during the year along the Uzbek border. Estimates were unavailable for landmine deaths elsewhere in the country. In December the Ministry of Defense announced that the Government had cleared more than 770 square miles and 420 miles of roads of mines during the year and estimated that more than 16,000 mines remained in the country.

The Government Drug Control Agency reported instances in which Tajik border guards were killed on the Afghanistan border in gun battles with narcotics traffickers. International observers and Russian and Tajik Border forces also alleged that Tajik and Afghan criminal groups engaged in narcotics smuggling killed members of the border area populations. There were also reports that these same criminal groups took local residents hostage (*see* Section 1.b.).

There were no developments in the cases of an April 2001 bombing at a Dushanbe market that killed three persons and injured 11 and of the 2000 landmine explosion on a public bus on the outskirts of Dushanbe that killed at least five passengers.

A police investigation concluded that the October and December 2001 shooting deaths of two Baha'i residents of Dushanbe was religiously motivated, and in November the Government filed charges against a "criminal group" of 35 persons for murders and assassinations dating back to 1994, including the 2001 Baha'i killings (*see* Section 2.c.).

The Government routinely sentenced criminal defendants to death in trials that violated norms of due process and human rights. During pretrial detention, the police often beat and otherwise coerced suspects into making confessions, which were introduced into trial without qualification (*see* Sections 1.c., 1.d., and 1.e.). Amnesty International reported that 29 persons were sentenced to death in the first 6 months of the year, that none of them received a fair trial, and that executions often were conducted in secrecy. A witness in the murder trial of those accused of the 2001 killing of Deputy Minister of Justice Habib Sanginov recanted in court his earlier testimony, claiming that he had been tortured into making false statements. His testimony was retained as evidence, on the basis of which four men were sentenced to death (*see* Section 1.e.). The Prosecutor General's office as well as senior government officials continued to defend the Government's application of the death penalty.

*b. Disappearance.*—There were no reports of politically motivated disappearances; however, there were numerous kidnappings.

The taking of hostages for revenge or for bargaining purposes remained a common occurrence. In October the Ministry of Security reportedly stated that Afghan-based drug trafficking groups took hostage 24 residents of the border areas as penalties for unpaid debts or to secure cooperation in narcotics trafficking. Those kidnaped reportedly were held in northern Afghanistan (*see* Section 1.c.).

Political pressures, the Government's lack of control over violently competitive factions within and outside the Government, and a lack of professional resources hampered police efforts to investigate disappearances. For example, there were no developments in the 2000 abduction and later release of the sister of Deputy Prime Minister Nigina Sharapovna or in the 2000 disappearance of the ethnic Uzbek mayor of a town in Khatlon District.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits torture; however, there were reports that security officials, particularly those in the Ministry of Interior, used systematic beatings to extort confessions and used sexual abuse and electrocution during interrogations. Impunity remained a serious problem, and the Government prosecuted few of the persons who committed these abuses. In July nine officers of the Ministry of Interior were tried and convicted on charges of abuses of power and use of prohibited methods of interrogation; they were sentenced to terms of imprisonment ranging from 3 to 7 years. This group included the Deputy Chairman of the Ministry of Interior Administration for Sughd Oblast and the chairman of its administration for the city of Khojand, Sughd's administrative center. Government officials, including security forces, harassed members of the opposition IRPT in the north of the country. The Government acknowledged that the security forces were corrupt and that most citizens choose to keep silent when subjected to mistreatment rather than risk retaliation by the police.

In the southern regions of the country, many border guards were involved in the drug trade, and the local population made numerous complaints of harassment and abuses committed by them. There were reports of widespread invasive and degrading searches by border guards, particularly with regard to women. The nongovernmental organization (NGO) Modar reported that in May and June women crossing into Uzbekistan and Kyrgyzstan commonly were subjected to strip searches by officials on both sides of the border, with such objectives as preventing narcotics trafficking or harassing the individual (*see* Section 2.d.). In February several border guards were convicted of "abuse of power" and sentenced to 6 years imprisonment for harassment, extortion, and corruption.

Law enforcement authorities mistreated members of the country's Afghan refugee population. In June a Dushanbe city police officer arrested an Afghan refugee for having expired refugee documents and beat him after an attempted escape (*see* Section 2.d.). There were widespread claims of petty harassment of Afghan refugees. There were no developments in the case of a prominent Afghan refugee who credibly claimed that Ministry of Interior officers beat him in 2000 in retaliation for previous claims of abuse (*see* Section 2.d.).

Unlike in the previous year, there were no reports that law enforcement authorities (or armed individuals dressed as, and claiming to be law enforcement authorities) beat journalists (*see* Section 2.a.).

Some government officials facilitated trafficking in persons (*see* Section 6.f.).

Investigations continued into several 2001 cases of shootings, bombings, and terrorist attacks that resulted in injuries and serious property damage as well as deaths (*see* Section 1.a.). Groups that have not accepted the peace process (i.e., organized crime groups, narcotics traffickers, or opposition groups) were suspected to be responsible for these attacks.

According to credible Tajik counternarcotics law enforcement authorities, Tajik and Afghan criminal groups engaged in narcotics smuggling across the country's border with Afghanistan and threatened, harassed, and committed abuses against the border area populations (*see* Section 1.b.).

Conditions in the country's seven prisons remained harsh and life threatening. In June the Government transferred administrative responsibility for prisons from the Ministry of Interior to the Ministry of Justice, a move which the OSCE characterized as a step toward "fulfilling international standards." Prisons generally were overcrowded, unsanitary, and disease-ridden. Some prisoners died of hunger. Family members were allowed access to prisoners only after a guilty verdict, in accordance with the law. However, family members of prisoners sentenced to capital punishment were not informed of the date of the execution and were not allowed access to the prisoner's effects or remains after the sentence was carried out. Men and women were housed separately; there is one women's prison. There is one prison specifically for members of "power ministries" (police, KGB, military personnel). Juveniles were held in separate juvenile reform facilities. Pretrial detainees were held separately from those convicted. Beatings were common.

In August 2001, the Government decreed an amnesty for more than 19,000 prisoners, primarily the sick and the old, and those convicted of minor narcotics trafficking offenses; however, not all of the amnestied prisoners were released, although some persons convicted of crimes during the year had their sentences immediately waived under the amnesty.

The Government permits some prison visits by international human rights observers; however, the Government denied requests by the International Committee of the Red Cross (ICRC) to make prison visits in a manner consistent with the ICRC's standard modalities.

*d. Arbitrary Arrest, Detention, or Exile.*—The Government continued to arrest and detain citizens arbitrarily. The Criminal Code retains many of the defects inherited from Soviet times. For example, the system allows for lengthy pretrial detention and provides few checks on the power of procurators and police to arrest persons.

Police legally may detain persons without a warrant for a period of 72 hours, and the procurator's office may do so for a period of 10 days, after which the accused must be charged officially. At that point, the Criminal Code permits pretrial detention for up to 15 months. The first 3 months of detention are at the discretion of the local procurator, the second 3 months must be approved at the regional level, and the Procurator General must sanction any remaining detention time. The Criminal Code specifies that all investigations must be completed 1 month before the 15-month maximum in order to allow time for the defense to examine government evidence. There is no requirement for judicial approval or for a preliminary judicial hearing on the charge or detention. In criminal cases, detainees may be released and restricted to their place of residence pending trial. Officials regularly refused detainees access to counsel. Incommunicado detention was a problem (*see* Section 1.a.). For example, on September 3, Ministry of Security officials in Dushanbe detained 10 Afghan refugees and held them incommunicado until 8 members of the group were deported on September 17. The Government arrested a number of persons in connection with political killings from previous years; many of those arrested were held incommunicado for long periods of time and were still in police custody despite not being formally charged at year's end. There is no provision for bail, and lengthy pretrial detention was a problem.

In most cases, the security officers, principally personnel from the Ministry of Internal Affairs or the Ministry of Security, did not obtain arrest warrants and did not bring charges. Those released often claimed that they were mistreated and beaten during detention (*see* Section 1.c.).

The Government made politically motivated arrests, and there were credible allegations of illegal government detention of members of rival political factions. Local and international observers questioned whether arrests in several investigations of political killings were politically motivated. For example, in March six men were convicted of murder in the 2001 killing of Deputy Minister of Justice Habib Sanginov. There were widespread allegations that the investigation and trial were politically motivated and that there were serious irregularities during the trial (*see* Sections 1.a., 1.c., and 1.e.). Reportedly there was little connection between some of those convicted and the alleged plotters of the murder, and several international observers noted that the prosecutors' claims of drug trafficking by the victim appeared to be a coverup for other possible motives in the case.

According to the Ministry of Interior, 142 members of Hizb ut-Tahrir, an extremist Islamic organization, were convicted and sentenced in connection with various crimes related to their party membership during the year (*see* Section 2.c.).

The Constitution states that no one can be exiled without a legal basis, and no laws establish a legal basis for exile. There were no reports of forced exile; however, some opponents of the Government remained in self-imposed exile. During the year, Oleg Panfilov, the head of the Center for Journalism in Extreme Situations—in self-imposed exile since 1997—returned to the country for several short trips but then returned to self-imposed exile.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice the judicial system was subject to the influence of executive authorities. Armed criminal groups directly influenced judicial officials at all levels. Public order improved during the year. However, the erosion of public order and judicial integrity that took place during the civil war, largely as a result of the virtual immunity from prosecution of armed militia groups, has yet to be overcome.

Under the Constitution, the President has the right, with confirmation by the Parliament, both to appoint and to dismiss judges and prosecutors. Judges at the local, regional, and national level for the most part are poorly trained and lack understanding of the concept of an independent judiciary. The Government made some progress in this respect by instituting regular examinations to screen unqualified candidates for judgeships. Judges at all levels have extremely poor access to legal reference materials. Bribery of prosecutors and judges was a common practice.

The court system, largely unmodified from the Soviet period, includes city, district, regional, and national levels, with a parallel military court system. Higher courts serve as appellate courts for the lower ones. The Constitution establishes additional courts, including the Constitutional Court.

Military courts only try civilians in extremely rare circumstances, such as when a crime is committed by both a serviceman and a civilian. A military judge and two officers drawn from the service ranks hear such cases.

According to the law, trials are public, except in cases involving national security or the protection of minors. Once a case is entered for trial, the law states that it must be brought before a judge within 28 days; however, it is common for cases to be delayed for many months before trial begins (*see* Section 1.d.). The court appoints an attorney for those who do not have one. Defendants may choose their own attorney but may not necessarily choose among court-appointed defenders. However, in practice arrested persons often were denied prompt, and in some cases any, access to an attorney.

The procurator's office is responsible for conducting all investigations of alleged criminal conduct. According to the law, both defendant and counsel have the right to review all government evidence, to confront witnesses, and to present evidence and testimony. No groups are barred from testifying, and all testimony theoretically is given equal consideration, regardless of the ethnicity or gender of the witness. Ministry of Justice officials maintained that defendants benefit from the presumption of innocence, despite the unmodified Soviet legal statute that presumes the guilt of all persons brought to trial. However, in practice bringing charges tended to suggest guilt, and government officials routinely made public pretrial statements proclaiming a suspect's guilt.

Law enforcement officials often used torture and beatings as methods of coercing evidence, including confessions (*see* Section 1.c.). Such evidence routinely was used in trial without qualification, as in the 2001–2002 trial of seven persons charged with the 2001 murder of Deputy Interior Minister Habib Sanginov (*see* Section 1.a.). Kiemmidin Mizoyev, the alleged leader of the plot, recanted his confession in court, claiming that he had been tortured into giving false testimony. His testimony was used to convict five others on March 27, all of whom also claimed they had been tortured and forced to sign false statements.

Some factions of the Government allegedly used the investigations of high profile cases to carry out political attacks on other factions of the Government. Given the low level of available information regarding the pretrial, investigation, and trial phases of the criminal process, and the Government's refusal to allow the ICRC and other groups regular access to prisons in accordance with their standard procedures, the number of such political prisoners was unknown.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the inviolability of the home and prohibits interference with correspondence, telephone conversations, and postal and communication rights, except "in cases prescribed by law"; however, the authorities continued to infringe on citizens' right to privacy. Except for special circumstances, the law prohibits police from entering and searching a private home without the approval of the procurator. When police do enter and search without prior approval, they must inform the procurator within 24 hours; however, police frequently ignored these requirements. There is no independent judicial review of police searches conducted without a warrant. Police also may enter and search homes without permission if they have compelling reason to believe that a delay in obtaining a warrant would impair national security.

In August the Government resettled 500 residents of the country's eastern Gorno-Badakhshan Autonomous oblast after their village was destroyed by a landslide. The Government claimed the villagers asked to be resettled; however, the villagers claimed they were told that they would be denied emergency assistance unless they moved to a collective farm in Bishkent, near the Uzbek border in the south of Khatlon oblast (*see* Section 2.d.). Previous voluntary resettlement plans involving Bishkent were criticized for the Government's failure to deliver on promises of housing, potable water, land grants, and other social services (*see* Section 2.d.).

Police and Ministry of Interior officials often harassed the families of suspects in pretrial detention or threatened to do so in order to elicit confessions.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government restricted these rights in practice. Journalists, broadcasters, and individual citizens who disagreed with government policies on occasion were discouraged from speaking freely or critically. In November nine television journalists in Khojand were detained by local military authorities following the broadcast of a documentary they had produced regarding "press-ganging" and other irregularities in the fall conscription campaign; six of the journalists were released while the other three were drafted into the military. The Khojand regional military command agreed to assign the journalist to the military's public affairs unit while permitting them to continue their employment at a local television station. Government officials criticized the local military officials' "excessive" actions but also claimed that the three reporters were draft evaders. In September state tele-

vision Kulob correspondent Suhrob Farrukhshoev was fired after publishing a freelance article on the spread of typhoid in President Rahmonov's home region. Television management told Farrukhshoev that they were following orders from the Kulob local administration. Farrukhshoev subsequently obtained employment at an independent media NGO that regularly featured criticism of the Government.

In April the Government enacted new media legislation reaffirming the right to free speech and criminalizing interference with journalists' work; however, journalists reported that government officials improperly limited their access to information or provided "friendly advice" on what news should not be covered. The Government also controlled the printing presses and the supply of newsprint and broadcasting facilities and subsidized the large majority of publications and productions. Editors and journalists, fearful of reprisals, exercised some self-censorship; however, a number of publications published articles highly critical of the Government.

The number of independent and local newspapers continued to increase during the year. Although only a small number of newspapers attempted to cover serious news, several new newspapers focused on news and analysis. Several newspapers are organs of political parties or blocs.

There is one government-run television network; its several local stations covered regional and local issues from an official point of view. Opposition politicians had little access to it; however, it continued to broadcast a series of political party debates organized by the International Foundation for Electoral Systems. There were 36 nongovernmental television stations—not all of which operated at any one time and only a handful of which were genuinely independent. Some of these independent stations have independent studio facilities and broadcast equipment, but most depended on government-owned transmission equipment. In June four independent television stations' licenses were suspended for non-payment of fees for use of government equipment. An independent station in Khojand continued broadcasting political party debates sponsored by the OSCE's Khojand office. Although the Government permitted a daily Uzbek radio broadcast, broadcast time was dominated by Tajik and Russian language programs; however, there was a weekly television broadcast.

Independent radio and television stations continued to experience administrative and legal harassment. To obtain licenses, independent television stations must work through the Ministry of Communications and the State Television and Radio Committee. At every stage of the bureaucratic process, there are high official and unofficial fees. The process of obtaining licenses is lengthy, sometimes taking years. Those who are denied licenses were allowed to reapply; however, there was no formal appeals process. In August the Government issued licenses for the first time to three independent radio stations in the capital. One of the stations had waited for nearly 4 years without a formal reply to its application. In July the Television and Radio Committee refused the station's application; however, following pressure from domestic and international media and other organizations, President Rahmonov instructed the Committee to issue the license. The other two radio stations received their licenses concurrently.

Journalists on occasion were subject to harassment and intimidation, sometimes perpetrated by government authorities. In July the Government dropped charges of attempting to overthrow the state against journalist Dodojon Atovulloev, and the General Prosecutor publicly stated that Atovulloev could return to the country and continue publishing his newspaper. In September Ahtam Tohirov, former Deputy Chairman of the Tax Committee of the Kofarnihon District, and a second man were arrested for the 1996 killing of Russian journalist Viktor Nikulin (*see* Section 1.a.).

Journalist Oleg Panfilov returned from self-imposed exile to Tajikistan on several short trips and participated in several forums on independent media (*see* Section 1.d.).

There were no developments in the 2000 case of a reporter for the state-owned newspaper *Jumhuriyat* who was seized and severely beaten by Dushanbe militiamen.

There are five Internet service providers—one wholly state-owned and four privately owned. High fees and limited capacity put access to the Internet out of reach for most citizens. The Government did not block access to or censor the Internet.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government restricted this right in practice and exercised strict control over organizations and activities of a political nature. Non-political associations, such as trade unions, are allowed to meet (*see* Section 6.a.). Registered organizations must apply for a permit from the local executive committee in order to organize legally any public assembly or demonstration. At times permits were granted, but on occasion the Government took reprisals against organizers.



Fear of reprisal was so widespread that public assemblies or demonstrations of a political nature were rare. In May a group of women in Kulyab shouted slogans at the visiting Prime Minister in protest of poor economic conditions; some members of the group were approached and questioned afterwards by security personnel, but none were detained. In June 50 demonstrators protested the scarcity of tickets for railroad travel to Russia; the Government took no punitive action against the demonstrators.

The Constitution provides for freedom of association; however, the Government restricted this right in practice by exercising strict control over organizations and activities of a political nature. Although freedom of association is permitted for non-political associations, including trade unions, this right is circumscribed by the requirement in the Law on Nongovernmental Associations that all organizations first must register with the Ministry of Justice—a process often slowed by the requirement to submit documents in both Russian and Tajik. The Ministry of Justice's verification of the text inevitably delays the granting of registration. There were reports of delays in the process if organizations failed to pay bribes to working-level officials. In June the President and Minister of Justice addressed a national forum of NGOs—most of which were involved in social work—and expressed support for the work done by these organizations. The Minister of Justice pledged to simplify the registration process for new NGOs and called for the Ministry of State Revenues to work together with the Ministry of Justice to resolve NGO taxation problems. A government working group was formed to address the issue of new legislation on taxes for non-profit organizations.

Parties of religious character are permitted to register; one such party—the IRPT—has done so.

There are six political parties and five “movements” registered with the Government. In January 2001, the Supreme Court banned the “Adolatkhoh” (Justice) Party on the grounds of insufficient membership, although party officials alleged that the ruling resulted from criticism of the Government's economic policy. Three other parties are banned officially: The Party of Popular Unity (banned in 1998), the Agrarian Party (banned in 1999), and the “Tehran platform” faction of the Democratic Party (banned in 1999). In October the Agrarian Party formally merged with the registered wing of the Democratic Party, and its membership was incorporated into the Democratic Party. In December the Government registered the Social Democratic Party (SDPT), following six previous unexplained denials. The SDPT—previously known as the Party of Justice and Progress—changed its name in 2000 after several unsuccessful registration attempts. In March the Unity Party was formed and applied for registration with the Government; its first application was denied in May for “membership irregularities.” A second application submitted in June was pending at year's end. A 1998 law prohibits political parties from receiving support from religious institutions.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, there were some restrictions. There is no state religion. The Government monitors the activities of religious institutions to control their political activity. Hizb ut-Tahrir members were subject to arrest and imprisonment for subversion. President Rahmonov defends secularism aggressively and describes Islamic extremists as a threat to national security.

According to the Law on Religion and Religious Organizations, religious communities must be registered by the State Committee on Religious Affairs (SCRA). While the official reason given to justify registration is to ensure that religious groups act in accordance with the law, the practical purpose is to ensure that they do not become overly political. The Government did not explicitly ban, prohibit, or discourage specific religions; however, local authorities in some cases used the registration requirement in attempts to prevent the activity of some groups. For example, in August and September, authorities in the northern Sughd region closed a number of unregistered mosques in the districts of Isfara and Jabbarasulov. Most of these mosques registered with the Government and were officially re-opened; eight remained “closed,” although parishioners continued to pray there. In November government officials closed one of these mosques and a madrasa in the Isfara area after the imam and his family apparently fled the village.

In July and August, government officials in Sughd carried out an “attestation” of all imams in the region, through which all imams were tested on their knowledge of Islamic teachings and religious principles. Although the test was designed by the Council of Islamic Scholars, technically a nongovernmental body, it was approved by the SCRA, which enforced the results of the test. As a result, 15 imams were removed from their posts; 3 of the imams were members of the IRPT and were re-

moved for that reason. Local observers alleged that the Government used the testing process as a means to silence certain politically outspoken religious figures.

Government policies reflect a pervasive fear of Islamic fundamentalism among the Muslim population. The Government banned specifically the activity of Hizb ut-Tahrir, which has developed a significant following among the ethnic Uzbek population in the north. The Government continued arrests and trials of Hizb ut-Tahrir members on charges of subversion; in October a Ministry of Security official announced that 142 members of the banned party had been sentenced to varying jail terms during the year (*see* Section 1.d.).

Unlike in the past, the Government did not impose restrictions on the number of pilgrims allowed to undertake the hajj; however, regional quotas were imposed, which led to corruption in selling quota allotments.

Government officials at times restricted other religious activities by Muslims as well. Government printing houses reportedly were forbidden to publish texts in Arabic and as a rule do not publish religious literature. There were no restrictions on private Arabic language schools; however, restrictions on home-based Islamic instruction remained in place. These restrictions reportedly were based on political concerns, but affected religious instruction. Missionaries were not restricted legally and proselytize openly; however, the Government's fear of Islamic terrorists prompted it to restrict visas for Muslim missionaries.

In the spring of 2001, there were reports that local authorities in the city of Kurgan-Tyube prevented a Christian church from registering. The church appealed to the SCRA, and in January the church was registered.

Baha'i groups experienced some harassment at local levels. The Government arrested approximately 40 persons in connection with the October and November 2001 killing of two Baha'i residents of Dushanbe; in November the Government formally charged three of these individuals with the murders, one of whom also was charged with the 1999 murder of a leader of Dushanbe's Baha'i community (*see* Section 1.a.). In July local officials refused to register a Baha'i congregation in the northern Sughd region, but the congregation was registered after the SCRA intervened.

Government law enforcement and security agencies continued their investigation of the 2000 bombings of the Svyato-Nikolskii Russian Orthodox Church and a Seventh Day Adventist Church in Dushanbe, but no progress was reported by year's end.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights; however, the Government imposed some restrictions on them. Both citizens and foreigners are prohibited from traveling within a 15-mile zone along the country's borders with China and Afghanistan without permission from the Ministry of Foreign Affairs. This restriction was not always enforced along the western part of the border with Afghanistan, but a special visa generally was required for travelers—including international workers and diplomats—to Gorno-Badakhshan. Travel to border areas near Uzbekistan in the southwest was not restricted significantly, except occasionally at the border, which was closed intermittently by Uzbekistan during the year. In November 2001, the Ministry of Security announced that diplomats and international aid workers could travel to the Afghanistan border region without prior authorization, although 48-hour prior notice to the Ministry of Security was required. This system generally worked in practice, although personnel from the Russian Border Forces guarding the Tajik-Afghan border occasionally restricted border crossings.

Villagers in the eastern GBAO—who had been resettled after a landslide destroyed their village—claimed they were told that they would be denied emergency assistance unless they moved to a collective farm near the Uzbek border. Previous voluntary resettlements to that area were criticized for the Government's failure to deliver on promises of various support services (*see* Section 1.f.).

There were reports that border guards in the northern regions routinely subjected travelers to degrading searches for narcotics, particularly in the case of women (*see* Section 1.c.).

Foreign travelers who wish to remain in the country longer than 3 days were required to register with central authorities, and regulations required registration at the local Ministry of Interior office upon arrival and departure from a city. However, these regulations largely were ignored in practice. There are no legal restrictions for citizens on changing residence or workplace.

In August the Ministry of Security dropped its requirement for citizens to obtain an exit visa before traveling abroad, and citizens with a valid passport may travel abroad without further authorization.

There is no law on emigration. Persons who wish to emigrate to the former Soviet Union must notify the Ministry of Interior prior to their departure. Persons who wish to emigrate beyond the borders of the former Soviet Union must receive an immigrant visa from the relevant country's embassy in order to obtain their passport. Persons who settle abroad are required to inform the Tajikistan Embassy or Tajikistan interests section of the nearest Russian Embassy or consulate. Labor migration was an important economic factor, and in 2001 an estimated 500 to 800 thousand persons traveled out of the country looking for work.

Persons who wish to return to the country after having emigrated must submit their applications to the Embassy of Tajikistan or Tajikistan interests section of the nearest Russian Embassy or consulate. The Government adjudicates requests on a case-by-case basis. There was no indication that persons, other than those who fled the country for political reasons after the civil war, were not permitted to return freely. Some persons active with the Tajik opposition with expired travel documents occasionally had difficulty obtaining new documents permitting them to return. During the year, the Government worked with international organizations to assist the return of approximately 800 Tajik students from Pakistan, many of whom were children of refugees who fled to Afghanistan and Pakistan during the 1992-97 civil war and who remained in Pakistan after their families returned home at the end of the war. A small number of persons remained displaced internally as a result of the civil war. The Government provided protection and modest assistance and cooperated with international organizations to resettle them voluntarily.

Following the signing of the 1997 peace accords, all Tajik refugees from northern Afghanistan who wished to return to Tajikistan, as well as thousands from the former Soviet Union, returned to the country. Nearly all occupied houses were returned to their original UTO fighter owners (approximately 15,000 to 16,000 persons), although a small number of disputes remained to be settled.

The Constitution provides for the granting of asylum and refugee status in accordance with 1951 U.N. Convention and its 1967 Protocol. Under the law, a person granted refugee status is provided with the right to work and to move freely throughout the country. In August the State Migration Service under the Ministry of Labor, which has responsibility for the registration of refugees, resumed its refugee status determination and registration processes, suspended in 2000. The suspension left many Afghan refugees without valid documents and therefore vulnerable to harassment by security forces. The Government cooperated with the U.N. High Commission for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. According to the UNHCR, 2,784 asylum seekers were granted refugee status, and 21 cases representing approximately 100 persons were denied status. Court challenges to these denials were ongoing at year's end. During the year, 40 refugees were resettled to third countries, and approximately 800 Afghans were repatriated by the UNHCR. The UNHCR estimated that 3,500 Afghans remained in the country, not all of whom were asylum seekers.

The Government does not provide specifically for first asylum. As security improved in Afghanistan, UNHCR and the International Organization for Migration (IOM) assisted the return of approximately 2,000 displaced Afghan families camped on islands in the Pyanj River on the border with Afghanistan. By May all of the displaced persons had returned to their home villages in Afghanistan's Kunduz province.

Members of the country's Afghan refugee population were singled out for mistreatment by law enforcement authorities (*see* Section 1.c.). In June a Dushanbe city police officer arrested an Afghan refugee for having expired refugee documents and beat him after an attempted escape.

In September the Ministry of Security in Dushanbe detained 10 Afghan refugees on charges of expired refugee documents and held them incommunicado for 2 weeks. Eight of the 10 were deported to Afghanistan later that month despite international protests and claims by the refugees' families that they feared persecution if they were returned to Afghanistan.

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

The Constitution provides citizens with the right to change their government peacefully and freely through elections of the President and members of Parliament; however, the Government restricted this right in practice. The country made little progress in its transition from a Soviet-model system to a more open and competitive one, and President Rahmonov and his inner circle from the Kulyab region continued to dominate the Government.

The 1999 presidential election was seriously flawed. A cumbersome registration process required candidates to obtain large numbers of signatures during a short

period of time. Only President Rahmonov, who used his political apparatus throughout the country for this purpose, was able to do so by the deadline. Prospective opposition candidates complained that local, progovernment administrators prevented them from gathering signatures. Days before the election, an apparently arbitrary Supreme Court decision allowed one of the three aspiring opposition candidates, Economics and Foreign Economic Relations Minister Davlat Usmon of the Islamic Renaissance Party, to register. Although Usmon announced that he would boycott the election unless the other two opposition figures also were allowed to run, the Central Election Commission included his name on the ballot. President Rahmonov exercised a virtual monopoly over mass media access, and there were obvious irregularities in the operation of polling places, such as multiple voting by pro-Rahmonov supporters. The Government claimed that 98 percent of the electorate voted and that 96 percent of those voting supported Rahmonov; however, most observers agreed that these claims lacked credibility.

President Rahmonov's highly centralized PDPT controls an overwhelming majority of seats in both houses of Parliament. This control, combined with a lack of democratic culture, results in a legislative branch that is not genuinely independent of the executive branch.

A joint U.N. and OSCE mission that observed the February 2000 parliamentary elections to the Lower House of the new bicameral national Parliament noted improvements in the process compared to previous elections. Six parties, including two former segments of the disbanded UTO, were allowed to participate in the electoral process, and voters elected two members of an openly Islamic political party. However, the joint observation mission concluded that the elections failed to meet the minimum standards for equal, fair, free, secret, transparent, and accountable elections. State organs, particularly regional and local administration officials, interfered in the preparations for and conduct of the elections. At least one prospective independent candidate for the Lower House of Parliament was prevented from registering for apparently political reasons. While state television provided free broadcast time to parties competing in the election, it failed to provide balanced news and editorial coverage of the campaign. The independence of election observers and counting and tabulation of results were also particular problems.

In March 2000, local district assemblies elected the members of the upper house of the national Parliament in elections that were not held under international observation. Most observers and citizens believed that the large number of appointed and indirectly elected members of the upper house made the elections largely pointless.

In May 2001, parliamentary district by-elections took place in three districts. Candidates from the IRPT and the Democratic Party were not allowed to register, leaving the remaining candidates from the President's PDPT (in Sughd and Khatlon) and the Communist Party (in Dushanbe) to run unopposed. There were reports of inflated voter turnout and proxy voting in all three districts. After being denied the opportunity to register, the IRPT and the Democratic Party boycotted participation in the Government election commission during the by-elections.

During the year, parliamentary district by-elections took place in the regions of Sughd (February and October) and Khatlon (May). All three elections were contested by candidates from the IRPT and the Democratic Party. There were a number of reports of inflated voter turnout, proxy voting, and irregularities in vote-counting in all three elections. In all three elections, the PDPT Party candidates were declared the victor.

There were 7 women in the 181-seat legislature and 1 female Deputy Chairperson in each of the 2 houses of Parliament. The President had one female state advisor, and there was one female minister in the Government.

Ethnic Uzbeks were represented in the Government, although not in direct policy-making roles, and there were four ethnic Uzbek members of Parliament.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights abuses; however, fear of harassment and abuse by government or paramilitary elements tended to discourage citizens from forming their own human rights organizations, although the Government did not block the registration of local NGOs addressing human rights. Several such domestic organizations exist. During the year, the Ministry of Justice lowered the registration fees for NGOs, which allowed a number of new organizations to register formally with the Government; however, some NGO taxation and registration problems remained (*see* Section 2.b.). The Government prevented some citizens, especially government officials, from participating in international and local seminars sponsored by the OSCE, the ICRC,

U.N. agencies, NGOs, and foreign governments on such topics as the rule of law, an independent judiciary, and international humanitarian law. Discussion at such seminars, including those held in the country, frequently were critical of the Government. Government officials were somewhat responsive to the views of human rights groups.

The Government permitted international NGOs to operate in the country on a regular basis.

The OSCE mission in Dushanbe continued to monitor human rights issues with the help of its five field offices, which experienced varying levels of cooperation with local authorities. The ICRC also maintained an office in the country under its delegation in Uzbekistan; however, the Government continued to refuse the ICRC unconditional access to prisons (*see* Section 1.c.).

The Government's Office for Constitutional Guarantees of Citizens' Rights under the President continued its work of investigating and answering citizens' complaints; however, the office was understaffed and received uneven cooperation from other government institutions. Its annual report, published in May in the Government's Tajik and Russian language newspapers, was largely statistical in nature and focused on other government offices' unresponsive attitude toward citizen complaints.

In March the Government established a Commission on Fulfillment of International Human Rights Commitments chaired by the Deputy Prime Minister with responsibility for security and law enforcement affairs. The Commission was charged with preparing reports mandated by the Government's ratification of international human rights treaties, although its Chairman indicated that the Commission would accept complaints from private citizens and plans to work with the international community to address human rights concerns. The Commission's role in establishing government policy remained unclear.

Within the Parliament, the Committee on Legislation and Human Rights is charged with monitoring human rights violations; however, like the rest of the Parliament, it was not independent in practice. During the year, the Committee was not very active and issued no reports.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution provides for the rights and freedoms of every person regardless of nationality, race, sex, language, political persuasion, or social status and also explicitly states that men and women have the same rights; however, in practice there was some discrimination against women.

*Women.*—Violence against women, including spousal abuse, was a widespread problem. In both urban and rural areas, many cases of wife beating went unreported, and many reported cases were not investigated. There is a widespread reluctance to discuss the issue or provide assistance to women in abusive situations. In addition, there were widespread reports of the abduction of young women who were raped or forced to marry their abductors.

The Criminal Code prohibits rape, which is punishable by up to 20 years in prison; however, it was believed widely that most cases were unreported, and that the problem was growing, particularly in urban areas. The threat of rape often was used to intimidate women. There were no special police units for handling rape cases. There were no statistics on the number of rapists prosecuted, convicted, or punished each year.

Many domestic and international NGOs sponsored women's resource centers that address the concerns of victims of rape and domestic abuse; however, the Government's funding for such centers was extremely limited.

Prostitution is illegal; however, in practice prostitutes were not tried in court but instead were given a cursory fine and released. Pimps and madams were prosecuted regularly. The law prohibits keeping brothels, procuring, making, or selling pornography, infecting another person with a venereal disease, and the sexual exploitation of women; however, prostitutes operated openly at night in some urban areas.

Trafficking of women for the purposes of sexual exploitation and forced labor was a serious problem (*see* Section 6.f.).

There were reports that conservative Muslims in rural areas physically harassed women for not wearing traditional attire.

The law accords women equal rights with men; however, discrimination against women remained a problem.

Traditionally there has been a high level of female participation in the work force and in institutes of higher learning. There is no formal discrimination against women in employment, education, or housing; in urban areas, women were employed throughout government, academic institutes, and enterprises. However, women faced diminishing educational opportunities and increasing poverty. Women

legally are entitled to receive equal pay for equal work; however, this regulation was not always enforced in practice.

The Criminal Code protects women's rights in marriage and family matters; however, girls often were pressured to marry men that they did not choose themselves, and polygyny, although illegal, was increasingly common. Women are provided 3 years of maternity leave and monthly subsidies for each child. In rural areas, women tended to marry younger, have larger families, and receive less university education than women in cities. In rural and traditional areas, women received less education in general, often leaving school after the eighth year. Due to the prevalence of large families, women in rural areas also were much less likely to work outside the home. Inheritance laws do not discriminate against women; however, in practice some inheritances passed disproportionately to sons.

*Children.*—The Government is committed to children's rights and welfare; however, the Government did not devote financial resources adequate to maintain the social security network for child welfare. Education is compulsory until age 16; however, the law was not enforced. Public education is intended to be free and universal; however, due to a lack of resources the public school system has deteriorated to the point where it barely functions. Parents who could afford to do so sent their children to private schools or joined together and hired teachers to give their children lessons. While most children were enrolled in school up to the completion of the secondary level, actual attendance was estimated to be lower because children supplemented family income by working in the home or in informal activities (see Section 6.d.). A significant number of school-age children—as many as one in eight, according to World Bank data—worked instead of attending school. The old but illegal Soviet practice of closing high schools at cotton harvest time and putting the students to work in the field continued in some areas (see Section 6.c.).

Health care is free, but the quality and quantity of medical services were limited. It was estimated that one child in three was malnourished. The Government acknowledged that malnutrition was a severe problem and worked with international humanitarian organizations and foreign governments to support school feeding programs.

There is no societal pattern of child abuse.

Trafficking of children was a problem (see Section 6.f.).

*Persons with Disabilities.*—The law stipulates the right of persons with disabilities to employment and adequate medical care; however, in practice the Government did not require employers to provide physical access for persons with disabilities. Persons with disabilities suffered from high unemployment and widespread discrimination as a result of financial constraints and the absence of basic technology to assist them.

There is no law mandating accessibility for persons with disabilities. There are facilities for persons with disabilities; however, funding was limited and the facilities were in poor condition. Several international NGOs provided limited assistance to persons with disabilities.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides all citizens with the right of association, including the right to form and join associations without prior authorization, to organize territorially, and to form and join federations. According to official figures, approximately 90 percent of the labor force was organized. The Federation of Trade Unions remained the dominant labor organization. The Federation consisted of 19 professional trade unions and claimed 1.5 million members—virtually all non-agricultural workers. The separate, independent Trade Union of Non-State Enterprises in 1998 had registered unions in more than 3,000 small and medium-sized enterprises, totaling approximately 30,000 employees. Many of the enterprises in which these two organizations nominally were present were not functioning because of the general economic crisis, and the membership of both declined as a result. The Council of Ministers formally consulted both organizations during the drafting of social welfare and worker rights legislation.

The law prohibits antiunion discrimination, the use of sanctions to dissuade union membership, and the firing of a worker solely for union activity. Any complaints of discrimination against a labor union or labor union activist are considered first by a local labor union committee and, if necessary, raised to the level of the Supreme Court and investigated by the Ministry of Justice. The law compels an employer found guilty of firing an employee based on union activity to reinstate the employee.

The law provides citizens, but not unions, with the right to affiliate freely with international organizations, including international labor organizations. Unions may affiliate with international bodies; however, no unions had international affiliations.

*b. The Right to Organize and Bargain Collectively.*—Various laws provide for the right to organize and bargain collectively. Employees, members of the trade unions, and management participated in collective bargaining at the company level. Negotiations involving an industrial sector include officials from the relevant ministry and members of the union's steering committee for that particular sector. As the economic situation worsened, it became more difficult for enterprises to engage in effective collective bargaining.

The law mandates arbitration before a union legally may call a strike. Depending on the scale of the labor disagreement, arbitration may take place at the company, sectoral, or governmental level. In the event that arbitration fails, unions have the right to strike, but both labor unions disavowed publicly the utility of strikes in the current economic crisis and advocated compromises between management and workers. In November and December, teachers in the northwest city of Panjakent went on a union-declared strike, claiming that they had not been paid wages for the previous 6 months. The teachers returned to work in late December following the payment of 3 months' wages and a pledge by the city administration to pay the remainder in early 2003. There were no wildcat strikes during the year.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor, including by children, except in cases defined in the law; however, forced or bonded labor occurred in some cases. Neither the Law on Labor Protection nor the Law on Employment, both of which predate the existing Constitution, specifically prohibits forced or bonded labor; however, the Constitution supercedes national laws. University and secondary school students regularly were compelled to participate in the cotton harvest. Persons who formerly had worked on state or collective farms could be required to pick cotton, although wages usually were not paid, and the farms did not provide the services they once did.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Labor laws establish the minimum age for the employment of children at 16, the age at which children also may leave school legally (*see* Section 5). With the concurrence of the local trade union, employment may begin at the age of 15. By law workers under the age of 18 may work no more than 6 hours a day and 36 hours per week. However, children as young as 7 years of age may perform household-based labor and participate in agricultural work, which is classified as family assistance. As many as one in eight school-age children worked instead of attending school (*see* Section 5). Many children under 10 years of age worked in the bazaars or sold newspapers or consumables on the street. Trade unions are responsible for reporting any violations in the employment of minors. Cases not resolved between the union and the employer may be brought before the Procurator General, who may investigate and charge the manager of the enterprise with violations of the Labor Code.

The Government lacks the resources and ability to regulate effectively acceptable working conditions for youths and adults, and there were no governmental or judicial initiatives to strengthen or enforce child labor legislation or regulations during the year.

The Government does not have a comprehensive policy for the elimination of the worst forms of child labor. The Government has not signed ILO Convention 182 on the worst forms of child labor.

*e. Acceptable Conditions of Work.*—The President, on the advice of the Ministry of Labor and in consultation with trade unions, sets the minimum monthly wage, which officially was \$1.20 (4 Somoni). The minimum wage did not provide a decent standard of living for a worker and family. The Government recognized this problem and provided certain subsidies for workers and their families at the minimum wage. Some establishments, both governmental and private, compensated their employees in kind with food commodities or with the products produced by the enterprise, which the employee could sell or barter in local private markets.

The legal workweek for adults (over age 18) is 40 hours. Overtime payment is mandated by law, with the first 2 hours of overtime to be paid at 1.5 times the normal rate and the rest of the overtime hours paid at double the rate. Payment of overtime was inconsistent in all sectors.

The Government has established occupational health and safety standards, but these fall far below accepted international norms, and the Government did not enforce them in practice. The enforcement of work standards is the responsibility of the State Technical Supervision Committee under the Council of Ministers. Statistics in 1993 (the latest available) indicated that over one-fifth of the population worked under substandard conditions—an estimate that most observers considered much too low. Under the law, workers may leave their jobs with 2 months' notice

and may remove themselves from hazardous conditions without risking loss of employment; however, due to the poor employment situation, few did so.

Foreign workers are protected under the labor laws.

*f. Trafficking in Persons.*—The law does not prohibit specifically trafficking in persons, and it was a significant problem. There were reports that low-level government officials and border guards at least tolerated trafficking of persons.

The Government approached the IOM in July for assistance in updating its criminal code to include such prohibitions. In July and October, respectively, the lower and upper houses of Parliament ratified the U.N. Convention Against Transnational Organized Crime and its Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children.

Traffickers may be prosecuted under laws prohibiting exploitation of prostitution, rape, kidnaping, buying and selling of minors, illegal limitations on arrival and departure in and out of the country, document fraud, and immigration violations. The penalties for these offenses are in most cases fines or imprisonment of up to 3 years, although certain immigration violations carry a sentence of up to 10 years, and rape is punishable by up to 20 years in prison. In July the head of a trafficking network was convicted and sentenced to 5 years in prison for kidnaping, exploitation of prostitution, and document and immigration fraud. In August the Government acted on information provided by IOM to charge members of two other trafficking networks with similar offenses.

There is no single government agency responsible for combating trafficking; however, in October the Government named the deputy head of the Presidential Office for Women's and Children's Issues as its coordinator for trafficking issues and established an inter-ministerial working group on migration issues also to address trafficking issues. The IOM reported that the Ministry of Security collected data on potential cases of cross-border trafficking, while the Ministry of Labor tightened the system of licenses for companies that find employment for Tajiks interested in working abroad. The Ministry of Labor, State Border Protection Committee, and airport and railway authorities also facilitated IOM's efforts to distribute information on trafficking within Dushanbe and Khojand, and specifically at the airport and train station. The Ministry of Interior was charged formally with investigating cases of prostitution, and began investigating suspected cases of trafficking in persons.

The country is a source and—to a lesser extent—a transit point for trafficked persons, primarily women. Trafficking within the country was also a problem. Ministry of Security records of crimes and deportations contained more than 900 cases of women prior to 2000 who may have been victims of trafficking. IOM estimated that at least 660 persons were trafficked from March to December. Victims came primarily from Khojand or Dushanbe, and most commonly were trafficked to Central Asia and the Middle East, including the United Arab Emirates (UAE), Yemen, Iran, and Saudi Arabia. Other trafficking destinations were Russia, other former Soviet Union countries, and Turkey. There also may be trafficking of Afghan women through the country to these destinations. The majority of victims were female, ethnically Tajik, single, aged 20 to 26, usually with at least one child (the children typically came under the care of extended family), and were new arrivals to Dushanbe or Khojand from a rural upbringing with little education. Ethnic minorities were overrepresented among victims, particularly those of Slavic origin.

There were reports of trafficking in children who are used as drug couriers. For example, in November a woman was arrested at a border crossing in northern Tajikistan with an infant that she claimed was her child; the child's diapers contained packets of heroin, and the child later was determined to be that of the woman's sister.

Victims commonly were recruited through false promises of employment. "Advertising" often was done through social contacts, because traffickers employed their local status and prestige to help recruit victims. There also were cases of false weddings and, more rarely, kidnapings (usually in rural areas). Traffickers generally transported victims by air to the Middle East and by train to Russia and other former Soviet Union countries. Traffickers tightly controlled arrangements for travel and lodging and employed contacts among tourism agencies. They sometimes employed document falsification services in order to evade entry restrictions in destination countries. Victims commonly were not separated from their travel documents until arrival in the destination country. Debt bondage was a common form of control. There were also reports of Tajik medical professionals—both male and female—trafficked to Yemen to work at medical clinics for substandard wages; traffickers reportedly seized their travel documents and forced female medical personnel into prostitution.

Traffickers included individuals who rose to positions of power and wealth as field commanders—so-called "warlords"—during the Tajik civil war. Others—including



women—were powerful local figures who used their wealth to cultivate patron-client relationships throughout their community; this created a network that communicated supply and demand for trafficking victims.

Corruption was endemic in the country, and reports indicated that low-level government authorities working in customs, border control, immigration, police, and tourism received bribes from traffickers. Further, there was reason to believe that certain figures in the Government acted as patrons or protectors of individuals who were involved directly in trafficking. However, there was no indication of widespread institutional involvement in trafficking by the Government.

The Government did not prosecute any reported victims of trafficking. There were few resources available to victims of trafficking and none from the Government. Blackmail was employed commonly in the country's conservative society—nearly half of the trafficked women in IOM's survey reported extortion by local officials upon return to the country. Victims usually did not pursue legal recourse against traffickers due to the social stigma attached to the problem. However, the Government endorsed efforts by international and domestic NGOs to prevent trafficking and provide services to victims.

Some NGO programs intended to increase awareness of trafficking exist, with support from international organizations. For example, the NGO Modar in the Sughd region provided a number of services to victims of trafficking and carried out a wide range of informational programs in conjunction with local authorities in Sughd. Modar also worked to direct trafficking victims to other NGOs providing social services that could be of benefit, such as those targeted at abused women. The NGO Women Scientists ran a crisis center for abused women, which provided services to trafficked women as well. In September the NGO Gamkhori in the southern city of Kurgan-Teppe began operating a crisis center and hotline for victims of trafficking and other abused women. Gamkhori also worked with local government officials throughout Khatlon oblast to conduct training and awareness seminars for officials and the public.

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## TURKEY

Turkey is a constitutional republic with a multiparty Parliament, the Turkish Grand National Assembly, which elects the President. In the November parliamentary elections, Recep Tayyip Erdogan's Justice and Development (AK) Party won the majority of seats and formed a one-party government. Abdullah Gul was named Prime Minister; Erdogan was ineligible to serve in Parliament due to a past conviction for illegal speech but remained influential as party chairman. In May 2000, the Parliament elected Ahmet Necdet Sezer as President for a 7-year term. The military exercised indirect influence over government policy and actions in the belief that it is the constitutional protector of the state. The Constitution provides for an independent judiciary; however, various officials acknowledged the need for constitutional and legislative changes to ensure the judiciary's independence in practice.

The Government declared a state of emergency in the southeast in 1987 due to an ongoing conflict with the terrorist Kurdistan Workers Party (PKK), which changed its name to the Kurdistan Freedom and Democracy Congress (KADEK). At the beginning of the year, four provinces remained under a state of emergency; but the Government completed the phased lifting of the regime on November 30 and closed the State of Emergency Regional Governor's Office, which exercised authority over the governors of the emergency provinces, as well as the adjacent provinces. The Regional Governor held certain quasi-martial law powers, including the authority to impose restrictions on the press, remove from the area persons whose activities were deemed detrimental to public order, and order village evacuations. The Government continued to maintain a heavy security presence in the region, including numerous roadway checkpoints. The level of violence has decreased substantially since 1999.

The Turkish National Police (TNP) had primary responsibility for security in urban areas, while the Jandarma (paramilitary forces under joint Interior Ministry and military control) carried out this function in the countryside. The military no longer directly carried out operations against the PKK inside the country and has ended its internal security function. However, Jandarma troops continued to carry out such operations and were under operational control of the military when performing these functions. Although civilian and military authorities remained publicly committed to the rule of law and respect for human rights, members of the security forces committed serious human rights abuses.

The country had a market economy, though the state retained a dominant stake in some industries. Its population was approximately 67.8 million. During the year,

the country began to recover from a steep economic decline, while implementing wide-ranging structural reforms. The economy grew by an estimated 6.5 percent, and inflation fell to 31 percent. Per capita income reached \$2,300. Job losses for the year amounted to nearly 500,000, with unemployment rising to 10 percent, according to official statistics. Wages and benefits did not keep pace with inflation. Income inequality has increased since the onset of the economic crisis in 2000–2001.

The Government generally respected the human rights of its citizens; although there were improvements in a number of areas, several serious problems remained. Security forces continued to commit unlawful killings, including deaths due to excessive use of force and torture. Torture, beatings, and other abuses by security forces remained widespread, although the number of reported cases declined. There were reports that police and Jandarma often employed torture and abused detainees during incommunicado detention and interrogation. The lack of universal and immediate access to an attorney, long detention periods for those held for political crimes, and a culture of impunity were major factors in the commission of torture by police and security forces. The rarity of convictions and the light sentences imposed on police and other security officials for killings and torture continued to foster a climate of impunity. Prison conditions remained poor, despite some improvements. According to the Human Rights Association (HRA), 26 persons died during the year as a result of the continuing hunger strikes to protest new small-cell prisons. Police and Jandarma continued to use arbitrary arrest and detention, although the number of such incidents declined slightly. Prolonged pretrial detention and lengthy trials continued to be problems. Prosecutions brought by the Government in State Security Courts (SSCs) reflected a legal structure that protects state interests over individual rights.

The Government infringed on citizens' privacy rights. Limits on freedom of speech and of the press remained a serious problem. Journalists continued to practice self-censorship. At times the Government restricted freedom of assembly and association. The police beat, abused, detained, and harassed some demonstrators. The Government continued to impose some restrictions on religious minorities and on some forms of religious expression. At times the Government restricted freedom of movement. The Government restricted the activities of some political parties and leaders. The Government continued to harass the pro-Kurdish People's Democracy Party (HADEP), as well as the closely related Democratic People's Party (DEHAP), through various methods including police raids and detentions, although there were fewer instances than in previous years. The Government continued to harass, indict, and imprison human rights monitors, journalists, and lawyers for ideas that were expressed in public forums. Branches of several nongovernmental organizations (NGOs) were closed, temporarily or indefinitely, particularly in the southeast. The Government exerted disproportionate pressure on Kurdish NGOs in the southeast. Violence against women and children remained serious problems, and discrimination against women persisted. There were restrictions on workers' rights. Child labor remained a problem. Trafficking in persons, particularly women and girls, remained a problem. Turkey was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

In February, March, and August, Parliament passed extensive human rights-related reforms intended to meet requirements for European Union (EU) membership. The reforms applied to areas such as free speech, pretrial detention, use of non-Turkish languages, trafficking in persons, and the rights of religious groups, among others. Under the reforms: The death penalty was abolished in peacetime; speech intended to criticize, but not insult, the state was no longer illegal; human trafficking was specifically listed as a crime; some non-Muslim religious foundations were granted the right in principle to own property; private classes and broadcasts in Kurdish and other traditional languages were permitted in principle, under tight restrictions; and rulings of the European Court of Human Rights were grounds for a retrial in a Turkish court. At year's end, Parliament was reviewing two new packages of additional reforms.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were credible reports that security forces committed unlawful killings, although there was no evidence of higher-level government complicity. The Human Rights Foundation (HRF) estimated that there were 33 killings by security forces during the year, including shootings by village guards and border patrols. HRF reported five deaths in detention under suspicious circumstances, including four recorded as suicides and one as a heart attack.

In October the TNP opened a training program in Ankara designed to prevent suicide under detention.

In July village guards killed three persons in Nureddin village, Mus Province. Ten village guards were arrested in connection with the September killing of three internally displaced persons (IDPs) returning with official permission to their homes in Ugrak village, Diyarbakir Province. The guards had reportedly been living in the victims' home. Also in September, a police officer in Istanbul shot and killed Semra Kayacan in her car. The officer was arrested 2 days later and said he fired the gun accidentally when he fell down.

Although the 1996 amendment to the Anti-Terror Law that gives wide powers to the police to open fire if suspects do not heed a call for surrender was challenged successfully, it had not officially been replaced at year's end. In October soldiers shot and killed Mehmetcan Alkan near Sacan village, Van Province, after he allegedly failed to heed a stop warning. Local residents claimed Alkan bled to death from a leg wound after soldiers fired in the air to prevent them from providing assistance.

The courts investigated most alleged unlawful killings by security forces; however, the number of arrests and prosecutions in such cases remained low compared with the number of incidents, and convictions remained rare. Punishments, when handed down, generally were minimal; monetary fines have not kept pace with the high rate of inflation; and sentences were frequently suspended. Jurisdictional questions, efforts by the police leadership to protect officers, prosecutors' failure to investigate and bring charges, and the failure of courts to hand down appropriate sentences were all obstacles to resolving the apparent impunity of security forces for such deaths.

HRF reported that cases were opened during the year against four police officers charged with illegal use of lethal force. According to the HRF and press reports, two ongoing trials in cases of past alleged killings by security officials ended during the year, resulting in the acquittal of seven police. There were no new developments in the Bozkurt case, which remained in the court of appeals.

In November an Ankara court sentenced police officer Halil Akdag to 40 months imprisonment for killing Burhan Kockar during an October 2001 raid. Also in November, the Governor of Van Province denied approval for the investigation of the killing of Mumtaz Ozdemir, shot by Jandarma while driving in May, allegedly after failing to heed a stop warning.

In July the court of appeals approved the conviction of two police officers whose 2000 conviction for the 1995 shooting deaths of nine persons in the Gazi district of Istanbul had been annulled by the Court of Cassation.

The southeast region, populated mainly by citizens of Kurdish origin, continued to be plagued by unsolved killings. In March five bullet-riddled bodies were found in Sirmak Province. Some of the victims were reportedly wearing clothing that identified them as members of the PKK. Police were investigating the case at year's end.

According to the Ministry of the Interior, between 1995 and 2000, a total of 62 persons died in custody; some died as a result of illness or suicide.

In October a Kadirga penal court opened hearings in a case against prison administrators and guards in connection with the alleged suicide in detention of Volkan Agirman on July 15. In September a court in Fatih, a district of Istanbul, opened hearings in the case of seven police officers charged in connection with the October 2001 death in detention of Yunus Guzel.

In August an Ankara court ordered the Ministry of Interior to pay \$3,000 (4.8 billion TL) in compensation to the family of Ismet Kavaklioglu, 1 of 10 prisoners who died in a security force operation at Ankara Central Closed Prison in 1999. In March an Aydin criminal court convicted 6 police officers and sentenced each to 5 ½ years imprisonment for the 1993 death in detention of Baki Erdogan, an alleged leader of the Revolutionary People's Liberation Front (DHKP-C).

Trials continued in a number of cases from previous years, including: The case of seven soldiers charged with killing and burying a deaf shepherd in September 2001 in Van Province; three police officers accused of killing trade unionist Suleyman Yeter in March 1999 while he was in custody at the Istanbul Security Directorate Political Police Center; and the retrial of six members of a Diyarbakir Jandarma antinarcotics squad accused of killing a businessman in 1991 and whose convictions were reversed in 2000.

During the year the European Court of Human Rights (ECHR) ruled against the country in five cases involving the unlawful deprivation of life.

The Government, as well as the PKK, continued to commit a few human rights abuses against noncombatants in the southeast. According to the military, 7 civilians, 9 members of the security forces, and 25 terrorists died as a result of armed clashes.

In November an appeals court announced a verdict in the trial of 24 alleged Turkish Hizbullah militants who were indicted in July 2000 for a number of murders, including those of journalists Ahmet Taner Kislali and Ugur Mumcu. The court acquitted five defendants and sentenced the others to prison terms ranging from life sentences to 45 months.

The HRA reported a nationwide total of 171 unsolved killings by the end of September 2001, some of which may have had a political component.

Landmine explosions in the southeast killed 13 persons. Another 16, mostly children, were killed by unattended hand grenades or other weapons.

Women continued to be victims of "honor killings" (see Section 5).

*b. Disappearance.*—There were no reports of politically motivated disappearances. Coskun Dogan remained missing since February despite repeated attempts by family members, lawyers, and human rights workers to locate him. Amnesty International (AI) reported that family members saw Dogan on television among a group of detainees in February. Fatma Karakas, attorney for the family, said she learned that Dogan, who was charged with membership in an illegal organization, was detained in Tunceli and then moved to Sivas. Officials provided conflicting information about whether he was being detained. Karakas applied to the ECHR in May.

There were no developments in the 2001 disappearance of Serdar Tanis and Ebubekir Deniz, officials HADEP. In October 2001 the ECHR accepted their relatives' petition to investigate the case.

In February the Government amended the Penal Procedure Code to require immediate notification of arrests, consistent with constitutional amendments adopted in October 2001. However, according to AI, the new regulations were not followed in many cases.

Accurate statistics on the disappearance in previous years of persons under detention, or those seen being taken into custody by security forces or law enforcement officials, were difficult to confirm.

The Government continued to make efforts to investigate and explain some reported cases of disappearance. The Ministry of Interior operated the Bureau for the Investigation of Missing Persons, which was open 24 hours a day. Most families of persons who disappeared held the Government and security forces responsible and consequently avoided contact with the Bureau. During the year, 3,048 persons were recorded as missing by the Security Directorate General, while 3,986 names were deleted from the missing persons file. The families of 28 missing persons applied to the Directorate seeking assistance; 7 of the missing persons in these cases were found, 2 of whom were dead. Since 1996 431 persons were reported missing due to terrorist activities, including 12 during the year. Of these, 126 were found alive, 54 were found dead, 23 were found in prison, and 228 remained missing.

HRF estimated that approximately 200 persons disappeared between 1980 and 2000, with the numbers dropping steadily after 1996.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, some members of the security forces continued regularly to torture, beat, and otherwise abuse persons. Leftists and radical Islamists were more likely than others to suffer torture. Despite the Government's cooperation with unscheduled foreign inspection teams, public pledges by successive governments to end the practice, and government initiatives designed to address the problem, torture continued to be widespread, particularly in the southeast. However, domestic human rights advocates and a variety of foreign observers continued to report a gradual decrease in the practice.

HRF estimated the number of credible applications by torture victims at its 5 national treatment centers to be approximately 965, compared with 1,200 in 2001. These figures included complaints stemming from previous years' incidents. Human rights advocates believed that thousands of detainees were tortured during the year in the southeast, where the problem was particularly serious, but that only 5 to 20 percent reported torture because they feared retaliation or believed that complaints were futile.

Some of the factors affecting the lower rate of torture were reductions in the periods of incommunicado detention; the near-absence of PKK violence; the phased lifting of the state of emergency in the southeast; and the increased scrutiny of the country due to its EU candidacy.

AI visited 13 provinces during the year and concluded that torture remained "widespread" and "systematic," despite legal reforms reducing periods of pretrial and incommunicado detention (see Section 1.d.). Torture was generally alleged to occur in the first 24 hours of police or Jandarma detention. AI concluded that torture remained pervasive regardless of the approval or disapproval of higher-ranking government officials or political leaders. The European Committee for the Preven-

tion of Torture and Inhuman or Degrading Treatment or Punishment (CPT) reported that, during its March visit, delegates gathered compelling evidence of torture and severe ill treatment of several persons held in Diyarbakir in late 2001.

Human rights observers and medical experts said that security officials often used methods that did not leave physical traces, such as beating detainees with weighted bags instead of clubs or fists, or applying electric shocks to a metal chair where the detainee sits, rather than directly to the body. Commonly employed methods of torture reported by AI and the HRF's treatment centers included: Repeated beatings; stripping and blindfolding; exposure to extreme cold or high-pressure cold water hoses; electric shocks; beatings on the soles of the feet (falaka) and genitalia; hanging by the arms; food and sleep deprivation; heavy weights hung on the body; water dripped onto the head; burns; hanging sandbags on the neck; near-suffocation by placing bags over the head; vaginal and anal rape with truncheons and, in some instances, gun barrels; squeezing and twisting of testicles; and other forms of sexual abuse. In some cases, multiple torture methods (e.g., hanging and electric shocks) were employed at the same time. Other methods used were forced prolonged standing, isolation, loud music, witnessing or hearing incidents of torture, being driven to the countryside for a mock execution, and threats to detainees or their family members.

Female detainees often faced sexual humiliation and, less frequently, more severe forms of sexual torture. After being forced to strip in front of male security officers, female detainees were sometimes touched, insulted, and threatened with rape. The Legal Counsel Project Against Sexual Harassment and Rape, an NGO affiliated with the HRA, estimated that three-quarters of female detainees had experienced sexual violence, but only one-sixth of those who had undergone such violence reported it to the authorities.

Human rights attorneys and physicians who treated victims of torture said that most persons detained for or suspected of illegal political activities were generally tortured by police and Jandarma during periods of incommunicado detention before they were brought before a court; ordinary criminal suspects also reported frequent torture and mistreatment by police. In October 2001, the Constitution was amended to allow the Government to demand members of the security forces who are responsible for torture to pay compensation for civil torture claims awarded in ECHR rulings; the methods of compliance had not been created by year's end.

Because the arresting officer is responsible for interrogating the suspect, officers sometimes resorted to torture to obtain a confession that would justify the arrest. Although there was a law prohibiting evidence obtained under torture from being used in court, in practice prosecutors rarely followed up on detainees' allegations of torture. Reportedly police practice toward those arrested for ordinary crimes (who are beaten until they give a confession) and those arrested for "political" crimes differed. Observers said that security officials often tortured political detainees. For example, many alleged Hizbullah members claimed that they were tortured in custody, a claim that has been supported in some cases by medical evidence. However, the human rights NGO Mazlum-Der did not record any claims of torture by Hizbullah prisoners during the year.

Yuksel Azak, a distributor of the pro-Kurdish newspaper "Yedinci Gundem" and member of HRA and HADEP, claimed police gave him electric shocks, hooded him with a plastic bag, and hung him by the arms after he was arrested in January in Bingol; he was released after 3 days.

In March eight juveniles were arrested in Hacilar in Sanliurfa Province after a statue of Ataturk on the local school premises was broken. Police allegedly blindfolded, beat, threatened, and forced them to stand outside in the rain through the night. Also in March, Hamdiye Aslan was allegedly tortured and anally raped with a truncheon while she was being held in Mardin Police Headquarters. The local medical chamber has opened a case against two doctors who reported that she had not been tortured. Another doctor who stated she had injuries consistent with ill treatment was transferred to Diyarbakir. The Mardin prosecutor opened an investigation of five police officers for involvement in the case. A 23-year-old woman detained in Istanbul in March was allegedly tortured and raped with pressurized water, stripped naked, spat at, and forced to sit in excrement.

In April two Istanbul Anti-Terror Branch officers were found guilty of hanging Abdurrahim Demir by the arms and squeezing his testicles, beating him on the soles of the feet, and giving him electric shock. The court found them guilty of mistreatment, rather than torture, and the officers' sentences were suspended due to a conditional amnesty. In July Halit Tosun and Ferdi Denizhan claimed that police tortured them after they were detained in Orabaglar on June 25. They said police believed they had been kidnaped by members of HADEP for recruitment in KADEK,

and that police beat them and deprived them of sleep in order to force them to provide information against HADEP.

In September attorney Metin Iriz announced that he would file charges against Istanbul police and physicians for the alleged torture of two juveniles arrested on May 5 for suspected involvement in a murder; police at Istanbul headquarters allegedly tortured the juveniles for 4 days. Afterward physicians initially reported that the suspects were in good health, but after a complaint was filed, a separate examination concluded that they had been beaten and given electric shock.

In September 2001, police raided the HRF's Diyarbakir torture treatment center and confiscated the files of 365 persons who sought treatment for alleged torture. The files were returned the following month. A case was later opened against Sezgin Tanrikulu, HRF Diyarbakir representative, for illegally operating a health clinic and possessing banned publications. Tanrikulu was acquitted of the former charge in April and at year's end continued to face charges on the latter.

State-employed doctors administered all medical exams for detainees. Medical examinations occurred once during detention and a second time before either arraignment or release; however, the examinations generally were exceedingly brief and informal, often lasting less than 1 minute. In some cases, doctors were brought reports to sign, but no examinees. Former detainees asserted that some medical examinations occurred too long after an incident of torture to reveal any definitive evidence of torture. Lawyers contended that medical reports—their only basis for filing a claim of torture—were not placed regularly in prisoners' files. The Turkish Medical Association played a leading role in the development, under U.N. auspices, of the December 2000 "Istanbul Protocol," which was an alternative medical report process that instructed doctors how to identify late signs of torture and signs of psychological torture. Prosecuting attorneys in torture cases could request exams under this process for their clients. According to the Medical Association, only about 200 of 80,000 doctors in the country were forensic specialists, and detainees were examined by general practitioners and specialists not qualified to detect signs of torture.

Turkish Medical Association Secretary General Metin Bakkalci claimed that during the year the Government took actions against doctors for reporting torture. He said Dr. Emin Yuksel was charged with a crime for reporting torture.

Citing security reasons, members of security and police forces often stayed in the examination room when physicians were examining detainees, resulting in the intimidation of both the detainee and the physician. CPT reported that law enforcement officials in Diyarbakir were systematically present while doctors examined suspects, even when suspects objected. On September 18, the Justice Ministry issued a regulation requiring doctor-patient privacy during the examination of suspects, reinforcing existing Health Ministry regulations. Exceptions were allowed in cases where the doctor or suspect requested police presence for security reasons. However, the Medical Association claimed that doctors were subject to disciplinary procedures or court cases if they requested that security officials leave the examination room. According to the Medical Association and other human rights observers, the presence of a security officer could lead physicians to refrain from examining detainees, perform cursory examinations and not report findings, or report physical findings but not draw reasonable medical inferences that torture occurred.

The law mandates heavy jail sentences and fines for medical personnel who falsify reports to hide torture, those who knowingly use such reports, and those who coerce doctors into making them. The highest penalties are for doctors who supply false reports for money. In practice there were few such prosecutions. The Medical Association has the authority to levy fines and suspend for up to 6 months the licenses of doctors who falsify reports. However, Association officials say they were unable to enforce these sanctions because most doctors worked at least partly for the state, which protected the sanctioned doctors.

Government officials admitted that torture occurred but denied that it was systematic. The armed forces emphasized human rights in training for officers and non-commissioned officers throughout the year. Noncommissioned police officers received 2 years of training, an increase from only 10 months in the past. Police and Jandarma also received human rights training.

The investigation, prosecution, and punishment of members of the security forces for torture or other mistreatment was rare, and accused officers usually remained on duty pending a decision, which could take years. Legal, administrative, and bureaucratic barriers impeded prosecutions and contributed to the low number of convictions for torture. Prosecutors could initiate investigations of police or Jandarma officers suspected of torturing or mistreating suspects but could not prosecute without the officer's supervisor's permission. At year's end, Parliament was reviewing a bill that would remove the requirement to obtain such permission. Prior to the lifting of the state emergency in November, any prosecution or legal action directed at

government authorities had to be approved by the State of Emergency Regional Governor; approval was rare. The law allows prosecutors to open investigations against persons suspected of falsely accusing a civil servant based on “enmity, hatred or slandering.”

The failure to enforce domestic and international bans on torture fostered a climate of official impunity that encouraged the abuse of detainees. Detainees stated that prosecutors ignored their claims of abuse during interrogation. Some prosecutors believed that all allegations of torture were manipulated by political organizations such as the PKK and claimed that detainees fabricated torture claims and injured themselves to accuse and defame the security forces.

According to a 1999 Prime Ministry directive, public prosecutors are required to make unscheduled inspections of places of detention to look for torture and other maltreatment and to report to the Prime Minister the results of their inspections. Although the Ministry of Interior stated that thousands of such inspections took place and were reported to the Ministry, human rights advocates and some prosecutors termed such inspections cursory and unlikely to lead to criminal charges against the police. The reports were not made public by year’s end.

By the end of November, prosecutors received 980 cases alleging torture by police and Jandarma. Of these, 456 cases were processed, resulting in 147 indictments and 309 case dismissals. According to the Ministry of Justice, the remaining 524 cases were still under investigation at year’s end.

A total of 147 torture cases involving police and Jandarma were brought to court during the year. Of these, 91 cases were completed, resulting in 16 convictions, 49 acquittals, 15 suspended sentences, and 11 case dismissals. During the year, court proceedings were opened against 21 military personnel accused of torture. The case against two officers was dismissed; the other cases were ongoing at year’s end.

During the year, 87 police officers received administrative punishments, such as short suspensions, for torture or mistreatment.

In November the Supreme Court of Appeals overturned a lower court ruling that had converted charges of torture against two policemen to “maltreatment.” The police allegedly administered electric shock to detainees. The appeals court declared torture a “crime against humanity” and stated that the defendants should be punished on torture charges.

In January a Diyarbakir Prosecutor indicted two anti-terror police officers for violations of Article 243 of the Criminal Code in connection with the torture of HADEP member Hasan Irmak in May 2000. The officers allegedly tortured Irmak to make him confess to a crime by hosing him with pressured water, squeezing his testicles, and boxing his ears while also employing methods of psychological torture including verbal threats.

In 2001 former detainees (or family members of current detainees) who spoke out in late 2000 at a conference about their sexual abuse under detention at various times during the last 7 years were indicted under article 159 of the Penal Code for “insulting security forces.” In several of the detainees’ cases, police officers were on trial for the alleged sexual abuse. In May 2001, new charges were brought against five of these women, on the grounds that they “incited racial and religious enmity” because they used the expression “Kurdish women” in their speeches. Subsequently in August 2001, a book of their speeches was banned and the editor was standing trial for “divisiveness” at year’s end.

In May and June 2000, Parliament’s Human Rights Committee, under Chairwoman Sema Piskinsut, released a series of comprehensive and highly critical reports on prison conditions throughout the country. Piskinsut, who interviewed over 8,000 prisoners, refused to divulge the names of the alleged torture victims. In July 2001, the acting chief prosecutor asked Parliament to lift Piskinsut’s parliamentary immunity so that she could be prosecuted for refusing to provide the names. In October 2001, the president of the Parliament decided to comply with the prosecutor’s demand; however, the Constitutional Committee did not act on the request. By year’s end, no action had been taken against Piskinsut, who lost her seat in Parliament in the November elections.

In October the Manisa Penal Court convicted 10 police officers of torture and sentenced them to prison terms ranging from 60 to 130 months. The high-profile case involved 16 youths tortured in police detention in 1996. The verdict was under appeal at year’s end.

On September 25, an Istanbul court convicted 5 police officers and sentenced each to 14 months’ imprisonment for torturing 9 detainees in 1996, including journalists from the leftist newspaper “Atilim.” Two other officers were acquitted in the case. The case was under appeal at year’s end. Three of the convicted officers—Bayram Kartal, Sedat Selim Ay, and Yusuf Oz—were also convicted in December in a sepa-

rate trial involving the torture of 15 detainees in 1997, most of whom were also associated with "Atilim." However, their sentences were suspended.

Many cases from previous years remained ongoing or were unresolved, including the cases of: Police officers Kerem Dondu and Benal Demir for the alleged rape of a detainee in Istanbul in 2001 (the officers were dismissed from duty but criminal proceedings continued); Sergeant Hasan Oz and Lance Corporals Bayram Dilmac and Nadir Murat Demir, accused of torturing 11 persons from the villages of Elveren and Hanoglu and the town of Sivasli in January 2001 at the Sivasli district Jandarma station in Usak Province; and 5 police officers and 6 physicians charged in Sirnak Criminal Court in connection with the alleged torture of 7 persons in March 2001.

Some cases from previous years remained ongoing or were unresolved, including the cases of: HADEP officials including the deputy mayor of Diyarbakir, Ramazan Tekin, and the president of HADEP who alleged that they were tortured while in detention in 2000; Dr. Zeki Uzun, a gynecologist who volunteers at the HRF Izmir treatment and rehabilitation center, who continued to pursue legal redress through a civil court and the ECHR for his alleged torture while in custody in October 1999; four defendants in Istanbul who were accused of being members of the Turkish Workers and Peasants' Liberation Army (TIKKO) have been jailed since 1995 without having been convicted and whose trials were pending the outcome of a case against four police officers accused of torturing them (one of the accused persons was released from prison following a hunger strike).

During the year, the ECHR ruled against the country in three cases involving torture.

Although the law provides special safeguards for children in police custody, police officers and prosecutors frequently circumvented or ignored these provisions. The law stipulates that the state prosecutor or a designated assistant should carry out interrogations of minors and that minors must be provided with lawyers; however, in practice police and prosecutors often denied minors access to lawyers and failed to inform parents. Children and juveniles detained under the Anti-Terror Law also may have been subjected to other forms of mistreatment. Children as young as 11 years of age who were accused of SSC crimes were treated as adults.

Police harassed, beat, and abused demonstrators (see section 2.b.).

As a result of the 1984-99 conflict with the PKK, the Government continued to organize, arm, and pay a civil defense force of more than 65,000, mostly in the southeast region. This force, known as the village guards, had a reputation for being the least disciplined of the Government's security forces and have been accused repeatedly of drug trafficking, rape, corruption, theft, and human rights abuses. Inadequate oversight and compensation contributed to this problem, and in some cases Jandarma allegedly have protected village guards from prosecution. In addition to the village guards, Jandarma and police "special teams" were viewed as those most responsible for abuses. However, the incidence of credible allegations of serious abuses by security forces, in the course of operations against the PKK, was low.

Prison conditions remained poor, despite several improvements. Underfunding and poor administration of penal facilities remained problems. Most prisons lacked adequate medical care for routine treatment or even medical emergencies. Inmates' families often had to supplement the poor quality food.

Until late 2000, prisons were run on the ward system and most prisoners lived in 30- to 100-person wards. Under the ward system, prisoners accused of terrorism and those who shared similar ideological views were incarcerated together. In some cases, the ward inmates indoctrinated and punished fellow prisoners, resulting in gang and terrorist group domination of entire wards. Prison authorities were prevented from conducting rehabilitation activities. Between December 2000 and January 2001, the Ministry of Justice moved hundreds of prisoners charged with terrorism or organized crime to small-cell "F-type" prisons. The F-type design more closely resembled prisons found in most developed countries; according to the Government, the F-type prisons were consistent with CPT recommendations. However, human rights groups and prisoners' groups claimed that prison authorities isolated F-type inmates from each other and controlled prisoners' access to water, food, electricity, and toilets. Most F-type prisoners were held in 30 square yards each; some have individual 2-square-yard cells. Inmates had access to 62-square-yard open-air areas. Prisoners charged with ordinary crimes were being transferred to prisons with 4 to 8 inmates per cell. The ward system is scheduled to be phased out by early 2003.

HRF maintained that the Government provided insufficient funding for prison food, resulting in poor-quality meals. On June 28, about 100 wardens and inmates in Sincan F-type Prison in Ankara suffered food poisoning. According to HRF, food



sold at prison shops was too expensive for most inmates, and there was a lack of potable water.

The Government maintained that prisons were staffed with doctors, dentists, psychologists, and teachers, although there were shortages in some areas. According to the Turkish Medical Association, there were insufficient doctors, and psychologists were only available at the largest prisons.

Some inmates claimed they were denied appropriate medical treatment for serious illness. A group of prisoners in Midyat Prison in Mardin Province said they were not able to receive effective treatment at Midyat and were denied transfers to other prisons with better-equipped medical facilities. They included: Fatma Savci, allegedly suffering from a cyst in her chest and dysentery; Guzel Cicek, allegedly suffering from a cyst in her chest and a hernia; and Fatma Ozbay, allegedly suffering from migraines and anemia. In October inmates in Bayrampasa Special Type Prison in Istanbul said that prisoners who had been transferred there for medical treatment had been denied treatment. They claimed the poor conditions at the prison had caused increasing levels of pneumonia and Hepatitis B.

Inmates in F-type prisons were permitted to socialize in groups of 10 for up to 5 hours per week. In October, at the recommendation of the CPT, the Ministry of Justice removed the requirement that inmates must engage in a prior communal activity (such as sports, workshops or education) before participating in group meetings. Inmates charged with terrorism had generally refused to participate in communal activities and were therefore denied the opportunity to meet in groups.

In September the Istanbul Branch of the Association of Contemporary Jurists issued a report claiming that F-type prison authorities subjected attorneys to unnecessary searches and arbitrarily interfered with inmates' letters and telephone calls.

In September the Women's Commission of the Diyarbakir Bar Association announced the results of a study of female detainees and inmates in five southeastern provinces. According to the study, 99 percent of female detainees and inmates were subjected to "virginity testing" and many suffered other forms of physical or sexual violence (*see* Section 5).

In December prosecutors in Istanbul indicted 38 employees of Bakirkoy Prison for Women and Children on charges of mistreating prisoners and official misconduct.

Prisoners continued hunger strikes to protest F-type prisons. According to the Government, 17 prisoners were on hunger strike as of mid-October. Due to health concerns, judicial authorities suspended the sentences of 324 hunger strikers, while the President pardoned 36 and the courts released 80 from pretrial detention. According to HRA, approximately 26 hunger strikers died during the year, bringing the death toll to 75 since the strikes began. The Government alleged that terrorist groups forced weaker members to conduct the hunger strikes and threatened family members of those who wanted to quit.

The trial against 1,615 persons on duty at Bayrampasi prison during the December 2001 hunger strike was ongoing at year's end. The trial against 167 prisoners also remained ongoing.

Human rights observers estimated that at any given time, at least one-quarter of those in prison were awaiting trial or the outcome of their trial. Men and women were held separately. Despite the existence of separate juvenile facilities, at times juveniles and adults were held together. Pretrial detainees were not usually held separately from convicted prisoners.

The Ministry of Justice, the General Directorate of Prisons, and the Parliamentary Human Rights Committee regularly inspected prisons and issued reports. Prison Monitoring Boards—five-person visiting committees composed of nongovernmental experts such as doctors and lawyers—also conducted inspections. During the year, the Government reached its target of creating 130 Monitoring Boards. The boards conducted 516 visits, prepared 1,336 reports, and made 5,853 recommendations for improvements to the Ministry of Justice. The number of special prison judges reached 140. Through July these judges received 4,527 petitions relating to prison conditions and sentences; they admitted 1,308 petitions, partially admitted 140, and rejected 3,079.

Human rights groups criticized the Government's selection of Monitoring Board representatives. Turkish Medical Association officials said the Government did not consult them on Board membership and selected only state-employed doctors for the bodies. Bar associations also said that their preferred candidates were not selected. Doctors and lawyers in Konya and Izmir were preparing to form "alternative" boards with members not selected by the Government.

The Government permitted prison visits by representatives of some international organizations, such as the CPT and the U.N. Special Rapporteur on Torture; the CPT visited in March and September, and conducted ongoing consultations with the

Government. Requests by the CPT to visit prisons were routinely granted; however, domestic NGOs did not have access to prisons.

*d. Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention continued to be problems. According to HRA, there were 35,389 detentions by the end of September 2001, compared with 35,007 in 2000. During the year, police routinely detained demonstrators, including those protesting prison conditions (*see* Section 2.b.). Police detained dozens of members of the legal pro-Kurdish party HADEP on several occasions (*see* Section 3). The Government continued to detain persons, particularly in the southeast, on suspicion of links to Hizbullah, including teachers and imams. More than 500 Hizbullah suspects remained in detention pending trial or investigations. Police also detained human rights monitors (*see* Section 4).

To take a person into custody, a prosecutor must issue a detention order, except when suspects are caught committing a crime by the police. In the former state of emergency area, the use of a prosecutor's detention order was in practice extremely rare. The maximum detention period for those charged with individual common crimes was 24 hours, which could be extended by a judge to a maximum of 7 days; those charged with collective common crimes could be held for 48 hours.

Under the criminal code, detainees are entitled to immediate access to an attorney and may meet and confer with an attorney at any time, although this does not apply to state security cases. In practice legal experts asserted that the authorities did not always respect these provisions and that most citizens did not exercise this right, either because they were unaware of it or because they feared antagonizing the authorities. By law a detainee's next of kin must be notified as soon as possible after arrest; in criminal and civil cases this requirement was observed. Once formally charged by the prosecutor, a detainee is arraigned by a judge and allowed to retain a lawyer. After arraignment the judge may release the accused upon receipt of an appropriate assurance, such as bail, or order him detained if the court determined that he was likely to flee the jurisdiction or destroy evidence.

Private attorneys and human rights monitors reported uneven implementation of these regulations, particularly attorney access. During its March visit, the CPT discovered that nearly every person detained over the previous 9 months at the Anti-Terror and Narcotics departments of the Diyarbakir Police Headquarters were recorded as having waived their right to see an attorney. Lawyers rarely were permitted adequate access to their clients during the detention period, although they could be allowed to exchange a few words during a brief interview in the presence of security officers. According to the Lawyers Committee for Human Rights, the secretive nature of arrests and detentions often left the detainee's lawyer and family members with no information about the detention, and police often refused to disclose the place of detention or even the fact that the detainee was being held.

Lengthy pretrial detention was a problem. Although the Constitution specifies the right of detainees to request speedy arraignment and trial, judges have ordered that some suspects be detained indefinitely, at times for years. Many such cases involved persons accused of violent crimes, but there were cases of those accused of non-violent political crimes being kept in custody until the conclusion of their trials, generally in SSC cases.

By the end of November, there were 59,080 persons held in prisons, including 29,422 detainees and 29,658 convicts. Detainees may be held for up to 6 months during the preliminary investigation period. If a case is opened, the pretrial detention period may be extended for up to 2 years. If the detainee is charged with a crime carrying a minimum punishment of 7 years or more, a court may further extend the detention period.

In state security cases, the law did not require attorney access until after 48 hours of detention, a major factor in the continued use of torture by security forces (*see* Section 1.c.). At year's end, Parliament was reviewing a bill that would require immediate attorney access for detainees in state security cases. Persons detained for individual crimes under the Anti-Terror Law must be brought before a judge within 48 hours. Those charged with crimes of a collective, political, or conspiratorial nature may be detained for an initial period of up to 4 days at a prosecutor's discretion and, with a judge's permission, which is almost always granted, for up to 7 days. Previously, prosecutors could extend this period to 10 days in the former state of emergency region, but an amendment passed in February established the 7-day limit nationwide.

Regulations on detention and arrest procedures adopted in September strengthened the requirement promptly to notify relatives of an arrest; however, according to human rights monitors this regulation has been inconsistently followed. The police maintained 24-hour monitoring bureaus that were required to record detentions on computers. However, at times legal limits on detention periods reportedly were

circumvented by subjecting a detainee to successive charges or falsifying detention records.

During the year, the ECHR ruled against the country in six cases involving unlawful arrest and detention.

On May 12, the terrorist TIKKO abducted and then released five persons in Giresun Province.

The Constitution prohibits forced exile, and the Government did not employ it. There were no new cases of internal exile during the year. The State of Emergency Regional Governor had the authority to remove individuals from the region if they were deemed "prone to disturb general security and public order." Internal exile under this authority was not supposed to exceed the duration of the state of emergency. However, human rights activists claimed that those who had previously been exiled from the southeast were not generally able to return by year's end.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary, and in practice the general law courts generally acted independently of the executive and legislative branches; however, various government and judicial officials discussed the need to adopt legislative changes to ensure the judiciary's independence. The Constitution prohibits state authorities from issuing orders or recommendations concerning the exercise of judicial power; however, in practice the Government and the National Security Council (NSC), a powerful advisory body to the Government composed of civilian government leaders and senior military officers, periodically issued announcements or directives about threats to the State, which could be interpreted as instructions to the judiciary. The seven-member High Council of Judges and Prosecutors, which was appointed by the President and included the Minister of Justice and a deputy, selected judges and prosecutors for the higher courts and was responsible for oversight of those in the lower courts. Its decisions were not subject to review. The composition of the High Council was widely criticized as restricting the independence of the judiciary, since the Minister of Justice was part of the legislative branch of the Government. Although the Constitution provides for security of tenure, the high council controlled the career paths of judges through appointments, transfers, promotions, reprimands, and other mechanisms.

The judicial system was composed of general law courts, military courts, the SSCs, and the Constitutional Court, the nation's highest court. The Court of Cassation heard appeals for criminal cases, including appeals from the SSCs. The Council of State heard appeals of administrative cases or cases between government entities. Most cases were prosecuted in the general law courts, which include civil, administrative, and criminal courts. Public servants, including police, could be tried only after administrative approval from the governor or subgovernor, who centrally appointed positions.

The Constitutional Court examines the constitutionality of laws, decrees, and parliamentary procedural rules and hears cases involving the banning of political parties. If impeached, ministers and prime ministers can be tried in the Constitutional Court. However, the court may not consider "decrees with the force of law" issued under a state of emergency, martial law, or in time of war.

Military courts, with their own appeals system, heard cases involving military law, for members of the armed forces, and could try civilians who are accused of impugning the honor of the armed forces or undermining compliance with the draft.

SSCs were composed of panels of five members: Three civilian judges and two prosecutors. SSCs sat in eight cities and tried defendants accused of crimes such as terrorism, drug smuggling, membership in illegal organizations, and espousing or disseminating ideas prohibited by law, such as those "damaging the indivisible unity of the State." These courts may hold closed hearings and may admit testimony obtained during police interrogation in the absence of counsel. SSC verdicts may be appealed only to a specialized department of the Court of Cassation dealing with crimes against state security. During the year, the SSCs dealt mainly with cases under the Anti-Terror Law and sections of the criminal code relating to free expression. Human rights observers cited prosecutions of leaders of the political Islamic movement, political leaders associated with the Kurdish issue, and persons who criticized the military or the Government's practices as evidence that the SSCs often served the primarily political purpose of silencing persons who criticized the Government.

The law gives prosecutors far-reaching authority to supervise the police during an investigation. Prosecutors complained that they had few resources to do so, and many have begun to call for "judicial police" who could help investigate and gather evidence. Human rights observers and Ministry of Justice officials noted that problems could arise from the fact that the police report to the Interior Ministry, not to the courts. Prosecutors also are charged with determining which law has been broken and objectively presenting the facts to the court.

Defense lawyers did not have equal status with prosecutors. Defense attorneys continued to face intrusive searches when visiting incarcerated clients. Prisoners also were searched before and after meeting their attorneys. Although prisoners may by law be forced to surrender defense-related documents for review, this rarely occurred in practice. Attorneys were suspected by prison authorities and prosecutors of acting as couriers for their clients, particularly those incarcerated for mafia or terror crimes. Defense attorneys generally had access to the public prosecutor's files only after arraignment and routinely were denied access to files that the Government asserted dealt with national intelligence or security matters, particularly in SSC cases.

The harassment of lawyers involved in political cases in the southeast and throughout the country continued. Many attorneys were willing to defend politically sensitive cases and provide greater mutual support within the profession. However, attorneys could face criminal charges and other harassment, particularly if they defended clients accused of terrorism or illegal political activity, pursued torture cases, or sought prompt access to their clients (which police often viewed as interference). During the year, attorney Kasim Alpkaya faced charges of "insulting government officials" for refusing to allow prison officials in Diyarbakir to search him.

There is no jury system; a judge or a panel of judges decides all cases. The Constitution provides for the right to a speedy trial; however, at times trials lasted for years (*see* Section 1.d.). Trials for political crimes or torture frequently lasted for months or years, with one hearing usually scheduled each month. Proceedings against security officials often were delayed because officers did not submit statements promptly or attend trials. Illegally gathered evidence may be excluded by law. However, this rarely occurred and then only after a separate case determining the legality of the evidence was resolved. In practice a trial based on a confession allegedly coerced under torture may proceed and even conclude before the court has established the merits of the torture allegations (*see* Section 1.c.).

By law the Bar Association must provide free counsel to indigents who make a request to the court, except for crimes falling under the scope of the SSCs. In practice only a tiny percentage of defendants had lawyers. The court consistently provided attorneys only to minors or deaf-mutes who could not represent themselves. Bar associations in large cities, such as Istanbul, had attorneys on call 24 hours a day; costs were borne by the Association.

In law and in practice, the legal system did not discriminate against any ethnic, religious or linguistic minorities; however, while legal proceedings were conducted solely in Turkish with some interpreting available, some defendants whose native language was not Turkish could be disadvantaged seriously.

The Government recognized the jurisdiction of the ECHR. Between October 2001 and July, 1,874 applications regarding Turkey were made to the ECHR. The majority of these—1,125 cases—involved the right to a fair trial; 304 concerned the right to liberty and security; 246 concerned the prohibition of torture; 104 concerned freedom of assembly and association; and 95 concerned freedom of expression. According to the European Commission, the Government's failure to execute ECHR judgments remained a serious problem. The Commission reported in October that there were 90 outstanding cases in which the Government failed to fully make payments ordered by the ECHR and 18 cases relating to freedom of expression in which the Government failed to erase the consequences of criminal convictions overruled by the ECHR. In July the Council of Europe adopted an interim resolution regarding Turkey's lack of compliance with approximately 40 ECHR judgements on violations by Turkish security forces issued since 1996.

During the year, the ECHR ruled against the Government in 54 cases—including 22 cases involving the right to a fair trial and 21 involving dispossession of property (from villages in the southeast)—and in favor of the Government in 2 cases. The Government accepted a friendly settlement in 43 cases, and the ECHR dismissed one case.

In August Parliament passed an amendment under which rulings of the ECHR could be grounds for a re-trial in a Turkish court. Previously, those who won their cases at the ECHR were only entitled to financial compensation. Re-trial applications must be approved by the General Legal Council of the Court of Appeals. The measure was not retroactive; it applied only to cases to be brought to the ECHR starting in 2003. At year's end, Parliament was reviewing a bill that would allow the measure to be applied to most past cases.

The ECHR continued its inquiry into former PKK leader Abdullah Ocalan's allegations regarding irregularities of his capture and trial in the country. Human rights observers, including the U.N. High Commissioner for Human Rights, had raised several due process concerns in the Ocalan case.

HRA estimated that there were approximately 8,000 political prisoners, including leftists, rightists and Islamists. Of these, approximately 1,500 were members of Hizbullah or other radical Islamic organizations. Justice Minister Aysel Celikel criticized these figures in an October speech and stated that there were 73 prisoners charged with “conscience crimes” for violating various anti-terror and speech codes. The Government claimed that alleged political prisoners were in fact security detainees convicted of being members of, or assisting, terrorist organizations. According to the Government, there were 7,832 convicts and detainees held on terrorism charges at year’s end.

International humanitarian organizations were allowed access to “political” prisoners, provided the organization could obtain permission from the Ministry of Justice. With the exception of the CPT, which generally had good access, in practice few such permissions were granted (*see* Section 1.c.).

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the inviolability of a person’s domicile and the privacy of correspondence and communication; however, at times the Government infringed on these rights. With some exceptions, government officials may enter a private residence and intercept or monitor private correspondence only after the issuance of a judicial warrant. These provisions generally were respected outside the former state of emergency region. If delay may cause harm to a case, prosecutors may authorize a search. Searches of private premises may not be carried out at night, unless the delay would be damaging to the case or the search is expected to result in the capture of a prisoner at large; other exceptions include persons under special observation by the security directorate general, places anyone can enter at night, places where criminals gather, places where materials obtained through the commission of crimes are kept, gambling establishments, and brothels.

Prior to November when the state of emergency was lifted, in the provinces under the state of emergency, the Regional Governor empowered security authorities to search without a warrant residences or the premises of political parties, businesses, associations, or other organizations. The Bar Association maintained that it was not constitutional for security authorities in these provinces to search, hold, or seize without warrant persons or documents. By the end of July, seven provinces remained under “adjacent province” status, which authorized the Jandarma to retain security responsibility for municipalities as well as rural areas, and granted the provincial governor several extraordinary powers. From July to November, four provinces were under “adjacent province” status.

The law permits wider wiretapping, but a court order is needed to carry out a wiretap. However, in an emergency situation, a prosecutor may grant permission. The wiretap may last only 3 months, with two possible extensions of 3 months each. A constitutional amendment protects the right to privacy of person and domicile by requiring written authorization for searches and wiretapping, and they may only be used for reasons of national security. These regulations were generally respected in practice.

Defense attorneys continued to face intrusive searches when visiting incarcerated clients (*see* Section 1.e.).

The Government bans the wearing of religious head coverings in government offices, other state-run facilities, and universities (*see* Sections 2.b. and 2.c.).

*Section 2. Respect for Civil Liberties, including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, the Government continued to limit these freedoms in some cases. The Government, particularly the police and judiciary, limited freedom of expression through the use of constitutional restrictions and numerous laws including: Article 8 of the 1991 Anti-Terror Law (disseminating separatist propaganda); Penal Code articles 312 (incitement to racial, ethnic, or religious enmity); 159 (insulting Parliament, the army, republic, or judiciary); 160 (insulting the Turkish Republic); 169 (aiding an illegal organization); the Law to Protect Atatürk; and over 150 articles of the Press Law (including a provision against commenting on ongoing trials). While prosecutors brought dozens of such cases to court each year—which constitute a form of harassment against writers, journalists, and political figures—judges dismissed many charges brought under these laws.

Parliament passed broad reform packages in February, March, and August that included amendments to most of these laws. The reforms generally limited the scope of these laws and, in some cases, reduced the penalties for violators. For example, under the revised Article 159 of the Penal Code, speech intended to criticize, but not insult, state institutions is no longer illegal. Under the revised Article 8 of the Anti-Terror Law, political activity is not illegal if it is not intended to disrupt the unity of the state. According to the Government, as of September, the reforms led

to the Constitutional Court overruling approximately 50 judgments made under Article 159 and 24 judgments under Article 312. However, the updated laws still restrict non-violent expression. Court cases were still being brought against writers and publishers, with an estimated 100 such cases pending at year's end.

The Government continued to restrict the free expression of ideas by individuals sympathetic to some Islamist, leftist, and Kurdish nationalist or cultural viewpoints. Active debates on human rights and government policies continued, particularly on issues relating to the country's EU membership process, the role of the military, political Islam, and the question of Turks of Kurdish origin as "minorities"; however, persons who wrote or spoke out on such highly sensitive topics risked prosecution. Many individuals and groups who voiced opposition to the new F-type prison regime faced charges, as did a group of women who publicly accused security forces of rape.

During the year, the ECHR ruled against the country in six cases involving freedom of expression.

According to the Publishers Association of Turkey, the Government opened cases against 67 books and leveled charges against 35 publishers and 48 writers during the year; in 2001 the Government opened cases against 42 books and charged 23 publishers and 38 writers.

Independent domestic and foreign periodicals that provided a broad spectrum of views and opinions, including intense criticism of the Government, were available widely, and the newspaper business was extremely competitive. However, news items reflected a progovernment bias. For example, persons killed by security forces during operations in the southeast often were described as "terrorists" without proof of terrorist activities.

Broadcast media reached almost every adult and their influence, particularly that of television, was great. According to the High Board of Radio and Television (RTUK), there were 226 local, 15 regional, and 16 national officially registered television stations, and 959 local, 104 regional and 36 national radio stations. Other television and radio stations broadcast without an official license. The wide availability of satellite dishes and cable television allowed access to foreign broadcasts, including several Turkish-language private channels. The state owned and operated the Turkish Radio and Television Corporation.

The law makes it illegal for broadcasters to threaten the country's unity or national security and limits the private broadcast of television programs in languages other than Turkish that were not world languages, such as Kurdish. RTUK monitored broadcasters and sanctioned them if they are not in compliance with relevant laws. Parliament elected the RTUK members (divided between ruling and opposition parties) and provided its budget. Although nominally independent, RTUK was subject to some political pressures. RTUK penalized private radio and television stations for the use of offensive language, libel, obscenity, instigating separatist propaganda, or broadcasting programs in Kurdish. In general RTUK suspended television broadcasts for 1 day, and radio broadcasts for longer terms such as 3 to 6 months, usually for violating laws prohibiting the broadcast of "terrorist organization declarations." RTUK decisions may be appealed to the Provincial Administrative Court and then to the Council of State (Danistay). In some cases, such appeals were successful.

In May Parliament approved amendments increasing the number of government representatives on the RTUK Supreme Council. Under the new rules, one member of the nine-person council was chosen from among candidates nominated by the NSC, and two were chosen from among candidates nominated by the Higher Education General Board. Reporters Without Borders criticized the amendments for "tightening official control" over RTUK. The organization also criticized other amendments that enhanced RTUK's power to levy penalties against media outlets, outlawed broadcasts that "aggravate the tendency of pessimism," and authorized RTUK to regulate Internet speech.

According to HRA, RTUK closed TV and radio stations on 68 occasions in the first 6 months of the year. According to RTUK, from May through October, RTUK closed television stations on 22 occasions for periods of 1 or 2 days, and 1 radio station for 30 days. RTUK issued warnings to television stations on 9 occasions and to radio stations on 2 occasions, and required apologies from television stations on 26 occasions and from radio stations on two occasions.

RTUK closed the radio station Moral FM for 1 month in September for quoting a newspaper headline related to the attempted suicide of a government minister. In August RTUK reportedly closed the local television station Bayrak TV, broadcasting from Yozgat Province, for 3 days after its owner gave a political speech. In February RTUK banned the television station "Gun TV" for 1 year after the owner, Nevzat Bingol, was indicted for "disseminating separatist propaganda" by broadcasting a Kurdish song. The ban was lifted in March and Bingol was fined \$1,800 (2.9 billion

TL) in October. In May RTUK reportedly banned the “Voice of Anatolia” for 180 days following the broadcast of a program on the closure of the Union of Alevi-Bektasi Organizations.

In the run-up to the November 3 elections, the Government closed a number of television and radio stations for violating the principles of impartial pre-election broadcasting. In October the Supreme Election Council directed RTUK to close several television stations on these grounds, including: Kanal 6 (6 days), Star Max (6 days), and Haberturk (5 days). The local Election Council in Nevsehir Province closed down Kapadokya TV, owned by a candidate for the True Path Party, for 2 days in October for a broadcast violating the principle of “equality among political parties.” In Elazig Province the Election Council ordered closed the television stations Kanal 23 and Kanal E on similar grounds. Also in October, the Election Council closed Ulusal TV for 5 days for broadcasting a meeting of the Workers’ Party twice for 57 minutes each.

Government censorship of foreign periodicals was rare, although forms of censorship were sometimes used against periodicals in the southeast. In the former state of emergency region, 17 cassettes of Kurdish songs were banned, and several radio and TV stations were closed or suspended for broadcasting Kurdish songs. In April Sulhattin Onen, a bus driver in Diyarbakir Province, was indicted and given a 45-month suspended sentence for listening to a cassette of Kurdish music. In October Abdulmelik Firat, running as an independent candidate in national elections, was detained for speaking Kurdish while campaigning in Diyarbakir Province. He was brought before a judge and released later the same day.

In November a 14-year-old student in Kazanci village, Diyarbakir Province, was allegedly detained and beaten for saying he was “proud to be a Kurd.” Also in November, the Education Ministry dismissed six teachers because they sang Kurdish songs at a teachers’ union congress. In December the Istanbul SSC convicted 4 parents of “supporting an illegal organization” and sentenced them each to 45 months’ imprisonment for submitting a petition to the governor of Gungoren district seeking education in Kurdish for their children.

The State of Emergency Regional Governor, courts, police, and the state broadcasting oversight body denied the Kurdish population—the largest single ethnic group in the southeast—the use of its language in election campaigning, education, broadcasting, and in some cultural activities. Kurdish-language broadcasts of news, commentary, or discussion were illegal throughout the country for most of the year. From January through November, a government decree gave the Interior Ministry, upon the request of the State of Emergency Regional Governor, the authority to ban the distribution of any news viewed as misrepresenting events in the region. In the event that a government warning was not obeyed, the decree provided for a 10-day suspension of operations for a first offense and 30 days for subsequent offenses. This and other pressures, such as RTUK suspensions, led to self-censorship by journalists on some issues.

However, in November the Government implemented laws passed in August allowing, under tight restrictions, broadcasts in traditional languages other than Turkish, including Kurdish. The new regulations were supposed to allow broadcasts in Kurdish and other non-Turkish languages traditionally used by Turkish citizens. Non-Turkish programs were allowed only on state-owned radio and television outlets. They were limited to 45 minutes per day, 4 hours per week on radio, and 30 minutes per day, 2 hours per week on television. Regulations require that non-Turkish radio programs be followed by the same program in Turkish, and that non-Turkish television programs have Turkish subtitles. By year’s end, there were no programs broadcast in Kurdish or other traditional non-Turkish languages. In September the Government implemented a law lifting a ban on private courses in Kurdish and other traditional non-Turkish languages (*see* Section 5).

Journalists practiced self-censorship. Despite government restrictions, the media criticized government leaders and policies daily and has adopted an adversarial role vis-a-vis the Government. However, some journalists remained in prison at year’s end for writing about sensitive subjects. According to Reporters Without Borders, four journalists remained in jail at year’s end for speech violations. The Press Council reported there were seven imprisoned journalists. According to the Government, there were no journalists held on speech violations, although at year’s end, there were 23 prisoners claiming to be journalists. The different figures reflected disagreement over which prisoners were legitimate journalists, and which were jailed for carrying out their journalistic duties.

In December 2000, Parliament passed the Conditional Suspension of Sentences Law (*see* Section 1.c.).

In February Kurdish publisher Fatih Tas was acquitted on charges of threatening the Turkish state by publishing a collection in Turkish of writings by foreign aca-

demic Noam Chomsky, whose writings accused the Government of oppressing Turks of Kurdish origin. In August Abdullah Keskin was convicted on charges of separatist propaganda for editing the Turkish edition of a book on Kurdistan written by a foreign journalist. Keskin's 6-month sentence was converted to a \$500 (800 million TL) fine.

In October the Istanbul SSC launched a court case against Sefika Gurbuz, head of the Social Support and Culture Association for Migrants (Goc-Der), and an associate on speech charges related to the organization's 1999–2001 report on forced displacement.

In April the chairman of the Teacher's Trade Union was acquitted on charges of "insulting the army and judiciary" for statements made during a December 2000 labor rally. In November the Istanbul SSC convicted Muzaffer Erdogan, publisher of the book "Letters to Savas," on charges of separatist propaganda and sentenced him to 13 months and 10 days in prison. In December the Istanbul SSC ordered the confiscation of a book on Kurds by foreign author Margaret Kahn, based on allegations of separatist propaganda.

Several actions were taken against the pro-Kurdish HADEP party (*see* Section 3).

In September the Supreme Election Board barred two prominent Islam-oriented candidates and two prominent pro-Kurdish candidates from participating in the November national elections due to past convictions for illegal speech (*see* Sections 2.c and 3).

The trial continued in the Istanbul SSC in the case of 65 activists charged with supporting illegal organizations and separatism for publishing a new "Freedom of Thought" booklet in October 2001. In November the SSC announced that 14 former parliamentarians would be charged in the case because they had lost their immunity after being voted out in the November 3 elections.

In April Mehmet Kutlular, owner of "Yeni Asya" newspaper, was acquitted on charges of provoking hatred and enmity for his remarks claiming that a 1999 earthquake in Turkey was God's punishment against the secular state. Kutlular had been convicted of the charges and jailed in May 2001 but was released in February and given a retrial due to amendments to Article 312. However, the acquittal was reversed on appeal in June, and in November the Istanbul SSC affirmed Kutlular's original conviction and 23-month sentence. Three "Yeni Asya" journalists—Saban Dogen, Sami Cebeci, and Abdil Yildirim—were also granted a retrial on charges relating to coverage of the earthquake. In September the Istanbul SSC affirmed their original conviction and 20-month sentence.

In June the Istanbul SSC acquitted Nese Duzel, columnist with the mainstream daily "Radikal," on charges of "inciting religious enmity" for her writings on the problems of the Alevi community. She continued to face charges in a separate case for "insulting the armed forces."

In November an Istanbul criminal court acquitted the journalist Ahmet Altan on charges of "insulting the armed forces" for his writings criticizing the intervention of the military in politics.

In March the National Film Censors banned a film after police protested its depiction of police brutality. In May the Diyarbakir governor banned three plays by the group "Teatra Jiyana Nu" that were to be performed in Kurdish at an arts festival.

SSC prosecutors ordered the confiscation of numerous issues of leftist, Kurdish nationalist, and pro-PKK periodicals and banned several books on a range of topics. Police frequently raided the offices of publications. On August 20, Istanbul police raided the offices of the journals "Ekmek ve Adalet" and "Genclik Gelecektir," confiscating publications and detaining 16 persons. On August 26, Istanbul police raided the offices of the journals "Devrimci Demokrasi," "Mucadele Birliigi," "Kizilbayrak," "Alinterimiz," "Direnis," and "Isci Koylu." Police reportedly confiscated publications but did not detain anyone.

Kurdish-language audio cassettes and publications were available commercially, although the periodic banning of particular audio cassettes or singers continued, particularly in the state of emergency region.

Internet use was growing. In May Parliament passed legislation authorizing RTUK to monitor Internet speech. Under the legislation, RTUK can require Internet service providers to submit advance copies of pages to be posted online. According to Reporters Without Borders, in February RTUK fined Coskun Ak, the moderator of an Internet forum, \$5,000 (8 billion TL) for "insulting the armed forces." Under an amendment passed in August, Internet cafes were added to the list of places that police are authorized to search and confiscate materials from in order to protect "national security, public order, health, and decency" and to prevent a crime. Police were required to attain authorization from a judge or, in emergencies, the highest administrative authority before taking such action.



The Government did not restrict academic freedom; however, there reportedly was some self-censorship on sensitive topics.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government sometimes restricted this right in practice. Significant prior notification to the authorities was required for a gathering, and authorities may restrict meetings to designated sites. Authorities may deny permission to assemble if they believe that a gathering is likely to disrupt public order. Associations could not use languages other than Turkish in their official contacts.

During the year, Parliament passed reform legislation implementing an October 2001 constitutional amendment expanding the rights of free assembly and association and placing the emphasis on citizens' rights and reducing the number of restrictions on their activities. Following legal reforms passed in August, the notification period for meetings was reduced from 72 hours to 48 hours, and restrictions on participation by foreigners in demonstrations were relaxed.

Authorities prevented some demonstrations. For example, the Istanbul governor did not permit a September 1 World Peace Day event organized by HRA and HADEP to be held. In March the Governor of Ankara postponed for 2 months a demonstration and meeting of the Turkish Communist Party. The Security Directorate of Manisa in May banned a panel on the Law on Higher Education organized by the Association of Celal Bayar University Students.

Police beat, abused, detained and harassed some demonstrators. In August Istanbul police reportedly used pepper spray, beat protestors, and detained about 40 participants in a demonstration against F-type prisons in front of the French Consulate. In May police allegedly beat Sevinc Celenk, the mother of a student at Istanbul Kadikoy Theological Lyceum, during a gathering in front of the school to protest the ban on headscarves. In October police reportedly beat and detained 20 students at Istanbul University protesting against the Higher Education Council. During November protests against the Education Council, which were covered live on television, Ankara police forced student Veli Kaya into a cellar and beat him. Also in November, Istanbul police reportedly beat students participating in an anti-war demonstration in the Beyoglu district.

The March 21 Kurdish Nevruz ("New Year") was celebrated peacefully in some cities, but the governors of Balikesir, Bitlis, Canakkale, Icel, Istanbul, Kars, Kahramanmaras, Sirnak, Yalova, Igdir, Erzurum, Kirsehir, Sakarya, Kayseri, Mugla, and Gebze did not allow celebrations, according to the HRF. Police detained hundreds of demonstrators and in some cases dispersed crowds with tear gas and beatings, HRF reported.

May Day celebrations were held peacefully in most cities and towns, but permission for celebrations was denied in Mersin, Diyarbakir, Kars, Mus, Tunceli, Bitlis, Bingol, Siirt, Osmaniye, Batman, and Milas, according to HRF. Police reportedly detained 20 persons who attempted to make a press statement during celebrations in Tunceli and 8 persons attempting to celebrate in Diyarbakir.

There were no new developments in the case of environmental activist Oktay Konyar.

Alp Ayan—a psychiatrist with the HRF Izmir Treatment and Rehabilitation Center, Günseli Kaya—who also worked at the center, and 66 other persons faced charges of "holding an unauthorized demonstration" for participating in the funeral procession in October 1999 of one of the prisoners killed in the September 1999 Ulucanlar incident. Their trial began in January 2000 and was ongoing at year's end. Ayan and 50 others were acquitted in November in a similar case in which they faced charges for shouting slogans at the funeral of Huseyin Kayaci, who died in a hunger strike protesting F-type prisons in May 2001.

The Constitution provides for freedom of association; however, there were some restrictions on this right. Associations and foundations were required to submit their charters for government approval, which was a lengthy and cumbersome process. The Government closed some opposition political parties alleging that they were centers for illegal activity (see Section 3). Reform legislation adopted during the year relaxed restrictions on the rights of civil servants to form associations and lifted the ban on forming associations for civil defense purposes.

In October the Ankara SSC indicted the leaders of the country's branches of five German foundations—the Friedrich Ebert, Konrad Adenauer, Heinrich Boell, and Friedrich Naumann foundations, as well as the Orient Institute—on charges of separatism and espionage. The indictment sought jail terms of 8 to 15 years for 15 foundation officials. Charges against the officials included accusations that the foundations plotted to prevent an Australian mining company from mining gold in a village near Bergama. Their trial began on December 26. On December 18, unknown

assailants shot and killed Necip Hablemitoglu, the author of a book on which the indictment was based.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, and the Government generally respected this right in practice; however, it imposed some restrictions on some religious groups and on religious expression in government offices and state-run institutions, including universities. The Constitution establishes the country as a secular state.

The Government oversaw Muslim religious facilities and education through its directorate of religious affairs (Diyanet). The Diyanet, which some groups claimed reflected the beliefs of the Sunni Islamist mainstream to the exclusion of Alevi adherents, regulated the operation of the country's more than 70,000 mosques. Local and provincial imams, who were civil servants, were employed by the Diyanet. The Government stated that the Diyanet treated equally all who requested services.

A separate government agency, the Office of Foundations (Vakiflar Genel Mudurlugu), regulated some activities and oversaw 160 non-Muslim religious groups. The Vakiflar, which dates back to the Ottoman Empire, must approve the operation of churches, monasteries, synagogues, religious schools, and religious charitable foundations, such as hospitals and orphanages.

In May the Diyanet adopted a series of decisions after holding a 4-day conference on religious issues with attendees from the Diyanet's Supreme Council on Religious Issues and experts from theology schools. The Diyanet formally decided to: Allow women to participate in the congregation for daily prayers on Fridays, during religious holidays, and funeral prayers; allow original Arabic prayers to be recited in native tongues; rule that men may not use the Koran as a premise for domestic violence; underline the fact that civil marriages (rather than religious marriages) are required by law; and state that social and legal advances for women are not against the spirit of the Koran. Some women immediately began to participate in congregations with men.

The military and judiciary, with support from other members of the country's secular elite, continued to wage a private and public campaign against what they defined as Islamic fundamentalism, which they viewed as a threat to the secular republic. The armed forces regularly dismissed individuals whose official files alleged participation in Islamist fundamentalist activities. Participation in certain mystical Sufi religious-social orders (Tarikats) was officially banned by Ataturk in the mid-1920s but was largely tolerated. The NSC has called for stricter enforcement of the ban against Tarikats as part of its campaign against Islamic fundamentalism; however, prominent political and social leaders remained associated with, or openly tolerant of, Tarikats or other Islamic communities. The trial of Fetullah Gulen—the leader of an Islamic religious community whose wide domestic and international network of secondary schools was earlier encouraged by the State but who was subsequently charged with plotting to overthrow the State by force—continued in absentia at year's end.

On March 5, a senior columnist for the Islamist newspaper *Yeni Safak*, Fehmi Kuru, was acquitted of charges of "inciting religious enmity" during a 1999 television broadcast.

In September the Supreme Election Board barred two prominent Islam-oriented candidates from participating in the November national elections due to past convictions for illegal speech: Recep Tayyip Erdogan, chairman of the Islam-influenced Justice and Development (AK) Party, and Necmettin Erbakan, still de facto leader of the Islamist Saadet Party (see Sections 2.a. and 3).

In October the Court of Appeals Chief Prosecutor opened a court case demanding the closure of the AK Party for being a center of activities "contrary to the principle of a secular republic." The party is charged with failing to abide by a Court ruling requiring Erdogan to resign as party chairman.

In the case of Turkish Christian Kemal Timur, who was charged in 2000 with insulting Islam, charges were dropped in June when the witnesses failed to appear in court.

Alevis constituted a Muslim minority. Many Alevis alleged discrimination in the Government's failure to include any of their doctrines or beliefs in religious instruction classes. Alevis also charged that there was a Sunni bias in the Diyanet since the directorate viewed the Alevis as a cultural rather than a religious group and did not fund their activities.

In November an Appeals Court overturned the February ruling by an administrative court, which had closed the Union of Alevi-Bektasi Organizations (ABKB). The retrial of the case was pending at year's end.

There are legal restrictions against insulting any religion recognized by the state, interfering with that religion's services, or debasing its property. However, some

Christian churches were defaced, with communities unable to repair them, including in the Tur Abdin area of the southeast where many Syriac churches are found.

Religious affiliation was listed on national identity cards. Some members of non-Muslim religious groups claimed that they had limited career prospects in government or military service as a result of their religious affiliation.

By law religious services may take place only in designated places of worship, although non-Muslim religious services often took place in non-designated places of worship. However, police occasionally barred Christians from holding services in private apartments and from proselytizing by handing out literature. These activities also occasionally led to police detention and trials. Several Christians in Istanbul continued to stand trial on charges of opening a Christian training institute without legal permission and violating Law 2911, which "prohibits unauthorized meetings and demonstrations," for holding church and bible study meetings in an apartment.

In October the Government implemented a reform measure allowing, in principle, some non-Muslim foundations to own property for the first time since 1936. Application involves a lengthy and burdensome process, and it was unclear at year's end whether any foundations would be able to comply.

The Ecumenical Patriarchate in Istanbul repeatedly has asked to reopen its seminary on the island of Halki in the Sea of Marmara; the seminary has been closed since 1971 when the state nationalized most private institutions of higher learning. Under existing restrictions, including a citizenship requirement, the religious community remained unable to train new clergy.

In April the Baha'i community lost a legal appeal against government expropriation of a sacred site near Edirne and brought the case for a final appeal to the Council of State. The Ministry of Culture had granted cultural heritage status to the site in 1993, but in January 2000 the Ministry of Education notified the Baha'i community that it had expropriated the adjacent primary school property for future use.

Three Ahmadi Muslims, who had been detained in April and charged under the Anti-Terror Law, were released on bail following an August 14 hearing. An additional five Ahmadis were released on bail in April.

There is no law that explicitly prohibits proselytizing or religious conversions; however, religious groups that proselytize occasionally were subject to government restrictions or harassment. Many prosecutors regarded proselytizing and religious activism on the part of evangelical Christians, as well as Islamists, with suspicion, particularly when such activities were deemed to have political overtones. Police sometimes arrested proselytizers for disturbing the peace, "insulting Islam," conducting unauthorized educational courses, or distributing literature that had criminal or separatist elements; courts usually dismissed such charges. If the proselytizers were foreigners, they could be deported, but they usually were able to reenter the country. In September the Erzurum SSC charged 12 Baha'i with proselytizing.

State-sponsored Islamic religious and moral instruction in all public primary and secondary schools was compulsory. Upon written verification of their non-Muslim background, "minorities" recognized by the Government under the 1923 Lausanne Treaty were exempted by law from Muslim religious instruction. Other small groups, such as Catholics, Protestants, and Syriac Christians, were not exempted. Students who completed the 8-year primary school could study the Koran in government-sponsored imam-hatip (religious) schools. The Government did not permit private Koran courses. In August police raided two houses in Antalya Province and detained persons on charges of conducting illegal Koran courses.

The Government continued to enforce a long-term ban on the wearing of religious head coverings at universities or by civil servants in public buildings. Dozens of women who wore religious head coverings, and both men and women who actively showed support for those who defied the ban, lost their jobs in the public sector as nurses and teachers; some others were not allowed to register as university students.

In March deputies from Islamist parties in Parliament pressed for a motion of censure against the Minister of Education for allegedly "creating unrest at the ministry" and "escalating tensions" by enforcing strictly the headscarf ban, including at imam-hatip (religious) high schools. In June a special parliamentary committee concluded that the Minister should not face charges.

Citizens who converted from Islam experienced some form of social harassment or pressure from family and neighbors. Proselytizing socially was unacceptable. A variety of newspapers and television shows have published anti-Christian messages, including one fringe newspaper ("Aydinlik") that published in May a purported list of 40 churches in the city of Izmir that were "bribing" converts.

Many non-Muslim religious group members, along with many in the secular political majority of Muslims, feared the possibility of Islamic extremism and the involvement of even moderate Islam in politics. Several Islamist newspapers regularly published anti-Semitic material.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Citizens generally enjoyed freedom of movement domestically and the freedom to travel abroad; however, at times the Government limited some of these rights. The Constitution provides that a citizen's freedom to leave the country may be restricted only in the case of a national emergency, civic obligations (military service, for example), or criminal investigation or prosecution.

Between 1984 and 1999, and particularly in the early 1990s, the Government forcibly displaced a large number of persons from villages in the southeast. The Government justified the practice as a means of protecting civilians or preventing PKK terrorists from obtaining logistical support from the inhabitants. The Government reported that 378,000 persons had "migrated" (it disputed the term "evacuation") from 3,165 state of emergency region villages between 1994 and 1999; many left before that due to the fighting. Various NGOs estimate that from 1 to 3 million persons were displaced. The Interior Minister confirmed that in 25 provinces in the former state of emergency region, 4,455 villages and hamlets have been destroyed or deserted.

Citing security concerns, provincial authorities continued to deny some villagers access to their fields and high pastures for grazing but have allowed other villagers access to their lands. Voluntary and assisted resettlements were ongoing. In some cases, persons could return to their old homes; in other cases, centralized villages have been constructed. Only a fraction of the total number of evacuees has returned. The Government estimated that 58,000 persons returned to the region from June 2000 to October 2002. More than 400 villages and hamlets have reportedly been reopened with state assistance. According to Human Rights Watch (HRW), inadequate government assistance and continued violence by security forces discouraged returns. HRW claimed the Government's return plans failed to meet international standards and had therefore not attracted international funding.

According to human rights activists, villagers, and some southeast members of Parliament, the Government did not allow displaced villagers to return unless they signed a document claiming that they had left their homes due to PKK terrorism, rather than due to government actions, and stating that they would not seek government assistance for returning. There also have been charges that resettlement priority was given to village guards and their families.

Ten village guards were arrested in connection with the September killing of three internally displaced persons (IDPs) returning with official permission to their homes in Ugrak village, Diyarbakir Province (see Section 1.a.).

In December prosecutors indicted 21 founding members of the Migration and Humanitarian Aid Foundation (GIYAV)—a Mersin-based group whose declared purpose was to provide assistance to displaced persons—on charges of aiding and abetting an illegal organization. Also in December, the General Directorate of Foundations applied to a penal court to have GIYAV disbanded on the grounds that it established relationships with foreign associations without seeking the required approval of the Interior and Foreign Ministries.

The U.N. Special Representative for Displaced Persons visited the region in June and acknowledged a more open approach to returns on the part of the Government. The European Parliament and the Parliamentary Assembly of the Council of Europe also made visits.

The law provides for the granting of refugee and asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, upon ratifying the Convention, the Government exercised the option of accepting the Convention's obligations only with respect to refugees from Europe. The UN High Commissioner for Refugees (UNHCR) handled cases of refugee applicants from non-European countries. The Government offers non-European refugees temporary protection while they are waiting to be resettled in another country. The Government directly handles European applicants, and provides them with the full rights required under the Convention. Once they are recognized as refugees, Europeans can remain in the country and acquire citizenship. The UNHCR intervenes with government officials if it disagrees with their negative decisions about individual asylum claims. An appeal may be lodged within 15 days of a negative decision by the authorities. After the appeal procedure, rejected applicants are issued a deportation order that may be implemented after 15 days. According to the UNHCR, by August there had been 2,124 cases of (non-European) asylum seekers;

of these, UNHCR recognized 1,046 cases representing 2,247 persons. The vast majority of these applicants were Iranian and Iraqi nationals.

The number of Bosnian and Kosovar refugees declined to fewer than 1,000, mostly due to voluntary repatriation. Approximately 260 Chechens who arrived in 2001 remained, mostly in Istanbul.

A regulation obliges asylum seekers to apply within 10 days of their arrival and submit proof of identity in order to register as asylum seekers. The time limit for registration in the Government's asylum program was implemented strictly and remained an obstacle to the full access by asylum seekers to procedures to determine their refugee status. According to the UNHCR, during the year 15 refugees and asylum seekers were returned to a country where they feared persecution without being given access to a complete asylum determination process, or after being granted refugee status. The obstacles in the Government's asylum procedures led to many refugees being considered as "illegals." The UNHCR estimated that approximately 14 percent of asylum seekers who approached the UNHCR were unable to register with the Government on procedural grounds. Furthermore, detained illegal immigrants found near the border areas were more likely to be questioned about their asylum status and referred for processing than those found in the interior of the country. The UNHCR and government authorities continued to work to resolve this problem and to find ways to allow greater access of all asylum seekers to processing.

If they comply with the asylum regulations' requirements, the Government registers and process asylum seekers for eligibility determination. According to the law and in practice, the failure to submit an asylum claim within a fixed time limit should not be a reason to refuse to address the application or grant asylum.

The country continued to be a transit and departure point for illegal migrants and asylum seekers of various nationalities who travel in small groups utilizing land routes, small boats, and ships on the way to other European countries.

Since 1998 the UNHCR and the Government have continued to cooperate in training border guards and other government officials responsible for asylum seekers and refugees. The training has been successful and has led to increased contacts between the UNHCR and local, military, and judicial authorities. The UNHCR also noted that the incidence of repatriation has declined as a result of this training and credited the Government for its willingness to improve the functioning of the national asylum procedure. The UNHCR works with local partners including the Turkish Red Crescent Society and the Anatolian Development Foundation to integrate refugees into society. In the past 3 years, the UNHCR has initiated several new projects to support NGOs in providing counseling and specialized assistance directed in particular at women, children, and other vulnerable groups.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens generally exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage; however, the Government restricted the activities of some political parties and leaders. The country has a multiparty parliamentary system, in which national elections are held at least every 5 years, with mandatory universal suffrage for all citizens 18 years of age and over. The November 3 elections featured 18 parties, 2 of which garnered enough votes to enter Parliament. Parliament elects the president as head of state every 7 years or when the incumbent becomes incapacitated or dies.

In accordance with the Constitution, the NSC—a powerful, constitutionally mandated advisory body to the Government composed of civilian government leaders and senior military officers and chaired by the president—played a significant role in shaping government policy. Under an October 2001 constitutional amendment, the military-civilian balance of the NSC was revised and its functions were redefined to emphasize its advisory nature. Under the amendments, there were nine civilian members and five military members.

The Government neither coerced nor forbade membership in any political organization; however, the Court of Appeals Chief Prosecutor could bring cases seeking the closure of political parties before the Constitutional Court, which could close them down for unconstitutional activities. In March Parliament adopted an amendment giving the Constitutional Court the option of depriving a party of state funds rather than ordering closure.

In September the Supreme Election Board barred two prominent Islam-oriented candidates and two prominent pro-Kurdish candidates from participating in the November national elections due to past convictions for illegal speech: Recep Tayyip Erdogan, chairman of the Islam-influenced AK Party; Necmettin Erbakan, still de facto leader of the Islamist Saadet Party; Murat Bozlak, chairman of the pro-Kurd-

ish HADEP Party; and Akin Birdal, human rights activist and HADEP candidate (see Sections 2.a. and 2.c.). Dozens of other candidates were also barred for past convictions. Constitutional Court Chairman Mustafa Bumin stated publicly that the bans would harm the country's relations with the EU, and he called for the lifting of obstacles to free speech.

In October the Court of Appeals Chief Prosecutor opened a court case demanding the closure of the AK Party. The party is charged with failing to abide by a Court ruling that the Chief Prosecutor asserted had required Erdogan to resign as party chairman.

The Rights and Freedoms Party (HAK-PAR), founded in February, faced closure on charges that its program contained elements contrary to the "indivisible unity of the State and nation." The case was pending at year's end.

Leyla Zana, Hatip Dicle, Orhan Dogan and Selim Sadak—former members of parliament—remained in prison at year's end after being convicted of belonging to an armed organization (the PKK) in 1994. If they serve the required three-fourths of their sentence, as is traditional, they would be released in 2005.

The case to close HADEP, whose predecessor parties were also closed by the Government, was pending at year's end. The case cannot be resolved without the resolution of several other SSC cases against HADEP officials, which were ongoing at year's end. In the November elections, some former HADEP leaders ran under the banner of the Democratic People's Party (DEHAP), which HADEP created as insurance against its possible preelection closure. HADEP/DEHAP officials said the party suffered from a loss of name recognition. At year's end, DEHAP was under investigation for providing forged documents while registering for elections.

HADEP/DEHAP leaders said state harassment of the party has continued to decline gradually for each of the past 3 years, following a steep reduction in PKK-related conflict. They said the party was able to operate more freely in the November parliamentary elections than in the previous election in 1999. However, throughout the year, police raided dozens of HADEP offices, particularly in the southeast, and detained hundreds of HADEP officials and members. DEHAP and HADEP members were regularly harassed by Jandarma and security officials, including verbal threats, arbitrary arrests at rallies, and detention at checkpoints. Security forces also regularly harassed villagers they believed were sympathetic to HADEP/DEHAP. Although most detainees were released within a short period, many faced trials, usually for "supporting an illegal organization," "inciting separatism," or for violations of the Law on Meetings and Demonstrations.

In April the Ankara SSC sentenced former HADEP leader Ahmet Turan Demir, Turkish Communist Party leader Aydemir Guler, and Turkish Socialist Labor Party leader Turgut Kocak to 10 months' imprisonment each for "challenging Turkey's unitary structure" during speeches at a 2000 HADEP convention. In September police raided HADEP offices in Ercis District, Van Province, confiscating books and detaining HADEP district chairman Kemal Dogruel and four other party members. The detainees were released later that day. In August Jandarma searched homes in the town of Gecitli, Hakkari Province, and detained seven persons after HADEP members distributed election forms in the area. Jandarma reportedly warned the detainees not to support HADEP and released them the next day. In November Istanbul attorney Erdal Tuncel claimed police raided his home, beat him, threatened to kill him, and told him to cut his ties to HADEP.

Mazlum-Der, HRA, and DEHAP officials throughout the region reported cases of Jandarma and village guards threatening villagers not to vote for DEHAP. The villagers were warned that, should DEHAP win the vote from that area, the town might be burned, reevacuated, or denied services (such as electricity or water). The Diyarbakir HRA office also reported one case in which the Jandarma told the residents of a village that they should show their support for DEHAP by having the village sheikh vote symbolically on behalf of the whole village.

Parties are required to have 10 percent of the nationwide vote to enter Parliament. During the year, politicians from several parties debated whether to lower the threshold. In September the ECHR decided to hear a complaint filed by HADEP that the 10 percent threshold prevented 34 of its candidates from entering Parliament in 1999, despite having won elections in their districts.

There were 24 women in the 550 seat Parliament. There was one female minister in the 24-member Cabinet, and there were no female governors. Approximately 20 women were subgovernors. The Constitution calls for equal political rights for men and women, and many women were active politically.

There were no legal restrictions on political activities by minorities. Some ethnic groups were active in political affairs; for example, many Members of Parliament and senior government officials were Kurds.

In November the Government officially completed the phased lifting of the state of emergency in the southeast. By so doing, the Government shut down the State of Emergency Regional Governor's Office, which had exercised special powers of search, detention, and interrogation. The Government continued to maintain a heavy security presence in the region, including numerous roadway checkpoints. Promised reforms and expanded freedoms were still pending at year's end. The village guards, formed as part of the Government's campaign against the PKK, have repeatedly been accused of murder, beating, rape, corruption, drug trafficking, and other abuses. The Government planned to stop hiring new village guards and gradually to close the force down as members resign or retire.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

NGOs operated in many regions but faced government obstruction and restrictive laws regarding their operations, particularly in the southeast. The Government met with NGOs (which it defined broadly to include labor unions), responded to their inquiries, and sometimes took action in response to NGO recommendations. The Associations Law governing the activities of most NGOs (some fall under the Law of Foundations, and others incorporate themselves as businesses) has restrictive provisions regarding membership, fundraising, and scope of activities.

The HRA had branches nationwide and claimed a membership of approximately 20,000. The HRF, established by the HRA, operated torture rehabilitation centers in Ankara, Izmir, Istanbul, Diyarbakir, and Adana and served as a clearinghouse for human rights information. Other domestic NGOs included the Istanbul-based Helsinki Citizens Assembly, the Ankara-based Turkish Democracy Foundation, the Turkish Medical Association, human rights centers at a number of universities, and Mazlum-Der. Human rights organizations were represented on some provincial and subprovincial human rights councils.

Human rights organizations and monitors, as well as lawyers and doctors involved in documenting human rights violations, continued to face detention, prosecution, intimidation, harassment, and formal closure orders for their legitimate activities. HRA reported that more than 400 court cases were opened against the organization since 2001, including 150 cases against its Diyarbakir branch, 70 against its Izmir branch, and approximately 90 against its Istanbul provincial president. In April HRA was able to reopen its Gaziantep branch, closed since 2000. HRA was also given permission to re-open the branch in Malatya; however, they had not done so by year's end.

In August prosecutors indicted HRA Chairman Husnu Ondul and 46 others in connection with a January 2001 raid of HRA headquarters. The defendants were charged with possessing 33 publications banned by confiscation orders and face sentences of 3 to 6 months if convicted. In November the Istanbul Bar Association banned HRA Deputy Chairperson Eren Keskin from practicing law for 1 year due to her 1997 conviction for "making separatist propaganda" during a newspaper interview. Also in November, prosecutors in Ankara opened a case against the HRA for alleged "separatist propaganda" in a speech delivered in March 2001 at the HRA branch in Siirt. Prosecutors demanded the closure of all HRA offices but in December dropped the charges. In a separate case, prosecutors at year's end continued to seek the closure of the HRA Ankara branch on charges of "supporting illegal organizations."

Former HRA Chairman Akin Birdal remained on trial for alleged statements in September 2000 that the Government "should apologize for the Armenian genocide," a statement that he denied making.

In October six HRA members were acquitted on charges of violating laws requiring associations to publish all distributed brochures and leaflets in Turkish. They were charged for publishing a document spelling the Kurdish New Year "Newruz" instead of "Nevruz." Also in October, the Istanbul SSC convicted 5 journalists and trade unionists of being members of and supporting an illegal organization—the Marxist Leninist Communist Party—and sentenced each to 12 ½ years.

In March the Government gave permission to AI to form a legal association in Turkey; AI's previous application was rejected in November 2001. By year's end, AI had opened a headquarters in Istanbul and branch offices in Izmir and Diyarbakir. An Ankara office was being prepared. The organization reported good relations with the Government during the year.

The CPT continued to freely conduct prison inspections (*see* Sections 1.c., 1.d., and 1.e.).

Representatives of diplomatic missions who wished to monitor human rights were free to speak with private citizens, groups, and government officials; however, security police routinely placed such official visitors in the southeast under visible sur-

veillance. Visiting foreign government officials and legislators were able to meet with human rights monitors. There were no public reports of officials representing foreign governments being denied permission for such visits.

In August authorities in the southeast prevented a group of five members of Sweden's Green Party from entering northern Iraq. Two of the Green Party officials were reportedly detained briefly.

The Parliamentary Human Rights Investigation Committee, which has a mandate to oversee compliance with the human rights provisions of domestic law and international agreements, investigate alleged abuses, and prepare reports, carried out inspections of detention centers.

Human Rights councils have been established in all 81 provinces and 831 sub-provinces. These councils are intended to institutionalize consultations among NGOs, professional organizations, and the Government. Between October 2001 and June, 1,192 complaints were filed with the councils. Of these, 924 were directly related to human rights violations; 420 were investigated, and 146 were referred to the judiciary. The councils organized hundreds of human rights conferences during the year. According to the Government, of 11,500 council members, 6,500 were public officials, 3,000 belonged to professional associations, and 2,000 were NGO members. NGO members were generally skeptical of the councils because they were dominated by government-affiliated members. Some human rights NGOs have boycotted the councils, while others were not invited to participate.

A Human Rights Presidency monitors the implementation of legislation relating to human rights, coordinates with NGOs, and educates public officials. The Presidency is attached to the Prime Ministry; it did not have a separate budget. During the year, the Presidency organized awareness campaigns and established hot lines and complaint boxes.

Parliament has established numerous government bodies to monitor the human rights situation in the country, including: High Human Rights Board—which is an interministerial committee responsible for making proposals intended to promote and to strengthen human rights protections; a Human Rights Consultation Board—designed to serve as a permanent forum for the exchange of ideas between the Government and NGOs; and a Human Rights Investigative Board.

The Government's Ten Year Human Rights Education Committee held regional seminars to educate civil servants and others on human rights problems. Regional bar associations and the EU held training seminars with the police and judges and prosecutors in several provinces and in Ankara headquarters, focusing on EU human rights standards. In February the Committee, with the Council of Europe, opened a course on police professionalism.

#### *Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution provides that the country is a secular state, regards all citizens as equal, and prohibits discrimination on ethnic or racial grounds; however, discrimination remained a problem in some areas.

*Women.*—Violence against women remained a problem, and spousal abuse was serious and widespread. According to the Family Research Institute in the Prime Minister's office, beating in the home was one of the most frequent forms of violence against women. The law prohibits spousal abuse; however, complaints of beatings, threats, economic pressure, and sexual violence continued. According to a 2000 survey, at least 10 percent of women experienced violence on a daily or weekly basis.

Spousal abuse was considered an extremely private matter, involving societal notions of family honor, and few women went to the police. Police were reluctant to intervene in domestic disputes and frequently advised women to return to their husbands.

The law allows women to apply for restraining orders against their husbands and therefore to stay in their own homes. Observers and government officials noted that this provision has been very successful in some of the cities and rural areas of the country but less so in the more traditional southeast. The law is also limited to spouses and therefore does not address some other sources of violence such as in-laws. Citizens of either sex may file civil or criminal charges for abuse but rarely did so.

There were nine government-operated shelters and eight NGO-operated consultation centers that provided services to battered women; in addition, the Child Protection and Social Services Agency provided services to victims of domestic violence through its 53 community centers.

The law prohibits rape and spousal rape; however, laws and ingrained societal notions made it difficult to prosecute sexual assault or rape cases. Cases of rape were believed to be underreported.



“Honor killings”—the killing by immediate family members of women who were suspected of being unchaste—continued in rural areas and among new immigrants to cities; according to media reports, there could be dozens of such killings every year. They were most common in the predominantly conservative, Kurdish southeast. Under the law, persons convicted of killings that were “provoked” (such as honor killings) may receive a lighter sentence than for other types of killings. Because of sentence reductions for juvenile offenders, observers noted that young male relatives often were designated to perform the killing.

According to HRW, in March, 20-year-old Pinar Kacmaz was shot and killed by her father and brother in the southeast. The police had reportedly arrested Kacmaz’s father after she had reported that he threatened her life, but he was released pending trial.

The problem of suicide among young girls forced into marriage persisted and was prevalent particularly in the southeast and east, where suicides have risen by more than 50 percent since 1993 and where 80 percent of suicide victims were women. A 2001 study in Batman Province showed that for young girls with physical and psychological problems, an early marriage could be a catalyst to suicide. According to the women’s advocacy group Flying Broom, there was an increase in “forced suicides” by family members trying to avoid being charged for committing honor killings.

According to HRF, there were far fewer reports of “virginity testing” than in past years, and no reports of the practice among family members; regulations banning the practice unless requested by the woman were generally enforced. In February the Government abolished a regulation allowing the practice to be used on nursing school students. However, the Women’s Commission of the Diyarbakir Bar Association released a study indicating that 99 percent of female detainees in five southeastern provinces were subjected to the practice (*see* Section 1.c.).

Trafficking in women was a serious problem (*see* Section 6.f.).

A new Civil Code implemented in January replaced a 1926 Code that discriminated against women in some areas. In August the Government ratified the Optional Protocol to the U.N. Convention on the Elimination of Discrimination against Women. The husband is no longer the legal head of the household—the Code now stipulates that the spouses shall choose and manage the household together. Both spouses were given equal rights over guardianship and the choosing of a trade. Discrepancies between the legal marriage age for men and women were removed. A clause awarding both spouses an equal share of goods acquired during marriage applies only to marriages entered after the adoption of the new Code. Couples married before adoption of the new Code could benefit from the clause only if both spouses signed a notarized agreement before December 31. According to Flying Broom, very few couples signed such documents, as most women either did not know about the clause or could not convince their husbands to sign. Under inheritance laws, a widow generally received one-fourth of the estate, and her children received the rest. In January Parliament overturned a regulation banning female civil servants from wearing pants in the workplace, although Parliament’s internal code was not revised to conform with the regulation.

Particularly in urban areas, women were well represented at all levels in the professions, business, and the civil service, and women constituted more than one-third of university students. However, women continued to face discrimination in employment to varying degrees. Women were generally underrepresented in managerial-level positions. Women generally received equal pay for equal work in the professions, business, and civil service jobs, although a large percentage of women employed in agriculture and in the trade, restaurant, and hotel sectors work as unpaid family help.

According to a 2003 UNICEF report, the literacy rate for women in 2000 was 77 percent, compared with 94 percent for men. However, in rural areas the rate could be as low as 50 percent for women. One reason for the higher rate for men is that men must serve in the army; if they do not know how to read, they are taught upon entry.

Independent women’s groups and women’s rights associations existed but have not significantly increased their numbers or activities, mostly because of funding problems. The concept of lobbying for women’s rights, including changes to the Civil Code and greater elected representation, continued to gain support. There were many women’s committees affiliated with local bar associations. Other organizations included the Association to Support Women Candidates (Ka-Der), the Flying Broom women’s advocacy group, the Turkish Women’s Union, and the Foundation for the Evaluation of Women’s Labor. Women continued to be very active in ongoing debates between secularists and Islamists, particularly with respect to the right to

choose whether to wear religious head coverings in public places, such as government offices and universities (see Section 2.c.).

*Children.*—The Government was committed to furthering children's welfare and worked to expand opportunities in education and health, including a further reduction in the infant mortality rate. The Government Minister for Women's and Family Issues oversaw implementation of the Government's programs for children. The Children's Rights Monitoring and Assessment High Council focused on children's rights issues.

Government-provided education through the age of 14 or the eighth grade was compulsory. Traditional family values in rural areas placed a greater emphasis on advanced education for sons than for daughters; the relatively new 8-year compulsory education requirement (implemented in 1998) was expected to ensure that more girls continued their education. According to the Ministry of Education, since 1997 the percentage of girls enrolled in primary school rose from 79 to 97, while the percentage for boys rose from 91 to 98.5. However, in rural areas, the literacy rate for girls remained low, and many did not complete primary school. The literacy rate for boys, most of whom completed primary school, was higher. Some children in rural areas continued on to high school, for which they generally had to travel or live away from home.

The social security system aimed to provide social security and health insurance for all its citizens, but there were still gaps in this coverage, leaving approximately 20 percent of families and their children without coverage. According to a 2000 UNICEF report on "The State of Women and Children in Turkey," persons not covered by insurance may use a special program to access public health care. According to UNICEF, in 2001 89 percent of 1-year-olds were immunized against tuberculosis, 88 percent were immunized against diphtheria and polio, 90 percent were immunized against measles, and 77 percent were immunized against hepatitis B. Immunization rates in some eastern and southeastern provinces lagged behind the rest of the country. Infant mortality has declined rapidly. According to UNICEF, the infant mortality rate dropped from 163 per 1,000 in 1960 to 36 per 1,000 in 2001.

Children have suffered greatly from the cycle of violence in the southeast. In the past, the migration—forced or voluntary—of many families, past terrorism against teachers, and school closings uprooted children and moved them to cities that were hard pressed to find the resources to provide basic, mandatory services such as schooling.

*Persons with Disabilities.*—According to both HRA and the Federation of Associations for Disabled People, there was no direct, specific discrimination against persons with disabilities, although they did suffer from a lack of economic opportunity. Persons with disabilities have some special privileges, such as the right to purchase products of the State Economic Enterprises at a discounted rate, or acquire them at no cost. During the year, the Government briefly revoked this privilege, but the Federation lobbied successfully to have it restored. The law does not mandate accessibility to buildings and public transportation for persons with disabilities. According to a 2000 UNICEF report, welfare institutions provided "limited financial, employment and educational support to the handicapped." According to the report, the number of persons with disabilities was unknown. The Ministry of Education reports that there were 1.1 million children with disabilities in the country. Although there were many government institutions for persons with disabilities, most attention to persons with disabilities remained at the individual and family level. The Government established an "Administration of Disabilities" office under the Prime Ministry in 1997, with the mandate to develop cooperation and coordination among national and international institutions and to conduct research into issues such as delivery of services. Companies with more than 50 employees were required to hire persons with disabilities as 2 percent of their employee pool, although there was no penalty for failure to comply.

*National/Racial/Ethnic Minorities.*—The Constitution provides a single nationality designation for all Turks and thus does not recognize ethnic groups as national, racial, or ethnic minorities. Citizens of Kurdish origin constituted a large ethnic and linguistic group. Millions of the country's citizens identified themselves as Kurds and spoke Kurdish. Kurds who publicly or politically asserted their Kurdish identity or publicly espoused using Kurdish in the public domain risked public censure, harassment, or prosecution. However, Kurds who were long-term residents in industrialized cities in the west were in many cases assimilated into the political, economic, and social life of the nation, and much intermarriage has occurred over many generations. Kurds migrating westward (including those displaced by the conflict in the southeast) brought with them their culture and village identity, but often little education and few skills.

There were no reports that Kurt-Kav experienced any problems during the year. There were numerous reports of citizens of Kurdish origin being prevented from registering their newborn children with Kurdish names. In some cases, charges were filed against the parents. Birth Registry Law 1587 outlaws “names which do not fit the country’s national culture, moral rules, customs or traditions, or which harm the general public.” There were numerous restrictions against free expression in Kurdish and pro-Kurdish political parties (*see* Section 2.a. and 3).

In September the Government implemented reforms designed to allow private courses teaching Kurdish and other non-Turkish languages “used by Turkish citizens in their daily lives.” However, by year’s end, there were no such courses operating. Demand for private Kurdish courses was limited, and Kurdish rights advocates argued that the regulations placed prohibitive costs by requiring that Kurdish courses be established in separate institutions, rather than added to existing language schools. In November the Government adopted regulations designed to allow, under tight restrictions, broadcasts in Kurdish and other non-Turkish languages (*see* section 2.a.). No Kurdish-language television broadcasts, radio programs, or courses were in place at year’s end.

Police exerted pressure against Kurdish cultural groups and hindered their activities, and local officials monitored and often interrupted their cultural events. In January the Jandarma arrested 500 students at Van’s Centennial University after they petitioned the rector to include Kurdish among the university’s elective courses. In February a court ordered the closure of the Mesopotamia Cultural Center, established to promote Kurdish language and culture. In January authorities closed the Kurdish Institute, charging the organization with violating the Law on Private Education. Hasan Kaya, the head of the Institute, was acquitted in three separate cases between December 2001 and August, including charges of opening an illegal language course and separatist propaganda.

The Ministry of Education tightly controlled the curriculum in schools (except foreign-language schools not part of the country’s system). The small numbers of Greek-language students had little opportunity to continue their education in the country, and consequently many went to Greece, often never to return.

No accurate estimate of the Romani population existed, but it may be significant in regions near Bulgaria and Greece. According to HRF, although no incidents of public or government harassment directed against Roma were reported, experts claimed that Roma experienced discrimination, for example, regarding employment. The Government began revising the definition of “gypsy” in official dictionaries; the old definition had included terms such as “shameless” and “thief.”

There were indications of relaxed restrictions on cultural expression. On Victory Day (August 30) a famous Turkish singer performed in several languages—including Kurdish, Armenian, Greek, and Turkish—during a concert in Ephesus supported by the Minister of Culture. In November a photography exhibition on the Syrians was held in Diyarbakir with no restrictions. In August the Tunceli Culture and Nature Festival took place with no bans on Kurdish songs.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—Workers, including civil servants with the exception of police and military personnel, have the right under the Constitution to associate freely and form representative unions. The Constitution stipulated that no one shall be compelled to become, remain a member of, or withdraw from a labor union. Unions were independent of the Government and political parties. However, there were some limits to the right of association. Unions were required to obtain official permission to hold meetings or rallies and must allow government representatives to attend their conventions and record the proceedings. Prosecutors may ask labor courts to order a trade union or confederation to suspend its activities or to go into liquidation for serious infractions, based on alleged violation of specific legal norms; however, the Government could not dissolve a union summarily.

Slightly more than 13 percent of the total civilian labor force (15 years of age and above) were unionized. The labor force numbered approximately 24 million, with approximately 35 percent employed in agriculture. There were three confederations of labor unions: The Turkish Confederation of Workers Unions (Turk-Is), the Confederation of Turkish Real Trade Unions (Hak-Is), and the Confederation of Progressive Trade Unions (DISK). There also were 4 public employees unions and 27 independent unions. Unions and their officers had a statutory right to express their views on issues directly affecting members’ economic and social interests. The Constitution prohibits unions and confederations from being involved in activity against the basic democratic principles of the country. Unions cannot give financial assistance or receive financial assistance from public authorities and political parties;

unions also cannot be founders of political parties, use the name or emblem of a political party, or be involved in commercial activity.

The law prohibits antiunion discrimination and the Constitution prohibits pressuring a worker into becoming or refusing to become a union member; however, such discrimination occurred occasionally in practice.

The International Labor Organization (ILO) has urged the Government to take the necessary measures to ensure that workers have effective protection against antiunion discrimination. The law on trade unions stipulates that an employer may not dismiss a labor union representative without rightful cause. The union member may appeal such a dismissal to the courts, and if the ruling is in the union member's favor, the employer must reinstate him and pay all back benefits and salary. These laws generally were applied in practice. However, private sector employers continued to try to eliminate unions.

With government approval, unions formed confederations and joined international labor bodies, as long as the organizations were not hostile to the country or to freedom of religion or belief. Turk-Is, Hak-Is, and DISK were affiliated with the International Confederation of Free Trade Unions (ICFTU).

In August Parliament passed a job security law designed to bring labor law into conformity with ILO Convention 158, which the Government ratified in 1995; the law is scheduled to take effect in 2003. The law requires employers to give a valid reason for terminating a contract and set standards for notices of termination. The law stipulates that membership in a union is not a valid reason for termination.

*b. The Right to Organize and Bargain Collectively.*—All industrial workers have the right to organize and bargain collectively, and most industrial and some public sector agricultural workers were organized. In August civil servants were, for the first time, able to exercise the right to bargain collectively, following the implementation of the 2001 Public Servants Law. Out of 9 million labor contract workers, approximately 1.3 million were in collective contracts.

However, there were limits on this right. The law requires that, in order to become a bargaining agent, a union must represent 51 percent of the employees at a given work site, and 10 percent of all the workers in that particular industry. This barrier had the effect of favoring established unions, particularly those affiliated with Turk-Is, the confederation that represents approximately 80 percent of organized labor. The ICFTU reports that, as a result of the law, workers in many sectors of economic activity were not covered by a collective agreement.

The ILO has called on the Government to rescind the 10 percent rule, stating that it violates ILO Convention 98 on the rights to organize and collective bargaining. However, both Turk-Is and the Turkish Employers' Organization favor retention of the 10 percent rule, since each confederation has an established membership area. The Government has taken no action to amend the rule.

The constitutional right to strike was restricted. For example, the Constitution does not permit strikes by civil servants, workers engaged in the protection of life and property, and those in the mining and petroleum industries, sanitation services, national defense, and education. The right to strike was suspended for the first 10 years of a company's operations in the 9 free trade zones. However, workers continued to violate these restrictions with impunity. According to Hak-Is, there were a total of 27 strikes during the year involving 4,618 workers. The majority of strikes during the year were illegal, and there was no reported retaliation against workers.

Collective bargaining was required before a strike. The law specifies the steps that a union must take before it may strike or before an employer may engage in a lockout; non-binding mediation is the last of those steps. A party that fails to comply with these steps forfeits its rights. Unions were forbidden to engage in secondary (solidarity), political, or general strikes or in slowdowns. The employer may respond to a strike with a lockout but is prohibited from hiring strikebreakers or using administrative personnel to perform jobs normally done by strikers. The law governing collective bargaining, strikes, and lockouts prohibited the employer from terminating workers who encouraged or participated in a legal strike. In sectors in which strikes were prohibited, disputes were resolved through binding arbitration.

The Government has the statutory power under the law to suspend strikes for 60 days for reasons of national security or public health and safety. Unions may petition the Council of State to lift such a suspension. If this appeal fails, and the parties and mediators fail to resolve the dispute, the strike is subject to compulsory arbitration at the end of the 60-day period. The ILO's Committee of Experts and the Committee on the Application of Standards regarded the Government's application of the law as too broad, and they have called on the Government to limit recourse to compulsory arbitration to essential services in the strict sense of the term. The Government asserted that the law does not contradict the Committees' principles.

According to Hak-Is, there were a total of 27 strikes during the year involving 4,618 workers. There were no lockouts in the private or public sectors. Some civil service organizations continued to demonstrate for the right to strike and for higher salaries. In December an Ankara court convicted 35 trade unionists, including Alaaddin Dincer, chairman of the teachers' union Egitim-Sen, of staging an illegal demonstration during a 2001 protest calling for the right to strike for civil servants.

A law enacted in 1984 provided for the establishment of free trade and export processing zones, which are intended to attract domestic and particularly foreign investment, and to promote international trade. There were nine such zones operating in Mersin, Antalya, the Aegean region, Trabzon, Istanbul (two), eastern Anatolia, Mardin, and Rize. Union organizing and collective bargaining are permitted in the zones; however, the right to strike is suspended for the first 10 years of operation of a particular business in the zone. In the meantime, labor disputes that cannot be settled by the parties were subject to compulsory arbitration. Workers inside the zones were paid in foreign rather than Turkish currency, giving them some protection against inflation.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution and statutes prohibit forced or bonded labor, including by children; however, there were reports that such practices occurred (*see* Section 6.f.). Some parents forced their children to work on the streets and to beg (*see* Section 6.d.). There were no reliable statistics for the number of children working on the streets nationwide. According to the Ministry of Labor, there were an estimated 10,000 children working on the streets in Istanbul and 3,000 in Gaziantep. At year's end, the Government was preparing a survey designed to determine the scope of the problem (*see* Section 6.d.). The Government operated 28 centers providing assistance to children working on the streets.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The Constitution and labor laws forbid the full-time employment of children younger than 15, with the exception of those 13 or 14 years of age who may engage in light, part-time work if enrolled in school or vocational training. The Constitution also states that "no one shall be required to perform work unsuited to his/her age, sex, and capacity." With this article and related laws, the Government undertook to protect children from work unsuited to their age and capacity, such as underground mining, and from working at night. According to the labor law, children who attend school can work no more than 7½ hours a day, inclusive of school time. The Ministry of Labor effectively enforced these laws only in large-scale industrial and service sector enterprises. Children working in agriculture, household-based establishments, establishments with three or fewer workers, and apprenticeship training centers and those working as domestic servants were subject to the Code of Obligations, which failed to provide a minimum age of employment. However, according to the Code of Obligations, children between the ages of 12 and 16 may not work at night and may work for no more than 8 hours a day.

Child labor was widespread, though it appeared to be decreasing. The State Statistical Institute (SSI) estimated that there were approximately 1 million child laborers as of September. SSI recorded an 8.6 percent decrease in child labor for the first 6 months of the year compared with the same period in 2001. SSI reported a 50 percent drop from 1994 to 1999. According to statistics provided in an October 1999 SSI report, 961,000 children worked in family businesses and did not receive wages, 257,000 were seasonal workers, and 387,000 were wage earners.

Child labor was used most often in small-sized enterprises. According to a study on child labor conducted by Hacettepe University in August 2001, 79.4 percent of children who were employed lived in rural area, and 92.6 percent of those children were engaged in the agricultural sector.

In practice many children worked because families needed the supplementary income. An informal system provided work for young boys at low wages, for example, in auto repair shops. Girls rarely were seen working in public, but many were kept out of school to work in handicrafts, particularly in rural areas. The bulk of child labor occurred in rural areas and often was associated with traditional family economic activity, such as farming or animal husbandry. It was common for entire families to work together to bring in the harvest.

The gradual elimination of child labor was a national priority. The Government recognized the serious problem of child labor and worked with the ILO to document its extent and to determine solutions. The Ministry of Labor, the ILO's International Program on the Elimination of Child Labor (IPEC) government partner, has been actively combating child labor since 1992, when it established a Child Labor Unit and trained Ministry of Labor inspectors specifically in child labor issues. The Government and the ILO signed an agreement to extend IPEC until 2006. Labor inspectors only covered areas that are defined in the labor laws. Approximately 108 of the

700 field inspectors have been trained to handle child labor issues. Many children were working in areas that were not covered by labor laws, such as agriculture or the informal economy, and were therefore beyond the reach of the inspectorate.

Small enterprises preferred child labor because it was cheaper and provided practical training for the children, who subsequently were preferred for future employment in the same workplace. If children employed in these businesses were registered with a Ministry of National Education Training Center, they went to the center once a week for training, and the centers were obliged by law to inspect their workplaces. There were 318 centers located in 80 cities; these centers provided apprenticeship training in 86 occupations. Only 22.8 percent of working children took advantage of these schools.

In accordance with ILO Convention 182 on the worst forms of child labor, the Government identified the worst forms of child labor as children working: In the streets, in industrial sectors where their health and safety were at risk, and as agricultural migrant workers. In cooperation with the ILO, the Government was preparing three surveys as part of a plan for eliminating child labor.

The Government prohibits forced or bonded labor by children; however, there were reports that such practices occurred (*see* Section 6.c. and 6.f.).

*e. Acceptable Conditions of Work.*—A tripartite government-industry-union body called the Minimum Wage Commission reviewed the minimum wage every 6 months. As of October, the monthly net minimum wage rate was approximately \$114 (182 million TL). The national minimum wage did not provide a decent standard of living for a worker and family. It was difficult for a single worker, and impossible for a family, to live on the minimum wage without support from other sources. However, most workers earned considerably more than the minimum wage. Turks has unsuccessfully called on the Ministry of Labor to exercise its authority to waive income tax and social security deductions for minimum wage earners. According to the results of a 2000 survey conducted by the Public Workers' Labor Union, a 4-member family required \$396 (633 million TL) per month to live above the poverty line. Workers covered by the labor law, who constituted approximately one-third of the total labor force, also received a hot meal or a daily food allowance and other fringe benefits that, according to the Turkish Employers' Association, made basic wages alone account for only approximately 37.3 percent of total compensation.

The labor law set a 45-hour workweek, although most unions have bargained for fewer hours. The law prescribed a weekly rest day and limited the number of overtime hours to 3 per day, for up to 90 days in a year. The Labor Inspectorate of the Ministry of Labor effectively enforced wage and hour provisions in the unionized industrial, service, and government sectors, which covered approximately 12 percent of workers.

In April the Government for the first time paid unemployment benefits.

The law mandates occupational health and safety regulations, but in practice the Government did not carry out effective inspection and enforcement programs. The law allows for the shutdown of an operation if a five-person committee, which includes safety inspectors, employee, and employer representatives, determines that the operation endangers workers' lives. In practice financial constraints, limited safety awareness, carelessness, and fatalistic attitudes resulted in scant attention to occupational safety and health by workers and employers alike. The law sets out procedures under which workers may remove themselves from hazardous conditions without risking loss of employment; for example, workers may issue a warning, resign, or demand compensation.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however, there were reports that persons were trafficked within the country. There were allegations that police allowed operation of informal brothels in Istanbul and could also be bribed by traffickers at ports of entry.

In August Parliament passed legislation designating migrant smuggling and human trafficking as crimes. The article on smuggling related both to illegally bringing persons into the country and assisting illegal migrants in transiting the country. Those convicted of smuggling faced prison sentences of 2 to 5 years. Those convicted of human trafficking or forcing persons to work faced 5 to 10 years imprisonment, but the Government tended to treat trafficking in persons as a voluntary prostitution and illegal migrant issue. There were no statistics on traffickers or trafficking prosecutions and convictions available by year's end.

According to the Government, of 850 persons captured in 2000 for offenses relating to trafficking or facilitating illegal immigration, 350 were arrested and charged. However, no further information could be obtained about their cases.

In October the Government formed an Anti-Trafficking Task Force comprising officials from the ministries of Foreign Affairs, Health, Interior, Justice, and Labor, plus the Directorate General for Social Services and Child Protection, the Directorate General on the Status and Problems of Women, and scholars from Marmara University. The Task Force began developing a National Action Plan and creating a trafficking database. The International Organization for Migration (IOM), ILO, and UNHCR work closely with the Government.

The country was a transit point and a destination country for victims of trafficking; reportedly there was almost no trafficking of Turkish women and girls out of the country. There were no government statistics on the number of trafficking victims. Women and girls were trafficked to the country mostly from Romania, Georgia, Russia, Ukraine, Moldova, Armenia, Azerbaijan, and Uzbekistan. It was also a transit country for the trafficking of women primarily from Central Asia, the Middle East, Africa, and the former Yugoslavia to other countries in Europe. According to a 1995 study by the IOM, victims arrived by foot, trains, boats, and planes. Most trafficking activity occurred in Istanbul, Izmir, and Trabzon. Many women and girls came to the country believing that they would be working as models, waitresses, or dancers and found themselves forced into prostitution. In some cases, girls from Romanian orphanages were kidnapped and trafficked. Women who attempted to escape their traffickers have been beaten, raped, or killed. There were reports that criminal syndicates forced women to sign work contracts that amounted to debt bondage. Russian and Ukrainian organized crime groups reportedly were the primary trafficking organizations, although some reports by NGOs suggested that traffickers recruited in Eastern Europe, particularly Moldova.

Those who were trafficked into Turkey generally were detained and deported, without proper screening necessary to determine whether they were victims of trafficking. According to the Passport Law, if a prostitute or a trafficker is a foreigner, the person is immediately deported. The Law on Residence and Travelling authorizes the Ministry of Interior, governors, and subgovernors to deport foreigners after 15 days notice. If the same person is reported again for the same offense, no further notices are made and the person may be deported immediately if captured again. After women were deported, they often were re trafficked back to Turkey.

In December the Women's Status and Problems Directorate General, attached to the Ministry of Labor, organized a panel on human trafficking in Ankara. In October the Government sent representatives to a regional antitrafficking seminar in Bucharest. Bar associations and some provincial governments operated hot lines for women and children that could be used by trafficking victims for a fee.

The Government did not provide any formal protection, aid, or education to victims of trafficking and did not allocate any funding to victims. Victims were not encouraged to file civil suits or seek legal action against their traffickers. There were nine domestic violence shelters in Turkey; non-Turkish citizens in theory could use one of these shelters, but they were unlikely to know how to access them.

In December the Ministry of Labor organized a conference on human trafficking. There have not been any official antitrafficking information campaigns. The IOM, ILO, and UNHCR worked closely with the Government.

## TURKMENISTAN

Turkmenistan is a one-party state dominated by its president, who continued to exercise power in a Soviet-era authoritarian style despite Constitutional provisions nominally establishing a democratic system. President Saparmurat Niyazov, head of the Turkmen Communist Party since 1985 (renamed the Democratic Party of Turkmenistan in 1992) and President of the country since its independence in 1991, legally may remain in office until his death, although he publicly announced his intention to hold elections between 2008 and 2010. Niyazov retained his monopoly on political power and on the Democratic Party, which remained the sole political party in the country. Emphasizing stability and gradual reform, official nation-building efforts continued to focus on fostering Turkmen nationalism and the glorification of President Niyazov. The 50-member unicameral Parliament (Mejlis) has no genuinely independent authority, and in practice the President controlled the judicial system.

The Ministry of National Security (MNB), formerly the Committee on National Security (KNB), had the responsibilities formerly held by the Soviet Committee for State Security (KGB); primarily to ensure that the regime remains in power through the tight control of society and the suppression of dissent. In 2001 the President gave the Chairman of the KNB additional responsibilities to supervise both the military and the Ministry of Foreign Affairs, and on September 10, the President elevated the agency to a Cabinet-level Ministry. The MNB reportedly exercised wide

discretion over issues such as exit visas and Internet access and worked to limit personal freedoms. The Ministry of Internal Affairs directed the criminal police, which worked closely with the MNB on matters of national security. Both forces committed human rights abuses.

The country's economy remained dependent on central planning mechanisms and state control, although the Government has taken a number of small steps to make the transition to a market economy. The Government estimated the total population to be 5.7 million. Most of the workforce was engaged in agriculture, which accounted for nearly half of total employment.

The Government's human rights record remained extremely poor, and it continued to commit serious abuses. The human rights situation deteriorated markedly after an armed attack against President Niyazov on November 25, which the regime characterized as an attempt to assassinate the President and effect a coup d'état. The Government moved quickly against perceived sources of opposition at home and abroad, requesting that several foreign governments extradite alleged conspirators in the plot to topple the regime. There were widespread, credible reports of human rights abuses committed by government officials in the course of investigating the attack, including credible reports of torture. There were numerous violations of due process under the law. The Government denied all charges of abuse, but did not provide regular access to foreign citizens accused of participating in the plot. Government authorities detained hundreds of relatives of those implicated in the plot, some of whom were physically abused and denied access to medical treatment. Relatives of those implicated in the attack also lost their jobs, were dismissed from university, and were evicted from their homes without compensation. At year's end, many remained under house arrest and were not allowed to leave the country or travel internally.

Authorities severely restricted political and civil liberties. Citizens did not have the ability to change their government peacefully. The Government registered no parties during the year and continued to repress all opposition political activities. Security forces continued to beat and otherwise mistreat suspects and prisoners. Arbitrary arrest and detention were problems. Both the criminal police and the MNB operated with relative impunity and abused the rights of individuals as well as enforced the Government's policy of repressing the political opposition. Prison conditions remained poor and unsafe. The judiciary was not independent. Prolonged pre-trial detention and unfair trials remained problems. Interference with citizens' privacy remained a problem. The Government held at least one political prisoner. The Government continued to demolish large numbers of private homes; many displaced homeowners received little or no compensation for their loss. The Government sought to limit marriages between citizens and foreigners, purportedly to protect spouses and children.

The Government severely restricted freedom of speech and did not permit freedom of the press. The Government completely controlled the media, censored all newspapers and the Internet, and never permitted independent criticism of government policy. Academic freedom declined. The Government restricted freedom of assembly and association. The Government continued to place limitations on the activities of nongovernmental groups, including minority religious groups, most of which were unable to register with the Government. The Government exercised control over religious expression. Adherents of unregistered religions were subject to various forms of harassment including arrests and abuse. The Government restricted freedom of movement. In January it abolished the exit visa requirement; however, President Niyazov proposed reintroducing an exit permission regime for citizens at the Halk Maslahaty (Council of Elders) meeting on December 30 in response to the November 25 attack. There were no domestic human rights groups because of restrictions on speech and association. Foreign diplomats observed one trial proceeding. Domestic violence and societal discrimination against women was a problem. The Government generally gave favored treatment to ethnic Turkmen over minorities. The Government severely restricted labor rights.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

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

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits such practices; however, there were widespread credible reports that security officials frequently beat criminal suspects and prisoners and



often used force to obtain confessions. There were credible reports that political prisoners were singled out for cruel treatment. There were credible reports that suspects in the November 25 attack against President Niyazov were suffocated to the point of unconsciousness, beaten, and subjected to electric shock torture to coerce confessions during pretrial interrogations by security officials. There were credible reports that authorities detained and threatened to torture relatives of those implicated in the attack to coerce confessions, that relatives of those implicated in the attack were beaten with water bottles to avoid bruising, injected with psychotropic drugs, and subjected to electric shock torture, and that their female relatives were sexually assaulted and threatened with rape. There were reports that prisoners needing medical treatment were beaten on their way to and from the hospital. Security forces also used denial of medical treatment and food, verbal intimidation, and placement in unsanitary conditions to coerce confessions.

There were credible reports that authorities used intimidation and threats during the interrogation of one former high government official who was sentenced in October (*see* Section 1.d.).

In September and October, there were reports that former high government officials were denied proper medical treatment while in detention (*see* Section 1.d.). One of the officials reportedly suffered a heart attack shortly after he was detained and did not receive adequate medical treatment until shortly before his trial 1 month later.

In March the Government initiated an internal investigation of the KNB and other security organs, allegedly in part because of allegations of human rights abuses. President Niyazov openly criticized several members of the KNB and other ministries for violating the law, including illegal searches of private homes. Some of those criticized for human rights abuses later were dismissed from their positions and stripped of their rank. Prosecutions were initiated against the senior leadership of the KNB. Additionally, the MNB has reportedly set 3 hours every Monday during which it would accept complaints from the public.

During the fall there were several incidents in which persons attempting to illegally cross the border to Uzbekistan border were shot, resulting in at least 1 death. The authorities said that bandits were responsible for the shootings; however, Uzbekistan border guards claimed that Turkmen authorities were responsible.

Prison conditions were poor, and prisons were unsanitary, overcrowded, and unsafe. Disease, particularly tuberculosis, was rampant, in part because prisoners who were ill were often not removed from the general prison population. Food was poor and prisoners depended on relatives to supplement inadequate food supplies. Facilities for prisoner rehabilitation and recreation were extremely limited. Some prisoners have died due to the combination of overcrowding, untreated illnesses, and lack of adequate protection from the severe summer heat. In Turkmenbashi prison, inmates reportedly were held 14 to a cell and were permitted visits from relatives once every 3 months. Relatives could bring food one time each month. Those who did not receive food from relatives suffered greatly. In Kizlkaya prison, near Dashoguz, prisoners were forced to work in a kaolin mine under hazardous and unhealthy conditions (*see* Section 6.c.).

In November several hundred inmates broke out of a pretrial detention center near the city of Tejen. Overcrowding and lack of food, occasioned in part by an unusually large number of detainees awaiting review of their sentences in connection with the upcoming presidential pardon, reportedly sparked the jailbreak.

There were three types of prisons throughout the country: Educational-labor colonies; correctional-labor colonies; and prisons. In the correctional-labor colonies, there were reports of excessive periods of isolation of prisoners in cells and "chambers." A new prison for hardened criminals and political prisoners, located approximately 42 meters from Ashgabat, was reportedly completed by year's end. Authorities allegedly threatened, harassed, and abused prisoners in an attempt to force some prisoners to renounce their faith.

Men were held separately from women, and juveniles were held separately from adults. Political prisoners were not held separately, and usually were sent to maximum security facilities. Pretrial detainees were usually held separately from convicted prisoners in detention centers; however, there were credible reports that individuals held in connection with the November 25 attack were held together with convicted prisoners in detention centers.

Although the Government permitted the Organization for Security and Cooperation in Europe (OSCE) Mission to visit a correctional facility in 2001, the Government refused requests from foreign diplomats to visit correctional facilities by year's end.

*d. Arbitrary Arrest, Detention, or Exile.*—Arbitrary arrest and detention were problems. On April 12, President Niyazov signed a law—proposed by the Parliament

(Mejlis)—transferring sole authority for approving arrest warrants to the Chairman of the Cabinet of Ministers, a position held by the President. Those expressing views critical of or different from those of the Government have been arrested on false charges of committing common crimes (*see* Section 2.a.).

A warrant is not required for an arrest. Citizens may be detained for up to 72 hours without a formal arrest warrant. A detainee must be issued a formal bill of indictment within 7 days of formal arrest and is to be afforded immediate access to an attorney once a bill of indictment has been issued. Under the law, a person accused of a crime may be held in pretrial detention for no more than 2 months, but in exceptional cases this may be extended to 6 months. However, in practice authorities often denied these rights.

The former Mayor of Turkmenbashi, Khalmamed Durdiev, was arrested in February and was sentenced to 12 years' imprisonment in May for misappropriating state funds, abusing his office as mayor, and committing fraud and forgery. His sentence prompted public demonstrations in Turkmenbashi in May (*see* Section 2.b.). On September 14, Durdiev was released from prison after the President stated that he had received wrong information about the former Mayor's alleged economic crimes. In December despite his release and apparent public exoneration by President Niyazov, the Supreme Court denied Durdiev's request for reinstatement of the property confiscated after he was initially found guilty.

In April the MNB arrested Geldy Kyarizov, former head of the national company Turkmenatlary, for numerous crimes, reportedly because of his disagreements with the economic and political practices of President Niyazov. He remained in detention at year's end.

In October a district court in Ashgabat found two former high-government officials guilty of fraud, misappropriating funds and three other minor charges (*see* Section 1.c.). Both received lengthy prison sentences and had their property confiscated.

In December authorities arrested a prominent civil society activist and accused him of illegally crossing the border and concealing a crime from government authorities. The purported crime was his attendance at an opposition meeting outside the country at which government authorities alleged that violent regime change was discussed, a charge other attendees of the meeting rejected.

The Government held political detainees; however, the precise number held at year's end was unknown. Although the Penal Code prohibits a person from being sentenced twice for the same offense, on May 27 Keston News Service reported that Nikolai Shelekhov—a member of Jehovah's Witnesses—was sentenced a second time for refusing conscription based on his religious beliefs. Shelekhov had already served a full prison sentence for the same charge. By year's end, Kurban Zakirov—a member of Jehovah's Witnesses—remained in detention for refusing to swear an oath of loyalty to the President, despite serving his full prison sentence.

The Government used forced exile and internal exile as punishment during the year. In 1999 President Niyazov announced plans to deport to remote areas any government officials who were found to have committed crimes. In November the President issued a decree for resettlement of residents of Dashoguz, Lebap, and Ahal Velayats (provinces) to an area in the northwest of the country, stating that the plan would better distribute labor resources and prompt development (primarily agricultural) of rural areas of the country. Unconfirmed reports suggested that the resettlement plan would principally affect ethnic Uzbeks living in those Velayats (*see* Section 5). President Niyazov later called for accelerated implementation of the resettlement plan, stating that it would encompass those who had "lost the respect of the nation and disturbed social tranquility with their bad behavior," a remark widely interpreted as being directed at those implicated in the November 25 attack and their relatives.

During the year, there were reports that former ministers had been ordered to leave Ashgabat and were placed under house arrest in their family homes for various criminal accusations after being dismissed by President Niyazov. The President proposed that the officials, accompanied if they desired by their families, could work off their sentences in exile. Almost all prominent political opponents of the Government chose to move to Russia, Sweden, Norway, or the Czech Republic for reasons of personal safety; none returned during the year.

Religious leader Hoja Ahmed Orazgulychev remained in internal exile in Tedjen, after serving a prison term for unregistered religious activity.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice the judiciary was not independent. The President's power to select and dismiss judges subordinated the judiciary to the Presidency. The President appointed all judges for a term of 5 years. There was no legislative review of these appointments, except for the Chairman (Chief Justice) of the Supreme Court,

and the President had the sole authority to remove all appointees from the bench before the completion of their terms.

The court system consists of a Supreme Court, 6 provincial courts (including 1 for the city of Ashgabat), and, at the lowest level, 61 district and city courts. The Government abolished all military courts in 1997. Criminal offenses committed by members of the armed forces are tried in civilian courts under the authority of the Office of the Prosecutor General.

The law provides for the rights of due process for defendants, including a public trial, the right to a defense attorney, access to accusatory material, and the right to call witnesses to testify on behalf of the accused. When a person could not afford the services of a lawyer, the court appointed one. A person could represent himself in court. In practice authorities often denied these rights, and there were few independent lawyers available to represent defendants. There were credible reports that suspects implicated in the November 25 attack were not afforded regular access to their attorneys and that defendants' attorneys were not allowed to cross-examine other defendants in the case during the pretrial investigation.

In practice adherence to due process was not uniform, particularly in the lower courts in rural areas. Even when due process rights were observed, the authority of the Government prosecutor was so much greater than that of the defense attorney that it was very difficult for the defendant to receive a fair trial. In general foreign diplomats were not permitted access to ostensibly open court proceedings; however, in October the Government allowed foreign diplomats access to the trial of two former government officials (*see* Section 1.d.).

Lower courts' decisions may be appealed, and the defendant may petition the President for clemency. In 2001 the President announced he would amnesty 9,000 prisoners; although a large number of prisoners were released, the actual number of prisoners released was unknown. On August 11, the President stated that in December he would amnesty 16,200 prisoners. The official list of prisoners who benefited from the annual presidential amnesty was published November 24 and included 7,616 prisoners, among them 162 foreigners of indeterminate nationality. The announcement was timed to coincide with the end of the Ramadan holiday so that prisoners could arrive home in time to spend the season with their families.

At year's end, the Government held at least one political prisoner, Mukhametkuli Aimuradov; although his sentence was reduced by half in accordance with the 2001 amnesty of prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, government authorities violated these rights frequently. There are no legal means to regulate the conduct of surveillance by the state security apparatus, which regularly monitored the activities of government officials, citizens, opponents and critics of the Government, foreign residents, and visitors. Security officials used physical surveillance, telephone tapping, electronic eavesdropping, and the recruitment of informers. Critics of the Government, and many other persons, credibly reported that their mail was intercepted before delivery. Mail delivered to the post office must remain unsealed for government inspection.

There are rules restricting searches of private homes (*see* Section 2.c.); however, authorities violated these restrictions on a massive scale during the course of the investigation into the November 25 attack against President Niyazov. There were credible reports that authorities searched homes of the accused and their families without warrants. Authorities confiscated property and evicted families of the accused with no notice and without court orders. Relatives of some of those implicated in the attack were evicted several times from different homes. Some relatives were told that they would be forced to relocate to other areas of the country under the rubric of a new resettlement plan proposed by President Niyazov (Section 1.d.).

In the past, authorities have dismissed children from school and removed adults from their jobs because of the political activities of relatives. In July and August, relatives of a high-ranking official reportedly lost their jobs in connection with the Government's investigation into the official's alleged criminal activities. In November and December, virtually all relatives of those implicated in the November 25 attack lost their jobs in connection with the Government's investigation. School-aged children of suspects and their relatives were publicly shunned; university students related to those implicated in the attack were forced to withdraw under threat of public condemnation. Authorities also threatened supporters of opposition political movements with loss of employment and homes (*see* Section 2.b.). In September President Niyazov reiterated a call for background checks that would span three generations in order to determine the "moral character" of university applicants and potential government appointees (*see* Section 2.a.). Bribery has become a main component of the admission process at prestigious departments in universities. Al-

though officially free, admission to many faculties at Turkmen State University in Ashgabat reportedly cost several thousand dollars. Paying bribes for good grades also was a common practice.

On January 4, the Government continued to demolish large numbers of private homes in Ashgabat as part of the President's beautification program. Confiscations continued throughout the year. In some cases, authorities reportedly gave persons as little as 12 hours to collect their belongings and vacate the homes. Authorities erected additional monuments and luxury apartment buildings which remained vacant, forcing numerous families to find alternate housing. Citizens who built their homes without governmental approval were not offered alternate accommodations, despite their personal investment in the property, their length of occupancy, or the degree of hardship they faced as a result. Most had built their homes with the acquiescence of government officials, who extorted bribes to allow the construction. In some cases, the same government officials ordered the subsequent destruction of the homes. Others who had proper building permits were offered apartments or plots of land in compensation; however, such plots were often undeveloped and nonirrigated.

A June 2001 Presidential Decree stated that foreigners or stateless persons may not marry citizens without meeting several requirements. The noncitizen must have been a resident of the country for a year, own a home, be at least 18 years of age, and must post a "divorce bond" of \$50,000 (26 million manat at the official rate; 1.08 billion manat at the unofficial rate) with the Government. There were no reports of marriages in the country under the new law; however, there were reports that some individuals married abroad to bypass the new law. The requirements were purportedly instituted to protect Turkmen spouses and children.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press; however, in practice, the Government severely restricted freedom of speech and did not permit freedom of the press. The Constitution states that citizens "have the right to freedom of belief and the free expression thereof and also to obtain information unless it is a state, official, or commercial secret." However, in practice those expressing views critical of or different from those of the Government were arrested on false charges of committing common crimes (*see* Sections 1.e. and 2.b.). Criticism of the Government also could lead to personal hardship, including loss of opportunities for advancement and employment (*see* Section 1.f.). In December the presidential spokesman criticized international media representatives for their reporting on the November 25 attack against the President, urging them to base their reports solely on information released via official government channels. He threatened to deprive them of accreditation as journalists if they reported any "arbitrary phrases or evaluations" that were inconsistent with the Government's characterization of the event.

The Government prohibited the media from reporting the views of opposition political leaders and critics, and it never allowed criticism of the President. The obsessive focus of the media on President Niyazov continued during the year and amplified the cult of personality centered around the President. Criticism of officials was only permitted if it was directed at those who have fallen out of favor with the President, and public criticism of government officials was done almost exclusively by the President himself.

The Government funded almost all print media. The Government censored newspapers; the Office of the President's Press Secretary's approval was required for pre-publication galley. There was only one official Turkmen newspaper published in the Russian language. Foreign newspapers from abroad were not easily obtainable; on July 16, the Government prohibited delivery of all Russian-language newspapers into the country, citing high air-mail delivery rates. The Government used newspapers to attack its critics abroad. In order to regulate printing and copying activities, in 1998 the Government ordered that all publishing houses and printing and copying establishments obtain a license and register their equipment. In August the Government imposed a new rule requiring the registration of all photocopiers and that a single individual be responsible for all photocopying activity.

The Government completely controlled radio and local television. Owners of satellite dishes had access to foreign television programming. Use of satellite dishes throughout the country was widespread. In July the President cut all satellite-cable television service, reportedly as a result of the recent broadcast on Russian satellite channels of documentary films that criticized government policies. There were reports that satellite-cable television was restored; however, certain channels were no longer received.

All publishing companies were state-owned, and works by authors of fiction who wrote on topics that were out of favor with the Government were not published. The Government-controlled Union of Writers in the past expelled members who criticized government policy; libraries removed their works.

The Government required all foreign correspondents to apply for accreditation. On numerous occasions in the past, the Government warned its critics against speaking with visiting journalists or other foreigners wishing to discuss human rights problems. There were reports that the Government harassed those responsible for critical foreign press items. In September the Government cut the telephone and Internet connections of a foreign correspondent, searched his home, and questioned neighbors about possible subversive activities.

Intellectuals and artists reported that security officials instructed them to praise the President in their work and warned them not to participate in receptions hosted by foreign diplomatic missions. The Ministry of Culture's approval was required before plays opened to the public, ensuring that they did not contain antigovernment or antipresidential content. In 2001 the President closed the state-sponsored opera and ballet in Ashgabat, claiming that there was no place for such institutions in society. Foreign music was still taught and performed throughout the country; however, there was no official support for non-Turkmen music.

While Internet access was available, state-owned Turkmen Telecom was the sole Internet provider. In 2000 the Government withdrew the licenses of all private Internet providers. There were credible reports that the Government took this measure in order to monitor Internet activity, particularly electronic mail. Internet access was prohibitively expensive for most citizens. There was evidence that the Government monitored access to opposition Web sites, based in Russia, through Turkmen Telecom.

During the year, the Government increased its already significant restrictions of academic freedom. It did not tolerate criticism of government policy or the President in academic circles, and it discouraged research into areas it considered politically sensitive, such as comparative law, history, or ethnic relations. No master's degrees or doctorates have been granted in the country since 1998. In 2000 universities began reducing the period of classroom instruction from 4 years to 2 years in accordance with President Niyazov's 1995 declaration that higher education should consist of 2 years of classroom education and 2 years of vocational training. The President also decreed that foreign languages in the public education system could be taught only in special language centers and classes. Foreign language instruction also was available in private centers. Restrictions on instruction in non-Turkmen languages and limited availability of Turkmen-language textbooks contributed to the declining quality of education.

In 2001 "Rukhnama," President Niyazov's spiritual guidebook on Turkmen culture and heritage, became a basic school text (*see* Section 2.c.). As of September 1, each child is required to bring a personal copy of the Rukhnama to school. Teachers were discouraged from bringing alternative viewpoints into the classroom. The works of several writers, poets, and historians were placed on a blacklist because their portrayal of Turkmen history differed from that of the Government. According to an international human rights organization, in April 2001 the works were withdrawn from public schools and libraries. In December the basic English-language textbook for secondary students was withdrawn from public schools and libraries because the author was related to an individual implicated in the November 25 attack.

In September President Niyazov reiterated the call for background checks that would span three generations in order to determine the "moral character" of university students prior to entry (*see* Section 1.f.).

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly; however, the Government restricted this right in practice. Permits are required for public meetings and demonstrations; however, they rarely were granted and applications were screened carefully. Unregistered organizations, particularly those perceived to have political agendas, were not allowed to hold demonstrations. However, in May approximately 100 persons spontaneously demonstrated outside a Turkmenbashi courthouse protesting the guilty verdict of Khalmamed Durdiev (*see* Section 1.d.).

In August and September, students at Turkmen State University (TSU) distributed leaflets criticizing the Government at markets and schools. There were unconfirmed reports that the MNB arrested six TSU Students in September for distributing the leaflets; the students remained in detention at year's end.

The Constitution provides for freedom of association; however, the Government restricted this right in practice. No political groups critical of government policy were able to meet the requirements for registration. The Government used laws on the registration of political parties to prevent the emergence of potential opposition

groups. The only registered political party was the Democratic Party, the former Turkmen Communist Party. It was extremely difficult for new nongovernmental organizations (NGOs) to register with the Government (*see* Sectiona.). NGOs that could not register successfully with the Government often were forced to join an already registered NGO as a subgroup in order to gain the legal benefits of registered NGOs.

The Government does not forbid membership in a political organization; however, in practice those who claimed membership in political organizations other than the Democratic Party of Turkmenistan were harassed and, in the past, tortured.

Beginning in September 2001, social and cultural organizations without political purposes came under increased pressure by the Government. During the year, one NGO was legally registered. Authorities increased monitoring of NGOs and civil society groups around the country after the November 25 attack. Authorities refused to allow a scheduled conference on NGO registration to take place at a local hotel, which was instead held at a foreign embassy. In September a local security officer closely questioned a Peace Corps local staffer about the activities of their organization's volunteers. In the wake of the November 25 attack, authorities closely questioned host families about the activities of Peace Corps volunteers and stopped and searched a vehicle in which a Peace Corps volunteer was traveling.

Under the law citizens have the freedom to associate with whomever they please; however, authorities have fired or threatened to fire supporters of opposition movements from their jobs, removed them from professional societies, and even threatened them with the loss of their homes (*see* Section 1.f.). In addition, some citizens with links to foreigners were subject to official intimidation. Some representatives of NGOs and civil society activists were questioned by government officials after attending a reception in honor of International Human Rights Day at the residence of a foreign ambassador. On several separate occasions, security officials stopped vehicles and questioned Turkmen citizens as to why they were traveling with foreign citizens.

*c. Freedom of Religion.*—The Constitution provides for freedom of religion, as does the 1991 Law on Freedom of Conscience and Religious Organizations, which was amended in 1995 and 1996; however, in practice the Government did not protect these rights. The law has been interpreted to control religious life tightly and to restrict severely the activities of all religions. There are no safeguards in the legal system that provide for remedy against violation of religious freedom or persecution by private actors.

There is no state religion, but the majority of the population is Sunni Muslim. The Government has incorporated some aspects of Islamic tradition into its efforts to redefine a national identity. However, the Government placed some restrictions on Muslims. For example, the Government controlled the establishment of Muslim places of worship and limited access to Islamic education. In a meeting with religious leaders in January, President Niyazov stated that he had closed all but one institution of Islamic education to prevent what he believed was inappropriate instruction of Islam. He also stated that future annual classes of religious students would be limited to between 15 to 20 students a year, who would study at the Theological Faculty at TSU. The Government controlled the curriculum of this instruction. The state-supported Council on Religious Affairs (CRA) was part of the Government bureaucracy and appeared to exercise direct control over the hiring, promotion, and firing of both Sunni Muslim and Russian Orthodox clergy, despite the fact that this role is not listed among the CRA's duties in the Law on Religion.

There was no official religious instruction in public schools. However, students were required to study Rukhnama at all public schools and institutes of higher learning (*see* Section 2.a.). Mosques were also required to keep copies of Rukhnama, and President Niyazov has been mentioned officially in Muslim prayer. The President attempted to use these teachings in part to supersede other established religious codes, as well as historical and cultural texts, and thereby shape citizens' religious and cultural behavior.

According to the law on religious organizations, all congregations are required to register with the Government; however, in order to register, a congregation must have 500 citizens (each at least 18 years old) in each locality in which it wishes to register. Authorities have interpreted the law to mean that a congregation with 500 members throughout the country cannot register; that number must be in a single locale. As a result of these requirements, the Government continued to deny registration to religious communities, except Sunni Muslims and Russian Orthodox Christians, most of whom have succeeded in registering. However, there were credible but unconfirmed reports that certain congregations of Russian Orthodox Christians were prevented from practicing their faith despite the religion's registration with the Government.

Non-registered religious congregations were present in the country, including Bahai's, Baptists, Hare Krishnas, Jehovah's Witnesses, and Pentecostals, among others; however, the Government restricted their activities. Non-registered religious groups were prohibited officially from conducting religious activities, including gathering, disseminating religious materials, and proselytizing. This was a consequence of the Government's interpretations of the law rather than the law itself, which does not prohibit non-registered religious groups from gathering. For example, the Law on Public Associations specifically excludes its application in the case of religious gatherings. Nevertheless, government authorities regularly applied the Law on Public Associations when non-registered religious groups meet, even if the meetings occurred in private homes. Participants were subject to fines and administrative arrest, according to the country's administrative code, and once administrative measures were exhausted, they were subject to criminal prosecution. In such cases, the Soviet-era 1988 regulation on the procedure for conducting gatherings, meetings, marches, and demonstrations was applied, although gatherings in private homes were not within the scope of this regulation.

In November and December, local authorities, including intelligence and law enforcement officials, pressured a member of the Baha'i faith to abandon her beliefs, forced her to surrender religious literature, and threatened to resettle her to a labor colony if she persisted in teaching and distributing literature about Baha'ism to members of her village. The incident appears to have been locally isolated; there were no reports of similar harassment from other Baha'i believers. Members of minority faiths generally were able to quietly practice their faith as long as they avoided the attention of authorities.

There was a significant decline in the reports of government harassment of Baptists. However, on July 14, state officials visited the homes of two Baptist families and ordered their deportation. Authorities cited the expiration of the families' residence permits in November 2001 as the reason for the deportation order. Keston News Service reported that in January in Khazar, six members of a Baptist congregation were fined for holding "illegal services." Also in Khazar, in December 2001, there were reports that authorities threatened an elderly blind Baptist with eviction from her apartment after she held a Baptist service that had been raided by secret police earlier in the week.

In November 2001, police raided a Protestant Word of Life Church in Ashgabat. Approximately 40 persons were arrested after police dispersed the gathering held in a private apartment. Three foreign citizens who participated in the meeting were deported. The other participants subsequently were released, but authorities imposed large fines on them. The Church members were threatened with dismissal from work, confiscation of identity documents, and long-term imprisonment if the fines were not paid. The owner of the apartment in which the meeting was held was threatened with eviction. There were no reports on whether the eviction was carried out. In December 2001, the Keston News Service reported that several members of the Church were rearrested for their participation in the November meeting; one member was reportedly sentenced to 15 days in prison. This report was not confirmed.

In January Baptist prisoner of conscience Shageldy Atakov was released from prison. Atakov had been in prison since 1999 for allegedly making an illegal transfer of automobiles in 1994. His original sentence of 2 years had been extended to 4 years and he was reportedly fined \$12,000 (62.4 million manat at the official rate; 258 million manat at the unofficial rate), an unusually large fine for such an offense. Atakov denied the charges and claimed that he was being imprisoned because of his religious beliefs. Following his early release from prison, Atakov was placed under a month of observation by agents of the MNB, after which he was given complete freedom of movement and allowed to receive visitors.

In November 2001, the Government charged the owner of an apartment for holding meetings of an unregistered religious organization in her home. The apartment owner was fined and evicted from her apartment. In January she left the country fearing for her personal safety.

Ethnic Turkmen who have converted to Christianity have been subjected to official harassment and mistreatment. Ethnic Turkmen members of unregistered religious groups who were accused of disseminating religious material received harsher treatment than members of other ethnic groups, particularly if they have received financial support from foreign sources.

Foreign missionary activity is prohibited, although both Christian and Muslim missionaries were present in the country.

The Government attempted to restrict the freedom of parents to raise their children in accordance with their religious beliefs.

Unregistered religious groups faced government harassment if they attempted to distribute religious literature.

In January the Government abolished the exit visa regime that restricted external movement by citizens. Members of unregistered religious groups were allowed to travel to other countries for religious meetings without interference, and there were reports of believers exercising this option. In May approximately 30 Catholics were allowed to travel to Azerbaijan, to attend a Mass given by the Pope. During the year, the Government controlled the number of persons allowed to participate in the annual Muslim pilgrimage to Mecca (the hajj), specifying that only 187 pilgrims would be allowed to journey to Mecca (out of the country's quota of 4,600). Transport was to be provided free of charge by the national airline. However, in January the Government abolished exit visas, in theory permitting travel to all those who wished to participate in the Hajj. The Government did not release statistics on how many pilgrims actually participated in the Hajj during the year; however, there were anecdotal reports of individuals participating even though the Government closely screened travelers.

Keston News Service reported that in December 2001, several members of Jehovah's Witnesses who had been imprisoned for conscientious objection were released; however, six coreligionists were not, reportedly because they refused to swear an oath of loyalty by placing a hand on the Koran.

The societal attitude toward conversion from Islam to any other religion generally was surprise, and often disapproval.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government restricted both freedom of movement within the country and travel abroad to some citizens of the country, and restricted the travel of foreign diplomats within the country.

Citizens still carried internal passports. These documents were used primarily as a form of identification, rather than as a means of controlling movement. The Government tightened restrictions on travel to border cities and regions, and declared large parts of the country restricted zones. Residence permits were not required, although the place of residence was registered and noted in passports.

The Government used its power to issue passports as a means of restricting international travel. In January the President abolished the exit visa regime. According to the decree, a foreign entry visa or an invitation to travel outside of the country would suffice. Travel of certain citizens remained restricted, including: convicted criminals, those required to complete compulsory military service, and those with access to state secrets. There were also reports that local officials and some employers restricted individuals from traveling abroad by allegedly threatening them with the loss of their jobs if they traveled abroad. However, the President proposed reintroducing an exit permission regime for Turkmen citizens at the Halk Maslahaty (Council of Elders) meeting December 30 in response to the November 25 attack.

In July President Niyazov announced restrictions for citizens traveling to Iran and Uzbekistan, purportedly to control narcotics trafficking and other smuggling. The Government charged a \$6.00 (31,200 manat at the official rate; 129,000 manat at the unofficial rate) fee for travel; individuals must register their travel, indicating why they were traveling, the duration of the trip, and whom they intended to visit. During the fall, there were several incidents in which persons attempting to illegally cross the border into Uzbekistan were shot, resulting in one death (*see* Section 1.c.).

Most citizens were permitted to emigrate without undue restriction, although there were credible reports that authorities harassed those who intended to emigrate or who had emigrated and returned to the country for a visit.

The Government discouraged immigration by ethnic Turkmen living in Iran, Iraq, Turkey, and other countries and immigration by non-Turkmen from the former Soviet Union (*see* Section 5).

The law provides for the granting of refugee and asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The law establishes procedures and conditions for recognizing refugee status and sets the legal, economic, and social rights of refugees. The country provides first asylum if the person is recognized under the mandate of the U.N. High Commissioner for Refugees (UNHCR). The Government granted refugee or asylee status to some ethnic Turkmen from Afghanistan and allowed some Tajik refugees and migrants to reside in the country. During the year, 58 persons were granted first asylum. The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees. After the start of international military operations in Afghanistan, the Government agreed to increase its cooperation with the UNHCR, the International Organization for Migration (IOM), and other



international refugee and relief agencies to assist refugees from Afghanistan. The Government also played an important role in facilitating the flow of humanitarian assistance for refugees who remained in Afghanistan.

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

Citizens did not have the ability to effect peaceful change in the Government and had little influence on government policy or decision making. The 1992 Constitution declares the country to be a secular democracy in the form of a presidential republic. It calls for the separation of powers among the various branches of government, but vests a disproportionate share of power in the Presidency. In practice President Niyazov's power over the state was absolute; despite the appearance of decision-making by consensus, most decisions were made at the presidential level, and the country remained a one-man state. A 1994 national referendum, which was neither free nor fair, extended the President's term to 2002, eliminating the need for the scheduled presidential election in 1997. In 1999 the Halk Maslahaty proposed, and the newly elected Parliament approved, a law making an exception to the constitutionally mandated maximum of two 5-year terms for the President; however, the exception only applies to Niyazov, as the country's first president, effectively conferring on him a lifetime term in office. During the year, Niyazov stated publicly that elections would be held between 2008 and 2010.

In the 1992 presidential election, the sole candidate was Saparmurat Niyazov, the incumbent and nominee of the Democratic Party. The Government announced the election barely a month before voting day, giving opposition groups insufficient time to organize and qualify to submit a candidate. The policy of the Democratic Party, according to its leadership, was to implement the policy of the President. In 1999 the Government changed the national oath to require that citizens swear personal allegiance to President Niyazov in particular, rather than just to the presidency as a general institution.

The 50-member Parliament (Mejlis) routinely supported presidential decrees and had no real independence. In the 1994 Parliamentary elections, no opposition participation was permitted. The Government claimed that 99.8 percent of all eligible voters participated. In 1998 President Niyazov promised that the parliamentary elections scheduled for December 1999 for a reconstituted Parliament would be free and fair and conducted on a wide democratic basis; however, the elections were flawed seriously. Although there were at least two candidates for each Mejlis seat, the Government selected every candidate, and there was no open discussion of the issues. The Office for Democratic Institutions and Human Rights (ODIHR) of the OSCE declined to send an observation or limited assessment mission for the 1999 elections. Diplomatic observers noted many empty polling stations, extensive use of mobile ballot boxes, and numerous instances of family voting. Diplomatic observers noted low turnout for by-elections held in October.

In 1998 President Niyazov called for local councils and village leaders to have greater power and authority to deal with local issues; however, in practice even local leaders were selected and dismissed by the President and were reluctant to make decisions without his approval. During the year, the President replaced Hakims (governors) in four of the five velayats (provinces); in Balkan Velayat the Hakim was replaced twice.

There were 14 women in the 50-member Mejlis. Women served in the following positions: Deputy Chairman for Economy and Finance; Deputy Chairman of Textiles and Trade; Prosecutor General; Ambassador to the U.N.; and Deputy Minister for Social Protection. One woman served as a provincial governor (Hakim); however, the position of deputy Hakim often was given to a woman.

Preference was given to ethnic Turkmen in appointed positions in the Government, and there were 48 ethnic Turkmen, 1 ethnic Russian, and 1 ethnic Tartar in the Mejlis. The largest tribe—the Teke—held the most prominent roles in cultural and political life. Observers believed that the Government's preference for ethnic Turkmen officials reflects a desire to overcome the disproportionate influence of ethnic Russians during the Soviet period.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

There were no domestic human rights monitoring groups, and government restrictions on freedom of speech, press, and association made it extremely difficult to investigate and criticize publicly the Government's human rights policies. Government officials were not cooperative and responsive to their views. Several independent journalists based in Russia reported on human rights in the Russian press and had contact with international human rights organizations. On numerous occasions in

the past, the Government warned its critics against speaking with visiting journalists or other foreigners wishing to discuss human rights problems.

There were no international human rights NGOs operating in the country.

The OSCE and other foreign diplomats were permitted to attend one court trial during the year (*see* Section 1.e.).

In 1999 President Niyazov established a human rights commission, which he nominally heads. The commission oversaw the work of law enforcement agencies, the military, and the judiciary, but it appeared to have little real authority. The commission continued to receive complaints during the year. The commission is subordinate to the National Institute for Democracy and Human Rights (IDHR) under the President, which has been in operation since 1997. The Institute's mandate is to support the democratization of the Government and society and to monitor the protection of human rights. The Institute maintained four full-time staff members to receive and resolve citizen complaints of arbitrary action. In principle, the Institute reviews complaints and returns its findings to the individual and the organizations involved; however, the Institute was not an independent body, and its ability to obtain redress was limited. Individuals seeking to register complaints were sometimes physically denied access to the IDHR. In October the Government published a book by the Institute containing a collection of Niyazov's speeches praising the country's human rights record.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The Constitution provides for equal rights and freedoms for all, independent of nationality, origin, and language, and further specifies equal rights before the law for both men and women. However, cultural traditions and the Government's policy of promoting Turkmen nationalism limited the employment and educational opportunities of ethnic minorities.

*Women.*—Anecdotal reports indicated that domestic violence against women was common, but no statistics were available. The subject was not usually discussed in society, and the majority of victims of domestic violence kept silent, partly because they were unaware of their rights or because they were afraid of increased violence from their husbands and relatives. There were few court cases and occasional references to domestic violence in the media. One official women's group supported battered women in Ashgabat. Several groups informally supported victims of domestic violence in other regions. The law states that rape is illegal, and these laws were enforced effectively.

Prostitution is illegal, and it was a growing problem due to few educational and occupational opportunities for young women.

There is no law that specifically prohibits sexual harassment; however, a case could be tried under existing legislation. There were anecdotal reports that sexual harassment existed in the workforce; however, the Government did not discuss this topic publicly.

Women were underrepresented in the upper levels of state-owned economic enterprises and were concentrated in the health care and education professions and in service industries. Women were restricted from working in some dangerous and environmentally unsafe jobs. Despite such restrictions, women were well represented in a variety of sectors. Additionally, the military academy is scheduled to graduate its first battalion of female cadets in 2003. Under the law, women enjoy the same inheritance and marriage rights as men. However, in traditional Turkmen society, the woman's primary role was as homemaker and mother, and family pressures often limited opportunities for women seeking to enter careers outside the home and advance their education. Religious authorities, when proffering advice to practicing Muslims on matters concerning inheritance and property rights, often favored men over women.

There were only two officially registered women's groups, one of which was headed by the Deputy Chairperson of the Mejlis and dedicated in honor of the President's mother. Some NGOs also worked informally on women's issues. The Government did not acknowledge that women suffered discrimination and therefore had no specific program for rectifying women's disadvantaged position in society.

*Children.*—The Government's social umbrella covered the welfare needs of children; however, the Government did not take effective steps to address the environmental and health problems that have led to a high rate of infant and maternal mortality. In 1999 the Government cut the number of years of basic education from 10 to 9. There was little difference in the education provided to girls and boys.

Education was free and compulsory; however, class sizes in the country continued to increase rapidly, facilities deteriorated, and funds for textbooks and supplies decreased. Approximately 95 percent of children between the ages of 7 and 16 attended school on a regular basis; approximately 1.3 percent of school-age children

did not attend school. It was estimated that 49.1 percent of the student population were girls.

During the year, the number of teachers in the country was reduced in accordance with a presidential decree in 2000. Educators were concerned that this exacerbated the problems of already crowded classrooms and overworked teachers and further reduced the quality of education in the country. The ostensible reason for the reduction was to increase salaries for the remaining teachers; however, past similar promises have been unfulfilled, and teachers routinely were paid 2 to 3 months late. Wages for teachers and administrators were in arrears in many districts; this, coupled with the fact that salaries were low, has caused some teachers to leave the field and seek jobs in the private sector, increasing the ratio of pupils to teachers.

There was no societal pattern of abuse against children. During the annual cotton harvest, which typically lasts from mid-September to mid-November, many schools in agricultural areas were closed and students worked in the fields.

*Persons with Disabilities.*—There was some discrimination against persons with disabilities in employment, education, and the provisions of state services. The Government did little for persons with disabilities. Although some societal discrimination existed, many citizens engaged in activities to assist persons with disabilities. Government subsidies and pensions were provided for persons with disabilities, although the pensions were inadequate to maintain a decent standard of living. Pensions usually ranged between \$10 to \$30 per month (52,000 to 156,000 manats at the official rate; 215,000 to 645,000 manat at the unofficial rate). Care for persons with disabilities was provided at the local level. Children with disabilities, including those with mental disabilities were placed in boarding schools, in principle with educational and future employment opportunities provided if their condition allows for them to work; in practice neither was provided.

According to existing legislation, facilities to allow access by the persons with disabilities must be included in new construction projects; however, compliance with the legislation was inconsistent, and most older buildings were not so equipped.

*National/Racial/Ethnic Minorities.*—The Constitution provides for equal rights and freedoms for all citizens. Approximately 77 percent of the population was Turkmen; Uzbeks made up 9 percent; and Russians 7 percent. There were smaller numbers of Kazakhs, Armenians, Azeris, and many other ethnic groups. The country has not experienced ethnic turmoil since independence. However, Uzbeks reported increased discrimination, including a recent directive that only ethnic Turkmen can enter officer training at the military academy. There were reports that ethnic Uzbeks experienced discrimination in job opportunities. In November President Niyazov issued a decree for resettlement of residents of Dashoguz, Lebap and Ahal Velayats to an area in the northwest of the country (see Section 1.d.). Reports suggested that the resettlement plan would principally affect ethnic Uzbeks living in those velayats.

As part of its nation-building efforts, the Government attempted to foster Turkmen national pride, in part through its language policy. The Constitution designates Turkmen as the official language, and it was a mandatory subject in school, although it was not necessarily the language of instruction. The Government closed a number of Russian-language schools as part of the Government's policy of encouraging use of the Turkmen language.

The Constitution also provides for the rights of speakers of other languages to use such languages. While Russian remained common in commerce and everyday life, during the year, the Government intensified its campaign to conduct official business solely in Turkmen. In the past, the President publicly criticized some high-ranking government officials for their failure to speak Turkmen. Russian-language newspapers were not widely available (see Section 2.a.). There was only one official Turkmen newspaper published in the Russian language. Ethnic minority employees at government ministries reportedly were given until December 1999 to learn Turkmen, and some government employees, such as doctors and teachers, were dismissed from their positions because they failed to learn the language.

Members of ethnic minorities feared that the designation of Turkmen as the official language placed their children at a disadvantage educationally and economically. Non-Turkmen complained that some avenues for promotion and job advancement were no longer open to them. Only a handful of non-Turkmen occupied high-level jobs in the ministries, and there were reports that managerial positions were closed to non-Turkmen. Non-Turkmen were often the first targeted for dismissal when layoffs occur. As a result of these restrictions, more and more ethnic Russians viewed their situation in the country as deteriorating and sought citizenship in Russia.

*Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution and the law do not provide for the right of association; however, the law does not prohibit this right.

The Constitution and the law do not provide for the right to form or join a union. While no law specifically prohibits the establishment of independent unions, there were no such unions, and no attempts were made to register an independent trade union during the year. The Government controlled all trade unions. The Colleagues Union claimed a membership of 1.3 million; its member unions were divided along both sectoral and regional lines. There was also a registered Union of Entrepreneurs, which engaged in some philanthropic activities. Unions may not form or join other federations.

The law does not prohibit antiunion discrimination by employers against union members and organizers, and there were no mechanisms for resolving such complaints.

There was no information available on union affiliation with international unions.

*b. The Right to Organize and Bargain Collectively.*—The Constitution and the law do not provide for the right to organize; however, the law does not prohibit this right.

The law does not protect the right to collective bargaining. In practice in the state-dominated economy, the close associations of both trade unions and state-owned enterprises with the Government seriously limited workers' ability to bargain. The Ministry of Economics and Finance prepared general guidelines for wages and set wages in health care, culture, and some other areas. In other sectors, it allowed for some leeway at the enterprise level, taking into account local factors. The Government determined specific wage and benefit packages for each factory or enterprise. Workers, including teachers, often went months without pay or received their paychecks late (see Section 5).

The law neither prohibits nor permits strikes, and it does not address the issue of retaliation against strikers. Strikes were extremely rare, and no strikes were known to have occurred during the year.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution prohibits forced or bonded labor; however, there were reports in 2000 of prisoners being forced to work in a kaolin mine in Kizlkaya prison, near Dashoguz, under hazardous and unhealthy conditions (see Sections 1.c. and 2.b.). The law provides for labor as a component of prison sentences; the prison system includes educational-labor colonies and correctional-labor colonies.

The Government prohibits forced and bonded labor by children. Some children worked in cotton harvesting in rural areas (see Sections 5 and 6.d.).

The Government encouraged persons to work voluntarily, particularly on weekends, in manual labor positions on civic projects.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The minimum age for employment of children was 16 years; in a few heavy industries, it was 18 years. The law prohibits children between the ages of 16 and 18 years from working more than 6 hours per day (the normal workday was 8 hours). A 15-year-old child may work 4 to 6 hours per day but only with the permission of the trade union and parents. This permission rarely was granted.

Violations of child labor laws occurred in rural areas, particularly during the cotton harvesting season, when teenagers work in the fields (see Section 5). Children as young as 10 years of age were allowed to help with the harvest for up to 2 months. The Government strongly encouraged children to help in the cotton harvest, families of children who did not help could experience harassment by the Government. The Government has not signed ILO Convention 182 on the worst forms of child labor.

The Government prohibits forced and bonded labor by children; however, there were some reports that such practices occurred (see Section 6.c.).

*e. Acceptable Conditions of Work.*—There was no minimum wage. In 1999 the Government raised the average monthly wage in the state sector to approximately \$90 (468,000 manats at the official rate; 1.9 million manat at the unofficial rate) per month at the official rate. At the Halk Maslahaty (Council of Elders) meeting in August, the President announced that wages would be doubled. The new wage rates scheduled to take effect in February 2003 increased the average state sector salary in Ashgabat to \$173 (900,000 manat at the official rate; 3.7 million manat at the unofficial rate), and in other regions to \$115 (598,000 manat at the official rate; 2.5 million manat at the unofficial rate). While the Government subsidized the prices of many necessities and provided others free of charge, this wage did not pro-

vide a decent standard of living for a worker and family. Most households were multigenerational, with several members receiving salaries, stipends, or pensions; however, many persons lacked the resources to maintain an adequate diet.

The standard legal workweek was 40 hours with 2 days off. Individuals who worked fewer hours during the week or were in certain high-level positions also could work on Saturdays.

During the Soviet era, production took precedence over the health and safety of workers; legacies of this system remained. Industrial workers often labored in unsafe environments and were not provided proper protective equipment. Some agricultural workers were subjected to environmental health hazards. The Government recognized that these problems existed and took some steps to address them, but it did not set comprehensive standards for occupational health and safety. Workers did not always have the right to remove themselves from work situations that endangered their health or safety without jeopardy to their continued employment.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons, and there were no reports that persons were trafficked to, from, or within the country.

The Penal Code prohibits prostitution, which is punishable by 2 years' imprisonment or hard labor. The penalty for involvement of a minor in prostitution or using force, threat, or blackmail to involve someone in prostitution is 3 to 8 years' imprisonment. The penalty for procuring persons for prostitution is 3 to 8 years' imprisonment with the possibility of confiscation of property.

There were unconfirmed and anecdotal reports of women from the country traveling to Turkey and the United Arab Emirates and working as prostitutes.

The Government did not have programs in place to combat trafficking in persons, but cooperated with the IOM in educational efforts on this topic.

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## UKRAINE

Ukraine is a mixed parliamentary and presidential republic governed by a directly elected President, a Prime Minister who heads a Cabinet of Ministers, and a unicameral Parliament (Rada). The Prime Minister is nominated by the President and approved by the Rada. The cabinet is nominated by the Prime Minister and approved by the President but generally is under the President's direction. The Rada is elected partially according to proportional representation and partially by direct constituency mandate. Parliamentary elections, which took place in March, were an improvement over the 1998 parliamentary polls in some respects, but important flaws persisted. Incumbent President Leonid Kuchma was reelected in 1999 in an election described by the Organization for Security and Cooperation in Europe (OSCE) as having failed to meet a significant number of the OSCE election-related commitments. The Constitution provides for an independent judiciary; however, the courts were subject to political interference and corruption and are inefficient.

There are two principal security agencies, which have equal responsibility for internal security: The Security Service of Ukraine (SBU), which is responsible for intelligence gathering, and the Ministry of Internal Affairs, which controls the various police forces. The Minister of Internal Affairs is a member of the Cabinet of Ministers, while the SBU enjoys special status within the executive branch and reports directly to the President. The State Tax Administration also has law enforcement powers, which it exercises through the tax police. The Office of the Prosecutor General prosecutes criminal cases and is responsible for enforcement of court decisions in criminal cases. The armed forces largely remained outside of politics. However, government agencies interfered indirectly in the political process through criminal and tax investigations of politicians, journalists, and influential businessmen. Civilian authorities generally maintained effective control of the security forces. Members of the security forces committed human rights abuses; however, the extent to which the authorities were complicit or acquiescent in these abuses was uncertain.

The economy is mixed, with the private sector accounting for 65 to 70 percent of gross domestic product (GDP). The country has a total population of 48,457,000. While the official GDP was only approximately 48 percent of its pre-independence (1990) level, the economy grew by 5.8 percent in 2000, 9 percent in 2001, and 4.1 percent during the year. The economy was burdened by wage nonpayment and arrears, and the shadow economy (defined as activity deliberately unreported for purposes of tax evasion) accounted for a significant proportion of real income. Wage arrears decreased by approximately 20 percent in 2001. Investment remained at low levels, with many potential investors discouraged by rampant corruption, onerous taxation, arbitrary licensing practices, and an inefficient judicial system that yielded

to political pressure. Wealth was concentrated in the political elite and among directors of the state-dominated sectors such as metals, oil, and gas.

The Government's human rights record remained poor and in some cases worsened; however, there were also some improvements in some areas. Police and prison officials tortured and beat detainees and prisoners, with unconfirmed reports that they killed one detainee. The beating of conscripts in the army by fellow soldiers was common and at times resulted in death. Police abuse and harassment of racial minorities was a continuing problem. The Government rarely punished officials who committed abuses. Prison conditions remained harsh and life-threatening, particularly because of exposure to disease. Arbitrary arrest and detention were problems, as was lengthy pretrial detention in very poor conditions; however, the courts continued to release defendants from confinement pending trial. Political interference and corruption affected the judicial process. The judiciary also was overburdened, inefficient, and lacked sufficient funding and staff. Long delays in trials were a problem. In July 2001, a series of amendments to the laws that regulate the system of courts and the administration of justice were implemented and included the transfer of the right to issue arrest warrants, residential search warrants, and wiretap orders from prosecutors to the courts. At year's end, it was still too early to evaluate the overall effects of these changes.

Authorities interfered with the news media by intimidating journalists, issuing written and oral instructions about events to cover and not to cover, and pressuring them into applying self-censorship. Nevertheless a wide range of opinion was available in newspapers, periodicals, and Internet news sources. There were some limits on freedom of assembly, and the authorities impeded people from participating in some demonstrations. Freedom of association was restricted. The Government generally respected, and made efforts to address some concerns of religious communities; however, there were some problems. Local officials continued to present bureaucratic difficulties to minority and nontraditional religions on matters of land and building acquisition permits for religious activities and on the issue of property restitution. The Government continued to return properties and establishments to religious groups although the pace was slow, in part because of lack of funding. There were some limits on freedom of movement. Violence and discrimination against women, including sexual harassment in the workplace, were problems. Violence against children was a problem. There were reported instances of anti-Semitic acts, including cemetery desecration. Ethnic minorities and Muslims complained of frequent identity checks. The Government discouraged some workers from organizing unions. Trafficking in women and girls for sexual exploitation was a serious problem that the Government, through the Ombudsman's office and many government agencies, took steps to combat. Ukraine was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as an observer.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no confirmed reports of political killings; however, unidentified assailants killed one politician on the eve of parliamentary elections (*see* Section 3). Abuse of prisoners and detainees and harsh prison conditions at times led to death (*see* Section 1.c.). There was an unconfirmed report that an individual who was taken into custody at the Shevchenkivskyi precinct in Zaporizhzhya on December 16 was beaten to death. According to the Ombudsman's office, during 2001 there were 1,381 deaths in prison and detention facilities, many due to harsh conditions.

Human rights groups stated that soldiers continued to be killed during violent hazing events, although no official data was available for the year (*see* Section 1.c.). According to a government official, in 1998 (the latest year for which information was available) 10 to 12 military personnel were beaten to death, and a total of 20 to 30 died as an indirect result of injuries sustained from hazing. At times the authorities reportedly labeled these deaths as suicides.

During the year, local authorities in the Cherkasy region closed their investigation into the alleged 2001 police torture of Yevhen Kornuta without any results.

The pervasiveness of corruption, connections between government officials and organized crime, and the political activities of organized crime figures, often blurred the distinction between political and criminal acts. Politicians, politically connected businessmen, and journalists were the victims of attacks that were sometimes fatal and possibly politically motivated. No official statistics for contract killings during the year were available. On August 23, in the only known case of conviction for a contract murder, a court sentenced two top officials of the alcohol company Soyuz

Viktan to 15-year jail sentences for ordering the murder of two individuals who tried to extort money from them. The contracted murderer received a 14-year prison term.

According to the nongovernmental organization (NGO) Reporters Without Borders, four journalists died during the year in ways that may have been connected with their professional duties. A journalist, Mykhailo Kolomiyets, who disappeared from Kiev on October 28, was found hanged in neighboring Belarus on November 20. The Kiev prosecutor's office invited a team of foreign investigators to help determine whether Kolomiyets committed suicide (see section 2.a.).

On March 29, 2 days before parliamentary elections, unknown gunmen shot dead the Ivano-Frankivsk Oblast Deputy Governor, Mykola Shkribliak in the stairwell of his house. Shkribliak was running for a constituency Rada seat (see Section 3).

The killing of prominent journalist Heorhiy Gongadze remained unsolved, although an investigation officially continued. Gongadze disappeared in September 2000; in November 2000, police found a decapitated body outside of Kiev, which DNA and other examinations confirmed to be his. The Government asserted that it was conducting a full-scale investigation into his disappearance, but members of the media and the public seriously criticized the Government's handling of the case, while others accused the President and other senior officials of complicity. In April the authorities refused to share the Gongadze case file with foreign investigators whom they had invited to assist with the investigation. In September the Prosecutor General's office announced that the murder was politically motivated; however, it made no arrests nor did it give any specific details to substantiate such claims. The investigation of the killing officially still was ongoing at year's end. In May 2001, the Ministry of Internal Affairs claimed that two thieves had murdered Gongadze and had had been killed subsequently, but the Prosecutor General's Office did not uphold this charge. An audio recording exists alleged to contain conversations between President Kuchma and other senior government officials discussing the desirability of Gongadze's removal. One other recording allegedly from the same source has been judged to be authentic.

The July 2001 beating and subsequent death of Ihor Aleksandrov, a director of a Donetsk regional television station, remained unsolved. Aleksandrov had aired a number of critical reports about Donetsk-based politicians and was a noted critic of alleged corruption among local law enforcement authorities. According to the police, Yuri Verediuk, a homeless man, confessed that he had been hired to kill the head of the television station's legal department and had mistaken Aleksandrov for this person. In May the Donetsk Oblast Appeals Court acquitted Verediuk, who earlier had been found guilty. On July 19, Verediuk died, reportedly of heart deficiency. The judge of the Donetsk Appeals Court had warned earlier, however, that Verediuk's life could be at risk. On July 25, upon the Procuracy's appeal, the Supreme Court rescinded Verediuk's acquittal and sent the case back to the Procuracy for a new investigation, a decision that the Appeals Court judge strongly criticized. Police refused to open criminal proceedings in connection with Verediuk's death, however, asserting that he had died of natural causes.

The European Roma Rights Center (ERRC) based in Hungary pressed Ukrainian authorities to investigate the October 28, 2001, deaths of five members of a Roma family in Malaya Kakhovka, Poltava region. According to the ERRC, police Major Ivanov of the Kryukov Area Police Department and two unknown accomplices torched the home of Jurij Fedorchenko with seven family members inside. The five who died ranged in age from 3 to 25. Two members of the family survived. One of the survivors, 50 year old Jurij Fedorchenko, claimed that Major Ivanov burned the house because the family refused to pay the police officer an approximate \$40 (215 hryvnia) monthly bribe to ensure Ivanov's protection for drug dealing, in which Jurij Fedorchenko's daughter had engaged previously. Police reportedly took two individuals into custody and suspended Major Ivanov from his duties, although no legal action was taken against him.

*b. Disappearance.*—In April Oleksandr Olynyk, an election monitor from the Ukrainian NGO, Committee of Voters of Ukraine (CVU), disappeared from Kirovohrad approximately 1 week after the March 30 elections. Initial reports did not indicate that his disappearance was related to his monitoring activities; however, subsequent inquiries suggested that he may have received threats while observing the elections. Local authorities filed a missing persons report and launched a criminal investigation into the case. No progress had been reported by year's end. Andriy Tatarchuk, Vice Chairman of the Reforms and Order Party of Odesa (Our Ukraine Bloc) and former city council candidate, disappeared November 27 while returning home from work. Police in Odesa have launched an investigation and reportedly detained two individuals in mid-December in connection with the case. No conclusions as to the cause of his disappearance had been reached by year's end.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The Constitution prohibits torture; however, police and prison officials regularly beat detainees and prisoners, and there were numerous reports of torture. Although human rights groups did not receive specific reports that special militia detachments known as Berkut (“Golden Eagles”) tortured and beat inmates as part of regular training exercises, they believe the practice continued. The media and human rights groups reported that police subjected detainees to various methods of physical torture, including the “swallow,” in which officials place the detainee on his stomach and tie his feet to his hands behind him, forcing his back to arch. Another abuse was the “baby elephant,” in which officials place a gas mask on the prisoner’s head and slowly reduce the flow of oxygen. Detainees also were subjected to a method called the “monument,” in which a prisoner is suspended by his hands on a rope and beaten. Human rights lawyers reported that requesting an attorney often leads to a worse beating, and detainees may be beaten until they waive their right to an attorney.

On December 16 police in Zaporizhzhya detained a drug addict suspected of burglary. He died in custody from injuries sustained from an alleged beating. Police claimed that the detainee had been beaten before entering police custody. In 2001 Volodomyr Ivanchenko, who was charged with plotting the killing of former presidential candidate Nataliya Vitrenko, claimed in his trial that police suffocated, beat, and used electroshock on him and his codefendants while they were in pretrial detention. Authorities took no action on his complaints.

There was no effective mechanism for registering complaints about mistreatment or for obtaining redress for such actions, although detainees were permitted to address complaints directly to the court instead of the Ministry of Internal Affairs. Prisoners and detainees also addressed complaints to the Ombudsman for Human Rights, and that office received several hundred reports of torture in pretrial detention during the year. According to the Office of the Ombudsman, most of the complaints that it received centered on human rights violations by law enforcement personnel. The Ombudsman also maintained that detainees who were unable to pay a deposit for meals went hungry and that this qualifies as another form of torture. The Ombudsman actively publicized reports of such practices; however, the Ombudsman had no enforcement authority.

Authorities made little documented effort to end abuse; disciplinary action against law enforcement authorities that committed abuses was limited. According to the authorities, 62 police officers were charged with mistreatment of suspects in the period January through August. According to the Ombudsman’s office, in 2001 authorities opened 25 criminal cases against 48 law enforcement officers for exceeding their authority. Of these, 14 had been convicted as of year’s end. On August 30, the Prosecutor General dismissed the prosecutor and an investigator in the Tarascha District of Kiev Oblast. The two faced criminal proceedings for abuse of office and fraud during the Gongadze investigation (*see* Section 1.d.). They allegedly forged protocols from the inspection of the place where Gongadze’s body was found. Many observers considered the charges to be only political scapegoating in an already highly politicized case. In its 2000 report, the Ombudsman noted that in 1998 and 1999, 285 members of the police were charged with torture and mistreatment of prisoners. The new Criminal Code, which came into effect in September 2001, mandates 3 to 10 years of imprisonment for torture; however, human rights groups reported that during the year there were no prosecutions for torture under the new Criminal Code.

Police also abused Roma and harassed and abused dark-skinned persons. Representatives of these groups claimed that police officials routinely ignored, and sometimes abetted, violence against them (*see* Section 5). Police also harassed refugees (*see* Section 2.d.).

In September the police forcibly dispersed antipresidential demonstrators who had set up a tent city illegally in downtown Kiev. Police also took down tents in Kharkiv. Local authorities undertook a variety of measures, including impoundment of vehicles and arbitrary detentions, to dissuade people from attending such demonstrations. On December 26, the courts sentenced 13 members of the opposition nationalist party, the National Ukrainian Assembly-Ukrainian People’s Self-Defense (UNA/UNSO) to 2 to 5 years’ imprisonment on charges of staging mass unrest during March 9, 2001 demonstrations in Kiev (*see* Section 2.b.). Police also harassed journalists (*see* Section 2.a.).

Despite extensive legislation on the protection of service member rights and official regulations concerning relations among military personnel, reports continued during the year of harsh conditions and violence against conscripts in the armed forces. In August a quarry landslide claimed the lives of two conscript soldiers who were digging sand for the construction of a private garage for a junior military offi-



cer in Lviv Oblast. The officer was placed in custody pending investigation. Senior conscripts often beat recruits, sometimes to death (*see* Section 1.a.) and forced them to give them money and gifts that they received from home. According to human rights associations, garrison prosecutors often did not investigate complaints of physical harassment. Punishment administered for committing or condoning such activities did not serve as an effective deterrent to the further practice of such abuses. Although official statistics on the incidence of hazing during the year were unavailable, human rights groups, including the Association of Soldiers' Mothers, reported that violent hazing continued to be widespread. They reported that the Procuracy opened 129 criminal cases pertaining to violent hazing. However, it was unknown how many of those resulted in convictions. Death by hazing was frequently described as suicide.

Police corruption remained a serious problem. There were reports that local officials abetted or aided organized crime groups involved in trafficking (*see* Section 6.f.).

Prison conditions remained harsh and life threatening. According to official sources, information on the physical state of prison walls and fences, as well as pretrial detention blocks, was considered to be a government secret. Nevertheless the press reported freely about harsh prison conditions. According to complaints received from the Office of the Ombudsman and human rights NGOs, prison officials intimidated and mistreated inmates. Due in part to severe economic conditions, prisons and detention centers were severely overcrowded and lacked adequate sanitation and medical facilities. According to official statistics of the Penal Department, in the first 6 months of 2001, there were 865 deaths in the prisons. Poor sanitary conditions resulted in 300 deaths from diseases such as tuberculosis and 13 from dysentery during the first half of 2001. There were frequent incidents of killings by fellow inmates, and in the first half of 2001, 13 individuals were reported officially to have committed suicide, although human rights groups believed the actual figure to be higher.

Prisoners were permitted to file complaints to the Ombudsman about the conditions of detention, but human rights groups reported that inmates were punished for doing so. In January 2001, the Rada passed amendments to the Penal Code that relaxed Soviet-era restrictions in high-security prisons and removed a requirement that all prisoners' letters should be read.

Conditions in pretrial detention facilities also were harsh. Inmates sometimes were held in investigative isolation for extended periods and subjected to intimidation and mistreatment by jail guards and other inmates. Overcrowding was common in these centers. Although there were no official figures, local lawyers believed that the pretrial detention center in Kiev housed as many as 6,000 persons, although its capacity was estimated to be 3,500. The SBU still maintained its own pretrial centers at year's end, although it had announced in 2001 that it would close them. According to Human Rights Ombudsman Nina Karpachova, approximately one-third of detainees were tortured.

Conditions in the Corrective Labor and Treatment Centers for Alcoholics (LTPs), operated by the State Penal Department, where violent alcoholics were confined forcibly by court decision, differed little from those in prisons. Although some centers were transferred to the Health Ministry in 2000, and the number of centers decreased, the Government did not meet its earlier commitment to transfer all of the LTPs to the ministry. Virtually no treatment for alcoholism was available in these centers. Despite a 1999 government decree directing the closure of LTPs by the end of 2000, they continued to operate during the year.

According to human rights groups, a reorganization of the penal department to ensure greater independence of the penal system did not affect the Department's practices, and there was little civilian oversight of its activities. Although the Government implemented some programs for the retraining of prison and police officials, it punished only a small minority of those who committed or condoned violence against detainees and prisoners. The Ombudsman drew attention to the state of the penitentiary system by visiting prisons and raising prison-related issues in public. During a February visit to the Lukianivka detention center in Kiev, the Ombudsman noted some improvements with regard to prison conditions. Candidates and observers of the March elections also were allowed access to some, but not all, prisons to campaign and monitor respectively.

The Government continued to allow prison visits from human rights observers; however, some of them reported that at times it was difficult to obtain access to prisons to visit specific prisoners and they were not allowed full access to the insides of prison facilities. On January 10, following persistent requests by the public and Reporters Without Borders, the Zaliznychny Local Court in Simferopol suspended the remaining 1½ years of the jail term of Serhiy Potomanov, a journalist impris-

oned in Simferopol in 2001. Potomanov had complained of severe beatings by other inmates.

During the year, the Ombudsman continued to make the treatment of prisoners a priority and to investigate conditions in a number of prisons. In September 2001, the Rada ratified the first and second protocols of the European Convention on Prevention of Torture, which mandates the inspection of prisons by international observers. The Government agreed to permit the Council of Europe Anti-Torture Committee to publish three reports on Ukraine. The reports, from 1998–2000, cited numerous allegations of torture as a means of extracting confessions, a general fear among detainees to discuss abuses, and poor conditions in a number of prisons.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention; however, arbitrary arrest and detention remained problems. The Constitution provides for compensation for unlawful conviction and the law allows compensation for illegal arrests; however, these provisions rarely were invoked.

The law provides that authorities may detain a suspect for 3 days without a warrant, after which an arrest order must be issued. The courts may extend detention without an arrest warrant for an additional 10 days. Suspects who believe that further investigation may lead to their immediate exoneration also may petition the court for an additional 15-day detention. The law further provides that pretrial detentions may not last more than 2 months. In cases involving exceptionally grave offenses, the Prosecutor General may petition a judge of the Supreme Court to extend the period of detention to 18 months. The law does not limit the aggregate time of detention before and during a trial. The law permits citizens to contest an arrest in court or appeal to the prosecutor. The Constitution requires that officials notify family members immediately concerning an arrest, but they did not often do so in practice.

By law a trial must begin no later than 3 weeks after criminal charges have been filed formally with the court, but this requirement rarely was met by the overburdened court system (*see* Section 1.e.). Months may pass before a defendant finally is brought to trial, and the situation did not improve during the year. Complicated cases may take years to go to trial. Although an amendment to the Criminal Procedures Code provides for the imposition of monetary bail, it has been used rarely; many of the defendants cannot pay the monetary bail amounts imposed by law. Instead courts imposed restrictions on travel outside a given area as an alternative measure to pretrial confinement. Approximately 70 percent of defendants awaiting trial—approximately 150,000 individuals—were released from pretrial confinement during the year, many of them under restrictive travel conditions.

According to the State Executive Service, the prison population was nearly 220,000 persons, including 156,000 in prisons and 40,000 in remand centers. Many of the individuals in pretrial confinement were charged with serious violent crimes. Since only the courts may authorize the continuation of pretrial detention pursuant to 2001 amendments, they closely examined cases in which authorities confined the defendants for extended periods in pretrial detention based on previous authorization by prosecutors.

The law stipulates that a defense attorney must be provided without charge to an indigent detainee from the moment of detention or the filing of charges, whichever comes first. There were insufficient numbers of defense attorneys to protect suspects from unlawful and lengthy imprisonment under extremely poor conditions. Although the concept of providing attorneys from the state system exists in principle, public attorneys often refused to defend indigents for the low government fee. While in custody, a suspect or a prisoner is allowed by law to talk with a lawyer in private; however, human rights groups reported that prison or investigative officials occasionally denied the client-attorney privilege. To protect the defendant, each investigative file must contain a document signed by the defendant attesting that the charges against him, his right to an attorney, and his right not to give evidence against himself or his relatives have been explained to him. An appeals court may dismiss a conviction or order a new trial if this document is missing. As defendants increasingly became aware of their rights, they insisted on observance of these procedures; however, many persons remained unaware of these safeguards.

As a result of legal changes enacted in 2001, the prosecutor's office may no longer initiate new criminal investigations without prior court approval, with the exception of a number of serious offenses (*see* Section 1.e.).

The Government occasionally employed such charges as criminal libel or tax evasion to detain persons (usually opposition activists or journalists) who were openly critical of the Government or challenged the interests of powerful business or political figures close to the Government (*see* Section 2.a.). During the year, the Prosecutor General continued to pursue criminal charges against Yuliya Tymoshenko, head of the opposition political grouping named after her. Tymoshenko's earlier ef-

forts to reform the energy sector, when she was Deputy Prime Minister for Energy, had drawn strong opposition, most notably from powerful businesspersons closely tied to the Government. After joining the opposition, Tymoshenko became an outspoken critic of the Government. She claimed that the charges against her were politically motivated. In May a Kiev court closed some of the Procuracy's criminal cases against Tymoshenko and her husband. In September the Prosecutor General requested that the Rada lift her parliamentary immunity, which would permit the filing of further criminal charges against her. The Rada speaker returned the petition requesting that the Prosecutor General more thoroughly justify his request. At the request of the Government, Turkish authorities detained Yuliya Tymoshenko's father-in-law, Gennadiy, and three of his business partners in June. In October Turkish authorities extradited them to Ukraine. On September 14, the Luhansk Appeals Court upheld the April conviction of Borys Feldman, former vice president of Bank Slovyanskyy, which managed some of Yuliya Tymoshenko's business interests. Feldman received a 9-year prison sentence for tax evasion and financial mismanagement. The Appeals Court had refused to honor the Supreme Court's decision to release Feldman, who said that he was prevented from practicing the Jewish faith while in detention pending appeal of his case. Feldman's attorney, Andriy Fedur, complained of harassment by the Tax Police and claimed that he received unidentified death threats during the year. In September Tax Police impounded Fedur's car, which allegedly contained defense materials for the Feldman case. In October police detained Fedur for 3 days on accusations that he falsified documents. He was released without being charged.

On September 17, Kiev police arrested 64 antipresidential protesters and charged them with various administrative infractions related to blocking public thoroughfares. All were released within 10 days.

Human rights groups reported that they continued to receive complaints from Roma regarding arbitrary detention and physical harassment by the police.

Police arbitrarily detained persons for extensive document checks and vehicle inspections (*see* Section 1.f.). They routinely detained dark-skinned persons for arbitrary document checks (*see* Section 5). There were reports that local authorities temporarily detained individuals they considered likely to attend nationwide antipresidential demonstrations in September. Prior to the demonstrations, there were also credible reports that police impounded vehicles belonging to opposition activists and NGO leaders technical checkups. Police reportedly returned the vehicles after the conclusion of the demonstrations. On June 29, police in Poltava detained the leader of the opposition party UNA-UNSO, Serhiy Kuzovka, for 2 days on charges of hooliganism, allegedly to prevent him from attending a UNA-UNSO congress in Kiev on July 30. After 2 days in police custody, a court in Poltava acquitted him.

At times persons involved in property, inheritance, or divorce disputes were diagnosed wrongfully with schizophrenia and confined to psychiatric institutions.

The Constitution prohibits forced exile, and the Government did not employ it.

*e. Denial of a Fair Public Trial.*—The Constitution provides for an independent judiciary; however, in practice the judiciary was subject to considerable political interference from the executive branch and also suffered from corruption and inefficiency. The courts were funded through the Ministry of Justice, which controlled the organizational support of the courts, including staffing matters, training for judges, logistics and procurement, and statistical and information support. The Presidential Administration also reportedly continued the practice of telephoning justices directly to influence their decisions.

Legislation enacted in 2001 and during the year to regulate the court system and the administration of justice brought the legal framework more in line with constitutional requirements for an independent judiciary; however, the judiciary lacked sufficient staff and funds, which engendered inefficiency and corruption and increased its dependence on the executive, since the court received all its funding from the Ministry of Justice. The court reorganization necessitated by the July amendment package required more funds than were allotted in the budget and observers believed that significant additional funding would be needed to modernize the court system in general and to provide the courts with adequate facilities and equipment.

The authority and independence of the judicial system also were undermined by a lack of compliance with court decisions in civil cases. Provisions calling for criminal punishment for noncompliance with court decisions rarely were used. Compliance was particularly poor if the decision clashed with government interests. The Chairman of the Supreme Court, the chairmen of regional courts, and the chairman of the Kiev municipal court (or the deputies of these officials) have the authority to suspend court decisions, which led to interference, manipulation, and corruption.

The Justice Minister was quoted as saying that by year's end, slightly under 50 percent of court decisions had been enforced.

In 1999 the State Executive Service was established as a special department in the Ministry of Justice to execute court decisions. The State Executive Service was authorized specifically to enforce judgements in civil cases; decisions in criminal and administrative courts involving monetary compensation; and judgements of foreign courts, the Constitutional Court, and other authorities. The number of court decisions involving monetary or material compensation referred to the department has grown substantially. In the first half of 2001, over 1 million court decisions were executed, representing approximately 48 percent of the judgements referred to the State Executive Service.

Critics of the Government claimed credibly that the Government abused its authority over officers of the court by selectively charging and dismissing politically unsympathetic judges. In July Lubov Budiakova, judge of Babushkinsky District Court in Dnipropetrovsk Oblast, complained in the press about harassment by the head of the court after she ruled that the eviction of the Socialist Party from its office in Dnipropetrovsk had been unlawful. Independent-minded judges also complained that they did not receive politically sensitive cases. In July 2001, President Kuchma dismissed Mykola Zamkovenko, Chairman of a Kiev district court, for intentionally withholding case files in order to delay citizens' appeals to the court. Zamkovenko's supporters charged that authorities targeted him because of his release of former Deputy Prime Minister Yuliya Tymoshenko from pretrial custody and his recognition of Heorhiy Gongadze's mother and wife as victims of a crime (*see* Section 1.a.). In June the Supreme Court ruled that President Kuchma's dismissal of Zamkovenko was lawful.

Amendments to a series of laws concerning the judiciary and the administration of justice enacted in 2001 and additional legislation passed in July introduced important reforms to the court system. The amendments provided for a unified system of courts consisting of a Constitutional Court, a system of courts of general jurisdiction that includes the Supreme Court and specialized commercial (formerly arbitration) courts, and military courts. General jurisdiction courts are organized on four levels: Local courts, regional appellate courts, specialized high courts (the High Commercial Court), and the Supreme Court. The arbitration courts were redesignated as commercial courts and were intended to operate as specialized courts within the single unified system of courts. As a result, the Supreme Court may review their judgements, including those rendered by the High Commercial Court. Military courts are specialized courts that hear cases only involving military personnel.

On February 7, the Parliament passed a Law on the Judicial System of Ukraine, which the Government began implementing in the last half of the year. While the law helped modernize the judicial system, some observers contended that it granted excessive authority to the President. The law created a new State Judicial Administration (SJA), independent of the Ministry of Justice, to act as a central executive body overseeing the administration, including the finances, of the judicial system. Under the new law, the President also has the authority, with the agreement of the Ministry of Justice and the Chair of the Supreme Court or of a corresponding higher specialized court, to establish and abolish courts of general jurisdiction. The President is empowered to determine the number of judges within the courts (upon recommendation of the SJA and with the agreement of the Chair of the Supreme Court); appoint and remove chairs and deputy chairs of courts for 5-year terms (upon submission of the Chair of the Supreme Court, based on recommendation of the Judicial Council); and establish appellate commercial and appellate administrative courts. The President, upon the recommendation of the Prime Minister and concurrence by the Judicial Council, appoints the head of the SJA. The law also established a Judicial Academy to train new judges and continue the education of sitting judges.

The new Court of Cassation was put in place December 1, although it was not fully functional by year's end. The SJA and Judicial Academy were scheduled to begin operations on January 1, 2003.

Regional courts, including the Supreme Court of Crimea and the Kiev and Sevastopol City courts, serve as appellate courts for the lower-level courts. They may examine evidence independently in a case, call for additional witnesses or evidence, and render a decision that supercedes the judgement of a lower court.

The Constitutional Court consists of 18 members appointed for 9-year terms in equal numbers by the President, the Parliament, and the Congress of Judges. The Constitutional Court is the ultimate interpreter of legislation and the Constitution, and it determines the constitutionality of legislation, Presidential edicts, cabinet acts, and acts of the Crimean Autonomous Republic. The President, at least 45 Members of Parliament, the Supreme Court, the Ombudsman, and the Crimean leg-

islature may request that the Constitutional Court hear a case. Citizens may apply to the Constitutional Court through the Ombudsman, who started to exercise this right in selected cases. In some limited cases, the Constitutional Court can interpret law for individual citizens, when the applying citizen provides compelling proof that a constitutional provision was violated or that it was interpreted differently by different government bodies.

Many local observers regarded the Constitutional Court as the country's most independent judicial body. Human rights groups stated that the Constitutional Court has generally maintained a balance of fairness. However, observers charged pro-presidential bias when, in March 2000, the Court ruled that the President's proposed referendum on expanding presidential authority was constitutional, although it threw out two of the six original questions.

The Constitution includes procedural provisions to ensure a fair trial, including the right of suspects or witnesses to refuse to testify against themselves or their relatives; however, pending the passage of legislation to implement these constitutional provisions, a largely Soviet-era criminal justice system remained in place, which limited these rights. While the defendant is presumed innocent, conviction rates have changed little since the Soviet era, and nearly all completed cases resulted in convictions. According to the most recent official statistics available, in the first half of 2000 there were 113,902 convictions and 375 acquittals. However, since judges frequently sent back to the prosecutor for "additional investigation" cases that lacked sufficient evidence to support the charges (which usually led to the dropping of the case), these statistics are somewhat misleading. During the period of 1999–2000, the courts returned more than 10 percent of pending criminal cases to investigative agencies because of the lack of sufficient evidence. In addition, there were indications that suspects often bribed court officials to drop charges before cases went to trial or to lessen or commute sentences.

Under the existing court system cases are decided by judges who sit singly, occasionally with two public assessors (lay judges or professional jurors with some legal training), or in groups of three for more serious cases. The Constitution provides for public, adversarial, trials, including a judge, public assessors, state prosecutor, defense, and jury (when required by law). With some exceptions, these requirements were respected in practice. The 2001 legislative amendments provide for a jury system, including procedures for the selection of jurors, but the amendments did not address the function and jurisdiction of jurors. Observers believed that the jury system would not function until a comprehensive judicial reform is completed and additional funding is provided for the courts.

Complicated cases can take years to go to trial, and pretrial detention was a problem; however, in increasing numbers, defendants were released from confinement pending trial (*see* Section 1.d.). The condition normally imposed by the court was nonmonetary bail in the form of restrictions on travel. Many of the remaining defendants in pretrial confinement were awaiting trial for very serious criminal offenses.

Prosecutors, like the courts, are organized into offices at the rayon (district), oblast (regional), and national levels. They are responsible ultimately to the Prosecutor General, who is appointed by the President and confirmed by the parliament for a 5-year term. Regional and district prosecutors are appointed by the Prosecutor General. Although by law prosecutors and defense attorneys have equal status, in practice prosecutors are more influential. Prosecutors as well as defense attorneys may file appeals. The Office of the Prosecutor General practiced selective prosecution and initiated investigations against the political or economic opponents of the President and his allies (*see* Section 1.d.). The Prosecutor General also ignored parliamentary and court requests for investigations into high ranking persons if the accused were presidential allies. Before the 2001 amendments took effect, the Procuracy at times used its judicial review powers to annul court decisions unfavorable to the administration's economic or political interests and ordered cases reexamined by a different court.

Legislative changes in 2001 curtailed prosecutors' authority greatly, limiting it to prosecution, representing the public interest in court, oversight of most investigations, and implementation of court decisions in criminal cases. However, prosecutors retained the right to conduct investigations in cases initiated before the amendments were implemented and in cases involving a range of serious offenses, including murder, corruption, and high economic crimes. The Procuracy no longer may initiate new criminal cases; its powers are limited to supervising the observance of laws by law enforcement agencies only. In May 2001, the Constitutional Court ruled that citizens may challenge court actions by the prosecutors and investigative agencies, as well as government actions regarding national security, foreign policy, and state secrets.

During the year, the Rada voted to dismiss 13 judges, 11 on the grounds of violating the judge's oath and 2 who were prosecuted for undisclosed offenses.

Criminal groups routinely used intimidation to induce victims and witnesses to withdraw or change their testimony. The law requires that a special police unit protect judges, witnesses, defendants, and their relatives; however, the unit had not yet been formed and trial participants were vulnerable to pressure. A witness protection law was in abeyance because of lack of funding. The law provides that the names and addresses of victims and witnesses can be kept confidential if they request protection due to fear for their lives. On July 30, Judge Ihor Tkachuk of the Donetsk Oblast Commercial Court was found hanged at his dacha in Odesa Oblast. The press speculated that the judge may have been killed in connection with litigation in the Odesa Oblast Commercial Court between the Odesa Port and a private company, Sintez Oil. Tkachuk previously had participated in the Procuracy's investigation into plunder of the Black Sea Merchant Fleet. In September Judge Natalia Achynovych of the Nikopol Municipal Court was found hanged in a hotel room while on a vacation in Turkey. The press questioned whether her death could have been linked to the Nikopol Municipal Court's politically sensitive decision to invalidate parliamentary election results at eight polling stations in a hotly contested constituency in Dnipropetrovsk Oblast.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The authorities infringed on citizens' privacy rights. Legislative amendments that took effect in 2001 provided that only courts could approve warrants for searches of residential properties and wiretaps (*see* Section 1.e.); however, prosecutors retained the right to issue warrants for searches of nonresidential properties.

In accordance with the 2001 amendments, the SBU may not conduct intrusive surveillance and searches without a court-issued warrant. The Office of the Prosecutor General has the constitutional responsibility to oversee the observance of the law by law enforcement agencies, including the SBU; however, the extent to which the Prosecutor General used his authority to monitor SBU activities and to curb excesses by security officials was unknown. The Constitution provides citizens with the right to examine any dossier on them in the possession of the SBU and to sue for physical and emotional damages incurred by an investigation; however, necessary implementing legislation had not been passed and the authorities did not respect this right in practice. During the summer months, police reportedly stopped their surveillance of the leader of the Independent Miners Union, and opposition parliamentarian, Mykhailo Volynets after he threatened to bring a busload of miners to his home to detain surveillance agents. In September Socialist Party leader Oleksandr Moroz complained of surveillance and phone tapping. The head of a charitable organization that ran a foster home in Brusilov, Zhytomyr Oblast, alleged that local authorities conducted illegal searches of his home. Some NGOs reported that authorities had opened and searched some of their mail during the year. The SBU also monitored the activities of certain NGOs active in democracy development projects.

Under the law, the police have the right to stop and search a person based on a suspicion that the person has committed a criminal offense. A person suspected of committing an especially grave crime may be arrested and searched without a warrant, but the court must be informed of the arrest within 72 hours. In 2000 the Rada enacted legislation prohibiting the police from stopping vehicles and levying immediate fines; only courts subsequently had the right to impose such fines. The law had an increasing deterrent effect on the police, who legally no longer could collect spot fines after stopping vehicles for alleged traffic violations, although abuses still occurred. However, the police may detain a person arbitrarily for up to 3 hours to verify identity (*see* Sections 1.d. and 1.e.). There were reports that police sometimes abused this right.

Journalists whose reports were critical of the Government, or who covered opposition politicians and NGOs that engaged in nonpartisan political activity, reported that they frequently were followed by SBU agents and that their telephones and offices were wiretapped (*see* Section 2.a.).

In November 2001, the Constitutional Court ruled that the "propyska" mandatory registration system was unconstitutional; a new "informational" registration mechanism was envisioned but had not been implemented by year's end. Additionally, access to public services such as housing, pensions, medical care, and schooling were still based on the propyska system. In its report on the March Parliamentary elections, the OSCE noted that authorities relied on the outdated propyska system to register voters, since no other system existed.

On a few occasions, persons involved in property, inheritance, or divorce disputes were diagnosed wrongfully with schizophrenia and confined to psychiatric institu-

tions. The disputes often entailed the corruption of psychiatric experts and court officials. In February 2000, the Rada adopted a new Law on Psychiatry which bans abuse of psychiatry for political and nonmedical reasons and provides safeguards against such abuse; however, human rights observers reported that procedures regarding the application of psychological treatment have not been determined, and the Soviet system of classifying mental illness was still in use. Persons diagnosed with mental illness risked being confined and treated forcibly, declared not responsible for their actions, and stripped of their civil rights without being present at the hearings or notified of the ruling. There were approximately 1.2 million registered psychiatric patients in the country. Within 3 days after forcible confinement to a hospital, a patient must be examined by three doctors. Patients (including convicted prisoners) subsequently must be examined by the senior regional psychiatric commission within 6 months. According to the Ukrainian Psychiatric Association, the Health Care Ministry did not always cooperate with human rights groups attempting to monitor abuse of psychiatry.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution and a 1991 law provide for freedom of speech and of the press; however, authorities did not always respect these rights in practice. During the year, the authorities took a direct role in instructing the media on events and issues it should cover and how they should be covered. They continued to take steps to strengthen their control over the broadcasting sector.

The authorities continued to interfere with news media by intimidating journalists through the use of the libel laws, although this practice declined in comparison with the previous year. Despite this interference, a wide variety of privately owned newspapers and periodicals that espoused different political points of view were available, and there was an active debate over sensitive questions in the mass media, including coverage of such debates in Parliament.

Frequent, credible, allegations surfaced in the latter part of the year that the Presidential Administration gave media houses specific instructions on events to cover and how to cover them, as well as subjects not to cover. Representatives of the Presidential Administration denied these allegations. However, virtually all major media outlets in Kiev confirmed that prior to the September antipresidential demonstrations the media received instructions about how to cover the period leading up to the demonstrations and the demonstrations themselves. For example, media were advised to focus coverage on a report about an air show airplane crash that occurred in Lviv earlier in the year, as opposed to the September demonstrations. As a result of these pressures to direct the media in its coverage of events, several prominent journalists resigned from their positions. Approximately 450 journalists from across the political spectrum signed a public statement criticizing the authorities' actions. In September journalists began forming an independent union to resist censorship and protect journalists from job loss or other forms of harassment. In November journalists from other media houses walked out of a briefing in the Prosecutor General's office in solidarity with journalists from *Ukrainska Pravda* who were denied accreditation for the briefing. The authorities based their denial on the assertion that the online periodical was not a registered media outlet.

On December 4, the Rada held public hearings on freedom of speech and media censorship. The hearings were broadcast live on television and received widespread media coverage. Some media executives complained that the Government wiretapped their offices. President Kuchma was cited in the press as suggesting that complaints about censorship were exaggerated.

Many major newspapers were financed by wealthy businessmen with political interests that often favored the Government. This backing gave these newspapers an advantage over smaller, more independent, newspapers.

Despite government pressure and media self-censorship, the numerous newspapers and periodicals on the market, each espousing the view of its respective sponsor, provided a variety of opinions. Foreign newspapers and periodicals circulated freely.

Broadcast media, the primary source of news for most citizens, were either state-owned or owned by oligarchs and powerful business interests. There were six national television stations. State-run television had the widest geographic coverage but low viewership. Most other television stations were associated with political parties or powerful business interests; such interests may or may not coincide with the interests of government authorities, depending on the issue. The third and fourth most popular stations were seen as pro-presidential. Two of the more outspoken stations had considerable foreign ownership.

During the year, the authorities took steps to strengthen their control over the broadcasting sector. The President and the Rada each appoint half of the members of the National Council for Television and Radio Broadcasting, which issues licenses and allocates broadcasting time. The Council made decisions that showed a bias in favor of business interests closely allied politically with the Government. In April 2001, the Council decided against renewing the license of Radio Kontynent (RK), an independent radio station that rebroadcast news reports of the British Broadcasting Corporation (BBC), Voice of America (VOA), and Deutsche Welle. RK has been critical of the Government in its own broadcasts, and its owner has been highly critical of President Kuchma's relationship with the media. After a successful challenge to its initial rationale that RK's rebroadcasts of foreign stations were illegal, the Council cited a debt owed by the station to the Government as grounds for its decision. In October 2001, the Kiev Municipal Arbitration Court denied RK's request to block the sale of the radio station's frequency. RK continued to operate at year's end pending further appeal. The European Court for Human Rights (ECHR) was reviewing the case at year's end. Also in April, the Council stripped the Kiev-based Television Company UTAR of its broadcasting license and awarded the frequency to TV Tabachuk. The press speculated that the license revocation related to the suspicion that opposition politician Yuliya Tymoshenko financially supported UTAR. UTAR stopped broadcasting after losing its license. The station appealed the decision and the Shevchenkivsky district court ruled in favor of UTAR; however, the decision had not been implemented by year's end.

Government entities used criminal libel cases or civil suits based on alleged damage to a "person's honor and integrity" to influence or intimidate the press; however, the use of such cases decreased during the year. Article 7 of the Civil Code allows anyone, including public officials, to sue for damages if circulated information is untrue or insults a person's honor or dignity. Article 125 of the Criminal Code, in effect until September 2001, prescribed imprisonment of up to 3 years for libel. The Criminal Code that entered into effect in September 2001 eliminated any criminal penalty for libel. In addition, a May 2001 Resolution of the Plenum of the Supreme Court mandated that in order to prove libel, plaintiffs must demonstrate that journalists had prior knowledge of the falsity of information before publishing it. There is no limit to the damages that may be awarded under a civil libel suit. Lower courts still may order that the accounts of a newspaper be frozen pending an appeal of a civil libel case. Journalists complained that because the law did not limit damages, it was used to drive opposition newspapers out of business. While figures were unavailable, the number of libel cases during the year reportedly decreased. In June authorities froze the assets of the Zaporizhzhya newspaper *Industrialne Zaporizhzhya* to cover court-imposed fines for publishing libelous pre-election publications. The case was settled after several months and the newspaper made no claims against the Tax Administration. The commercial publishing house, Taki Spravy, experienced harassment by tax police and inspectors from other government agencies that appeared to be politically motivated. Taki Spravy attributed the harassment to its printing a book about the opposition parliamentarian Yuliya Tymoshenko prior to the March parliamentary elections. In June the tax police froze Taki Spravy's bank accounts pending criminal investigation of alleged tax evasion. On September 12, the Kiev Commercial Court ruled that the Tax Administration's charges against Taki Spravy were baseless; however, visits by tax administration officials continued. The case involving two libel suits originally filed in 2001 against Radio Free Europe/Radio Liberty was reheard for the third time due to a change in judges; however, no decision or settlement had been reached by year's end for either suit.

The Procuracy applied other portions of the law, especially article 182 of the Criminal Code that deals with the collection, storage, use or dissemination of confidential information about a person without his consent, to limit press freedom and opposition activities. Early in the year, the Procuracy initiated criminal proceedings against former opposition parliamentarian Dmytro Chobit on charges of "unlawfully collecting and circulating information about an individual without an individual's consent." Chobit authored a book, *Narcissus*, about political party leader Viktor Medvedchuk. On July 8, an appeals court in Rivne Oblast ordered police to return to Chobit a vanload of copies of his critical book about President Kuchma, *Svystun*, which police confiscated in October 1999, prior to the 1999 presidential election. In March the Procuracy opened a criminal case against the publishing house *Respublika* in Cherkasy on charges of "circulating confidential information about citizens without their consent" for publishing a critical article about (then) Prosecutor General Potebenko.

In July the National Council on Television and Radio Broadcasting signed a letter warning Radio Dovira that it was rebroadcasting Radio Liberty illegally. Dovira ap-



pealed the decision and applied for an expanded license that would allow them to continue rebroadcasting Radio Liberty. The case was ongoing at year's end. The National Council announced on October 30 that effective January 1, 2003, Ukrainian broadcasters would require new, special licenses to rebroadcast foreign programs. On November 13, after numerous complaints about the new regulations, the Council rescinded its decision saying it would apply the rules only after the Government could set regulations to govern the new licensing process.

As of the end of the year, the legal appeals of the Fifth Channel private Television station in the town of Nikopol and of the Zaporizhzhya-based television station Khortytsia against deprivation of their licenses had not been heard. The stations remained off the air. Both stations alleged that they were being penalized for criticizing local officials. In 2000 the National Council held an auction for the use of the Fifth Channel private TV station in the town of Nikopol, Dnipropetrovsk Oblast, allegedly without informing Fifth Channel. ICTV won the bidding for the frequency. On January 31, a Kiev court suspended the National Council's decision. However, on March 4, the State Inspectorate of Electrical Communications, the Government frequency regulatory agency, blocked access to transmitters of Fifth Channel in Nikopol on the grounds that Fifth Channel had no broadcasting license. Fifth Channel argued that it was not to blame for the expiration of its license because the National Council for Television and Radio Broadcasting delayed the auction. Fifth Channel attributed the licensing problems to its criticism of local authorities while some observers believed that the organization did not meet the licensing requirements. Fifth Channel pursued the case in the Kiev Commercial Court of Appeal. At almost the same time, Zaporizhzhya-based television station Khortytsia had almost identical problems with the Council and with the State Inspectorate of Electrical Communications. Khortytsia also lost its license, which the Council awarded to TV-Khortytsia, a completely separate entity. Khortytsia attributed its difficulties to its criticism of local authorities, namely of the mayor of Zaporizhzhya. Khortytsia's case was under appeal in the courts at year's end.

As in the 1999 presidential election, the March parliamentary election campaign saw a marked imbalance in the coverage of candidates on national television and radio channels, with opposition candidates receiving limited and often negative coverage at the national level. Opposition candidates had more success in obtaining access to smaller local and regional television channels. The OSCE reported that media coverage of the elections was "highly biased," with the state-funded national channel giving "disproportionate coverage to the pro-presidential candidates"; however, candidates' access to the media improved compared to previous elections.

The Government at times directed key businesses either to purchase advertising from regional television stations or to withdraw from advertising contracts, depending on the news coverage the stations offered.

In February 2001, the State Tax Administration, in a gesture of transparency, began publishing a monthly list of media outlets scheduled for audits, rather than conducting audits arbitrarily. Following the publication of this list there were no reported cases in which the State Tax Administration targeted media outlets for arbitrary inspection. The publisher Taki Spravy, and Internet publication Obkom announced in October that they would form an association to inform the public about tax inspections of the media. According to tax chief Mykola Azarov, the State Tax Administration inspected 80 mass media outlets in the first 9 months of the year.

State and independent channels were subject to the same rates for the majority of broadcasting fees as State channels; however, the Government rarely enforced fee payments for state channels. Private and foreign companies also must obtain licenses in order to establish and operate their own transmission facilities.

The SBU had broad powers over the media in regard to the publication of state secrets, which included information on executions, the physical state of prison infrastructure, pretrial detention facilities, and centers for the forcible treatment of alcoholics. In contrast to the previous year, when there was one instance of interference, journalists reported that, in general, the SBU did not interfere with their activities during the year and that they were able to report about harsh prison conditions without any inhibition (*see* Section 1.c.).

On January 24, an unknown man wearing a military cadet uniform robbed Oleh Lyashko, editor of the opposition newspaper Svoboda. Lyashko intended to pay the deposit required of candidates for parliament in the March elections. Lyashko charged that the security services staged the robbery to prevent him from registering as a candidate.

The print media, both independent and government-owned, sometimes demonstrated a tendency toward self-censorship on matters that the Government deemed sensitive. Private newspapers were established and were free to function on a purely commercial basis, although very few were profitable. However, they were

subject to various pressures, such as dependence on political patrons who may facilitate financial support from the State Press Support Fund and close scrutiny from government officials, especially at the local level. The dependence of some of the press on government patronage inhibited criticism, particularly at the local level. This type of pressure was particularly acute prior to and during the March parliamentary elections.

In January the prosecutor's office launched a criminal investigation concerning the alleged misuse of budgetary funds by the parliament's newspaper Voice of Ukraine. The newspaper's editor, Serhiy Pravdenko, a member of Yulia Tymoshenko's parliamentary faction, denied the charges. Some observers attributed the accusations to the newspaper's positive coverage of Tymoshenko prior to the March elections. The charges against the Voice of Ukraine were dropped after Pravdenko resigned in July. Pravdenko explained that he resigned in order to save the newspaper from the baseless, politically motivated charges.

The Tax Administration also appeared to have harassed media outlets that exposed corruption or provided positive coverage to opposition figures. On February 19, the tax police raided the office of the Internet newspaper Obkom, confiscating computers and documentation in connection with an investigation into an unspecified criminal case. Obkom attributed the raid to its critical publications about the head of the Tax Administration. Two Obkom staffers were taken to the tax police office and released several hours later. The following day, the tax police allegedly acknowledged that they had searched Obkom's office by mistake and explained that they were looking for illegal foreign currency exchange centers. Obkom's office happened to be in the same building with the suspect bank. Tax police refused to return Obkom's computers, however, "pending further investigation," and reportedly later claimed that Obkom was linked to Koral bank, which was under investigation for illegal hard-currency transactions. The tax police said that they might return Obkom's computers, except for one that contained a pornography clip, which could entail prosecution. Obkom resumed its operations in December with new computer systems.

The opposition newspaper Svoboda continued to come under close scrutiny. On March 24, police stopped a van with approximately 100,000 copies of the newspaper on a highway in Cherkasy Oblast and threw the newspapers into a nearby river. The edition carried a statement by an opposition parliamentarian accusing the Prosecutor General of bribery. Police allegedly pushed the van driver into the back seat of the police car, face down on the seat, and then let him out of the police car onto the road several hundred meters away. Later the same day, police raided the publishing house Respublika in Cherkasy and confiscated another 100,000 copies of the same edition of Svoboda. Police reportedly possessed a warrant only for the search of the premises of the publishing house, not for the confiscation of the papers. The Procuracy opened a criminal case against the publishing house in connection with the "circulation of confidential information about citizens without their consent" and "abuse of office" while circulating such information.

On April 9, the editor of the paper, Oleh Lyashko, was taken to the Procuracy for questioning in connection with the criminal case against him on charges of resisting police during a March 24 police raid on the publishing house Respublika. Also on April 9, officials confiscated documentation from Svoboda's office in Kiev. On April 15, Lyashko was formally arrested on charges of resisting police during the police raid of Respublika. He was placed in a pretrial detention center in Cherkasy for several days before being released with a travel ban. In recent years, government officials initiated more than 20 criminal and civil libel cases against Lyashko and his publication Polityka (which was forced to close in 1999), asking for more than \$40 million (200 million hryvnia) in damages.

On June 25, Volodymyr Boyko, investigative journalist and writer for the Internet newspapers Obkom and Criminal Ukraine, and also for the Donetsk-based newspaper Salon, was detained in Donetsk by the Donetsk Oblast Tax police on charges of tax evasion. A criminal case against Boyko was opened on May 10. In violation of the criminal procedures, Boyko was questioned for the first time only on June 25. Boyko attributed his arrest to the fact that he wrote about embezzlement by Chief of the Donetsk Oblast Tax Administration, Olexandr Papaika. On July 6, Boyko was released by court on bail of \$3,000 (17 thousand hryvnia) pending further investigation. On August 19, the Donetsk Appeals Court ruled that Boyko's detention on June 25 was unlawful. In August the Procuracy closed the criminal case against Boyko. The Procuracy officially apologized to Boyko.

In early December, the Crimean Court of Appeal reversed the decision of the Simferopol Central Court and released Volodymyr Lutiyeu, the editor of the Yevpatoria Week newspaper in Crimea, on his own recognizance. Lutiyeu was arrested on November 11 and charged with complicity in ordering the murder of a member of the

Crimean parliament. He asserted that the charges were brought in revenge for articles in his newspaper criticizing regional government officials and discussing organized crime.

During the year, some journalists were subjected to physical attacks that may have been related to their professional activities. The national affiliate of Reporters Without Borders reported that 28 incidents of physical and verbal harassment against journalists occurred during the year and that four journalists died during the year in ways that may have been connected with their professional activities. On October 28, Mykhailo Kolomiyets, a journalist who was editor of the Ukrainsky Novyny news agency, disappeared from Kiev. He was found hanged in neighboring Belarus on November 20. Ukrainian and Belarusian police concluded that the death was a suicide, but relatives demanded further investigation. The Kiev prosecutor's office invited a team of foreign investigators to help determine whether Kolomiyets committed suicide.

On January 28, an unknown assailant threw acid in the face of Tatiana Goryacheva, the chief editor of Berdyansk Delovoi, an independent newspaper based in Zaporizhia. Goryacheva sustained second degree burns on her face and eyes. She believed the attack was in retaliation for her stories about illegal exports of metal through Berdyansk ports, corruption among local authorities, improper behavior of court officials, as well as unbiased coverage of candidates and parties in the pre-election period.

On February 2, Ivan Besiada, reporter of the Lviv-based newspaper *Za Vilnu Ukrainu* and an activist of Yushchenko's bloc, *Our Ukraine*, was assaulted in Lviv. He sustained a broken jaw and a concussion. He said that the assault may have been linked to his journalistic activities. In September unknown assailants assaulted Petro Kobevko, editor of Chernivtsi-based opposition newspaper *Chas*. Local reporters alleged a link between the assault and the newspaper's criticism of the Chernivtsi Oblast governor.

As of year's end, no suspect had been identified in the June 24, 2001, killing of Oleh Breus, the publisher of the regional weekly *XXI Vek* in Luhansk. Breus was shot to death in front of his home; the motive for the killing was unclear. Breus was a businessman and held a senior position in the regional Communist Party of Workers and Peasants. He had experienced at least one previous attempt on his life in December 2000, and his colleagues at the newspaper also had received threats. On February 5, police arrested a man in connection with the 2001 attack on *Izvestia* correspondent Yanina Sokolovskaya. The man reportedly confessed to the crime saying he intended to rob Sokolovskaya. The courts found him guilty of the crime. The courts also convicted two men who severely beat Luhansk television reporter Oleksiy Movsesyan in August 2001. The television station claims the attacks were related to the reporter's professional activities, whereas police cite hooliganism as the motivation.

Journalists who pursued allegations of high-level government involvement in the killing of journalist Heorhiy Gongadze continued to be subject to harassment by the Government (*see* Section 1.a.). Olena Prytula, editor of the Internet publication *Ukrainska Pravda*, requested that the Government provide her with bodyguards after individuals in the Procurator General's office advised her that there was a credible threat to her life, apparently linked to the Gongadze case. The Government complied with her request. While the press continued to cover the disappearance of Gongadze, they practiced some self-censorship.

The 2000 disappearance and killing of journalist Heorhiy Gongadze and the 2001 killing of Ihor Aleksandrov raised serious concerns regarding whether the authorities targeted journalists specifically for critical political reporting (*see* Sections 1.a. and 1.c.). On December 13, 2001, the Minister of Internal Affairs issued a ruling allowing journalists covering politics, corruption, and crime to carry guns firing rubber bullets.

There were instances in which the authorities restricted or banned some publications critical of governmental entities or officials. In June and July, the Dnipropetrovsk-based independent newspaper *Litsa* complained about local government pressure following its publication of articles about the local government's interference in July 14 by-elections in Dnipropetrovsk Oblast. On June 19, oblast police, led by the deputy police chief, briefly detained a van full of *Litsa* newspapers as if for inspection. Several publishing houses also refused to publish the newspaper, allegedly due to government pressure. The paper's landlord evicted the newspaper from its leased office, reportedly under police pressure. On June 25, the newspaper's major advertising client terminated its partnership with the publication.

A July 2000 Presidential decree identified the development of the Internet as a priority of national information policy and instructed the Government to design a state program to develop the Internet network. According to the SBU, it has set up

an Internet monitoring network in order to fight corruption and further the country's integration into the European Community; however, human rights organizations feared that this network has increased the SBU's ability to supervise citizens without cause. Though limited in readership, Internet publications, in particular *Ukrayinska Pravda*, played a key role in covering the disappearance of Heorhiy Gongadze and the scandal surrounding allegations of Presidential involvement in the case (see Section 1.a.).

While major universities were state-owned, they operated for the most part under full autonomy; however, academic freedom was an underdeveloped and poorly understood concept. Nepotism and bribery reportedly were common during entrance exams and also influenced the granting of degrees. Administrators of universities and academic and research institute directors possessed the power to silence colleagues by denying them the ability to publish, withholding pay and housing benefits, or directly terminating them. Restrictions by the Communications Ministry on the mailing of scientific documents also caused concern. Student protesters complained that university administrators across the country pressured them not to participate in antipresidential demonstrations held in September (see Section 2.b.). The SBU maintained offices for the protection of state secrets in state scientific and research institutes, including those not conducting any classified research. All private and religiously affiliated universities operated without any reported state interference or harassment.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution and law provide for freedom of assembly and association; however, extensive actions were taken to preclude participation in antigovernment demonstrations in September. While the Constitution requires that demonstrators merely inform the authorities of a planned demonstration in advance, the law on public assembly stipulates that organizations must apply for permission to their respective local administration at least 10 days before a planned event or demonstration. The 2001 Criminal Code prescribes up to 2 months of corrective labor or a fine for repeatedly staging unauthorized demonstrations. Under the law, demonstrators are prohibited from inciting violence or ethnic conflict and from calling for the violent overthrow of the constitutional order. In practice unlicensed demonstrations were common; most but not all occurred without police interference, fines, or detention.

Antipresidential demonstrations took place in central Kiev and in most major cities in the fall. While such demonstrations generally were peaceful, on the morning of September 17, the police forcibly dispersed antipresidential demonstrators who had illegally set up tent cities around the Rada and Presidential Administration in downtown Kiev the night before. Authorities nationwide took extensive measures to prevent demonstrators from traveling to Kiev and from gathering in other cities. Authorities allegedly detained individuals prior to the demonstrations and impounded opposition activists' cars for "technical" reasons. Police turned buses around to prevent potential demonstrators from entering the Kiev city limits, and the rail services reportedly provided fewer train cars traveling to Kiev on the day of the demonstrations. There were television blackouts on the morning of the September 16 demonstrations and the majority of foreign currency exchange booths in Kiev were closed without explanation the weekend prior to the protest rallies.

In late December, a Kiev court sentenced 18 participants in a March 2001 antigovernment demonstration to up to 5 years in prison for disturbing public order. The demonstration had led to clashes with police. Those convicted were members of UNA-UNSO, known for its nationalist views. The leader of the group, Andriy Shkil, was not subject to prosecution because of his immunity as a member of parliament. During the sentencing, a disturbance erupted in the courtroom when one of the defendants attempted self-immolation. During the disturbance, opposition Rada Deputy Mykhailo Volynets suffered rib injuries; Volynets said he was beaten by the police.

The Constitution, the law, and government regulations restrict freedom of association to varying degrees. A May 2001 law on political parties provides that a party must inform the Government about its financial holdings and any change in its leadership or program. Political parties may not receive financial support from the state or any foreign patron. In accordance with the Constitution, the law also forbids the establishment of political parties in the executive and judicial branches, military units, law enforcement organizations, state-owned enterprises, and other public institutions; however, this prohibition often was ignored in practice. The Supreme Court reserves the right to ban any political party upon the recommendation of the Ministry of Justice or the Prosecutor General.

The 2001 law requires that a political party maintain offices in one-half of the regions; however, in practice regional parties existed. Ethnic minorities occupied leadership positions in national political parties (see Section 3). Groups must reg-

ister with the Government to pursue almost any purpose. Unregistered groups are prohibited from opening bank accounts, acquiring property, or entering into contracts. The registration law also gives the Government the right to inspect the activities of all registered groups. This law requires that a party specify all its activities in its charter, but the party is not required to notify the authorities of all its meetings. A change in the group's charter necessitates reregistration. As of year's end, the Government had not reregistered the Ukraine offices of the National Democratic Institute (NDI), the International Republican Institute (IRI), and the Institute for Sustainable Communities.

In the past, some authorities interpreted a provision in the Law on Public Organizations—it states that public organizations are created to protect the interests of their members—to mean that public organizations may offer services only to their members. However, there were no reports that this requirement was used to restrict the activities of any group during the year.

The law provides also for restrictions on organizations that are considered dangerous, such as those which advocate violence or racial and religious hatred or which threaten the public order or health. The Government had not identified publicly any such groups as “dangerous” as of year's end; however, far-right political organizations reported that they were subject to harassment and surveillance by government authorities.

*c. Freedom of Religion.*—The Constitution and the law provide for freedom of religion, and the Government generally respected this right in practice. Religious groups of all beliefs flourished; however, some minority and nontraditional religions continued to experience difficulties registering and buying or leasing property at the local level, although there were fewer reports of such difficulties than in the past. The Constitution and the law provide for the separation of church and state.

There was no state religion. The Ukrainian Orthodox Church, Moscow Patriarchate, tended to predominate in the east; the Ukrainian Orthodox Church, Kiev Patriarchate, and the smaller Ukrainian Autocephalous Orthodox Church were strong in the central regions, and the Ukrainian Greek Catholic Church predominated in the west. These churches exerted significant political influence at the local and regional levels. Reportedly each of these churches, within its respective sphere of influence, also pressured local officials to restrict the activities of the others.

The law requires all religious organizations to register with the State Committee on Religious Affairs (SCRA). Registration is necessary to own property or carry out many economic activities, such as publishing religious materials and opening bank accounts.

Some nonnative and minority religious organizations reported that, especially at the local or regional levels, officials of the SCRA delayed registration of their organizations for extended periods. However, there were fewer such reports during the year. Representatives of Progressive Jewish Community claimed that pressure from Chabad Lubavitch officials and local Dnipropetrovsk authorities led to a 5-year delay in the granting of registration to a Progressive Jewish Community in the city. In October 2001, members of the Community withdrew their petition for registration, citing harassment by local authorities. The Progressive Jewish Community also reported that its application for registration in Kryvyi Rih, Dnipropetrovsk Oblast, had been under examination since 2001.

Representatives of Evangelical Christian communities expressed concern over instances of discrimination against their adherents. In December the Suvorov District court ordered a Pentecostal Church in Kherson closed for holding public services in June and July without permission from the local authorities. However, such incidents appeared to be isolated. Evangelical Churches, like many other religious communities, experienced difficulties in obtaining land plots.

Disputes among competing Orthodox Christian administrative bodies continued. The SCRA, although supportive of a unified, independent Orthodox Church for the country, has maintained neutrality in its relations with the various Orthodox churches. The Kiev Patriarchate of the Orthodox Church and the Greek Catholic church complained of harassment by local authorities in the predominantly Russian-speaking eastern region of the country, while the Moscow Patriarchate of the Orthodox Church complained that local governments ignored the appropriation of its churches by Greek Catholics in the western region.

The Government generally permitted religious organizations to establish places of worship and to train clergy. The Government continued to facilitate the building of houses of worship by allocation of land plots for new construction and through restitution of religious buildings to their rightful owners.

Representatives of the Ukrainian Autocephalous Orthodox Church cited instances of difficulties in providing religious services to soldiers and of the need to obtain ap-

proval from prison chaplains of the Moscow Patriarchate for prison ministry activities.

Members of numerous religious communities encountered difficulties in dealing with the Kiev municipal administration to obtain land permits and building permits, problems not limited to religious groups. Representatives of the Jewish community in Poltava complained that, despite assistance from the national authorities, the Poltava mayor's office refused to address their concerns about obtaining property for a synagogue.

The law restricts the activities of nonnative, foreign-based, religious organizations ("native religions" are defined as Orthodox, Greek Catholic, and Jewish), and narrowly defines the permissible activities of members of the clergy, preachers, teachers, and other foreign citizen representatives of foreign-based religious organizations. They may preach, administer religious ordinances, or practice other canonical activities only in those religious organizations which invited them to Ukraine and with official approval of the Governmental body that registered the statutes and the articles of the pertinent religious organization. However, in practice the Government has not used the law to limit greatly the activity of nonnative religious organizations. There were no reports that nonnative foreign religious workers encountered difficulties obtaining visas or carrying out their activities during the year.

Religious instruction is prohibited in the public school curriculum. Schools run by religious communities can and do include religious education as an extracurricular activity. In 2001 the Government began attempts to introduce training in "basic Christian ethics" into the schools. While the country's Jewish leaders support the teaching of ethics and civics in school, they insist on a nonsectarian approach to this training.

A large number of high-level government officials took part in the commemoration of the massacre at Babyn Yar in Kiev, one of the most serious Nazi crimes of the Holocaust, which the Government commemorates each September.

The Government continued to return properties expropriated during the Soviet era to religious groups; however, not all groups regarded the pace of restitution as satisfactory, and all major religious communities continued to have outstanding restitution claims. In 2001 the Government completed the return of a number of major religious edifices for use by the main Orthodox churches in Ukraine. According to the State Committee for Religious Affairs, during 2002 the Government transferred ownership of 187 buildings that were originally constructed as places of worship to religious communities, for a total of 8,776 since independence in 1991. In addition, during the year religious communities received ownership of 358 premises (i.e. buildings or sections of buildings) converted into places of worship and another 524 religious buildings that were not designated for worship, such as former religious schools, hospitals, and clerical residences, totaling 2,388 and 1,313, respectively, since independence. Intra-communal competition for particular properties complicated the restitution issue, both for some Christian and for some Jewish communities. Some groups asserted that restitution generally was progressing satisfactorily, although more could be done, while others not receiving property reported a lack of progress. The slow pace of restitution was a reflection, among other things, of the country's difficult economic condition, which severely limits funds available for the relocation of the occupants of seized religious property. On September 27, the cabinet approved an action plan, drawn up at the instruction of President Kuchma, designed to return religious buildings to the religious organizations that formerly owned them.

The March parliamentary elections, in which some priests of various Orthodox communities were accused of endorsing particular political parties or candidates in their sermons, had a negative impact on inter-Orthodox relations, which had already been tense.

Disputes over the erection of crosses in Jewish cemeteries in Sambir, Kiev, remained unresolved. In 2000 in Sambir, Lviv Oblast, Jews, with foreign assistance, began construction of a memorial park at the site of an old Jewish cemetery, which was the scene of Nazi atrocities. Nationalists erected crosses on the site to commemorate Christian victims of Nazi terror, who had been buried in a mass grave at the site. While memorial organizers supported the recognition of all groups who suffered on the Sambir site, they opposed the use of Christian religious symbols on the grounds of the Jewish cemetery. At the same time, local nationalists remained opposed to the use of Jewish symbols or Hebrew in the memorial. Jewish and Greek Catholic leaders intervened in an attempt to find a solution to the dispute. In spite of a proposal by the memorial's foreign sponsor to relocate the crosses to another site at his expense, local government leaders still had not resolved the conflict by year's end. Local officials in Volodymyr-Volynsky, Western Ukraine, continued to

allow construction of an apartment building on the site of an old Jewish cemetery despite a December 17 court ruling to halt construction.

Some ultranationalist groups and newspapers continued to publish and distribute anti-Semitic tracts. Anti-Semitic publications also were imported from Russia and distributed without the necessary state license. The Procuracy warned certain publications against publishing anti-Semitic material. Leaders of the Jewish community welcomed changes in the editorial staffs of the newspapers *Vechirniy Kyiv* and *Za Vilnu Ukrayinu* in late 2000. Under new editors, these newspapers, which had been among the chief offenders in publishing anti-Semitic articles, ceased such activity. While acts of anti-Semitic violence were uncommon, an attack on the Great Synagogue of Kiev in April by inebriated youths following a soccer match was a source of concern to the Jewish community. However, there were no other attacks on the synagogue during the year, and most observers believed that the April incident was not premeditated.

Evangelical Christian missionaries reported some instances of societal discrimination against members of their churches, such as public criticism for betraying native religions, although there were no reports of harassment.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice; however, there were some limitations. Until November 2001, the *propyska* system—a nationwide requirement to register at the workplace and place of residence in order to be eligible for social benefits—remained in place; access to certain social benefits was limited to the place where one was registered. The Government had not implemented a substitute informational register by year's end and, while fines for failing to register at a place of residence were no longer imposed, information was insufficient at year's end to determine whether individuals who had not been registered had access to the social benefits they had been denied previously. Police also arbitrarily detained persons for extensive document checks and vehicle inspections (*see* Sections 1.f. and 2.b.).

Citizens who wished to travel abroad generally were able to do so freely. Exit visas were required for citizens who intended to take up permanent residence in another country but there were no known cases of exit visas being denied to citizens during the year. The Government could deny passports to individuals in possession of state secrets, but those denied had the possibility of appealing.

A 2001 Citizenship Law provides the right to citizenship to all individuals who were born or lived in the country before independence and to their descendants who lived outside the country as of November 13, 1991. Dual citizenship is not recognized. Under the terms of the Citizenship Law, refugees may acquire citizenship if they have lived legally in the country for 3 years (instead of 5 years for other foreigners) and can communicate in the Ukrainian language. Refugees do not have to terminate foreign citizenship with their home country formally unless the Government has signed a specific agreement with that country mandating such a procedure; they must only notify the authorities of their rejection of foreign citizenship. Since independence over 1.5 million Ukrainians have returned to the country, while over 1 million persons, mostly ethnic Russians, have left the country.

The Government has not supported a foreign-funded program to facilitate travel to the country of some emigrants who qualified for resettlement as refugees; however, more than 260,000 Crimean Tatars have returned from exile to Crimea, mainly from Central Asia. Amendments to the 1991 Citizenship Law facilitated the acquisition of citizenship by Crimean Tatars, who were deported victims of political oppression, by waiving some of the usual residence and language requirements. According to the U.N. High Commission for Refugees (UNHCR), approximately 98 percent of the Tatar returnees have acquired citizenship. Crimean Tatar leaders have complained that their community has not received adequate assistance in resettling and that an onerous process of acquiring citizenship previously excluded many of them from participation in elections and from the right to take part in the privatization of land and state assets.

In August 2001, a revised Law on Refugees entered into effect. It provides for the granting of refugee and asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, which Ukraine ratified on January 10. The new law governs the treatment of refugees and entitles refugees to all of the benefits accorded to citizens. It also extends the term of refugee status from 3 months to 1 year. The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees; however, the UNHCR and refugee protection groups reported that in practice the Government did not consider petitions for refugee status until mid-year. The regional centers began forwarding cases

to the central authorities in July and August. This new process slowed the adjudication of cases; however, it standardized decision-making. The Law on Refugees raised the Department for Nationalities and Migration to the rank of a State Committee and transferred authority for refugee adjudication from local branches of the former Department to the Committee. However, the law did not prescribe an adjudication mechanism for this new body. The number of individuals who received refugee status during the year declined greatly. Largely as a result of the change in procedures, the UNHCR reported that only two persons were granted refugee status during the year. A commitment was made to award refugee status to all Afghans who arrived in the country before 1995. Under the new Citizenship Law, legally registered refugees may apply for citizenship after 3 years of permanent residence. As of July 1, according to statistics in the Government Courier newspaper, 2,961 persons had official refugee status. Under the Refugee Law, refugees are entitled to material assistance. The Cabinet allocates funds in the national budget for payment of refugee pensions and small allowances for indigent refugees, plus transportation fare to a refugee center. Refugee reception centers operated in Vynitsya and Odesa.

According to the State Committee for Nationalities and Migration, the Government has a first asylum policy, but no data was available on the number of persons granted first asylum status during the year.

Instances of police harassment of certain categories of refugees reportedly continued during the year. The UNHCR issued beneficiary cards to persons it recognized as refugees. Presentation of this card to law enforcement authorities reportedly led to some reduction in harassment, although this procedure did not help the large numbers of unrecognized refugees. In 2001 the UNHCR began holding training seminars for police to prevent further harassment.

There were no reports during the year of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully through periodic elections; the OSCE noted some improvements in the March parliamentary elections, but significant flaws persisted.

The Constitution provides universal suffrage for citizens at least 18 years of age and for periodic elections every 4 years for the Rada and every 5 years for President. Parliamentary elections took place in March. The most recent presidential election was held in October and November 1999. Improvements noted by the OSCE monitoring mission for the March parliamentary elections included a new Election Law that took into account international recommendations and a civil society engaged in the electoral process. For example, extensive NGO monitoring of the preelection and election processes and prompt release of exit polling immediately after the voting ended helped to improve the electoral process. However, a general atmosphere of distrust pervaded the pre-electoral environment due to factors that included flawed implementation of the legal framework, illegal interference by the authorities in the electoral process, and abuse of administrative resources, including alleged pressure on public employees to vote for certain candidates. Media coverage was highly biased, and opposition candidates did not have equal access to electronic media. The Government did not move in a proactive manner to ensure a level playing field for all political parties. Officials did not take steps to curb the widespread and open abuse of authority, including the use of government positions and facilities, to the unfair advantage of certain parties. According to the OSCE report, voter lists were unreliable, containing outdated information, including voters who have moved to other districts or left the country, and deceased persons whose names remain on voter lists. During the parliamentary elections, there were numerous reports that the Government relied on local and regional authorities to pressure voters into supporting pro-presidential parties. Authorities also used administrative resources to support pro-presidential party campaigning activities. The OSCE noted a "surprising" contrast between the party-list vote and the single-mandate results. Election experts consider single district constituencies more easily manipulated than party list elections. There were many instances of harassment during campaigning, and as with previous elections, opposition candidates complained of voting irregularities, a lack of access to the media, and government pressure on behalf of pro-presidential candidates. On February 27, police raided the Kiev election office of Oles Doniy, a candidate for parliament in Kiev and head of the youth wing of Tymoshenko's Bloc. According to Bloc activists, police searched the office, confiscated the lists of Doniy's supporters, threatened 1 supporter with arrest, and demanded that 20 other supporters come to the police station for questioning. Doniy



claimed that the raid was designed to put pressure on Tymoshenko's Bloc and his own supporters.

Some violent incidents, including one killing, in the preelection period may have been politically motivated (*see* Section 1.d.). On March 29, the day before the elections, unknown gunmen shot dead the Ivano-Frankivsk Oblast Deputy Governor, Mykola Shkribliak, in the stairwell of his apartment complex. Shkribliak was the Social Democratic Party of Ukraine (United) candidate for the Rada constituency seat. On March 2, according to Parliamentarian Valentyn Zubov, unknown persons in Donetsk Oblast assaulted him and a regional leader of *Batkivshchyna*, Anatoliy Tkachenko. The assailants, Zubov claimed, grabbed the schedule of Tymoshenko's March 5-6 visit to Donetsk Oblast. Tymoshenko's election headquarters in Donetsk Oblast accused agents of the security services of the attack. On April 9, the local election commission invalidated the results, which the Central Elections Commission (CEC) and the courts later revalidated. The murder investigation was ongoing at year's end.

The former head of the Rada inquiry commission on the Gongadze case, Oleksandr Zhyr, appeared to have lost his bid for reelection through vote rigging and manipulation of the judiciary. Zhyr showed video footage apparently depicting an April 8 meeting between the deputy governor in Dnipropetrovsk Oblast, Vitaliy Rudnychenko, and the leaders of all election commissions in Zhyr's constituency. The deputy governor dictated to leaders of all the election commissions in Zhyr's constituency what the "correct" election results must be in Zhyr's constituency. During the elections, Zhyr alleged the existence of duplicate protocols in eight polling stations. Although the Supreme Court confirmed the fraud, the CEC did not refer the case for further investigation. In the July 14 by-election, the election authorities revoked Zhyr's candidacy a day before the election, based on a court decision that he had engaged in improper campaign spending. The timing of the revocation reinforced the impression of political motivation.

The NGO Committee of Voters of Ukraine (CVU) cited government interference in July 14 by-elections for three vacant seats. The CVU also complained about government interference and massive irregularities during a June 9 repeat mayoral election in Kirovohrad.

CVU election monitor Oleksandr Olynyk disappeared following the March elections. Investigations into his disappearance were ongoing at year's end (*see* Section 1.b.).

In an April 2000 referendum on constitutional amendments that would increase presidential powers, the voting process was conducted in a generally free and fair manner; however, there were some serious problems, which included unbalanced media coverage, inappropriate involvement of government officials in influencing voters on behalf of President Kuchma, and alleged manipulation of voter turnout. However, most observers reported that the outcome generally reflected the will of the electorate.

International observers noted violations of election day procedures in the 1999 presidential election, with more numerous and serious violations occurring in the second round of voting. A representative of the Parliamentary Assembly of the Council of Europe declared that the election was "far from fair and democratic." However, because of President Kuchma's 18-point margin of victory, observers concluded that it was unlikely that these problems significantly altered the final outcome of the election.

There were 23 women in the 450 seat Rada, down from 37 in the previous Rada. No women held ministerial posts. The 18-member Constitutional Court had 2 female members. Women occupied approximately 10 percent of local council seats, according to statistics from the State Committee for Family and Youth.

Jews were well represented among the political elite and held several parliamentary seats. The representation of Crimean Tatars increased in local and regional councils. Crimean Tatars had the third largest representation on the Supreme Council of Crimea, due largely to citizenship laws that increased the number of eligible voters from the Crimean Tatar community.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases; however, there were confirmed reports that the SBU monitored NGOs engaged in nonpartisan political activity during the 1999 presidential election campaign, and there were recent reports that the Government monitored the activities of NGOs involved in democracy development and election programs (*see* Section 3). Government officials frequently were cooperative and responsive to the views of

NGOs; however, human rights groups reported continued difficulties in investigating penal conditions and abuse of conscripts in the military, both of which were significant human rights problems (see Section 1.c.).

The Parliamentary Commissioner on Human Rights is a constitutionally mandated independent human rights ombudsman. In 1998 the Rada elected the first Ombudsman, who serves a 5-year term and, in principle, is invested by law with very broad powers. The law provides the Ombudsman with unrestricted and unannounced access to any public official, including the President; unrestricted access to any government installation; and oversight of the implementation of human rights treaties and agreements to which the country is a party; however, the law provides no penalties for those who obstruct the Ombudsman's investigations, nor does it create sufficient enforcement authority for the Ombudsman. The law requires the Government to submit amendments to existing laws in order to establish a legal framework for the operation of the Ombudsman's office; however, although the Ombudsman noted the lack of effective mechanisms for protection of human rights in a November 2000 report to Parliament, that body had not enacted any such amendments by year's end. All citizens and residents can address their concerns to the Ombudsman, and the Ombudsman serves as an intermediary between citizens and the Constitutional Court, since citizens cannot address the Court directly (see Section 1.e.).

The Ombudsman's office reported that it had received more than 63,000 letters and other requests for information from individuals during the year. It is unclear how many of those requests were complaints of human rights violations. The office consisted of approximately 90 full- and part-time workers; however, according to the Ombudsman, underfunding of the office continued to hamper its activities. The Ombudsman continued to make the combating of trafficking in persons (see Section 6.f.) and improving prison conditions (see Section 1.c.) major priorities during the year.

On November 17, the President signed the Law on the Ratification of Protocol No. 13 to the European Convention on the Protection of Human Rights and Fundamental Freedoms. The Rada ratified the Protocol on November 28.

Citizens have the right to file appeals with the ECHR about alleged human rights violations. Since 1997, Ukrainians have filed approximately 4,000 applications with the court. There were 10 decisions on Ukrainian cases during the year: 8 cases were ruled inadmissible, 1 was found partially admissible, and in 1 case the Court ruled that the applicant had been deprived of his right to an impartial tribunal in Ukraine.

#### *Section 5. Discrimination Based on Race, Sex, Disability, Language or Social Status*

The Constitution prohibits discrimination on the basis of race, sex, and other grounds; however, the Government did not enforce these provisions effectively due in part to the absence of an effective judicial system.

*Women.*—Violence against women reportedly was pervasive. While statistics compiled by the U.N. Development Program (UNDP) showed that the number of reported rapes and attempted rapes had decreased over the previous few years, surveys indicated that the majority of rapes and other cases of physical abuse went unreported. Past surveys by women's groups indicated that between 10 and 15 percent of women had been raped and that over 25 percent were abused physically in their lifetimes. The International Helsinki Federation for Human Rights reported in 2000 that 20 percent of women aged 17 to 21 had faced attempted rape. In 2001 1,051 rape cases under Article 117 of the old Criminal Code and another 152 under the new Criminal Code were opened. Information on convictions was not available. Spousal abuse is illegal, but the authorities often pressured women not to press charges against their husbands. The Criminal Code outlaws rape and "forced sex with a materially dependent person," which may allow prosecution for spousal rape. Official statistics on prosecutions for wife beating or on average sentences were not available; however, the Institute of Sociological Research reported in September 2000 that 12 percent of women under the age of 28 had been victims of domestic violence.

Violence against women did not receive extensive media coverage, despite the efforts of human rights groups to highlight the problem. State-run hot lines, shelters, and other forms of practical support for victims of abuse were few. Municipal authorities in Kiev ran a women's center, the only municipally supported shelter in the country. NGOs attempted to provide services for abused women through the establishment of women's support centers in seven cities (see Section 6.f.).

The country was a significant source and transit country for women trafficked abroad for sexual exploitation (see Section 6.f.).

Women's groups reported that there was widespread sexual harassment in the workplace, including coerced sex. Apart from the law that prohibits forced sex with a "materially dependent person," which applies to employees, legal safeguards

against harassment were inadequate. No statistics were available concerning the number of prosecutions for sexual harassment during the year.

Labor laws establish the legal equality of men and women, including equal pay for equal work, a principle that generally was observed; however, the economic decline of the past decade has harmed women disproportionately. Women were much more likely to be laid off than men. At the beginning of 2001, according to the State Committee on Statistics, overall unemployment was 3.7 percent, and women accounted for 65 to 70 percent of the unemployed. Industries that were dominated by female workers were also those with the lowest relative wages and the ones that were most likely to be affected by wage arrears problems. According to statistics from the State Committee for Family and Youth released in June, women's average pay was 27 percent lower than the average wage for men.

The Constitution and the Law on Protection of Motherhood and Childhood prohibit the employment of women in jobs that are hazardous to their health, such as those that involved heavy lifting; however, enforcement of these laws remained poor despite the implementation of a government program to combat dangerous labor. According to the Ministry of Labor, in 2001 619,000 women were employed in hazardous jobs, 7.7 percent fewer than in 2000. Many women's rights advocates expressed concern that the law may be used to bar women from the best paying blue-collar jobs. By law pregnant women and mothers with small children enjoy paid maternity leave until their children reach the age of 3 years. This benefit is cited as a disincentive for employers to hire women for high-responsibility or career-track jobs. However, according to the UNDP, Ukraine is the only country with an over 50 percent female representation in the workforce.

Few women attain top managerial positions in state and private industry. A March 2000 business survey found that half of private-sector employees were women and that women ran 30 percent of private small businesses and 13 percent each of large and medium businesses. According to government statistics, at the end of 2000, 72.7 percent of the country's approximately 1,825 million civil servants were female, including 52.2 percent of those in managerial positions. However, of the highest "first category" offices, only 8.3 percent were held by women. (These numbers did not include the "power ministries"—the Ministries of Defense, Internal Affairs, Foreign Affairs, and the SBU—which had substantially more male employees at all levels.)

Educational opportunities for women generally continued to be equal to those enjoyed by men; however, the Government limited the number of women who can receive military officer training to only 20 percent of the total number of students accepted. In addition the military forces limited the role of women to certain functions, which limited their chances for promotion and training opportunities; women in the military generally occupied low-paying, routine positions.

*Children.*—The Government is committed publicly to the defense of children's rights, but budgetary constraints severely limited its ability to ensure these rights. There were few government bodies or NGOs that aggressively promoted children's rights, although the Ombudsman spoke publicly on the need to provide for youth. In May 2001, a law on child protection took effect. It was designed to bring the country into conformity with international standards regarding children's safety and quality of life. In 2002 child and family protection laws were amended with the aim of helping to regulate child-refugee protection and address financial assistance for families in need. However, it was too early at year's end to evaluate the impact of these measures.

Education is free, universal, and compulsory until the age of 15; however, the public education system has deteriorated as a result of the Government's financial disarray. Teachers were paid their salaries during the year, but other monetary benefits due to them were not paid in some localities. Increasing numbers of children from poor families dropped out of school, and illiteracy, which previously was very rare, has become a problem. Of the nearly 6.5 million children attending school during the 2001–02 school year, 3.2 million were girls and 3.3 million were boys. Official statistics on the proportion of school-age children attending school were not available at year's end; however, according to a Ministry of Education sponsored organization, Vseobuch, more than 8,000 school-age children did not attend school. According to statistics released in June by the State Committee for Family and Youth, 10.7 million children younger than 18 years of age, including 456,000 children aged 7 to 17, worked. Of these, 87,000 were in the most vulnerable age group of 7- to 12-year-olds. The All-Ukrainian Committee for the Protection of Children reported that lack of schooling remained a significant problem among the rural population. The problem of growing violence and crime in and outside of schools continued, especially in the notoriously violent vocational schools. The Government has ignored this problem.

Health care was provided equally to girls and boys, but economic problems worsened the overall quality of the health care system.

Child abuse was a problem, although recent statistics on its dimension were unavailable. An October 2000 UNICEF survey found that 38 percent of the children polled had suffered some form of violence. In 1997 the All-Ukrainian Committee for Protection of Children released a survey that revealed that every fifth or sixth child under age 18 of both sexes (including every third girl), suffered from sexual harassment, and that every tenth girl had been raped. Drug use and child prostitution were widespread and received substantial media attention during the year, although statistics were unavailable. Several charity groups were formed to assist these children, but they have not been able to reduce the problem. In 2001 45 individuals were convicted of child rape, and 191 were convicted of seduction of minors. It was too early at year's end to determine whether the new criminal code which took effect in September 2001 had any impact on the number of these cases.

Trafficking in children was a serious problem (*see* Section 6.f.).

The number of homeless children, who usually fled poor orphanages or poor domestic conditions, remained high. According to a 2000 press release from the Ministry of Internal Affairs, 100,000 children were registered as homeless; of those, 14 percent were under 7 years old. According to the Family/Youth Committee, the Government identified 2,600 homeless children during the year. Deteriorating conditions in the state orphanages has led the Government to encourage families to provide foster homes for orphans and to facilitate the establishment of private, government-supervised orphanages. There were 75 such orphanages with approximately 800 children.

*Persons with Disabilities.*—The law prohibits discrimination against persons with disabilities; however, the Government did little to support programs designed to increase opportunities for persons with disabilities. Legally mandated levels of employment of such persons at state enterprises were not observed. There were only five special vocational schools for persons with disabilities. As a result, according to one NGO, approximately 7,000 children with disabilities received an incomplete secondary education. Advocacy groups for persons with disabilities maintain that there was societal discrimination against such persons. In an effort to improve public perception of them, the Government made significant efforts to raise the profile of athletes with disabilities participating in international competitions, including the Winter Paralympics in March.

The law mandates access to buildings and other public facilities for persons with disabilities; however, the law was enforced poorly.

*National/Racial/Ethnic Minorities.*—The frequent harassment of racial minorities was an increasing problem. The police routinely detained dark-skinned persons for arbitrary document checks, whereas document checks of foreigners of European descent were rare (*see* Section 1.d.). Although the authorities disciplined police who engaged in this harassment when incidents were brought to their attention, such behavior remained common. In addition, there were increased reports of racially motivated violence against persons of African and Asian heritage. Representatives of these groups claimed that police officials routinely ignored, and sometimes abetted, violence against them.

Roma faced considerable societal discrimination. Opinion polls have shown that among all ethnic groups, the level of intolerance is highest toward Roma. Roma continued to be subject to violence and abuse by police (*see* Section 1.c.). On September 11, a fight between local Romani and non-Romani youths in a village near Odesa led to the death of 2 non-Romani boys; villagers subsequently burned as many as 10 Romani homes. Villagers who were interviewed on television claimed that the youths were involved in a drug dispute. Five Romani youth reportedly surrendered to police several weeks after the incident. Local authorities temporarily called in police teams to maintain the peace; however, there were no reports of subsequent violence.

The Constitution provides for the “free development, use, and protection of the Russian language and other minority languages in Ukraine.” This provision expands a 1992 law on national minorities which played an instrumental role in preventing ethnic strife by allowing individual citizens to use their respective national languages to conduct personal business and by allowing minority groups to establish their own schools. However, some pro-Russian organizations in the eastern part of the country complained about the increased use of Ukrainian in schools and in the media. They claimed that their children were disadvantaged when taking academic entrance examinations, since all applicants were required to take a Ukrainian language test. According to official statistics, there were 16,532 Ukrainian schools,

2,215 Russian schools, 97 Romanian schools, 68 Hungarian schools, 9 Moldovan schools, 10 Crimean-Tatar schools, and 3 Polish schools in the country.

Ukrainian and Crimean Tatar minorities credibly complained of discrimination by the ethnic-Russian majority in Crimea and demanded that the Ukrainian and Crimean-Tatar languages be given a status equal to Russian. Crimean Tatar leaders continued to call for changes in the electoral law that would allow them to achieve greater representation in the Crimean legislature.

The Crimean government, pleading insufficient funds, did not assent to requests from the Crimean Tatar community for assistance in reestablishing its cultural heritage through Tatar language publications and educational institutions. However, the central government continued to work with the UNDP, OSCE, and the International Organization for Migration (IOM) on support for the Crimean Tatar community. According to the UNHCR, 98 percent of the approximately 260,000 Crimean Tatars who returned to the country from exile in Central Asia have received citizenship. However, Crimean Tatar leaders complained that their community has not received adequate assistance in resettling and that the previously onerous process of acquiring citizenship excluded many of them from participating in elections and from the right to take part in the privatization of land and state assets (*see* Section 2.d.).

Romanians continued to call for university-level instruction in Romanian or the establishment of a Romanian technical college. There are 86 Romanian-language schools in the Chernivtsi Oblast.

Rusyns (Ruthenians) continued to call for status as an official ethnic group in the country. Representatives of the Rusyn community have called for Rusyn-language schools, a Rusyn-language department at Uzhhorod University, and for Rusyn to be included as one of the country's ethnic groups in the 2001 census. According to Rusyn leaders, more than 700,000 Rusyns live in the country.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The Constitution provides for the right to join trade unions to defend “professional, social and economic interests”; however, while in principle all workers and civil servants (including members of the armed forces) were free to form unions, in practice the Government discouraged certain categories of workers, for example, nuclear power plant employees, from doing so. Under the Constitution, all trade unions have equal status, and no government permission is required to establish a trade union. The Law on Citizens’ Organizations (which includes trade unions) stipulates noninterference by public authorities in the activities of these organizations, which have the right to establish and join federations on a voluntary basis. There are both official and independent trade unions.

On January 16, amendments to the trade union law took effect. The amendments cancel the requirement that labor unions have specific numbers of members in order to acquire all-Ukrainian status. However, to acquire national status under the amendments a union must either have branches in more than half of the administrative regions, or have branches in more than half of the administrative regions where the enterprises of this sector are located. The amendments also grant labor unions the status of “legal entities,” allowing them to acquire property and open bank accounts without being registered at the Ministry of Justice. The amended law still requires that a union be registered before engaging in collective bargaining or participating in the management of social insurance funds. The Justice Ministry can deny registration if the union does not meet the requirements.

Unlike in previous years, there were no reports during the year that the Ministry had denied registration to unions not loyal to the Government; however, some independent unions, including the Independent Miners Union of Ukraine (NPGU), chose not to register because the courts had declared the requirement unconstitutional. The NPGU reported that management refused to recognize and cooperate with its local affiliates because their national organization was not registered. All unions affiliated with the Federation of Trade Unions (FPU), which maintained strong ties to the Government and inherited assets from the official Soviet unions, as well as 14 independent unions, were registered. The International Labor Organization (ILO) has stated that the labor union law violates ILO Conventions 87 and 98 on the freedom of association, and the Constitutional Court struck down restrictive provisions. Nevertheless, the Rada failed to pass legislation to make the law conform to the ruling. The ILO was working with Rada deputies to draft new labor legislation.

Although the FPU often coordinates its activity with the Government, it continued to work independently of the Government some of the time and advocated workers’ right to strike. The FPU has supported the protests of some professions over unpaid wages; however, most FPU affiliates worked closely with management. Enterprise

managers were free to join the FPU. In 1997 the FPU leadership created a political party, the All-Ukrainian Party of Workers.

Independent unions provided an alternative to the official unions in many sectors of the economy. There were 80 registered trade unions, including 40 traditional (FPU) and 40 new trade unions. The NPGU, unions representing pilots, civil air traffic controllers, locomotive engineers, aviation ground crews, and other unions operated either independently or within one of three national confederations. While exact membership is unknown, there were estimated to be 3 million members of non-FPU members and 14.5 million members of FPU-affiliated unions. Independent unions have been denied a share of the former Soviet trade unions' huge property and financial holdings, especially the social insurance benefits funds, a Soviet-era legacy on whose boards FPU-affiliated unions held the majority of seats. Independent trade union leaders also have complained that state representatives sought to influence union votes and pressure members to report on union activities. Independent trade union leaders also reported that they and their family members were subjected regularly to surveillance by law enforcement authorities.

According to additional provisions of the law, management no longer is obligated to provide free accommodations and telephone lines to unions. However, the law gives unions a say in labor safety and in the allotment of newly built public housing. These aspects of the law have not been contested.

There were no official restrictions on the right of unions to affiliate with international trade union bodies. The NPGU was a member of the Federation of Chemical, Energy, Mine, and General Workers' Unions.

*b. The Right to Organize and Bargain Collectively.*—According to the law, joint worker-management commissions should resolve problems concerning wages, working conditions, and the rights and duties of management at the enterprise level. The Law on Collective Bargaining provides the right to collective bargaining; however, overlapping spheres of responsibility frequently impeded the collective bargaining process, and the manner in which the collective bargaining law was applied prejudiced the bargaining process against independent unions and favored the official unions (affiliates of the FPU). Most workers were not informed that they were not obligated to join the official union. Renouncing membership in the official union and joining an independent union could be bureaucratically onerous and typically was discouraged by management. The law provides that an independent union may be removed easily from the collective bargaining process at the enterprise level. Under earlier legislation, if several unions at an enterprise failed to agree on joint representation, the larger union—that is the FPU—represented labor in the bargaining process. Neither the 1999 law nor the January amendments to the Trade Union Law addressed this problem.

The Government, in a negotiation with trade unions in which all unions were invited to participate, established wages in each industrial sector in the form of a General Collective Bargaining Agreement, last signed in April 2001. The Law on Labor Disputes Resolution establishes an arbitration service and a National Mediation and Reconciliation Service to mediate labor disputes. According to official statistics, the service resolved 263 out of 554 labor disputes during 2001. The collective bargaining law prohibits antiunion discrimination. Under the law, discrimination disputes involving a union that is barred from participating in a collective bargaining agreement should be resolved by the courts. There have been cases in which such disputes were not settled in a fair and equitable manner.

The Constitution provides for the right to strike “to defend one’s economic and social interests” but states that strikes must not jeopardize national security, public health, or the rights and liberties of others. The law prohibits strikes that jeopardize life, health, or the environment or that might hinder disaster, accident, or epidemic-related operations. The law does not prohibit specifically strikes based on political demands; however, it prohibits strikes based on demands to change the constitutional order, state borders, or the administrative division of the country, as well as on demands that infringe on human rights. The law does not extend the right to strike to members of the Procuracy, judiciary, armed forces, security services, law enforcement agencies, and public servants. The law extends the right to strike to employees of “continuing process plants,” for example, metallurgical factories, provided that they give 15 days’ advance notice of their intent to strike. According to the International Confederation of Free Trade Unions (ICFTU) 1999 annual report, the Law on Transportation does not allow strikes in the transport sector. Workers who strike in prohibited sectors can receive imprisonment of up to 3 years.

The Government has relied on prosecutors and the courts to deal with strikes that it considered illegal. The law does not extend the immunity from discipline or dismissal to strikers who take part in strikes that later are declared illegal by the courts. A union that organizes an illegal strike is liable for strike-inflicted losses.

During 2001 31 enterprises and 6,776 workers took part in strikes. These figures illustrated a significant drop in strike participation from 2000, when an estimated 20,600 workers from 76 enterprises participated in strikes.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution and the Labor Code prohibit forced or bonded labor, including by children; however there were reports that such practices occurred (see Section 6.f.). Human rights groups described as compulsory labor the common use of army conscripts in the alternative service for refurbishing and building private houses for army and government officials (see Section 1.c.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The minimum age for employment is 16; however, in certain nonhazardous industries, enterprises may negotiate with the Government to hire employees as young as 15 with the consent of one parent. Children aged 14 can legally work on a short-term basis in the social sector and agriculture with the consent of one parent. The State Department for Monitoring Enforcement of Labor Legislation within the Ministry of Labor and Social Policy is responsible for enforcing child labor laws and was generally effective; however, some children under the minimum employment age worked in the informal sector. According to research conducted by the Ukrainian Institute of Social Research in cooperation with the ILO, 6.8 percent of children between the ages of 7 and 17 work. In August 2001, an interagency commission released a report on the status of child labor in the country and the Government's steps to minimize it.

The Criminal Code prescribes up to 5 years in prison for involving children in criminal activities, drinking, begging, prostitution, gambling, or other exploitation. Children worked in the agricultural sector, although child labor was also a trafficking issue (see Section 6.f.). Begging by children existed, although it was limited. On June 20, the press reported that an estimated 400,000 children aged 7 to 17 were working. During the first quarter of the year, police identified almost 1,500 offenders for involvement in child labor, 111 of them for involvement in begging.

*e. Acceptable Conditions of Work.*—Working conditions and pay levels were affected adversely by the overall poor state of the economy. The minimum monthly wage was approximately \$26 (140 hryvnia) for the first half of the year and \$31 (165 hryvnia) after July 1, and the minimum monthly pension was approximately \$6.37 (34 hryvnia). Monthly pensioners also received a supplementary social benefit of just under \$4 (20 hryvnia). In December the Rada passed and the President signed into law an increase in the minimum wage to approximately \$35 (185 hryvnia), effective January 1, 2003. The minimum wage was enforced in the official economy for employees who worked full time; however, the official subsistence level was set by parliament at approximately \$64 (342 hryvnia) per month. The average monthly salary was approximately \$73 (390 hryvnia); the average wage exceeded the subsistence level for the first time in June. While the Government sector has repaid wage arrears in most areas, in some parts of the country teachers were not paid monetary benefits (back holiday pay and service bonuses) owed to them. As of September 1, back wages to teachers totaled approximately \$840,000 (4.5 million hryvnia); all wage arrears in the economy totaled approximately \$449 million (2.39 billion hryvnia). Wage arrears remained a problem in the private sector (which includes large enterprises in which the State was a shareholder). Official estimates placed arrears at about \$636 million (3.4 billion hryvnia) as of October. The national pension system repaid all arrears during 2000. However, average wages were not as low as these statistics suggest, since the untaxed and unreported shadow economy was estimated to account for 50 percent of total economic activity. Activity in the shadow economy tended to be concentrated in retail trade and services but touched every sector and provided a means for individuals to supplement their often-meager salaries. In rural areas, where reported incomes tended to be the lowest, families subsidized their incomes by growing fruit and vegetables and raising livestock.

The Labor Code provides for a maximum 40-hour workweek, a 24-hour period of rest per week, and at least 24 days of paid vacation per year. Stagnation in some industries, for example in defense, significantly reduced the workweek for some categories of workers.

The law contains occupational safety and health standards; however, these frequently were ignored in practice. In particular, illegal coal mines connected to organized crime and corrupt leaders operated in unsafe conditions, resulting in scores of deaths. Lax safety standards and aging equipment caused 26,102 serious accidents (down from 30,841 in 2001), resulting in 1,285 deaths (114 fewer than 2001). During the first 11 months of the year, there were 250 deaths in the coal sector, 288 in the agricultural sector, and 106 in construction. In the coal-mining sector,

it was estimated that there had been 5.2 deaths for every million tons of raw coal extracted.

In theory workers have a legal right to remove themselves from dangerous work situations without jeopardizing continued employment; however, independent trade unionists reported that in reality, asserting this right would result in retaliation or perhaps dismissal by management.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however trafficking in women and girls was a significant problem. The country was a major country of origin and transit for women and girls trafficked abroad for sexual exploitation. There were some reports of men and boys being trafficked abroad primarily for labor purposes; however, the majority of trafficking victims were women. No reliable figures were available on the extent of the problem, and estimates varied widely. There were reports that individual members of government forces facilitated trafficking in persons.

The Criminal Code imposes harsh penalties for trafficking in human beings, including for sexual exploitation and pornography. Article 149 mandates 3 to 15 years in prison for trafficking. Under some circumstances—for example trafficking of children or groups of victims—traffickers can be sentenced to prison terms of up to 10 years. The Government did not routinely prosecute suspected traffickers, although the number of such cases has increased in the last year. According to the IOM, 107 cases were filed against traffickers in the first 8 months of the year, and since 1998, 298 criminal cases have been filed, not counting cases opened under other applicable laws, such as brothel keeping, organized crime, and fraud. In 2001 84 victims testified against traffickers; 202 testified in the first 10 months of the year. A total of 52 cases have resulted in prosecution since 1998, 12 of which have fully concluded and 40 awaited appeal or final sentencing. Sentences for those convicted of trafficking ranged from fines to up to 9 years in prison. The Government reported that it regularly reviewed the licenses of Ukrainian employment agencies, and suspended the licenses of 69 travel, marriage, and job agencies between January 2001 and June 2002 for involvement in trafficking.

Trafficking was becoming a higher priority for law enforcement agencies, but these agencies often lacked the financial and personnel resources to combat well-established criminal organizations that ran trafficking operations. The Ministry of Internal Affairs established special antitrafficking units at the national and oblast levels. These units became operational in 2000; however, they have had a limited impact. They suffered from lack of adequate resources and often were tasked to work on cases involving other crimes.

The Government generally cooperated with other governments in the investigation and prosecution of trafficking cases; however, efforts were hampered by a number of factors, including insufficient investigative resources, the reluctance of victims to give evidence against traffickers, and in some cases, by a lack of cooperation from officials in destination countries. The law permits the extradition of foreign nationals charged with trafficking when appropriate bilateral agreements with the country in question have been signed, when the crime was committed within the jurisdiction of another country, and when trafficking is a crime under the laws of the requesting country; however, there have been no cases of extradition of trafficking suspects. The Constitution prohibits the extradition of Ukrainian citizens. Government cooperation with NGOs improved during the year. A June 5 decree by the Cabinet of Ministers mandated that central, regional, and local administrations develop and approve measures to combat trafficking in persons and mobilize funds to implement actions. The oblast governments responded quickly to the decree. For the first time, almost all the local and regional authorities included NGOs as partner organizations in their regional action plans. The relevant authorities, however, had yet to budget for any new activities.

Between January 2000 and August 2002, the IOM assisted 582 trafficking victims (including 286 during the first 11 months of the year) to return to Ukraine and reintegrate into society. From January 2001 to June 2002, the NGO La Strada assisted an additional 172 victims to return home and reintegrate. These numbers, however, represented a small fraction of the total number of women trafficked abroad. The IOM estimated in 1998 that 100,000 citizens had been trafficked abroad since 1991. In 1999 La Strada estimated that 420,000 women had been trafficked abroad between 1991 and 1998. In unofficial estimates, Winrock representatives conservatively projected that between 8,000 and 10,000 individuals were trafficked from Ukraine during the year. There were unconfirmed reports that local officials abetted or assisted organized crime groups involved in trafficking.

Women and girls were trafficked to Central and Western Europe (including the Balkans, Austria, Italy, France, Germany, Switzerland, the Czech Republic, Hungary, Portugal, Spain, Poland, Greece, and Turkey), the United States, and the Mid-



dle East (including Israel, Lebanon, and the United Arab Emirates) for sexual exploitation; there also were reports that women and girls were trafficked from the country to Australia, Japan, and South Africa. Women who were trafficked out of the country often were recruited by firms operating abroad and subsequently were taken out of the country with legal documentation. They were solicited with promises of work as waitresses, dancers, or housemaids or were invited by marriage agencies allegedly to make the acquaintance of a potential bridegroom. Once abroad the women found the work to be very different from what was represented to them initially. There were credible reports of widespread involvement of organized crime in trafficking.

NGOs reported that local militia and border guards received bribes in return for ignoring trafficking. Some reports alleged that local public officials abetted or assisted organized criminal groups in trafficking women abroad. In a 1999 report, the UNDP identified graft of officials and political corruption as two of the factors causing the spread of trafficking and prostitution; however, data on the possible prosecution of law enforcement and border control authorities for their involvement in trafficking was unavailable.

Victims often were reluctant to seek legal action against traffickers out of fear of reprisals or unwillingness to tell their stories publicly. Societal attitudes toward trafficking victims often were harsh, which deterred women from pursuing legal action against traffickers. In addition, law enforcement officials did not provide sufficient protection to witnesses to encourage them to testify against traffickers, and traffickers were able to intimidate victims to withdraw or change their testimony. A witness protection law exists but was in abeyance because of lack of funding. Under the law, names and addresses of victims of crimes can be kept confidential if they request protection due to fear for their lives.

The Government was unable to assist victims effectively, primarily due to lack of funds. NGOs such as the domestic affiliates of La Strada and Winrock International offered some support services for victims of trafficking, but these groups also suffered from a shortage of funds. The IOM's Kiev mission, in cooperation with its missions in destination countries, began providing return and reintegration assistance to victims. The IOM and NGOs, particularly La Strada and Winrock International, worked closely with government officials; however, NGOs reported that lack of a central government authority on trafficking issues could be frustrating, and the Government did not provide assistance to victims. With foreign government assistance, seven regional trafficking prevention and women's support centers were in operation at year's end in Donetsk, Lviv, Dnipropetrovsk, Chernivtsi, Kherson, Rivne, and Zhytomyr. The centers offered job-skill training and telephone hot lines and served as referral centers for health, legal, and psychological counseling. On February 8, the IOM opened a comprehensive medical center and shelter for victims of trafficking. Between February and August, the center provided medical and psychological services, including vocational counseling, to 88 trafficking victims. These centers, as well as additional NGOs funded by the IOM, also played an important role in facilitating good relations and cooperation between victims, communities, and law enforcement organizations in addressing trafficking issues. NGOs also operated hot lines in Luhansk, Odesa, Kharkiv, Ternopil, and Sevastopol. During the year, La Strada hot lines received 4,061 calls, 72 percent of which concerned consultation on working abroad. Since November 1997, La Strada has received over 12,526 calls. Winrock International reported 16,854 calls to its hot lines during the year; 15 percent concerned trafficking, and the majority of the callers were between 19 and 30 years of age. The Government worked to improve assistance provided by its diplomatic missions to victims in destination countries.

The Deputy Prime Minister for humanitarian affairs is responsible for implementing all antitrafficking programs. In 1999 the Human Rights Ombudsman established a National Coordinating Council for the Prevention of Trafficking in Human Beings, and the organization increasingly has become an outspoken and leading advocate in the Government for raising public and international awareness of the trafficking problem; however, the Ombudsman's office lacked enforcement powers and has not demonstrated its practical effectiveness (*see* Section 4). A National Action Plan to Counter Trafficking for 2002-05 was approved by the Cabinet of Ministers on June 5. In 1999 the Ministry of Education adopted a curriculum in trafficking as part of the first national program on trafficking prevention and awareness in high schools.

During the year, several television stations broadcast documentary films and informational programs highlighting the danger of trafficking. During the year, there were several international roundtable discussions and a major conference on trafficking held in Kiev.

NGOs conducted general awareness campaigns throughout Ukraine, often in cooperation with government entities. For example, an international conference on trafficking took place in Kiev in October. Winrock also produced and showed a film documentary on trafficking. These activities, together with the constant attention to the trafficking problem by the Ombudsman, helped to raise public awareness.

## UNITED KINGDOM

The United Kingdom of Great Britain and Northern Ireland is a longstanding constitutional monarchy with a democratic, parliamentary government. Some central government powers have been devolved to locally elected bodies in Wales, Scotland, and Northern Ireland. In Northern Ireland, the 1998 Good Friday Agreement established local government institutions, including a legislative assembly and a power-sharing executive. The judiciary is independent.

Civilian officials maintained effective control of the police forces. In Great Britain, regional police forces were responsible for maintaining law and order; in Northern Ireland, the Police Service of Northern Ireland (PSNI) was responsible for maintaining law and order. In some areas of Northern Ireland, because of the continuing threat of violence, army units operated to reinforce the PSNI. There were approximately 14,000 British troops stationed in Northern Ireland, among the lowest number since the early 1970's. There were some complaints that individual members of the police committed some human rights abuses.

A highly developed, diversified, market-based economy with extensive social welfare services provides most of the country's 58.8 million residents with a high standard of living.

The Government generally respected the human rights of its citizens; although there were some problems, the law and judiciary provided effective means of dealing with individual instances of abuse. There were some complaints that individual members of the police and military occasionally abused detainees and some other persons. Prison conditions remained a problem, including instances of mistreatment by prison officials and overcrowding. There were occasional cases of societal violence and discrimination against women, ethnic minorities and asylum seekers, which the Government continued to combat. Trafficking in persons remained a problem, which the Government took steps to address. The United Kingdom was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

Although many paramilitary organizations in Northern Ireland continued to maintain a cease-fire in accordance with the Good Friday Agreement, punishment attacks have continued to occur in areas under the influence of these groups, and some dissident groups committed acts of violence, including killings, aimed at disrupting the peace process.

On October 14, the Northern Ireland Assembly and Executive were suspended and the Government temporarily re-instituted direct rule headed by the Secretary of State for Northern Ireland and four ministers. The Government reiterated its commitment to the Good Friday Agreement and continued to work towards its implementation, including reestablishment of the Assembly and Executive in Northern Ireland.

### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings by the Government or its agents.

According to the Annual Report of the Police Complaints Authority (PCA), there were 36 deaths in police care or custody during the 12 months ending in March, compared with 32 in 2000–2001. The PCA reported that 10 of the deaths occurred because of natural causes, 20 were due to alcohol or drugs, 4 were suicides, and 2 due to other causes, specifically persons who fell from a window. The Home Office and the Police Complaints Authority have initiated a range of actions aimed to eliminate such deaths, including safer custody facilities, improved training, CCTV monitoring, piloting new technologies, and emphasis on better care, assessment and monitoring of detainees.

In May three detectives faced disciplinary action over their investigation into the 1999 death of Roger Sylvester. In 2000 the Crown Prosecution Service (CPS) ruled that there was insufficient evidence for a criminal trial; however, a coroner's inquest is scheduled to begin in 2003.

On June 21, the jury of the coroner's inquest returned an open verdict to the 1999 police shooting of Harry Stanley after the CPS ruled in 2000 that there was insufficient evidence for a criminal trial. The family's appeal of the verdict was ongoing at year's end.

There also were a number of deaths in prison due to suicide and natural causes (see Section 1.c.). The inquest into the 1996 death while in prison of Jim McDonnell remained ongoing at year's end.

In May the UK and Irish governments appointed the Honorable Judge Peter Cory to "establish the facts and report with further recommendations" regarding allegations of past state involvement, collusion or culpability in six Northern Ireland and Republic of Ireland cases of killings of: Pat Finucane in 1989, Billy Wright in 1997, Robert Hamill in 1997, Rosemary Nelson, Lord Justice and Lady Gibson in 1987, and police officers Harry Breen and Bob Buchanan in 1989. The Government pledged to conduct a public inquiry into any of these cases if so recommended by the judge.

Hearings continued in the judicial inquiry into the events in Northern Ireland on January 30, 1972—"Bloody Sunday"—when 13 unarmed civil rights demonstrators in Londonderry were killed by British soldiers but for which no member of the security forces were held accountable.

The NGO British Irish Rights Watch reported that paramilitary groups were believed to be responsible for at least 13 killings in Northern Ireland.

In January police charged Colm Murphy with aiding and abetting the 1998 bombing in Omagh. He was serving a 14-year jail sentence after being found guilty of conspiring to cause an explosion. In July five men, including Colm Murphy, were served with civil writs for compensation by some of the Omagh victims. In August some of the Omagh victims initiated actions for compensation against the Secretary of State for Northern Ireland and the PSNI for failing to prevent the bombing. Family members of the victims criticized Sinn Fein, a legal political party linked with the IRA, for refusing to assist in the police investigation; they were pursuing a civil suit against the RIRA at year's end.

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

The British and Irish governments in 1999 jointly established the Commission for the Location of Victims' Remains to locate the remains of nine victims of IRA paramilitary violence from the 1970s. It located the remains of three persons in 1999, suspended its work in 2000 pending the receipt of additional information from the IRA, and resumed the search for the body of Charles Armstrong in May. This search was abandoned 3 weeks later due to the exhaustion of available information. No more bodies have been found.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, there were complaints that individual members of the police and army occasionally abused detainees. Human rights organizations maintain that such abuse, while not widespread, was a matter of serious concern (see Section 1.a.).

Detainees who claim physical mistreatment have the right to an immediate medical examination. A trial judge must examine such a claim. Confessions obtained by abusive treatment are not admissible in court, and judges can exclude even voluntary confessions.

The Independent Assessor of Military Complaints coordinates investigations into complaints of abuses committed by the Army in Northern Ireland. Its June 19 report cited a 21.5 percent drop from the previous year in the number of complaints received.

Human rights groups continued to call for an end to the use of plastic bullets, which were used by the police and military in Northern Ireland to quell civil disturbances. The police have introduced safeguards on the use of plastic bullets and the Police Ombudsman reviewed every instance when the police fired a plastic bullet. Between April 2001 and March, the Police Ombudsman produced seven reports on incidents relating to the discharge of plastic bullets by police officers. In each incident, investigators concluded that the discharge was justified and proportionate. The firing by soldiers acting in support of the police did not come under the Ombudsman's jurisdiction. No deaths occurred as a result of plastic bullets.

Reports by official bodies and NGOs have suggested that the public lacked confidence in existing procedures for making complaints against the police, with more complainants taking their cases directly to the civil courts. There were 7,148 complaints filed with the PCA from April 2001 through March, 732 fewer complaints than filed in the previous period. Almost one-quarter of the cases reviewed by the PCA between April 2001 and March resulted in some form of disciplinary or legal action.

In June the Government passed the Police Reform Act, which among other things replaces the PCA with the Independent Police Complaints Commission (IPCC). The legislation grants the IPCC its own body of investigators with the powers to investigate matters of police misconduct completely separately from the police. The IPCC allows for greater involvement of the complainant in the investigation; greater openness in disclosing materials to the complainant; more effective powers to direct that disciplinary charges be laid against police officers; and greater independence of the person carrying out the IPCC investigation. All deaths in police custody will be referred to the IPCC. The Act also provides for a National Policing Plan to set priorities for policing and measures to ensure the most effective methods are used by all police forces.

The armed forces have a procedure to handle complaints of harassment, racial and otherwise. Service personnel also have the right to submit complaints to employment tribunals. In 1998 the services entered into a 5-year partnership agreement with the Commission on Racial Equality (CRE) to promote racial equality practices. On September 16, the Crown Prosecution Service entered into a partnership with the CRE designed to assist in its continued progress towards the elimination of racial discrimination.

The Police Ombudsman for Northern Ireland, who has an independent staff, has extensive powers to investigate complaints in Northern Ireland filed against the police or referred by the PSNI chief constable, the Police Authority of Northern Ireland, or the Secretary of State for Northern Ireland. The Ombudsman is required to investigate cases involving death or serious injury where there may have been police involvement and may investigate all other cases of complaints against the police. The Ombudsman may recommend to the Director of Public Prosecutions (DPP) that charges be brought against officers, although the final decision rests with the DPP. The Ombudsman can direct the Chief Constable to take disciplinary action against police officers.

Between November 2000 and March 31, the Ombudsman received 6,341 complaints, approximately two-thirds of which concerned oppressive behavior or incivility by the police. As of March 31, 1,794 cases were resolved, 64 of which resulted in disciplinary action or criminal charges.

Parliament enacted legislation implementing the 1999 Patten Report on Policing in Northern Ireland in November 2000. The law imposed hiring quotas to increase Catholic representation in the PSNI and introduced new human rights standards and wider use of community policing practices. Respect for human rights is part of the appraisal process for staff evaluation. In September Hugh Orde was appointed the new Chief Constable of the PSNI. A cross-community Policing Board, with a majority elected membership, holds the Chief Constable and police service accountable. Sinn Fein has refused to participate and has declined to encourage Catholics to join the police, as called for in the Patten Report. In May and September reports, the Oversight Commissioner charged with reviewing the Patten reforms criticized the delay in integrating Special Branch and Crime Branch and the lack of progress in establishing District Policing Partnerships and a new police training college. The Commissioner also noted areas of progress, including the March release of the first Policing Plan by the Policing Board, the January endorsement by the Police Board of the Police Service's strategic plan for community policing, the progress of the Police Service's Analysis Center, and the April 5 signing of the Inter-Governmental Agreement by the British and Irish governments.

Both loyalist and republican paramilitary groups in Northern Ireland continued to intimidate or carry out "punishment" attacks on individuals who lived in areas under paramilitary influence. The attackers have used iron pipes, baseball bats, sledgehammers, and spiked clubs to beat their victims or shot them in the knees and legs. The attacks often were intended to maintain or extend the control of paramilitary groups in a given region. The Northern Ireland Human Rights Commission reported that between April 2001 and March 2002, there were 302 "punishment" attacks, compared with 323 in the previous year. Of these, 190 were paramilitary-style shootings and 112 were beatings, with loyalists suspected of responsibility in nearly two-thirds of the cases. Human rights groups stated that available statistics underreported the true number of casualties because many of the individuals were too intimidated to report paramilitary punishment attacks.

On September 29, Danny McBrearty was bludgeoned and shot three times in Londonderry/Derry, which police have attributed to the PIRA (*see* Section 2.d.). On October 15, police arrested a person in connection with the shooting.

Immigrants and asylum seekers were subject to some societal violence and attacks during the year (*see* Section 5).

Prison conditions generally met international standards; however, instances of mistreatment by prison officials, overcrowding, and suicides occurred. A September

17 report by the Prison Reform Trust warned that prisons in England and Wales suffered from an overcrowding crisis which threatened prison safety, leading to prisoners being held in inhumane and degrading conditions. The Prison Service attempted to correct the problems of overcrowding and poor facilities by providing funding for 2,320 new places. The prison population in England and Wales increased slightly over the previous year from 66,049 inmates to 72,660.

On October 23, approximately 150 inmates at Lincoln Prison rioted for 8 hours, set a wing of the prison on fire, and destroyed approximately 200 bed spaces. A group of prisoners attacked a guard, stole his keys and released fellow inmates from their cells to set off the riot. Hundreds of inmates were subsequently transferred to other prisons due to the lost space. The Prison Officers' Association stated that severe overcrowding and insufficient staffing levels had caused friction at the prison.

On March 27, an appeals court ruled that a public inquiry into the racially motivated killing of Zahid Mubarek while in prison in 2000 was not warranted. Since the cause of death had been established by the conviction of cellmate Robin Stewart for the murder, the court stated that there was no basis for prosecuting any member of the prison service.

In June Amnesty International (AI) reported authorities were not sufficiently protecting the human rights of incarcerated minors with respect to inter-prisoner violence, suicides, investigations into deaths in prison, abuse, segregation, and prison conditions and called for a public inquiry to examine these issues.

On March 14, the European Court of Human Rights ruled that the Government had breached the European Convention on Human Rights on four counts relating to the 1994 death of Christopher Edwards who was beaten to death by his cellmate; both were diagnosed as mentally ill. On May 28, the Court concluded that the Government had violated Dermot McShane's right to life as a result of its failure to ensure an effective investigation into his 1996 death in Londonderry/Derry.

On August 28, the Howard League for Penal Reform stated that 64 percent of jails were overcrowded. In February the new Chief Inspector of Prisons reported on abusive conditions in Dartmoor prison, where inspectors said nearly a quarter of the 700 inmates reported being verbally abused by staff.

The Howard League for Penal Reform reported that 94 persons committed suicide in prisons in England and Wales, an increase of 29 percent from 2001. In June Mark Fulton, a key suspect in the murder of lawyer Rosemary Nelson, was found strangled by his own belt in his cell.

Human rights groups have been particularly critical of Special Security Units (SSUs), which were used to hold prisoners deemed to pose an exceptional risk of escape. Human rights monitors have criticized small group isolation; the lack of adequate exercise, work, educational opportunities, and natural daylight; and the strict enforcement of noncontact visits through a glass barrier. At year's end, there was only one SSU in operation, holding a small number of prisoners. Prisoners held in the SSU were provided with all the facilities required under Prison Rules, although those facilities were delivered within the Unit and not in the main part of the prison. The SSU was also subject to independent inspection by HM Chief Inspector of Prisons.

The number of female prisoners continued to rise. Implementing the recommendations of a 1999 report by its women's policy group, the Prison Service adopted new procedures governing admission to mother and baby units and standards for their management. There were four Mother and Baby units in England, which provided 64 places for mothers to keep their children with them while in prison.

After April 30, the Government stopped the routine use of prisons to hold immigration detainees. People held solely under immigration legislation were accommodated in Immigration Service Removal Centers under Detention Center rules, unless they had completed a sentence of 12 months or more in a British prison or were held for reasons of security and control.

In the prison system, women were held separately from men, juveniles from adults, and pretrial detainees from convicted prisoners.

Separate and distinct prison regimes exist for Northern Ireland and Scotland, administered through the Northern Ireland Office and the Scottish Office, respectively. The Government permitted independent human rights observers to visit prisons and immigration detention centers. An April report by the Council of Europe's Committee for the Prevention of Torture (CPT) found during its February 2001 visit that the three basic safeguards against ill-treatment of persons detained by the police advocated by the CPT on the whole operated in a satisfactory manner. The report also found that conditions of detention continued to be satisfactory in police stations in the London region, but recommended that authorities review these conditions in Wales.

NGOs reported complaints from prisoners in Maghaberry jail concerning their personal safety. Prisoners reported death threats and assaults by members of opposing factions. NGOs called for greater provisions to protect the prisoners.

*d. Arbitrary Arrest, Detention, or Exile.*—The law prohibits arbitrary arrest or detention, and the Government generally observed these prohibitions; however, arrests may be made without judicial warrants, particularly in Northern Ireland, when police have reasonable cause to suspect wrongdoing, and antiterrorism legislation gives authorities broad powers of arrest, detention, and interrogation.

The law allows police officers to stop and search vehicles and pedestrians if a police officer of at least superintendent rank (or a chief inspector if no superintendent is available) “reasonably believes” it is expedient to do so to prevent acts of violence. The authorization is limited to a 24-hour period but is renewable under certain circumstances. Under the law, suspects arrested without warrants must be released within 24 hours (or 36 hours if a serious offense is involved) unless brought before a magistrates’ court or arrested under Terrorism Act provisions. The court may authorize the extension of detention by 36 hours and on further application by another 24 hours.

The 2000 Terrorism Act entered into force in February 2001. The act widens the definition of terrorism and reforms mechanisms and powers that deal with terrorism relating to Northern Ireland and extends them to all forms of domestic and foreign terrorism in the United Kingdom. It also provides for special emergency powers applicable to Northern Ireland for a period of up to 5 years. These powers include special entry, arrest, search, and seizure authority without a warrant under certain circumstances. In February the Home Office issued the “Secure Borders, Safe Haven” White Paper and, on November 7, the Nationality, Immigration, and Asylum Act was passed. The Act reformed the asylum system by establishing a system of induction, accommodation, and removal centers to expedite the process and reduce abuses. On October 4, the NGO Asylum Coalition condemned the bill for its plans to educated asylum-seeking children in accommodation centers rather than in local schools.

While there is no law prohibiting forced exile, the Government did not employ it.

*e. Denial of Fair Public Trial.*—The law provides for an independent judiciary, and the Government generally respected this provision in practice. There are several levels of courts. Most criminal cases are heard by magistrates’ courts, which are managed by locally based committees. Their decisions may be appealed to the Crown Courts, which also hear criminal cases requiring a jury trial, or to the High Courts. Crown Court convictions may be appealed to the Court of Appeal, which may in turn refer cases involving points of law to the House of Lords. The Appellate Committee of the House of Lords (which consists of senior judges and was functionally distinct from the legislative arm) is the final court of appeal. The Criminal Cases Review Commission operates as an additional appellate body in England, Wales, and Northern Ireland. It considers cases after the judicial appeals process are exhausted and where there is significant new evidence that casts doubt on the conviction. In Scotland similar appeals may be made to the Scottish Office.

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. Defendants enjoy a presumption of innocence until proven guilty, the right to question witnesses against them, and the right of appeal to successively higher courts. Indigent defendants have the right to free counsel of their choice, with some exceptions. UNHCR reported that the right of asylum seekers to free legal advice was severely limited by a shortage of competent legal advice in the regions and of funding for such advice elsewhere.

Criminal proceedings must be held in public except those in juvenile court and those involving public decency or security. In a trial under the Official Secrets Act, the judge may order the court closed, but sentencing must be public.

The law empowers judges to instruct juries that they may draw an inference of guilt from a defendant’s refusal to answer questions during interrogation or trial, although no conviction can be based solely on such an inference. Human rights groups and the U.N. Human Rights Committee have criticized this provision, which they considered an abrogation of the right against self-incrimination. A similar provision is in effect in Northern Ireland, but the law prohibits the drawing of an inference from silence when a suspect is questioned before being permitted access to an attorney. The European Court of Human Rights had ruled that, taken in isolation, drawing inferences from silence did not contravene the accused’s right to a fair trial guaranteed by Article 6 of the European Convention on Human Rights and Fundamental Freedoms. However, the Court decided that the possibility of inferences being drawn from the silence of an accused while he was denied access to legal advice constituted a breach of the requirement for a fair trial under Article 6.

A small percentage of defendants faced lengthy pretrial detention (*see* Section 1.d.). The Crime and Disorder Act includes measures to reduce delays in criminal proceedings by introducing procedural reforms and further limiting the time allowed for the prosecution of cases.

The 1996 Criminal Procedures and Investigations Act reduced defense lawyers' access to potential evidence held by the prosecution, including information as to how the evidence was collected.

Under the 2000 Terrorism Act, the opinion of a senior police officer that an individual is a member of terrorist organization is admissible as evidence in criminal proceedings, but a person cannot be charged or convicted solely on this basis. The provision is a temporary measure for Northern Ireland, requires annual renewal, and has not been used to date (*see* Section 2.b.).

In Northern Ireland, trials for certain terrorist-related offenses are conducted automatically as "scheduled cases," also referred to as "Diplock cases," without a jury unless they specifically are "scheduled out" to ordinary jury courts. If judges decide to convict, they must justify the decision in a document that becomes part of the court record. An appellate court may overturn the decision on either factual or legal grounds. From January 1 through October 31, 75 persons were tried as "scheduled cases," of whom 32 either pled or were found guilty. A person convicted in a "scheduled case" has an automatic right of appeal. The Government's continued reliance on "scheduled cases" has been criticized widely by human rights groups. In July the Government repealed section 76 of the Terrorism Act, which meant that the standard for admissibility of confession in the "scheduled cases" is now the same as that in ordinary criminal courts.

The PSNI introduced a Police Order regulating the relationship between police officers and defense lawyers. The NGO British Irish Rights Watch stated that some NGOs had reported that threats against lawyers had ceased due to new interview procedures, but that in non-interview situations some lawyers continued to receive threats.

In response to the 2000 Northern Ireland Criminal Justice Review, the Government introduced draft legislation in December 2001 to implement the recommendations. Some NGOs criticized the Bill and implementation plan as weak, especially in relation to prosecutions and judicial appointments.

The Human Rights Act requires all public bodies to act in a manner compatible with the European Convention on Human Rights. The law provides citizens with the right to take alleged violations of the convention by a public authority into British courts.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits such actions, and the Government generally respected these prohibitions in practice. Warrants normally were required for a police search of private premises. A police officer may enter and search without a warrant "any premises if he or she reasonably suspects a terrorist is to be found there." The Government compensates persons whose houses or property are damaged during house searches. Police stop minorities for searches more often than whites (*see* Section 5).

Under the Regulation of Investigatory Powers Act (RIPA) the Government may monitor the content of private electronic communications after obtaining a warrant. Law enforcement agencies may require individuals and businesses to disclose encryption keys under certain circumstances. Businesses may monitor the electronic communications of employees.

Three NGOs, British Irish Rights Watch, Liberty, and Irish Council for Civil Liberties, took a case to the European Court of Human Rights, stating the Government had intercepted their telephone calls to clients in Ireland without a warrant.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The law provides for freedom of speech and of the press, and the Government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combine to secure freedom of speech and of the press. Viewpoints critical of the Government were well represented.

Press organizations and human rights groups continued to criticize 1981 legislation that allows courts to order a journalist to disclose a source if it is deemed to be in the interests of justice and 1984 legislation that compels journalists to give evidence in cases where police can prove it is necessary to their investigation. Journalists cited the Official Secrets Act as unduly restrictive by prohibiting the legal defense that the information provided by a source is already in the public domain or that its publication is in the public interest.

The print media was dominated by more than a dozen national daily and Sunday newspapers, all privately owned and independent (although often generally aligned with a political party). Approximately one-half of the electronic media was run by the BBC, which was funded by the Government but enjoyed editorial independence. Corporations under renewable government licenses operated the remainder.

The investigation into the 2001 drive-by shooting in Northern Ireland of journalist Martin O'Hagen continued at year's end.

The 2000 Freedom of Information Act (FIA) is scheduled to be implemented by November 2005. The FIA would provide the public with access to information held by the Government. Critics charge that the FIA exempts too much information from disclosure on the grounds that the public interest in withholding it outweighs the benefit of its disclosure.

The Government did not restrict Internet access. In May the Government launched a task force to combat pedophilia on the Internet (*see* Section 5).

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The law provides for the right of peaceful assembly; however, the Government may limit that right if it would impose a cost on public convenience.

In Northern Ireland, the annual “marching season” poses problems as local residents in some Catholic communities perceive the parades as threatening and provocative. The Public Processions (Northern Ireland) Act grants responsibility for ruling on “contentious” marches to a Parades Commission. The Commission may not ban marches, only impose conditions on them, such as route restrictions. Of the 3,301 notified parades held between April 2001 and March 2002, 220 were considered contentious; the Parades Commission imposed restrictions on 152. Some parades by the “Loyal Institutions” (the Royal Black Preceptory, Orange Order, and Apprentice Boys), whose membership is almost exclusively Protestant, have been prevented from passing through nationalist areas because of public order concerns.

The law provides for freedom of association, and the Government generally respected this right in practice. However, under the 2000 Terrorism Act, it is an offense, punishable by up to 10 years' imprisonment, to belong to or profess to belong to a terrorist organization proscribed by the Home Secretary. Individuals also were subject to prosecution for supporting or inviting support for a proscribed terrorist organization, arranging or addressing meetings by proscribed organizations, or wearing clothing or carrying or displaying articles that would reasonably arouse suspicion of membership in a proscribed organization. The Act allows for the seizure and forfeiture of assets belonging to a person convicted of fundraising or otherwise assisting or supplying property to be used for the purposes of terrorism.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice. The Government at all levels strives to protect this right in full and does not tolerate its abuse, either by governmental or private actors.

There were two established churches: The Church of England (Anglican) and the Church of Scotland (Presbyterian). Other than in the House of Lords, membership in a given religious group does not confer a political or economic advantage.

The Government did not recognize Scientology as a religion for the purposes of charity law. Scientology ministers were not considered ministers of religion for the purpose of immigration relations or facilitating prison visits. However, prisoners were free to register their adherence to Scientology; this is reflected on their records.

The law requires religious education in publicly maintained schools throughout the country. The shape and content of religious instruction is decided on a local basis and must be nondenominational and refrain from attempting to convert pupils. All parents have the right to withdraw a child from religious education, but the schools must approve this request.

In addition, schools have to provide a daily act of collective worship. This requirement may be waived if a school's administration deems it inappropriate for some or all of the students. Under some circumstances, non-Christian worship may be allowed. Teachers' organizations have criticized school prayer and called for a government review of the practice.

While the majority of state-supported schools were Anglican or Catholic, there were a small number of Methodist, Muslim, and Jewish schools.

During the year, there were isolated attacks against Muslims. The Government condemned the violence, and “religiously aggravated offenses” is part of the Anti-Terrorism, Crime, and Security Act 2001.

According to the Community Security Trust, there were 350 anti-Semitic incidents reported, including at least 47 assaults. Public manifestations of anti-Semitism were



confined largely to the political or religious fringes. At the end of April, suspected neo-Nazis desecrated a synagogue in the Finsbury Park area of north London, leaving windows smashed, religious artifacts defaced, and crude swastikas painted everywhere; two senior Labor and Conservative politicians united "to condemn those who daubed swastikas and smashed windows in a north London synagogue."

The Human Rights Act prohibits discrimination on the basis of religion by public authorities. In Northern Ireland, the Fair Employment Act specifically bans employment discrimination on the grounds of religious beliefs. All public sector employers and all private firms with more than 10 workers must report annually to the Equality Commission on the religious composition of their work force and must review their employment practices every three years. Noncompliance may bring criminal penalties and the loss of government contracts. Unemployment in Northern Ireland registered 5.7 percent in November, continuing the relatively low level of unemployment since 1997. The Catholic unemployment rate was approximately 3½ percentage points higher than the rate for Protestants, down from the approximately 9 percentage point difference in 1992. Victims of employment discrimination may sue for damages.

The 1998 Good Friday Agreement aimed to create a lasting settlement to the conflict in Northern Ireland and a society based on equality of opportunity and human rights. However, the fear of intercommunal violence has, over the years, led to a pattern of segregated communities in Northern Ireland. Many Protestant and Catholic families have moved away from mixed or border neighborhoods.

The police in Northern Ireland reported approximately 30 attacks against both Catholic and Protestant churches, schools, and meeting halls in 2001. Such sectarian violence often coincided with heightened tensions during the spring and summer marching season (see Section 2.b.).

Protests in the predominantly Protestant Glenbryn area of north Belfast against Catholic pupils of Holy Cross primary school continued sporadically. Protests also occurred in other interface areas dividing predominantly Protestant and predominantly Catholic areas in North Belfast and in Short Strand. Residents complained of curfews and uneven policing.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government generally respected them in practice. Citizens enjoyed freedom of movement within the country, foreign travel, emigration, and repatriation.

Paramilitary organizations in Northern Ireland continued to threaten individuals and families to compel them to leave the Province. In one such case, the family of Joseph McCloskey remained in exile in England after a PIRA death threat in 2001 (see Section 1.a.).

The law provides for the granting of asylum and refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperated with the office of the UNHCR and other humanitarian organizations in assisting refugees. The law provides for first asylum.

Applicants may apply for asylum or refugee status upon arrival or after entering the country. The law permits all asylum seekers to remain temporarily in the country at least until immigration authorities consider their application and, if they are refused asylum, until their rights of appeal are exhausted. Some asylum seekers were detained while the Government reviewed their cases; the Government dispersed detainees throughout the country, in housing estates or government facilities (see Sections 1.c. and 1.d.).

From January to September, the Government acted on 125,625 initial asylum applications, granting asylum in 6,025 cases. The Government refused asylum in an additional 15,805 cases but granted those applicants "exceptional leave to remain." At the end of September, 37,200 asylum cases were outstanding. During the first quarter of the year, asylum statistics showed that initial decisions were being made more quickly and that the backlog had fallen to its lowest level in over a decade.

In 2000 the Government issued guidelines for use by the courts in considering asylum claims by women. Judges were urged to consider situations more likely to be faced by female asylum applicants, including female genital mutilation and trafficking (see Sections 5 and 6.f.).

The treatment of asylum seekers was the subject of considerable media attention and political debate during the year (see Section 1.d.). On August 6, police closed the forensic investigation into the February 14 fire and mass breakout at Yarl's Wood detention center. Police and archaeologists reported it was highly improbable that anyone had died in the fire as no human remains were found. Fourteen of the 40-plus detainees who escaped remained at large at year's end. The center remained

closed, and 13 people were arrested and charged with violent disorder and arson. On August 28, Tayman Bahmani, an Iranian asylum seeker, was stabbed to death in Sunderland.

There were no reports of the forced return of persons to a country where they feared persecution.

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

Citizens have the right to change their government peacefully and freely exercised that right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The lower chamber of Parliament, the House of Commons—the center of legislative power—is elected in periodic, multiparty elections. The upper chamber, the House of Lords, has the power to revise and delay but not block the implementation of laws; it is made up of approximately 500 appointed life peers, 92 hereditary peers and 26 senior clergy of the established Church of England.

The Government is formed on the basis of a majority of seats in the House of Commons, which are contested in elections held at least every 5 years. Participation in the political process is open to all persons and parties. All citizens 18 years of age and older may vote. Institutions such as the Northern Ireland Assembly, the Scottish Parliament, and the Welsh Assembly have control over matters of regional importance, such as education, health, and some economic matters. Foreign affairs and defense continued to be the responsibility of the central government. As in the rest of the country, Northern Ireland has city and district councils but with fewer powers. England and Wales also have county councils.

On October 14, the Northern Ireland Assembly and Executive were suspended. The suspension came in the wake of October 4 raids on homes belonging to Sinn Fein members and a Sinn Fein office at the seat of Northern Ireland's devolved government, the Parliament Building. The raids were prompted by an alleged Sinn Fein/IRA spy operation inside the Northern Ireland Office in Belfast. The Government temporarily re-instituted direct rule headed by the Secretary of State for Northern Ireland and four ministers. The Government reiterated its commitment to the Good Friday Agreement and continued to work towards its implementation, including reestablishment of the Assembly and Executive in Northern Ireland.

The small number of remaining overseas British territories have an aggregate population of approximately 190,000. They enjoy varying degrees of self-government based on the British model, with appointed governors.

Women did not face any legal constraints on voting or holding office. Women constituted 18 percent of the members of the House of Commons and approximately 15 percent of those in the House of Lords. In January the Government's Women and Equality Unit began a campaign, including a regional seminar series, to increase the number of women holding public appointments at the national level. Twelve members of Parliament have identified themselves as members of minority ethnic groups.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Proceedings under the Human Rights Act—which incorporated the provisions of the European Convention on Human Rights into domestic law—may be brought only by victims of a breach of convention rights by a public authority. The Home Office has a human rights unit with responsibility for human rights policy and legislation. NGOs have criticized the Government for its failure to create a government-wide Human Rights Commission. In Northern Ireland, a Human Rights Commission was established as an outcome of the peace process to provide legal advice and assistance to citizens. The Commission was consulting on a bill of rights specific to Northern Ireland, pursuant to the Good Friday Agreement, which also mandated wide-ranging reforms in policing and criminal justice. Recommendations on a bill are scheduled for 2003. Two members of the Commission resigned in September, citing the Government's failure to provide adequate resources to the Commission. While cases still may be taken to the European Court of Human Rights, all domestic remedies under the Human Rights Act must be exhausted first.

A number of international human rights NGOs, including AI and Human Rights Watch, were based in the country. The Government cooperated fully with international inquiries into alleged violations of human rights.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

The 1976 Race Relations Act prohibits incitement to racial hatred and discrimination on the basis of race, color, nationality, or national or ethnic origin; some groups continued to experience official and societal discrimination.

The Human Rights Act prohibits discrimination on the basis of religion by public authorities. In Northern Ireland the Fair Employment Act specifically banned employment discrimination on the grounds of religious beliefs. The 1998 Fair Employment and Treatment Order extended the prohibition on discrimination to the provision of goods, facilities, services, and premises. The Northern Ireland Equality Commission oversees antidiscrimination policy. Section 75 of the Northern Ireland Act 1998 places all public authorities under a duty to promote equality of opportunity.

*Women.*—Violence against women continued to be a problem. According to Home Office statistics, from May 2001 to April 2002, there were 9,743 rapes and 21,765 indecent assaults. The report stated that sexual offenses were significantly underreported.

Criminal penalties for rape, including spousal rape, sexual assault, and domestic violence are substantial, and these laws were enforced strictly; however, conviction rates for rape tended to be lower than for other crimes. The law provides for injunctive relief, personal protection orders, and protective exclusion orders (similar to restraining orders) for women who are victims of violence. The Government provided shelters, counseling, and other assistance for battery or rape and offered free legal aid to battered women who were economically reliant on their abusers. The law prohibits defendants themselves from conducting cross-examinations of complainants in rape and sexual offense trials. In 2001 the Government placed restrictions on the admissibility into evidence of a complainant's previous sexual history. Female genital mutilation is illegal but was practiced by immigrant populations from countries in which the practice is common. The extent to which the procedure was used is unknown, but the Government continued to work to eradicate it.

Trafficking in women remained a problem (*see* Section 6.f.).

No law specifically prohibits sexual harassment; criminal action for sexual harassment cases must be prosecuted under assault legislation. Women's groups have complained that civil suits concerning sexual harassment and discrimination on the basis of gender at times take up to 3½ years to appear before an industrial tribunal.

The law provides for equal opportunity between the sexes, but women experienced some discrimination in practice. The law prohibits both direct and indirect discrimination in training, housing, and the provision of goods and services, as well as in employment. Women have equal rights regarding property and divorce. The Government's Equal Opportunities Commission supports persons who bring discrimination cases before industrial tribunals and courts and produces guidelines for employers. The Government's Women and Equality Unit reported that women's hourly earnings are lower than men's, \$12.70 (8.21 pounds) and \$16.45 (10.63 pounds), respectively. In the Government, women's issues were represented at the cabinet level by the Minister for Women, who heads up the Women and Equality Unit, which engaged in dialog with women and advised the Government but had no authority for direct action.

*Children.*—The Government was strongly committed to children's rights and welfare; it amply funded a system of public education and medical care. The Government provided free, compulsory education until age 16 and further free education until age 18 if a student so desires.

While there was no societal pattern of abuse directed against children, there were indications that child abuse was a problem; however, there was a lack of reliable data.

Children have been trafficked into the country for sexual exploitation and forced labor (*see* Section 6.f.).

Concern and publicity surrounding pedophiles continued to grow. As part of a government drive to protect children from child abusers, previously secret registers of pedophiles were available to any employer who runs an organization where persons under age 18 could be at risk (schools, children's homes, or voluntary organizations). In addition, suspected child abusers and convicted pedophiles were banned from working with children. Childcare organizations must consult a list before offering anyone a job, paid or otherwise, and it was illegal for them to hire anyone named on it. On October 2, the Home Office announced new measures to strengthen the Sex Offenders' Register to give courts expanded powers to force those convicted of relevant sex offences outside the UK to register as offenders in Britain. All sex offenders on the register will be made to attend a police station in person every 12 months to confirm their whereabouts. The Government's Task Force on Child Pro-

tection on the Internet organized educational campaigns, developed proposals on stiffer penalties against pedophile activities, developed models and good practices for protection, and worked on a G8 strategy to combat the problem.

A March joint report, "Safeguarding Children," headed by the Chief Inspectors of Social Services concluded that in the vast majority of cases, government agencies protected children from the risks of further harm, with good working relationships between agencies at all levels. However, the report noted concerns that the services were under pressure for resources and management on some levels and made numerous recommendations for further safeguards. The NGOs Refugee Council and Save the Children claimed in an August 2001 report that many social services agencies provided inadequate care to unaccompanied minors seeking asylum.

Various laws covering England and Wales stipulate that children have the right to apply for court orders, to give or withhold consent for medical treatment (for those capable of making an informed decision), to make complaints to the relevant local authority, to have their ethnic, linguistic, and religious background considered in decisions affecting them, to have reasonable contact with their families (usually applied in a circumstance where there was abuse), and in general to be consulted regarding their desires. In order to reduce the intimidation that young suspects may feel when tried in an adult court, there is a ban on robes and wigs and uniformed security officers in any courtroom where defendants under age 18 are tried on serious criminal charges.

Under the 2000 Prevention of Terrorism Act, the police may arrest and detain children as young as 10 years of age for up to 7 days, although no children were detained under the act during the year.

The law bans corporal punishment in state schools as well as private schools and nursery schools. Child welfare groups have called for all corporal punishment of children to be outlawed.

*Persons with Disabilities.*—The Disability Discrimination Act (DDA) prohibits discrimination against persons with disabilities in the provision of access to public facilities by employers of more than 15 workers, service providers (apart from those providing education or running transport vehicles), and anyone selling or renting property. In addition, all businesses are required to accommodate customers with disabilities. Adaptations must be "reasonable," bearing in mind the circumstances and size of the business. The Education Act requires local education authorities to make provision for the special educational needs of children with disabilities.

The Government responded to a 2001 disability rights task force report by announcing new measures to cover nearly 7 million jobs previously excluded from the DDA, such as police, firefighters, and prison officers. The Special Educational Needs and Disability Act enhances civil rights for persons with disabilities in education.

The DRC provided a hotline for persons with disabilities and employers, legal advice and support for individuals, and policy advice to the Government. The DRC also has the power to conduct formal investigations, arrange conciliation, require persons to adopt action plans to ensure compliance with the law, and apply for injunctions to prevent acts of unlawful discrimination.

Government regulations require that all new buildings meet the access requirements of all persons with impaired mobility and that all taxis be wheelchair accessible; similar regulations were in force for sensory-impaired persons. Access to many buildings, particularly older buildings, including transportation centers, remained inadequate. New measures introduced in March require all businesses to make "reasonable" modifications for persons with disabilities by 2004.

*National/Racial/Ethnic Minorities.*—Despite legal prohibitions against race discrimination, persons of African and Afro-Caribbean, South Asian, or Middle Eastern origin, and Travellers— itinerant populations consisting of Roma, Irish, and other ethnic groups estimated to number 100,000 persons—faced occasional acts of societal violence and some discrimination.

Incitement to racial hatred is a criminal offense punishable by a maximum of 2 years' imprisonment. The Government strictly enforced the laws and regulations in this area.

On December 25, a group of between 15 to 20 youths attacked, kicked and punched 3 Asian men in Hounslow. Two men were charged with racially aggravated assault and violent disorder following an attack on a Muslim man outside a mosque in Llanelli, Wales on June 2. Four people were charged with racially aggravated public order offences during a disturbance in Preston on April 21.

A complaint against the police which arose out of the inquest into the 1997 death of a young Asian, Ricky Reel, found drowned in the Thames River in what his family believes was a racial attack, has been supervised by the Police Complaints Authority and continued at year's end.

On May 31, the CRE's code of practice placing a statutory duty on public authorities to promote race equality took effect. On February 15, the Scottish Executive presented to Parliament legislation setting new racial equality standards in the public sector.

A Home Office 2001 report showed that, in respect to race equality employment targets, non-prison services and the National Probation Service had exceeded their targets set for 2009 and that the Prison Service and the Police had made significant gains as well.

In July the NGO Liberty took the Home Secretary to the High Court to seek a judicial review on behalf of the European Roma Rights Center and six anonymous Czech Roma persons who were prescreened at the airport in Prague by UK immigration officials in July 2001. On October 10, the High Court ruled that their treatment had been lawful.

Travellers (approximately 1.6 percent of the total population) have experienced marginalization, educational discrimination, and police and societal harassment greater than that of the settled population, according to human rights groups. In June the Scottish Parliament published a report citing evidence of institutional discrimination, racism, and harassment of Travellers in Scotland. The Race Relations (Northern Ireland) Order provided specific legal protection to minority ethnic groups in Northern Ireland, including the Traveller community. On July 10, the Traveller Law Reform Bill was adopted and read in Parliament. The Bill is designed to remove discrimination between the laws that apply to Travelling and non-Travelling people, creates a Gypsy and Traveller Accommodation Commission and requires local authorities to facilitate site provision. The Government also instituted the Gypsy Sites Refurbishment Grant of \$10.8 million (7 million pounds) to refurbish the existing network of local authority Gypsy sites.

The Government-appointed but independent CRE provides guidelines on anti-discrimination practices, supports persons taking court action, and may initiate its own court actions. After investigating a complaint, the CRE may issue a notice requiring that the discrimination be stopped. The CRE monitors the response to such notices for 5 years.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right to organize and protects the rights of union members. Workers have the right to form and join unions, and workers exercised this right in practice. Just under 30 percent of the workforce was unionized. Coverage was most widespread in the public sector, where 60 percent of workers were organized. In contrast, 19 percent of private sector workers were unionized. Unionization of the work force is prohibited only in the armed forces, public sector security services, and police force. Unions, although often affiliated with political parties, were free of government control. The Employment Relations Act affords protection to union organizing efforts and sets minimum employment standards. Workers are protected by law against dismissal or other retaliation for campaigning or voting for or against recognition. The law also prohibits the compilation of lists of union members and labor activists for use by employers and employment agencies.

Union members are protected by law against "being subject to any detriment" due to union activity or membership, and this was generally observed in practice. Contract and part-time workers are covered by the law, closing loopholes that previously allowed some employers to evade labor regulations.

Unions may join federations and participate freely in international organizations. The largest federation was the Trades Union Congress. Former British union leaders frequently occupy leadership positions in international labor organizations.

*b. The Right to Organize and Bargain Collectively.*—Collective bargaining is longstanding and covers approximately 30 percent of the work force. Under the Employment Relations Act, labor-management contracts are enforceable legally.

Under the Act, unions may file a request for recognition, identifying the proposed bargaining unit to the Central Arbitration Committee (CAC), a tripartite group that includes representatives from government, business, and labor. The Act covers employers with more than 20 workers and encompasses an estimated two-thirds of all workplaces. Once the CAC determines the appropriate bargaining unit, it assesses whether a union is likely to have majority support. If union members already make up a majority of the bargaining unit, the CAC may issue a declaration that the union is recognized for collective bargaining without a ballot. In those instances where the CAC orders a ballot (typically, when the majority of bargaining unit employees are not already union members), the employer must cooperate by providing a list of names and giving the union access to the workplace to campaign. Unions

win recognition when a majority of those voting agree, including at least 40 percent of those in the bargaining unit.

Although the law encourages voluntary agreements between employers and unions, the CAC may, if necessary, impose a legally binding procedure for bargaining about pay, hours, and holidays.

The Employment Relations Act affirms the statutory right to strike. The law prohibits retaliation by strikers. Dismissed strikers were able to claim unfair dismissal if fired within 8 weeks of when they first undertook a legal strike or "trade dispute." The law defines a "trade dispute" in great detail; in summary, a strike must be confined to workers and their own employers ("secondary boycotts" are illegal), the dispute must be wholly or mainly about employment-related matters (e.g., pay and conditions), workers must be properly and secretly balloted before striking (with notice to the employer), and mass picketing is prohibited.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Government prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Children under age 16 are not permitted to work in an industrial enterprise except as part of an educational course.

*e. Acceptable Conditions of Work.*—In the second phase of a 2-year deal, the adult minimum wage rose from \$6.35 to \$6.50 (4.20 British pounds) per hour as of October 1. When introduced in 1999, the new pay thresholds were expected to benefit some 1.5 million workers directly; however, according to government figures from the spring, 320,000 jobs were held by persons age 18 and over that paid less than the national minimum wage. Government departments have aggressively monitored employer efforts to bring pay practices into compliance.

The national minimum wage did not provide a decent standard of living for a worker and family; however, other benefits of the welfare state filled the gap. Of nearly 28 million workers, approximately 6 million (21 percent) benefit from a social insurance scheme, in addition to receiving free universal access to the National Health Service. The working families' tax credit and disabled person's tax credit were designed to ensure a working family a weekly income of \$319 (214 pounds), which constituted a living wage. No family earning less than \$380 (255 pounds) per week is obligated to pay income tax. The Government also provided a minimum income guarantee for low-income pensioners, which increased the basic state pension that all retired employees receive. Effective in April 2001, the Government increased the threshold of total personal assets to allow more low-income pensioners to take advantage of this benefit.

Domestic legislation limits the workweek to 48 hours, in compliance with EU standards. The maximum compensation level for unfair dismissal claims is \$80,000 (50,000 pounds). Parental leave provisions were available for employees with more than a year's continuous service.

The 1974 Health and Safety at Work Act stipulates that the health and safety of employees not be placed at risk, and in practice the Act is updated regularly to reflect new safety issues. The Health and Safety Executive effectively enforced regulations on these matters and may initiate criminal proceedings in appropriate cases. Workers' representatives actively monitored enforcement of the act. Workers may remove themselves from dangerous work conditions without jeopardy to their continued employment.

Foreign workers are protected by the same labor laws and have the same rights as other workers, and foreign workers exercised these rights in practice. Some unions have outreach and support and counseling programs specifically targeting foreign workers in the country who may be at higher risk of exploitation.

*f. Trafficking in Persons.*—No laws specifically criminalize trafficking in persons, although a range of laws were used to prosecute traffickers. The trafficking of persons remained a persistent problem. The country is a destination for trafficking in women and girls for prostitution and in men and women for manual labor. While the Government estimated that 1,400 women and girls were trafficked each year for prostitution, there was no reliable data on the number of persons trafficked as laborers.

The Government actively investigated and prosecuted traffickers under a range of relevant laws, including unlawful imprisonment and facilitating illegal entry, that provide for penalties of up to 10 years in prison. The police successfully prosecuted traffickers under laws such as those against procuring and living off of immoral earnings. For example, numerous traffickers were convicted of the charge of "causing prostitution," which carries a 2-year prison sentence.

All intelligence and law enforcement agencies participated in Project Flex, a formal inter-agency mechanism charged with combating trafficking. The Government participated in multinational working groups on the prevention of trafficking. The Metropolitan Police have a special unit of 14 officers to investigate sexual exploitation and trafficking. The Government sponsored education campaigns overseas, particularly in Central Europe and Southeast Asia, to discourage trafficking. The Foreign Office has posted immigration officials at overseas points of transit for traffickers to identify trafficking cases before they reach the United Kingdom.

Female trafficking victims were mainly from the Balkans and other Central European countries. Women and girls were also trafficked from South America, West Africa (particularly Nigeria), and Southeast Asia (Thailand and Vietnam).

According to the National Criminal Intelligence Service, trafficked laborers came from countries including India, Pakistan, Bangladesh, Sri Lanka, the former Yugoslavia, Romania, China, Congo, Angola, Colombia, and Ecuador. Laborers were trafficked actively by China-based criminal gangs, "snakeheads," and also by deception. In general migrants paid high fees to enter the country; however, those who could not pay were forced into servitude, often in London sweatshops run by the gangs. Some also worked in agriculture. Many victims were unwilling to come forward, due to fears of retribution from traffickers, fear of being deported or abused by authorities, or because they could not speak English well enough.

Most female victims were lured into the country by deception. The victims often agreed to pay off the balance by working in the sex industry; however, upon arriving, they were required to perform sexual services they had not agreed to, their documents were confiscated, they were forced to work a longer time than anticipated, and they were deceived into not seeking help. In addition, there was evidence that a small number of victims were forcibly abducted and brought into the country against their will.

The Government did not deport victims of trafficking; the police and the IND cooperated on assisting trafficking victims and provided temporary residency status to victims. In addition, both agencies provided legal, medical, and psychological services. Victims were not prosecuted for other crimes.

The Government worked closely with and provided funding for NGOs and other relevant organizations that fight trafficking. The Child and Woman Abuse Studies Unit at the University of North London has headed efforts to intensify public discussion on prostitution and trafficking. The NGO Kayalaan was effective in assisting trafficking victims. Another NGO, Change, worked on a project to map out government organizations and NGOs that combat trafficking in women globally. A third NGO, Womankind Worldwide, worked with overseas partners on trafficking.

## UZBEKISTAN

Uzbekistan is an authoritarian state with limited civil rights. The Constitution provides for a presidential system with separation of powers between the executive, legislative, and judicial branches; however, in practice President Islam Karimov and the centralized executive branch that serves him dominate political life and exercise nearly complete control over the other branches. Following a January referendum judged to be neither free nor fair, the President's term in office was extended by 2 years. Previous elections were neither free nor fair. The Oliy Majlis (Parliament) consists almost entirely of officials appointed by the President and members of parties that support him. Despite constitutional provisions for an independent judiciary, the executive branch heavily influenced the courts in both civil and criminal cases.

The Ministry of Interior (MVD) controls the police and is responsible for most routine police functions. The National Security Service (NSS)—the former KGB—deals with a broad range of national security questions, including corruption, organized crime, and narcotics. There was effective civilian control over the military. The police and the NSS committed numerous serious human rights abuses; however, for the first time some officers from these organizations were held accountable and sent to prison for their actions during the year.

The economy was based primarily on agriculture and agricultural processing. The country had a population of approximately 24,756,000. It is a major producer and exporter of cotton, as well as a major producer of gold, and has substantial deposits of copper, strategic minerals, gas, and oil. Progress towards economic reform was mixed, including implementation of commitments to transition to a free market that the Government made during the year under the Staff Monitored Program with the International Monetary Fund. Restrictions remained on currency convertibility and economic activity, while unemployment was high and growing.

The Government's human rights record remained very poor; although there were some notable improvements, it continued to commit numerous serious abuses. Citizens could not exercise the right to change their government peacefully. The Government permitted the existence of opposition political parties but harassed their members and refused either to register the parties or to allow them to participate in elections. Security force mistreatment resulted in the deaths of several citizens in custody. Police and NSS forces tortured, beat, and harassed persons. The Government invited the U.N. Special Rapporteur on Torture to visit the country, which he did in November. Prison conditions were poor, and pretrial detention often lasted several months. Police routinely and arbitrarily detained citizens to extort bribes. Police and NSS arbitrarily arrested persons, particularly Muslims suspected of extremist sympathies. They also planted evidence on persons; however, it was less common than in previous years. The number of persons in prison for political or religious reasons, primarily individuals the Government believed were associated with extremist Islamic political groups but also members of the secular opposition and human rights activists, was approximately 6,500. The judiciary did not ensure due process. Police and NSS forces infringed on citizens' privacy. Those responsible for documented abuses rarely were punished; however, for the first time since independence the Government convicted nine officers of the NSS and police for serious human rights abuses.

The Government severely restricted freedom of speech and the press, and an atmosphere of repression stifled public criticism of the Government. In May press censorship was eliminated; however, the Government warned editors that they were responsible for the content of their publications, and new amendments to the media law in effect encouraged self-censorship. The Government continued to ban unauthorized public meetings and demonstrations, and police forcibly disrupted a number of peaceful protests. The Government prevented many more protests, citing the threat of unrest. Ordinary citizens remained circumspect in criticizing the Government publicly. The Government continued to deny registration to opposition political parties; however, for the first time in several years the Government allowed an opposition political party to hold congresses. For the first time, the Government registered an independent domestic human rights organization; however, it denied the applications of two other human rights organizations. The Government restricted freedom of religion and harassed and arrested hundreds of Muslims it suspected of extremism. The Government tolerated the existence of minority religions but placed limits on their activities. The Government restricted freedom of movement. Internal passports were required for movement within the country and permission was required to move from one city or district to another. Exit visas were required to travel abroad. The Government harassed and abused members of domestic human rights groups. Several human rights activists were arrested in circumstances that suggested selective enforcement of the law and targeting of human rights activists.

The Office of the Human Rights Ombudsman assisted hundreds of citizens seeking redress against unjust court decisions, non-receipt of salaries, and cases of official abuse of power. Violence against women, including domestic violence, was a problem, and there continued to be significant traditional, societal discrimination against women. Workplace discrimination against some minorities persisted. There were some limits on workers' rights. Some children, particularly in rural areas, were forced to work during the harvest season. Trafficking in women and children to other countries for prostitution was a problem.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no confirmed reports of political killings; however, in July two inmates, Mirzakomil Avazov and Khusnuddin Olimov, incarcerated for membership in an extremist Islamic political party, were apparently tortured to death in Jaslyk prison. Officials insisted that the deaths were the result of an altercation between prisoners; however, there were reports that Avazov and Olimov were tortured by other prisoners at the orders of prison authorities. In October, in another case with possible (though unconfirmed) links to a banned extremist Islamic political party, Hizb ut-Tahrir, Izatulla Muminov died in his cell in Tashkent's Sobir Rahimov police station after apparent police torture. Human rights observers believed that dozens of prisoners died as a result of poor prison conditions aggravated by severe mistreatment. In some cases, law enforcement officials warned families not to talk about their relatives' deaths, which were often attributed by government officials to purely natural causes. Seven police and NSS officers were sentenced in January and June, respectively, to jail terms of up to 20 years for their roles in 2 deaths that occurred in late 2001. (*see* Section 1.c.).



On August 7, the bodies of Mirzakomil Avazov and Khusnuddin Olimov were returned to their families (*see* Section 1.c.). The two died violently in custody while incarcerated at a prison near Jaslyk in Karakalpakstan, where severe heat aggravates endemic health problems among prisoners. Human rights activists claimed that despite improved physical conditions and a temporary decline during the year in the use of torture and beatings by Jaslyk authorities, abusive practices re-emerged during the summer. Many of the inmates of this facility, which opened in 1999, were convicted for religious extremism (*see* Section 2.c.).

On October 9, Izatulla Muminov died in police custody after being arrested on a robbery charge. Upon returning the body, police officers told the family that Muminov had hung himself in detention; however, family members claimed that there was heavy bruising throughout his body. Authorities opened an investigation into the case and concluded that the police had committed no infraction of their duties.

On November 10, NSS officers in Surkhandarya province tortured Musurmon Kulmurodov to death (*see* Section 1.c.). He had been stopped at a traffic checkpoint and transferred to NSS custody on suspicion of narcotics trafficking. At year's end, authorities had failed to hold any of the officers criminally liable.

The country's regulations require that every death in custody be investigated by a medical examiner. Examiners' reports routinely misstated the cause of death or covered up abuses. In no case in which a death in custody appeared to be due in whole or in part to torture or other mistreatment was the death attributed to such causes. Medical reports attributed the deaths to purely natural causes, injuries incurred while police were engaged in self-defense, and altercations between prisoners.

On January 16, four police officers were convicted to terms of twenty years each for their roles in the beating death of Ravshon Haitov. In October 2001, Tashkent police arrested Ravshon and his brother Rasul on suspicion of Hizb ut-Tahrir membership. The next day police returned the body of Ravshon to his family. Although the body showed clear signs of torture, authorities informed the family that he had died of a heart attack. Rasul was beaten severely and spent several months convalescing. The 4 police officers—2 majors, a captain, and a lieutenant—were indicted within 1 day of the incident.

There were no developments in case involving the death of Emin Usman, a prominent ethnic Uighur writer arrested in February 2001 and charged with membership in Hizb ut-Tahrir. Family members reported that the body bore signs of beating. Authorities claimed that he had committed suicide.

There were no developments concerning the death of Shovruk Ruzimuradov, a human rights activist and former Member of Parliament who was arrested in June 2001 and accused of illegal possession of weapons, narcotics and banned Hizb ut-Tahrir literature. Despite authorities' claims that Ruzimuradov committed suicide, family members said that his body bore clear signs of torture and beating. Authorities claimed that Ruzimuradov had committed suicide. Sanctions were ordered against four officers, including the dismissal of one officer, for mishandling his detention. Ruzimuradov's family reported that 13 other residents of the rural village were rounded up in the aftermath of his arrest. All were accused of membership in Hizb ut-Tahrir.

There were no investigations into nor action taken in the following cases of deaths in custody during the year 2000, all of which were allegedly the result of torture or other mistreatment: Hazratkul Kudirov, Amanullah Nosirov, Shukhrat Parpiev, Rulam Norbaev, and Nagmut Karimov.

During and after the armed incursions of August and September 2000, military forces laid landmines on the border with Tajikistan and Kyrgyzstan. The Ministry of Defense asserted that all minefields were marked clearly and that it had informed the Tajik and Kyrgyz governments of their locations. There were at least five cases during the year of landmine explosions involving civilians. The number killed and injured was unknown.

During the year, border patrols shot five Kyrgyz civilians, killing one person and injuring four, in incidents near nondemarcated border areas in the Kyrgyz Republic. The Government of Uzbekistan investigated several of the incidents and determined that its troops were acting legitimately against persons attempting to illegally cross the border. No further information was available at year's end.

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

By year's end, it remained unclear whether Bakhodir Khasanov, an instructor at the Alliance Francaise who has been missing since 2000, was ever formally charged or sentenced. Security forces have never acknowledged having Khasanov in their custody (*see* Section 2.c.).

Imam Abidkhon Nazarov, widely believed to be missing since March 1998, reportedly fled the country to avoid arrest and was not abducted by security forces. Sources close to the family said that Nazarov's family confirmed that he was abroad.

*c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Although the law prohibits these practices, both police and the NSS routinely tortured, beat, and otherwise mistreated detainees to obtain confessions or incriminating information. Police and the NSS allegedly used suffocation, electric shock, rape, and other sexual abuse; however, beating was the most commonly reported method of torture. Human rights observers reported that the use of torture abated in some prisons following the January conviction of four policemen. Torture nonetheless continued in prisons, pretrial facilities, and local police and security service precincts; and the severity of torture did not decrease during the year. At the end of his visit in December, the U.N. Special Rapporteur on Torture concluded that the use of torture in the country was systemic.

On January 16, a court convicted four police officers in the October 2001 murder of suspected Hizb ut-Tahrir member Ravshon Haitov (*see* Section 1.a.).

On June 8, the Central Military Court in Tashkent convicted three NSS officers in the October 2001 murder of suspected Hizb ut-Tahrir member Alimohammad Mamadaliyev. The chief of the Margilon office and another officer received 15 years' imprisonment, while a third officer received 4 years. The Fergana Regional Prosecutor reported to the press that he was investigating two similar killings that occurred in Margilon in July and November of 2001. No further information was available at year's end.

On August 7, authorities returned the bodies of two men, Mirzakomil Avazov and Khusnuddin Olimov, to their families. Both men, members of Hizb ut-Tahrir held in Jaslyk prison, were badly beaten and had burns attributable to scalding water over significant portions of their bodies (*see* Section 1.a.). Authorities did not issue a public explanation of the incident by year's end. Police insisted that the men died in an altercation with two other inmates and that in the course of the fight hot water from a tea caldron was spilled on them.

On August 7, police in Fergana detained 24-year-old Atabek Shakirov on suspicion of murder, initially denying him access to his lawyer and family. Police tortured him, causing kidney damage. He was eventually transferred to a hospital for treatment. The Fergana regional prosecutor said that he opened an investigation into the matter. No further information was available at year's end.

On August 27, human rights activists Elena Urlaeva and Larissa Vdovina were detained at a demonstration and placed in a psychiatric facility, where Urlaeva was subjected to involuntary psychiatric treatment and Vdovina was reportedly also subjected to involuntary treatment (*see* Section 1.d.). Urlaeva was released on December 30, but Vdovina remained in custody at year's end. Urlaeva, who admitted to perpetrating an anthrax hoax at the parliament building in November 2001, has fought a legal battle against forced psychiatric treatment since police detained her in April 2001 after she began to organize and participate in public demonstrations. She won several appeals against a court ruling ordering involuntary treatment for schizophrenia; however, each successful appeal was overturned. Her most recent appeal remained pending at year's end.

On November 10, three intoxicated NSS officers in Surkhandarya province tortured Musurmon Kulmurodov to death with pliers, a screwdriver, and a metal baton in front of his mother, wife, and their two children (*see* Section 1.a.). He and his family had been stopped at a traffic checkpoint and transferred to NSS custody on suspicion of narcotics trafficking. At year's end, authorities had failed to hold any of the officers criminally liable.

Yusup Jumaev, a poet and opposition political party member, continued to report being harassed by local authorities. In March his son was attacked by strangers whom the Jumaev family believed were working on orders from local authorities. Jumaev was arrested by the NSS in October 2001 and convicted of anti-constitutional activities in December 2001 and released on probation.

Prisoners suspected of extremist Islamic political sympathies reportedly were routinely beaten and treated more harshly than criminals, regardless of whether investigators were seeking a confession (*see* Section 2.c.). Credible sources reported that Imam Abdulvakhid Yuldashev, convicted in April 2001 on suspicion of Islamic extremism, was beaten regularly in prison. In December 2001, his lawyer visited him in jail and reported that the soles of his feet were flayed, apparently from beatings. There were reports that on several occasions police beat members of Jehovah's Witnesses (*see* Section 2.c.).

On September 4, police in Khorezm arrested Ilkhom Salayev and his wife Khovajon Bekjanova in connection with a civil complaint. Bekjanova is a relative

of Erk opposition leader Mohammed Solikh. Bekjanova was reportedly raped and beaten in front of her husband, who committed suicide after returning home.

Police forcibly disrupted some protests by women demanding the release of male relatives jailed on suspicion of Islamic extremism and in some cases injured some of the protesters (*see* Section 2.b.).

Writer and Erk opposition political party activist Mamadali Makhmudov, who reported being tortured in 2000, remained in prison and was reported to be in poor health.

Defendants in trials often claimed that their confessions on which the prosecution based its cases were extracted by torture (*see* Section 1.e.). Imam Abdolvakhid Yuldashev, convicted in April 2001 of organizing an underground Islamic movement, stated in court that investigators had beaten him and burned his genitals in order to extract a confession during detention.

Prison conditions were poor and worse for male than for female prisoners. Prison overcrowding was a problem, with some facilities holding 10 to 15 persons in cells designed for 4. The overcrowding may have been one of the reasons for the large-scale amnesty in 2001, but the problem remained severe. Tuberculosis and hepatitis were epidemic in the prisons, making even short periods of incarceration potentially deadly. Reportedly there were shortages of food and medicines, and prisoners often relied on visits by relatives to obtain both. During the year, the Organization for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) extended to the country a prison reform program at the request of the Ministry of Interior.

Men and women were held in separate facilities. Juveniles were held separately from adults. Pretrial detainees were held separately from those convicted of crimes.

The Government also operated labor camps, where conditions of incarceration were reported to be less severe than in prisons. There were six types of prison and camp facilities, including pretrial detention facilities for adults.

In 2001 authorities granted amnesty to 860 individuals convicted under Article 159 (anti-constitutional activities). This was part of a broader amnesty of approximately 28,000 prisoners, most of them ordinary criminals. Prisoners reportedly were forced to sign a confession to be released under the amnesty. It is impossible to know how many of the 4,400 to 4,900 individuals arrested for suspected religious extremism but convicted under other charges also received amnesty. Human rights monitors did not gather statistics on such individuals, and the Government released no statistics on the matter. On December 8, authorities announced another, similar amnesty. By year's end, the release of prisoners had begun, but full figures were not yet known.

In January 2001, the Government signed and implemented an agreement allowing the International Committee of the Red Cross (ICRC) access to all prisoners, including those awaiting trial. The ICRC suspended visits in May 2001, complaining that access was not being granted to pretrial detention facilities. The ICRC resumed visits in March and reported that access to pretrial detention was no longer a problem. However, other problems remained, including the ICRC's concern that it was not being allowed unfettered access to prisoners. In April the ICRC suspended a visit. It resumed visits in September.

*d. Arbitrary Arrest, Detention, or Exile.*—Security forces continued to arrest and detain individuals arbitrarily, without warrants or just cause. The law provides that police may hold a person suspected of committing a crime for up to 3 days. At the end of this period, the person must be officially declared a suspect and charged with a crime, or he must be released. A person officially declared a suspect may be held for an additional 3 days before charges are filed. The maximum time an individual may be held is 6 days prior to charges being filed. Police may only formally arrest an individual when charges are filed, and arrest can only be made with a prosecutor's order. Detention includes everything from random motor vehicle stops to being held during a criminal investigation. A court date must be set within 15 days of arrest (or filing of charges), and the defendant may be held in custody during this period. Once the trial date is set, detainees deemed not to be violent may be released on their own recognizance, pending trial. No money need be posted as bond, but in such cases the accused usually must sign a pledge not to leave the city. In practice these legal protections frequently were ignored.

Approximately 6,800 to 7,300 persons were arrested between 1999 and 2001 on suspicion of Islamic extremism or terrorism. Of that number, no more than 2,600 were charged with crimes related to the actual reason of arrest. Common charges included narcotics and weapons possession. Another 200 individuals arrested for political opposition received similar treatment. During the year, as many as 600 persons may have been arrested on suspicion of Islamic extremism. Unlike in past years, there were few reports of police planting evidence on such individuals, and

most were charged with the actual crime for which they were arrested including anti-constitutional activity.

During the year, pretrial detention for individuals suspected of Islamic extremism varied between 3 and 10 months. While previously pretrial detention was known to last as long as 2 years, by year's end the Government had eliminated most of its backlog of such cases and suspects were going to trial within three months in almost every case. The number of such prisoners in pretrial detention was unknown; however, it was estimated to be less than 300. There are no regulations concerning the length of time witnesses may be detained, which in the past police used to avoid the 6-day limitation, claiming that suspects were being held only as potential witnesses. A defendant has a right to counsel from the moment of arrest, but in practice access to counsel was very often denied.

The police frequently sought to avoid legal constraints on the length of time suspects were held. On August 7, Fergana police detained Atabek Shakirov and held him for more than a week, without charges or access to family or counsel, claiming that he was a potential suspect, rather than an actual suspect, and that the 6-day limitation was therefore inapplicable (*see* Section 1.c.).

In ordinary criminal cases, police generally identified and then arrested those reasonably suspected of the crime; however, both the police and the NSS were far less discriminating in cases involving perceived risks to national security. Many individuals were detained, some more than once, for questioning. Authorities continued to arrest many individuals associated with Islamic groups that were not approved by the Government. In general these individuals were believed by the Government to have been associated with Hizb ut-Tahrir, although often the individuals had merely attended Koranic study sessions with the group. Since such sessions are an integral part of Hizb ut-Tahrir's recruitment mechanism, authorities made little distinction between actual members and those with marginal affiliation. Several young men testified at their trials that they attended the sessions only because they wanted to learn about Islam. Officially approved mosques were incapable of meeting the demand for Koranic instruction, and there were few other officially approved forums for such instruction.

It has been common government practice to arrest, detain, and mistreat both immediate and extended family members of those the Government sought to arrest (*see* Section 1.f.). Rahima Akhmadalievna, the wife of independent Imam Ruhiddin Fahriddinov, remained in prison at year's end. Fahriddinov was wanted by the Government on suspicion of extremism. Akhmadalievna was arrested and convicted in 2001 without credible evidence, and her daughter was allegedly mistreated. During the year, no such arrests were reported; however, many family members of individuals the Government sought to arrest remained in jail (*see* Section 1.f.).

Police in the past routinely planted narcotics, weapons, ammunition, or Islamic literature on citizens either to justify arrest or to extort bribes; however, the number of reported cases of planting evidence decreased during the year. In February in the first such case reported to human rights activists, a police officer in Andijan was convicted for planting evidence on a suspected member of Hizb ut-Tahrir.

Authorities continued to arrest and detain human rights activists arbitrarily. On May 24, authorities in Karshi arrested Yuldash Rasulov, a member of the Human Rights Society of Uzbekistan (HRSU). He was charged with acting as a recruiter for the Islamic Movement of Uzbekistan (IMU), a terrorist organization, as well as with seeking the overthrow of the Government, and with possession and distribution of extremist literature. He was convicted on September 17 of the latter two charges and sentenced to 7 years' imprisonment. In an apparent attempt to placate international observers, who had pointed to the scarcity of evidence supporting any of the charges, the Government dropped the charge of recruiting for the IMU (*see* Section 1.c.).

On September 4, HRSU activist Tursunbay Utamuratov was arrested in the Karakalpakstan region of Mangit. Utamuratov, who was a trader in the local bazaar, was charged with economic crimes, including tax evasion. He was not released on bail. On November 30, he was sentenced to the maximum sentence of 9 years' imprisonment for tax evasion, assault, resisting arrest, and forgery. The judge threw out one charge of fraud. Observers noted that this was at best a case of selective prosecution since most bazaar traders in the country committed the crimes with which Utamuratov was charged, but few were tried and even fewer were held in detention prior to their trial.

On August 27, the Government committed human rights activists Elena Urlaeva and Larissa Vdovina to involuntary psychiatric treatment that reportedly began in September (*see* Section 1.c.). Urlaeva was released on December 30.

On September 4, Jakhongir Shosalimov, a trader and member of the Independent Human Rights Organization of Uzbekistan (IHROU), was arrested in Tashkent. He

was arrested for inciting public unrest and disobeying police orders, and he was sentenced to 15 days administrative confinement on September 5. Accounts from witnesses were conflicting, but it appeared that Shosalimov gave an interview to journalists at the site of unrest that occurred that day at the bazaar. Minutes after the interview, the unrest ended and police arrested Shosalimov. Approximately 5 other individuals were arrested, 2 of whom also received 15-day sentences.

On September 17, Jora Murodov, Musulmonqul Hamroyev, and Norpolat Rajabov, 3 Kashkadarya province human rights activists, were sentenced to between 5 and 6 years for their roles in the ransacking of a collective farm manager's house. The three were involved in organizing protests against the manager's corruption. Other activists confirmed that at least one of the individuals participated in the vandalism. They later said that the wife of one of the arrested activists participated but that none of the activists actually participated.

Police in the past arbitrarily arrested and detained members of political opposition groups. There were no reports of similar arrests or detentions during the year. The opposition party Birlík was allowed to hold seven regional congresses, the first such gatherings since 1991.

Following fighting with the IMU in 2000, the Government forcibly resettled 5 villages in the Surkhandarya and tried and convicted 73 villagers for crimes against the Constitution and aiding terrorists. The villagers were not released by year's end.

Police arrested and detained some peaceful protestors during the year (*see* Section 2.b.).

Imam Khadji Khudjaev, who was arrested in August 2000 by Russian police for involvement in the February 1999 Tashkent bombings and extradited to the country in November 2000, remained in jail at year's end.

Bakhodir Khasanov, an instructor at the Alliance Francaise whose brother was convicted of Islamic extremism, was believed to have been detained in July 2000. The Government has not acknowledged that he was being held, and observers were uncertain as to his fate.

By the second half of the year the Government generally brought political detainees to trial within 3 months of their arrest. Because the press was unable or unwilling to cover the issue for fear of reprisals and there was no public record of arrests (*see* Section 2.a.), it was not possible to determine the exact number of political or other detainees awaiting trial. At year's end, political detainees awaiting trial were estimated to number between 100 and 300. Almost all were suspected of membership in extremist Islamic organizations such as Hizb ut-Tahrir. Despite some problems, the ICRC continued to visit prisons during the year and continued to work with the Government toward a fully functioning prison visit program (*see* Section 1.c.).

Neither the Constitution nor the law explicitly prohibits forced exile; however, the Government did not employ it. Government harassment of the Birlík and Erk opposition political parties drove the leaders of these organizations, including Mohammed Solikh of Erk and Abdurakhim Polat of Birlík, into voluntary exile in the early 1990s (*see* Section 3). The chairman of the HRSU, Abdumannob Polat, also lived in voluntary exile (*see* Section 4). In August Pulat Akhunov, the deputy chairman of Birlík and a naturalized Swedish citizen, received a visa to return to the country for an extended visit, which he did the same month. However, the Government still did not issue a visa to Abdumannob Polat, a non-Uzbek citizen.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the judicial branch takes its direction from the executive branch and had little independence in practice. Under the Constitution, the President appoints all judges for 5-year terms and has the power to remove judges. Removal of Supreme Court judges must be confirmed by Parliament. Judges may be removed for crimes or failure to fulfill their obligations.

Courts of general jurisdiction are divided into three tiers: District courts, regional courts, and the Supreme Court. In addition, a Constitutional Court is charged with reviewing laws, decrees, and judicial decisions to ensure their compliance with the Constitution. Military courts handle all civil and criminal matters that occur within the military. There is a system of economic courts at the regional level that handles economic cases between legal entities.

Decisions of district and regional courts of general jurisdiction may be appealed to the next level within 10 days of ruling. Crimes punishable by death are murder, espionage and treason. Officially most court cases are open to the public but may be closed in exceptional cases, such as those involving state secrets, rape, or young defendants. Unlike in past years, when trials of alleged Islamic extremists were often closed, local and international trial monitors and journalists were generally permitted to observe court proceedings during the year.

State prosecutors play a decisive role in the criminal justice system. They order arrests, direct investigations, prepare criminal cases, and recommend sentences. If a judge's sentence does not agree with the prosecutor's recommendation, the prosecutor has a right to appeal the sentence to a higher court. There is no protection against double jeopardy.

In the past, judges whose decisions were overturned on more than one occasion could be removed from office. In 2001 Parliament repealed this provision of the law, but other institutional controls remained in place, such as the executive's authority to decide which judges to reappoint. Consequently, judges in most cases continued to defer to the recommendations of prosecutors. As a result, defendants almost always were found guilty. Senior officials acknowledged the overwhelming power of the prosecutors, and efforts to strengthen the independence of the judiciary continued after legislative reforms were enacted in 2000 and 2001.

Three-judge panels generally preside over trials. The panels consist of one professional judge and two lay assessors who serve 5-year terms and are selected by either workers' collectives' committees or neighborhood (mahalla) committees. The lay judges rarely speak, and the professional judge often defers to the recommendations of the prosecutor on legal and other matters.

Defendants have the right to attend the proceedings, confront witnesses, and present evidence. The accused has the right to hire an attorney, and the Government provides legal counsel without charge when necessary. Nonetheless, the right to an attorney in the pretrial stage was often violated, and judges in some cases denied defendants the right to their attorney of choice. Defense counsel was often incompetent, and effective cross-examination of even the most fatally flawed prosecution witnesses rarely occurred. Prosecutors normally only attended those sessions of the court in which they were scheduled to speak. Court reporters tended to take poor notes and very often put down their pens when the defense was speaking. Some courts reportedly refused to allow defense counsel access to trial transcripts on appeal.

The Government announced trials, including those of alleged religious extremists, only at the court in which the trial was to take place and only a day or two before the trial began. International observers generally were allowed to attend trials. During the year, there was only one report of a closed trial—that of three NSS officers who were accused of murdering a suspected Islamic extremist (*see* Section 2.c.). Observers other than families of the victim and the defendants were not allowed to attend.

Defendants often claimed that the confessions on which the prosecution based its cases were extracted by torture (*see* Section 1.c.). Judges ignored these claims. In other cases, particularly those of suspected members of Hizb ut-Tahrir, the prosecution failed to produce confessions and relied solely on witness testimony. The accused were almost always convicted. Typical sentences for male members of Hizb ut-Tahrir ranged from 7 to 12 years' imprisonment.

Lawyers may, and occasionally did, call on judges to reject confessions and to investigate claims of torture. In an April trial of 13 Kokand men accused of membership in Hizb ut-Tahrir and one man accused of being an IMU recruiter, defendants alleged that their confessions were extracted by torture. The judge in the case said that he would investigate allegations of torture and that those guilty would be punished if the allegations were found to be true. However, local activists said that they did not know of any follow-up action taken by the judge by year's end.

During the year, five police and three NSS officers were prosecuted and convicted for beating and torturing suspects (*see* Section 1.c.).

Prosecutors in 1999, 2000, and 2001 brought charges against at least 155 persons in connection with 1999 terrorist bombings in Tashkent. All of those tried were convicted, and 20 were executed. Several individuals were tried and convicted in absentia, including the leader of a banned opposition political party. During 1999 and 2000, many other individuals were convicted of terrorism. Authorities alleged that most had ties with the IMU, which had been implicated in the 1999 bombings. Recurrent allegations that investigators employed torture, as well as a general lack of transparency in court proceedings, led many international observers to claim that the Government had failed to prove the defendants' guilt.

During the year, several individuals were tried on charges of recruiting for the IMU. In no case of alleged IMU recruitment did the prosecution present evidence that international observers considered sufficient to justify conviction. In two cases, an acquaintance or family member privately presented information to foreign contacts that appeared to confirm the charges or evidence presented by the prosecutor; however, in both cases the Government failed to present its evidence in a manner deemed by international observers to be consistent with international standards for a fair legal process.

The Constitution provides a right of appeal to those convicted; however, appeals rarely, if ever, resulted in convictions being overturned in politically sensitive cases, such as those involving individuals accused of membership in Hizb ut-Tahrir. In August an appeal was heard in Fergana for 13 individuals convicted in April of anti-constitutional activity (membership in Hizb ut-Tahrir). Lawyers for the men reported that the court refused to provide them a copy of the trial transcript. The court affirmed the sentence. Even when defendants win an appeal, no protection exists against double jeopardy.

On December 19, the Ministry of Justice cancelled The Third National Congress of the Uzbek Association of Advocates scheduled for December 21, after interfering in its planning and organization. The Congress had been seen as a promising sign of judicial reform.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution provides for the inviolability of the person and that persons may be taken into custody only on lawful grounds, and it prohibits unlawful searches; however, authorities infringed on these rights. The law requires the issuance of a search warrant for electronic surveillance by the relevant Procurator; however, there is no provision for a judicial review of such warrants. Security agencies routinely monitored telephone calls and employed surveillance and wiretaps in the cases of persons involved in opposition political activities (see Sections 1.d. and 4). The son of missing Andijon Imam Abdu Kori Mirzaev reported that his telephone calls were monitored, that his neighbors reported his movements to the NSS, and that the NSS occasionally questioned him. He reported that his telephone line, which had been cut in 2001, was restored during the year (see Section 1.b.).

The Law on Freedom of Conscience and Religious Organizations and other legislation prohibit the private teaching of religion and forbids the wearing of religious clothes.

Unlike in past years, there were no reports that police arrested, detained, and beat family members of suspects whom they were seeking (see Sections 1.c, 1.d., and 2.c.).

Unlike in previous years, there were no reports of authorities forcing relatives of alleged religious extremists to undergo public humiliation at neighborhood assemblies organized for that purpose.

The Government interfered with correspondence. In July 2001, Nosir Zakhir reported that he received an invitation, which was mailed in May and delivered opened, from a foreign embassy to attend an event. Zakhir, who was a Radio Liberty reporter and a member of both the Birlik opposition party and the HRSU, reported that this sort of interference was common. There were no reports of similar incidents during the year.

There was one reported case of authorities arresting relatives of an opposition political party member. On September 4, police in Khorezm arrested Ilkhom Salayev and his wife Khovajon Bekjanova, a relative of Erk opposition leader Mohammed Solikh (see Section 1.c.).

The Government used the mahalla (neighborhood) committees as a source of information on potential extremists. Uzbek neighborhoods are tightly knit communities, where residents have few secrets. Shortly after the February 1999 Tashkent bombings, the President directed that each committee assign a "defender of the people," whose job it was to ensure that young persons in the neighborhoods were not joining potentially extremist Islamic groups. The committees identified for police those residents who appeared suspicious. Observers noted that the same individuals were often arrested or detained repeatedly.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of thought, speech, and convictions; however, in practice, the Government continued to restrict these rights severely. In May the Government ended the formal requirement of press censorship. However, in August Parliament passed five new amendments to the press law, holding editors and journalists responsible for the content of articles they write and publish and establishing the right of the boards of directors of newspapers to affect editorial content. Under pre-existing law, the composition of the boards is, at the time a newspaper is established, effectively subjected to government veto. The net effect of the changes was an abolition of prior censorship, tempered by new possibilities for both hostile board interference and legalized retribution against media outlets and their employees. Ordinary citizens remained afraid to express views critical of the President and the Government in public. Self-censorship still occurred.

The law limits the ability to criticize the President. Ordinary citizens generally would not criticize the President or the Government on television or in the newspapers, although they began to do so more freely in less public settings.

The Mass Media law, which applies to all news media, formally provides for freedom of expression, protects the rights of journalists, and reiterates the constitutional ban on censorship. According to the law, journalists are responsible for the accuracy of the information contained in their news stories, which potentially subjects them to prosecution. The law prohibits stories that incite religious confrontation and ethnic discord or advocate subverting or overthrowing the constitutional order (*see* Section 2.b.).

Information remained very tightly controlled. The Uzbekistan Information Agency cooperated closely with the presidential staff to prepare and distribute all officially sanctioned news and information. All seven national daily newspapers were owned or controlled by government entities, and their headquarters were jointly located in the same building. Their combined readership in 1999, the most recent year for which reliable statistics were available, was 81,000, a decrease from 544,000 just after independence. Newspapers, which cost between 5 and 15 cents (50–150 soum), were too expensive for most citizens.

Private persons and journalist collectives may not establish newspapers unless they meet the media law's standards for establishment of a "mass media organ," including founders acceptable to the Government. A handful of private newspapers containing advertising, horoscopes, and similar features, but no news or editorial content, were allowed to operate. There were several independent national newspapers, including *Novosti Nedelya*, *Vremya I Mi*, and *Hurriyat*. The last opposition newspaper to be published was from the *Erk* party; it has been banned in the country since 1993 but was published abroad and occasionally smuggled in.

Four state-run channels that fully supported the Government and its policies dominated television broadcasting. A cable television joint venture between the state broadcasting company and a foreign company broadcast the Hong Kong-based Star television channels, including the British Broadcasting Company (BBC), Deutsche Welle, and Cable News Network World News, to Tashkent and a few other locations. Access to cable television was beyond the financial means of most citizens. There were between 30 and 40 privately owned local television stations and 7 privately owned radio stations. In general broadcasters practiced self-censorship but enjoyed some ability to report critically on local government. For the most part, television programming consisted of re-broadcasting Russian programming.

The Mass Media law established the Interagency Coordination Committee (MKK), which issues both broadcast and mass media licenses to approved media outlets. In October 2000, a new law extended the term of validity of the broadcast licenses from 1 year to 5 years; however, mass media licenses, which also are a requirement, still must be renewed annually. The MKK is empowered to revoke licenses and close media outlets without a court judgment. Another government agency, the Center for Electromagnetic Compatibility (TSEMS), issues frequency licenses. In the past, television stations often encountered difficulty obtaining licenses; however, no such difficulties were reported during the year.

The Government's implementation of the media law did not function smoothly. Enforcement of the registration and licensing requirements could be strict. Because the registration committee met irregularly, many independent television stations were forced at times to operate with expired licenses, making them vulnerable to government closure.

In 2001 several independent television stations had problems renewing their licenses or exercising their legal right to control their stations' operations. One station aired an episode of a syndicated program called "Zamon," on homeless persons, which embarrassed the local governor. The governor of the neighboring province, in which the station's transmitter was located, promptly informed the station manager that he was fired. The station appealed to the prosecutor's office, which overruled the governor. As a compromise, the station agreed to stop airing "Zamon."

Aggressive reporting led to a long struggle by one successful independent station to have its broadcasting and bandwidth licenses renewed. The station obtained its broadcasting license in 2001 and its bandwidth license in the early part of the year.

On September 13, the Ministry of Foreign Affairs informed Internews, a foreign funded organization working to enhance the capacity of independent media in the region, that none of its journalists would receive accreditation.

The Government denied the registration application of an independent professional association of private radio and television broadcasters seven times, reportedly based on the association's failure to elect the Government candidate as chairman. Ministry of Justice officials allegedly told the group privately that it never



would be registered. The lack of registration effectively restricted the association's ability to attract international funding and operate freely and legally.

The Government refused to allow Radio Free Europe/Radio Liberty (RFE/RL) and the Voice of America to broadcast from within the country, despite the Government's agreement with RFE/RL to allow this activity. Both stations broadcast on short-wave from outside the country. The Government allowed the organizations to hire local correspondents. The BBC World Service was required to broadcast on a very low FM frequency, which limited the potential audience. The BBC, when it began operations, consented to restrictions that amounted to self-censorship; however, observers agreed that there was no evidence that the BBC actually engaged in self-censorship. The World Service was permitted to broadcast only 2 hours per day: Two 30-minute broadcasts per day in Uzbek, and two 30-minute broadcasts per day in Russian, 7 days per week. Earlier in the year, there were reports of some of BBC's programming being jammed. Chinese language music was played over BBC programming from precisely the moment broadcasting began until precisely the moment the programming ended; however, this practice ended by midyear.

In January Shodi Mardiev, a local radio reporter who was sentenced in 1998 to an 11-year prison term for defamation and extortion, was released under the 2001 amnesty.

While prior censorship was abolished in May, a new organization—the Uzbek Press and Information Agency—replaced the State Press Committee and became responsible for observing all media. Most editors and journalists continued to express concerns about potential consequences of conducting serious investigative journalism.

Beginning in May, both the state and private press published numerous articles critical of the Government, which would not have been printed prior to the lifting of the press censorship requirement. In one case, a journalist reported that officers of the Surkhandarya regional office of the NSS were using their positions for personal benefit, specifically by pressuring a local factory manager to employ certain individuals. Most citizens were well acquainted with these sorts of NSS business practices, but few openly criticized the NSS. The NSS replied to the accusations in the same newspaper, admitting that one NSS employee had been punished for abuse of power. In other articles, journalists criticized police abuse, reported on the January conviction of four police officers for murder, and at least one article criticized government economic policy. A regional paper in Kashkadarya Province attacked Ismoil Jurabekov, who was widely considered to be one of the President's most powerful advisors, for his rumored attempts to limit the scope of the new press freedoms. Nonetheless, a number of journalists and editors were subjected to threats, harassment, and mistreatment by authorities, including for articles they wrote since the end of censorship.

Prior to the May 5 abolishment of the Office of the Censor, Tashkentskaya Pravda editor A'lo Hojaev was allowed to publish a number of critical articles and subsequently was permanently removed from his position.

During the year, a "Mokhiyat" reporter claimed the newspaper's editor-in-chief, Abdukayum Yuldashev, was called to the phone several times to deal with complaints from the president's office regarding the publication of poems by opposition party member Rauf Parfi. Parfi, who once publicly called the president a dictator, was repeatedly denied the right to express himself in the local press. Yuldashev later allowed the publication of an article by journalist Toshpulat Rahmatullaev criticizing new construction in Samarkand's historic old city. Yuldashev was reported to have gone on an extended vacation during the summer following that article and had not returned to his position as editor-in-chief by year's end.

In July Karshi University sued "Mokhiyat" for printing an article accusing university staff of taking bribes from students; the university won the case but waived its right to damages.

Human rights activists reported that Sobirjon Ergashev, a regional correspondent for the Justice Ministry's *Inson va Qonun* newspaper who went on trial in September for extortion, was being harassed for his articles. He published several articles regarding corruption and abuse by officials distributing land to farmers in the Yukarychirchik district. Ergashev, who has a legal background, also provided legal advice to farmers on how to protect their rights.

Local journalists of the BBC and Agence France Presse reported being intimidated during the year as a result of their work. On July 10, Rakmatojon Kuldashv of RFE/RL and Ussen Askerov from the BBC were briefly detained by police to prevent them from covering a protest at a local market in Tashkent.

There were no private publishing houses. Newspapers generally were printed by state-owned printing houses. Religious writings must be approved by the Religion Committee censor, which was regarded as being quite strict (*see* Section 2.c.).

The Government did not allow the general distribution of foreign newspapers and other publications; however, two or three Russian newspapers and a variety of Russian tabloids and lifestyle publications were available. A modest selection of other foreign periodicals was available in Tashkent's major hotels, and authorized groups could obtain foreign periodicals through subscription.

In October the Government formally ended its official monopoly of the Internet. In the past, all Internet service providers were required to route their connections through a state-run server, Uzap, and the Government filtered access to content that it considered objectionable. Despite these restrictions, the availability of Internet access expanded as the number of service providers and Internet cafes grew. At year's end, foreign embassies and local Internet users observed that all Internet providers were blocking access to websites that the Government considered objectionable. The uniformity of this move suggested that the Internet providers were acting under instruction from the Government. Despite these restrictions, Internet users continued to find simple ways to defeat these attempts at censorship.

The Government granted academic institutions a degree of autonomy, but freedom of expression remained limited. University professors generally were required to have their lectures or lecture notes approved before the lectures were given; however, implementation of this restriction varied. Self-censorship amongst university professors occurred.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for the freedom of peaceful assembly; however, it also states that authorities have the right to suspend or ban rallies, meetings, and demonstrations on security grounds, and in practice the Government restricted the right of peaceful assembly. The Government required approval for demonstrations and did not routinely grant permits to demonstrators.

Authorities continued to arrest women for organizing protests demanding the release of their jailed male relatives accused of membership in Hizb ut-Tahrir. During the year, more than 25 women were brought to trial; all but 2 received suspended sentences. Police prevented a number of protests, both by refusing to allow potential demonstrators to leave their homes and by blocking access to planned demonstration sites (*see* Section 1.d.). In several cases, police forcibly disrupted demonstrations. In September witnesses reported that police beat several women in Tashkent's Chorsu bazaar.

On April 14, authorities arrested Musharaf Usmanova, the widow of Imam Farhod Usmanov. Usmanova organized several demonstrations in the fall and winter of 2001 in Tashkent. Days after her April 14 arrest, her picture appeared in the official police gazette, and she was listed as a missing person. In July she was convicted and received a 2-year suspended sentence for anti-state activities.

On April 23, 44 women demonstrated in Margilon, demanding justice in the 2001 murders of four Hizb ut-Tahrir members by NSS officers and the release of their male relatives (*see* Section 1.a.). Eleven women were detained; all were later released without being charged.

During the year, human rights activists held a number of small demonstrations in Tashkent. The demonstrations, which typically numbered less than 10 protesters, addressed police abuse, official corruption, housing problems, and in 1 case the arrest of a human rights activist. Authorities issued a permit for one of the protests. On May 27, all five individuals protesting in front of the Ministry of Interior against the arrest of Yuldash Rasulov were briefly detained and subsequently released. On August 27, authorities dispersed a protest by six individuals in front of the Ministry of Justice, and two of the protesters were committed to psychiatric care (*see* Section 1.c.).

On June 8, the Tashkent regional branch of the human rights organization Ezgulik held a conference at a movie theater in Tashkent's Sobir Rakhimov district. Days after the conference, authorities initiated proceedings that in September led to the closing of the movie theater. In a decision in September, the Supreme Court upheld the verdict of a lower court that the movie theater had violated its business charter by allowing such an activity on its premises.

In August security forces blocked access to the funeral of Mirzakomil Avazov, who was tortured and killed in Jaslyk prison (*see* Section 1.c.).

The Constitution provides for the right of freedom of association; however, the Government continued to restrict this right in practice. The Constitution places broad limitations on the types of groups that may form and requires that all organizations be registered formally with the Government in accordance with procedures prescribed by law. While the Law on Political Parties provides theoretical protections for minority parties and permits a wide range of fundraising, it also gives the Ministry of Justice broad powers to interfere with parties and to withhold financial

and legal support to those opposed to the Government. There were four registered political parties, all controlled by the Government (*see* Section 3).

In the past, the Government rejected attempts by the Birlik opposition political party to register. The party had not held a congress since 1991, and harassment by security forces drove its leaders into voluntary exile in the early 1990s (*see* Section 1.d.). During the year, the party held seven regional congresses, which is the first step toward obtaining registration. Co-founder Pulat Akhunov, a naturalized Swedish citizen, received an Uzbek visa and returned for a 4-week visit.

The opposition political party Erk continued to insist that its 1991 registration remained valid, and the party therefore refused to file new registration papers. A 1995 law, which members said was aimed at Erk, required all parties registered prior to 1993 to reregister. Erk's principled stance was motivated also by its members' opinion that the Government would reject any new application. In 2000 Erk's leader, who went into self-exile in the early 1990s to escape harassment from security forces, was convicted in absentia of terrorism charges, which members said were false (*see* Section 1.d.). On May 26, Erk's Secretary General was detained for several hours in Tashkent; the first Erk meeting in several years had been scheduled for that day but was subsequently cancelled (*see* Section 3).

The Constitution and the law ban parties of an ethnic or religious nature. In the past, authorities, citing these statutes, have denied registration to the Islamic Renaissance Party (IRP). In the early 1990s, opposition activists announced the formation of the religious Adolat-True Path Party but never pursued formal registration, claiming that their members were afraid of government reprisals. Some members and leaders of IRP and Adolat-True Path chose, or were forced, to flee abroad. The core of the IMU, which has waged an armed insurrection since 1999, was formed in large part from these elements.

The Law on Public Associations, as well as the Law on Political Parties, prohibits registration of organizations whose purpose includes subverting or overthrowing the constitutional order, as well as organizations whose names already were registered. In the past, officials used the latter provision to block human rights NGOs and independent political parties from registering by creating another NGO or party with the identical name. During the year, no such practice was reported.

The process for government registration of NGOs and other public associations was difficult and time-consuming, with many opportunities for obstruction. A 1999 law on nongovernmental, noncommercial organizations provides for simpler registration requirements. Officials at the Ministry of Justice said that the law was fully implemented during the year. While NGOs verified that the mechanics of the registration procedure were greatly simplified, the Government clearly retained the ability to hamper registration of organizations that it deemed undesirable.

In March authorities registered the IHROU, one of three local human rights organizations actively monitoring the human rights situation in the country. Ezgulik and HRSU, two other human rights organizations, were denied registration at year's end. Both IHROU and HRSU had attempted to register for years. Ezgulik, a new organization, submitted two registration applications, in May and November, and was refused both times. In the past, the IHROU reported that the Government had based its denials on bureaucratic technicalities. During the year, the Government cited serious material deficiencies in the applications of both HRSU and Ezgulik, including falsification of membership roles in certain provincial chapters. HRSU refused to make necessary changes. Ezgulik, which admitted to some of the deficiencies, made reasonable efforts to correct its application. However, the Government appeared to have subjected the applications of both HRSU and Ezgulik to significantly higher scrutiny than those to which the applications of other organizations were held.

The Government did not change its often stated stance that human rights groups enjoyed de facto registration. There were continued reports of officials investigating the activities of human rights activists. A local Ministry of Internal Affairs officer admitted in writing to an activist that he was under orders from authorities in Tashkent to investigate the activities of human rights activists and independent journalists. Two other human rights organizations, the Committee for Protection of Individual Rights (CPRI) and the Legal Aid Society (LAS), were registered by the mid 1990s. CPRI was formed with government support in 1996, and some of its members cooperated with HRSU, Ezgulik and IHROU (*see* Section 4). The Legal Aid Society pursued some low-level police abuse and government corruption cases but avoided cases involving suspected Islamic extremists.

Although unregistered organizations often could operate without government interference, they did not exist as legal entities. Unregistered NGOs continued to face difficulties operating their organizations during the year. Government representatives met with members of human rights organizations on various occasions. Inter-

national and local journalists met frequently with members of these organizations, but state controlled media rarely mentioned them.

Nonpolitical associations and social organizations usually were allowed to register, although complicated rules and a cumbersome government bureaucracy often made the process difficult. Some evangelical Christian churches and Jehovah's Witnesses congregations found it difficult to obtain registration (see Section 2.c.). The Government continued to refuse to register an association of broadcasters formed in 1998 (see Section 2.a.).

*c. Freedom of Religion.*—The Constitution provides for freedom of religion and for the principle of separation of church and state; however, in practice the Government restricted this right.

The Government viewed most Islamic activity outside the state-sponsored mosques with suspicion and often concluded that those engaging in such activity posed an extremist security threat. The primary target of the Government's suspicion was the banned extremist Islamic political party Hizb ut-Tahrir; most of those arrested were allegedly associated with this organization. The Government arrested as many 600 suspected members of Hizb ut-Tahrir or, in some cases, other groups. Those arrested were usually mistreated and were typically sentenced to between 7 and 12 years in jail. Many others suspected of association with extremism were detained for questioning. Christians who tried to convert Muslims or who had among their congregations members of traditionally Muslim ethnic groups often faced official harassment, legal action or, in a number of cases, mistreatment. Christians who avoided any association with proselytizing generally had no problems, and Jews generally were able to practice their religion. The religion law forbids proselytizing and severely restricts activities such as importing and disseminating religious literature.

The Government is secular, and there is no official state religion. Although the laws treat all religious confessions equally, the Government shows its support for the country's Muslim heritage by funding an Islamic university and subsidizing citizens' participation in the Hajj. The Government promotes a moderate version of Islam through the control and financing of the Spiritual Directorate for Muslims (the Muftiate), which in turn controls the Islamic hierarchy, the content of imams' sermons, and the volume and substance of published Islamic materials.

The Religion Law requires all religious groups and congregations to register and provides strict and burdensome criteria for their registration. Among its requirements, the law stipulates that each group must present a list of at least 100 Uzbek citizen members to the local branches of the Ministry of Justice. This provision enabled the Government to ban any group simply by finding technical grounds for denying its registration petition. Officials designed the law to target Muslims who worship outside the system of state-organized mosques. A special commission may grant exemptions to the Religion Law's strict requirements and register groups that have not been registered by local officials. The commission granted exemptions to 51 such groups, including congregations with fewer than 100 Uzbek citizen members.

As of May, the Government registered 2,047 religious congregations and organizations, 1,863 of which were Muslim. However, the Government's Committee on Religious Affairs (CRA) continued to deny the Greater Grace Christian Church of Samarkand permission to have a Finnish rather than Uzbek pastor. The church's application for registration remained blocked at year's end pending resolution of that issue. In Tashkent the Agape mission Church continued to face difficulty registering, despite the fact that it met all legal requirements for registration. Local authorities continued to block the registration of Baptist congregations in Gazalkent and Novy Zhizn. During 2001 the deputy mayor of Gazalkent allegedly told church leaders that their application might be approved if they removed from the church's membership list all names of ethnic-Uzbek origin.

Ethnic Uzbeks in Guliston established their own Protestant church, called the Good News Church. It was also denied registration, and on August 18 its pastor, his wife, and one member were fined. Members alleged that the head of the local office of the Ministry of Justice tore up their application in front of them. In the months following the August fines, members of the Good News Church reported receiving visits in their homes by local security officials, who discouraged them from participating in the church's activities.

Any religious service conducted by an unregistered religious organization is illegal. Police occasionally broke up meetings of unregistered groups. Members of such groups were fined during the year, and one was briefly jailed. Other prohibited activities for unregistered groups include: Organizing an illegal religious group, persuading others to join such a group, and drawing minors into a religious organization without the permission of their parents.

Religious groups are prohibited from forming political parties and social movements (*see* Section 2.b.).

The law prohibits proselytizing, which resulted in fines and the denial of registration to many Christian churches, and in some cases, beatings of many of their members. Authorities tolerated many Christian evangelical groups but often harassed those that tried to convert Muslims to Christianity.

The law forbids anyone except clerics from wearing religious clothing in public. Nevertheless, women were seen wearing the hijab and, less frequently, the veil on the street. Most young men did not wear beards, which the Government regarded as a potential indicator of extremism. Most female university students did not wear the hijab. There were no known expulsions of women wearing headscarves during the year. However, of the women expelled from state universities in 1997 and 1998 for wearing religious clothing, none who continued to do so were readmitted during the year (*see* Section 1.f.).

The Government bans the teaching of religious subjects in schools and also prohibits the private teaching of religious principles. In May 2001, the Ministry of Justice informed the Baptist Union in writing that the holding of Sunday school classes for the children of congregation members was a violation of the Law on Freedom of Conscience and Religious Organizations. The letter threatened revocation of the Baptist Union's registration if it did not immediately cancel Sunday school. The legal problem was not resolved, but a series of communications between the Baptist Union and the Ministry resulted in what was at least a temporary, mutually acceptable compromise.

The Government requires that the religious censor approve all religious literature. The Committee on Religious Affairs, in accordance with the law, has given the right to publish, import, and distribute religious literature solely to registered central offices of religious organizations. Seven such offices were registered by year's end. However, the Government discouraged and occasionally even blocked registered central offices from producing or importing Christian literature in the Uzbek language, even though Bibles in many other languages were available in Tashkent bookstores.

The Muftiate sporadically issued an updated list of all officially sanctioned Islamic literature. Bookstores were not allowed to sell any Islamic literature not on the list. The list contained more than 200 titles; however, in practice Islamic bookstores in Tashkent sold a large number of titles not on the list, including those in the Arabic language. More controversial literature, when available, was not displayed on shelves. Possession of literature deemed extremist might lead to arrest and prosecution. Hizb ut-Tahrir leaflets, which were fundamentally political in nature, absolutely were prohibited.

The Government's most serious abuses of the right to religious freedom were committed against suspected Islamic extremists, but the effects had repercussions in the wider Muslim community. The Government's campaign against extremist Islamic groups, begun in the early 1990s, resulted in numerous serious abuses during the year. The campaign was directed at three types of Muslims: Alleged Wahhabists, including those educated at madrassas (religious schools) abroad and followers of missing Imams Nazarov of Tashkent and Mirzaev of Andijon; those suspected of being involved in the 1999 Tashkent bombings or of being involved with the IMU, whose roots are in Namangan; and suspected members of Hizb ut-Tahrir throughout the country. During the year, the campaign resulted in the arrests of some persons, primarily young men, who claimed that they were not extremists.

Both Wahhabism and the IMU stemmed from the growth of independent Islam that the Government has sought to suppress since the early 1990s. While the Government viewed members of the IMU as terrorists, it viewed members of Hizb ut-Tahrir and Wahhabists as potential terrorists.

The Government did not consider repression of these groups to be a matter of religious freedom, but rather to be directed against those who wanted to foment armed resistance to the Government. However, authorities were highly suspicious of those who were more religiously observant than is the norm, including frequent mosque attendees, bearded men, and veiled women. In practice this approach resulted in abuses against observant Muslims for their religious beliefs. It also served to radicalize some young men and women who otherwise might practice their religion in a politically neutral manner.

Arbitrary arrest and detention of those the Government perceived as Islamic extremists were common (*see* Section 1.d.). Unlike in past years, there were no credible reports of security services arresting, detaining, or harassing Muslim leaders perceived to be extremists.

Prison authorities deprived many prisoners suspected of Islamic extremism of the right to practice their religion freely. Human rights monitors reported that individ-

uals arrested for Islamic extremism were not allowed to read the Koran in most detention facilities.

The scarcity of independent media and the absence of a centrally located and readily accessible register of court cases made it difficult to determine how many persons were incarcerated for religious reasons. The Moscow-based human rights organization Memorial estimated that 1,400 persons were arrested on suspicion of Islamic extremism during the first 8 months of 2001, compared with 2,700 arrested in 2000, and 4,000 in 1999 (see Section 1.e.). Memorial has not published an updated list; however, other sources estimated that during the year approximately 600 persons were arrested.

Imam Abdulvakhid Yuldashev, a former pupil of Imam Nazarov, remained in jail. He was arrested in June 2000 and sentenced in April 2001. His lawyer continued to visit him throughout the year and reported that he continued to be tortured periodically (see section 1.c.).

Although the use of loudspeakers in issuing the call to prayer was discouraged beginning in 1998, their use became more common during the year.

Members of Jehovah's Witnesses claimed that they were subjected routinely to police questioning, search, and arbitrary fines. Police conducted several raids during the year against meetings of Jehovah's Witnesses. Since April 2001, there were reports that approximately 90 members of Jehovah's Witnesses were detained and administratively fined and that police confiscated some members' passports. On March 26, members of three congregations in Nukus were detained and reportedly beaten while celebrating a religious holiday. Throughout the year, authorities in Jizzakh intensified an education campaign aimed at discouraging youth from joining Jehovah's Witnesses. Representatives of Jehovah's Witnesses alleged that the Government regarded Jehovah's Witnesses as an extremist group and disapproved of the group's door-to-door evangelical style; government officials confirmed this. In July police arrested Marat Mudarisov, a member of Jehovah's Witnesses, for inciting religious hatred. On November 29, Mudarisov was convicted and given a 3-year suspended sentence.

Criminal charges filed in 2001 against Pastor Nikolai Shevchenko of Bethany (Baptist) Church in Tashkent and several of his parishioners were dropped; however, Pastor Shevchenko still faced the possibility of administrative fines for leading an unregistered congregation. In August in the provincial capital of Guliston, an evangelical church leader and two of his congregants were fined for leading an unregistered church. Harassment of churches in other cities, including Urgench and Gazalkent, continued.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for free movement within the country and across its borders; however, the Government severely limited this right in practice. Permission from local authorities was required in order to resettle in a new city. The Government rarely granted permission to those who wished to move to Tashkent, and local observers reported that a \$100 bribe (96,529 soum) was necessary to obtain the required registration documents. The Government required citizens to obtain exit visas for foreign travel or emigration, but it granted these permits routinely for approximately \$5 (5,000 soum). An exit visa was not required for travel to most countries of the former Soviet Union; however, beginning on December 20, the Government closed its borders to almost all of its citizens attempting to travel overland to the neighboring countries of the Kyrgyz Republic and Kazakhstan. Overland travelers to Turkmenistan also faced restrictions, while the border with Afghanistan remained mostly closed to ordinary Uzbek citizens. Uzbek citizens attempting to cross the border to neighboring Tajikistan continued to experience significant delays and some restrictions.

All citizens have a right to a passport, and the Government did not restrict this right. Passports serve as both internal identity cards and, when they contain an exit visa, as external passports. Every citizen must carry a passport when traveling inside or outside the country. Police occasionally confiscated these documents. In the past, authorities were more likely to confiscate the passports of political opponents than other citizens. There were no reports during the year of confiscation of political opponents' passports, and authorities returned the passport of prominent human rights activist Mikhail Ardzinov after 3 years. By year's end, authorities had not returned the passport of human rights activist Elena Urlaeva that was seized in July 2001 (see Sections 1.c. and 1.d.).

Movement within the country by foreigners with valid visas generally was unrestricted; however, visitors required special permission to travel to certain areas,

such as Termez, in Surkhandarya province on the Afghan border. At times authorities closed certain mountainous regions where fighting with the IMU took place.

The Law on Citizenship stipulates that citizens do not lose their citizenship if they reside overseas; however, since the country does not provide for dual citizenship, those acquiring another citizenship lose Uzbek citizenship. In practice the burden was on returning individuals to prove to authorities that they did not acquire foreign citizenship while abroad.

Following the summer 2000 fighting with the IMU in the Surkhandarya region, the Government forcibly resettled residents of a number of villages from the mountainous border area (see section 1.d.). The villagers faced permanent impediments to returning to their homes, and the Government built permanent structures in several new settlements approximately 120 miles away. International observers reported that conditions were acceptable in all of the villages but Sherabad, where food shortages remained a problem.

There is no law concerning the rights of refugees and asylum seekers, and the Government does not recognize the right of first asylum. The Government did not adhere to the 1951 Convention Relating to the Protection of Refugees or its 1967 Protocol. The Government considered asylum seekers from Tajikistan and Afghanistan to be economic migrants, and such individuals were subject to harassment and bribe demands when seeking to regularize their status. Such persons could be deported if their residency documents were not in order.

There were no official statistics, but observers, including the U.N. High Commissioner for Refugees (UNHCR), estimated that there were 8,000 Afghan refugees in the country. At the end of August, there were 853 cases (2,562 persons) of refugees recognized by the UNHCR as mandate refugees and 448 cases of asylum seekers (971 persons). The UNHCR reported that 99 percent of its refugee cases were persons from Afghanistan, many of whom had few means to earn a livelihood and serious protection problems.

There were an estimated 30,000 Tajik refugees in country. Most of these were probably, as the Government argued, economic refugees.

In August 1999, the Government agreed that it would not force those given refugee status by the UNHCR to leave the country. There were two cases of forced return of mandate refugees to a country where they feared persecution, one in May and one in July. In those cases, a total of six persons (including four minor children) were forced to return to Afghanistan. In another deportation case involving a North Korean citizen, the Government agreed to allow the individual to be resettled in another country. The population includes large numbers of ethnic Tajiks, Kyrgyz, and Kazakhs, as well as ethnic Koreans, Meskhetian Turks, Germans, Greeks, and Crimean Tartars deported to Central Asia by Stalin during World War II. Russians and other Slavs also are well represented. These groups enjoyed the same rights as other citizens. Although the latter groups were free to return to their ancestral homelands, absorption problems in those countries slowed their return. The UNHCR reported that police rarely harassed mandate refugees.

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

The Constitution provides citizens with the right to change their government; however, in practice citizens could not change their government through peaceful and democratic means. The Government severely restricted freedom of expression (see Section 2.a.) and repressed opposition groups and individuals; however, no opposition members were jailed. No independent opposition groups participated in government. During the year, the Birlik opposition movement was allowed to hold congresses throughout the country for the first time since 1991 (see Section 2.b.). Four government-controlled political parties held the majority of the seats in Parliament, and most remaining seats were held by government officials.

The Government is highly centralized and is ruled by a strong presidency. President Karimov was elected in a limited multi-candidate election in 1991. A 1995 referendum and subsequent parliamentary decision extended his first term until 2000. He was reelected in 2000 to a second term with 92.5 percent of the vote. His opponent, Abdulhafiz Jalalov, ran a token campaign and admitted on election day that he himself had voted for Karimov. The OSCE declined to monitor the presidential election on the grounds that the preconditions did not exist for it to be free and fair. Following a January referendum, which multilateral organizations and foreign embassies refused to observe, the term of the Presidency was extended from 5 to 7 years.

President Karimov and the executive branch maintained control through sweeping decree powers, primary authority for drafting legislation, and control of all government appointments, most aspects of the economy, and the security forces.

Many government officials were members of the People's Democratic Party of Uzbekistan (PDP), formerly the Communist Party and still the country's largest party. The party did not appear to play a significant role in the Government, and the President resigned his chairmanship of the party in 1996. There were three other registered parties. These were created with government assistance and were loyal to President Karimov. All four parties participated in the 1999 parliamentary elections, in which 93 percent of the electorate reportedly voted. The election did not represent a real choice for voters, since the parties and independent candidates were all loyal to the Government.

The OSCE and many international observers concluded that the 1999 legislative elections were neither free nor fair because the voters lacked a choice. Local and regional governors (hokims), who were appointed by the President, exerted a strong influence on the selection of candidates and the conduct of campaigns. Nearly half (110 out of 250) of those elected were not from party lists but were either hokims themselves or were nominated by the hokims' local assemblies. Only 16 of the 250 candidates who won had been nominated by citizens' initiative groups. These candidates generally were allowed on the ballot only if the hokims approved them.

The Parliament (Oliy Majlis) is constitutionally the highest government body. In practice, despite assistance efforts by international donors to upgrade its ability to draft laws independently, its main purpose is to confirm laws and other decisions drafted by the executive branch.

The laws that govern the conduct of parliamentary and presidential elections and the Law on Political Parties make it extremely difficult for opposition parties to develop, nominate candidates, and campaign. The procedures to register a candidate are burdensome and the Central Election Commission (CEC) has authority to deny registration. A presidential candidate is prohibited from campaigning before being registered but must present a list of 150,000 signatures in order to be registered. Under the law, the CEC must deny registration of presidential candidates who are found to "harm the health and morality of the people." There is no appeal to the Supreme Court for candidates whose parties were denied registration. The Ministry of Justice has the right to suspend parties for up to 6 months without a court order.

Citizen initiative groups of 100 members or more may nominate candidates to the Parliament by submitting signatures of at least 8 percent of the voters in the electoral district. Other interest groups were forbidden from participating in campaigns, and candidates were allowed to meet with voters only in forums organized by precinct election commissions. The law prohibits parties from funding their candidates' campaigns directly; parties must turn over all campaign money to the CEC, which then distributes the funds equally among the candidates. Only the CEC may prepare and release presidential campaign posters.

According to the Law on Political Parties, judges, public prosecutors, NSS officials, servicemen, foreign citizens, and stateless persons (among others) cannot join political parties. By law the Government prohibits formation of parties based on religion or ethnicity; those that oppose the sovereignty, integrity, and security of the country and the constitutional rights and freedoms of citizens; or those that promote war, or social, national, or religious hostility. Political organizations that seek to overthrow the Government or incite national or racial hatred are prohibited. The Government refused to register the opposition political movement Birlík in the early 1990s, but it allowed Birlík this year to hold congresses throughout the country—the first step toward registration (*see* Section 2.b.). The Government effectively stripped the registration of opposition political party Erk in the mid-1990s (*see* Section 2.b.). Membership in unregistered political organizations is not officially forbidden. No opposition political party members were arrested as a result of their activities.

The Government continued to target members of unregistered political opposition groups using methods such as surveillance and loss of employment (*see* Sections 1.d. and 4). In April the Namangan chief of police provided human rights activists with a letter in which he claimed to have been ordered by the MVD to collect detailed information on all Birlík and Erk opposition political party members, BBC and VOA reporters, human rights activists, and their families. The Minister of Interior denied that such an order had been issued.

The leaders of the two unregistered opposition political parties—Mohammed Solikh of Erk and Abdurakhim Polat of Birlík—were forced into voluntary exile in the early 1990s. After the February 1999 Tashkent bombings, government targeting of members of these groups intensified. The Government repeatedly accused Solikh, who ran against Karimov for the presidency in 1992, of being a leader of the terrorist plot behind the bombings. Solikh was 1 of 9 defendants tried in absentia in a November 2001 trial of 12 alleged bombing conspirators. He was convicted and



sentenced to 15 years in prison. Three of Solikh's brothers—Kamil, Rashid, and Muhammed Bekjonov (a.k.a. Bekzhon)—remained in prison at year's end.

On May 26, Atanazar Aripov, the leader of Erk, was detained for several hours. He was enroute to a meeting of Erk members in Tashkent when police officers approached him and asked him to come to the MVD's headquarters. Aripov was released unharmed and said that authorities were trying to disrupt the meeting. In the past, dozens of Erk and Birluk activists reported being detained, harassed or subjected to surveillance; however, detentions and harassment were uncommon during the year, although surveillance increased.

There were no further developments in the case of Shovruk Ruzimuradov, a former parliamentarian and Birluk member who was tortured to death in prison in July 2001. Several police officers reportedly received administrative punishments and were subjected to disciplinary action, but none were prosecuted by year's end.

Traditionally, women participate much less than men in government and politics. There were 20 female deputies in the 250-member Parliament. There were 2 women (both with the rank of Deputy Prime Minister) among 28 members of the Cabinet; 1 was charged specifically with women's issues.

In the 250-member parliament, there were 227 ethnic Uzbeks, 1 Korean, 7 Russians, 1 Armenian, 3 Tajiks, 2 Ukrainians, 3 Kazakhs, and 6 Karakalpaks.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated in the country; however, security forces continued to harass and abuse domestic human rights activists. During the year, six activists were arrested in circumstances that suggested they may have been targeted for their human rights activities. Another was committed to involuntary psychiatric treatment (*see* Sections 1.a. and 1.c.). Several human rights activists reported significant harassment during the year, including regular interviews by the NSS and the collecting of personal information on them and their extended families by police. In addition, family members also lost their jobs. Unlike in past years, the activists reported no serious attempts to limit their travel within the country or abroad.

On August 27, human rights activists Elena Urlaeva and Larissa Vdovina were committed to a psychiatric institution (*see* Sections 1.c. and 1.d.).

On September 4, IHROU activist Jakhongir Shosalimov was arrested in Chorsu market in Tashkent. He gave an interview to a journalist in the presence of police officers at the scene of an ongoing violent protest, during which he complained of police brutality. He was arrested approximately thirty minutes after the protest ended. Circumstances suggest that he was arrested not because he incited unrest (as claimed by authorities), but because he exercised his right to free speech.

On September 4, HRSU activist Tursunbay Utamuratov was arrested in Karakalpakstan. He was a bazaar trader and was accused of tax evasion. On November 30, Utamuratov was sentenced to 9-years' imprisonment.

In April 2001, two unidentified men attacked Khamraev Bakhtiar, the HRSU regional representative for Jizzakh, causing a concussion. In early August, Bakhtiar reportedly received a visit from officials from the procurator's investigative department who warned him to be careful about what he says. There were no further developments in the case.

One independent human rights organization, the Independent Human Rights Organization (IHROU), was registered during the year. Several other domestic human rights NGOs remained unregistered and faced numerous difficulties. Renting office space and conducting transactions in the NGOs name can be legally problematic; and opening bank accounts was impossible, making receiving funds from overseas very difficult. Activists of the unregistered organizations tended to encounter more difficulties with authorities.

In June authorities initiated legal proceedings to shut down a movie theater in Tashkent after an independent human rights organization, Ezgulik, held a regional congress there. The theater was shut down in September (*see* Section 2.b.).

The Government generally was willing to hold an open dialog with international human rights NGOs. Human Rights Watch maintained an office and operated independently in the country. The Government was willing to discuss human rights matters with international governmental organizations such as the OSCE, as well as with foreign embassies. In April an official from the office of the U.N. High Commissioner for Human Rights visited the country. In June the Government invited the U.N. Special Rapporteur for Torture to visit, which he did in November.

On March 4, the Government registered the IHROU, which became the third registered domestic human rights NGO. The two other registered groups were the Committee for Protection of the Rights of Individuals (CPRI), which was formed with

the support of the Government but also has ties to opposition figures (*see* Section 2.b.), and the Legal Aid Society, which dealt with minor police abuse and government corruption cases. The CPRI acted as the Uzbek affiliate of the International Society for Human Rights, which is based in Germany, and it engaged in legitimate human rights work, but it refrained from criticizing the President. Observers questioned the CPRI's independence from the Government. Its leader, Marat Zakhidov, engaged in progovernment propaganda, but many of its members cooperated closely with other human rights organizations. HRSU and Ezgulik remained unregistered at year's end.

There is a human rights Ombudsman's office affiliated with the Parliament. The Ombudsman may make recommendations to modify or uphold decisions of government agencies, but the recommendations are not binding. The Ombudsman is prohibited from investigating disputes within the purview of courts. The Ombudsman has eight regional offices outside Tashkent. During the year, the Ombudsman's office handled hundreds of cases, a large majority of which dealt with contested court decisions, abuse of power, and various labor and social welfare issues. The Ombudsman published reports identifying the most serious violations of human rights by government officials; the majority of these involved allegedly unjust court decisions and claims of abuse of power by police and local officials. Most of the successfully resolved cases appeared to have been relatively minor.

The National Human Rights Center of Uzbekistan, created by presidential decree, is responsible for educating the population and government officials about the principles of human rights and democracy, as well as for ensuring compliance with its international obligations in providing information on human rights. The Center held several seminars on democratization and human rights. Members of parliament, foreign diplomats, and international organizations attended. It also co-sponsored a coordinating conference for domestic human rights organizations. The Center was not officially involved in human rights advocacy but did intercede on behalf of IHROU and another human rights organization when they were attempting to register. The Center worked closely in the past with international organizations such as the U.N. Development Program and the OSCE.

*Section 5. Discrimination Based on Race, Sex, Disability, Language or Social Status*

Both the Constitution and the law prohibit discrimination on the basis of sex, language, or social status; however, societal discrimination against women persisted.

*Women.*—Violence against women was a problem and spousal abuse was common, but no statistics on the problem were available. Wife beating was considered a personal family affair rather than a criminal act; such cases usually were handled by family members or elders within the community (*mahalla*) and rarely came to court. The law punishes physical assault; however, no legal provisions specifically prohibit domestic violence. Police often discouraged women from making complaints against abusive husbands and abusers were rarely taken from home or jailed.

In December 2000, the NGO Minnesota Advocates for Human Rights released a study on domestic violence in the country, which concluded that domestic violence was widespread. Winrock International, which helps develop women's organizations in the country, noted that public officials were willing to speak openly about the problem of domestic violence. Most NGOs who work on domestic violence issues reported that local government cooperation on education programs had increased. Some police participated in NGO training on this issue. One NGO trained over 16,000 women and 1,400 men during the year.

The law prohibits rape. Marital rape appears to be implicitly prohibited under the law, but no known cases have been tried. Although statistics on rape were unknown, cultural norms discouraged women and their families from speaking openly about rape.

The law prohibits prostitution. Prostitution within the country was also a problem, and many observers believed that deteriorating economic conditions led to an increase in prostitution. There were more ethnic minorities engaged in prostitution. Police enforcement of laws against prostitution was uneven, and some police officers used the threat of prosecution to extort money from prostitutes.

Trafficking in women to other countries for the purpose of prostitution was a problem (*see* Section 6.f.).

Sexual harassment is not prohibited by law, but was reportedly a widespread problem. However, social norms and the lack of legal recourse made reporting rare.

Although the law prohibits discrimination against women, traditional, cultural, and religious practices limited their role in everyday society. For these reasons, women were underrepresented severely in high-level positions. In accordance with tradition, women—particularly in rural areas—usually married before the age of 20, bore many children, and confined their activities to within the family. In rural

areas, women often worked in the cotton fields during the harvest season. However, women were not impeded formally from seeking a role in the workplace, and women who opened businesses or sought careers were not hindered legally. Women were underrepresented in the industrial sector; however, they were fairly well-represented in the agricultural and small business sectors. A deputy prime minister at the cabinet level was charged with furthering the role of women in society and also was head of the National Women's Committee.

Several dozen NGOs addressed the needs of women. One NGO in Tashkent conducted seminars on sexual harassment, domestic violence, and the legal rights of women. Another NGO in Tashkent operated a hot line for women involved in prostitution. A center in Samarkand operated a crisis hot line and provided educational services on alcoholism, sexually transmitted diseases, and family counseling. The American Bar Association operated programs that focused on protecting women's legal rights in the Fergana region. A women's group in Surkhandarya worked with women with disabilities and promoted their rights. Another organization, Women's Integrated Legal Literacy, worked in the following areas: legal literacy training, small grants for women's NGOs, cultural events to educate women on their rights, and advocacy on women's issues.

In parts of the country, some women and girls resorted to suicide by self-immolation. There were no reliable statistics on the extent of this problem because most cases went unreported. The problem appeared to be growing. After marriage many women or girls moved into the husband's home, where they occupied the lowest rung on the family social ladder. A conflict with the husband or mother-in-law, who by tradition exercised complete control over the young bride, usually was the stimulus for suicide. An NGO in Samarkand runs a shelter for victims of self-immolation. The NGO reported varying degrees of cooperation from individual officials and local governments.

A 1997 research study indicated that the number of women enrolling in higher education was diminishing; women's enrollment in the finance and banking institute dropped from 65 percent in 1991 to approximately 25 percent in 1997. The report stated that university faculty "steer" women into occupations traditionally performed by females and suggested that administrators may have deliberately barred entrance to women in some fields. As of September, a steep, government mandated increase in university fees forced many more families to decide which, if any, of their children they would educate, possibly affecting women's access to higher education.

*Children.*—The Constitution provides for children's rights, stating that parents are obliged to support and care for their children until they reach age 18. Traditional Uzbek values reinforced the cohesion of families; in most cases, several generations of a family lived together. In theory the Government provides free universal primary education and health care; however, in practice shortages and budget difficulties mean that some services must be paid for privately. Nine years of formal schooling are compulsory, and the average length of schooling is more than 11 years. According to the Government, 98.1 percent of children completed secondary school. Anecdotal evidence indicated that more children continued to drop out of high school as economic circumstances continued to deteriorate. There also was evidence that earlier marriages among young rural women contributed to a higher drop out rate for young women. The Government granted monetary allowances to families based on their number of children. The country had a very high birth rate; more than one-half of the population was under the age of 18.

There was no societal pattern of abuse of children. During the year, there was one confirmed report of a girl being trafficked abroad for prostitution. Teenage girls were engaged in prostitution (*see* Section 6.f.). During the harvest, some school children, particularly in rural areas, were forced to work in the cotton fields (*see* Section 6.c.).

*Persons with Disabilities.*—The law provides for support for persons with disabilities and is aimed at ensuring that these persons have the same rights as other citizens; however, little effort was made to bring persons with disabilities into the mainstream. There was some societal discrimination against persons with disabilities. Children with disabilities generally were segregated into separate schools. The Government cared for the mentally disabled in special homes. The Government has not mandated access to public places for persons with disabilities; however, there was some wheelchair access throughout the country.

*National/Racial/Ethnic Minorities.*—Government statistics dating from 1992 show that the population was approximately 71 percent Uzbek, 8 percent Russian, 5 percent Tajik, 4 percent Tatar, and 3 percent Kazakh, with many other ethnic groups represented as well. During the year, the percentage of Russians and Tatars

decreased through emigration, but a number of Russians returned to the country. Exact percentages of ethnic minorities were unknown but were certainly lower than in 1992. Available statistics almost certainly underestimated the actual number of ethnic Tajiks; the figures treated ethnic Tajiks whose mother tongue was Uzbek as ethnic Uzbeks. In addition, some members of other ethnic groups chose for a variety of reasons to declare themselves to be ethnic Uzbeks.

Ethnic groups other than Uzbeks, particularly Russians, frequently complained that job opportunities were limited for them. Senior positions in the Government bureaucracy and business generally were reserved for ethnic Uzbeks, although there were numerous exceptions to this rule.

The citizenship law does not impose language requirements for citizenship; however, the language issue remained very sensitive. Uzbek was declared the state language, and the Constitution requires that the President speak Uzbek; however, the language law provides for Russian as “the language of interethnic communication.” Russian was spoken widely in the main cities, and Tajik was spoken widely in Samarkand and Bukhara. The law originally required that Uzbek would be the sole method of official communication by 1998, but subsequently was modified to remove a specific date. The Government also was in the process of replacing the Cyrillic alphabet with the Latin alphabet; however, realizing the difficulties for Uzbeks and minorities alike, the Government delayed the full transition to both the Uzbek language and the Latin alphabet to 2005.

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law specifically provides that all workers have the right voluntarily to form and join unions of their choice, and that trade unions themselves voluntarily may associate by geographic region or industry sector. Membership in trade unions is optional. The law also declares all unions independent of the Governmental administrative and economic bodies (except where provided for by law), and states that trade unions should develop their own charters, structure, and executive bodies and organize their own work. However, in practice, the overall structure of trade unions did not change significantly since the Soviet era. Trade unions remained centralized hierarchically, and remained dependent on the Government. No alternative union structures existed. Independent unions did not exist.

There were a few professional associations and interest groups, such as a union of entrepreneurs, a union of renters, and an association of private physicians and pharmacists. There also were registered professional associations for judges and lawyers, both of which were quasigovernmental. The main activity of all registered associations was professional development. They did not license members and had no formal role in advocating the interests of members in relation to the Government.

According to the law, the Council of the Federation of Trade Unions (CFTU) has a consultative voice in the preparation of all legislation affecting workers and is entitled to draft laws on labor and social issues. Trade unions are described legally as organizations that defend the right to work and to protect jobs, and emphasis is placed on the unions’ responsibility for “social protection” and social justice—especially unemployment compensation, pensions, and worker retraining.

The law forbids discrimination against union members and their officers.

The law on unions provides that unions may choose their own international affiliations; however, none have done so.

*b. The Right to Organize and Bargain Collectively.*—Trade unions may conclude agreements with enterprises; however, progress in privatization was very limited and collective bargaining did not occur. As a result, there was no experience with negotiations that could be described as adversarial between unions and private employers. The State was still the major employer, and the state-appointed union leaders did not view themselves as having conflicts of interest with the State.

The Ministry of Labor and the Ministry of Finance, in consultation with the CFTU, set the wages for various categories of government employees. In the small private sector, management establishes wages or negotiates them with those who contract for employment.

The trade union law does not mention strikes or cite a right to strike; however, the law does give the unions oversight for both individual and collective labor disputes, which are defined as those involving alleged violations of labor laws, worker rights, or collective agreements. There were no reports of organized strikes during the year.

In August and September, bazaar vendors, who were not organized into unions, held strikes throughout the country. The vendors were upset about newly implemented tax laws and stall rental prices.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The Constitution specifically prohibits forced or bonded labor except as legal punishment or as may be specified by law. In addition, persons, including teachers and sometimes passersby in automobiles and busses, were forced to participate in the compulsory mobilization of labor for the cotton harvest.

The law prohibits forced or bonded labor by children. However, the large-scale compulsory mobilization of youth and students (by closing schools) to help with the cotton harvest during the fall, continued to occur in some areas. Student labor in the cotton fields was paid poorly, and students sometimes were required to pay for their food.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The minimum working age is 16 years; 15-year-olds can receive state permission to work but must work a shorter workday. In rural areas, younger children often helped to harvest cotton and other crops (see Section 6.c.). The Labor Ministry has an inspection service, which is responsible for enforcing compliance with these and other regulations governing employment conditions.

The Government has not ratified ILO Convention 182 on the worst forms of child labor.

The law prohibits forced and bonded labor by children. However, compulsory mobilization of children, mostly in rural areas, did occur during the cotton harvest (see Section 6.c.).

*e. Acceptable Conditions of Work.*—The Ministry of Labor, in consultation with the CFTU, sets the minimum wage. By year's end, the minimum wage was approximately \$4.5 per month (4,500 soum). The minimum wage did not provide a decent standard of living for a worker and family. Average government salaries were approximately \$16 (16,000 soum).

The standard workweek is set at 41 hours and requires a 24-hour rest period. Some factories apparently reduced work hours in order to avoid layoffs. Overtime pay exists in theory but was not always paid in practice. Payment arrears of 3 to 6 months were not uncommon for workers in state-owned industries, and the problem appeared to be growing, including among government office workers and officials.

The Labor Ministry establishes occupational health and safety standards in consultation with the unions. There is a health and safety inspection directorate in the Ministry. The local press occasionally published complaints about the failure of unions and government authorities to do enough to promote worker safety. Although written regulations may provide adequate safeguards, workers in hazardous jobs often lacked protective clothing and equipment. Workers are permitted to leave jobs that are hazardous without jeopardizing their employability in other jobs; however, in practice, high rates of underemployment made such action difficult.

*f. Trafficking in Persons.*—The law prohibits trafficking in persons; however, trafficking in women and girls from the country for the purpose of prostitution was a problem. One NGO reported that some local officials were involved in trafficking on a limited basis.

The law prohibits all forms of trafficking, including of minors, and provides for penalties, including prison sentences of 5 to 8 years for international trafficking. Recruitment for trafficking is punishable by 6 months to 3 years' imprisonment and fines of up to approximately \$750 (900,000 soum). The recruitment charge could be levied against international or internal traffickers. All law enforcement agencies are charged with upholding the anti-trafficking provisions of the criminal code. The national police reported they were investigating 20 cases of trafficking. Although there were no prosecutions for trafficking reported, by year's end, the national prosecutor's office reported there were 3 ongoing investigations.

The Government has taken some measures to combat trafficking in persons, including passage of anti-trafficking laws. The national police assisted in the formation of an antitrafficking NGO run by retired police officers and dedicated to researching the issue. The Ministry of Foreign Affairs reported that they assist women who contact them for help. Border guards at airports were directed to give more scrutiny to unaccompanied young women traveling to Turkey, the United Arab Emirates (UAE), and South Korea; they are authorized to deny such women permission to leave the country.

The country was a primary source for the trafficking of women and girls for the purpose of prostitution. There were no reliable statistics on this problem; and it does not appear to be widespread, although anecdotal reports from NGOs indicate that the number of young women from Uzbekistan who are trafficked into prostitution abroad is growing. Many women were unwilling to come forward due to both societal pressure and the fear, in cases where they were trafficked, of retaliation from

their traffickers. There were credible reports that women traveled to the Persian Gulf, Malaysia, South Korea, Thailand, Turkey and Western Europe for the purpose of prostitution. Some transit of trafficked persons from neighboring countries and to or from countries for which Uzbekistan was a transportation hub (Thailand, Malaysia, Indonesia, India, Korea, UAE) may also have taken place.

Traffickers most often targeted young women between the ages of 17 and 30. Agents in nightclubs or prostitution rings solicited these women, many of whom previously engaged in prostitution. In large cities such as Tashkent and Samarkand, newspaper advertisements for marriage and work opportunities abroad were connected to traffickers. Travel agencies promising tour packages and work in Turkey, Thailand, and the United Arab Emirates (UAE) also solicited prostitutes. Women reportedly were promised jobs as dancers or waitresses in nightclubs or restaurants in the destination country. There were reports that in some cases traffickers recruited women with fraudulent job offers and that in some cases they may have confiscated travel documents once the women reached the destination countries.

Some officials of the Ministry of Internal Affairs, Customs, or Border Guards accepted bribes in return for ignoring their instructions to deny exit to young women they believe to be traveling abroad to work as prostitutes. One NGO reported that some local officials, operating on a relatively small scale, were helping women to obtain false passports in order to travel to Dubai to work as prostitutes.

There was no government program to educate or assist potential victims. One NGO reported that the police had agreed to notify it of any women returning from abroad who looked as though they might be trafficking victims.

There was one NGO that specifically addresses trafficking. Other NGOs attempted to gain information on the subject and in order to combat trafficking in persons.

An increased number of targeted newspaper articles discussing trafficked women and prostitution appeared in state controlled newspapers; however, advertisements soliciting women's participation in such schemes appear in these same publications. The state radio also began airing a weekly call-in show for women who were involved in the sex trade.

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## FEDERAL REPUBLIC OF YUGOSLAVIA<sup>1</sup>

The Federal Republic of Yugoslavia (Yugoslavia or FRY) is a constitutional republic consisting of the Republic of Serbia and the Republic of Montenegro. On February 4, 2003, the Yugoslav parliament adopted the Constitutional Charter and Implementation Law, marking the end of the Federal Republic of Yugoslavia and the beginning of the state union of "Serbia and Montenegro." Yugoslavia has a president and a parliamentary system of government based on free and fair multiparty elections. Vojislav Kostunica was elected President of the Federation in September 24, 2000. Following governmental attempts to tamper with the results of that election, a peaceful revolution forced FRY President Slobodan Milosevic from power on October 6, 2000. In Serbian Presidential elections in September, Kostunica led all candidates but did not capture a majority of votes cast. Both the October runoff and the new elections in December failed because less than 50 percent of registered voters turned out to vote; a significant portion of the electorate deliberately chose not to vote in order to prevent Kostunica from winning under flawed election laws. Serbian Parliament Speaker Natasa Micic became acting Serbian President on December 30, pending presidential elections in 2003. Under the current constitutional framework, the Federation encompasses the relatively large Republic of Serbia (7.5 million people without Kosovo) and the much smaller Montenegro (650,000). However in March, with the mediation of the European Union (EU), Serbia and Montenegro negotiated the Belgrade Agreement by which the two republics agreed to redefine and recreate the joint state. This agreement established the guidelines for creating a joint state of "Serbia and Montenegro." The Constitutional Commission adopted the final text of the Constitutional Charter for the Union of Serbia and Montenegro on December 29, but by year's end had not agreed on necessary implementing legislation. The Montenegrin government has refused to participate in many of the functions of the Federal government and has acted unilaterally in several areas. The Federal government presides over a weakened structure, with responsibilities essentially limited to the Foreign Ministry, the Yugoslav Military (VJ),

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<sup>1</sup> The report on The Federal Republic of Yugoslavia (FRY) is divided in three separate sections addressing the human rights situations in Serbia, Kosovo, and Montenegro. Since federal authority was exercised effectively only over the Republic of Serbia throughout the year, discussion of FRY activities and institutions affecting human rights will be included in the Serbia section.

the Customs Administration (in Serbia), civil aviation control, and foreign economic and commercial relations. Although President Kostunica enjoyed wide popular support, significant power was concentrated at the republic level. In Serbia Prime Minister Zoran Djindjic exercised executive authority. Djindjic also has represented Serbia in discussions and negotiations with the international community. The Constitution provides for an independent judiciary, but both the federal and the republic judiciaries were often ineffective and subject to political influence.

While civilian authorities generally maintained effective control of the security forces, there were some instances in which the security forces acted independently of government authority. The VJ is formally under the control of the Supreme Defense Council, made up of the Presidents of Yugoslavia, Serbia, and Montenegro. However, in practice the VJ Chief of Staff reported directly to the President of Yugoslavia, and was subject to only symbolic parliamentary oversight. The Federal government also controlled a small police force for security of federal buildings, officials, and some border enforcement. The Interior Ministry of the Republic of Serbia controlled the Serbian police, a force of approximately 25,000 officers responsible for internal security, border checkpoints, and fire department services. The Ministry of Interior also controlled a 400-member gendarmerie and a 100-member anti-organized crime unit. In April the Law on Security Services transferred control of the State Security (RDB) secret police from the Serbian Ministry of Interior to the Serbian government as a whole—in effect to the control of the Prime Minister. Although the police leadership changed after the October 2000 revolution, most police personnel, including some high-level officials, also served under former President Milosevic. Some members of the security forces committed human rights abuses.

Economic performance remained weak due to structural deficiencies, general inefficiency, and deterioration of capital and trade ties following a decade of isolation, economic sanctions, and war. According to the 2002 census, Serbia's population (without Kosovo) was 7,478,820 and per capita gross domestic product (GDP) was approximately \$1,020. GDP was expected to grow by 4 percent, fueled by a slight recovery of industrial production. Lack of purchasing power, high unemployment and underemployment restricted consumption. Unemployment was estimated at approximately 30 percent. The general level of corruption in society remained high and impacted economic efficiency. The Government's economic reform program helped improve the health of the banking sector and maintained a fragile macroeconomic stability. Inflation declined sharply from 38 percent in 2001 to an expected 15 percent at year's end. The private sector was widely evident throughout the country. The privatization of socially owned capital moved forward through accelerated auction privatization of 300 companies. The Government made \$160 million in revenues through recent tender privatization. Foreign aid was an important source of government revenue, and the Government used it to repair infrastructure and to care for a large population of refugees and internally displaced persons (IDPs).

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Police at times beat detainees and harassed citizens, particularly Roma; however, police behavior improved somewhat following the December passage of the new Law on Criminal Procedure and its implementation in March. Police produced no results in investigations of many high-level killings committed during and after the Milosevic era. Arbitrary arrest and detention was a problem, although no longer a systemic problem.

The judiciary continued to be susceptible to political influence; poor cooperation between the judiciary and other government branches slowed the implementation of legislative reforms. Courts remained administratively paralyzed; corruption and incompetent judges remained a problem, and lengthy trials persisted. Direct police pressure on the media ceased, but libel suits from private individuals and indirect political manipulation contributed to self-censorship among journalists. The April Law on ICTY Cooperation resulted in some voluntary surrenders of indictees and the arrest and transfer of one indictee to The Hague. The Government transferred some documents to the ICTY and gave waivers for witnesses to testify on Senate matters. However, the ICTY remained dissatisfied with overall Yugoslav cooperation.

There were several incidents of societal violence or discrimination against religious minorities. Violence and discrimination against women, Roma and other ethnic minorities were problems. Trafficking in women and children remained a problem, which the Government took steps to address. Yugoslavia was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

The overall human rights record demonstrated that direct and systematic government oppression of citizens gradually came to an end during the consolidation of Yugoslav democracy that has occurred since 2001. The Government found solutions

to several significant problems inherited from the former regime. All ethnic Albanian political prisoners were transferred from Serbian jails to Kosovo, where they were freed. The Government established a multiethnic police force in areas of significant tension and, for the first time, conducted free and fair elections in majority Albanian parts of southern Serbia. Courts issued indictments and conducted trials against Serbs for war crimes committed in Kosovo and Bosnia. By year's end, five war criminals had been convicted and sentenced, two were still on trial, and four were under indictment. Passage of the Minorities Law protecting the rights of Yugoslavia's numerous ethnic groups fulfilled a major human rights requirement of the Council of Europe (COE), which on September 24 voted overwhelmingly to admit Yugoslavia following the ratification of the Constitutional Charter.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of political killings committed by the Government or its agents.

The region of southern Serbia that borders Kosovo and encompasses the municipalities of Presevo, Bujanovac and Medvedja has the largest concentration of ethnic Albanians in Serbia proper. Following violent clashes between security forces and ethnic Albanian rebels of the Liberation Army of Presevo, Medvedja and Bujanovac (UCPMB), a peace plan agreed in May 2001 between the Government and rebels continued to hold. Since the peace plan was signed, Serbian security forces have moved freely within the Ground Safety Zone (GSZ) along the Kosovo boundary. Unlike in previous years, the GSZ was not a haven for armed ethnic Albanian extremists. Security forces killed one ethnic Albanian, Agim Agusi, a known smuggler. A VJ patrol spotted Agusi on June 9 while he was attempting an illegal border crossing near the village of Miratovac and fatally shot him after he refused VJ calls to stop. The Government issued a statement regretting the loss of life, and announcing an inquest into the shooting. Upon investigation, no charges were filed against the soldiers involved in the shooting.

In Belgrade suspicious circumstances surrounded the January death of Dejan Petrovic in police custody. Police officers claimed that Petrovic, allegedly a heroin user, jumped to his death from a high window of the station even though Petrovic's hands were cuffed at the time. The Belgrade Deputy Prosecutor had not decided whether to file charges against the police by year's end.

There were no developments in police investigations of numerous cases of political killings from previous years. These cases include: the August 2001 killing of former State Security officer Momir Gavrilovic; the November 2000 killing of Nebojsa Simeunovic, a former criminal judge; the April 2000 killing of Zivorad Zika Petrovic, the former Director of Yugoslav Airlines; the February 2000 killing of Pavle Bulatovic, the former Yugoslav Minister of Defense; the April 1999 killing of independent journalist and publisher Slavko Curuvija; and the 1997 killing of Radovan Stojicic, former head of Serbian public security.

In southern Serbia, ethnic Albanian extremists made several attacks on police installations, including attacks with hand grenades, automatic weapons and a land mine in which two Yugoslav soldiers were injured. Ethnic Albanians were purportedly involved in several other violent attacks. Police prevented attempts to place bombs in front of the Bujanovac post office and in the Bujanovac sewer system and arrested four ethnic Albanian youths in connection to the incident. On March 15, the last Serb house in the ethnic Albanian village of Lucane, Bujanovac Municipality, was destroyed by an explosion. In addition, security forces seized several caches of buried rebel arms. There were several attacks on family members of ethnic Albanian participants in the Multi-Ethnic Police Force (MEPF). In the most serious of these attacks, on April 4, Xhemaili and Ramize Rexhepi of Dobrosin (Bujanovac Municipality) were gravely injured when a hand grenade was lobbed into the bedroom window of their home.

On June 10, assailants killed former Belgrade police chief Bosko Buha. On October 29, police arrested three individuals in connection with the killing.

The trial of former State Security Service head Rade Markovic for the October 1999 attempted killing of opposition leader Vuk Draskovic that resulted in the deaths of four persons was still ongoing at year's end.

Government authorities made substantial progress in exhuming bodies and establishing procedures for identifying missing persons. In 2001 the Federal and Serbian governments revealed the existence of mass graves containing bodies presumed to be those of ethnic Albanians killed in Kosovo and transferred to mass graves in Serbia in 1999. During 2001 the Government also cooperated with international organizations and the International Commission on Missing Persons (ICMP) in exhuming



approximately 450 bodies. During the year, the Government and ICMP exhumed 408 bodies from 7 different grave sites, including bodies of war victims that had floated down the Danube and Drina rivers (see Section 1.b.).

Former FRY and Serbian President Slobodan Milosevic went on trial at the ICTY (see Section 4).

Domestic war crimes indictments and trials began in Serbia during the year. On October 23, the Belgrade District Prosecutor charged four former members of the Bosnian Serb "Avengers" paramilitary for abducting, torturing, and killing 16 Muslims from the Serbian town of Sjeverin in October 1992. Police took two of those indicted, Dragutin Dragicevic and Djordje Sevic, into custody pending trial; two other indictees, ICTY indictee Milan Lukic and Oliver Krsmanovic, remained at large, possibly in the Republika Srpska. On October 9, former Serbian Police Special Anti-Terrorist Unit (SAJ) squad member Sasa Cvjetan went on trial in Prokuplje District Court for killing 19 ethnic Albanians in Podujevo, Kosovo, in March 1999. The Prokuplje Court also tried in absentia an unapprehended SAJ squad member, Dejan Demirovic, for committing the killings along with Cvjetan. On November 9, citing concerns about security, fairness of proceedings, and access to ethnic Albanian witnesses, the Serbian Supreme Court transferred the trial from Prokuplje to Belgrade District Court, where proceedings were scheduled to resume in January 2003.

On October 11, the Nis Military Court sentenced four VJ personnel to a total of 19 years in prison for killing two ethnic Albanian civilians in the Kosovo village of Kusnin in April 1999. The military court convicted VJ privates Danilo Tesic and Misel Seregi of physically committing the killings; Lt. Colonel Zlatko Mancic and Captain Rade Radojevic were convicted for having authorized the killings. On July 1, the Prokuplje District Court sentenced VJ reservist Ivan Nikolic to 8 years in jail for killing two ethnic Albanian civilians in the Kosovo village of Penduh in May 1999.

On May 10, the Serbian Republic government provided important documents to the District Court of Bjelo Polje, Montenegro, in the war crimes trial of former "Avengers" squad member Nebojsa Ranisavljevic for participating in the killing of 19 mostly Muslim Yugoslav citizens kidnaped from a train at the Strpci station in February 1993. On September 9, Ranisavljevic was sentenced to 15 years in prison. The Serbian government released long-sought secret documents showing that high-level officials in the Serbian railway and the Serbian Interior and Justice Ministries at the least had foreknowledge of the danger faced by the Muslim passengers and did nothing to protect them. On September 9, the Bjelo Polje court sentenced Ranisavljevic to 15 years in jail for participating in the killings (see Montenegro, Section 1.a.).

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

In August the media reported that, during the last 15 years, midwives and doctors conspired to kidnap numerous babies at the time of their birth, telling the parents that the babies were stillborn or died during birth. Criminal rings then sold the kidnaped babies to families who believed they were legitimately adopting children. The criminal rings allegedly favored stealing individual babies from sets of twins, since the parents of twins were supposedly more willing to accept the loss. The media reports were sparked by instances in Kragujevac, Belgrade, and Novi Sad of parents recognizing children they believed to have been dead for years. Approximately 100 mothers who believe their babies may have been stolen have formed an association to demand police action.

There were no developments in the 2000 disappearance of former Serbian President Ivan Stambolic.

During the year, Federal and Serbian government authorities intensified cooperation with neighboring countries and international organizations seeking to identify missing persons and investigating mass graves discovered in Serbia (see Section 1.a.).

The Government also took a series of official steps to establish region-wide identification procedures for the remains of missing persons. In January the Serbian Health Ministry granted ICMP permission to collect blood samples from families of missing persons in Serbia. In February the federal government signed protocols with UNMIK establishing procedures for exchanging forensic data and expertise, verifying that no hidden prisons existed in either Serbia or Kosovo, and authorizing the cross-border repatriation of all Serb and Albanian remains. In June the FRY government authorized the transfer of blood and DNA samples from Yugoslavia to the ICMP regional database in Tuzla, Bosnia; this allowed the immediate transfer of all blood samples collected in 2001 to Tuzla for bar-coding and testing. In August the FRY hosted the first regional meeting of governmental Missing Persons committees from Croatia, Bosnia, and the Republika Srpska to agree on a joint monitoring process in Sremska Mitrovica. On September 10, the FRY and Serbian governments

officially opened an ICMP-donated, Serb-operated DNA identification lab at the University of Belgrade.

There were no developments in police investigations of the transfers and reburials of the bodies buried at Batanjica and other grave sites. At year's end, the Government had not yet begun searching for bodies thought to be located at the bottom of Lake Perucac and under a highway near Vranje.

In October 2001, Serbian police positively identified the remains of Agron, Ylli, and Mehmet Bytyci, Americans of Kosovo Albanian ethnicity who disappeared in 1999 after being delivered from a Serbian prison into the hands of unidentified Serbian police officers. Forensic examination confirmed that the three brothers were shot in the heads while their hands were bound with wire. The Serbian government transferred the remains to family members for burial on February 26. Despite a strong chain of evidence, there were no developments in the police investigation at year's end.

*c. Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment.*—Yugoslav and Serb laws prohibit torture and other cruel forms of punishment, and there were no reports of systematic abuse; however, police at times beat citizens and detainees, particularly Roma (see Section 5).

Instances of police harassment of ethnic Albanian in southern Serbia continued to decline dramatically. The improvement can be credited largely to the deployment of the 400-member Multi-Ethnic Police Force throughout Southern Serbia (see Section 5).

On October 27 in separate incidents, unidentified men thought to be police illegally detained and beat Nikola Maljkovic and Dragan Ilic before delivering them into regular police custody. Maljkovic and Ilic had been identified as suspects in the Bosko Buha killing (see Section 1.a.); both were hospitalized following the beatings. On August 18, in Vranje, police severely beat Nenad Tasic, who sustained broken ribs, a punctured lung, and severe brain damage. The Humanitarian Law Center filed suit and the Vranje Public Prosecutor has taken up the case. On March 16, Belgrade police beat several students while shutting down a late night party, then drove Milan Milovanovic to another location, where they beat him before releasing him. On March 5, Leskovac police reportedly clubbed a handcuffed Roma man, Nebojsa Majlic, causing him to lose consciousness; afterwards, the police filed criminal charges against Majlic for interfering with police performance of duty. The Majlic case was one of more than 100 cases of alleged police abuse in Leskovac reported by the Leskovac-based Committee for Human Rights.

There were no effective institutional means of overseeing and controlling police behavior, and the Government offered no assistance other than the courts for citizens with complaints about police behavior. However, defense attorneys and human rights workers reported some improvement during the year in the willingness of the police and the courts to take action in cases of police abuse. According to figures provided by the Serbian Ministry of Interior (MUP), the MUP initiated 649 disciplinary proceedings during the year, resulting in 27 arrests of policemen, 122 criminal complaints, 73 resignations, and 93 suspensions. Typically there were long delays in opening investigations and filing formal charges. Punishment for police officers rarely exceeded 6 months' imprisonment, meaning that police officers found guilty of abusing human rights were usually able to rejoin the police force after convictions. On November 1, a Novi Sad municipal court ordered the Republic of Serbia to pay compensation to Stevan Dimic, a Roma man unlawfully arrested and tortured by Novi Sad police in July 1998. On July 8, a Belgrade municipal court sentenced two police officers to three months in jail each for severely torturing a Roma man, Krsta Kalinovic, in 1998. On June 13, the Vrsac Municipal Court convicted two police officers of beating and torturing Georg Tani in 2000.

Some police and local border guards facilitated trafficking in persons. No police or border police personnel were arrested during the year for facilitating trafficking in persons (see Section 6.f.).

In August members of the Serbian nationalist group *Obraz* assaulted two organizers of a photographic exhibition displayed in Cacak. The exhibition, "Blood and Honey," featured photographs documenting abuses committed by Serb forces during the Bosnian war. Following this episode, the exhibition was cancelled in several cities, including Nis and Kragujevac. Cacak police charged *Obraz* leader Igor Ivanovic with assault; the trial began in Cacak municipal court on September 10. Later in September, "Blood and Honey" opened in Novi Sad under heavy police protection.

Prison conditions generally met international standards. Prison conditions have improved following a decade of Milosevic-era neglect that culminated in widespread prison riots in November 2000. The Council of Europe (COE) judged that Yugoslav prisons either met minimum standards for COE membership or, in those areas that were deficient, would meet COE standards within one year. However, conditions

varied greatly from one facility to another because of dilapidated buildings and lack of government funds for repairs. The Helsinki Committee for Human Rights noted that some prisons offered clean, secure environments for inmates; however, in some prisons—most notably, the Belgrade Reformatory Hospital housing psychiatric prisoners—inmates were forced to live in filthy, inhumane conditions. The quality of food varied from poor to minimally acceptable. Health care was often inadequate. Basic educational and vocational training programs were in place at most prisons, but they were limited by lack of resources. The level of training for guards was inadequate, and guards received extremely low pay.

There were no reports of deaths due to official negligence, and no reports of physical abuse, torture, or beatings of prisoners by guards, although some prisoners complained that individual guards often gave preferential treatment to favored prisoners. Some inmates complained that other inmates subjected them to intimidation and occasional assaults. There were no internationally recognized political prisoners remaining in Serbian jails following the March transfer of all Kosovo Albanian prisoners (see Section 1.e.), including political prisoners and common criminals, to UNMIK custody in Kosovo. Men and women were held separately, and conditions in women's prisons were the same as in men's prisons. Juveniles were supposed to be held separately from adults, although this did not always happen in practice. Pretrial detainees were held separately from convicted prisoners. Prisoners were not allowed to vote in the Serbian presidential elections in September and October.

The Government permitted visits by the International Committee of the Red Cross, the Organization for Security and Cooperation in Europe (OSCE), and the Council of Europe. The Government also allowed local independent human rights monitors, including the Humanitarian Law Center (HLC) and the Helsinki Committee, to visit prisons throughout the country and to speak with prisoners without the presence of a prison warden.

Some witnesses and potential witnesses at ICTY experienced threats and intimidation in Serbia. In October Belgrade journalist Jovan Dulovic's family received threatening phone calls while Dulovic testified against Slobodan Milosevic. ICTY subsequently closed the hearings after the FRY government expressed its concern. In August a former police officer who had offered to testify at ICTY about atrocities he witnessed in Kosovo was forced to flee the country after repeated telephone threats against him and his family.

*d. Arbitrary Arrest, Detention, or Exile.*—The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. The new federal Criminal Procedure Code that took effect in March created strong regulations protecting the rights of detained and accused persons (see Section 1.e.), including prohibitions against excessive delays by authorities in filing formal charges against suspects and in opening investigations.

A new federal Criminal Procedure Code (ZKP) enacted in December 2001 entered into effect in March. According to the Belgrade Center for Human Rights, the ZKP provided better human rights guarantees to suspects and defendants in criminal proceedings than the previous criminal code. In October both HLC and the Yugoslav Lawyers' Committee for Human Rights (YUCOM) reported that, in spite of occasional abuses, police generally acted in accordance with the regulations introduced by the new ZKP. The ZKP mandates that a citizen can be arrested only with a judge-authorized warrant. Police must refer an arrested suspect immediately to an investigating judge, who must approve any detention of more than 48 hours. Arrested persons must be informed immediately of their rights, including the right to confidential conferences with a lawyer. No suspect can be detained for more than 3 months without the decision of a judge, and no one can be detained for more than a total of 6 months. The ZKP prohibits the use of force, threats, deception, coercion, and prohibits courts from using evidence acquired by those means. A suspect may make a statement only in the presence of counsel. The ZKP restricts the time from indictment to the conclusion of first instance trial to two years; appeals to second instance courts must be completed within one further year. Only the competent court can take a person into custody, and only in the cases it specifies. A person wrongfully detained can demand rehabilitation and compensation from the State. Bail was available. Due to the inefficiency of the courts, cases often took excessively long to come to trial; and, once started, trials often took excessively long to conclude.

On February 24, Belgrade police illegally detained Miroslav Gajic overnight in a solitary confinement cell. The next morning a magistrate apologized to Gajic and said that he had been unlawfully detained.

Unlike in previous years, there were no reports of police detaining journalists or NGO members for "informative talks."

The Government released all remaining political prisoners on March 26. No internationally recognized political prisoners or political detainees remained in Serbian jails (see Section 1.e.).

The Constitution prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the courts remained susceptible to corruption and political influence, although to a far lesser degree than under the former Milosevic government. The courts were highly inefficient—cases could take years to resolve—and there were no official channels for alternative dispute resolution. The Serbian government and judiciary made little progress in implementing the extensive organizational reforms mandated in the November 2001 laws on courts, judges, public prosecution, and High Judicial Council. With international help, the Serbian Judges' Training Center organized educational programs offered throughout the country. International organizations and local NGOs like HLC and the Belgrade Center for Human Rights (BCHR) also conducted training for judges during the year. In August the Government raised regular judges' salaries to a base salary of approximately \$500 per month (30,000 dinars).

The court system is made up of local, district, and Supreme Courts at the republic level. The 2001 Law on Courts mandates the establishment of an administrative appeals court and a second instance appeals court to lighten the burden of the Supreme Court; however, due to lack of funds and bureaucratic inertia, no new courts were established by year's end. On the federal side, there is a Federal Court and a Federal Constitutional Court to which Republic Supreme Court decisions, depending on the subject, may be appealed.

The military court system inherited from the Tito era presents little transparency in its operations. Under the terms of the federal Constitutional Charter approved by the Federal Constitutional Commission on December 29, military courts are scheduled to be taken over by the civilian judiciary in the first half of 2003. However, at year's end the legislation needed for implementing the charter had not yet been passed. According to the Federal Constitution, the Federal Constitutional Court rules on the constitutionality of laws and regulations and relies on the republics' authorities to enforce its rulings. The Constitutional Court remained staffed by some judges appointed during the Milosevic regime. A majority of judges on the Serbian Supreme Court were Milosevic appointees.

The Law on Judges mandates that judges have lifetime tenure with mandatory retirement at age 65. The Law on Courts establishes a Supreme Court-dominated High Judicial Council to appoint judges and public prosecutors; the law also creates another primarily judicial body, the High Personnel Council, which acts to discipline and dismiss judges. However, these self-governing judicial bodies did not begin functioning during the year, and the Serbian judiciary remained at a standstill in regard to appointments and discipline of judges.

In November and December, the Serbian Public Prosecutor submitted all public prosecutors, deputy prosecutors, and staff to review for general competency and previous conduct, including during the Milosevic era. The result was that approximately one-third of Serbian Public Prosecution personnel were dismissed or forced into retirement by the end of the year.

Although the Government dismissed all court presidents following the October 2000 revolution, most Serbian judges were Milosevic-regime appointees. During the year, the Government exerted intense pressure on the courts for dismissal of judges who profited illegally or subverted legal order under Milosevic. In June Serbian Justice Minister Vladan Batic attacked leading judges in the press and brought television crews unannounced into courthouses to dramatize his claim that many judges ignored their duties. However, the reformist leadership of the judiciary resisted government pressure, arguing that the principles of judicial independence and due process were more important than getting rid of the judges with speed, even if they were guilty of abuses under Milosevic. In July the Serbian parliament passed amendments to the judicial laws giving a parliamentary judicial committee the power to bypass the judicial branch in nominating, appointing, and dismissing judges and court presidents; however, the Constitutional Court struck down the amendments because they violated the independence of the judiciary. There were no trials of former court presidents or judges who committed abuses during the Milosevic regime.

Under Federal law, defendants have the right to be present at their trials and to have an attorney represent them, at public expense if needed. The courts also must provide interpreters. Both the defense and the prosecution have the right to appeal a verdict. Defendants are presumed innocent.

In July the Serbian parliament passed the Law on Suppression of Organized Crime, creating a semi-independent Special Prosecutor, a special police investigative

unit, specialized court chambers, and a dedicated detention unit. The Special Prosecutor's competencies include war crimes as well as organized crime. Some human rights activists have expressed concern that the special police force's expanded powers to investigate and detain suspects could lead to abuse. Changes to the federal Law on Criminal Procedure allowing for implementation of the Special Prosecutor law were passed in December.

The Federal Criminal Code was still in effect, although it was amended several times since 2000.

In April the VJ reported that military courts had tried 188 active duty VJ members and had filed charges against an additional 42 for crimes committed in Kosovo. According to the VJ, 15 cases were still under investigation. The VJ also reported that it had ceded cases against 137 former VJ members to civilian courts. These were criminal indictments rather than war crimes indictments that included: Murder, rape, and armed robbery.

All internationally recognized political prisoners held in Serbian jails were released during the year, bringing to an end the controversy following the transfer of approximately 2,000 ethnic Albanian prisoners to Serbia during NATO's bombardment of Kosovo in 1999. Following the terms of the November 2001 "Common Document" on Kosovo cooperation signed by the FRY government and UNMIK, international panels of judges examined the cases of all ethnic Albanian prisoners held in Serbian jails and all Serbian prisoners held in UNMIK jails. Serbian prisoners in UNMIK custody were given the option of transferring to prisons in Serbia. On March 26, the FRY government authorized the Serbian government to transfer 146 ethnic Albanian prisoners from Serbian jails to UNMIK custody. Those released included 89 common criminals and 57 "political prisoners" who were convicted of terrorism and anti-government activities in flawed trials from 1998 to 1999. UNMIK authorities immediately freed all political prisoners and a majority of the common criminals. Two Kosovo Albanian common criminals elected to remain incarcerated in Serbia at their own request due to fears for their safety among other ethnic Albanians in UNMIK prisons; UNMIK interviewed the two and verified that they made their decisions voluntarily.

On July 14, Serbian police arrested Taljif Aljetic, an ethnic Albanian traveling through Serbia from northern Europe to Kosovo. Aljetic was charged with "hostility to the state." According to the agreement between UNMIK and the FRY, Aljetic and any other Kosovo Albanian prisoners held in Serbia had the option of transferring to UNMIK custody. The Serbian Justice Ministry was excessively slow in processing Aljetic's transfer, which took place in December. Two other ethnic Albanians convicted of common crimes—Saban Mujovic and Gezi Hotovic—were also transferred to UNMIK custody in December.

Amnesty for former members of the UCPMB, an integral part of the Covic Plan for peace and ethnic re-integration in Southern Serbia, has been respected in practice since the plan's adoption in May 2001. In June this amnesty was given the status of Federal Law.

There were no developments in the case of 24 Bosniak Muslims whose 1993 political convictions of crimes against the state were returned for review by the Supreme Court in 1996. The accused all lived freely, but while waiting for the charges to be cleared they were forced to live under the stigma of their earlier conviction, unable to exercise some basic rights of citizenship such as possession of a passport.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, the Government at times infringed upon these rights in practice. Federal law gives the Federal Ministry of the Interior control over the decision to monitor potential criminal activities; Republic-level laws give the Republic Ministries of the Interior the same control. The Federal Constitution includes restrictions on searches of persons and of premises; similarly, under the Serbian Constitution, police must enter a premise with a warrant, or if no warrant is obtained, they may only enter in order to "save people and property." Both the Federal and Republic governments generally respected these provisions in practice, with occasional exceptions.

Although there was no direct evidence, some observers believed that the authorities selectively monitored communications and eavesdropped on conversations, read mail and e-mail, and wiretapped telephones. Members of political factions, with no direct evidence, accused other factions of using secret police and intelligence units to eavesdrop on them to gain political advantage. Although illegal under provisions of Federal and Serbian law, the Serbian post office also was believed by some to register and track suspicious mail from abroad.

The Government did not fulfill its promise to open to the public all secret files on persons collected under former regimes. The few files actually delivered to indi-

viduals who requested them had been cleansed of documents that might have contained sensitive reporting on the individuals.

The Government did not use forced resettlement; nor did it interfere in the spheres of family, appearance, or religious practice. The federal law requiring military service was not enforced during the year, and there were no forced conscriptions.

During the year, the authorities forcibly evicted a number of Roma, including children, from squatter settlements without offering them any alternative accommodations (see Section 5).

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—Federal law provides for freedom of speech and of the press; however, political pressure from various factions, an uncertain regulatory environment, and vulnerability to libel suits placed constraints on free expression by journalists, editors, and other individuals associated with the media.

In October 2000, the Government abolished the Law on Public Information, which former President Milosevic used to silence the independent media during the Kosovo crisis. In July the Serbian Parliament passed the Law on Broadcasting, creating a regulatory framework designed to foster free and independent media; however, the law had been only partially implemented by year's end.

Some observers believed that the continued lack of clear guidelines created an atmosphere unfriendly to free expression. Media independence remained a problem. Political parties continued to compete for position and influence in the media; and some media outlets clearly attempted to curry favor with the Government in hopes of receiving favorable treatment once new media reform laws are adopted. Some media outlets practiced self-censorship and were reluctant to report on crimes perpetrated during the wars in Bosnia, Croatia, and Kosovo. Television coverage of the Milosevic trial at ICTY tended to be sketchy or defensive, with the notable exception of Radio/TV B-92, which broadcast the proceedings live.

Selective privatization of media during the Milosevic era has left the country with a mixture of privately owned and government-owned media outlets. Tanjug was the state-owned news agency. The Government also owned Borba, which controlled one of the most important printing houses in the country, and published the dailies Borba, Sport, and Vecernje Novosti. The oldest nationwide daily, Politika, was run by several state-run companies and was influenced by the Government. The independent daily Danas and the weeklies Vreme and Nin supplemented the high-circulation tabloids Blic and Glas Javnosti for readership.

Two major independent TV stations, BK and TV Pink, which received advantageous treatment, including frequencies, under the Milosevic regime, had widespread coverage; TV Pink expanded into Montenegro during the year. The Government granted Radio/TV B-92 a temporary license to broadcast nationally pending the final allocation of frequencies. B-92 set up new transmitters to make itself a national channel that could compete with TV Pink and BK. Anticipating competition from B-92 in upcoming bids for national frequencies, TV Pink and the Montenegrin weekly Publika launched a brief but intense smear campaign against B-92's directors in October. TV Pink, the most widely watched station in the country, has shown editorial bias in favor of the Government since 2000.

State-controlled Serbian Television and Radio (RTS) was a major presence in television and radio. Aside from the three RTS channels, the State had considerable influence, although not formal control, over the major television stations: TV Politika, TV Novi Sad, and YU INFO, as well as Radio Belgrade's three stations. RTS's coverage was generally objective; however, it occasionally demonstrated some biases in favor of certain political parties. Management personnel could be politically influenced, since editors-in-chief were government-appointed. The Government funded a Hungarian language newspaper, and RTS provided some Hungarian language programming.

Libel remained a criminal offense. Though the Government itself did not use libel laws to suppress free expression in the media, the low threshold defining libel enabled former members of the Milosevic regime and government officials to win private cases against media outlets that criticized them. Libel can result in jail terms, and courts have the power to issue "conditional sentences" that silence offending journalists with the threat that any further offense will lead to immediate imprisonment. However, there were no reports of "conditional sentences" being issued to journalists. On May 14, Kikindske Novine editor-in-chief Zeljko Bodrozic was convicted of libel for reporting on the business deals of former Milosevic associate D Mitar Segrt. On September 25, the Kragujevac municipal court convicted journalist Gordana Bozic of libel for investigative reporting on shady deals involving political parties and youth organizations. In September businessman Dragan Tomic

began libel proceedings against RTS reporter Dragana Vasiljevic for the offense of reading on the air Tomic's official bank statements. On October 14, Democratic Party member Radisava Ljubisaljjevic initiated libel proceedings against B-92 for broadcasting public statements made by various political parties about Ljubisaljjevic.

The Government did not censor the media directly during the year. There were no reports of police stopping journalists for "informative talks." There was debate among some journalists about whether the ICTY infringed upon confidentiality rights in requiring selected journalists to testify at The Hague.

Journalists commonly practiced self-censorship. According to the HLC and BCHR, journalists censored themselves not for fear of offending the Government, but because of possible libel suits and fear of offending public opinion, particularly on subjects relating to wars in the former Yugoslavia.

Local authorities occasionally harassed journalists and sometimes had the power to dismiss journalists from posts in publicly owned media outlets. On October 12, Cacak mayor Velimir Ilic, enraged by critical reports broadcast on TV Cacak, telephoned insults to the anchorwoman and other reporters; Ilic and his bodyguards then appeared at the station and he continued the tirade, which included misogynist slurs against the anchorwoman. The director of TV Cacak resigned after the incident. On September 23, the Pirot Municipal Council announced that it would fire the editor and reporters of the local Sloboda Media Company for criticizing the actions of local authorities. In Leskovac the state-appointed editor-in-chief of the newspaper Nasa Rec threatened to dismiss three reporters for failing to sign a labor contract that expanded the editor's control of the paper. In October Vojvodina Assembly President Nenad Canak called a journalist at regionally owned Novi Sad Radio 021 and threatened to fire the editor for remarks made on the air.

There were no reports of extremist groups targeting journalists during the year. Blic News editor Zeljko Cvijanovic received numerous telephone threats in May after publishing articles on the Surcin organized crime clan's control of certain Serbian roadwork contracts. According to Belgrade's Association of Independent Electronic Media (ANEM), police did not attempt to find the source of the threats.

The Government did not restrict publishing or import of published materials; however, some religious groups complained that they were prevented from importing proselytizing literature beyond a government-set threshold (*see* Section 2.c.).

The Government did not restrict access to the Internet; however, there were reports that it selectively monitored e-mail correspondence (*see* Section 1.f.).

The Government did not restrict academic freedom. In April the Serbian parliament passed a new Law on Universities designed to protect universities from political interference. The law restored the Education Council (Prosvetni Savet) abolished by Milosevic in 1990. The Education Council, a republic-level expert body or board of regents answerable to the parliament, sets general university policy, makes some administrative decisions, and determines general curricular goals. According to the law, university rectors and faculty deans will be selected by an academic body, the Scientific-Educational Council (Naucno-Nastavno Vece), without interference from the Ministry of Education. The law also provides for participation of student organizations in determining certain aspects of university policy.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. The Government required private organizations to register; however, no problems with registration were reported during the year. Demonstrating groups were required to notify the police at least 24 hours in advance of the demonstration.

*c. Freedom of Religion.*—Federal and Republic laws provide for freedom of religion and Federal and Serbian governments generally respected these right in practice. There was no state religion; however, long-established religions, including the majority Serbian Orthodox Church, received some preferential consideration. The Government did not interfere in the public or private practice of religion.

Religious groups are required to apply to the Federal Ministry of Religious Affairs for registration. A new Federal Law on Religious Freedom that would require that religious groups register with the Federal Secretariat for Religious Affairs or the Federal Ministry of Interior had not passed by year's end.

The Jehovah's Witnesses reported that Serbian authorities limited the amount of literature they were allowed to import into the country; they claimed the amount they were permitted to import was insufficient for the missionary activities of the 8,000 members and friends of the community. The Jehovah's Witnesses also reported difficulties in acquiring land and approval for church construction and in obtaining visas for missionaries. Representatives of the Church of Christ claimed that Protestants had experienced difficulty in purchasing a building to be used for a soup

kitchen. The Church of Jesus Christ of Latter-Day Saints complained that the Government did not grant special visas to missionaries, who had to leave the country every three months to renew their visas.

According to the Law on Religious Freedom, primary and secondary school students are required to attend classes on one of seven "traditional religious communities." As an alternative to this requirement, students were allowed to substitute a class in civic education.

In 2001 the VJ announced its intention to introduce Orthodox, Catholic and Muslim religious leaders into military units. At year's end, only Serbian Orthodox clerics had been introduced.

Representatives of Belgrade's Islamic Community reported difficulty in acquiring land and government approval for an Islamic cemetery near the city.

The attitudes of ethnic groups in the region historically have been influenced strongly by religion, and most instances of ethnic discrimination have had at least some religious roots. There were instances of harassment and societal discrimination against some religious minorities, including the Catholic minority in Vojvodina.

Novi Sad police failed to respond to repeated complaints by members of the Muslim Gujak family, that over a period of three years they had been threatened, insulted, and on one occasion assaulted by their Serb neighbor, Momir Vujic. The HLC filed a criminal complaint against Vujic for abusing the Gujaks on ethnic grounds.

The Serbian Orthodox Church took action against the anti-Semitic claims made by one of its defrocked ex-members, Dr. Zarko Gavrilovic. Gavrilovic's statements were "energetically rejected and condemned" by the highest body of the Serbian Orthodox Church, the Holy Synod.

Minority religious communities, including Jews, Roman Catholics, Jehovah's Witnesses, and the Church of Christ report occasional incidences of vandalism, like the throwing of rocks at places of worship and spray-painting of nationalist or anti-Semitic slogans in Belgrade, Novi Sad, Sremska Mitrovica and other cities in Serbia. A Catholic Church in the Vojvodina town of Sremska Mitrovica was pelted with stones and spray painted with nationalist slogans and swastikas. Church of Christ leaders reported that acts of vandalism took place soon after television programs describing the work of "sects," where minority Protestant faiths are often grouped together with satanic cults.

On December 24, approximately fifty demonstrators prevented an Anglican Church Christmas Eve service from taking place at the Chapel of the Serbian Orthodox Patriarch's residence in Belgrade. The demonstrators refused to allow Anglican Priest Phillip Warner and more than two dozen worshippers access to the chapel. Patriarch Pavle, Metropolitan Amfilohije and President Kostunica, among others, condemned the protest. Belgrade Police announced December 29 that they had brought criminal charges against ten individuals involved in the blockade.

Serbia's Jehovah's Witness Community reported that one of its members, Sahiti Mirsad, served a five-month jail sentence because of his conscientious objection to serving in any part of the military, including non-lethal sections. Conscientious objection was an option in Yugoslavia, but conscientious objectors still were required to serve in the VJ, albeit in non-lethal capacities. There was no civilian option.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Constitution provides for these rights, and the Government generally respected them in practice; however, there were reports of Muslims being singled out for unusually long searches at Serbia's border with Bosnia.

Under the previous government, many persons living in Serbia and Montenegro who were born in other parts of the former Yugoslavia were unable to establish citizenship in Yugoslavia. Refugees who applied for Yugoslav citizenship were forced to give up their Bosnian or Croatian citizenship to become eligible for Yugoslav citizenship. To address this problem, in February 2001 the Government amended the 1997 Citizenship Law to allow dual citizenship. However, many of those granted citizenship have retained their refugee cards instead of turning them in for Yugoslav identity cards, presumably in the belief that that the benefits of refugee status are greater than those they would receive as citizens.

On October 29, the Governments of FRY and Bosnia and Herzegovina signed a Treaty on Dual Citizenship, which gave citizens from both countries the option of dual citizenship, with equal rights and privileges for travel between the countries. The treaty further secures the right of refugees to return by guaranteeing access to health benefits, social security, and other benefits earned while working in the previous country of residence. Bosnian Muslims crossing into Serbia from Bosnia were often subjected to lengthy searches by border police, while Bosnian Serbs were often allowed to pass quickly through border checkpoints.



The conflicts that occurred in Bosnia, Croatia, and Kosovo led to widespread displacement of persons. There were approximately 204,000 internally displaced persons (IDPs) from Kosovo, mainly Serbs, Roma, and Bosniaks. Most Serb IDPs from Kosovo rented inadequate lodging or were housed with host families or relatives; however, approximately 10,000 remained in collective centers. Visits by foreign diplomats to collective centers found them to be inadequate for other than emergency shelter. Collective centers were a drain on Serbian government resources. It was impossible to estimate unemployment figures among IDPs. Most families have moved three times or more in search of better schooling or employment opportunities. It is probable that many of them were employed either fully or part-time in informal sector enterprises, such as working in one of the many "gray economy" firms manufacturing clothes, furniture and other products. The Serbian government, with UNHCR support, started to close 62 collective center housing refugees from Bosnia and Croatia (but not those housing IDPs) by setting qualifications to remain housed in collective centers and seeking alternate housing for others.

The great majority of the approximately 10,000 IDPs who fled into Kosovo during the 2001 crisis in southern Serbia returned to their homes in Bujanovac, Presevo, and Medvedja municipalities following the implementation of the May 2001 Civic plan for resolving the crisis.

There were an estimated 40,000 to 45,000 displaced Roma living in the country. Roma faced a dilemma during the Kosovo conflict, as many Kosovo Roma were perceived as Serb collaborators. Living conditions for Roma in Serbia were, on the whole, extremely poor. Local municipalities often were reluctant to accommodate them, hoping that if they failed to provide shelter, the Roma would not remain in the community (see Section 5). If they did settle, it was most often in official collective centers with a minimum of amenities or, more often, in makeshift camps on the periphery of major cities or towns. The U.N. High Commissioner for Refugees (UNHCR) was in the process of identifying municipalities willing to cooperate in a program for resettling the Roma in more adequate living quarters.

The Constitution provides for the granting of refugee or asylum status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the UNHCR and other humanitarian organizations assisting refugees. There were approximately 336,000 refugees from other successor nations of the Socialist Federal Republic of Yugoslavia. Of these refugees most (225,000) were from Croatia. The great majority of the several thousand ethnic Albanians who fled into Serbia in 2001 to escape the conflict in Macedonia have returned to their homes in Macedonia. The Government provides first asylum.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The Federal Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The FRY and the Serbian Republic each have a president and a parliamentary system of government. There were no Federal elections since September 2000.

In the Serbian presidential elections held on September 29, the primary vote-getters were FRY President Kostunica and FRY Deputy Prime Minister Miroslav Labus. Radical Party leader Vojislav Seselj came in third with a high number of votes. Although Kostunica received a plurality of votes, he did not receive a majority of votes cast. Kostunica also prevailed in the October 13 runoff election, but since less than 50 percent of the registered voters participated, the Republic Election Commission judged the election to have failed. In November the Serbian Parliament abolished the 50 percent threshold for runoff elections; however, the 50 percent threshold remained a requirement for first rounds of elections. When new Serbian presidential elections were held on December 8, once again Kostunica prevailed but the election failed because less than 50 percent of registered voters turned out to vote. In both the October 13 runoff and the December 8 new elections, a significant portion of Serbian voters deliberately stayed home to prevent Kostunica's victory by depressing the voter turnout. International monitors judged the elections to have been free and fair.

Incumbent Serbian President Milan Milutinovic's term of office expired on December 30. Milutinovic, an ICTY indictee, was succeeded as acting Serbian President by Serbian Parliament Speaker Natasa Micić.

During and after this year's Serbian presidential elections, Kostunica and some international observers complained that inaccuracies in the official lists of registered voters resulted in an inordinately high numeration of the 50 percent threshold. The

voters' lists also contained the names of a substantial number of voters who lived outside the country with no means of casting their votes. However, those inaccuracies could not have accounted for the shortfall in voter turnout. For several years prior to this year's elections, OSCE made strong recommendations for improving Serbian election laws, including eliminating the 50 percent turnout requirement. However, no Serbian political party worked to change the election law. The flawed process in the presidential elections was the consequence.

On July 28, free elections were held for the first time in the majority ethnic Albanian municipalities of Bujanovac and Presevo, as well as the mixed Serb and Albanian municipality of Medvedja. Serb parties had previously maintained power in these municipalities through gerrymandering and vote-stealing. Two new Serbian Republic laws, the Law on Local Self-Government and the Law on Local Elections, allowed direct election of mayors and a proportional system of voting guaranteeing multi-ethnic representation in government. Ethnic Albanian mayors were elected in Bujanovac and Presevo; and Albanian-led multi-ethnic municipal assemblies were elected in the two municipalities. Two re-run elections were held at certain polling stations in response to complaints by Serb parties about procedural irregularities. International monitors declared the elections to be free and fair.

In February the Serbian parliament passed a new Law on Local Self-Government instituting direct election of mayors and enlarged competencies to municipal and city governments, including greater flexibility in recapturing tax revenue for local needs. The law also increased citizens' ability to participate directly in local government by giving them the right to undertake civil initiatives and organize local referendums.

Following the end of Serbian parliamentary session in mid-June, the governing DOS coalition responded to Kostunica's Democratic Party of Serbia's (DSS) boycott of both the DOS Presidency and Parliament by expelling DSS from the DOS coalition. Subsequently, the Parliament's Administrative Committee voted to strip DSS of its 45 parliamentary mandates, maintaining that mandates belonged to the coalition rather than to the political parties in the coalition. In the fall, before the Federal Constitutional Court could rule definitively on the mandates controversy, DSS reached a political agreement with DOS enabling DSS to continue participating in the Serbian Parliament. Since the struggle over mandates took place in the interval between parliamentary sessions, parliamentary activity was not directly affected. DSS parliamentarians participated normally when the next parliamentary session began in November.

There were 10 women in the 178-seat Federal Parliament and 27 women in the 250-seat Serbian Parliament. There were four women in the Serbian Cabinet. Women were active in political organizations; however, they only held approximately 10 percent of ministerial-level and Parliamentary positions in the Serbian and Federal governments. Prominent positions held by women included: Speaker of the Serbian Parliament, Commissioner for Refugees, Minister for Social Welfare, the Minister for Transportation and Telecommunication, and President of the Serbian Supreme Court.

There were no legal restrictions on minority participation in political life. There were 20 minorities in the 250-seat Serbian Parliament. There was one minority in the Serbian cabinet and one minority in the Federal cabinet. Ethnic Serbs and, to a certain extent, Montenegrins, dominated the country's political leadership. In Vojvodina, where the Hungarian minority constituted about 15 percent of the population, many regional political offices were held by Hungarians. Jozsef Kasza, a Hungarian minority party leader, was Serbian Deputy Prime Minister. Few members of other ethnic groups were involved at the top levels of government or the state-run economy; however, Rasim Ljajic, a Sandzak Muslim leader, was appointed the Federal Minister for Minority Affairs in November 2000. Roma have the right to vote, and there were two small Romani parties in Serbia. One of the four deputy mayors in Kragujevac was a Rom. Ethnic Albanians, who took control of local government in two southern Serbian municipalities and partial control in a third, were underrepresented in the federal and republic governments. Ethnic Hungarians led municipal governments in Subotica and six other municipalities in northern Vojvodina. In the Sandzak, Bosniak Muslims controlled the municipal governments of Novi Pazar, Tutin, and Sjenica.

Some minorities, such as Hungarians and Bosniak Muslims, turned out to vote in percentages roughly equal to or greater than the general population's percentage of turnout. Roma continued their historical pattern of voting in extremely low numbers. Ethnic Albanians boycotted the September Serbian presidential election; however, they turned out in high numbers in the July municipal elections in southern Serbia.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views. Some NGOs, such as G-17, Otpor, and the Center for Free and Democratic Elections (CeSID) contributed to the Government's reform strategies at the highest level. Others, such as the HLC, Yugoslav Lawyer's Committee for Human Rights (YUCOM), and Helsinki Committee for Human Rights in Serbia (HCS), frequently offered citizens the only chance for redress when government institutions fail to protect basic human rights. There were no reported cases of government harassment of human rights NGOs, which were highly independent in their assessments of government actions. HLC, YUCOM, Belgrade Center for Human Rights (BCHR), the Leskovac Council on Human Rights, and the Center for Antiwar Action researched human rights abuses throughout the country and, on occasion, elsewhere in the former Yugoslavia. HCS and BCHR published annual surveys on human rights issues in Yugoslavia; HCB also cooperated with the Pristina-based Helsinki Committee in monitoring human rights abuses in Kosovo. In the Sandzak region, two committees monitored abuses against the local Muslim population and produced comprehensive reports. Most of these organizations offered advice and help to victims of abuse.

The Government worked in partnership with international and local NGOs in a number of areas affecting human rights during the year, including monitoring of elections (CeSID), monitoring of official corruption (Otpor), legal and judicial reform (YUCOM, HLC), the drafting of the new criminal code (BCHR), judicial education (HLC, Belgrade Center for Human Rights), refugee return (Serbian Democratic Forum, HCB), identification of missing persons (ICMP), and the fight against human trafficking (ASTRA, Counseling against Family Violence).

The Yugoslav and Serbian governments made some progress in cooperating with the ICTY, particularly in the field of developing an improved legislative framework for complying with ICTY requests. In April the Federal Parliament adopted a Law on Cooperation with ICTY and formed a National Council for ICTY Cooperation chaired by Foreign Minister Goran Svilanovic. However, the Law on Cooperation only authorizes transfer of those already indicted at the time the law entered into force; it does not apply to potential future ICTY indictees. Upon adoption of the law, the Government made a public call for ICTY indictees to surrender for transfer to The Hague. A number of indictees surrendered in response to this call, including former Chief of General Staff of the Yugoslav Armed Forces Dragoljub Ojdanic, former Deputy Federal Premier Nikola Sainovic, Major General Mile Mrksic, former President of the self-styled Republic of Serbian Krajina Milan Martić, and Momcilo Gruban. Indictee Ranko Cesic was arrested and transferred to ICTY representatives in June. Following the suicide of former Serbian Minister of Interior Vljeko Stojiljkovic, seventeen ICTY indictee-citizens of the FRY remained at large. Former President Milan Milutinovic left office on December 30 and, as an ICTY indictee, lost his immunity from prosecution. Belgrade's Regional Court began the legal process that should lead to Milutinovic's transfer to the ICTY by requesting the Serbian government's confirmation of the ICTY indictment against him. While the Federal and Serbian Republic governments contended that they had no information confirming the presence of these indictees on Yugoslav territory, these contentions were vigorously challenged by ICTY's Chief Prosecutor Carla Del Ponte.

In addition to the transfer of indictees, the Yugoslav and Serbian governments cooperated with the ICTY through the transfer of some documents and through enabling the testimony of witnesses. During the year, the Yugoslav National Council for ICTY cooperation provided access to documents on crimes against ethnic Serbs and furnished the ICTY with documents including records from 17 sessions of the Supreme Defense Council, Yugoslav National Bank records related to an alleged arms trader, and files from investigations and judicial proceedings against Serb Ministry of Interior forces for crimes committed in Kosovo. The National Council requested the declassification of an additional 172 documents, a first step towards the transfer of documents to ICTY prosecutors. In addition to answering numerous requests for information on the whereabouts of possible witnesses, the National Council enabled the testimony of over thirty witnesses by coordinating waivers from legal obligations to protect state and military secrets. ICTY continued to maintain that progress on these fronts was unacceptably slow.

During the year, domestic war crimes indictments and trials began in Serbia (*see* Section 1.a.).

Some witnesses and potential witnesses at ICTY experienced threats and intimidation in Serbia (*see* Section 1.c.).

There was no autonomous human rights ombudsman at either the Federal or the Republic level.

The Truth and Reconciliation Commission (TRC) founded by President Kostunica in 2001 continued to flounder because of a lack of shared purpose among its members and a lack of funds from the Government. The TRC held a roundtable in May, and in June hosted a presentation by the Netherlands Institute for War Documentation. In September the TRC sponsored public testimony by Bosnian Muslim and Serb family members of victims of the Srebrenica killings.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

Federal and Republic-level laws provide for equal rights for all citizens, regardless of ethnic group, language, or social status, and prohibit discrimination against women; however, in practice the legal system provided little protection for such groups.

*Women.*—Violence against women was a problem and traditionally high levels of domestic violence persisted. The few official agencies dedicated to coping with family violence had inadequate resources and were limited in their activity by social pressure to keep families together at all costs. In March the federal Criminal Code was amended to make spousal rape as a criminal offense. Few victims of spousal abuse filed complaints with the authorities. There was no trained police unit to provide protection or assistance to female victims of sexual or other violence. The Center for Autonomous Women's Rights in Belgrade offered a rape and spousal abuse hot line, and sponsored a number of self-help groups. The Center also offered assistance to refugee women (mostly Serb), many of whom experienced extreme abuse or rape during the conflicts in the former Yugoslavia.

The country served as a transit country, and to a lesser extent a country of origin and a destination country, for trafficking in women for the purpose of sexual exploitation (*see* Section 6.f.).

Women did not enjoy social status equal to that of men, and relatively few women obtained upper level positions in government and commerce. Since changing regulations to allow women to serve as police officers in 2001, the Serbian police hired increasing numbers of women officers. Traditional patriarchal ideas of gender roles, especially in rural areas, subjected women to discrimination in many homes. In some more remote rural areas, particularly among some minority communities, women effectively lacked the ability to exercise their right to control property. In rural areas and some minority communities, it was common for husbands to direct the voting of wives. Women legally were entitled to equal pay for equal work; however, according to the International Helsinki Federation for Human Rights, women's average wage was 11 percent lower than the average wage of men. Women were granted maternity leave for 1 year, with an additional 6 months available. In urban areas such as Belgrade and Novi Sad, women were represented widely in many professions including law, academics, and medicine. Women were also active in political and human rights organizations.

*Children.*—The Government attempted to meet the health and educational needs of children. The educational system provided 8 years of free, mandatory schooling. However, economic distress affected children adversely in both the education and health care systems, particularly Roma children, who rarely attended kindergartens. Many Roma children never attend primary school, either for family reasons, because they were judged to be unqualified, or because of societal prejudice. Due to this lack of primary schooling, many Roma children did not learn to speak Serbian, and there was no instruction available in the Romani language. Some Roma children were mistakenly placed in schools for children with emotional disabilities because Romani language and cultural norms made it difficult for them to succeed on standardized tests in Serbian. Many Roma children were trafficked within the Roma community in Serbia and to other Roma abroad to be used in begging and theft rings.

Traditionally there has been no societal pattern of abuse of children, but child abuse occasionally took place in the country.

The country was a transit country and, to a lesser extent, a country of origin and destination country for trafficking in girls for the purpose of sexual exploitation (*see* Section 6.f.). In August the media reported that, in the 1980s and 1990s, some newborn babies had been kidnaped by midwives and doctors and sold through criminal rings to adoptive parents (*see* Section 1.b.).

*Persons with Disabilities.*—The law prohibits discrimination against persons with disabilities in employment, education, or in the provision of other state services; however, in practice facilities for persons with disabilities—mental and physical—were inadequate, and the Government did not make addressing this problem a priority. However, the law mandates access for persons with disabilities to new official

buildings, and the Government sometimes enforced these provisions in practice. The Government did not provide mobile voting for handicapped or ill voters incapable of coming to polling stations. Persons with disabilities were excluded from the category of eligible voters in the September-October Serbian presidential elections.

*National/Racial/Ethnic Minorities.*—Minorities constituted 25 to 30 percent of Serbia's population and included ethnic Albanians, Romani, Hungarians, Bosniak Muslims, Slovaks, Romanians, Vlachs, Bulgarians, Croats, and others.

The heavy police presence remaining in southern Serbia is in part due to credible threats of violent acts by radical elements of the ethnic-Albanian community. Incidents of police harassment against the ethnic Albanian population continued to decline dramatically. According to reports from local ethnic Albanian human rights organizations, VJ troops were responsible for most incidents of harassment in southern Serbia. Harassment by the VJ ranged from verbal abuse to confiscation of money to temporary detention from one to three hours. There were no reports of physical abuse or brutality. Due to the deployment of the MEPP throughout Southern Serbia, by year's end, training had been completed and MEPP cadets were on patrol. The OSCE's Mission to The Federal Republic of Yugoslavia trained cadets in modern police tactics at an international police training center in Mitrovo Polje.

Although some problems persisted, the Government's policy toward minorities has improved greatly since Milosevic's removal from office. In February the Government passed three laws benefitting Serbia's minorities. The federal Law on the Protection of the Rights and Liberties of National Minorities banned discrimination on national, racial, ethnic, and religious grounds and affirmed the right of significant minority communities to self-government and education in their own language. The Minorities Law stipulated the creation of a representative Federal Council of Minorities. The Serbian Republic's Law on Local Self-Government increased the political power and responsibility of municipalities, including greater power to recapture tax revenue for local uses. This law provided the basis for the municipal elections that brought ethnic Albanians to power for the first time in southern Serbia (*see* Section 3). The Serbian Republic's Omnibus Bill on Vojvodina granted increased powers of self-government to the historically distinct Vojvodina region of Serbia, although the law stopped far short of restoring the full autonomy that Vojvodina enjoyed until 1989. On November 4, the FRY and Romania signed a bilateral agreement designed to protect national minorities on both sides of the border. Federal Minister for Minorities Rasim Ljajic led a public education campaign for ethnic tolerance, instituting an annual national award for the promotion of tolerance.

Ethnic Albanian leaders of the Southern Serbian municipalities of Presevo, Bujanovac and Medvedja continued to complain of the underrepresentation of ethnic Albanians in state structures. Implementation of the Covic plan for peace and ethnic re-integration in the region, including the conclusion of the deployment of the Multi-Ethnic Police Force (MEPP) and free and fair democratic elections held in July and August, gave Southern Serbia's ethnic Albanians proportional representation in the police and control of local governments in municipalities where they made up a majority (*see* Section 3).

In mid-September, caravans of about 100 cars carrying Serbs from neighboring municipalities paraded through the heavily Muslim center of Novi Pazar on three nights following Yugoslav basketball victories, brandishing Chetnik regalia and chanting Serb nationalist slogans. On one of these occasions, several hundred Muslim youths gathered to confront the caravan; three Serbs and several policemen were lightly injured in the fight that followed. The Serbian government reacted quickly to defuse the situation, dispatching extra police and enlisting as mediator Federal Minister for Minorities Rasim Ljajic, himself a Bosniak Muslim from Novi Pazar. The October indictments for the 1992 Sjeverin killings marked the beginning of the first trial concerning past government abuses of Muslim citizens of the Sandzak (*see* Section 1.e.).

There were no reports of violence or harassment against ethnic Hungarians in Vojvodina during the year. Some members of the Vlach community in Bor complained about the Serbian Orthodox Church's refusal to conduct religious services in the Vlach language rather than in Serbian.

Roma continued to be targets of numerous incidents of police violence (*see* section 1.c.), societal discrimination, and verbal and physical harassment from ordinary citizens. Police often did not investigate cases of societal violence against Roma. The HLC reported that, on July 9 in the village of Americ, police searching without a warrant for weapons at the home of Elizabeta Djuric insulted and brutalized three children in their mother's absence, forcing a 16 year-old boy with mental disabilities to dig holes in the garden for two hours.

In February the federal Minorities Law recognized the Roma in Serbia and Montenegro as a national minority, explicitly banning discrimination and calling for gov-

ernment measures to improve their condition. Many Roma lived illegally in squatter settlements that lacked basic services such as schools, doctors, clean water, and sewage facilities. During the year, the authorities forcibly evicted a number of Roma, including children, from such settlements without offering them any alternative accommodations (see Section 1.f.). On November 13, the Vozdovac district of Belgrade evicted 50 Roma IDPs from Kosovo, including 32 children, from their settlement. In September the New Belgrade city government served eviction orders to 717 residents of a Romani settlement, many of whom were IDPs from Kosovo. After protests by local human rights organizations, the city promised to find alternative accommodations; however, on October 21 demolition of the settlement began without any alternative housing being provided. In April 27 Romani IDPs from Kosovo, including 17 children younger than 15, were forced out of a settlement in Vozdovac. Again in April, 67 Roma, including 27 children under the age of six, were displaced from a squatter settlement in New Belgrade because the city had sold the land to a private interest.

In Leskovac and the town of Pozega, Roma reportedly have been refused social welfare services for arbitrary reasons. The HLC reported that the Nis municipal garbage service never visited the Romani settlement Crvena Zvezda, a community of about 50 houses sharing only two running water taps, which often froze in the winter, leaving the entire community without running water. Roma IDPs from Kosovo were especially subject to discrimination and abuse. Most of them lacked identity documents, making it difficult for them to gain access to social services and state-provided health care. The Roma Educational Center reported that some Roma IDPs in Nis were mistaken for Kosovo Albanians and subjected to discrimination on that basis.

Some non-Roma refugees and IDPs suffered from discrimination. The HLC reported that the Serbian government did not allow some Kosovo IDPs to relocate their official places of residence to Kragujevac; in other words, the IDPs could not “check out” from their former residences in Kosovo. This deprived them of health insurance, social welfare, and normal access to schools. The Nis Council for Human Rights reported that the approximately 20,000 refugees and IDPs in the Nis area suffered from “quiet discrimination” in areas such as housing and employment.

Roma education remained a problem, and lack of official documents hindered their ability to receive services available to all other citizens. The UNHCR, with Serbian government support, has begun health education programs for Roma, and catch-up and head-start programs for Roma children.

There were some judicial actions in favor of Roma during the year. The HLC reported that in July the Sabac municipal court ruled in a Rom’s favor in a lawsuit claiming discrimination against Roma at a public swimming pool at Sabac. This was the first time that existing law had been used to prove discrimination against Roma. The municipal prosecutor in Bajina Basta dismissed charges by police against Roma citizen Stanisa Simic, who was detained by police and then indicted after he defended himself from Serb attackers in 2000. In January the HLC filed a lawsuit against a Belgrade disco club that repeatedly refused admission to Romani citizens.

The Bosniak Federal Minister for Minorities, Rasim Ljajic, was one of the more visible and influential members of the Government during the year. A Bosniak federal parliamentarian was appointed a member of the subcommittee responsible for drafting the federal charter, but in November he boycotted the committee protesting that the Sandzak would not receive sufficient autonomy under the new charter. Bosniaks led local governments in the three majority-Muslim municipalities in the Sandzak region. In Novi Pazar, the municipal government gave the Bosnian dialect official status as allowed under the new Serbian Law on Local Self-Government. All seven Sandzak municipalities—Novi Pazar, Tutin, Sjenica, Pribor, Prijepolje, and Nova Varos—had multi-ethnic municipal assemblies

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The law provides for the right of association; all workers except military and police personnel have the legal right to join or form unions and workers did so in practice. There were approximately 1.8 million employees in the socially-owned state sector and 361,000 persons in privately-owned companies. An additional 500,000 persons worked in the unofficial economy and were not registered employees. In the socially-owned state sector, 60 to 70 percent of workers belonged to unions. In the private sector, only 4 percent were unionized and in agriculture, 2 to 3 percent. The Alliance of Independent Labor Unions (Samostalni Sindikati, or SSS), formally affiliated with the Socialist Party of Serbia, whose President remained Slobodan Milosevic, claimed 1.8 million members, although this number was estimated to be closer to 800,000 in practice. The largest independent union was the United Branch Independent Labor Unions (Nezavisnost),

which had approximately 600,000 members. The third largest union was the Association of Free and Independent Trade Unions (AFITU), which had approximately 200,000 members. Most other independent unions were sector specific, and had approximately 130,000 members. Due to the poor state of the economy, one-third of union workers, or 600,000 persons, were on long-term mandatory leave from their firms pending improvement of the economy. The largely splintered approach of the independent unions resulted in few achievements in terms of increased wages or improved working conditions.

In December 2001, a Serbian government labor law that had been approved by the International Labor Organization (ILO) entered into force. The law significantly differed from the previous Socialist law by giving more power to employers and diminishing the rights of employees. For example, the law makes it easier for management to fire workers; collective bargaining is obligatory, but signing a collective agreement is not obligatory and employees may sign individual work contracts; and public job announcements are no longer obligatory. The Serbian Parliament accepted thirty-three of approximately fifty union-proposed amendments on the Labor Law, but failed to adopt the key demand for a mandatory requirement for signing collective agreement with employees.

Antiunion discrimination was not a problem.

Unions can affiliate internationally; however, only Nezavisnost was recognized by the international community as completely independent from the Government. Nezavisnost was a member of the ICFTU and other international unions.

*b. The Right to Organize and Bargain Collectively.*—The signing of collective agreements is not mandatory for employers, although it was allowed. Unions have complained that without this provision, their role in the system was diminished. A union must have 15 percent of employees as members in order to be eligible to negotiate with an employer, or 10 percent of all employees in order to negotiate with the Serbian government or the local government.

Collective bargaining remained at a rudimentary level of development. Individual unions continued to be narrow in their aims and were unable to join with unions in other sectors to bargain for common purposes. The history of trade unionism in the country has centered not on bargaining for the collective needs of all workers but rather for the specific needs of a given group of workers. Thus, coal workers, teachers, health workers, and electric power industry employees have been ineffective in finding common denominators (for example, job security protection, minimum safety standards, or universal workers' benefits) on which to negotiate. The overall result was a highly fragmented labor structure composed of workers who relate to the needs of their individual union but rarely to those of other workers. In April the agreement on improving the activities of Serbia's Social and Economic Council and improving social dialog was signed by the Serbian government, representatives of the three largest trade unions and the Association of Employers.

Security forces did not disrupt any strikes or arrest union leaders during the year.

The law provides for the right to strike; however, the Law on Strikes restricted the right for employees in "essential service production enterprises," such as education, electric power, and postal services, and these employees must announce their strikes at least 15 days ahead and must ensure that a "minimum level of work" is provided. This law covered approximately 50 percent of all employees. The independent unions, while active in recruiting new members, have not reached the size needed to mount countrywide strikes; however, unions held several strikes during the year. In January 7,000 employees of the four biggest state-owned banks unsuccessfully protested the closure of their banks. On January 23, 8,000 workers at one of the biggest textile factories, Yumko Vranje, went on strike for higher wages and replacement of management. In March workers at Yumko Vranje repeated the strike, which resulted in the resignation of the General Manager. On March 18, railway unions launched a general strike demanding new employment contracts and higher wages. After 11 days the unions accepted a 4 percent wage increase. In June taxis blocked roads throughout the country to protest the Government's policy on taxi drivers. Public workers, including teachers, health workers, students, and policemen, held strikes during the year. These strikes were for job security, higher pay and the regular payment of wages. In general job security fears, which stemmed from the high rate of unemployment, limited workers' willingness to strike.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced and bonded labor, including by children; however, Roma children were often forced into manual labor, compelled to beg, or trafficked abroad to work in begging or theft rings (see Section 6.d.).

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The minimum age for employment is 16 years, although in villages and farming communities it was common to find younger children at work assisting their families. Children—particularly Roma—also could be found in a variety of unofficial retail jobs, typically washing car windows or selling small items such as cigarettes or newspapers. In recent years, this type of labor has been less widespread because adults, lacking other options for employment, have taken many of these jobs. The unemployment rate throughout Serbia was approximately 30 percent, but there were pockets, particularly in areas with large refugee populations or where industries have closed, where unemployment was much higher. It was estimated that almost one million people were engaged in the “gray economy,” while as much as 60 percent of all gray market employees also had official jobs.

The law prohibits forced and bonded labor including by children; however, Roma children were often forced into manual labor, compelled to beg, or trafficked abroad to work in begging or theft rings (see Section 1.c.).

*e. Acceptable Conditions of Work.*—Large government enterprises, including all the major banks and industrial and trading companies generally observed the minimum wage standard. The monthly minimum wage was approximately \$50 (3,000 dinars); however, this figure was roughly comparable to unemployment benefits and (at least theoretically) was paid to workers who had been placed in a mandatory leave status. The actual minimum wage was at the low end of the range of average net salaries, which was \$160 (9,900 dinars) per month. The minimum wage was insufficient to provide a decent standard of living for a worker and family. For example, the cost of only food and utilities for a family of four was estimated to be \$180 (11,600 dinars) per month. Private enterprises used the minimum wage as a guide but tended to pay slightly higher average wages.

Reports of sweatshops operating in the country were rare, although some privately owned textile factories operated under very poor conditions. In certain areas of the country, such as the Sandzak and the town of Cacak, there were many prosperous small businesses dealing in unlicensed items for export. For example, one furniture manufacturer employed 800 workers but, aside from their salaries, the factory workers received no other benefits. The official workweek, listed as 40 hours, was not respected because of massive underemployment and unemployment.

Neither employers nor employees tended to give high priority to the enforcement of established occupational safety and health regulations, focusing their efforts instead on economic survival. Because of the competition for employment and the high degree of government control over the economy, workers were not free to leave hazardous work situations without risking the loss of their employment.

*f. Trafficking in Persons.*—The law does not prohibit trafficking in persons; although there are laws that could be used to prosecute traffickers. Trafficking was a problem.

Serbian authorities have used pre-existing laws against kidnaping, slavery, smuggling, and prostitution to apprehend some traffickers. The penalties carried by such laws range from 1 to 10 years in jail. During the year, the Serbian police took 355 foreign women into custody, 60 of whom were identified as victims of trafficking and referred to the Belgrade shelter for trafficking victims. Federal and Serbian police have assisted in international investigations of human trafficking. Federal law prohibits extradition of Yugoslav citizens to other countries. By year’s end 30 criminal charges had been submitted to the office of the prosecutor for 62 offenses, resulting in three convictions.

The country served as a transit country, and to a lesser extent a country of origin and a destination country, for trafficking in women and girls for the purpose of sexual exploitation. Serbia was primarily a transit country for internationally trafficked women going to Kosovo, Bosnia, and points in Western Europe. The International Organization for Migration (IOM) estimated that between 6,000 and 7,000 women were trafficked through Serbia. Serbia was a destination for trafficked women, with brothels and nude dancing venues located along major transportation routes. No reliable estimate existed on numbers of women controlled by human traffickers in the country. Serbia did not traditionally serve as a major source country for trafficked women, but poor economic conditions have increased Serbian women’s vulnerability to traffickers. Trafficking in children for use in begging or in theft rings was a problem among Roma. Moldova, Romania, Ukraine, Russia, and Bulgaria were the primary source countries for women trafficked through Serbia.

Recruitment devices included advertisements for escort services, marriage offers, and offers for employment. Often women knowingly went to work as prostitutes, and later, once they left their country of origin in the hands of traffickers, discovered that they were prisoners. The women were recruited, transported, sold, and



controlled by international organized crime networks. The central point in Serbia for holding and transferring trafficked women was Belgrade.

There were no confirmed reports of government officials condoning or participating in trafficking, but trafficking in Serbia could not take place without the cooperation of at least some police, border guards, and minor officials.

During the year, the Government's inter-ministerial task force on human trafficking, Yugoslav Team for Combating Trafficking in Persons, worked with the OSCE and IOM to put together a basic program for assisting trafficking victims. In February a victims' shelter, along with a 24-hour hotline, was established in Belgrade. A Belgrade NGO, Counseling Against Family Violence, operated the shelter and hotline. The Serbian Ministry of Social Welfare established on its premises a National Coordinating and Counseling Center to receive potential trafficking victims from police and NGOs for screening, medical examination, and counseling before referring the women to the shelter or other appropriate venue. The International IOM managed repatriation of victims and repatriated approximately 80 women determined to be victims of trafficking during the year. IOM also opened a Regional Clearing Point in government-donated offices in Belgrade to collect information on trafficking from all the Balkan countries. The Serbian Interior Ministry reported that it began systematically distinguishing trafficking victims from prostitutes and illegal migrants during the year. To reach Serbian women and children vulnerable to becoming victims of trafficking, the Serbian NGO ASTRA completed the extensive public awareness campaign begun in 2001. Serbian Border Police reported that a well-established Beijing to Belgrade trafficking route was closed down when Yugoslav authorities imposed strict visa requirements and direct air links between Belgrade and Beijing were cancelled.

#### KOSOVO

Kosovo continued to be administered under the civil authority of the U.N. Interim Administrative Mission in Kosovo (UNMIK), pursuant to U.N. Security Council Resolution 1244. This resolution called for "substantial autonomy and meaningful self-administration" for the persons of Kosovo "within the Federal Republic of Yugoslavia." UNMIK and its chief administrator, the Special Representative of the Secretary General (SRSG), established a civil administration in June 1999, following the conclusion of the NATO military campaign that forced the withdrawal of Yugoslav and Serbian forces from the province. Since that time, the SRSG and UNMIK, with the assistance of the international community, have worked with local leaders to build the institutions and expertise necessary for self-government.

In May 2001, UNMIK promulgated the Constitutional Framework for Provisional Self-Government in Kosovo (the "Constitutional Framework"), which defined the Provisional Institutions of Self government (PISG). The PISG replaced the UNMIK-imposed Joint Interim Administrative Structure. In accordance with the Constitutional Framework, certain areas of governance, including that of foreign affairs and justice, were retained by the SRSG. The November 2001 general election created a 120-member Assembly with 100 seats filled by elected officials of all ethnicities and 20 reserved specifically for minorities. On December 10, 2001, the Central, or Kosovo Assembly held its inaugural session, with Nexat Daci heading the Assembly Presidency. On March 4, the Assembly, under Daci's leadership, selected Ibrahim Rugova as President of Kosovo and Bajram Rexhepi as Prime Minister. On October 26, municipal elections were held in all 30 municipalities, although Serbs living in Mitrovica effectively boycotted. International and local election observers concluded that the election was well organized, peaceful, and met international standards.

UNMIK Regulation 1999/24 established that applicable law in Kosovo included UNMIK regulations and those laws in effect in Kosovo as of March 22, 1989, the date Slobodan Milosevic abolished Kosovo's political autonomy. This created a complex, and in some cases, incomplete set of codes. Since its establishment, UNMIK periodically has issued regulations to address the civil and legal responsibilities of governmental entities and private individuals. UNMIK regulations bind all public officials, including judges, to respect international human rights law. The Constitutional Framework provides for an independent judiciary; however, both the international and local judiciary continued to be highly inefficient. As a result, defendants were often detained for lengthy periods pending trial.

The U.N.-authorized, NATO-led peacekeeping force for Kosovo, known as the Kosovo Force or KFOR, continued to carry out its mandate to maintain internal security and defend against external threats. KFOR operations included the physical prohibition of the flow of personnel and materials from Kosovo to the Presevo Valley in southern Serbia and the Former Yugoslav Republic of Macedonia (Macedonia). KFOR increasingly transferred responsibilities for civilian law enforcement

to UNMIK's multinational police corps (CIVPOL); CIVPOL continued to transfer basic police authority and functions to the Kosovo Police Service (KPS), while maintaining oversight. The Kosovo Protection Corps (KPC), a civilian emergency preparedness service agency that incorporated disarmed former fighters of the Kosovo Liberation Army (KLA), continued to train and develop its disaster response skills, while also undertaking humanitarian projects throughout Kosovo. Some members of security forces committed human rights abuses.

Economic underdevelopment, in terms of employment, investment, manufacturing capabilities, and markets for goods, continued to plague Kosovo, which has approximately 2 million inhabitants. The post-conflict period has seen a dual struggle to repair the massive war damage to infrastructure and enterprises while facilitating the transition from a centrally directed economy to a market-based one. Construction became the strongest economic sector in the post-conflict period; the agrarian sector improved but did not reach prewar levels. Major industries had not reopened and the economy remained stagnant. Unemployment estimates for the predominantly ethnic Albanian population ranged between 40 and 60 percent. Unemployment among Kosovo Serb and other ethnic communities was higher, although some Kosovo Serbs continued to receive stipends or pensions from Yugoslavia. International organizations and donors continued their programs to improve the infrastructure and provide a regulatory climate conducive to enterprise and investment. Significant criminal economic activity took place, particularly in the fuel sector, and smuggling was widespread.

UNMIK and the PISG generally respected the human rights of Kosovo's citizens; however, there were serious problems in many areas. In the course of official duties, one CIVPOL officer killed two persons. There were no killings by KFOR or KPS. A few killings resulted from attacks that appeared to be politically motivated. There were some deaths and injuries resulting from landmines. There were some kidnappings and disappearances. UNMIK's efforts to continue exhumation of gravesites and to pursue identification of remains were ineffective and slow. There were some reports that KFOR and CIVPOL used excessive force during arrests and one case of sexual assault by a member of CIVPOL. Some KPC members were accused of intimidation and extortion; however, KPC discipline improved. Some KPC members reportedly were directly involved in or materially supported political violence in the Presevo Valley and Macedonia, although less so than in 2001.

KFOR and CIVPOL used their powers of detention and arrest as provided under UNMIK regulation 1999/24. No abuses of these powers were reported during the year. Lengthy pretrial detention remained a problem, although the length of pretrial detention decreased during the year. In some cases with security implications, the Commander of KFOR (COMKFOR) issued extrajudicial executive detention orders, sometimes for lengthy periods. The SRSB also had this authority but did not exercise it during the year. The judiciary was at times subject to bias and outside influence, particularly in interethnic cases, and did not always ensure due process.

There were some restrictions on privacy rights. Local media and some international media organizations criticized UNMIK regulations prohibiting articles that might encourage criminal activity or violence as an infringement on freedom of speech and of the press. UNMIK occasionally limited freedom of assembly and forcibly disrupted some violent demonstrations. Religious tension and violence persisted, but at significantly diminished levels. Freedom of movement for ethnic minorities, most of whom were Kosovo Serbs, continued to be a serious problem; however, there were improvements in some areas. Efforts to promote refugee returns moved slowly, but there were some improvements during the year. Of the more than 200,000 members of ethnic communities (including approximately 170,000 Kosovo Serbs and 25,000 Roma) displaced after June 1999, few returned to Kosovo due to concerns about security, freedom of movement, and lack of employment opportunities. Despite this, some international agencies and nongovernmental organizations (NGOs) initiated small-scale organized returns projects and overall returns rose dramatically during the year to approximately twice the amount compared with 2001.

Violence and discrimination against women remained serious problems. The approximately 100,000 Kosovo Serbs who remained in Kosovo continued to live primarily in the north or in enclaves under the protection of KFOR. Societal violence against ethnic minorities continued to decline, but serious incidents still occurred. Trafficking in women continued to be a serious problem.

## RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by UNMIK, the PISG, or their agents. KFOR forces did not kill any individuals during security operations.

The trial of Sali Veseli, a former KLA officer, and four other suspects for the May 2000 murder of Ekrem Rexha (known as “Commander Drini”), also a former KLA commander, was postponed until the courts could locate a key witness, known as Hazer N, who they believed to be living abroad. In February authorities arrested eight suspects in the August 2000 killing in Istok of Democratic League of Kosovo (LDK) activist Shaban Manaj; several of those detained were former members of the KLA. All eight suspects were acquitted this year. In October several suspects were arrested for the October 2001 killing of Bekim Kastrati, a journalist with the LDK-linked newspaper, Bota Sot, and LDK bodyguard Besim Dajaku.

On December 17, the UNMIK-administered court convicted five former senior members of the KLA, Idriz Balaj, Daut Haradinaj, Bekim Zekaj, Ahmet Elshani, and Ramush Ahmetaj of the June 1999 killings of Kosovar Albanians Bashkim Balaj, Rexhe Osaj, Sinan Musaj, and Idriz Peja.

There were a small number of killings that may have been politically motivated; however, these cases significantly decreased from 2001. In these cases, the victims were either political party officials or members, or connected with high-profile political activity; however, there was no clear evidence of political motivation. On January 17, unknown assailants killed Smajl Hajdaraj, an LDK member of the Kosovo Assembly. No arrests had been made at year’s end. On October 27, Uke Bytyci, Mayor of Suhareke/Suva Reka municipality and the LDK local branch leader, as well as his two bodyguards, were killed in a confrontation with a family of local Democratic Party of Kosovo (PDK) activists during a victory celebration following his re-election. Two arrests were made and the two suspects remained in detention at year’s end.

There were no developments in several murders from previous years, including the following from 2001: The case of the LDK branch president and the President of Kline/Klina Municipal Assembly, Ismet Rraci, killed in April; the July killing of Ahmet Balaj, an LDK committee member in Mitrovica; the August killing of Qerim Ismaili of the Kosovo Democratic Initiative; and the shooting of two brothers, one of whom was a bodyguard of the mayor of Istog/Istok municipality, in December. Unresolved cases of politically-motivated killings from 2000 included the following: LDK politician Alil Dreshaj; cofounder of the LDK and President Rugova’s press advisor, Xhemail Mustafa; former KLA officer Besim Mala; a KPC officer and former KLA commander, Skendar Gashi; journalist Shefki Popova; and Pristina’s Director of Urban Planning, Rexhep Luci.

There were 68 killings of citizens in Kosovo during the year, compared with 136 in 2001. According to available figures, assailants killed 60 Kosovar Albanians, 6 Kosovo Serbs, and 2 persons of unknown ethnicity. Most killings of Kosovo Serbs and other minorities were ethnically motivated (*see* Section 5), but the majority of murders of Kosovar Albanians apparently were connected to family and economic rivalries and criminal activities. CIVPOL, working with the KPS, somewhat improved its case resolution and arrest rate during this year. Police reported 47 arrests for murder during the year: 43 other suspects were Albanians, 2 were Serbs, and 2 were of other ethnicities.

There were a number of assaults and six killings of ethnic Serbs during the year, including those perpetrated by other Serbs; however, attacks on Serbs and other ethnic minorities decreased (*see* Section 5). On October 15, one Kosovo Serb woman was killed by a landmine (*see* Section 1.c.). On February 22, an unknown gunman killed Kosovo Serb Lubica Kovacevic as she was walking home with her spouse, who was uninjured. On December 23, two Kosovar Albanians were arrested for killing Kosovo Serb Trajan Trifunovic that same day.

On February 21, CIVPOL arrested two Kosovo Serbs, Zoran Zigic and Sergej Zaporosac, for the February 2000 killing by a grenade attack on Kosovar Albanian, Muharrem Sokoli (*see* Section 2.b.).

Retaliatory violence, including killings, against Kosovar Albanians also continued (*see* Section 5). Some Kosovo Serbs continued efforts begun in 1999 to expel Kosovar Albanians and other ethnic groups from the northern part of Mitrovica; in some cases this resulted in the killing of ethnic Albanians (*see* Section 5). On July 6, CIVPOL and KFOR troops arrested eight Kosovar Albanians accused of the August 2001 killing of a Kosovar Albanian family of five, including three children. The motivation for the killing was believed to be the retribution for the father’s alleged co-

operation with Serb authorities during the 1999 war. Several of the suspects were members of the KPC and Kosovo Police Service.

As a result of the 1999 conflict, landmines and unexploded ordnance remained a problem, particularly in rural areas. During the year, eight persons were killed by landmines, compared with nine in 2001. These devices have killed 103 persons and injured 372 since June 1999. On July 31, six explosions took place in Klokot and one in Balance, predominately Kosovo Serb villages in the U.S. KFOR sector. In December two Albanian citizens were killed by unexploded ordnance just after they crossed the border near Gjakove/Djakovica. The U.N. Mine Action Coordination Center (MACC) completed its mission in Kosovo in December 2001 and transferred mine action activities to local institutions and UNMIK. International organizations and NGOs continued a widespread mine awareness campaign. KFOR patrols continued to find unexploded ordnance on an almost daily basis.

Kosovo's investigative, judicial, and penal systems, in addition to the International Criminal Tribunal for the Former Yugoslavia (ICTY), continued to work to ensure that perpetrators of the violence and ethnic cleansing in the 1998–99 conflict were identified and punished, but most of the perpetrators of killings and other brutal acts remained unpunished. Proceedings continued in Kosovo courts to adjudicate approximately 30 cases of alleged war crimes and genocide arising from the conflict, as well as killings dating from the period starting in June 1999. In September the Organization for Security and Cooperation in Europe's (OSCE) Legal System Monitoring Section issued a report on war crimes trials in Kosovo, which were being tried by majority international panels, that included statistics from November 1999 to July 2002. According to the report, as of July, there were four cases of war crimes under investigation. There were 10 pending indictments for genocide, 17 for war crimes and 6 for inter-ethnic murders. Two indictments for genocide had been dismissed.

Out of three prior convictions for genocide, two cases were reversed and retried; both defendants were acquitted. Out of 12 trials for war crimes since 1999, 5 concluded with a conviction and 7 with acquittal. However, of these 12, 11 were appealed to Supreme Court panels with international judges, and 8 decisions were reversed on appeal.

From 1999 to 2000, five prisoners convicted for genocide and four convicted of war crimes escaped from the UNMIK controlled detention center in Mitrovica. In 2000 trial proceedings for war crimes were suspended in the cases of eleven Kosovo Serb defendants who escaped detention. UNMIK Regulations prohibit trials in absentia; however, the charges remained outstanding at year's end.

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

In November all charges against Gani Imeri, a KPC officer and former KLA commander, were dropped. Imeri was arrested for the 1999 kidnaping and disappearance of five Kosovo Serbs.

There was no information on the case of Marjan Melonasi, a journalist for Radio-Television Kosova who disappeared in Pristina in September 2000.

During the year, the reorganized Office of Missing Persons (OMFP) identified 141 persons: 56 through traditional methods and 85 through DNA testing. The Office has received 109 DNA results: 85 positive matches, 17 negative, 7 duplicates. As many as 4,233 persons remained missing and unaccounted for as a result of the armed conflict in 1999, including approximately 3,324 Kosovar Albanians, and 909 Kosovo Serbs and members of other ethnic groups. Of those missing, 164 were considered dead.

When ICTY closed its forensic operations, UNMIK appointed the CIVPOL Missing Persons Unit (MPU) as the focal point for identification of remains and for exhumation of additional gravesites as they were identified, the UNMIK Bureau of Missing Persons and Detainees coordinated political efforts. The initiative made slow progress on both fronts. According to the OMFP, since 1999 the ICTY exhumed 4,019 remains of individuals, of which 2,212 were identified and 1,807 were still unidentified. During the year, 339 sets of remains were exhumed, compared to 59 sets of remains exhumed in 2001—a significant increase which may be attributable to the OMFP reorganization during the year.

During the year, UNMIK reorganized the resources involved in the effort to resolve the large number of outstanding cases of missing persons from the 1999 conflict; this effort required the identification of recovered human remains. One central problem had been the frequent change of mandate, personnel and resources for the various offices that had been charged with dealing with these cases. Since its establishment, UNMIK reorganized the offices handling missing persons four times, changing lines of authority, competence, and scope of work. This resulted in delayed processing and, in some cases, a failure to appropriately preserve evidence, including human remains, for future investigations. In June UNMIK appointed a new

chief of the Office of Missing Persons and Forensics (OMPF) with authority to address all issues related to these cases, issues that had previously been divided among different offices. The new OMPF now includes the UNMIK CIVPOL Missing Persons Unit and the Office of the Medical Examiner, as well as an outreach office.

During the year, OMPF tackled some of the most pressing needs, including designing a program to train local experts to perform autopsies and identifications, meeting with the International Committee for Missing Persons to explore possible use of ICMP's DNA-led procedures and to discuss dealing with family members of the missing. The new Office of the Medical Examiner is slated to include an autopsy site and laboratory and teaching resources, and is expected to be staffed by ethnic Albanian and Serbian examiners. The OMPF was in the process of issuing death certificates for 910 bodies that were identified by ICTY in 1999 (203 certificates have been issued to date). According to OMPF, in some cases this process has been slowed by family members' desire to have an individual named as perpetrator of the cause of death.

Several demonstrations were held to protest against UNMIK and the international community for not doing enough to locate missing persons. On March 8, in Gjakove, a group of women staged a protest to call attention to the missing. On June 7, several hundred Serb members of the Association of Families of Missing and Kidnapped persons from Kosovo held a 1-hour protest in Gracanica over the alleged lack of activity by the international administrators in finding kidnaped Serbs and other non-Albanians. On June 13, more than 100 Kosovar Albanian mothers of missing persons began a 24-hour hunger strike in front of the Kosovo Assembly, demanding information on the fates of their children. On September 26, 40 parents, wives, and sisters of the missing gathered from different parts of Kosovo and went on a hunger strike in front of the Kosovo Assembly requesting information on more than 3,500 missing Kosovar Albanians.

*c. Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.*—The law prohibits such practices; although the Constitutional Framework omits the U.N. Convention on Torture from its list of conventions incorporated by reference. There were no confirmed reports of the use of excessive force by KFOR and CIVPOL during arrests. One CIVPOL officer was charged with sexual assault. In February an Austrian CIVPOL officer was arrested for violating the civil rights of a Kosovar Albanian suspect. According to the complaint, after arresting a suspect, the CIVPOL officer, together with three Kosovo Police Service (KPS) officers, tried to force a confession by asking the suspect to dig his own grave and making him walk in a Kosovo Serb enclave wearing a sign that read "I hate Serbs." UNMIK police arrested all four officers but later released the three KPS officers. The U.N. reportedly suspended the CIVPOL officer's immunity, but he fled Kosovo and had not returned for trial at year's end. In March a child was injured when a KFOR soldier accidentally fired his gun as he was trying to disperse a group of children playing near the monastery in Decan/Decani.

Some credible reports suggested that KPC members were responsible for incidents of intimidation and extortion, and in several zones such misconduct may have been organized and condoned by the local KPC leadership. However, in general KPC discipline improved and reports of intimidation were less common. A number of KPC members were arrested, mainly for accusations of crimes against their fellow Kosovar Albanians, sparking charges that former KLA members were being targeted. On June 18 and 19, UNMIK police arrested the already suspended regional commander, Daut Haradinaj when he surrendered to police, and four other KPC members, in what was known as the "Dukagjini trial," and on August 10, they arrested suspended KPC commander Rrustem Mustafa, known as "Commander Remi." On December 17, the five suspects in the Dukagjini trial were convicted and given a sentence of several years each.

There were a number of reports of attacks on and threats against Kosovar Albanian political figures. In most cases, no suspects were identified; however, local observers often blamed these attacks on rival political party members. Nonpolitical motives, including clan rivalry and common criminality, were also suspected in some cases. On August 3, unknown assailants attempted to kill Tahir Zemaj, a former Armed Forces of Republic of Kosovo (FARK) commander and LDK activist. Zemaj publicly accused Ramush Haradinaj, the head of the Alliance for the Future of Kosovo (AAK) political party, of being behind the attack. On October 18, the house of an LDK activist in Kacaniku/Kacanik came under attack from grenades and firearms; there were no injuries. At year's end, no charges had been filed.

On August 29, Kosovar Albanians fired on Kosovo Serbs, apparently in a dispute concerning wood-gathering. When KFOR and CIVPOL responded, there was a 2-hour firefight involving the use of multiple automatic weapons; one CIVPOL officer received slight wounds and one Kosovar suspect was captured.

There were some reports of intimidation of UNMIK, OSCE, and KFOR officials, but no reports of attacks; however, there were reports of attacks on CIVPOL, KPS, and KPC officers. According to UNMIK CIVPOL, there were 656 arrests made for crimes committed against CIVPOL and KPS officers. These included offenses such as threats, burglaries, civil disorders, and resisting arrest. On May 17, a Kosovo Serb was arrested for the April 27 beating of KSP Officer Rahman Kelmendi. In November a CIVPOL officer was hit in the head with a rock during a demonstration against a Serb go-and-see visit in Grmovo, Viti/Vitina municipality. On November 2, the Kosovo press reported that a group of 20 Kosovo Serbs from the village Priluzje attacked an UNMIK police patrol, badly injuring one policeman and slightly wounding several others. The incident apparently broke out after a cafe owner was asked to close his establishment after midnight. There were no arrests. On November 11, unknown suspects fired shots at KFOR troops on patrol. No injuries were reported and no arrests were made.

Twice in September and once in October, CIVPOL reported that the home of a Kosovo Serb KPS officer in Viti was attacked. CIVPOL began an investigation in October, which was ongoing at year's end.

UNMIK police charged two of its officers with patronizing prostitutes in Kosovo. On July 31, six explosions took place in Klokot and one in Balance, injuring two KFOR soldiers. The investigations into both incidents were ongoing at year's end. On January 20, Kosovar Albanians Idriz Balaj and Teuta Balaj and their 2-year-old son were injured when an explosive detonated as they entered the front door of their home in Gjakove/Djakovica. The adults were active KPC members. On December 13, a car bomb exploded outside a restaurant in Pristina injuring at least 20 people.

A Kosovo Serb paramilitary group known as the "Bridgewatchers" continued to operate on and around the boundary between north and south Mitrovica. During the year, UNMIK CIVPOL attempts to arrest armed Bridgewarder members resulted in aggressive demonstrations and rock-throwing by large groups of Kosovo Serb bystanders (*see* Section 2.b.). On April 8, Kosovo Serbs threw rocks and hand grenades at UNMIK and CIVPOL officers during a violent demonstration; 22 CIVPOL personnel were injured. Occasionally, UNMIK and CIVPOL attempts to enforce the rule of law among Kosovo Serb civilians in the area such as traffic stops and arrests met with similar aggression.

Prison conditions generally met international standards; however, overcrowding and the need for repairs remained problems. There were five low and medium security prisons administered by UNMIK in Kosovo: Pristina, Prizren, Mitrovica, Peja, and Gjilan. In August international observers visited the one maximum-security prison, Dubrova, in Istog and noted significant improvements over previously reported conditions. The facility was enlarged and a medical clinic was improved by the donation of equipment and medicine. Male and female prisoners were held separately. Prisoners at Dubrova rioted twice during the year, both times in protest for better prison conditions. Conditions at Dubrova were indicative of conditions at prisons throughout Kosovo.

Dubrova prison housed older youth offenders between the ages of 17 and 21. As of August 29, 60 of the 598 inmates of Dubrova were between the ages of 17 and 21, 50 percent of whom had been convicted of murder. Inmates ages 17 to 21 were held separately from adult inmates. There was one medium security prison referred to as a "correctional and educational institution" that held juveniles under the age of 18, and women.

Pretrial detainees were held separately from convicted criminals; although they may be held in the same facility due to overcrowding, they were kept in separate cells. There was at least one hunger strike during the year, which was resolved through the involvement of the OSCE Ombudsperson.

Prison officials consistently permitted visits by independent human rights observers. KFOR maintained a detention facility at Camp Bondsteel for persons accused of war crimes, serious ethnic offenses and political violence, including armed extremism. A total of 179 persons were detained at Bondsteel this year; as of mid-November, there were no detainees being held (*see* Section 1.d.). Prisons and detention centers, including Camp Bondsteel, permitted the International Committee for the Red Cross (ICRC) full access to prisoners and detainees. In the absence of a formal agreement but pursuant to the OSCE's mandate for human rights monitoring, they also offered access on an ad hoc basis to the OSCE human rights observers. Only OSCE and ICRC observers were allowed to visit prisoners on a regular basis. In May the OSCE Ombudsperson attempted to visit a prison unannounced, but was denied access, and told that 24-hour notice was required. The Ombudsperson raised the issue with the head of UNMIK Pillar I (Police/Justice), who supported the re-

quirement of prior notice. The SRSG overruled Pillar I, and confirmed in writing the Ombudsperson's right to unimpeded, unannounced access.

*d. Arbitrary Arrest, Detention, or Exile.*—Under UNMIK regulation 1999/24, police may detain criminal suspects for up to 72 hours without charging them; however, sources reported that CIVPOL used the 72-hour investigation detention authority as a means of minor punishment with no intention of filing charges. Some judges also complained that CIVPOL did not always bring detainees before them by the expiration of the 72-hour period even when they intended to charge them and such cases were dismissed. Arrest warrants were issued and executed in an open manner by civilian authorities. The former Republic of Yugoslavia's criminal procedure, Article 197, permits pretrial investigative detention for up to 6 months, but UNMIK has decreed by Regulation 1999/26 that this period may be extended by up to an additional 6 months in cases where the suspected crimes are punishable by a sentence of over 5 years. In June the high-profile case involving the exceptionally lengthy detention of Afrim Zeqiri, a Kosovar Albanian accused of shooting three Kosovo Serbs in May 2000, was resolved when he was acquitted after being held for 2 years under an SRSG "executive order."

KFOR does not require arrest warrants to implement a safe and secure environment under UNSCR 1244; however, the detention process by KFOR is transparent. In some instances, the KFOR Commander (COMKFOR) intervened to continue the detention of persons not charged with a crime or ordered released by the courts, but deemed an ongoing security threat. COMKFOR may extend the period of detention in increments of 30 days. No abuses of this power were reported. There were complaints from police and judicial personnel that when KFOR detained persons suspected of crimes in connection with cases under KFOR's mandate to maintain a safe and secure environment, it sometimes did not deliver such detainees in a timely fashion (*see* Section 1.c.). During the year, KFOR detained 179 suspects, most for 72 hours or less. As of mid-November, there were no prisoners being held in KFOR's Bondsteel Detention Facility. By year's end, all detainees had been released or transferred to civilian facilities.

Lengthy pretrial detention continued to be a problem in cases of serious crimes; some detainees allegedly involved in ethnically based crimes were held on the basis of weak evidence. As of November 24, approximately 1,122 persons remained in pretrial detention in civilian prisons and detention facilities; 555 of whom had been sentenced.

Some observers and detainees claimed that there was an ethnic bias in the amount of time it took to bring some cases to trial.

In 1999 withdrawing Yugoslav forces took 2,000 Kosovar Albanian detainees into Serbia during the NATO bombing; by the end of March, Serbian and Yugoslav authorities had released all of them.

There were no reports of political detainees, although some Kosovo Serb defendants in war crimes cases and some former KLA members asserted that they were being held for political reasons.

The law prohibits forced exile, and there were no reported instances of its use.

*e. Denial of Fair Public Trial.*—The Constitutional Framework provides for an independent judiciary; however, the legacy of ethnic conflict and years of Yugoslav oppression remained an obstacle to judicial independence. Some judges and prosecutors reportedly were subject to outside pressure, including threats and intimidation, particularly in cases involving ethnic disputes. Some local judges also lacked basic legal skills needed to conduct investigations or trials. Courts suffered from lack of supplies, equipment, and administrative management. Additionally, prosecutors and defense counsel often lacked advocacy skills. Foreign governments and the OSCE organized numerous training programs for prosecutors and defense counsel during the year.

Supported by an Advisory Judicial Commission, in 1999 UNMIK re-established a court system in Kosovo that included a Supreme Court, 5 District Courts, 22 Municipal Courts, a Commercial Court, 13 offices of the Public Prosecutor, and a number of courts for minor offenses. The Judicial Corps included 310 judges and 44 prosecutors, as well as over 456 "lay judges" (jurors) to assess the facts of the cases. There were 17 active Kosovo Serbs, 12 Gorani or Bosniak, and 2 Roma in the Kosovo Judicial Corps.

UNMIK concluded an agreement with the Government of Serbia that established a program for Kosovo Serbs who wished to apply for 1 of 40 vacant judge and prosecutor positions in the local Kosovo justice system. Kosovo Serbs applicants were given incentives, including help resolving housing claims, threat assessments, and appropriate protection. The Serbian government agreed to continue applicants' pension and health care rights under the Serbian regime. In filling the positions, Serbs

and all other ethnic minorities were to be given preference if otherwise equally qualified. The candidates were recommended by the Kosovo Judicial and Prosecutorial Council (KPJC) and the list was submitted to the Central Assembly, which wanted additional information on the candidates before it would endorse the list and submit it to the SRSG. The SRSG subsequently bypassed the Assembly and appointed the candidates from the KPJC recommended list. Offers were made in December and appointments continued at year's end.

UNMIK, working through the OSCE, also established several entities, which are expected to become local institutions, to increase the professionalism of the judicial corps. The Kosovo Judicial Institute (KJI) opened in February 2000 to train judges and prosecutors. The Department of Judicial Affairs established the Judicial Inspection Unit (JIU) to monitor judicial performance and make recommendations on both discipline and training. Since 2001 the KPJC has heard cases of judicial misconduct; in September 2001 the KPJC decided its first cases.

One court was comprised of international judges and prosecutors who were appointed by the U.N. to handle inter-ethnic and other sensitive cases. The international judiciary reported to and was managed by the UNMIK Department of Justice, which was under the authority of the SRSG. The local judiciary reported to the local Supreme Court and Chief Prosecutor of Kosovo. However, the international prosecutors could hear any case they deemed appropriate. UNMIK regulations did not explicitly provide for an independent judiciary.

Approximately 12 UNMIK-appointed international judges and 5 international prosecutors worked in the District and Supreme Courts parallel to local judges in ethnically or otherwise sensitive cases. However, UNMIK did not make public the criteria for which cases were to be assigned to international personnel and practice was far from transparent. In some instances, local judges refused to sit on panels with a majority of international judges for fear the community would hold them accountable for unpopular verdicts. Some international judges and prosecutors were not always familiar with applicable law in Kosovo.

The lack of a tracking mechanism to identify cases from arrest through closure reportedly has created an opportunity for corruption among prosecutors, court personnel, and defense counsel, although there was no specific information that corrupt practices have occurred. The lack of a tracking mechanism was also an obstacle to determining which police investigations are being pursued by the District Prosecutor.

The law provides for the right of defendants to be present at their trials and to have legal representation, at public expense if necessary. However, as a result of the 10-year period of resistance to Yugoslav oppression during the 1990s and the consequent refusal of Kosovar Albanians to participate in Yugoslav structures, Kosovo only had 186 licensed attorneys to handle all legal work. More than 1,000 students were trained in law under a parallel academic system during the 1990s, but had no access to a Kosovo bar examination and were not licensed. The local Chamber of Advocates and UNMIK reached agreement on the substance of and modalities for a bar examination for Kosovo. The first examination in more than 10 years was held in December 2001. From December 2001 to December 2002, the bar exam was held five times; out of the 360 candidates who took the exam, 218 passed.

The defense bar, The Kosovo Chamber of Advocates, remained weak and disorganized, and was rooted in a passive approach to defense due to years of practice under socialist and authoritarian codes. The OSCE established a local NGO, the Criminal Defense Resource Center, to assist in addressing these problems and to serve the defense bar in capacity-building. NGOs and international donors conducted training for the defense bar in advocacy, practical skills and international human rights law. The Kosovo Chamber of Advocates, funded by the European Agency for Reconstruction, conducted a legal aid program throughout Kosovo. Legal aid was provided to all the citizens of Kosovo, mainly on civil and administrative law matters.

Some Kosovo Serb lawyers participated in the judicial system established by UNMIK in order to provide representation to Kosovo Serb defendants; however, many Kosovo Serb defendants were denied adequate representation when Kosovo Serb lawyers were unavailable or lacked sufficient freedom of movement to travel to their potential clients (*see* Section 1.d.). The situation improved during the year. The Serbian Justice Ministry has a unit within the Serbian Defense Bar that works exclusively representing Serb defendants in Kosovo. Courts in Serbia and "shadow" courts operating in some Serb enclaves in Kosovo continued to handle cases; personnel in these parallel courts reportedly were paid by the Serbian Justice Ministry. A July agreement between UNMIK and the Serbian government was supposed to end this practice of receiving two salaries, but had not done so by year's end.



When they began hearing cases in early 2000, the courts faced a high backlog of criminal cases. International judges completed 33 criminal cases. By June local courts had tried 3,148 criminal cases, the vast majority were petty crimes and crimes against property; most resulted in fines or prison sentences under 6 months. Higher courts heard 302 appeals. Legal experts and human rights observers continued to fear that a fair trial would be unlikely in criminal cases involving ethnic minorities, and prosecuted or tried by Kosovar Albanian judicial personnel. As a result, such cases were routinely assigned to international judicial personnel. The judicial system also faces the problem of a lack of staff. The Pristina district prosecutor's office only had 2 prosecutors for more than 500,000 individuals.

After the NATO campaign and Yugoslavia's withdrawal from Kosovo, Kosovar Albanian judges were unanimous in rejecting Yugoslav and Serbian law. UNMIK issued Regulation 1999/24, which defined applicable law in Kosovo to include both UNMIK regulations and legal codes in effect as of March 1989, when Kosovo lost its autonomy. Local legal and judicial personnel were enjoined first to apply the Kosovo code in effect in 1989, then to proceed to the Yugoslav and Serbian codes to the extent that the first code was incomplete. Regulation 1999/24 bound all public officials to respect international human rights laws and conventions; although initially they largely were unacquainted with these laws. International organizations and NGOs have implemented programs to increase the judiciary's awareness and application of international human rights laws and conventions.

Although the compilation of criminal law generally met accepted international standards, it was considered unwieldy and incomplete. The SRSG-appointed Joint Advisory Committee on Legislation, comprised of Kosovar and international legal experts, completed a new draft Criminal Code and a new draft Criminal Procedure Code; however, UNMIK had not approved them by year's end.

There were no confirmed reports of political prisoners; however, some Serbs and former KLA members convicted by the courts of war crimes asserted that they were political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The law prohibits these actions and UNMIK authorities generally respected these prohibitions in practice; however, a few individuals and local NGOs accused KFOR of using excessive force in executing arrests or weapons searches in private homes resulting in property damage.

On March 18, UNMIK issued a regulation on Covert and Technical Measures of Surveillance and Investigation. This regulation permitted police to conduct covert operations with the prior written approval of an investigative judge or public prosecutor.

Respect for private property rights continued to be problematic and interethnic property disputes stemming from the displacement of the 1999 conflict continued to be among the most serious obstacles to ethnic reconciliation. Withdrawing Yugoslav forces removed or destroyed most existing property records and this, combined with the disruption caused by 10 years of Serbian authoritarianism and massive property destruction, complicated property rights issues. It was particularly difficult to know how occupants of vacated properties could remain where they were living, how owners could rightfully reclaim their property, where returnees and internally displaced persons (IDPs) could live and build, and how potential investors could gain title to land before investing significant sums.

In Mitrovica Kosovo Serbs in the northern part of the city continued to illegally occupy Kosovar Albanian properties, while Kosovar Albanians in the southern part of Mitrovica also refused Kosovo Serbs access to their property. A local initiative to allow access to property on both sides of the Ibar River in Mitrovica resulted in little progress. There were some evictions of illegal occupants in the southern or Albanian side, but none so far in the northern or Serbian side.

Civilians were also responsible for the destruction of private property, of which 523 cases of arson and 22 cases of looting were reported (*see* Section 5). There was evidence that Kosovar Albanians in several ethnically mixed areas used violence, intimidation, and offers to purchase at inflated prices in order to break up and erode Kosovo Serb neighborhoods through strategically targeted property purchases. A number of the cases of violence against Serbs may have been attempts to force persons to sell their property (*see* Section 5).

In August 2001, UNMIK enacted a regulation to prevent the wholesale buy-out of Kosovar Serbian communities and to combat the intimidation of minority property owners in certain geographic areas. The regulation mandated that Municipal Administrators approve every proposed sale of property (excluding agricultural land) between Kosovo Serbs, and other minority groups, to Kosovar Albanians. UNMIK did not implement this law effectively during the year, in part because of limited resources. The evaluation of each case was time consuming and many Kosovo Serb

owners were unable or unwilling to cooperate. The OSCE Ombudsperson and human rights groups criticized the regulation as limiting the ability of Kosovo Serbs to exercise their property rights.

A recently reorganized Housing and Property Directorate (HPD) has given greater confidence to Kosovars and the international community that it will be able to achieve its goal of receiving the majority of outstanding property claims from 1999, by its final deadline for submissions in June 2003. Since the arrival of a new director in October, HPD has significantly bolstered its ability to process claims, and was producing approximately 125 decisions on claims per week, as well as up to 30 evictions of illegal occupants per week. At year's end, HPD had collected 24,000 of an estimated 70,000 claims, had resolved 1,425 claims, and had evicted illegal occupants from 395 homes.

*Section 2. Respect for Civil Liberties, Including:*

*a. Freedom of Speech and Press.*—UNMIK regulations provide a framework for recognition of the rights to freedom of speech and of the press, and UNMIK generally respected these rights in practice. In 2000 UNMIK issued a regulation prohibiting newspaper articles that might encourage criminal activity or violence. Some local and international media observers criticized this as an infringement of freedom of the press.

UNMIK Regulation 2000/4 prohibits hate speech and speech that incites ethnic violence. Otherwise, individuals were not prevented from publicly or privately criticizing the UNMIK administration or the PISG.

Most print and electronic media in Kosovo were independent, but regulated by UNMIK. One Kosovar Albanian electronic media outlet, RTK television, remained publicly funded. Additionally, a foreign government funded two independent broadcast stations and several publications for Kosovo's minority communities. Neither UNMIK nor donor countries exercised editorial control over these media outlets.

Although the numbers of daily and periodic newspapers varied depending on available financing, there were six or seven of each during most of the year. There were six daily newspapers in Albanian, all published regularly and locally. An economic-themed Albanian weekly started, but was published in Switzerland. The monthly magazine *Glas Juga* was the only Serbian language publication. It was published in the Kosovo Serb enclave of Gracanica and printed in Greece. The Bosniak weekly *Alem* was printed in Kosovo. Most of the main dailies were aligned with different political parties, although there were two independent daily newspapers.

At year's end, there were 79 radio and 24 television stations available in Kosovo. Of these 47 radio and 15 television stations broadcast only in Albanian, 20 radio and 7 television stations broadcast in Serbian only, 2 radio stations broadcast in Turkish, 3 radio stations broadcast in Bosniak, and 1 radio station broadcast in Gorani. Multi-ethnic stations broadcasting in Albanian, Serbian, Romani, Turkish, Bosniak, and Gorani included 16 radio and 2 television stations. Of these four radio and three television stations broadcast Kosovo-wide.

Libel laws were not used to stifle criticism of UNMIK or the PISG. UNMIK regulations 2000/36 and 2000/37 prohibit the publication in both the print and broadcast media of personal information that would pose a threat to the life, property, or security of persons through vigilante justice or otherwise. Complaints of libel were addressed by the Temporary Media Commissioner (TMC). During the year, the TMC sanctioned newspapers *Bota Sot* and *24 Ore* with fines after subjects of articles complained that reporting about them had been untrue and malicious.

Through its regulation establishing the Department of Post and Telecommunications, UNMIK controlled the broadcasting infrastructure while the OSCE oversees the Department of Media Affairs. In 2000 UNMIK issued Regulations 2000/36 and 2000/37 on the conduct and organization of both broadcast and print media and established the office of the TMC and the Media Appeals Board. The TMC was responsible for publishing a broadcast code of conduct and issuing licenses, for issuing temporary codes of conduct for print media, and for imposing sanctions, up to and including closing down offending media organs in the event of violations of UNMIK regulations or published codes of conduct. The Constitutional Framework provides for an Independent Media Commission and a Board of the Public Broadcaster, both to be independent of the PISG. UNMIK was actively working to establish both boards. In the interim, appointments to the TMC Media Appeals Board continued. In October the Kosovo Assembly announced the formation of a "Committee on the Media," the responsibilities of which remained unclear.

According to the Temporary Media Commission, there were no reports of physical attacks on journalists during the year.

The Government did not restrict or monitor access to the Internet.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—UNMIK regulations provide for freedom of assembly; however, UNMIK authorities occasionally limited the right to assemble based on security concerns. No written permit is needed to hold a demonstration, but for police coordination purposes, organizers must notify UNMIK 48 hours in advance with the purpose, time, place, route, and contact person for the demonstration. In granting permits for organized demonstrations, regional UNMIK civilian police chiefs made a determination based on the potential for violence and the current security situation.

Civilian UNMIK police and KFOR units occasionally forcibly dispersed demonstrations that became violent or otherwise unmanageable. The police occasionally responded inappropriately. However, in most instances, UNMIK and KFOR authorities dispersed hostile protestors with minimal injuries.

On February 8, a protest organized by KLA-affiliated associations against the arrest of three former KLA members became violent when several hundred aggressive protestors attacked a small contingent of UNMIK and Kosovar police. In February the arrest of two Kosovo Serbs sparked fierce, but brief, street demonstrations in north Mitrovica by local ethnic Serbs (*see* Section 1.a.). On April 8, UNMIK police were subject to a violent protest by Bridgewatchers and their supporters, after a Bridgewatcher member wanted by police was arrested at a traffic checkpoint in north Mitrovica. A riot ensued, injuring 23 persons, including 19 UNMIK personnel. Special Police who were hit by hand grenade fragments from two devices thrown by Bridgewatchers. One arrest was made (*see* Section 1.c.).

On August 15, a demonstration in Decan turned violent and police officers reportedly responded with excessive force. Ultimately over 20 persons were arrested and several persons, both demonstrators and CIVPOL, were injured. A regional CIVPOL commander was suspended and disciplined for mishandling the situation.

On October 10, violence erupted in Peje when a group of Kosovo Serbs entered the town by bus to apply for pension payments. A mob of local Kosovar Albanians threw gasoline bombs and chunks of concrete at the bus, over the ranks of KFOR special police units and UNMIK municipal police. Police officers blockaded all major roads into and out of the town and dispersed the violent individuals using tear gas and plastic bullets. Safe passage out of the municipality for the Kosovo Serbs was quickly established, and there were no reports of injuries on either side. Within days police arrested five persons suspected of inciting the violence.

UNMIK regulations provided for freedom of association, and the Government generally respected this right in practice; however, during the municipal election campaign in September and October, UNMIK, following a PISG decision, barred political parties from using public school buildings for political meetings and rallies. This was a serious obstacle to campaigning in many areas since often the only indoor sites suitable for a large gathering were local schools. Two weeks prior to the election, UNMIK and the PISG suspended the policy, allowing civilian police to issue permits for peaceable assembly of political organizations in public school buildings after hours.

In its regulations governing the definitions of and registration requirements for both political parties and NGOs, UNMIK stated specifically that such regulations did not affect the right to association.

*c. Freedom of Religion.*—The Constitutional Framework provides for freedom of religion, and UNMIK and the newly established provisional Kosovo government generally respected this right in practice. Kosovo is a secular society with no state religion. There are no specific registration or licensing regulations for religious groups; however, the requirement that NGOs must register affected some religiously-based organizations, although it was not regularly enforced.

The majority of the population was Muslim with significant numbers of Serbian Orthodox and Roman Catholics. Religion and ethnicity were intertwined so closely that it was difficult to clearly identify discriminatory acts as primarily religious in origin rather than ethnic. However, the political identities of all ethnic groups have been influenced strongly by religion, and some instances of ethnic discrimination or tension may have had religious roots. Kosovo Serbs identified themselves with the Serbian Orthodox Church, which defined not only their religious but also their cultural and historical perspectives. Muslim and Catholic communities tended to cooperate along ethnic lines, as both groups were ethnic Albanians. Significant parts of the Kosovar Albanian community continued to view the Serbian Orthodox church with hostility and suspicion based on the high-profile political role often played by Serbian Orthodox clergy both in the past and present, as well as the frequent use of Serbian Orthodox symbols by Serbian extremists.

Societal violence against Serbs in Kosovo continued to decrease during the year, although this trend was marred periodically by incidents of ethnically motivated violence, harassment, and intimidation. Serbian Orthodox clergy sometimes have encountered rock-throwing while traveling and in the vicinity of some religious sites. Monks and nuns at some monasteries also reportedly were unable to use parts of the monasteries' properties due to safety concerns. Security concerns had a chilling effect on the Kosovo Serb community and their freedom of movement, which also affected their freedom to worship. Serb families with relatives living in both Kosovo and Serbia were restricted by security concerns from traveling to join their relatives for religious holidays or ceremonies, including weddings and funerals. UNMIK police and KFOR have designed several mechanisms to provide security to improve mobility.

Protestants also suffered some violence and discrimination in Kosovo. Some Protestant leaders were threatened and even attacked; in one incident in south Mitrovica, a Protestant leader left Kosovo after unknown perpetrators fired shots at his house. Some Protestants suggested that non-Kosovar Muslims either were responsible or incited the attack. In another incident, masked persons held an ethnic Albanian Protestant pastor at gunpoint and robbed him before releasing him.

There were attacks on Serbian Orthodox churches and cemeteries during the year, presumably by ethnic Albanian extremists, although the number of such attacks decreased. The Prime Minister and Kosovar Albanian political leaders made a public effort to visit damaged and destroyed churches and expressed a commitment to assist in the reconstruction of some of the destroyed churches.

In June following a serious outcry in the Serbian-language press over vandalism perpetrated against Orthodox cemeteries in Kosovo, UNMIK police undertook a survey of cemeteries in Rahovec/Orahovac and in the towns of Livadica and Milosevo. They established that most of the damage was not recent. In July a fire was set in the remains of the Zociste Monastery of Saints Cosmas and Damian, near Rahovec. The monastery had been destroyed immediately after the war. In November two Orthodox Churches in Istog were seriously damaged by explosive devices; the perpetrators have not yet been identified. Although UNMIK continued to take steps to ensure that members of all religious groups could worship safely, Bishop Artemije Radosavljevic, the leading cleric of the Serbian Orthodox Church in Kosovo, remained at a monastery in the Serbian enclave of Gracanica, near Pristina, rather than at his diocesan seat in Prizren.

In light of post-conflict societal violence against properties owned by the Serbian Orthodox Church and Serbian Orthodox religious symbols, UNMIK authorities took steps to protect religious sites and to ensure that members of all religious groups could worship safely. KFOR continued to guard many Serbian Orthodox patrimonial sites, but began a gradual hand-over of such responsibility to the Kosovo Police Service (KPS) working with UNMIK CIVPOL. KFOR transferred protection of 47 religious sites to KPS and CIVPOL, and planned to transfer another 10 sites to police control before the end of the year. However, two November 16 attacks on Serbian Orthodox churches in the Istog municipality, which were not under KFOR guard, might have altered the transfer timetable. There were no injuries when bombs were detonated at 12 a.m. and 5 a.m., since the churches were empty and it had not yet been determined who was responsible for the attacks.

For a more detailed discussion see the *2002 International Religious Freedom Report*.

*d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—Applicable law provides for freedom of movement and no special documents were required for internal movement; however, interethnic hostilities were such that security concerns widely restricted freedom of movement in practice. Kosovo Serbs and, to a lesser extent, other minority communities found it difficult to move about safely without an international security escort. The level of freedom of movement for Kosovo Serbs varied greatly depending on location, but there was a marked increase in freedom of movement in many areas for Serbs and other minority communities during the year. In some areas, Kosovo Serbs moved about Albanian-majority communities without incident; in others, they required a KFOR or CIVPOL escort to avoid incidents, possibly involving physical violence. There were two incidents when groups of Kosovo Serbs attempting to visit Albanian-majority areas were attacked. In October a bus of Kosovo Serb pensioners was attacked when visiting Peje to apply for their pension payments (see Section 2.b.). In November a convoy of prospective Kosovo Serb returnees was stoned in Grmovo village during an NGO-facilitated "go and see" visit. In Mitrovica there were restrictions on freedom of movement for both Albanians and Serbs due to ethnically based harassment (see Section 5).

In order to improve freedom of movement by rendering Serb and Albanian vehicles indistinguishable from each other, UNMIK offered Kosovo license plates to Kosovo Serbs for no fee if they had already paid for vehicle registration in Serbia. UNMIK set up mobile registration points for these license plates in Serbian enclaves and in several of the Serbian majority municipalities. Other minorities have asked that UNMIK issue them free Kosovo plates as well. There were a few problems with the exchange program. The Government of Serbia did not endorse the program and did not sign the memorandum of understanding. Kosovo Serbs reported that they did not feel secure travelling to municipal centers to register for the program, and UNMIK provided very few mobile registration teams for outreach to enclaves.

During the 1999 war, Serb and Yugoslav forces conducted a deliberate campaign of "identity cleansing" in which they confiscated and destroyed citizen identification documents, and destroyed the central and municipal archives and civil registers. Many Kosovar Albanians were left with no documents of identity. Even those Kosovo residents with Yugoslav passports continued to find their passports invalid for travel to some neighboring countries.

In 2000 UNMIK published a regulation that authorized the Central Civil Registry to issue travel documents to any person registered as a habitual resident of Kosovo. UNMIK issued more than 1.3 million identity documents and over 310,000 travel documents. These documents were printed in Kosovo, which has reduced waiting time significantly. Some 29 countries have recognized UNMIK travel documents, primarily the European Union, the U.S., and Balkan nations; however, negotiations were ongoing with Eastern European and Middle Eastern countries. The SRSG issued individual travel letters in limited cases, but such documents were not widely recognized. Kosovo Serbs often qualified for and received Serbian identity and travel documents, in addition to UNMIK issued Kosovo identity documents.

UNMIK and the PISG did not restrict or otherwise prohibit emigration, nor did they obstruct repatriation. Since Kosovo did not have national status, revocation of citizenship was not an issue.

While precise figures were unavailable, substantial numbers of Kosovo Serbs and Roma fled Kosovo following the conflict. Many displaced persons did not register with international agencies. UNHCR estimated that more than 233,000 IDPs remained in Serbia and Montenegro, including Kosovo Serbs, Roma, Ashkali, Egyptians, and Montenegrin Muslims. UNHCR's registration of IDPs listed 152,000 displaced Kosovo Serbs remaining in Serbia, 29,000 in Montenegro, and 3,305 in Macedonia. The number of displaced Roma was difficult to estimate, although some sources reported that as many as 25,000 Roma fled in the aftermath of the conflict. Following the establishment of a civil administration by UNMIK, several countries that had offered temporary refuge to ethnic Albanians forced by Milosevic to leave Kosovo ended their programs and began forcing the refugees to return to Kosovo.

After the 1999 withdrawal of Yugoslav troops from Kosovo, the U.N. High Commissioner for Refugees (UNHCR) oversaw the immediate return of 882,000 ethnic Albanian refugees and IDPs from surrounding regions and other countries. An additional 150,000 IDPs have returned since that time, many through the International Organization for Migration (IOM) repatriation programs. Spontaneous repatriation of Kosovar Albanians continued but was difficult to track.

On July 4, the Central Assembly approved a resolution on the return of IDPs and refugees. This resolution declared that "all citizens of Kosovo, regardless of race, gender, religion, and ethnic background have the legal right to enjoy their property" and "have the right of unrestricted freedom of movement." It called for the Government to create the preconditions for successful returns and reintegration of IDPs.

UNMIK and the international community were able to address many of the most pressing problems of returnees from all ethnic groupings, yet difficulties remained in obtaining sufficient housing, social services, property records, civil services, and education. In addition to UNMIK programs, a significant number of NGOs provided assistance in resettlement and repatriation efforts.

Most of the Kosovo Serbs and approximately 25,000 Roma who fled when Yugoslav forces withdrew had not returned by year's end. Their concerns centered on physical safety, lack of freedom of movement, and lack of employment opportunities. Many IDPs and refugees outside Kosovo also did not have accurate information on conditions in Kosovo or on the constitutional framework or civil structure. Many Kosovo Serbs who were previously employed in the public sector or in social enterprises continued to receive at least a portion of their salaries from the Serbian government and feared a return would risk cut-off of this and other Serbian government benefits and protections. UNMIK, the UNHCR, and the international community continued a minority stabilization program to address some of the assistance needs of prospective returnees.

UNMIK's Office for Returns and Communities developed a rights-based policy for returns and created an operational framework for the returns process. The UNHCR and OSCE reported that the outflow of Serbs to Serbia tapered off. Recent UNMIK data suggests that the numbers of Serbs returning to Kosovo, while small, exceeded those departing. While firm return numbers were difficult to confirm, UNHCR estimated that more than 5,500 persons from non-majority ethnic communities have returned since 2000. UNHCR estimated that 3,358 of these returnees were ethnic Serbs and that 2,228 came from other minority groups.

Although the high level of anti-Serb violence that characterized the period just after Yugoslavia's withdrawal decreased significantly, ethnically motivated violence and crime continued to be a serious problem for minorities (see Section 5). Several villages that previously were ethnically mixed had become almost entirely Albanian, with Serb residents moving to Serb villages elsewhere in Kosovo or leaving altogether. KFOR and UNMIK continued to provide security as necessary to some enclaves and minority settlements, including escorts for family visits, shopping, school attendance, and medical care. KFOR also regularly escorted convoys of private vehicles. In August KFOR again changed security measures by removing many fixed check points, stopping a majority of minority escorts (transportation security), and removing tight security from many enclaves. KFOR based these decisions on the improved security environment in Kosovo, and on the belief that a more dynamic and flexible environment would build confidence among Kosovo Serbs. KFOR has adopted a policy of random, intermittent escort. There were no direct attacks on KFOR escorts; there were incidents in October in Peje and November in Grmova that involved interethnic violence when Kosovo Serbs visited the town with indirect KFOR assistance.

Some minorities, including Bosniaks, Egyptians, Ashkali, Gorani, and some Roma, lived alongside ethnic Albanians and reported that their security situation improved during the year, although incidents of violence and harassment continued to occur and their freedom of movement was restricted in some areas of Kosovo. Serbs throughout Kosovo and Roma in some areas reported that they were afraid to leave their enclaves due to fear of intimidation and attack by ethnic Albanians. Bosniak leaders have complained that many thousands of their community have left the province both because of discrimination and a lack of economic opportunity. The Turkish community was more closely integrated with Albanians and was less threatened than other minorities. The remaining Roma in Kosovo largely were settled in enclaves and settlements and were dependent almost wholly on humanitarian aid (see Section 5).

In April 2000, the Interim Administrative Council (IAC) endorsed a Declaration and Platform for Joint Action, under which key Kosovar Albanian leaders visited those areas where local Albanians and Roma were trying to establish more cooperative inter-ethnic relations, thus encouraging a climate conducive to the return of those who fled Kosovo earlier. Although some progress was made, resettlement of Roma, Ashkali, and Egyptians continued to be very limited.

In Mitrovica there were restrictions on freedom of movement due to ethnically based harassment (see Section 5). Ethnic Serbs stationed near the bridges monitored persons who crossed the Ibar River from south Mitrovica into the northern part of the town.

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. Kosovo does not provide first asylum; however, refugees from the conflict in Macedonia were assisted in Kosovo by UNHCR. Of the 12,000 refugees who arrived in Kosovo in 2001, 4,000 remained at year's end. UNMIK cooperated with the office of the UNHCR and other humanitarian organizations in assisting refugees.

There were no reports of the forced return of persons to a country where they feared persecution.

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

The country continued to be administered under the civil authority of UNMIK, but as noted in UNSC Resolution 1244, UNMIK seeks to provide "substantial autonomy and meaningful self-administration" to the persons of Kosovo. After the withdrawal of Yugoslav forces in 1999, UNMIK, the OSCE, and other international actors organized a series of elections to provide locally elected leadership: The October 2000 municipal elections, the November 2001 Kosovo-wide, or general elections, and the October municipal elections.

All UNMIK-registered citizens of Kosovo over the age of 18 were eligible to vote in the elections. One of the most critical elements of the establishment of both a civil administration and an electoral process was the registration of Kosovo's legiti-

mate residents, following Yugoslavia's "identity cleansing" (see Section 2.d.). Throughout the year, UNMIK and OSCE continued to refine the civil registration system, upon which voter registration is based, and ethnic minorities resident in Kosovo registered with UNMIK in more significant numbers than in the previous years. Approximately 1.3 million voters were registered for the October municipal elections. These included more than 120,000 voters, largely Serb and Roma, residing outside Kosovo.

Created as a result of the general election in November 2001, the 120-member multi-party, multi-ethnic Central Assembly elected Ibrahim Rugova as President of Kosovo, approved Bajram Rexhepi as Prime Minister, and 10 Ministers of government on March 4. Under the Constitutional Framework and its implementing regulations, the departments of the UNMIK-created Joint Interim Administrative Structure (JIAS) were consolidated and reorganized to become 10 Kosovar Ministries under the new PISG. Although a number of powers were still reserved to the SRSG, including those regarding foreign affairs and justice, broad areas of responsibility were increasingly vested with Kosovo's elected representatives who coordinated their efforts with those of the SRSG.

The UNMIK-established Central Election Commission (CEC) and 30 municipal election commissions (MECs) continued to establish electoral rules and organized the operational details of the municipal elections; these were substantially the same for the October 26 municipal elections as for the election in 2001. However, the municipal election commissions took a larger role in election preparations than they had in the previous elections as part of UNMIK's long-range plan to increasingly transfer responsibility for elections from international to local officials. In July an Election Working Group (EWG) was established by the OSCE to serve as an advisory body to the SRSG and to discuss the basic guidelines and principles underpinning future electoral processes, including the regulatory framework. However, the EWG was largely inactive from its creation through the end of the year.

In August the CEC certified a total of 68 political entities for the October municipal elections, compared to the 26 certified for the 2001 general election. There were 28 political parties, one coalition, 28 citizens' initiatives, and 11 independent candidates. Most of the 68 entities were minority-based, including 30 Kosovar Serb, six Kosovo Bosniac and Gorani, five Kosovo Roma-Ashkali-Egyptian (RAE), one Kosovo Turkish and one Kosovo Croatian organization. There were five requirements for certification and they were consistently applied to all applicants: 100 signatures of local voters, a statement of conduct, the name of the political entity, a policy statement, and a certification fee. Several political parties were denied certification in various municipalities—most frequently for invalid signature lists, but also for deadline violations. The CEC applied the rules regarding certification fairly and consistently to all parties. Unlike 2001 when three persons were banned from participation by the SRSG due to reported association with political violence, no candidates were banned for political violence from participation in the municipal elections, although 20 candidates from various parties were removed from the lists for financial disclosure and other violations.

Many Kosovar Albanians continued to object to the UNMIK-imposed requirement that potential voters must have resided in Kosovo as of January 1998 in order to vote. They argued that this requirement disenfranchises the Kosovar Albanian diaspora who fled the area during the Milosevic regime in the nineties. The electorate also expressed concern over the organization for the October election, particularly with regard to the voters list. Many Kosovar Albanian political party officials, primarily from municipalities with significant numbers of out-of-Kosovo voters, challenged the eligibility to vote of individuals they claimed had never lived in the municipality, were dead or otherwise did not meet residency requirements. OSCE defended the out-of-Kosovo registration process and challengers failed to produce evidence that any out of country voters were ineligible.

The Democratic League of Kosovo (LDK) continued to be the most popular political party in Kosovo, garnering more than 45 percent of total votes cast in the October municipal elections. All major parties and many of the smaller ones have youth wings.

On October 23, the OSCE's Election Complaints and Appeals Sub-Commission (ECAC) randomly selected 20 candidates by lottery and removed them from the lists of 5 political entities because the entities had violated the agreed code of conduct. The most common violation leading to this action was the failure of an entity to provide financial disclosure. The leading party, LDK, was the most flagrant violator in this area and lost 11 candidates to the penalty.

The September and October electoral campaign period saw little tension and almost no violence, although there were minor clashes at rallies. There were far fewer reports of politically inspired violence or intimidation during this campaign than

during the same period in 2001 and there were no credible reports of Albanian intimidation of minority voters. On October 17, an LDK activist's house was attacked with two grenades and small arms fire, but there were no injuries. On October 27, following the election, Uke Bytyci, mayor of Suhareke/Suva Reka and leader of the local LDK branch, was shot and killed when he attempted to intervene in a confrontation between LDK and PDK supporters. Two PDK supporters were arrested for the murder and were awaiting trial at year's end.

International and domestic observers, including the Council of Europe, determined that the October 26 municipal elections were well-organized, efficient, and generally met international standards. Although these observers reported fewer irregularities than in previous years, they did identify some irregularities and logistical flaws. Voter registration data available at the polling stations improved significantly, but remained sometimes incomplete. Some voters, especially in rural areas, tried to insist on voting in family groups rather than individually, with the patriarch deciding for whom they would all vote. The presence of community or national flags at polling centers continued to be a point of contention, sometimes resulting in delayed openings at polling centers. However, election officials were able to address most problems.

The October 26 municipal elections attracted participation by all ethnic communities, although Serb participation varied significantly by municipality. The Kosovar Serb community in north Mitrovica, constituting over half of the Serb population resident in Kosovo, virtually boycotted the election. However, in other Serb majority areas, and municipalities with significant Kosovar Serb communities, participation was comparable to Kosovo-wide turnout. According to the OSCE, overall voter turnout was 53.8 percent, while outside of Kosovo (voters from Serbia and Montenegro) turnout was estimated around 14 percent. Of the 68 political entities that participated, 40 won at least one local assembly seat. Through a majority of seats or coalitions with other parties, LDK gained control of 18 municipalities, PDK gained 6, AAK gained 1 and various Kosovar Serb party coalitions won a combined total of 5. Unlike in the previous municipal election, no seats were designated or set aside for minorities.

The November post-election period saw an unprecedented level of coalition building in Kosovo. Since in half of the municipalities no single party or entity achieved a majority of assembly seats, the leading parties needed to bring smaller parties in as coalition partners.

There were 34 women in the 120-seat Kosovo legislature. There were none in the Cabinet. According to women's groups, few women traditionally entered politics because of a lack of interest, money, education, and family support. There were no reliable figures on voter participation by women, but international election observers reported it was roughly comparable to that of men with similar variations by ethnic group. UNMIK electoral regulations since 2001 required that at least one of every three candidates on a political entity's list be female. The lists were also "closed," which meant that the entity provided a list of candidates; any assembly seats subsequently won by the entity were then filled from the list in rank order. In response to previous elections when women resigned their seats post-election, UNMIK required that any seat vacated by a woman be filled by a female replacement. Following October's election, women represented 28 percent of the elected municipal representatives. In November 2001, women won 34 of the Central Assembly seats, 28 percent of the total. An effort by women parliamentarians across party lines to create a women's caucus has so far foundered on the inability of some members, particularly LDK representatives, to look beyond party considerations.

There were 35 ethnic minorities in the 120-seat legislature. There were two ethnic minority PISG ministers and one minority inter-ministerial coordinator. No legal restrictions existed on participation by ethnic minorities in government and politics. While ethnic minorities were underrepresented at the municipal level in some parts of Kosovo, the Constitutional Framework requires that the Assembly include 10 reserved seats for Serbs and 10 for members of other minorities, in addition to the twelve seats Serbs won and the 3 seats other ethnic minorities won in the November 2001 elections.

Serbian authorities organized polling sites inside Kosovo for those who wished to vote in Serbian presidential elections on September 29. Given Kosovo's status as a U.N. protectorate, both UNMIK and the OSCE Mission in Kosovo maintained distance from these elections, neither assisting nor supporting them; international observers reported that turnout was very low. According to observers, the subsequent Serbian presidential run-off election on October 13 resulted in even lower turnout in Kosovo, approximately 27 percent. Another run-off on December 8 resulted in still lower participation. While the Serbian election sites within Kosovo were peaceful, there were credible reports of politically-motivated voter intimidation during the



run-off election, reportedly by supporters of unsuccessful Serbian hard-line nationalist candidates, in an effort to keep participation below 50 percent, thus invalidating the results.

On November 7, the Kosovo Serb parliamentary caucus, Povratak, began a boycott of the Kosovo Central Assembly. Kosovo Serb parliamentarians cited perceived insults at the hands of Assembly President Daci and lack of access to documents in Serbian as reasons for the boycott. UNMIK later appointed an OSCE advisor to monitor plenary sessions and committee hearings for any evidence of inappropriate behavior or language.

*Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A wide variety of domestic and international human rights groups generally operated without restriction, investigating and publishing findings on human rights cases. UNMIK was cooperative and responsive to their views. UNMIK and the OSCE continued to encourage the development of civil society, including domestically based NGOs.

In 1999 UNMIK issued a regulation on NGO registration; more than 1,700 domestic and 380 international NGOs were registered with UNMIK. More than 180 NGOs have been suspended since 1999, largely due to their failure to provide annual reports, including financial information. A broad range of international organizations continued operations to assist with administration and to provide post-conflict relief, but the number of international NGOs active in Kosovo declined during the year.

NGO efforts included assistance to hundreds of thousands of returning refugees, support for the search for the missing and social services to ameliorate the effects of post-war trauma (see Sections 1.b. and 2.d.). The IOM coordinated training and projects for the Kosovo Protection Corps, often in collaboration with NGOs. Human rights observers, including those of the OSCE as well as some associated with domestically based NGOs, were active in documenting ethnically or politically motivated killings, disappearances, attacks, and incidents of intimidation (see Sections 1.a., 1.b., and 1.c.). Observers also looked into reported abuses by members of the KPS, KPC, CIVPOL, and KFOR. UNSC Resolution 1244 gave the OSCE the mandate for human rights monitoring. Although UNMIK and the OSCE did not reach agreement on procedures, OSCE and other observers generally were allowed access on an ad hoc basis to most courts and, with prior 24-hour notice, to prisons; however, the OSCE Ombudsman does not require 24-hour notice (see Section 1.c.).

In 2000 UNMIK authorized the establishment of the Institution of the Ombudsperson (the OI) to ensure Kosovars' rights under international human rights laws and to investigate allegations of abuses by governmental entities. Since then, Ombudsperson Marek Nowicki has received more than 700 complaints, of which approximately 25 percent were made by Kosovo Serbs, and approximately 7 percent by other minorities. The largest number of cases (almost half) involved property rights, with employment, fair hearing, and civil rights applications also pursued in significant numbers. While the OI had no authority to intervene in cases against KFOR and while UNMIK extended broad immunities to its employees, the OI nonetheless exercised an important advisory role both in individual cases and through special reports and general opinions.

*Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

UNMIK's regulation on applicable law specifically prohibits discrimination on the basis of gender, race, or ethnic origin; however, violence and discrimination against women and ethnic minorities persisted.

*Women.*—Violence against women, including rape and a high level of domestic violence, remained a serious and persistent problem. There were no governmental agencies dedicated to coping with family violence. Several domestic and international NGOs pursued activities to assist women; however, they were constrained by a tradition of silence about domestic violence, sexual abuse and rape. In the traditionally male-dominated society, domestic abuse of women was not uncommon, but it is illegal and applicable penalties include incarceration for periods of 6 months to 5 years. Formal complaints to authorities alleging domestic violence increased significantly this year as did prosecutions; however, few victims of spousal abuse filed complaints with the authorities. The Kosovo Police Service School, charged with training the KPS, included special training segments on domestic violence and rape in its curriculum.

Rape was underreported significantly due to the cultural stigma attached to victims and their families. Spousal rape is not specifically addressed by law. Tradition generally prevented discussion of the topic of rape among ethnic Albanians, since, in some communities, the act is seen as dishonoring the entire family. The frequent

incidence of rape by Yugoslav and Serbian forces in 1999, as well as reports of subsequent revenge-based rape by members of the KLA, heightened the profile of rape as a form of war crime, but few individual women came forward publicly. During the year, police registered over 131 rapes, rape attempts and sexual assaults, an increase in the number of reported cases over the previous year.

Kosovo served increasingly as a transit point and destination for trafficking in women for the purpose of prostitution (*see* Section 6.f.).

Women have the same legal rights as men, but traditionally did not share societal status equal to men which affects their treatment within the legal system. Relatively few women obtained upper-level management positions in commerce or government, although there was no legal restriction on their doing so. There is no specific law against sexual harassment. Traditional patriarchal ideas of gender roles continued to subject women to discrimination. In some rural areas, women often had little effective ability to make decisions involving their children or to exercise control over property. While legally women and men have equal rights to inherit property, it is customary that family property passes to men only. Women who are widowed risked losing custody of their children due to an Albanian custom requiring children to be given to the deceased father's family. Particularly in rural areas, when a man dies, his widow often is returned to her birth family and his family assumes his land and custody of the children, leaving the widow without property.

UNMIK's Office of Gender Affairs worked to coordinate gender issues throughout the programs of all UNMIK offices. It identified a network of gender focal points in all departments and in UNMIK's regional and municipal offices that were responsible for initiating and implementing gender policy in their respective areas, and for facilitating consultation among UNMIK, the newly-formed Ministries of the provisional self-government, and women's organizations. An UNMIK regulation binds government officials to abide by the provisions of international human rights law and conventions, but that requirement has not yet significantly benefited women's lives in rural areas.

In population centers, the presence of UNMIK and an unprecedented number of international organizations opened a large number of previously unavailable jobs to women. UNMIK police and the OSCE continued an aggressive campaign to recruit women for the Kosovo Police Service (they make up 15.1 percent of the force). Women were increasingly active in political and human rights organizations and several women served as heads of domestic NGOs. The Women's NGOs focused on a variety of issues, including domestic violence and the establishment of a shelter for abused women in Pristina. Approximately 200 out of 3,000 KPC members were women.

*Children.*—In March the Ministry of Education, Science, and Technology and the Ministry of Health assumed responsibility for issues related to children's education and health from the previous JIAS Departments of Education and Science, and Health and Social Welfare. A 2000 UNMIK regulation made enrollment in public school mandatory for children between the ages of 6 and 15; however, there were some exceptions. The regulation made no provision for a waiver of school attendance based on safety concerns, but authorities did not enforce it where ethnically based security concerns existed. Primary education was compulsory, free, and universal. The vast majority of school-aged children under 15 attended school. Most children completed secondary or high school education. There was no difference in the treatment of girls and boys. Following Kosovo's loss of autonomy in 1989, Kosovar Albanian parents refused to send their children to Serb-run public schools and developed a "shadow" education system. The quality of education was uneven and the divisions inherent in society were replicated in children's schooling. In July the Kosovo Assembly passed a new law on education which included provisions to ensure equal conditions for schoolchildren of all communities. The law on primary and secondary education was promulgated in October; the law on higher (university) education was awaiting promulgation by the SRSG at year's end.

In July the elected Central Assembly accommodated minority populations by providing for the right of all Kosovar children to native-language public education through the secondary level through an amendment to the Law on Primary and Secondary Education; schools teaching Serbian, Bosnian, and Turkish language operated during the year. However, the Central Assembly was not willing to license publicly-funded higher education institutions designed to operate parallel to the University of Pristina system.

Although several public schools run by UNMIK and the Ministry of Education, Science, and Technology were reopened, extensive damage to many school buildings, a lack of educational materials and persistent electrical power outages continued to hinder the full functioning of the education system. Both because of a lack of freedom of movement and because of reluctance to depart from a Belgrade-based cur-

riculum, Kosovo Serb children frequently attended neighborhood schools that were sometimes housed in inadequate facilities and lacked basic equipment. During the year, international organizations continued to rebuild and equip schools; the numbers of students enrolled increased. According to a World Bank Poverty Assessment issued in September, enrollment for both Serb and Albanian children at the primary level was almost universal. However, at the secondary level, there was a marked gender and ethnic disparity, with lower rates of attendance and completion for Kosovar Albanian girls than for Kosovar Albanian boys or girls from the Kosovo Serb community. In rural areas, lack of transportation led families to prioritize sending boys to school, because of cultural norms and the presumption that the prospect of future employment for girls was slim. Roma, Ashkali, and Egyptian children attended mixed schools with ethnic Albanian children; however, Roma children reportedly faced intimidation in some majority Albanian areas. Roma children tended to be disadvantaged by their community's poverty and many had to start working at an early age to contribute to the family income. Bosniak children were able to obtain some primary education in their own language, but faced a lack of trained Bosniak teachers. The Ministry of Education introduced the Catch-Up program for minority children, mainly Roma-Ashkali-Egyptians, who often missed schooling due to frequent moves in the post-conflict environment. The Ministry also provided an expedited registration process for displaced minority children at the secondary level and at the higher education level.

Economic problems and the aftermath of the conflict also affected the health care system, with adverse consequences for children, particularly minority children. Humanitarian aid officials primarily blamed the high rate of infant and childhood mortality, as well as increasing epidemics of preventable diseases, on poverty that led to malnutrition, poor hygiene, and the deterioration of public sanitation. Observers believed that the high levels of air and water pollution, as well as the environmental effects of the uncontrolled release of toxic substances, including lead and other chemicals at the Trepca industrial complex, contributed to poor health conditions as well.

There was no societal pattern of abuse of children. High unemployment and family dislocation after the conflict resulted in a higher rate of abandonment of children. As the domestic adoption rate and foster family programs did not keep pace with the rate of abandonment, infants and children were increasingly housed in group homes with few caretakers. During the year, a private initiative succeeded in shifting many of the institutionalized children from a local hospital to five children's homes of 10 to 12 children each.

Kosovo served as a destination and transit point for trafficking in children for the purpose of prostitution (*see* Section 6.f.).

*Persons with Disabilities.*—Although the law prohibits discrimination against persons with disabilities in employment, education, or in the provision of state services, inadequate facilities and the high level of unemployment posed obstacles to the employment of persons with disabilities. The law mandates access to new official buildings; however, it was not enforced in practice. Progress was made in the area of education for persons with disabilities during the year. Each municipality was charged with creating separate classes for these children, while the Ministries of Education and Health initiated an effort, in collaboration with international NGOs such as Handikos, to identify children with special needs.

In August the NGO Mental Disability Rights International published a report based on a two-year investigation of the treatment of persons with mental disabilities in Kosovo under the UNMIK mandate. The report found extensive and credible evidence of neglect, physical violence, sexual assault and arbitrary detention at the main mental health care facilities in Kosovo. At year's end, there had been no improvement in treatment options and physical protection of residential patients was still inadequate.

*National/Racial/Ethnic Minorities.*—The Milosevic regime used ethnic differences as a basis for discrimination and abuse, specifically targeting ethnic Albanians and exacerbating traditional interethnic divisions. Although the high level of revenge-based violence that followed Yugoslavia's 1999 withdrawal continued to decline significantly, ethnically motivated violence and crime continued to affect minorities. Kosovo Serbs, Roma, and other minorities were victims of murder, kidnaping, assault, and property crimes, particularly arson. Observers attributed the drop in ethnically-motivated violent crime to a variety of factors, including: Increased CIVPOL and KPS efficiency, the lessening of tensions with the passage of time, the participation of minorities in the provisional government structures at both the central and the municipal levels, and the fact that Kosovo Serbs and Roma drastically restricted their movements (*see* Section 2.d.). Kosovo Serbs and Roma continued to report that

they were afraid to leave their enclaves due to fear of intimidation and attack by ethnic Albanians (*see* Section 2.d.).

There were a number of attacks on, and killings of, ethnic Serbs during the year. On February 22, a Kosovo Serb woman was shot and killed in Lipjan. On June 28, a hand grenade exploded in a Kosovo Serb home near Kamenica, and another grenade was found nearby. On July 31, a series of six explosions took place in the Kosovar Serb village of Klokot and one in the village of Balance. Several uninhabited houses were damaged and one was destroyed. Two KFOR soldiers who responded to the first explosion were injured by a later explosion. On August 29, an unknown assailant shot at a group of Kosovo Serbs in a field in the village of Gorazdevac, near Peje. In Viti the home of a Kosovo Serb KPS Officer was subjected to grenade attacks on three separate occasions in October and November. On October 15, a Kosovo Serb woman was killed by a landmine in the village of Klokot while working in a cornfield. While the investigation was not conclusive, the device may have been rigged as a booby trap. On November 7, in Viti, the vehicles carrying a group of Kosovo Serbs were stoned by a small mob. The Kosovo Serbs, displaced to Serbia since the war, were on a "go and see" visit to persuade them to return to the area.

There were several instances of Serb violence against Albanians. During a 3-day period in September in Bosnjacka Mahala in northern Mitrovica, three explosions occurred. There was significant property damage but no casualties. On October 10, after a basketball game in Lipjan, a group of Kosovo Serbs reportedly broke several Kosovar Albanian store windows. On October 19, a Kosovo Serb criminal gang reportedly planted a landmine in the field of their Kosovar Albanian neighbor. The mine was discovered before it detonated. On November 15, a group of Kosovar Albanian vehicles were stoned while passing through the Kosovo Serb village of Callavica. On December 13, a group of Kosovo Serbs reportedly beat an Albanian resident of Suhodall in north Mitrovica. No arrests were made in any of these cases.

Many non-Serb minorities, including Bosniaks, Egyptians, Ashkali, Gorani, and some Roma, lived alongside Kosovar Albanians and reported that their security situation improved during the year, although incidents of violence and harassment continued to occur and their freedom of movement was restricted in some areas of Kosovo (*see* Section 2.d.). During the year, six Croat-Kosovar houses were burglarized and in March a Croat-Kosovar family was attacked in the ethnically mixed town of Janjeve. Also in March, three Bosniak-Kosovar were attacked in two separate incidents in Banja. On September 24 in Gjilan, the Roma community lodged a complaint with the international community, claiming lack of security specifically on Abdullah Presheva street. Bosniak leaders continued to complain that many thousands of their community had left because of discrimination and a lack of economic opportunity. The Turkish community was more closely integrated with Kosovar Albanians and felt the impact of societal discrimination less than other minorities. The remaining Roma in Kosovo continued to reside largely in enclaves and settlements and were dependent almost wholly on humanitarian aid.

Civilians were responsible for the destruction, often through arson, of private property. There were 200 cases of arson recorded through August, at least 23 of them directed against Kosovo Serb properties and another 22 against other minorities. The reported phenomenon of "strategic sales" persisted and grew: violence, intimidation, and attractive price offers were used to convince Kosovo Serbs to sell properties at key locations, leading to the erosion of Kosovo Serb neighborhoods and a consequent increase in isolation of those remaining (*see* Section 1.f.). Non-Albanian minorities, especially Serbs, suffered from widespread societal discrimination, most notably in the areas of physical security, property protection and freedom of movement. Societal discrimination also affected ethnic minorities in the areas of employment, education, and health services.

Property disputes and illegal occupation of homes continued to be a source of inter-ethnic friction (*see* Section 1.f.). These disputes were rooted in the forced migration and displacement resulting from the 1999 conflict. In early 1999, large numbers of Kosovar Albanians fled their homes, many of which were subsequently destroyed, escaping Yugoslav and Serbian forces. After Serbian forces withdrew, many ethnic Serbs fled to north Mitrovica and other majority Serb areas. Kosovo Serbs and Roma who did not leave when Yugoslav forces withdrew lived primarily in enclaves, except for the Kosovo Serbs in the north of Kosovo, where Serbs and Albanians effectively partitioned Mitrovica. Serbs lived largely in the northern Kosovo municipalities of Leposaviq/Leposavic, Zubin Potok, and Zvecan, in the northern part of Mitrovica, and in scattered enclaves under KFOR protection elsewhere. KFOR and UNMIK provided security to these enclaves, settlements, and camps, and escorted minority members who left their residence areas as well as convoys of private Serb vehicles. The UNHCR transferred responsibility to UNMIK for providing

buses to transport Kosovo Serbs in larger numbers between enclaves and into Serbia to take care of personal business (*see* Section 1.f.).

In Mitrovica ethnic Serbs and Albanians harassed each other and restricted each other's freedom of movement (*see* Section 2.d.). After Serbian forces withdrew in 1999, many ethnic Serbs from throughout Kosovo fled to Mitrovica and occupied homes, including those belonging to ethnic Albanians in the northern part of that town. Kosovar Albanians who sought to return to their homes in north Mitrovica were subject to violence and intimidation, and approximately 1,500 who live in the northern section of town reported repeated harassment. In south Mitrovica, which is predominately ethnic Albanian, Serb-owned properties were illegally occupied by Kosovar Albanians and Kosovo Serbs were unable to move freely without harassment. In late November, UNMIK, in consultation and collaboration with Yugoslav authorities, extended its authority to north Mitrovica. Shortly thereafter, the Government of Serbia established a branch office of the "Kosovo Coordination Center" for the Kosovo Serb population of the city, where Kosovo Serbs can apply for Yugoslav documents, which were processed in Serbia. While there was some concern over other parallel structures in the area including the North Mitrovica Hospital, which was funded and controlled by the Serbian Ministry of Health, many of the employees of the former Serbian-funded municipal administration have been employed by UNMIK. As Kosovo Serbs in north Mitrovica largely boycotted the October municipal elections at the direction of local Serbian political entities, UNMIK said that it would appoint a seven-member Advisory Board for north Mitrovica to represent residents of the northern sector of the municipality. Although not yet appointed by year's end, the board is expected to consist of four Kosovo Serbs, two non-Serb representatives and one international member and govern in coordination with the Mitrovica Municipal President and Assembly based in south Mitrovica.

In April 2000, the Interim Administrative Council (IAC) endorsed a Declaration and Platform for Joint Action, under which key Kosovar Albanian leaders visited those areas where local Albanians and Roma were trying to establish more cooperative interethnic relations, thus encouraging a climate conducive to the return of those who fled the Kosovo earlier. Although there were some successful efforts to resettle Roma, Ashkali, and Egyptians in their prior homes, security concerns persisted (*see* Section 2.d.).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—The SRSR regulation on the Essential Labor Law for Kosovo provides for fundamental rights at work, including the employment relationship, terms of employment, and, without specifically mentioning a right of association, the right to form and belong to organizations including unions without employer interference; workers exercised this right in practice. The Confederation of Independent Trade Unions of Kosovo (BSPK), the largest of the few unions active in Kosovo, reported that the regulation was respected by only a small number of firms. UNMIK created the JIAS Department of Labor and Employment, the responsibilities of which have now been transferred to the PISG Ministry of Labour and Social Welfare, to designate responsibility for policy recommendations on labor practices and workers rights. UNMIK also recognized labor as one element of an eventual tripartite commission, but did not include a specific right of association.

After the war, labor organizations redirected their focus from members' welfare to traditional labor issues. The dominant union organization, BSPK, was founded in 1990 and its membership reached a high point of about 260,000 members in the mid-1990s. BSPK's membership was approximately 100,600 persons, of which approximately half were unemployed. During the year, the president of BSPK was appointed to the board of the Kosovo Trust Agency (KTA), which managed the privatization process, and, following public demonstrations in June, BSPK had a member on each committee in the Kosovo Assembly. The BSPK continued to work with international entities, including the International Labor Organization (ILO) and gained full membership to the International Confederation of Free Trade Unions (ICFTU), and observer status to the European Trade Union Confederation (ETUC). Other active trade union organizations included the Independent Trade Union of Miners and the Union of Education, Science, and Culture of Kosova; the latter is registered as an NGO.

Antiunion discrimination is prohibited.

The ability of unions to affiliate internationally remained constrained in practice, although there are no legal impediments to their doing so, and the legislation expressly permits such affiliation.

*b. The Right to Organize and Bargain Collectively.*—The labor law adopted in October 2001 provides for the right to organize and bargain collectively; however, collective bargaining was at a rudimentary level of development. The history of trade

unionism was centered not on bargaining for the collective needs of all workers but rather for the specific needs of a given group. Thus workers in various sectors were ineffective in finding common denominators (e.g., job security protection, minimum safety standards, universal benefits, etc.) on which to negotiate. Given the poor state of the economy and the high unemployment rate, there was limited possibility for negotiation by labor organizations, even though wages, other than those paid by international employers and NGOs, were sometimes not paid on time, usually due to bank administrative delays.

The right to strike is not recognized in the law; however, strikes were not prohibited. BSPK believes the right to strike was recognized indirectly when it forwarded its statutes for registration, which contain this right. Nothing in the law addressed labor disputes. In October 2001, UNMIK, the BSPK, and the Chamber of Commerce concluded a Tripartite Agreement, which may be used for agreements on labor disputes. There were some strikes within a few sectors, including health, mining and education. In October the teachers' union engaged in a 15-day strike, in which they were ultimately joined by health care workers. The strike action forced the Government to agree to a one-off granting of additional wages, disbursed over a 4-month period.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—Under labor law dating from before 1989, the minimum age for employment was 16. The labor law set the minimum age at 18 for any work likely to jeopardize the health, safety or morals of a young person, but permits children to work at 15, provided such work is not harmful to the child nor prejudicial to school attendance; however, in villages and farming communities, younger children worked to assist their families. In addition, children were found in a variety of unofficial retail jobs, typically washing car windows or selling newspapers and small items such as cigarettes and phone cards. Real employment opportunities for children in the formal sector were nonexistent.

*e. Acceptable Conditions of Work.*—After the withdrawal of Yugoslav forces and authorities in June 1999, there was no effective minimum wage rate in Kosovo, because ethnic Albanians refused to recognize the Yugoslav-Serbian legal code. The Kosovo Office of Statistics estimated that the unemployment rate was 60 percent (although rigorous statistical studies had not been conducted). The average wage paid to those who were employed full-time was insufficient to provide a decent standard of living for a worker and family. The 2001 labor legislation provided for a minimum wage, but did not set its level.

While many international agencies and NGOs paid wages adequate to support a worker and family, UNMIK determined that wages for any jobs that eventually would be part of Kosovo's own governmental structure, even if funded by the international community, should be set at a level estimated to be supportable by the consolidated budget, but salaries under that budget were barely sufficient to support a worker and a family. This situation precipitated the October teachers' strike.

Reports of sweatshops were rare, although some privately owned textile factories operated under very poor conditions. The official workweek, listed as 40 hours, had little meaning in an economy with massive underemployment and unemployment.

Neither employers nor employees tended to give high priority to the enforcement of established occupational safety and health standards. The law does not safeguard the jobs of employees who remove themselves from dangerous situations. However, in December 2001, UNMIK adopted an administrative instruction on labor inspection, and labor inspectors began their work at the end of 2001; BSPK argued that the inspectors were ineffective. The Kosovo Assembly is expected to pass the Law on Labor Inspectorate in 2003.

*f. Trafficking in Persons.*—Regulation 2001/4 specifically prohibits trafficking in persons; however, trafficking remained a serious problem. Kosovo was mainly a destination point, but also served as a transit point for women and children trafficked for the purpose of prostitution.

Since nothing in the applicable law provided an effective legal framework under which to address trafficking, in January 2001, UNMIK promulgated Regulation 2001/4, making trafficking in persons a crime punishable by 2 to 20 years in prison, and provided for victim assistance. A client engaging in sex with a victim of trafficking may be convicted for up to 5 years imprisonment, while such activity with a minor who has been trafficked (a child under the age of 18 for these purposes) is a criminal offense carrying heavier penalties (up to 10 years imprisonment). During the year, there were 92 charges of trafficking in persons, 34 convictions, 28 re-

leases, and 30 cases still pending. According to CIVPOL Trafficking and Prostitution Investigation Unit (TPIU), there were 10 domestic victims trafficked from the Kosovo to other countries in Europe.

On August 29, UNMIK border police arrested Afrim Bushi, an Albanian national at the Pristina Airport, for suspicion of international trafficking in children with the intent to prostitute them or trade in human organs. Bushi was arrested with a 14-year-old boy that he claimed to be his son. He was found guilty of using false documents and was sentenced to 2½ months, but was not charged with trafficking because of insufficient evidence.

UNMIK actively investigated cases of trafficking during the year and police raided several brothels and nightclubs; suspicious bars were raided on almost a weekly basis. Out of 170 total operations, 120 were considered large-scale. The TPIU has registered more than 1,000 foreign women who have been questioned at least once by police. According to the TPIU, 60 persons were arrested under charges of trafficking, of which 49 were convicted during the year. However, a number of factors resulted in few cases being pursued to prosecution, including the increasing sophistication of organized crime efforts to avoid direct links between the victims and senior crime figures. Corruption and bribery, lack of a witness protection program, and inadequate training for judicial personnel resulted in only a few convictions under the regulation.

Since prostitution is punishable under provincial law and many of the trafficked women were in the country without documentation, victims were often afraid to report their traffickers due to fear of arrest. However, for victims of trafficking, UNMIK Regulation 2001/4, Section 8 provides a defense against criminal charges of prostitution and illegal entry, while Regulation 2001/4, Section 11 provides a prohibition against deportation of trafficked persons due to a conviction of prostitution or illegal entry. UNMIK Regulation 2001/4 also provides for official residency status under certain circumstances. Trafficking victims who did not accept assistance were released, but if they were subsequently detained for prostitution, they were potentially subject to jail sentences and possible deportation.

Ninety-eight percent of trafficked women in Kosovo were from Eastern Europe (Moldova, Ukraine, Bulgaria, Romania, Albania, Belarus, and Kazakhstan), while only two percent were indigenous Kosovars. Security authorities reported that women and girls were smuggled through Kosovo to Macedonia, Albania, Italy, and other Western European destinations. There were several kidnappings and disappearances of young women who were never located. Some local sources believed that some of these women were the victims of traffickers although there was no clear evidence. Traffickers into Kosovo were reportedly linked to organized crime, rather than to employment agencies or marriage brokers. Evidence suggested that trafficking in women was often the result of a coordinated effort between Kosovo Serb and Kosovar Albanian organized crime elements. Sixty-two percent of IOM-assisted victims reported crossing official border points into Serbia before traveling to Kosovo.

Many victims were recruited to work in restaurants or cleaning jobs, and approximately 80 percent were offered non-existent jobs in Italy. Trafficked victims work in the sex industry, primarily in brothels and nightclubs. Less than five percent reported that they were aware that they would be working in the sex industry when they accepted employment offers, but did not expect to be imprisoned, abused and forced to serve as unpaid prostitutes. Trafficking victims reported that they were regularly subjected to physical violence, rape, denial of access to health care, and confiscation of their passports.

According to IOM, the presence of a large international community in Kosovo contributed to the increase in the number of brothels that were involved in trafficking, but women rescued from the brothels often reported that the majority of their clientele was local.

In order to assist and protect victims of trafficking in Kosovo at the institutional level, a referral system was established and was operational through the coordination of the main agencies active in the field of counter-trafficking: UNMIK CIVPOL, OSCE, IOM, and the international NGO UMCOR. These organizations worked closely together to provide protection and assistance services to victims according to established standard operating procedures. The UNMIK Victims' Advocacy and Assistance Unit (VAAU) worked with victims of trafficking and other crimes to assist them in accessing the criminal justice system. During the year, the VAAU provided training for judges and prosecutors in dealing with victims.

Since 2000 IOM has assisted a total of 325 trafficking victims, approximately 100 women this year. Thirteen percent of the victims were under 18 years of age. UNMIK did not provide any official residency status to victims. Those who did not accept assistance from IOM generally were released, but if they continued to work

as prostitutes, they were subject to rearrest, short jail sentences, and deportation. Some women who were trafficked and re-trafficked have been jailed or made the subject of deportation orders by local judges. According to the police, when a woman was picked up in a raid, she was assumed to be a victim and was offered shelter and repatriation assistance. If she accepted, she was transferred to IOM. If she refused, she was generally released if this was a first contact. Prostitutes who were not trafficking victims were also allowed to go with a warning if it was their first contact with the police. Prostitution is a misdemeanor (subject to a 30-day sentence), and local judges have sentenced women, including those who were trafficked but refused repatriation, to jail. Moreover, judges have issued deportation orders against some women for lack of proper documentation.

There was significant success in disseminating the view that women who were the victims of trafficking should not be prosecuted for prostitution nor subjected to deportation orders. However, a few local judges sometimes incorrectly sentenced trafficking victims to jail, contrary to Regulation 2001/4 which provides for their partial immunity. Moreover, judges issued deportation orders against some women for lack of proper documentation, notwithstanding the fact that Kosovo has no mechanism for carrying out the order.

Several international agencies and NGOs established programs to assist the victims of trafficking with material support to return to their countries of origin or homes. While UNMIK, OSCE, and IOM did not directly provide shelter for victims, local NGOs, such as the Center for the Protection of Women and Children (CPWC), have filled the vacuum. The CPWC operated a shelter in Pristina, and was planning to open another in the predominantly Serb village of Gracanica; CPCW cared for 139 women during the year. In addition, CPCW conducted awareness programs in schools and communities. The IOM also offered free office skills courses at their employment assistance office to former victims of trafficking.

During the year, IOM worked closely with the PISG, particularly the Office of the Prime Minister, the Ministry of Labor and Social Welfare, and the Ministry of Health to increase local awareness of the phenomenon of trafficking, and to encourage engagement in counteracting the problem. IOM also offered training on trafficking to instructors engaged in rule of law development programs. The IOM launched an awareness campaign directed at Kosovar NGOs involved in human rights and women's issues. IOM also launched a public campaign to discourage the use of commercial sex services by Kosovar men and international staff consisting of print advertising placed in the Albanian, Serbian, and English language media as well as posters and billboards in public spaces and UNMIK and PISG buildings throughout Kosovo.

#### MONTENEGRO

Montenegro is constitutionally a constituent republic (together with Serbia) of the Federal Republic of Yugoslavia. Like Serbia Montenegro has a president and a parliamentary system of government based on free and fair multiparty elections. The constitution provides for an independent judiciary; however, courts often were ineffective and subject to political influence. Montenegro's economic and political progress has been impeded by systemic deficiencies, including the legacy of a socialist economy, years of war, economic sanctions, and economic stagnation. Since 1997 the Montenegrin government has acted independently from Belgrade on most issues, including foreign affairs and defense. Montenegro has a separate customs regime, a separate visa regime, its own central bank, and uses the Euro rather than the Yugoslav dinar as its currency. This period of exceptional autonomy coincided with growing pressure for independence from some political parties, including President Milo Djukanovic's Democratic Party of Socialists (DPS). With pro- and anti-independence sentiment dividing the electorate almost evenly, EU High Representative Javier Solana brokered the March Belgrade Agreement by which Montenegro and Serbia agreed to redefine and recreate Yugoslavia as the joint state of Serbia and Montenegro. On December 29, the Federal Constitutional Commission, which included representatives from both republics, approved the final text of the Constitutional Charter. At year's end, the Commission was still debating over the content of the implementing legislation.

The Montenegrin political scene was dominated by two major coalitions, one led by President Milo Djukanovic of the Democratic Party of Socialists (DPS), and another by opposition leader Predrag Bulatovic of the Socialist People's Party (SNP). The pro-independence Liberal Alliance of Montenegro (LSCG) was first allied with Djukanovic, but then abandoned his coalition after Djukanovic signed the Belgrade Agreement. From July to October, the DPS led a minority government; but in parliamentary elections held on October 20, a Djukanovic-led coalition won an absolute



majority, taking 39 out of the total of 75 parliamentary seats. Djukanovic resigned on November 25 to become the republic's prime minister. The speaker of Parliament Filip Vujanovic became acting president.

While civilian authorities generally maintained effective control of the security services, there were some instances in which elements of the security forces failed to respect basic human rights. The republic police, under the authority of the Ministry of the Interior, have responsibility for internal security. The State Security Service, located within the Ministry of the Interior, has authority to conduct surveillance of citizens, including electronic surveillance. A greatly reduced detachment of the Yugoslav Second Army, which was under the control of the federal government, remained in the Republic and cooperated with Montenegrin police to arrest smugglers. It cooperated well with the Montenegrin Ministry of Interior. Some members of the security forces committed human rights abuses.

The economic transition from a state-owned to a market-oriented economy continued to suffer from delay. Montenegro's strategy for privatization has been to put a regulatory framework in place before going ahead in a piecemeal fashion. A privatization council, headed by the Prime Minister, oversaw the process of privatization. The issuance of privatization vouchers to the public was a first step towards implementing privatization; however, the voucher program itself was subject to abuse. Sixty percent of socially owned capital in Montenegro was privatized through mass voucher privatization, and this process was officially completed in February. The small industrial sector, consisting of a few large state-owned plants and smaller private enterprises was inefficient and noncompetitive. The country's population was approximately 650,000. Official unemployment was estimated at approximately 40 percent, although a large and flourishing unofficial economy brought that figure down to approximately 22 percent. The economy was dependent upon large amounts of foreign aid, technical assistance, and personnel.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. Police at times beat and abused citizens, although human rights groups noted that there were fewer reports of police abuse than during previous years. Police arbitrarily arrested and detained civilians. The judiciary was susceptible to corruption, inefficiency, and political influence; Parliament passed a new Law on Courts designed to make the judiciary more independent and efficient. Pressure from politicians sometimes resulted in distorted coverage of events, particularly by the state media; however, the Government exercised less influence over the media than in previous years. Domestic violence and discrimination against women continued to be problems. Societal discrimination against religious and ethnic minorities continued to be problems, particularly with the Roma. Trafficking in women for sexual exploitation continued to be a problem, despite some governments efforts to combat it. Yugoslavia was invited as a participant to the second Ministerial Meeting of the Community of Democracies in Seoul, Republic of Korea, in November.

#### RESPECT FOR HUMAN RIGHTS

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

*a. Arbitrary or Unlawful Deprivation of Life.*—There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

On September 9, the Bjelo Polje District Court sentenced former "Avengers" paramilitary unit member Nebojsa Ranisavljevic to 15 years for war crimes committed in Serbia and Bosnia during the Bosnian war participating in the killing of 19 mostly Muslim men kidnapped from a train at the Strpci station in 1993. Ranisavljevic's trial lasted six years (*see* Section 1.e. and Serbia, Section 1.a.).

There were no developments in the following investigations: the 2001 killing of Darko Raspopovic, chief of the Montenegrin police anti-terrorism unit; the 2000 killing of Djukanovic security advisor Goran Zugic; the 2000 killing of Milenko Vujevic.

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

*c. Torture, and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—The law prohibits such practices; however, the police reportedly at times beat and otherwise abused persons.

The Helsinki Committee for Human Rights in Montenegro (HCM) noted that there were fewer reports of police violence and abuse than in previous years. However, police occasionally beat suspects during arrest or while suspects were detained for questioning.

On November 8, Niksic police took two Roma IDP boys to the police station and beat them on the body and soles of the feet with nightsticks in an attempt to extract confessions from them. According to HCM, on October 13, Danilovgrad police se-

verely beat two truck drivers who were involved in an altercation with locals; later the Danilovgrad police brought charges against the truck drivers. On August 5, police from Berane beat five Muslim men from the town of Petnjica—Feriz, Esad, and Ramiz Skrijelj, Faiz Adrovic, and Saudin Babacic—following the men's involvement in an altercation over a traffic accident. According to the HCM, police continued to beat the men after they were handcuffed. A lawyer for the victims lodged a complaint in Berane Municipal Court against six Berane policemen. The Montenegrin Orthodox Church reported that on July 10, members of a special police squad beat IDPs while evicting them from a settlement near Budva. The Center for Democracy and Human Rights (CEDEM) reported that on January 1, Bjelo Polje policemen Mevludin Hasanovic and Vladimir Sljak beat student Darko Knezevic and held him several hours without medical attention; an internal police disciplinary action continued at year's end.

There were no incidences of police brutality at political rallies.

On October 14, the day of a rally of the pro-independence Liberal Alliance (LS) party, men dressed in paramilitary uniforms and claiming to belong to the "Liberation Army of Cetinje" assaulted passerby Predrag Ivanovic during an LS rally in Niksic.

Criminal procedures and sentences against police were rare; when initiated, criminal procedures against police were often of long duration with convictions resulting in only minor penalties.

Police were involved in trafficking and took bribes at border checkpoints (*see* Section 6.f.).

Prison conditions generally met international standards; however, problems remained and prison facilities were antiquated. There were no reports of brutality from guards. Women were held separately from men. Juveniles were held separately from adults, as were pre-trial detainees from convicted criminals.

The Government permitted prison visits by human rights observers, including the ICRC, OSCE, and local NGOs, all of whom conducted visits during the year. In October convicted killer Savo Radovanovic broke out of the Bijelo Polje jail and went on his own accord to the Spuz prison near Podgorica, where he pleaded with warders to allow him to transfer there because conditions were unacceptable at Bjelo Polje.

*d. Arbitrary Arrest, Detention or Exile.*—The law prohibits arbitrary arrest and detention; however, at times the police arbitrarily arrested and detained persons.

The law requires arrest warrants; however, arrest may also take place without probable cause. Under the law a suspect may be held in detention for up to 72 hours; it is within that period that most abuses occurred (*see* Section 1.c.). There have been few publicized incidences of abuse. CEDEM reported that police sometimes violated the 24-hour limit on detention, applying the previous Criminal Procedure Code's provision for a 72-hour period of detention. Access to attorneys is allowed, and there is a system of bail; however, there is no legal requirement to provide access to a lawyer within the detention period. Statements made to the police during the detention period are not to be considered if charges are pressed and the case goes to trial. If the case goes to trial for a crime with a possible sentence greater than five years, a lawyer will be appointed if needed.

A lack of female police at police stations caused long delays in searching female suspects and in restraining violent female detainees.

The law prohibits forced exile, and the Government did not employ it.

*e. Denial of Fair Public Trial.*—The Constitution provides for an independent judiciary; however, the Government sometimes manipulated courts for political reasons. Poorly paid judges and courtroom staff, a historical lack of cooperation between police and prosecutors, a backlog of cases, often primitive courtroom facilities, and corruption remained problems. Although judges were poorly paid, they received free housing, which to some extent offset their low salaries. There was a lack of harmonization between Montenegrin Republic law and Yugoslav federal law; and there was a general lack of clarity about whether Yugoslav federal law holds sway in Montenegro.

The court system consists of municipal, high (or district), and supreme courts at the republic level. The federal constitutional court has little authority in Montenegro. The military court system was under the control of Yugoslav Federal authorities; civilians were not tried in these courts. In January Parliament passed a new Law on Courts, which introduced objective criteria to be used by court presidents in distributing cases. Previously, court presidents could assign cases to judges. The new law provides for a Court Council that will nominate and initiate dismissal procedures against judges and court presidents. The Supreme Court President will head the Court Council, which will include judges and lawyers but not government

members. The Law on Courts also institutes an appeals court and an administrative court with the aim of reducing the burden on the Republic Supreme Court. The first of the Law on Court's provisions was implemented in December with the formation of the High Judicial Council.

The law provides for the right to a fair trial, the presumption of innocence, access to a lawyer, and the right of appeal; however, the judiciary was not independent in practice.

In September the Bjelo Polje High Court completed the first major war crimes trial conducted in Yugoslavia when it sentenced Nebojsa Ranisavljevic to 15 years in jail for participating in the 1993 Strpci killings (*see* Section 1.a.). The trial, which began in 1996, was marked by extremely lengthy delays in trial process, procedural irregularities, and possible political manipulation. Over the years, the judge blamed the slow pace of the trial proceedings on the difficulty of obtaining evidence requested from Serbia and the Republika Srpska; however, the trial, a highly sensitive matter with Muslim Montenegrins, recommenced with remarkable regularity every time an election approached. This pattern held through Ranisavljevic's conviction, which took place shortly before the October 20 parliamentary elections. Trial procedure was irregular, with several family members' lawyers allowed to sit with the prosecution and interrogate witnesses, and with family members themselves allowed to interrupt court proceedings to interrogate witnesses and make spontaneous statements. Matters of general political interest but irrelevant to the defendant's guilt or innocence, such as the question of whether Serbian authorities had forewarning of the kidnaping, consumed much courtroom time. The court convicted Ranisavljevic on the basis of the highly detailed confession he gave at the time of his arrest. Ranisavljevic later claimed that police tortured him into giving the confession, but the court found no evidence to support his claim.

There were no reports of political prisoners.

*f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The Constitution prohibits such actions; however, there were some minor restrictions. Although there was no direct evidence, some observers believed that police used wiretapping and surveillance against opposition parties and other groups on a selective basis. Many individuals and organizations operated on the assumption that they were or could be placed, under surveillance. The law allows the Montenegrin State Security Service (RDB) to eavesdrop on citizens, especially opposition groups, and no court authorization is required. Some observers believed that the VJ also eavesdropped on the Montenegrin government.

Citizens could inspect secret files kept on them by the State Security Service from the years 1945 to 1989, but not files kept after 1989.

There were reports that membership in the appropriate political party was a prerequisite for obtaining positions or advancing within certain parts of the Government.

#### *Section 2. Respect for Civil Liberties, including:*

*a. Freedom of Speech and Press.*—The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice. Unlike previous years, the Government did not engage in harassment or reprisals against journalists critical of government policies. Media and information laws do not protect freedom of the press, and libel laws, which carry criminal penalties, discourage a free press. The state media was controlled by the governing coalition, which also controlled state television and several print newspapers and magazines.

Before the change in government, the dailies Dan and Glas Crnogorica were the only major papers that consistently criticized the Djukanovic government. Articles and opinions from the opposition frequently were printed in special supplements or not printed at all by media controlled by the governing coalition. Opposition groups credibly charged that President Djukanovic used the media to promote independence sentiment while not permitting anti-independence parties to make the case for remaining in a democratic Yugoslavia.

The print media consisted of a mixture of state-owned and private news outlets. Foreign periodicals were available. State-owned print media dominated the news scene. The State also controlled the public broadcasting station, Radio/TV Montenegro, but under the new Media Law adopted in September, the State will no longer have direct editorial control. News and television stations need licenses from the Government to broadcast. A wide variety of articles and programs were available, including Belgrade's B-92, Croatian State Television (HRT), Italian television (RAI), the British Broadcasting Corporation (BBC), the Voice of America (VOA), Radio Free Europe (RFE), and other broadcasts in Serbian or other languages. Federal law delegates to each republic the responsibility for allocating broadcast frequencies.

The Yugoslav military stationed in Montenegro rebroadcast YU-INFO TV news from Serbia from transmitters located at military facilities in Montenegro. Since the end of the Milosevic regime, these broadcasts have not contained anti-Montenegrin propaganda; nonetheless, the station broadcasts in violation of Montenegrin law.

During the short interlude when Djukanovic's coalition lost its majority, the Coalition for Yugoslavia/Liberal Alliance government appointed its own lead editors in state-owned media outlets. Politically appointed editors included State Television's Channel 2 editor-in-chief Slavisa Djordjevic, who became prominent as a nationalist propagandist during the war in Croatia. In spite of politically appointed editors-in-chief, the Podgorica Union of Independent Electronic Media of Montenegro (UNEM) reported more politically balanced coverage in both state-owned and private media during the year. UNEM attributed the improvement to increased international pressure for fair media reporting in the country.

In September Parliament passed a Media Law partly drafted by local NGOs and approved by the Council of Europe. The law creates regulatory structures designed to insulate state-owned media from direct party control. Implementation of the Media Law began in November.

Unlike previous years, the Government did not subject journalists to harassing libel suits. However, the threshold remained low for what qualifies as libel; and the fear of being sued for libel, which carries criminal penalties, continued to inhibit free expression in the press. In November following libel charges filed in 2001 by Prime Minister Milo Djukanovic and alleged businessman Stanko "Cane" Subotic, Podgorica District Court issued a 1-month prison sentence to former editor-in-chief of the opposition newspaper "Dan" for reprinting articles from Croatian journals alleging corruption on the parts of Djukanovic and Subotic. At year's end, Asanin was free pending appeal. In October Milos Tula, a pro-Milosevic journalist during the 1990s, brought private libel charges against the editor-in-chief of the weekly Monitor, Branko Vojcic; but a court quickly dismissed the case. In July the Montenegrin Parliament amended the libel law to limit the ability of government officials to file libel charges.

Partly as a result of intense international attention on Montenegrin political events, instances of direct government interference in media dropped during the year.

There were occasions in which government-appointed editors directly censored the content of state-owned media presentations, despite improvements from previous years. In October the new government-appointed editor of State TV Channel 1, Natasa Novic, postponed the broadcasting of a documentary film on Montenegrin emigrants in New York because the Serbian Orthodox Church had protested its positive treatment of the Montenegrin Orthodox Church.

Journalists exercised self-censorship because of the history of government reprisals in prior years and because of fear of libel suits.

In contrast to previous years, there were few instances of harassment or intimidation of journalists. However, on August 21, plainclothes police confiscated T-shirts and pamphlets from UNEM activists who were protesting the delayed implementation of the Media Law. Vladimir Jovanovic, a reporter for the weekly *Publika*, received a series of threatening telephone calls after publishing an article about Masonic practices.

Access to the Internet was unlimited.

The Government did not restrict academic freedom.

*b. Freedom of Peaceful Assembly and Association.*—The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

*c. Freedom of Religion.*—The law provides for freedom of religion, and the Government generally respected this right in practice. The Constitution specifically recognizes the existence of the Serbian Orthodox Church but does not mention other faiths.

Tensions continued between the Serbian Orthodox Church and the Montenegrin Orthodox Church. Pro-Serbian political parties strongly supported moves for the establishment of an official state religion, while pro-independence parties have pushed for the recognition of the Montenegrin Orthodox Church.

Tensions between the Serbian Orthodox Church and the Montenegrin Orthodox Church led to several incidents in winter, one of which involved violence when Serbian Orthodox Church followers interfered with Montenegrin Orthodox Church followers at the latter's Yule Log ceremony on Orthodox Christmas, January 6, in Berane. Several persons were arrested after police clashed with Serbian Orthodox followers. On January 11, a bomb went off in front of the home of the Berane police chief, who had been responsible for quelling the New Year's disorder. At another

Yule Log ceremony in Niksic, Serbian Orthodox celebrators prevented Montenegrin Orthodox celebrators from holding their ceremony in the main town square. While the two churches contended for adherents and made conflicting property claims, there was less violence than in previous years. However, NGO representatives reported concern at the level of religion-influenced nationalism and hate speech that they encountered in Montenegro.

For a more detailed discussion see the 2002 *International Religious Freedom Report*.

*d. Freedom of Movement within the Country, Foreign Travel, Emigration and Repatriation.*—The Republic Constitution provides for these rights, and the Government generally respected this right in practice. Unlike in previous years, the VJ did not restrict freedom of movement.

The Government refused to issue an ICTY witness's passport (*see* Section 4).

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government generally cooperated with the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government provides first asylum.

There were 14,418 refugees from the former Yugoslavia (10,600 from Bosnia, 3,798 from Croatia, 300 Romas and 20 Slovenes) in the Republic. In addition, there were approximately 29,435 internally displaced persons (IDPs) from Kosovo; the majority were Serbs, but approximately 7,500 Roma were also displaced. While citizens were routinely issued travel documents, among refugees, only refugees who were leaving the country permanently were issued travel documents. Conditions for refugees varied; those with relatives or property in the country were able to find housing and, in some cases, employment. However, many Roma refugees lived in collective centers, with only limited access to health care and education. One of the major problems for Roma children was their lack of knowledge of the Serbian language, and there were no schools teaching in the Roma language (*see* Section 5).

There was a well-established pattern of legal and illegal migration from Montenegro to the U.S. Economic migrants paid smuggling rings \$10–15,000 (587,959 to 881,938 dinars) for fraudulent documents and cover stories designed to elicit political asylum. Migrants and their families who did not pay the smugglers sometimes faced violent reprisals from the criminal gangs who ran the smuggling networks. The authorities arrested several smugglers, but others remained active.

There were no reports during the year of the forced return of persons to a country where they feared persecution.

### *Section 3. Respect for Political Rights: the Right of Citizens to Change Their Government*

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

On May 15, municipal elections produced no clear winners, compelling political parties to enter coalitions in 18 of 19 municipalities. International monitors judged the election to be free and fair. On May 14, the eve of local elections, a hand grenade was thrown at the office of the pro-federation Socialist People's Party (SNP). In June the Government's participation in the Belgrade agreement triggered a no-confidence vote in parliament. DPS subsequently failed to form a new parliamentary majority; and LS abandoned the Djukanovic coalition to form a new majority coalition with the "Together for Yugoslavia" faction, which was led by SNP. On October 20, parliamentary elections gave President Djukanovic's "Democratic List for a European Montenegro" coalition an absolute majority of parliamentary seats. The Republic Election Commission reported that 77.48 percent of Montenegro's 455,791 registered voters turned out to vote. International monitors judged the election to be free and fair. Due to insufficient voter turnout (less than 50 percent plus one registered voter), the December 22 presidential elections were unsuccessful. Opposition parties boycotted the elections claiming that conditions for a free and fair election did not exist. However, the OSCE/ODIHR office announced that in general, the elections were held according to international standards of conduct.

On November 25, Djukanovic resigned to become the republic's Prime Minister. Speaker of Parliament Filip Vujanovic became acting president. Vujanovic won 83.7 percent of the votes cast in the December 22 presidential election, but voter turnout, at 45.9 percent, fell short of the 50 percent required to elect a president. Factors contributing to the low voter turnout included an active boycott by the mainstream opposition parties and disillusionment over rumors of a government cover up in a human trafficking case (*see* Section 6.f.). A boycott by the mainstream opposition parties contributed to the low voter turnout.

There were 7 women in the 77-seat legislature as of November 1. There were no women in the cabinet, and there were two female mayors in the 21 municipalities. The Speaker of the Montenegrin Parliament, Vesna Perovic, was a woman. There were no legal restrictions on women's participation and women voted in large numbers in Montenegro.

There were 12 minorities in the 77-seat legislature, and two minorities in the Cabinet. There were no legal restrictions on their participation and ethnic Montenegrins and Serbs dominated the Republic's political leadership. Ethnic Albanians and Bosniak Muslims participated in the political process, and their parties, candidates, and voters participated in all elections. Approximately 52 polling stations were designated to serve the Albanian minority in the May elections. Four parliamentary seats—down from five in the previous year—were allocated to ethnic Albanians. The Government-owned Albanian language radio and television stations broadcast in Rozaje and Ulcinj. Approximately 65 percent of minorities in the country voted in the May municipal elections.

Ethnic-Albanian Montenegrins continued to have guaranteed representation in the Parliament and on the Constitutional Commission; however, changes in the law reduced the numbers of parliamentary seats dedicated to majority Albanian districts from 5 to 4. In the October 20 parliamentary elections, two of those seats went to DPS and two went to a coalition of Albanian parties while two others went to national parties. On the whole, ethnic Albanians had a good relationship with the Djukanovic government, and, like most Bosniak voters, voted for the Djukanovic coalition while at the same time maintaining their own political parties.

The Croat minority, which made up 1 percent of the population, formed a political party for the first time, "Croatian Civic Initiative," and won four seats in the Tivat municipal assembly.

#### *Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights*

A number of domestic and international human rights groups generally operated without restriction. Government officials were somewhat cooperative and responsive to their views. The 1999 Law on Non-Governmental Organizations supplied a satisfactory legal framework for NGO operation in Montenegro. There were a substantial number of NGOs investigating and publishing their findings on human rights cases. These included the Montenegrin Helsinki Committee, the Center for Democracy and Human Rights, and the National Democratic Institute. NGOs have been credited with helping to bring about, by their presence and activities, an overall decline in police brutality and incidents of abuse against citizens.

There was a committee on human rights in the parliament; however, human rights NGOs stated that the committee was ineffective.

The Government cooperated with the ICTY in allowing access to witnesses and in responding quickly to any reports that indictees might have been on Montenegrin soil. However, in September the Government refused to issue a passport to one ICTY witness, who was compelled to testify instead through a live audio link from Banja Luka, in the Republika Srpska, to The Hague. When the witness's life was threatened following his testimony, the Government continued refusing the passport, saying that it had already issued its quota of passports for the year.

#### *Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status*

Federal and republic laws provide for equal rights for all citizens, regardless of ethnic group or social status, or gender; however, in practice the Government provided little protection for such groups.

*Women.*—A traditionally high level of domestic violence persisted, particularly in rural areas. The few official agencies dedicated to coping with family violence had inadequate resources and were limited by social pressure to keep families together. Victims of spousal abuse rarely filed complaints with the authorities.

Trafficking in women for prostitution was a problem (see Section 6.f.). A lack of female police at police stations resulted in long delays in investigating rapes, assaults, and offenses against women.

Sexual harassment was a problem. Women did not enjoy a status equal to that of men and few women held upper level management positions in government or commerce. However, increasing numbers of women served as judges, and there were many women in professional fields such as law, science, and medicine. Women legally were entitled to equal pay for equal work; however, in practice they did not always receive it. Women were allowed 12 to 18 months of maternity leave. Traditional patriarchal ideas of gender roles, which hold that women should be subservient to the male members of their family, long have subjected women to discrimination in the home. In rural areas, particularly among minority communities,

women did not always have the ability to exercise their right to control property. In rural areas, particularly among minority communities, it was common for husbands to direct wives' voting. Divorce occurred, but infrequently. Women were active in human rights organizations.

*Children.*—The Government attempted to meet the health and educational needs of children, but insufficient resources impeded this goal. The educational system provides 8 years of mandatory schooling. Although ethnic Albanian children had access to instruction in their native language, some Albanians criticized the Government for not developing a curriculum in which Albanians could learn about their ethnic culture and history. Most Roma children received little or no education beyond the primary school level.

There was no societal pattern of abuse against children. However, according to a Council of Europe report, the law does not allow a juvenile to make an allegation of a crime without a parent or guardian present. Consequently, there was almost no reporting of child abuse or incest.

There is no requirement for a juvenile suspect to have an adult present during interrogation. However, if a juvenile faces a sentence of 5 years or more, an attorney must be present during the interrogation.

Trafficking in girls for the purpose of prostitution was a growing problem (see Section 6.f.).

*Persons with Disabilities.*—The law forbids discrimination against persons with disabilities in employment, education, or in the provision of state services. The law mandates access to new official buildings, and the Government enforced these provisions in practice; however, facilities for persons with disabilities were inadequate, including at polling stations. Mobile voting existed for handicapped or ill voters who could not come to polling stations. There was societal discrimination against persons with disabilities.

*National/Racial/Ethnic Minorities.*—Societal discrimination against ethnic minorities persisted. While there was no officially sanctioned discrimination against the Romani population, prejudice against them was widespread. Local authorities often ignored or tacitly condoned societal intimidation or ill treatment of Roma, many of whom were IDPs from Kosovo. Romani IDPs, who lived in collective centers and scattered settlements throughout the country, often lacked identity documents and access to basic human services (see Section 2.d.).

A sizable percentage of the police force was made up of Bosniaks; many of them were deployed in a predominantly Muslim area in the north commonly referred to as the Sandzak area. Although some Sandzak Muslims—or Bosniaks, as they prefer to be called—complained that the division of the Sandzak region between Montenegro and Serbia created some problems for residents, the majority of Montenegrin Bosniaks supported the Djukanovic government and were integrated into national political parties. There were no Montenegrin Bosniaks represented on the Constitutional Commission drafting the Serbia-Montenegro federal charter (Serbia had two Bosniak Muslim representatives on the committee).

#### *Section 6. Worker Rights*

*a. The Right of Association.*—All workers except military and police personnel have the legal right to join or form unions, and most if not all of the workforce in the official economy was organized. Both official, government-affiliated unions and independent unions existed. Because the independent labor movement largely was fragmented, there were few tangible results in the form of improved working conditions or higher wages. A general lack of resources within the economy also acted as a restraint.

Antiunion discrimination was not a problem.

Unions may affiliate with international labor organizations; however, access to international labor unions was limited.

*b. The Right to Organize and Bargain Collectively.*—The law provides for the right of collective bargaining; however, collective bargaining remained at a rudimentary level of development. Instead of attempting to make progress on the collective needs of all workers, negotiations generally centered on advancing the needs of a specific group of workers. Job security fears prevailed as a result of the high unemployment rate, and these fears limited the unions' willingness to take action. Another factor impeding the collective bargaining power of the workers was the weak economy, in which high unemployment gave employers the upper hand in setting wages and work conditions, as workers competed for relatively few existing jobs.

Strikes were frequent during the year, primarily caused by the economic situation, unpaid salaries, manipulation and fraud in the privatization process, and denial of union rights. Workers of Trebjesa brewery from Niksic, whose majority

owner (73 percent of shares) was the Belgian company Interbrew, were on strike from May 20 until October 2. The union's main demand was a salary increase from an average wage of \$400-\$600 (23,518 to 35,278 dinars) per month, and better working conditions. The Montenegrin government did not support the strike, which was resolved following intensive negotiations. Brewery management claimed that the judicial branch failed to respond to its request for intervention when some strikers illegally prevented other workers from coming to work.

There were no export processing zones.

*c. Prohibition of Forced or Bonded Labor.*—The law prohibits forced and bonded labor, including by children; however, some children worked in the “gray zone” between voluntary and forced labor (see Section 6.d.). There were no reports that such practices occurred systematically.

*d. Status of Child Labor Practices and Minimum Age for Employment.*—The official minimum age for employment was 16 years, although in farming communities, it was common to find younger children assisting their families. Children also could be found in a variety of unofficial retail jobs, typically washing car windows or selling small items such as cigarettes or newspapers. The high unemployment rate ensured that there was little demand for child labor in the formal sector.

*e. Acceptable Conditions of Work.*—The minimum wage was \$50 (2,940 dinars) per month, and large government enterprises, including all of the major banks and industrial and trading companies, generally observed this wage. The minimum wage was comparable to unemployment benefits or wages paid to those on mandatory leave. The gross average wage was approximately \$212 (12,465 dinars) per month, with a disposable average wage (after social contributions and payroll taxes) of approximately \$108 (6,350 dinars) per month. This amount was insufficient to provide a decent standard of living for a worker and family. The increase in prices occurred much faster than the increase in wages. The change in the cost of living from December 2001 to May 2002 was 7.2 percent, while wages increased by only 3.3 percent in the same period. Since April 2001, nominal wage and price developments have translated into a 13.3 percent fall in real wages. The latest available data suggest that households spent almost all of their resources on basic needs, such as food, clothing, and housing. The official workweek was 40 hours.

Neither employers nor employees tended to give high priority to the enforcement of established occupational safety and health regulations, focusing their efforts instead on economic survival. In view of the competition for employment, workers were not free to leave hazardous work situations without risking the loss of their employment.

*f. Trafficking in Persons.*—The Montenegrin Criminal Code was amended in July to make trafficking in persons a crime; however, trafficking was a growing problem. There were reports that some members of the Montenegrin authorities facilitated trafficking.

Authorities made a number of arrests and interceptions of traffickers during the year. On November 30, Montenegrin Police arrested Deputy State Prosecutor Zoran Piperovic on suspicion of involvement in trafficking in persons and prostitution. Minister of Interior Andrija Jovicevic said that reported Piperovic was directly involved in the purchase, sale, rape and torture of a Moldovan victim, identified by the initials S.C. Piperovic remained in prison at year's end. On November 25, police arrested Irfan Kurpejevic and Ekrem Jasavic on charges of trafficking and forced prostitution of the same victim, S.C. On December 1, Bajram Orahovac was arrested on the same charges. The Ministry announced that the arrests were made in connection with an international ring of human trafficking and forced prostitution, the destination of which was Montenegro. The list of clients might include other high-ranking politicians and public figures. At year's end, no list of government officials had been produced by the courts, prosecutors or police. Prime Minister-designate Djukanovic removed Jovicevic for authorizing the arrest of Piperovic without prior consultation, provoking a government crisis and sparking rumors of a government cover-up. Djukanovic has pledged to pursue the case “to the end”; however, little progress had been made by year's end.

The country primarily was a transit point for trafficked women and children; to a more limited extent, it was a destination, with brothels and nude dancing venues located on the outskirts of cities and along major transportation routes. Women were trafficked from Romania, Ukraine, Moldova, Bulgaria, and Russia, often passing through Belgrade and on to Kosovo or Albania, where they continued to Italy and other western European countries. Trafficking steadily has increased since the 1999 NATO campaign; however, precise figures on the number of women and children trafficked through Montenegro were not available.



Trafficked women often responded to employment advertisements for jobs abroad as babysitters, hairdressers, maids, waitresses, models, or dancers. According to the International Helsinki Federation, although some women may have been aware that they were going to work in the sex industry, they often were unaware of the slavery-like conditions they might face. Many women were sold several times in different countries to different nightclub owners. Their passports often were confiscated. Women have reported being beaten and raped by their traffickers. There have been allegations, denied by the Montenegrin government, that some Montenegrin authorities have colluded in trafficking by taking bribes.

Since 2001 a National Coordinator appointed by the Interior Ministry has chaired an anti-trafficking board composed of relevant government ministries, social services, international organizations, and NGOs. A law enforcement task force was developed that investigated and prosecuted trafficking cases. Under the board's direction, a shelter for trafficking victims and a 24-hour hotline were established in Podgorica. The Interior Ministry reported that the shelter has housed approximately 45 women since it opened in 2001. In October 2001, the Interior Ministry signed a memorandum of understanding with two local NGOs determining procedures for protecting possible trafficking victims; this distinguished possible victims of trafficking from prostitutes and illegal migrants and referred possible victims to appropriate social services. However, in some cases potential victims were still being detained, fined and deported for illegal border crossing and prostitution. The Government, as a rule, repatriated victims; a number of international donors have funded repatriation through IOM. The Federal and Serbian governments provided in-kind support to NGOs and other international organizations in the form of shelter and school space, shelter security, and public television and radio time. International organizations sponsored police training in methods of dealing with human trafficking. General awareness of the problem has improved following internationally sponsored public awareness campaigns conducted throughout the country, but action has been slow.